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by Amy Block Joy

What's in a name?

The plight of the whistleblower

- » Whistleblowers risk their careers to take a moral stand. This is moral courage.
- » Whistleblowers value ethics and integrity in the workplace.
- » Prompt action to protect the whistleblower is an effective first step to prevent retaliation.
- » Perceptions about whistleblowers are commonly erroneous and prejudicial.
- » The majority of whistleblowers are not motivated by financial rewards.

Shakespeare's famous quote from *Romeo and Juliet*: "What's in a name? That which we call a rose by any other name would smell as sweet" is Juliet's plea to Romeo that "names" do not really matter. She encourages Romeo to "doff [refuse] thy name." Juliet's dissent is life-threatening. With both families at war, divided by rivalry and hatred, the results are tragic. Two young lovers cannot escape their family names—names they didn't choose. The conclusion: These star-crossed lovers were doomed.



Block Joy

Whistleblowers have a similar plight. Much has been written about the prejudicial perception and mistreatment of whistleblowers.¹ The unpopular identification has not deterred individuals from making good faith disclosures of wrongdoing and misconduct in the workplace.

Whistleblowing is an action, not an identity

Whistleblowing is an action. Although the person who provides information in the form of a disclosure is not actually blowing a whistle, this symbolic identification persists. Traffic police, umpires, referees, coaches, linesmen, life guards, crossing guards,

and other professionals blow whistles. Whistleblowers write reports.

In fact, the term "whistleblowing" carries with it a curious mystique that transforms the reporter into either a hero or a pariah. Whistleblowing is not an occupation, religion, cultural group, cult, or character trait. There are no schools, educational degrees, scholarships, churches, clubs, genetic tests, or Nobel Prizes devoted to whistleblowers. When whistleblowers report crime, waste, fraud, abuse, misconduct, and/or other types of wrongdoing, they are interested in correcting a problem—not ratting out a co-worker.

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Common misperceptions

There are numerous misperceptions about whistleblowers. Some of the most erroneous

ones are based on ignorance, such as the following.

Whistleblowers are informants

Informants usually are given something in return for information. Many informants may be involved in the wrongdoing and provide the information to officials for the purpose of reducing or evading punishment for their involvement.

Whistleblowers are motivated by monetary awards

Most whistleblowers do not receive a financial reward. Many end up bankrupt and unemployed.² Those few who receive awards after long periods of intense stress often become blacklisted and professionally devastated.³ In a landmark study of 26 whistleblowers who reported major healthcare fraud, 13 (50%) received between \$1 million and \$5 million (five received less than \$1 million and seven got more than \$5 million). These whistleblowers (or “relators”) had initially tried to report their concerns internally, but were “shooed aside.” The result was a *qui tam* action (the initiation of the litigation on behalf of the government). The average time spent working on the case was 4.9 years (range of 1 to 9 years). The most common reason given for reporting the transgressions was integrity, doing what’s right, strong ethical standards, a professional sense of duty, and “trying to prevent the fraudulent behavior to posing risks to public health.” Every whistleblower in this study stated that the financial reward had not

motivated their participation. Although these cases appear to represent success stories, one might think about the future consequences of receiving an award. The paper reports: “The prevailing sentiment was that the payoff had not been worth the personal cost.”⁴

Whistleblowers crave attention

Whistleblowers prefer anonymity. We want to be treated fairly and respectfully.^{5,6}

Until employees are willing to step forward and report wrongdoing, the whistleblower, like Shakespeare’s Juliet, will be doomed to be mistreated, threatened, and blacklisted.

Whistleblowers are disloyal

Whistleblowers usually end up becoming outsiders because of the alienation and isolation that follows their reporting of misconduct.² The mistaken perception of disloyalty is usually created by those who have been inconvenienced

(e.g., jail time, scrutiny, paperwork, changes in rules, etc.) by the wrongdoing.

I would argue that whistleblowers value ethics and integrity in the workplace. Until employees are willing to step forward and report wrongdoing, the whistleblower, like Shakespeare’s Juliet, will be doomed to be mistreated, threatened, and blacklisted.⁷

Institutional response toward whistleblowers

Research has shown that whistleblowers are important to organizations and society. They are employees who are interested in following the organizational code of conduct. The exposure of wrongdoing, in many cases, is simply the whistleblower following the organization’s own policy: It is an employee’s duty to report wrongdoing.

In a 2007 study of 5,400 companies, PricewaterhouseCoopers concluded that whistleblowers are essential in uncovering fraud.⁸ “We believe that whistle-blowing systems that are both well designed and properly implemented can play a decisive role in uncovering criminal activity.” Additionally, the report includes a section on best practices which begins with “Safeguard employees who report misconduct against any form of retaliation (i.e. threats, harassment and demotion).”

Unfortunately, the laws created to protect whistleblowers from the expected consequences of retaliation seem to be ineffective and have failed to support those who risk their careers to make their disclosures known. Laws and company policies cannot shield the whistleblower from name-calling, malicious rumors, and gossip.⁸ The decision to blow the whistle has a future-altering consequence that will follow the individual forever.

Prompt action is effective

I am a whistleblower, and I believe my institution took effective action to protect me.⁸ Although the protections did not stop many of the retaliators who publicly requested that my institution remove me from my position, I believe that the prompt action by the institution was the correct response. The first and most critical step taken by the institution was to appoint a high-level official to oversee the process and communicate directly with the whistleblower. Other effective actions included:

- ▶ Communicating promptly and clearly with the whistleblower,
- ▶ Responding quickly to investigative and retaliation issues,
- ▶ Initiating prompt action to review allegations of retaliation,
- ▶ Thoroughly investigating complaints of retaliation,
- ▶ Hiring a neutral third party to investigate,
- ▶ Communicating investigative findings promptly and in writing to the whistleblower,
- ▶ Communicating investigative results to the public, and
- ▶ Updating and revising whistleblower and whistleblower protection policies, as needed.

I believe that the supervisors and colleagues who choose to retaliate thought that their prejudicial mistreatment would be effective. It was not. Some of the most brazen remarks reported to the retaliation investigators, included: “disgusting”; “treacherous”; “paranoid”; “Jekyll and Hyde”; “acting possessed”; “unstable”; “duplicitous”; and having a “dual personality.” One of the interviewees summed up their view of the institution’s whistleblower process: “Now [Dr. Block Joy] has total protection and this is outrageous.”⁸

Concern for compliance officers and auditors

Little has been reported on the treatment of auditors and compliance officers within

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their own organization. If a whistleblower is subjected to ridicule and harassment, I would guess that those whose professional role in the organization is to investigate wrongdoing may also encounter mischaracterizations and negative perceptions.

Employees generally do not like to be questioned. One fear is that trivial problems may be discovered, triggering increased scrutiny and extra work. Auditors and compliance officers have to face a climate of mistrust and apprehension. I applaud the everyday courage and fortitude of our auditors and compliance officers.

In fact, during my whistleblower case, I was privy to meetings organized with the purpose of stonewalling the fraud investigation. My colleagues worried that they might say something that would be used against them or others. I attended one of the meetings and appealed to my colleagues that it was in our best interest to cooperate fully. “You can trust the auditors,” I pleaded. Unfortunately, I was not invited back.

Conclusion:

Whistleblowers have moral courage

I believe that most whistleblowers, like their professional role models, are interested in institutional integrity and accountability. I believe that whistleblowers take a moral stand when they bring forth information about possible wrongdoing. This selfless action takes moral courage.⁹

Like a Good Samaritan, a whistleblower does not seek out a wrong to right. Every day we hear powerful stories about people who risk their own lives to lend a helping hand to someone in need. Many do not think twice before taking action. The fellow motorist who stopped on the freeway to help a stranded driver or the beach-goer who rushed into the surf to save a drowning child—these people

are the everyday heroes embraced by society for their acts of self-sacrifice. When asked, many Good Samaritans report that they were just doing what was right. “Anyone else would have done the same,” is a common response. Most people feel a personal sense of reward from helping others.

Reporting misconduct and wrongdoing is a “good deed” to the organization. Whistleblowers try to follow the rules—and one of the rules is to report wrongdoing. What happens next is where things can go horribly wrong—retaliation! The results of retaliation are harmful to the whistleblower, the institution, and the morale of the workforce.

Whistleblowers risk their career to take a moral stand. Maybe if we can change the negative whistleblower perception, we might encourage others in the workforce to be more courageous. Perhaps the more that whistleblowing becomes part of the everyday job of an employee, the less institutions and the reporter will suffer the consequences of doing what’s right. *

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