Whistleblowers

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Are they heroes or disloyal publicity hounds?

By Charles S. Clark

Introduction

Former New York City Det. Frank Serpico testified in September at City Council hearings on proposed legislation to monitor police corruption. He exposed police corruption in the city in 1970. (Photo Credit: Reuters)

Organizations that commit fraud, make unsafe products or pollute the environment no longer risk exposure just from critics, regulators or the press. Increasingly, wrongdoing in government as well as the private sector is being brought to light by employees who go outside the chain of command to "blow the whistle." When allegations prove true, the whistleblower is hailed as a hero, and sometimes richly rewarded, though often after poor performance reviews and dismissal. Without such vindication, however, whistleblowers come across as irresponsible "snitches" who value personal aggrandizement over team-playing. The federal government and many private employers have set up elaborate procedures for weighing whistleblower claims and determining which view applies.

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Overview

Ed Block is an ex-employee who just won't go away. The former aviation wiring specialist for the Defense Logistics Agency was fired by the Pentagon back in 1983, and he's still writing letters -- to the Defense Department, to his member of Congress, to the president, to journalists and public interest groups -- all in an effort to win reinstatement, back pay and the $20,000 reward he feels he deserves.

It all started in the early 1980s, just after Block had won an employee of the year award for saving the taxpayers $2 billion. As a senior supervisory equipment specialist, Block had warned his superiors that a wiring insulation material used in the Navy's F-14 fighter plane was aging and cracking prematurely and might have caused dozens of crashes. When he went before a hearing and recommended that the fleet of planes be grounded, he angered some of the Navy's top brass. "I was suddenly dismissed for falsifying a $43 travel voucher," he recalls bitterly, denying any misuse of funds. The government says his claim for a reward under a 1992 law had no merit.

With a wife and four children to support, he was forced into a new career, beginning in the lower ranks of hotel management. "I was in dire straits financially, and I kept thinking the cavalry was coming," he says. "I was brought up in the American tradition that when you do the right thing, you expect the right thing in return."

Yet as recently as October -- nearly 15 years after his ordeal began -- Block received yet another rejection letter from the federal Office of Special Counsel (OSC), the agency that evaluates complaints from whistleblowers who feel they've been treated unjustly.

So the 47-year-old Block continues to speak out, making television news appearances, working with a whistleblowers' financial aid fund near his home in Bucks County, Pa., and supplying information on aviation wiring to the families of people killed in last year's crash of TWA Flight 800 off Long Island.

"I want Congress to create a whistleblowers' bill of rights," Block says. "The way things work now, it's more like the truth shall set you free -- from your job."

Whistleblowing, or "ethical resistance," as some prefer, has enjoyed a steady rise in the public consciousness over the past three decades. It began with the ad hoc defiance of a few individuals reacting against abuses in government during the Vietnam and Watergate eras. Today it has ballooned into a familiar human drama that in government has spawned an elaborate bureaucratic mechanism, and, in private industry, an array of corporate ethics programs.

As defined by the federal Merit Systems Protection Board, which adjudicates complaints by government employees, "whistleblowing means disclosing information that you reasonably believe is evidence of a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.” [1]

In government, recent high-visibility examples include Frederic Whitehurst, the technician in the FBI crime lab who caused a scandal when he charged that forensic evidence affecting dozens of cases nationwide was being unscrupulously manipulated. Another was State Department official Richard Nuccio, who in 1996 was stripped of his security clearance after he told a member of Congress about evidence showing that the Central Intelligence Agency lied about what it knew of murders in Guatemala involving people working with the agency. [2]

The private sector has produced Jeffrey Wigand, the tobacco company research chief who in 1995 testified that Brown & Williamson executives had covered up research showing that nicotine is addictive. And Wall Street was recently shaken by revelations from former Morgan Stanley securities salesman Frank Partnoy, who charged in a book that his old firm designed overly complicated and risky financial products to take advantage of clients. [3]

Former Brown & Williamson Tobacco Co. research chief Jeffrey Wigand testified in 1995 that company executives covered up research showing that nicotine is addictive. (Photo Credit: Reuters)

Another whistleblowing author is Mary Schiavo, a former inspector general of the Federal Aviation Administration (FAA), who recently blasted the agency for being too cozy with the airlines. “In almost every area we examined -- FAA methods of inspecting airplanes and airlines, supervising airplane parts manufacture, examining airline mechanics, redesigning critical air traffic control systems, ensuring airport security, certifying new jet designs -- we found frightening gaps in FAA competence, thoroughness and judgment,” she wrote. [4]

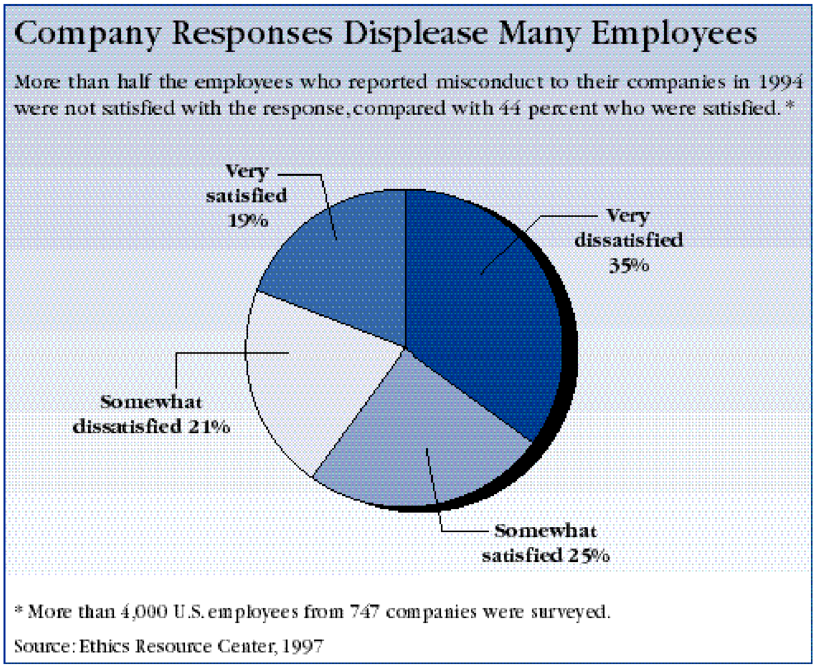
Whistleblowers have become regulars on CBS News' “60 Minutes” and other investigative television shows, sometimes appearing on camera in disguise, as several Internal Revenue Service (IRS) agents did in September when they described mistreatment of taxpayers. Whistleblowers also have become famous through Hollywood movies. The public was recently reminded of living legend Frank Serpico, the onetime New York City detective who revealed massive police corruption in 1970. Serpico, who was portrayed by Al Pacino in a hit movie, reappeared in September at a hearing on police brutality. [5]

Whistleblower themes are also popular in fiction, a prime example being novelist John Grisham's The Firm, about a young lawyer who exposes the crooked partners in his law firm.

Finally, whistleblowers also are making the news for some eye-popping financial rewards. George Green, a Texas Health and Human Services Department architect who was fired after he exposed financial irregularities in state construction projects, was awarded $13.8 million by the Texas Legislature in 1995. Dozens of others have collected even larger amounts as their share of the ill-gotten money recovered by the federal government under the False Claims Amendments Act of 1986, which encourages employees to report fraud on government contracts.

But awarding money to whistle-blowers is controversial. Critics say it provides an incentive for employees to act outside internal channels and to sensationalize an organization's mistakes. Whistleblowers in general are regarded by many as disloyal, and are characterized by unflattering terms such as “rats,” “snitches” and “stool pigeons” who “air dirty laundry in public.”

“Rarely are whistle-blowers honored as heroes by their fellow workers,” writes University of Kansas business Professor Richard T. De George. “A possible explanation might be that by his or her action, the whistleblower has implied that because fellow workers did not blow the whistle, they are guilty of immorality, complicity in the wrongdoings of the company or cowardice.” *(Continued Below)* [6]



Attitudes about whistle-blowers are reflected in academic surveys, which show, perhaps not surprisingly, that 84 percent of whistleblowers in private industry are subsequently fired, and 75 percent of those in government end up demoted. [7]

The negative response to whistle-blowers helps explain why many whistleblowers rely on the array of activist groups that have sprung up to offer legal advice, financial aid and mental health counseling. In recent years, the ability of average people to get in touch with such groups has been enhanced by the Internet. “We find things in our E-mail every day,” says Danielle Brian, executive director of the Washington-based Project on Government Oversight (POGO), which uses whistleblower information to advocate for policy changes in defense, energy and environmental matters. “People get frustrated [about what's going on], and they simply type in 'whistleblower' on the World Wide Web. We're now hearing from agencies we'd never heard of.”

Groups that work with whistle-blowers “tend to be liberal-left, while the whistleblowers themselves come from all over,” says Mike Cavallo, president of a foundation bearing his name that for the past decade has made annual awards to whistleblowers.

Not to be outdone, corporations and government agencies have set up whistleblower hotlines and ethics offices, to enable more complaints to be resolved in-house, without publicity and litigation. Good management of problems within the organization, they argue, avoids harm to an employer's reputation while thwarting those whistleblowers who, because of unreliable information or personal problems, have gone public with charges that will not withstand scrutiny.

It appears that ethics offices in private industry have much work ahead of them. A survey by the Washington-based Ethics Resource Center found that one in three respondents had observed conduct that appeared to violate the law or company policy, but that more than half failed to report it. (The main motive for the corner-cutting, the survey showed, was pressure to meet schedules.)

And two decades of efforts by government and industry to institutionalize the handling of whistle-blowing has produced, in the view of some, little more than scandal-mongering and a preoccupation with appearances.

“Although [whistleblowing] has produced enormous benefits for some parts of society -- chiefly journalists, interest groups, ethics consultants and political operatives -- it has not produced confidence,” write Peter W. Morgan and Glenn H. Reynolds in a new book. “In fact, faith in government and corporate America has probably never been lower.” [8]

Whether whistleblowing in the future produces constructive results for society will depend largely on the following issues:

Should employers be more tolerant of whistleblowers?

“If you work for a man, in heaven's name WORK for him,” admonishes writer Elbert Hubbard, quoted in a recent Ann Landers column. “If he pays you wages which supply your bread and butter, speak well of him; stand by him and the institution he represents. If put to a pinch, an ounce of loyalty is worth a pound of cleverness.” [9]

The premium placed on loyalty in the workplace is precisely why whistleblowers are controversial. “Most executives are uncomfortable with whistleblowers for dozens of reasons,” says Joseph, L. Badaracco Jr., a professor of ethics at the Harvard Business School. “Even if the whistleblower is right about the misdeed, the managers would rather settle it in-house without going to the press and regulatory agencies. And even if the whistleblowers don't have anything, they're still risking others' reputations," he says. "The executives will fight back pretty hard and bring on the full weight of the institution."

Mark Roth, general counsel of the American Federation of Government Employees, says he sees whistleblowers who naively "lead with their chin, only to watch management circle the wagons and pull out the weaponry. It then amazes me when an employee with an unbelievable performance record of two decades can suddenly become a 'lousy employee.' It happens not just at the mid-level but even with the highest scientists at the National Institutes of Health or the Environmental Protection Agency." When a whistleblower gets that kind of undeserved performance review, he adds, it usually means he will win when his union goes to bat for him.[10] *(Continued Below)*

Whistleblower Agencies Rated Least Helpful

Whistleblowers who work for the federal government were highly dissatisfied with the performance of the two agencies that deal with complaints of waste, fraud and abuse, while family and other non-official resources were rated more highly.

Resources Used by Whistleblowers

Rating Scale
Respondents rated sources from 1-7
1= "not at all helpful" 4= "somewhat helpful" 7= "very helpful"

Note: Surveys were mailed between November 1987 and September 1988 to 329 known whistleblowers; 161 people responded, 80 percent of whom were federal employees.

Source: "In Praise of Difficult People: A Portrait of the Committed Whistleblower," Public Administration Review, November/December 1989.

"If you were to ask managers whether we should fire all blacks, women or the disabled, they of course would say no," adds attorney Stephen Kohn, who heads the National Whistleblower Center. "But if you tell them that 'John Smith just turned you into the IRS,' the managers immediately call him 'that SOB lying slime.' The organization goes after whistleblowers because they don't want the liability" to hurt the company. "And these cases get far more personal and emotional, which is why they get big and there are few settlements."

But business ethicists, while regretting such retaliation from managers, point out that whistleblowers can inflict serious harm. "Companies need to protect themselves from disgruntled, discontented employees who're operating with only half the information," says Ronald Duska, executive director of the Society for Business Ethics. "What goes on in the boardroom needs to be kept confidential because it gets misconstrued. If I'm the CEO, I don't like to be told that I'm doing something wrong, especially if I already suspect that it's wrong, so there's this basic psychology of defensiveness, a desire to kill the messenger." In addition, he says, because of society's litigiousness, the manager can't admit to the wrongdoing for fear of opening himself to a lawsuit.

The belief that whistleblowers are irresponsible publicity seekers came through clearly when a group of experienced federal managers were presented with the following fictional scenario: Two employees of a regulatory agency prosecuting an energy company for its alleged resistance to price controls tell a newspaper reporter that the agency is suppressing an argument from its counsel. In the view of Charles F. Bingman, who now teaches in the business school at George Washington University, the whistleblowers made several "bad assumptions": that they understood what was happening; that they could not speak frankly to their own bosses; that the organization was acting improperly by suppressing some views; and that they were the only ones interested in doing the right thing.

Irving Welfeld, an analyst at the Housing and Urban Development Department, went so far as to say he'd give the whistleblowers a letter of censure because “their enthusiasm and self-righteousness outran their responsibility, intelligence and good judgment.” [11]

Others agree that internal corporate discussions of sensitive areas such as the value of a human life vs. the cost of recalling a potentially unsafe product often pursue a possible course of action to its logical extent before retreating when a moral line has been crossed.

“When you're new to a career or an organization,” Badaracco says, “sometimes what is standard operating procedure looks distasteful or corrupt. But after you've been there a while, you understand the full complexity, or perhaps you learn to compromise too much.”

Shrewd business people know that arguing a case on mere ethical grounds is not persuasive because it comes across as a personal attack, he adds. “So ethics often cross-dresses as a kind of prudence, in which the skeptical person will tell the manager, 'If we do that, we will be sued or get in the newspapers.' ” Badaracco adds, however, that if a manager retaliates against a whistleblower too flagrantly, he's at risk as well. “The rational [managers] who [start to] retaliate will calm down and not get carried away.”

Craig Dreilinger, an ethics consultant in Cabin John, Md., says that while he continues to hear about retaliation against whistleblowers, the executives he knows would be “shocked” if they heard a manager plotting to “get” a whistleblower. And though he agrees that many authentic whistleblowers are unfairly treated as “guilty until proven innocent,” he also is concerned that whistleblowing can become a “selfish vehicle for the self-appointed politically correct.” He cites a case of an employee who accused a boss of sexual harassment when the real issue was displeasure with the supervisor's management practices.

The way to assuage the fears of employees who witness wrongdoing but hesitate to confront a boss, ethicists say, is to provide a haven within the organization. For many companies, that means a published code of ethics, an ethics office and even a telephone hotline for reporting wrongdoing. (An Ethics Resource Center survey of 700 large companies found that 84 percent have codes of conduct and 45 percent have ethics offices, quadruple the number a decade earlier.)

W. Michael Hoffman, executive director of the Center for Business Ethics at Bentley College in Waltham, Mass., says such programs are an effective way of avoiding litigation and keeping organizational issues in-house. “I've consulted for corporations where the ethics problem lies with the CEO rather than the blue-collar employees or the managers. They ask, 'Should I rat on my boss? Who should I tell? The board?' But it's handpicked by the CEO.”

Among the big success stories, Hoffman continues, are the cost-effective hot lines run by a private subcontractor, Pinkerton's Inc. in Charlotte, N.C. It processes complaints and relays them to the appropriate offices within client companies.

But hot lines and ethics offices are not enough, says Louis Clark, executive director of the Government Accountability Project (GAP). “People are crazy to call them because there's no guarantee of anonymity. And all the information is immediately turned over to the company,” he says. “We're looking for enforcement” of whistleblowers' rights, not just advice. “I have no complaint about having an ethics office,” Clark says. “I just haven't seen evidence that they make any difference.”

That view is echoed by POGO's Brian, who cites a recent case that she and the GAP are involved in concerning whistleblowers at Alaska's Aleyeska pipeline, which is run by a consortium of oil companies overseen by the Interior Department. Aleyeska set up an employees' concern office, but that didn't protect a whistleblower who had reported alleged safety violations. When he logged onto a computer one morning, he learned that the legal department was downloading all of his files.

“It's hard to change a culture,” Brian says. “The few managers who are enlightened haven't really risen to the top, and there's always an incentive to protect the organization, though the retaliation is less brutal than it used to be.”

Many in the business world argue that managers are more likely to treat whistleblowers fairly if they display solid personal judgment. That means refraining from flamboyantly blowing the whistle for minor offenses and in cases where there's little chance of being effective. It means understanding that whistleblowing is often morally permitted but is not always required, in De George's formulation.

“You wouldn't rat on your boss for taking home a pack of Post-its, but you would for taking home a computer,” writes Fortune Editor Marshall Loeb. “You wouldn't rat on him for having one dinner you knew didn't have any business angle, but you would if it was a pattern.” [12]

Do laws protecting whistle-blowers need reform?

The federal government in the past three decades has enacted 28 whistleblower protection provisions, according to the GAP, including adjudication mechanisms set up under the 1978 Civil Service Reform Act, the 1986 False Claims Act and the 1989 Whistle-blower Protection Act. In addition, some 38 states have whistleblower protections for government employees, while 19 states have private-sector whistleblower protection laws on top of the “common law” protections against arbitrary dismissals that most states also recognize.

Not surprisingly, however, the laws are often seen as promising more than they deliver. For example, “even though the Civil Service Reform Act] included protections for whistle-blowers, it was primarily enacted as a relief measure for federal agencies to enable them to hire and fire employees more easily,” writes Merit Systems Protection Board attorney Patricia A. Price. [13]

That same elaborate process for handling complaints and appeals strikes former federal executive Bingham as “overdesigned to the point of oppression.” [14]

Perhaps most controversial is the False Claims Act, a 1986 update of a Civil War-era statute designed to enlist citizens in preventing fraud against the government. Its provision known as qui tam, which is the Latin abbreviation for “he who sues for the king as well as for himself,” provides financial incentives to employees of government contractors to report fraud. (Government employees are sometimes eligible, though this is in dispute.)

Because they can collect anywhere from 15-25 percent of any money the government wins back, whistleblowers in the past decade have helped return about $2 billion to the federal Treasury, according to the Justice Department. Most of the fraud is committed by defense and health-care contractors, who, when caught, must pay attorneys' fees and fines three times the amount of the fraud. Four out of five of the top qui tam recoveries in 1996 were in the health field, according to Taxpayers Against Fraud, a group of lawyers who specialize in the False Claims Act.

To supporters of qui tam actions, offering incentives to whistleblowers is the only way to learn about fraud in widely diffuse industries such as defense and health care.

“Why [else] should you tell your employer about fraud when all it means is misery and hardship?” asks John R. Phillips, an attorney at Phillips and Cohen in Washington, which specializes in qui tam. Furthermore, Phillips says, “This is the first and only law that makes the revolutionary change of eliminating the personal character [of the whistleblower] as an issue. All remedies are based on the merits of the disclosures, not the employee's situation.”

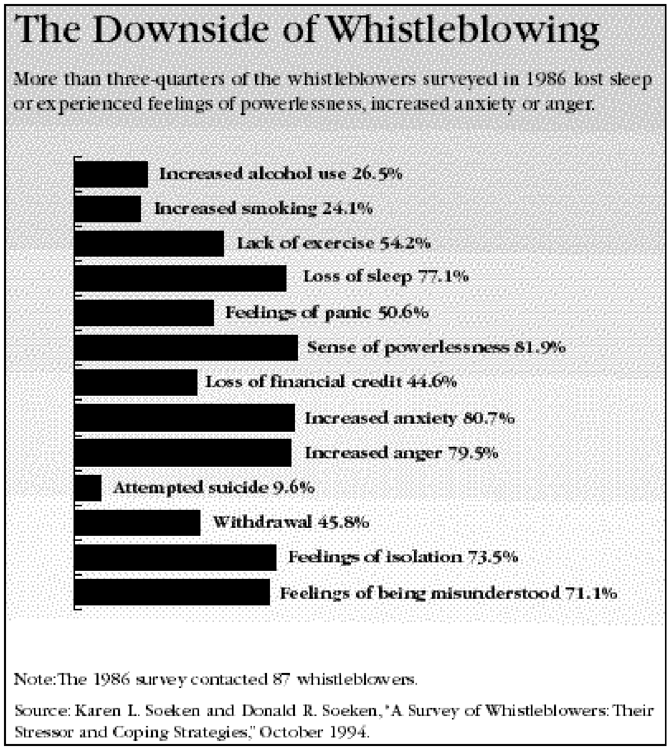
Critics, however, say that awarding money damages the morale of the whistleblower's fellow employees, particularly if detecting fraud is simply part of the whistleblower's job. Such “bounties” also provide “an incentive to the employee to wait while the fraud grows before blowing the whistle externally to receive a larger bounty,” three business ethicists write. “ Second, a companywide ethics award system actually encourages bounty-hunting, contributing to false claims and possible collusion with wrongdoers. Third, such an award system is really counter to what ethics is all about -- doing what's right for its own sake.” [15]

Alan R. Yuspeh, an attorney for a coalition of defense contractors who in recent years have opposed the qui tam law, argues that companies and established government auditors often discover fraud themselves without the need for a whistleblower. “Once a voluntary disclosure under a formal government program [has] been made, then there is no purpose to permitting a subsequent qui tam suit,” he wrote. “Permitting a [whistleblower] to siphon off 25 percent of the government's recovery simply makes no sense.” [16]

Hoffman and other critics also disparage qui tam as an employment program for lawyers. But the median recovery for a whistleblower, before taxes and attorneys' fees, is only $183,000, and most cases take three to five years to complete, counters Mary Louise Cohen, a law partner of Phillips. “Of the cases that come to us, as many as 75 percent already have been reported internally, and our clients were given the cold shoulder,” she says. Many employees don't trust their companies' internal reporting systems, she adds, though the situation may be improving now that contractors have been setting up new compliance systems in light of the fact that more employees know of the False Claims Act.

The most elaborate of the whistleblower laws are those designed to protect federal employees. Prominent among these is the 1989 Whistleblower Protection Act, which expanded on late-1970s civil service reforms by broadening whistleblower appeal rights and by lightening the burden of proof for whistleblowers seeking to document the impact of their actions.

The law as it stands now, however, is “a cruel hoax,” in the view of Donald Soeken, a Laurel, Md., psychotherapist who counsels whistleblowers. “Most whistleblowers still lose their jobs and have no money to hire lawyers, while the agencies have the attorneys to fight and 'paper' them to death.” Soeken adds that the government seems to be of two minds on whistleblowers. “The legislative branch says we want laws to protect these people,” he says, “but I haven't heard the Justice Department talking up the cause. Instead the agencies fight it.”*(Continued Below)*



That view is seconded by Roth of the government employees' union, who says that Justice, regardless of which political party controls it, treats whistleblowers as “pariahs. We joke that it's still the [Ronald] Reagan or [Richard M.] Nixon Justice Department because, institutionally, it hasn't gone forward and admitted past mistakes,” he says.

Also singled out for criticism is the Office of Special Counsel (OSC), created to investigate and prosecute cases involving mistreatment of whistleblowers. Soeken says the OSC is disparaged by whistleblowers as “the other side's counsel,” while Roth reports that his union doesn't advise its members to even take cases to the OSC. “Until the OSC gets more aggressive leadership, we recommend going to arbitrators,” Roth says, adding that his union can press a case on behalf of a wronged employee while maintaining better confidentiality. Another alternative for a whistleblower is to take his case to Congress, “but Congress usually just kicks it back to the agencies, and the [whistleblower] gets his head blown off,” he says.

Government workers who use the OSC (some 8,000 per year) do report a stunningly low satisfaction rate. Among respondents to a 1996 OSC survey, only five workers reported that their cases were successful, compared with 35 whose cases were not; only eight reported being satisfied with treatment by OSC staff, compared with 34 who were dissatisfied. (The OSC had a much better satisfaction rate among workers who sought rulings on violations of the Hatch Act, which governs political activity by federal employees.[17])

The OCS's longtime top counsel, Kathleen Day Koch, a Bush administration appointee who this autumn moved over to the FBI, has defended the OSC in interviews, arguing that it is a neutral agency, not an advocate for whistleblowers.[18]

And G. Jerry Shaw, general counsel of the federal Senior Executive Service, says the criticism is unfair because “the OSC has a unique position in government in that it must balance the public interest and an agency's interest against that of individuals. Many individuals make allegations that are not valid but that are intended to protect themselves against management discipline,” he adds. “Whistleblowing too often is a screen behind which unsatisfactory employees can hide. A true whistleblower is a special breed, whose assurance of righteousness makes him difficult to satisfy. He wants a black-and-white solution, a headline splash that says, 'I'm right, they're wrong.' But these cases don't lend themselves to clear winners and losers. OSC must be vigilant in getting at the waste, fraud and abuse, and it resolves a lot of cases without getting much publicity. It is respected and feared by a lot of federal managers. When it comes across a valid complaint, it brings a lot of heat.”

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Background

19th-Century Roots

What some regard as the radical notion that whistleblowers need encouragement in law goes back at least to 1863. That's when Congress passed the False Claims Act to encourage the reporting of unscrupulous supply contractors during the Civil War, who were selling the government nonexistent horses and gunpowder padded with sawdust. “Worse than traitors in arms,” said President

Abraham Lincoln, “are the men who pretend loyalty to the flag, but feast and fatten on the misfortunes of the nation while patriotic blood is crimsoning the plains of the South.” [19]

The president regarded as a whistleblowers' hero is Theodore Roosevelt. During the Spanish-American War in 1898, the future chief executive risked his reputation to write an angry letter to the secretary of War complaining that U.S. Army troops in Cuba were malnourished and diseased. The act may have cost him the Medal of Honor, according to Michael Manson, a historian at the Theodore Roosevelt Association.

In 1899, Congress enacted the Refuse Act to allow anyone who reports a polluter to collect a reward, even employees of the polluting company. And in 1912, it passed the La Follette Act, named for Wisconsin progressive Sen. Robert M. La Follette, to protect government workers who bring damaging information to the attention of Congress. In 1943, the pressures of paying for the war effort forced Congress to scale back its guaranteed whistleblowers' share of recoveries under the qui tam provision.

In the courts, two key decisions in the postwar period helped lay the groundwork for whistleblower case law. In 1959, a California appeals court ruled in Peterman v. Teamsters that the public interest would be undermined if employers could terminate employees for refusal to commit perjury, a decision that whistleblowers regard as a victory. And in 1968, the Supreme Court in Pickering v. Board of Education ruled that the free speech rights of a public school teacher were not violated when she was fired for having written a letter to a newspaper complaining about her boss, a decision that whistleblowers might regard as a defeat.

Personalities Emerge

It was in the late 1960s, in Washington, that the first personalities known as whistleblowers emerged. In 1966, the Senate censure proceedings against Sen. Thomas J. Dodd, D-Conn., for misuse of funds, were brought about through whistleblowing by his aides James Boyd and Marjorie Carpenter. Their leaks to muckraking columnists Drew Pearson and Jack Anderson dramatized the value of whistleblowers in the eyes of journalists.

Perhaps the best-known of the early whistleblowers made his mark in 1968. That was when Air Force cost analyst A. Ernest Fitzgerald “committed truth,” as he later put it, by bucking his superiors and announcing, at a congressional hearing run by Sen. William Proxmire, D-Wis., the explosive secret that Lockheed Corp., was racking up $2 billion in cost overruns while building the Pentagon's C-5A transport plane. Fitzgerald, who felt he had been hired precisely to weed out such abuses, was soon fired, and he went through the classic whistleblower's career free-fall. “As a result of my troubles with the Pentagon, I became an outlaw,” he wrote. “I usually had more consulting business than I could handle; now I was completely cut off.” [20]

Fitzgerald began a battle that turned into a national cause celebre and reached the Supreme Court, which in 1982 ruled he had been demoted illegally. President Nixon in 1973 had made a point of expressing support for Fitzgerald's firing at a time when protest against the Vietnam War had caused the patriotism of many dissidents to be challenged. (Ironically, as Fitzgerald pointed out, Nixon himself, while a senator in 1951, had introduced a whistleblower protection bill.)

Launching a Movement

The modern movement to promote whistleblowing got its start amid this '60s anti-war sentiment, civil rights protest and consumer activism (followed shortly after by mistrust of government brought on the Watergate scandal). A seminal conference on whistleblowing was organized in 1971 by Washington-based consumer advocate Ralph Nader, who pioneered the notion that employees might have a loyalty other than that toward their own employers.

“People must be permitted to cultivate their own form of allegiance to their fellow citizens and exercise it without having their professional careers or employment opportunities destroyed,” Nader wrote in a conference summary. “The exercise of ethical whistleblowing requires a broader, enabling environment for it to be effective. There must be those who listen and those whose potential or realized power can utilize the information advancing justice.” [21]

Whistleblowing prompted more serious study with publication of a collection of essays co-edited by Charles Peters, editor of the liberal Washington Monthly. “Why has whistleblowing been so important to The Washington Monthly?” Peters asked his readers. “In an early issue, I wrote: 'Of all the wrong decisions I have seen made in government, wrong ideas and information have played no greater role than the failure of men with the right ideas and information to press their case courageously.' ” [22]

Such works set the stage for formation of activist groups such as the GAP, founded in 1977 by activists working with students at the Antioch Law School (now the University of the District of Columbia Law School), as well as a now-defunct group called the Coalition to Stop Government Waste. In 1981, Fitzgerald helped activist Dina Rasor found the Project on Military Procurement, which worked with whistleblowers in the defense industry but was later expanded to encompass all areas as the Project on Government Oversight. *(Continued Below)*

Why Employees Keep Mum

Fifty-two percent of the employees who saw misconduct did not report their observations, according to a 1994 survey of 4,000 U.S. private-sector workers.

Why didn't you report your observations of misconduct?

I didn't believe corrective action would be taken.	59%
I feared retribution or retaliation from my supervisor or management.	41%
I didn't trust the organization to keep my report confidential.	38%
I didn't want to be known as a whistleblower.	25%
It was none of my business.	24%
I feared retribution or retaliation from my co-workers.	24%
Nobody else cares about business ethics, so why should I.	9%
I didn't know whom to contact.	7%

Note: Percentages add to more than 100 because multiple responses were allowed.

Source: Ethics Resource Center, 1994

In corporate America, the prevailing attitude was hostility toward whistleblowers. James Roche, president of General Motors, expressed it this way in 1971: "Some critics are now busy eroding another support of free enterprise -- the loyalty of a management team, with its unifying values and cooperative work. Some of the enemies of business now encourage an employee to be disloyal to the enterprise. They want to create suspicion and disharmony, and pry into the proprietary interests of the business. However this is labeled -- industrial espionage, whistleblowing or professional responsibility -- it is another tactic for spreading disunity and creating conflict." [23]

Enshrined in Law

The first whistleblower protection provision in modern law, according to attorney Kohn, was contained in the 1972 Water Pollution Control Act, which set up an enforcement mechanism within the Labor Department. It was followed by a series of similar provisions in federal environmental and nuclear energy laws, eight of them between 1972 and 1980. By the 1980s, states began enacting their own versions, again often linked to health or safety protection, but with some impact on private-sector employees, too.

In general, however, whistleblowers in the public sector were given more elaborate protections than those in the private sector, who must rely on general wrongful-dismissal law. "The obligations one has to one's government are considerably different from obligations to a non-governmental employer," explains business Professor De George. "The reason is that government employees are related to their government, both as citizens and as employees, and the harm done by governmental employees may have effects not only on the particular division in which they are employed but also on the government and country as a whole." [24]

The year 1978 brought a host of new federal protections for government whistleblowers, which would be expanded upon under subsequent administrations with mixed results. Though President Jimmy Carter succeeded in pushing through a massive reform of the 19th-century Civil Service System, his efforts to streamline government were seen by whistleblower activists such as Clark as too stinting on funding for the OSC.

Some whistleblowers were encouraged in 1980, when Ronald Reagan campaigned for the presidency encouraging whistleblowers to help him end "waste, fraud and abuse." As part of the 1981 Budget Reconciliation Act, Reagan began offering cash awards to whistleblowers who helped save the government money, but they were discontinued three years later amid disagreement in Congress over whether whistleblowers should be permitted to take their cases to court.

Reagan also appointed a well-known federal whistleblower named Bert Berube to head the Washington office of the General Services Administration (GSA), but his new efforts to expose waste ran afoul of Reagan's appointee at the top of GSA. Reagan also made massive cuts in the OSC's budget, and by appointing conservative Alex Kozinski as its director, he alienated many whistleblower activists who wanted someone who shared their "idealism" about empowering ethical resisters.

By 1984, there was talk of abolishing the OSC. Its director, K. William O'Connor, gave Congress a grim picture of what whistleblowers could expect. "Unless you're in a position to retire or are independently wealthy, don't do it," he said. "Don't put your head up, because it will get blown off." [25]

By 1988, Reagan would veto a version of the Whistleblower Protection Act, which President George Bush proceeded to sign in 1989. Bush also approved, in 1992, a bill resuming the awarding of cash prizes to successful whistleblowers.

Who Blows the Whistle?

Whistleblowers, Nader once said, "seem born, not made." Given the inevitable challenges most face, the role clearly requires strong convictions and maturity. "Most are in their 50s," says POGO's Brian, "meaning they might have kids in college and are too old to start a new career, so they have the most to lose."

Kohn says that when he started out working with whistleblowers, “I assumed most had some ideology, like being anti-nuclear energy or pro-Sierra Club, but I've learned it's just the opposite. Most tend to be religious, conservative and loyal to their employer, and most have a law enforcement bent,” he says. “They generally have worked in their industry for years.”

The most common misconduct that whistleblowers encounter in the corporate world is lying to supervisors and falsifying records, according to a 1994 Ethics Resource Center survey of 4,000 U.S. workers. The main reason workers who saw misconduct did not report it was that they didn't believe corrective action would be taken, followed by fear of retaliation.

Most whistleblowers prefer to remain anonymous, according to a survey of corporate auditors by Marcia Miceli of the Ohio State University business school. They are more likely to be retaliated against if what they reveal causes actual harm to their company. “Most retaliation was subtle,” she says, “such as being left out of important meetings and receiving lower than normal performance ratings.” Though most were not fired, according to her data, some reported that someone in a car had tried to run them off the road. [26]

Surveys show that whistleblowers get the most aid and comfort from their families, other whistleblowers and the GAP. [27] ‘Filing a case is a life-changing experience because they will never be viewed the same way again as an employee,” notes attorney Phillips. “Most of my clients liked their job and would have preferred that the fraud had not occurred.”

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Current Situation

A Perennial in Congress

Last summer on Capitol Hill, Senate committees met to consider a CIA reauthorization bill that included a new whistleblower protection provision. Prompted by the case of State Department official Nuccio, who was penalized for revealing CIA secrets about murders in Guatemala, the provision would have required the president to make clear to federal employees or contractors that they can disclose classified material to a member of Congress if it shows evidence of wrongdoing. “We simply intend it to preserve the ability of Congress to perform oversight, which cannot be done without information,” said Sen. Bob Kerrey, D-Neb. [28]

The bill was backed by the major whistleblower activist groups, as well as free-flow-of-information groups such as the Fund for Constitutional Government and the Government Secrecy Project. But Senate conferees in November finally had to drop the provision after the White House threatened a veto. “The president consults regularly with Congress and expects his subordinates to do the same,” White House counsel Charles Ruff explained in a Sept. 18 letter to the groups. “However, the president cannot accept legislation that would require him to vest executive branch employees indiscriminately with authority in their sole discretion to furnish national security or other privileged information to a member of Congress without receiving official authorization to do so.”

Though the whistleblower provision in the intelligence bill would have been a positive step, the bill, like so many early bills, still lacked concrete remedies against violators, says the GAP's Clark. His group is similarly unexcited by other current bills: Rep. Carolyn B. Maloney, D-N.Y., offered a bill to give military whistleblowers who feel they've been retaliated against a chance to see a judge advocate; Rep. Sherwood Boehlert, R-N.Y., offered a bill to protect whistleblowers reporting on aviation safety violations; Sen. John McCain, R-Ariz., offered a bill to give Medicare beneficiaries a financial incentive to report billing irregularities *; and Sen. Frank R. Lautenberg, D-N.J., has proposed a bill to protect whistleblowers who report violations of the Clean Air Act. *

Of more interest to the activists would be a permanent end to the gag orders that agencies often impose on controversial whistleblowers, a ban that in recent years has been renewed one year at a time, Clark says.

Agency Agendas

Currently stalled within the Health and Human Services Department is a “Whistleblowers Bill of Rights,” which was drafted in 1995 by a congressionally chartered Commission on Research Integrity. It is intended to assure that private-sector laboratory employees who report fraud in federally sponsored medical research do not suffer harassment.

Action on whistleblowers is also encouraged by the National Performance Review, the “Reinventing Government” effort run by Vice President Al Gore, a past supporter of whistleblowers. The fact that many federal agencies have set up whistleblower hot lines has meant that fewer calls are being received by Congress' GAO hot line. Though GAO's line saved millions of dollars soon after it was established in 1978, cost-cutting demands recently prompted it to discontinue live operators and substitute voice mail.

“We were only generating one case for every 50 or so calls,” says Trudy Moreland, project manager for the GAO's Office of Special Investigations. “And people now can do better using the Internet.” Last fiscal year, the GAO processed 325 whistleblower submissions by mail or the Internet, she says. They involved allegations of mismanagement, contractor fraud, tax fraud, conflict of interest and retaliation against whistleblowers. GAO referred 130 of the cases to inspectors general or the Justice Department.

Tougher Inspectors General?

A key topic of debate is whether inspectors general, who are assigned to each agency to monitor costs and ethics issues, could do more for whistleblowers. Attorney Kohn would like to see a strengthened non-politicized "IG Corps" of officials who are less loyal to their respective agencies than the current ones.

But Shaw of the Senior Executive Service argues that inspectors general "are not just cops but management consultants who are needed to help bring changes in an agency. You can't make them totally adversarial, or else they'd spend their time going after headlines," he says.

Frank Broome, director of departmental inquiries for the Defense Department's inspector general, also thinks the current IGs are sufficiently independent to pass judgment on whistleblowers. He points out that the IG has to communicate progress to multiple parties whom the whistleblower may have contacted, including members of Congress, service commanders, even the president. Historically, only about 15 percent of complaints, he says, are substantiated.

See-Saw Court Action

In the judiciary, varying actions by the courts demonstrate that whistle-blower case law is still evolving. In New York City, for example, a federal district judge in 1996 decided to permit testimony before a jury from several Prudential Insurance Co. agents, who had accused management of promoting unsafe sales practices. Their first-person testimony made it possible that their potential for collecting damages would be improved. [29]

In a blow to whistleblowers, a federal district judge in Houston ruled in October that a nurse who had brought charges of Medicare and Medicaid fraud did not deserve to collect a reward because she hadn't personally been harmed. [30]

Also in October, the Supreme Court heard oral arguments in Baker v. General Motors Corp., in which the high court is expected to decide whether the huge automaker may block one of its engineers from testifying in a case involving an alleged wrongful death from a car engine fire.

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** A provision of McCain's proposal providing a toll-free telephone number for complaints about Medicare billing fraud was included in the fiscal 1998 budget reconciliation bill passed by Congress.

Outlook

Global Phenomenon

The familiar cycle -- charges are made, management retaliates and a whistleblower's life is altered forever -- is now a worldwide phenomenon. In Russia, a former defense official named Alexander Nikitin has been in jail for two years for having revealed secret reports of Soviet nuclear submarine accidents over the past 30 years. And in Israel, Mordechai Vanunu, who sits in prison for having revealed the existence of Israel's secret nuclear arms program, was officially adopted in October by an elderly Minnesota couple as a gesture of support.

Sometimes whistleblowers find themselves hoisted by their own petard. Mark Whitacre, a former Archer Daniels Midland executive who went undercover for the FBI and exposed a price-fixing conspiracy, has himself been indicted for theft. On the other hand, the failure to blow the whistle when faced with clear evidence of wrongdoing is now punishable in some professions, such as law and accounting.

The majority of whistleblower charges are not borne out -- of 617 whistleblower appeals processed by the Merit Systems Protection Board last year, fully 63 percent were simply dismissed. Case law rulings have insisted that whistleblowers report actual misconduct, not just a difference of opinion with their superiors.

But POGO's Brian points out that her group weeds out plenty of whistleblower claims that appear kooky or weak. "We protect ourselves by requiring documentation, rather than simply relying on the whistleblower's word. And we require them to fill out a two-page summary, which makes the ones who are merely sour grapes go away." The "Survival Tips for Whistleblowers" booklet just published by the GAP recommends that whistleblowers talk first to family and friends, look for other witnesses and first try to work within the system.

"Whistleblowers have more protection now, and managers must worry about colleagues who will blow the whistle," says Clark. "But the biggest problem is still the corporate culture. In large institutions, people who punish whistleblowers still don't get punished themselves, so it will always be a temptation for a manager."

Former Rep. Schroeder says that while "human nature can't be legislated against," it is her hope that whistleblowers will be viewed less often as "rats" than as virtuous. Unfair retaliation by managers against whistleblowers should be treated like sexual harassment or employment discrimination, says Roth of the government employees union. "It should be embarrassing and socially unacceptable rather than treated as a routine personnel issue."

The problem, counters business ethicist Hoffman, is on both sides. "No one defends retaliation, but the problem is how to detect it." Some unethical employees, for example, might know that they're due for an unfavorable performance evaluation and will simply invent something to blow the whistle on "so they can say they've been retaliated against."

Corporate executives are "by and large a pretty ethical group," adds consultant Dreilinger. "And in recent years, for the first time I've been asked for preventative ethics programs rather than remedial ones."

After 20 years of these revelations, Duska says, “I would like to say that human beings have learned that hiding things doesn't work, and that whistleblowers can be a friend of the organization. But managers will say that someone who blows the whistle is old, over the hill and has lost it. The perennial battle will keep going.”

The fear of whistleblowers, Badaracco says, “does more good than harm. All the treble-damages lawsuits and appearances on '60 Minutes' have done more for ethics than any organizational credos, speeches or mission statements.”

Even if ethical violations decline for reasons of conscience, the folklore of the heroic whistleblower is liable to remain a popular image.

“We're going to have a whole new wave of whistleblowers -- spontaneous, Ralph Nader-types,” New Age philosopher and author James Redfield recently predicted. “They're going to say, 'This is going on and it's not right, and I'm going to say something, even if it means losing my job.' ” [31]

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Pro/Con

Should whistleblowers receive financial rewards for exposing fraud against the government?

Pro

Lisa R. Hovelson

Executive Director and General Counsel, Taypayers Against Fraud, The False Claims Act Legal Action Center,. From “Support Your Local Whistleblower,” GW Magazine, May 1995

In this time of heightened federal budgetary pressures, the urgency of combating fraud against the government is clear. What is less obvious, however, is that the private bar can play an important part in the anti-fraud endeavor.

Specifically, a unique mechanism in the federal False Claims Act, known as qui tam (the Latin abbreviation for the phrase “he who brings an action for the king as well as himself.”), enables persons with evidence of wrongdoing to sue dishonest companies and individuals on behalf of the government and share in the recovery.

As the act has become one of the most effective measures in the government's enforcement strategy, more attorneys are discovering that qui tam represents an opportunity to serve the public interest while working in the private sector. Under the False Claims Act, those who knowingly submit false bills are liable for three times the government's damages and civil penalties of $5,000 to $10,000 for each false claim. Private parties who sue under the qui tam provisions of the act can receive from 15 to 30 percent of the total recovery. The suits are filed under seal for at least 60 days, during which the Department of Justice can investigate and decide whether it will intervene in the action. . . .

While the False Claims Act dates back to the Civil War, until recently it was rarely used by private citizens. The need to revitalize the law became apparent in the mid-1980s as reports of defense contractors bilking the taxpayers abounded. Amid competing bureaucratic demands, the government could not detect and prosecute all the fraud itself, and the losses mounted.

Concluding that additional resources had to be marshaled, Congress in 1986 amended the False Claims Act, strengthening the incentives for “whistleblowers” and their attorneys to help uncover and prosecute fraud.

The results have been impressive. Qui tam lawsuits have returned nearly $2 billion to the federal government since 1986. According to the Department of Justice, in fiscal year 1994 alone qui tam actions accounted for $378

Con

Peter W. Morgan , Glenn H. Reynolds

From The Appearance of Impropriety: How the Ethics Wars Have Undermined American Government, Business and Society, (Simon & Schuster, 1997)

Protections for the infinite variety of whistleblowers have never been greater: In the past decade, the number of states with laws protecting whistleblowers from retaliation by employers has jumped from six to 45. Federal procedures and protections are likewise at an all-time high -- with anonymous hot lines, a specially established Office of Special Counsel to which one may “whistle,” statutory protection against retaliation, financial rewards in certain cases and so on.

The wholesale adoption of formalized whistleblowing procedures can cause serious problems in a company, however. The best-run -- and most “ethical” -- corporations generally depend upon organizational trust and informal systems of communication. Formalized whistleblowing procedures tend to undermine both. Corporate hot lines, for example, may be a good way to demonstrate “compliance,” yet . . . they inevitably create an environment of mistrust. . . .

The threat to internal trust is exacerbated by external whistleblower reward systems like the federal False Claims Act and similar government programs. . . . The act's bounty provisions have produced the perverse result in a number of cases of rewarding employees who keep silent for years while gathering evidence for a federal suit. This inaction allows the government's damages to pile up and, as a result, increases the amount of the whistleblower's bounty.

Many whistleblowers have suffered tremendous hardships for merely trying to do the right thing -- losing a job, enduring false personal attacks and so forth. But this is not necessarily so with the new whistleblowing entrepreneur, who may see the employer's errors as a way to build a war chest with which to enter the same market, or to enjoy a life most people only dream about, with a $23 million bounty and a three-level home on the California coast. . . .

The larger lesson is that a bounty system by design encourages the very worst sort of whistleblowers -- the purely self-interested ones. . . . This reward system may result in increased exposure of corruption in the short million, more than one-third of the government's overall recoveries from civil fraud cases and more than double the previous year's total. . . .

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term. But to think it won't create havoc in the long run is to ignore experience. . . .

From The Appearance of Impropriety in America by Peter W. Morgan and Glenn H. Reynolds. Copyright 1997 by Peter W. Morgan and Glenn H. Reynolds. Reprinted by permission of The Free Press, a division of Simon & Schuster, Inc.

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Chronology

1960s-1970s	Modern whistleblowing movement gathers steam in reaction to corruption during era of Vietnam War and Watergate.
1968	Pentagon whistleblower Ernest Fitzgerald tells Joint Economic Committee of C-5A transport plane cost overruns and loses his job.
1970	New York City policeman Frank Serpico blows whistle on police corruption.
1971	Ralph Nader organizes first conference on whistleblowers.
1972	Congress enacts first whistleblower statute as part of Water Pollution Control Act.
1977	Founding of Government Accountability Project to assist whistleblowers.
1978	Passage of Civil Service Reform Act creating Merit Systems Protection Board and Office of Special Counsel to evaluate and press whistleblower cases. General Accounting Office establishes whistleblower hotline.
1980s	States begin passing whisteblower protection acts, some covering private sector.
1981	Whistleblower awards created as part of Budget Reconciliation Act are discontinued after three years; founding of Project on Government Oversight (originally called Project on Military Procurement).
1982	Fitzgerald fully reinstated by Air Force as a result of Supreme Court ruling.
1983	Supreme Court rules in Bush vs. Lucas that government employees do not have the right to sue their superiors because they have internal mechanisms.
1984	Office of Personnel Management ends arbitrary mental health exams for whistleblowers.
1986	Congress enacts update of False Claims Act, sponsored by Sen. Charles E. Grassley, R-Iowa, and Rep. Howard L. Berman, D-Calif., offering whistleblowers financial incentives to uncover defrauding of government. Engineers who warned of space shuttle Challenger disaster raise profiles of whistleblowers.
1988	President Ronald Reagan vetoes Whistleblower Protection Act. First Cavallo Foundation awards to whistleblowers.
1989	President George Bush signs Whistleblower Protection Act expanding government employee appeal rights.
1990s	Corporations set up ethics offices, codes of conduct and hotlines.
1992	Congress halts military practice of requiring mental health exams for whistleblowers, restores cash awards to whistleblowers who save the government money.
1993	Congress creates Commission on Research Integrity to make recommendations to curb research fraud in federally backed medical research laboratories. Vice President Al Gore encourages whistleblowers while heading up Clinton administration's “Reinventing Government” effort.
1994	Amendments to 1989 Whistleblowing Act. Defense industry makes push to repeal False Claims Act.

1995	Government recoveries from False Claims Act pass $1 billion.
June 16, 1997	Supreme Court rules False Claims Act can't be used to collect money for fraud before 1996.
Oct. 24, 1997	Federal district judge in Houston rules that False Claims Act is unconstitutional.

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Short Features

Probing the Mental Health of Whistleblowers

“Nuts and sluts.” That's how unscrupulous managers portray whistleblowers in trying to discredit them, according to Donald Soeken, a psychotherapist in Laurel, Md., who has been counseling whistleblowers for two decades. He should know. He blew the whistle in the late 1970s when, as a government employee, he was assigned to perform “fitness for duty” mental exams that he felt were intended merely to provide federal agencies with ammunition for firing employees who were “ethical resisters.”

“When the government or corporations use the 'nuts and sluts' defense, I tell reporters to ignore it and find out what the issue is, and then prove whether or not it is true,” says Soeken, whose foundation-backed organization, Integrity International, has provided hundreds of whistleblowers with emotional, technical and financial support.

“Usually whistleblowers have already gone through grievance hearings by the time they call me, so there's lots of material I can read,” Soeken says. “Only a couple of cases out of hundreds have ever given me second thoughts.”

It takes special understanding to treat people who have lost their jobs and drained their savings hiring lawyers. “Many of them are engineers who feel they are good engineers and feel terrible at all the bad publicity surrounding them,” he says. “I debrief them as if they'd just experienced a disaster such as a plane crash. I try to lead them out of the mire so they can see that they're not alone.”

Winning their case, he adds, is different in such instances because most don't win money. “They want to be made whole, to go on with life, but it's impossible if their reputation has been destroyed.”

In 1986, Soeken and wife, Karen, surveyed some 87 whistleblowers and found that more than a fourth had been referred for psychiatric or medical help. About half had experienced feelings of panic, and three-quarters had experienced loss of sleep and depression; about 10 percent had attempted suicide. (Surprisingly, only 16 percent said they wouldn't blow the whistle if they had it to do over again.)

“Our study showed that about half of whistleblowers are what we call absolutists,” Soeken says. “In ethics, they see things as black-white, right-wrong and universal, and they come across as rigid. The rest are more pragmatic -- they want the most good for the most people, in equal abundance.” The opponents whom the whistleblowers go up against are usually “situationalists,” Soeken explains. “They tend to make up the rules as they go, and for them the bottom line is more important than how you get to it. They don't mix well with the absolutists, and so the sparks fly.”

When Soeken began treating whistleblowers, it was common for government agencies to require them to undergo psychiatric examinations. “There were lots of abuses in the late 1970s,” says Louis Clark, executive director of the Government Accountability Project (GAP), who worked with Soeken early on. The issue was examined in a series of congressional hearings by Rep. Gladys Noon Spellman, D-Md., but it wasn't until 1984 that mandatory psychiatric examinations were banned by the Office of Personnel Management. (The exceptions were in the military, intelligence, law enforcement and high-stress jobs such as air traffic controller.) Legislation that was passed in 1992 ended the exams in the military as well.

G. Jerry Shaw, general counsel of the federal Senior Executive Service, says the prohibition on mental health exams has unintentionally created new problems. “Some seriously disturbed people should retire and go on disability, but they don't, and so they end up getting fired and losing their benefits and often end up on the street pushing a cart. The agencies have little choice.”

Danielle Brian, executive director of the Project on Government Oversight, argues that the “mental health problem is circular. A significant number of whistleblowers do have mental problems, but I would, too, if I'd gone through what they go through.”

The governmentwide curb on exams, Soeken says, has not prevented individual agencies from hiring their own doctors and recommending that whistleblowers see them. “It's the kiss of death,” he says, citing cases at the National Institutes of Health and the Library of Congress. “The doctors will write a note that is then used against the employee. I've told them it's a perversion of psychiatry to use it to further the goals of the agency.”

The Library of Congress in November 1995 signed an agreement with its three employees' unions that spelled out when a psychiatric examination may be required for an employee. The circumstances include overall medical fitness for a new job or new responsibilities, but also “where the employee has a performance or conduct problem that may require agency action.” The agreement guarantees the employee the right to hire a representative to help with any disputes, and the employee may have a say in who the examiner is.

Merely avoiding mental health harassment, however, does not protect whistleblowers from mental anguish. “In our culture, we don't put a lot of value on doing the right thing,” Soeken says. “We put value on money, prestige and power. And then we look behind us to see who we've left in the dust and tell ourselves, 'They didn't have the right stuff.'”

Whistleblowers who fight back usually don't make up for what they lost, he adds. “But you get lots of satisfaction at looking at yourself in the mirror and saying, 'I did the right thing.' ”

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They Bucked the System: A Whistleblowers' Hall of Fame

Richard M. Barlow: A CIA analyst who was fired in 1989 after warning his superiors that federal officials were misleading Congress about Pakistan's nuclear weapons capabilities. Now a law enforcement consultant in Santa Fe, N.M., he is suing for back pay and damages.

Demetrios Basdekas: A safety specialist at the Atomic Energy Commission (now the Nuclear Regulatory Commission) who in the mid-1970s bucked his superiors and refused to certify the safety of the Clinch River breeder reactor. He continued as a critic before leaving the NRC in 1992.

Bert Berube: A structural engineer with the General Services Administration (GSA), he was demoted after reporting political bias in fund allocations to government buildings in the late 1970s. When the Reagan administration came to Washington vowing to root out waste, fraud and abuse, Berube was appointed to run GSA's National Capital Region. In 1983, he was fired after charging that GSA cost cuts mandated by Reagan were endangering government buildings.

Paul Biddle: A Navy auditor who in 1988 charged Stanford University in Palo Alto, Calif., with false claims in billing the government for up to $200 million for research work that actually went for such expenses as a yacht, fresh flowers for the university president and upkeep of the campus founder's mausoleum. His effort to collect a portion of the returned money is pending in court.

Roger Boisjoly: A senior scientist at Morton Thiokol in Utah who worked on the space shuttle's solid rocket boosters. Before the fatal Challenger crash in 1986, he warned his superiors that low temperatures could erode the O-rings on the boosters, the crash's probable cause. He testified to that effect before the federal commission investigating the tragedy and was then demoted by Morton Thiokol. He sued the company unsuccessfully.

James Boyd and Marjorie Carpenter: Aides to Sen. Thomas J. Dodd, D-Conn., who in the mid-1960s leaked documents from their boss' office to columnist Drew Pearson, showing that Dodd had been using campaign funds for personal expenses. They were fired, and Dodd was censured on the floor of the Senate.

John Brodeur: Geophysicist and engineer who in 1994 worked with colleague Casey Ruud to alert the public to groundwater contamination at the government's Hanford, Wash., nuclear facility. He'd first blown the whistle in 1989 and was terminated but returned as a subcontractor. In 1996, he won support from then-Energy Secretary Hazel O'Leary.

Frank Camps: A senior design engineer with Ford Motor Co. in the early 1970s who protested the unsafe design of the Pinto and sued Ford to remove himself from responsibility. He resigned in 1978. The car was later withdrawn from the market after numerous burn injuries from accidents involving gas tanks.

Jerry D. Davis: Geologist who worked for 22 years at Energy Department's Hanford nuclear site, exposed radioactive groundwater to his superiors, and was dismissed July 29, 1997. A Labor Department investigation produced reinstatement, back pay, compensatory damages and reimbursement of attorneys' fees.

John W. Dean III: The White House counsel who in 1973 turned on his colleagues in President Richard M. Nixon's inner circle and told Congress that Nixon and top aides had been aware of, and later covered up knowledge of, the 1972 break-in at Democratic National Committee headquarters in Washington's Watergate office complex.

'Deep Throat': The anonymous source used by Washington Post reporter Bob Woodward to corroborate his stories on White House misuse of campaign money for illegal or unethical political operations that, as the “Watergate” scandal, led to the resignation of President Nixon in 1974.

Maude DeVictor: Counselor at the Veterans Administration who in 1978 bucked her superiors and pursued a class action suit on behalf of Vietnam veterans who trace their illnesses to the defoliant Agent Orange. She was relieved of her investigative duties and later lost her job in a labor dispute.

C. Jack Dowden: Sales manager in a laboratory who alleged that a competing commercial laboratory called National Health Laboratories fraudulently induced physicians to order unneeded blood tests so that they could be billed to Medicare. In 1992, he helped recover $111 million using the False Claims Act.

Daniel Ellsberg: The Defense Department official who in 1971 released thousands of pages of a classified history of U.S. military involvement in Vietnam. The papers were published by The New York Times and The Washington Post. Ellsberg's psychiatrist's office was later burglarized by agents of the Nixon administration looking for defaming personal information.

Ernest Fitzgerald: The cost-analyst for the Air Force who in 1968 told Congress that Lockheed Corp. had purposely planned cost overruns on its C-5A transport plane. Perhaps the most famous whistleblower, he is still at the Pentagon.

Billie Garde: Census Bureau employee in 1980 who reported her boss for theft and sexual harassment was passed over for promotions and threatened with dismissal. Her boss later went to prison for fraud, and she went on to work with whistleblowers reporting safety violations at the South Texas Nuclear Plant.

Steve Jones: Safety manager at chemical weapons incinerator at U.S. Army Depot in Tooele, Utah,, fired in 1994 after reporting that the facility was a “ticking time bomb” of health and safety risks. He sued his former employer, and the Labor Department this year awarded him a record-setting $1 million, which is being appealed.

Douglas Keeth: As executive vice president of United Technologies Corp, he charged the company's Sikorsky Aircraft Division with prematurely billing the government for work on a helicopter contract and for inflating costs of materials. In the largest qui tam settlement to date, UTC settled the case in 1994 for $150 million.

Vincent Laubach: A senior attorney with the Interior Department who soon after the election of Ronald Reagan reported the failure of the Carter administration to force strip-mining companies to pay fines and fees for using public lands. Reagan Interior Secretary James Watt ignored his entreaties, and he was reassigned to clerical duties.

Richard A. Lundwall: Texaco Inc. financial officer who was forced out in 1996 after making public his tape recordings of conversations in which he and other Texaco executives made disparaging remarks about minorities and planned to destroy key documents in a discrimination suit.

Bill E. McKay Jr.: Ashland Oil executive who, with colleague Harry D. Williams in 1988, won $69.5 million in damages after being fired by Ashland for questioning allegedly illegal foreign payments and efforts to cover them up.

Richard Nuccio: State Department senior adviser whose security clearance was revoked in 1996 after he passed on to then-Rep. Robert Toricelli, D-N.J., information that the CIA knew more of murders in Guatemala than it had revealed to American relatives of the murder victims.

Marie Ragghianti: A Tennessee state parole official who in 1976 exposed corruption of Gov. Roy Blanton, who was pardoning prisoners in exchange for money. She was later harassed and slandered, and her story was made into the 1985 movie “Marie” starring Sissy Spacek.

Michael Roszak: A former municipal bond broker with J.F. Hartfield & Co., in Jersey City, N.J., told federal regulators in 1996 that the firm was overcharging its brokerage clients; he triggered a probe by the Securities and Exchange Commission, and the company fired him after accusing him of stealing documents.

Mary Schiavo: The former Transportation Department official who authored Flying Blind, Flying Safe, which details her efforts to warn of the dangers at ValuJet Airlines, which suffered a crash in Florida in 1996 that killed 110.

Frank Serpico: With two fellow New York City police officers in 1970, he took reports of gambling influence and other police corruption to The New York Times, after being rejected by his superiors. Mayor John V. Lindsay appointed a major commission to investigate.

Karen Silkwood: The nuclear plant worker for Kerr-McGhee who in 1974 testified about safety violations at the company's Oklahoma plant. She was killed in an unexplained car accident on her way to meet with New York Times reporter David Burnham. Her story was made into the 1983 movie “Silkwood” starring Meryl Streep.

Chris Urda: A former administrator at Singer Co. alleged that Singer's Link Flight Simulation Division regularly submitted false cost and price data to the Defense Department. Singer settled for $55 million under the False Claims Act.

Richard Walker: A physicist with AT&T's Bell Laboratories, he found computer projection errors on a military project in 1971, but his bosses wouldn't let him tell the Navy. After some undesirable assignments, he was fired in 1979, supposedly for not taking interest in his work.

Chester Walsh: A General Electric Co. manager who alleged that GE executives and an Israeli general conspired to divert U.S. foreign military assistance funds intended for the Israeli Air Force. GE paid the government $59.5 million in 1992 under the False Claims Act.

Jeffrey Wigand: The head of research for Brown & Williamson tobacco who in 1995 told state attorneys general and later “60 minutes” that he worked with executives who spoke of being “in the nicotine delivery business.”

Merrill Williams: paralegal at law firm representing Brown & Williamson who in 1995 released documents showing that tobacco industry executives had lied when they told Congress nicotine is not addictive.

Sources: Government Accountability Project, Project on Government Oversight; Taxpayers Against Fraud; Myron Peretz Glazer and Penina Migdal Glazer, Whistleblowers: Exposing Corruption in Government and Industry (1989); Andrew W. Singer, “The Whistle-Blower: Patriot or Bounty Hunter,” Across the Board, published by The Conference Board, November 1992, p. 21; James R. Bennett, “Trading Cards, Heroes and Whistleblowers,” The Humanist, March-April 1997; The New York Times; The Wall Street Journal.

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Should You or Shouldn't You?

University of Kansas business Professor Richart T. De George formulated a set of widely respected guidelines for determining when it is ethically proper for an employee to go outside usual channels and blow the whistle on improper or illegal conduct. He says the following criteria should be present if an employee is to proceed:

-- The firm, through its product or policy, will do serious and considerable harm to the public, including the user of the product, an innocent bystander or the general public;

-- Once employees identify a serious threat to the user of a product or to the general public, they should report it to their immediate superior and make their moral concern known. Otherwise, the act of whistleblowing is not clearly justifiable;

-- If one's immediate supervisor does nothing effective about the concern or complaint, the employee should exhaust the internal procedures and possibilities within the firm. This usually will involve taking the matter up the managerial ladder, and, if necessary -- and possible, to the board of directors;

-- The whistleblower must have documented evidence that would convince a reasonable, impartial observer that one's view of the situation is correct, and that the company's product or practice poses a serious and likely danger to the public or the user of the product;

-- The employee must have good reason to believe that by going public changes will be brought about. The chance of being successful must be worth the risk one takes and the danger to which one is exposed.

Source: Richard T. De George, Business Ethics (1986), pp. 232-234.

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Books

Badaracco, Joseph L., Jr. , Defining Moments: When Managers Must Choose Between Right and Right, Harvard Business School Press, 1997. A Harvard University business professor examines the wrenching dilemmas facing decision-makers in the modern workplace, offering insights on how to seek truth, virtue and success.

DeGeorge, Richard T. , Business Ethics: Second Edition, Macmillan, 1986. A University of Kansas business professor explores the moral, legal and practical issues surrounding a variety of questions facing managers and lower-level employees, including a discussion of when whistleblowing is justified.

Fitzgerald, Ernest A. , The High Priests of Waste, W.W. Norton, 1972. A longtime Air Force budget analyst who in 1968 became the government's most famous whistleblower offers his account of how he told Congress of the Lockheed Corp.'s cost overruns in producing the C5-A transport plane.

Penina Migdal Glazer , The Whistleblowers: Exposing Corruption in Government and Industry, Basic Books, 1989. A Smith College sociologist and a Hampshire College historian produced the most comprehensive account of the rise of the whistleblower phenomenon over the past three decades.

Project, Government Accountability , The Whistleblower's Survival Guide, 1997. This just-released booklet offers concrete tips on deciding whether one has a case that requires blowing the whistle, including advice on when to call for legal help.

Kohn, Stephen M. , The Whistleblower Litigation Handbook: Environmental, Nuclear, Health and Safety Claims, John Wiley, 1991 (with a 1994 supplement). The lead attorney at the National Whistleblower Center outlines the federal and state laws that whistleblowers can use to counter retaliation from management, and in some cases win back pay, damages and reinstatement.

Glenn H. Reynolds , The Appearance of Impropriety: How the Ethics Wars Have Undermined American Government, Business and Society, The Free Press, 1997. A Washington attorney and a University of Tennessee law professor analyze the nation's preoccupation with corruption and white-collar misconduct over the past 20 years, concluding that the onslaught of rules, regulations and scandals has failed to restore faith in institutions.

Jeffrey Rothfeder; , The People Vs. Big Tobacco: How the States Took on the Cigarette Giants, Bloomberg Press, 1998. This forthcoming account of the events that led to the landmark proposed deal between tobacco companies and state attorneys general begins with the dramatic disclosures of corporate dishonesty on the dangers of smoking as exposed by two whistleblowers.

Morris, Tom , If Aristotle Ran General Motors, Henry Holt, 1997. A corporate consultant and self-described philosopher lays out a thought process for approaching workplace ethical conundrums, touching on concepts of truth, beauty and spirituality.

Kate Blackwell , Whistleblowing: The Report of the Conference on Professional Responsibility, Grossman, 1972. These papers from what is considered the seminal conference on whistleblowing represent a call to action for employees in government and industry to consider when ethical violations require them to put the public interest above that of their employer.

Taylor Branch , Blowing the Whistle: Dissent in the Public Interest, Praeger, 1972. In one of the early works on the subject, two writers for Washington Monthly assembled a set of essays on whistleblowing and corruption exposes in American history, particularly in the military during the height of the Vietnam War.

Schiavo, Mary , Flying Blind, Flying Safe, Avon Books, 1997. The former inspector general for the Federal Aviation Administration lays out her explosive critique of airline safety issues and how the government agency charged with overseeing them, she says, has fallen down on the job.

Westman, Daniel P. , Whistleblowing: The Law of Retaliatory Discharge, Bureau of National Affairs, 1991. An attorney compiled this detailed history and nationwide survey of the federal and state laws that whistleblowers who feel they've been unjustly fired can use to seek redress in both the public and private sectors.

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The Next Step

Protection for Whistleblowers

Gruenwald, Juliana , "Senate Passes Spy Agency Bill With Little Dissent," Congressional Quarterly Weekly Report, June 21, 1997, p. 1464. The Senate overwhelmingly passed legislation on June 19, 1997, authorizing funding for intelligence activities for fiscal 1998, despite the objections of the Clinton administration over a provision to protect whistleblowers.

Kaiser, Jocelyn , "Home for Scientific Whistleblowers," Science, Sept. 12, 1997, p. 1611. Whistleblowers who accuse their peers of scientific misconduct may soon get some full-time support from the group Whistleblowers for Integrity in Science and Education.

"Let the Whistles Blow," Government Executive, September 1997, p. 8. A senate-passed provision of the 1998 intelligence authorization act would allow protection for federal whistleblowers who reveal classified information to members of Congress without going through their superiors.

Marks, Alexandra , "Do Whistleblowers Threaten Security When Telling Congress of Spies' Lies?: Showdown Comes This Week on a Senate Proposal to Shield Whistleblowers," The Christian Science Monitor, July 15, 1997, p. 1. The White House has threatened to veto a Senate proposal to shield whistleblowers, claiming it violates the administration's constitutional right to ensure national security. This week, the House Intelligence Committee is expected to decide whether to back the White House or side with the Senate. Either way, there will be a showdown that some analysts contend could have serious constitutional ramifications. The controversy was sparked by Richard Nuccio, a high-level State Department employee who discovered the CIA had misled Congress about what its operatives knew about two killings in Guatemala.

"Protecting the Whistle-blowers," OECD Observer, February 1997, p. p16. New procedures to encourage whistleblowing are being put in place by many countries. Protection of whistle-blowers is one way to encourage public servants to report any suspected wrong-doing.

Reporting Fraud

Hoover, Rusty , "Researcher Gets $1.67 Million in U-M Lawsuit," Detroit News, Aug. 1, 1997, p. C1. Carolyn Phinney, a former researcher at the University of Michigan, became a millionaire Thursday when the university paid $1.67 million to end a 7-year-old lawsuit that alleged fraud and stolen research. Phinney said her case, which attracted nationwide attention, is the first in which a whistleblower in science and academia prevailed. In 1990, Phinney, a researcher at the school's Institute for Gerontology, sued psychology Professor Marion Perlmutter for fraud, claiming Perlmutter had lied to get access to her research on adult personality development.

McMorris, Frances A. , "Legal Beat: NYU Medical Center Settles U.S. Lawsuit," The Wall Street Journal, April 8, 1997, p. B9. New York University Medical Center agreed to pay $15.5 million to settle a whistleblower lawsuit alleging that it submitted false financial information to the federal government regarding costs associated with federally sponsored research grants and contracts.

"Plaintiffs Refile in B&T Suit," American Libraries, October 1997, p. 19. Following a judge's dismissal of the federal government's whistleblower lawsuit against Baker & Taylor, the plaintiffs have filed an amended complaint alleging that the book wholesaler overcharged libraries and schools up to $200 million over the past decade.

Shannon, Colleen , "UK Doctors Urged to Whistleblow," British Medical Journal, June 7, 1997, p. 1642. The United Kingdom's Department of Health is urging doctors and nurses to speak out when they believe a colleague's behavior could be endangering patients.

David Segal , "Justice Dept. Joins Suit Against Book Wholesaler; Firm Allegedly Overcharged Libraries, Schools," The Washington Post, Feb. 4, 1997, p. C1. A U.S. District Court suit filed in San Francisco alleges that wholesale bookseller Baker & Taylor Inc. routinely failed to pass discounts along to as many as 15,000 institutional customers. Following an 18-month investigation, the agency said yesterday that it is taking over a lawsuit that was originally filed by two whistleblowers

"Whistleblower: Federal Law Helping to Fight Medicare Found," Houston Chronicle, Oct. 27, 1997, p. A20. The dire straits of the nation's Medicare and Medicaid systems have suffered no shortage of publicity in recent months. Medicare could go broke just after the turn of the century and a big part of the problem has been fraud and abuse. As much as $27 billion annually may have been siphoned off through fraud and abuse.

"'Whistle-blower' Lawsuits Continue to Recover Millions of Health Care Dollars for the Government," Health Letter, October 1997, p. 12. Private whistleblower lawsuits, also referred to as qui tam lawsuits, allow a private citizen to bring a lawsuit on behalf of the United States against those who have defrauded the government. These suits play an increasingly important role in fighting health care fraud.

Retaliation by Management

“Labor Whistleblower Waiting to Be Fired,” Times-Picayune, Aug. 21, 1997, p. A5. A top investigator at the Department of Labor said his job is being threatened because he has blown the whistle on his bosses. Gary Love, a 26-year employee of the agency, said he was given a pre-termination notice by new Labor Secretary Garey Forster and expects to be fired from his $42,000-per-year post.

Macilwain, Colin , “Whistleblowers Face Blast of Hostility,” Nature, Feb. 20, 1997, p. 669. Whistleblowers who alert authorities to alleged instances of scientific misconduct are facing an increasingly hostile environment in which colleagues, research administrators and even investigators called in to examine their claims are closing ranks against them. Whistleblowers often find themselves subjected to suspicion and investigation.

Mooar, Brian , “2 D.C. Officers Say Whistleblowing Backfired; Sergeants Tell Council Committee That Accusing Barry Friend Led to Threats, Intimidation,” The Washington Post, Sept. 26, 1997, p. B5. Two D.C. police sergeants told a D.C. council committee yesterday that they were intimidated, threatened and branded as “rats” after revealing that a police detective with close ties to Mayor Marion Barry was being paid for a no-show job in the department's gang task force.

Norton-Taylor, Richard , “Whistleblower Sacked by MoD,” The Guardian, Oct. 1, 1997, p. 3. A government scientist has been sacked after blowing the whistle about waste and alleged corruption in controversial Ministry of Defense projects.

Richey, Warren , “Customs Agents: Bosses Sabotage Success,” The Christian Science Monitor, Sept. 22, 1997, p. 4. Employees at the U.S. Customs Service face ruthless drug traffickers and conniving smugglers nearly every day, but some agency workers say nothing compares with the pressures of dealing with their own bosses. Although most Customs Service supervisors are talented professionals, some employees at the agency complain that a significant number of managers are abusing their authority. They say whistleblowers and other workers who anger such bosses risk retaliation.

Welli, Stan , “The Story of One IRS Whistle-blower,” Insight on the News, Nov. 3, 1997, pp. 13-15. Welli, a former IRS internal inspector who encountered corruption in the IRS and then refused to let it be swept under the rug, offers his personal account of IRS abuses. The IRS retaliated against Welli for his whistleblowing activities.

Whistleblowers Fighting Back

Flynn, George , “Doctor Sues County, Wrkers for Her Firing From DNA Lab,” Houston Chronicle, March 21, 1997, p. A34. A doctor filed a Texas state Whistleblower Act lawsuit against Harris County and several of its employees Thursday, alleging her firing from the Medical Examiner's Office was in retaliation for exposing office improprieties. The wrongful termination lawsuit alleges her firing came because she reported the suppression of evidence favorable to a murder defendant and two instances of “sabotage” in the office in late 1995.

Johnson, Stephen , “Whistleblower Says HPD Targeted Him in Probe,” Houston Chronicle, Sept. 16, 1997, p. A19. Houston police officer Paulina Zavala, who contends he was targeted for a criminal investigation because he informed on internal affairs division investigators, is suing the city.

Josar, David , “Accountant Sues District Under Whistleblower's Act,” Detroit News, June 26, 1997, p. D8. Consultant Peter Stenger, who was hired by the Detroit public schools to investigate $30 million that was unaccounted for from a 1986 bond issue, is suing the district. Stenger claims that Superintendent David Snead and attorney Charles Wells threatened to blackball him if he refused to cover up problems he discovered with the district's finances. He accuses the district, Snead and former School Board President Robert Boyce of violating the Whistleblower's Protection Act and breach of contract.

Kaiser, Jocelyn , “EPA Scientist's Views Spark Agency Reaction,” Science, Sept. 12, 1997, p. 1595. Environmental Protection Agency researcher David Lewis says he is being punished for criticizing the agency in print and will present his case to a federal judge next week.

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Contacts

Ethics Resource Center
1747 Pennsylvania Ave. N.W., Suite 400, Washington, D.C. 20006
(202) 737-2258.
Founded in 1977, this corporate-funded nonprofit works to improve ethical practices “from the classroom to the boardroom.” It conducts surveys and advises many Fortune 500 companies.

Government Accountability Project
810 First St. N.E., Suite 630, Washington, D.C. 20002
(202) 408-0034.
This group of lawyers and citizen activists assists whistleblowers and others with knowledge of wasteful, illegal or health-threatening activities in the workplace.

National Whistleblower Center
517 Florida Ave. N.W., P.O. Box 26381, Washington, D.C. 20001
(202) 667-7515.
The center represents whistleblower clients in government and private industry and publishes educational materials.

Office of Special Counsel
1730 M St. N.W., Suite 300, Washington, D.C. 20036

(202) 653-9125
(800) 572-2249.
orThis federal agency created by the 1978 Civil Service Reform Act receives, investigates and prosecutes complaints filed by federal employees seeking to blow the whistle on agency misconduct and unfair retaliation against them.

Project on Government Oversight
1900 L St. N.W., Suite 314, Washington, D.C. 20036
(202) 466-5539.
Founded in 1981 as the Project on Military Procurement, this nonpartisan, nonprofit "government watchdog" investigates waste, fraud and abuse in government, particularly in the military and energy fields.

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Footnotes

[1] U.S. Merit Systems Protection Board, "Questions & Answers About Whistleblower Appeals," September 1995, p. 8.

[2] See "The FBI Under Fire," The CQ Researcher, April 11, 1997, pp. 313-336.

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[7] Cited in James R. Bennett, "Trading Cards, Heroes and Whistleblowers," The Humanist, March-April 1997, p. 23.

[8] Peter W. Morgan and Glenn H. Reynolds, The Appearance of Impropriety: How the Ethics Wars Have Undermined American Government, Business and Society (1997), p. 1. Morgan is a Washington lawyer; Reynolds is a law professor at the University of Tennessee.

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[10] For background, see "Combating Scientific Misconduct," The CQ Researcher, Jan. 10, 1997, pp. 6-29.

[11] David Hornestay, "Whistleblower Woes," Government Executive, February 1996, p. 37.

[12] Marshall Loeb, "When to rat on the boss," Fortune, Oct. 2, 1995, p. 183.

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[16] Letter to Senate Judiciary Committee, March 1, 1994.

[17] Office of Special Counsel, "A Report to Congress from the U.S. Office of Special Counsel, Fiscal Year 1996," p. 28.

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[23] Quoted in Norman Bowie, Business Ethics (1982), p. 140.

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[25] Quoted in CQ Weekly Report, Nov. 3, 1984, p. 2872.

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