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Whistleblowers: Loyal Corporate Employee or Disloyal Employee?

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ABSTRACT

Whistleblowers have received much media attention and scrutiny during the last decade due to high-profile corporate scandals and reports of unlawful activities in government and private sector corporations. There is a changing trend in the perception of whistleblowers from troublemakers to loyal employee. Interviews, based on a FBI whistleblower case, were conducted with eight employees in a Fortune 200 company. Results of qualitative analysis and findings reported in this paper support the perception of whistleblowers as loyal employees who have a strong sense of right and wrong, and are committed to calling attention to wrongdoing. The solution proposed is a call for corporations to adopt effective policies and procedures for employees to disclose any improprieties or misconduct to maintain the integrity of the organization.

Introduction

On February 6, 2007, former FBI agent-turned-whistleblower Jane Turner, won her suit against the FBI. Despite her outstanding career and evaluations, the FBI declared her “unfit” in 2002 when she reported her concerns about the agency to authorities outside of the agency. Her decision to go outside the FBI with her complaints came after a long and discouraging battle to report malfeasance and wrong doings up the chain of command within her Minneapolis FBI office. The research in this paper reports the perceptions of management and contract employees of a Fortune 200 company who were asked their opinion of whistleblowers within the corporation in 2005, a year after Agent Turner’s case was made public, but long before she was exonerated in February 2007. The research addresses the question: What are the perceptions of employees at various levels in a large and profitable, yet politically dependent, corporation toward whistleblowers?

In researching the question on whether or not whistleblowers are loyal or disgruntled employees, their motivations may come into question. There are two types of whistleblowing disclosures: motivated and unmotivated. According to Poneman (1994), “Motivated communication means that the whistleblower will report wrongdoing for purposes of personal gain. Unmotivated communication means that the reason for whistleblowing is grounded solely

in an ethical conflict for the whistleblower” (p. 120). While this paper does not tackle whistleblower behaviors, motivation is a noteworthy factor to consider when trying to understand the perceptions of others toward the whistleblower.

This paper will attempt to suggest that there is a positive shift away from the perceptions of whistleblower as disgruntled or self-motivated communicator to the perception of whistleblowers as loyal employees. Researcher conclusion and recommendations calls for corporations to adopt a comprehensive Code of Business Conduct and effective policies and procedures for employees to freely disclose unethical behavior and Code violations.

Literature Review

According to Roberta Ann Johnson (2004), longtime whistle blowing researcher and professor, a whistleblower is a member or former member of an organization who exposes nontrivial wrongdoing and makes the information public.

Disclosures: Unmotivated vs. Motivated

Whistleblowing disclosures fall in two categories: unmotivated and motivated. “The likelihood of a true report of fraud is strictly higher when the report comes from an unmotivated, whistle-blowing source. The worst signal is generated when the report of fraud is false and the whistle-blowing source is motivated” (Poneman, 1994, p. 120).

Despite the generally accepted view of the societally positive motives of whistleblowers, some whistleblowers may be disgruntled, malicious employees who disclose misconduct for their own personal gain (Bather & Kelly, 2005). Some whistleblowers may be seeking financial rewards, obtained as a percentage of the return to victims for the fraudulent misconduct exposed (Johnson, 2003). An individual’s true motivation for blowing the whistle may be difficult to identify; a whistleblower may be driven by motives of retribution. Although whistleblowing is often associated with good citizenship, this link may not be recognized within many organizations (Bather & Kelly, 2005).

Whistleblower Checklist

Johnson (2003) provides ethicist Sissela Bok’s “Whistleblower Checklist” of questions to evaluate the basis of their decisions.

Dissent: When whistleblowers claim their dissent will achieve a public good:

What is the nature of the promised benefit?

How accurate are the facts?

How serious is the impropriety?

How imminent is the threat?

How closely linked to the wrongdoing are those accused?

Loyalty: When whistleblowers breach loyalty to their organization:

Is the whistleblowing the last and only alternative?

Is there no time to use routine channels?

Are internal channels corrupted?

Are there no internal channels?

Accusation: When whistleblowers are publicly accusing others:

Are accusations fair?

Does the public have a right to know?

Is the whistleblower not anonymous?

Are the motives not self-serving?

For some whistleblowers, their felt loyalty to principle and their commitment to preventing harm so outweighed for them all other factors that there was no deciding. The decision was made. It is what C. Fred Alford (2001) calls a ‘choice less choice’ (p. 40). To believe that whistleblowers make their decisions to expose wrongdoing on an entirely rational basis misrepresents the important ingredient of emotion that all may share (Johnson, 2003).

Former Minneapolis FBI attorney, Coleen Rowley, firmly contends that when deciding to blow the whistle, motivation should not be a factor. In a speech given in an Advanced Organizational Communications course at Metropolitan State University, Rowley (personal communication, October, 2003) stated, “Only when the subject is significant, you know you are right and being 100% truthful, and you’re not the least bit personally motivated.”

The facts of the situation will determine if the allegations are well founded and there is no personal agenda. Tom Greene, who represented Pfizer whistleblower, David Franklin, who was awarded a \$27 million dollar settlement, contends that private lawyers need to assess which cases to accept. “A whistleblower may have some baggage, but that doesn’t mean you disbelieve what he says. You want to develop evidence to corroborate independently what he or she is reporting to you” (O’Donnell, 2004, p. 2). Louis Clark, head of the Government Accountability Project, believes credibility is also an important factor. “Our credibility as an organization rises and falls with the people we choose to represent” (O’Donnell, 2004, p. 2).

A loyalty conflict is the dominating feature of whistleblowing (Bather & Kelly, 2005).

When employees go outside the chain of command and go public on wrongdoing, they are perceived to be either loyal employees or disloyal, disgruntled employees.

“When allegations prove true, the whistleblower is hailed as a hero, and sometimes richly rewarded. However, without such vindication, whistleblowers come across as irresponsible “snitches” who value personal aggrandizement over team-playing” (Clark, 1997, p. 2).

Disloyal Employee

Whistleblowers have historically been at risk of being labeled troublemakers (Brickey, 2003). Some whistleblowers may be disgruntled, malevolent employees who disclose misconduct for their own personal gain (Bather & Kelly, 2005). The motivation of the whistleblower has important implications (Poneman, 1994). If an offense is being committed within an organization without the knowledge of senior management, then senior managers can be made recipients of the whistleblower's disclosures. However, the whistleblower must be aware that they are being disloyal to colleagues and that the senior managers may recognize the disloyalty as a greater offense than the behavior being complained of (Seebauer, 2004, cited in Bather & Kelly, 2005).

Ethan Posner, a former deputy associated attorney general, who now defends companies against whistleblower suits, asserts that "Many whistleblower cases involve employees who have had disciplinary problems or hold grudges against employers" (O'Donnell, 2004, p. 2). Arbitrators have tended to agree with employers that whistleblowing is an act of disloyalty which disrupts business and injures the employer's reputation (James, 1990, cited in Hoffmann et al., p. 292; Bather & Kelly, 2005).

Loyal Employee

Most whistleblowers are among the best employees in the organization (David, 2005, cited in Benson & Ross, 1998). Evidence indicates that whistleblowers are highly altruistic (David, 2005, cited in Singer & Turner, 1998). Whistleblowers often describe themselves as members who initiated whistleblowing because of their loyalty to the organization (Baker, 1983, cited in Miceli & Near, 1992). Whistleblowers are perceived as having the organization's long term interests at heart (Street, 1995, cited in Bather & Kelly, 2005). Loyal, long-term members of organizations may be more likely to blow the whistle than to remain silent (Kolarska & Aldrich, 1980, Hirschman, 1970, cited in Miceli & Near, 1992). Many whistleblowers have been on the job for years, are highly respected and are considered by their managers to be successful and loyal employees (David, 2005, cited in Glazer et. al., 1994).

Whistleblowers are among the unsung heroes who are making a difference in our lives every day (Redford, 2005). They should be hailed as major heroes of democracy (Bennett, 1997). As a nation, we ought to be thankful for the courage of unsung heroes who have sacrificed much to protect society. We owe a great debt of gratitude to whistleblowers that have saved us from environmental hazards such as toxins that are carelessly dumped into lakes and streams (Cherrington, 2002). Ethics business professor, Marc Lampe, stated, "It takes an act of courage for people to stand up like this" (Kinsman, 2003, p. 1). Whistleblowers become heroes of conscious because they believe in honesty as the most basic moral precept (Bennett, 1997). Through the years we have used the term 'whistleblower' pejoratively, but whistleblowers have a

very important function. Speaking up when you witness wrongdoing is a vital issue in today's corporate world (Kinsman, 2003).

Time magazine named Coleen Rowley (FBI), Sherron Watkins (Enron) and Cynthia Cooper (WorldCom) as Persons of the Year 2002. "They were people who did right by just doing their jobs rightly – which means ferociously, with eyes open and with the bravery the rest of us always hope we have and may never know if we do" (Lacayo & Ripley, 2002, p. 24).

Martin Andersen, Director for the Government Accountability Project, hailed Coleen Rowley as a hero. "Often whistleblowers are painted as crackpots with an ax to grind, but the strong, professional way in which Rowley testified reflected the best qualities of the FBI" (Chanen & Furst, 2002, p. 2). Stephen Meagher, former federal prosecutor who represents whistleblowers, commented that "whistleblowers have been recast from crackpots to national champions" (Dwyer & Carney, 2002, p. 2). Internal whistleblowers have shown that they are team players and want to improve the organization they work for (Alford, 2004).

Changing Trend in Perceptions

In recent decades, the general public increasingly began to see whistleblowers as heroes instead of pariahs (Johnson, 2004). There is a growing trend that whistleblowers are heroes (Fairbank, 2002). Johnson places whistleblowing in its historical context, explaining how changing cultural values have placed importance on whistleblowing as a form of public service and safety, rather than as a full individual act (Johnson, 2003). The age of whistleblowers is a new corporate culture in which 'informants' are more likely to be valued than harassed (Verschoor, 2005). Whistleblowers that might have once been viewed as "snitches" are now perceived as performing a civic duty (Johnson, 2003).

A survey published by *Time* magazine provides insight on the perception of whistleblowers. Six out of 10 Americans view whistleblowers as heroes, while fewer than two out of 10 view them as traitors. Noteworthy is that almost three-fourths of American's polled said they would become whistleblowers if they were to become aware of serious criminal abuses at work (Europe Intelligence Wire, 2002). With the greater respect afforded whistleblowers, more people are willing to speak out (Fairbank, 2002). It is clear that for Americans, whistleblowing is a part of the cultural landscape. The most significant pattern related to whistleblowing is that it is on the increase (Johnson, 2003).

Whistleblower Support and Protection

The types of hardships experienced by whistleblowers in the past are decreasing as support for these heroic people increases (Bennett, 1997). Media attention, helpful organizations, and interested legislatures create an environment supportive of whistleblowers (Johnson, 2004). The Government Accountability Project (GAP) provides legal support defending whistleblowers against reprisals and assists them in pursuing their dissent more

effectively. The Cavallo Foundation rewards acts of moral courage in business and government (Bennett, 1997).

The landmark Sarbanes-Oxley Act gives those who report corporate misconduct sweeping legal protection (Dwyer & Carney, 2004). There are a considerable number of additional federal and state statutes that protect whistleblowers in a variety of circumstances (Verschoor, 2005). An executive who retaliates against a corporate whistleblower can be held criminally liable and imprisoned for up to 10 years. Fired workers who feel their cases are moving too slowly can request a federal jury trial after six months (Dwyer & Carney, 2004). Adopting user-friendly whistleblower protections could open new lines of communication and new conversations about the mission and operation of the organization (Johnson, 2004).

Effective Internal Processes

Companies must rethink how they deal with whistleblowers and revisit a wide range of policies (Dwyer & Carney, 2002). Corporate level executives and the board must adopt core values or ethical guidelines and put them into practice (Verschoor, 2005). Official company policies are an important way of telling employees exactly how the company stands on a given matter (David, 2005). An effective policy can serve as an instrument of reform, giving an organization a chance to correct any impropriety before it becomes public knowledge (Bather & Kelly, 2005). The importance of providing adequate responses to internal complaints must be recognized as a key factor in avoiding external reporting (Miceli & Near, 1994, cited in Bather & Kelly 2005). Organizations must ensure that the policies are formalized, communicated widely and always followed in a consistent manner (Bather & Kelly, 2005).

C. Fred Alford (2004) contends that corporate policies and procedures rule. The organization that responds effectively to whistleblowers in effect has no whistleblowers. The most ethical organizations are likely to be the most invisible, at least as far as whistleblowing is concerned. "Whistleblowing occurs when the organization fails to listen" (Alford, 2004, p. 3).

Method

To gain additional information and insights on the current perception of whistleblowers, qualitative research and analysis was determined to be the most appropriate method. Individual face-to face interviews were conducted at a Fortune 200 company in Minnesota.

Participants and Process

A stratified cross-sample of four management and four contract employees from various divisions within the organization volunteered to participate. Years of service ranged from 11 to 24 years. Volunteers were asked to read a *City Pages* article about former FBI Agent Jane Turner that blew the whistle on FBI agents due to malfeasance in the handling of numerous cases

(see Appendix A). Participants were interviewed separately to prevent having their opinions influenced by other participants and to ensure confidentiality. To ensure reliable reporting of subject responses, all participants agreed to tape-recorded interviews. Nine open-ended questions were asked to gain additional information on the perception of whistleblowers (see Appendix B).

Results

Qualitative measures enhance our insight into the perception of participants. Content analysis of respondents' answers to interview questions illuminated three central themes: (1) The failure of organization's to respond seems a likely reason whistleblowers must act outside normal corporate procedures, (2) employee responsibility to "do the right thing" seems to be what these interviewed employees believe motivates a whistleblower and (3) loyal employees and their loyalty to the organization is what drives a whistleblower to act, even when it means harm to themselves in terms of their position, career and even retirement.

The Failure of Organizations to Respond

The literature cited in this paper points to the basic premise that the act whistleblowing occurs when organizations fail to respond to internal reports of wrongdoing. Respondents clearly recognized the FBI's lack of response to Agent Turner's reports of malfeasance and investigative failures. All respondents voiced their disappointment that a government agency such as the FBI, whose basic foundation is to protect the people of the United States and investigate wrongdoing, would not fix the offenses that were reported. The FBI lost sight of the very reason they are in existence. Respondents believed Turner was credible and exhibited due diligence throughout her career. She upheld the high standards of the FBI in bringing forward supportive evidence to the right individuals within the organization. She followed the chain of command and was justified in her efforts to seek an acceptable response.

Participants did not view the act of providing meaningful information for an organization to address as whistleblowing. One employee commented, "Why would they consider it whistleblowing when that was part of her job?" Employees have an obligation to report wrongdoing and organizations have an obligation and responsibility to investigate further, to either confirm it or disprove it. It is something that is owed to the individual reporting it as well as to the organization in general. The FBI should have acted upon the information as opposed to "shoving it under the rug" and going down the road of retaliation.

Employee Responsibility to "Do the Right Thing"

Overall consensus was that Agent Turner was motivated to "do the right thing" to protect the children on the reservation and to uphold the integrity of the investigation related to stolen artifacts from Ground Zero. Turner's core values were reflected her in steadfast commitment to

do what was right. Participants stated that Turner was ethical, honest, and had strong moral beliefs. She knew the truth and it was her responsibility and moral obligation to “do the right thing”. Everyone expressed respect and admiration for her in upholding these principles. Each person truly put themselves in her shoes as a tenured, loyal employee who was trying to do what was right.

Loyal Employees and Their Loyalty to the Organization

My respondents felt, unanimously, that Agent Turner has all the qualities of a loyal employee and this directly reflects what is reported in the literature cited in this paper. All respondents answered affirmatively that they believed Agent Turner was a loyal, long-term employee who was dedicated to the organization. Several participants suggested that Turner could have gone to the media, but as a loyal employee, she chose to communicate within the organization. Turner was determined to maintain the integrity of the FBI.

When asked whether they viewed whistleblowers as loyal or disloyal employees, all participants responded with remarks such as “that’s a tough one,” “it could be a combination,” and “it depends on what motivates them.” Consistent with the literature on motivated disclosures, it was the sentiment of respondents that some whistleblowers can also be perceived as disloyal employees. An example would be an employee who is a poor performer and is about to be terminated. Such an employee may go to the media to report alleged wrongdoing. The assertion is that the employee is motivated by retribution and/or personal gain. All respondents generally believe whistleblowers are loyal employees who make the decision to disclose information for internal investigation by the organization.

Discussion

The qualitative research approach proved to be an effective method in gaining insight on the participants’ perceptions. This was very important for the study as the rich textual information was far more meaningful than quantitative research could have revealed.

This research is based on long-term employees in one organization reflecting on the news coverage of former FBI Agent Jane Turner, turned whistleblower. The researcher chose this whistleblower case because it occurred in Minnesota where the organizational interviews occurred. Interestingly, however, only one respondent recalled hearing “something” about the case but did not recall any specific information. All other participants had no former knowledge about the case.

Some of the questions asked were rather pointed and could have been structured differently. Despite this shortcoming, the researcher believes the questions stimulated responses and dialogue that would garner similar results with less directed structuring.

These results confirm the importance of internal processes for employees to report wrongdoing. The Code of Conduct is an organization’s stated commitment of behavior

expectations for all employees and external agents and stakeholders. Employees at all levels of the organization have a personal responsibility to abide by the Code of Conduct. Employees reporting good faith concerns should be protected in this communication process with assured confidentiality and anonymity. All reports should be taken seriously and vigorously investigated. An effective policy provides the company an opportunity to take corrective action when the facts of the situation are well founded and there is no personal agenda. Results of the study and literature revealed management responsiveness to internal disclosures of wrongdoing is crucial to this process. Without some mechanism to assure a path to an official and powerful ear, the organization will suffer. The organization's culture and processes will best guide the appropriate path creation and "ear" (i.e. department such as Legal or H.R.) Technologies within organizations should be making this process easier to facilitate if it truly is a priority for the organization. Respondents felt their own organization had accomplished this well.

Results of this study also support the idea that generally people want to do what is right. This is similarly reported in the literature. Since the high-profile corporate scandals, there has been a marked increase in whistleblowing disclosures that suggests a "do the right thing" culture that is founded on moral and ethical obligations to bring about change. Organizations can learn from the mistakes of fallen corporations. The time is ripe for fostering a collaborative atmosphere that builds trust, honesty and integrity at all levels of the organization.

This study suggests there is a change in the perception of whistleblowers. There is a positive shift away from the perceptions of whistleblower as disgruntled or self-motivated communicator to the perception of whistleblowers as loyal employees. There were no differences in viewpoints between management and contract employees. All participants were supportive of whistleblowers and viewed Agent Turner a loyal employee who was loyal to the FBI in wanting to maintain the integrity of organization.

The National Whistleblower Center began a "Jane Turner Legal Defense Fund." The million dollar question is: Why did the FBI go at great lengths to discredit Agent Turner which ultimately led to her termination? The Senate Judiciary Committee and the Justice Department Inspector General are reviewing Agent Turner's complaint against the FBI.

Outcome of Turner Lawsuit against FBI

Former FBI Agent, Jane Turner, won her federal lawsuit against the FBI on February 6, 2007. Jurors awarded Turner \$565,000 in damages for lost wages, emotional distress, loss of reputation and similar injuries. Jurors found the FBI had retaliated against her for filing a 1998 sex-discrimination complaint. Juror comments mirror the sentiments and comments made by respondents that participated in this research. "I think you were the very best FBI Agent," juror Mashima Dickens told Turner. "Looking at the way you were treated, I just said you were screwed left and right," Dickens said, tears rolling down her cheeks. Juror Renee Anderle hugged Turner in the hallway outside the courtroom in Minneapolis: "I just want to tell you I have nothing but the utmost respect for you" (Browning, 2007, p. 1).

Judge Rosenbaum will reduce the non-wage damages to the statutory limit of \$300,000. Turner's attorneys plan to file for compensation. Her complaint against the FBI relating to memorabilia taken from Ground Zero after the September 11 attack is still pending with the U.S. Inspector General's Office.

Future Directions

Whistleblowing has become a phenomenon that has resulted in countless articles from various disciplines. Although much has been written about whistleblowers, I would like to see more research and studies on the changing attitudes of corporate USA toward whistleblowing. Perhaps this study can be a stepping stone as an approach to studying and documenting the changing attitudes and positive shift in the perception of whistleblowers.

Conclusion

In an era where many people have lost faith in leaders of organizations, the important role of whistleblowers has become increasingly evident. High-profile corporate scandals (Enron and WorldCom) brought heightened public awareness, scrutiny and disenchantment of unethical leaders and practices of wrongdoing. There is a resurgence of a "do the right thing" culture where employees are ethically duty-bound to disclose misconduct. In recognition of this wave of accountability, it is incumbent upon corporations to adopt policies and procedures for employees to freely disclose unethical behavior. Effective policies and management responsiveness is paramount in creating a culture that values ethical behavior, honesty and integrity.

The changing trend in the perception of whistleblowers as loyal employees has not gone unnoticed. Results of this study and research compiled in the literature suggest that there positive shift away from the perceptions of whistleblower as disgruntled or self-motivated communicator to the perception of whistleblowers as loyal employees.

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Appendix A

Below is a brief excerpt from the October 6, 2004, *City Pages* article to provide background information about former FBI Agent Jane Turner's case:

Special Agent Jane Turner vs. the FBI: The Making of a Whistleblower

When Jane Turner left the building on her last day of active duty at the FBI--November 21, 2002--it was the end of a distinguished 24-year career in which Turner went places that few, if any, women in the Bureau had gone before her.

For more than four years, Turner had waged a quiet and increasingly isolated battle to address what she saw as troubles at the FBI, ranging from job discrimination toward female agents to malfeasance in the handling of numerous cases. She came to take a special interest in child sex abuse cases on North Dakota Indian reservations, which arose with distressing frequency and rarely got investigated.

Turner complained repeatedly to her bosses about these lapses, and about other alleged misconduct by her fellow agents. She had taken her complaints, and the corresponding evidence, up the chain of command all the way to then-Director Louis Freeh's office. In response the Bureau waged a campaign to undermine her reputation, suppress evidence of its own wrongdoing, and drive her out.

Appendix B

Research Questions

- RQ1: What are your first impressions about Jane Turner after reading the *City Pages* article?
- RQ2: What do you think about the FBI's response to Jane's reports?
- RQ3: How well justified do you feel Jane was in blowing the whistle?
- RQ4: What alternative actions could she have taken?
- RQ5: How credible do you feel Jane is?
- RQ6: What do you feel motivated Jane to take action?
- RQ7: In what ways do you consider Jane Turner to be a loyal or disloyal FBI employee?
- RQ8: What is your perception of whistleblowers in general? Do you generally think they are loyal or disgruntled employees?
- RQ9: If a similar scenario happened in the corporate world instead of a government agency, how would you feel differently about it?

Author's Note

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