Lessons Learned from a University Whistleblower

A Case Study on Retaliation

Disclaimers

Some things to keep in mind during this presentation

1. Information summarized in this presentation include published research, documents, articles, interviews, and recollections.
2. The presenter would like to acknowledge the many professionals who worked this case, including: University investigators, internal auditors, and federal agents.
3. Viewpoints expressed in this presentation do not necessarily represent the official position of the University of California.
Outline

I. Whistleblower Case Study: Reporting Wrongdoing in the Workplace – A Whistleblower’s Perspective on What Happens
II. Retaliation Case Study - Consequences of Blowing the Whistle
III. Prevention Strategies - How to Protect Whistleblowers and Reporters

Whistleblower Case Study

Reporting Wrongdoing in the Workplace
A Whistleblower’s Perspective on What Happens
(Part I)

Background

University of California

- Faculty Member
- Director of USDA Program
- 33 Year Employee

Mistake!

Error on Spreadsheet

- $60K Budget
- Increased by $150K
- Hand-Written Note
ALARM!
Internal Alarm Leads to Action

- Response About “Mistake”
- Files Locked
- No Key

Red Flags!
Questionable Purchase Order

- Approval (Incorrect Authorization)
- Price (Expensive)
- Description (Vague)
- Separation of Duties (Missing)
- Vendor Instructions (“Pickup”)
Moral Dilemma

I need help to determine my responsibility:

- To the federal government?
- To the university?
- To myself?

Internal Reporting Concerns

How to Get Through a Brick Wall

- Supervisor’s response
- “No Big Deal” comments
- Threats/Intimidation
- Moral distress leads to action
One Final Piece of the Puzzle
Allegations of Fictitious Travel Claims of $20,000 or More!

- Travel misuse observed by others
- Travel records hard to locate
- Authorization process
- Deception?
- Collusion?

Whistleblower Report
Improper Activities Report
Protection from Retaliation Report
Whistleblower’s Credo

“In theory, anyone who speaks out in the name of the public good within an organization is a whistleblower.”

Multiple Investigations

Campus Authorities and Federal Agents Work Together after USDA notified

- Internal Auditors
- Police
- Campus Investigators
- Office of Research
- OIG Special Agents
Retaliation!
Lesson #1: Office of Whistleblower Ransacked

- Who protects the evidence?
- Who protects the privacy of the whistleblower?

Retaliation!
Lesson #2: Alleged Fraudster Blows the Whistle!

- Accused files whistleblower allegations
- Whistleblower is served at home
- Whistleblower is silenced
- Allegations of misuse are investigated
- Whistleblower is cleared

Prompt Action
Fraud Stopped!

- Evidence collection and review
- Warrant served
- Equipment seized
- Indictment by DOJ
- Joint media release

Conclusion: $2.3 Million Fraud
Funds Returned to Agency Following Four Years of Investigations

- Embezzlement
- Travel Fraud
- Misappropriation
- Time Reporting
Retaliation Case Study

Consequences of Blowing the Whistle
(Part II)

Disclaimer: Identifying information for some places and employees have been changed.

Retaliation

“Retribution exacted by co-workers or managers against an employee who has reported misconduct.”

Source: Ethics Resource Center Summary of the July 2012 ERC Fellows Meeting: “Retaliation in the Workplace—Why it Matters and What Companies Can Do About it.”
SLIDE 21

Trends in Retaliation

- Over 21% of those who reported misconduct in 2013 perceived retaliation for doing so
- This trend calculates to 6.2 million workers
- Since 22% reported retaliation in 2011, this continued high retaliation rate is a cause for concern


SLIDE 22

Observation: Reporting Wrongdoing of Higher Ups May Lead to Retaliation

"In theory … anyone who speaks out in the name of public good within the organization is a whistleblower … Rarely do employees get fired for reporting the misbehavior of subordinates … She [he] becomes a whistleblower when she [he] experiences retaliation … If there is no retaliation she [he] is just a responsible employee doing her [his] job to protect the company’s interest …"

Ethics Resource Center 2014 Report

“The high rate .. is worrisome because retaliation reduces worker’s willingness to report misconduct. When asked why they kept quiet … 34% … said they feared payback from senior leadership… 30% worried about retaliation from a supervisor and 24% from said their co-workers might react against them.

Source: National Business Ethics Survey in the U.S. Workforce, Ethics Resource Center, 2014

Research on Types of Retaliation

- Excluded from decisions and work activities (64%)
- Given cold shoulder (62%)
- Verbally abused by supervisor (62%)
- Verbally abused by co-workers (51%)
- Harassment (31%)
- Demoted (32%)
- Hours or pay cuts (46%)
- Almost lost job (56%)

Research on Retaliation

31% experienced physical harm to person or property


Retaliation Case Study

- Documenting retaliatory activities
- Filing complaint
- Investigation
- Investigative findings

Documenting Retaliation

Evidence that can be used to prove retaliation included:

- Petition circulated and signed
- Car vandalized
- Pay cut threat on email
- Intimidating emails and letters
- Email threats
- Meeting threats


Timing of Retaliation

Newspaper and Exposure of Criminal Case Sparks Retaliation

- Whistleblower report
- Warrant
- Auditors arriving at workplace
- Computers taken
- Indictment
- Release of fraud findings

Retaliation Substantiated!

University’s Effective Response

- Protection from retaliation
- Administrative changes
- Future career


Prevention Strategies

How to Protect Whistleblowers and Reporters (Part III)
Retaliation is a Major Threat

Retaliation can increase costs and impair your ethics culture

- Retaliation is common
- Retaliation is a second form of misconduct
- Retaliation threatens the ethical culture

Organizational Challenges

Strategies to Protect Whistleblowers and Reporters of Wrongdoing

Steps to take BEFORE
- Communicate, train, educate

Steps to take DURING
- Investigate promptly
- Communicate with “reporter”

Steps to take AFTER
- Review/update policy as needed
- Communicate findings with “reporter”
- Take appropriate action
Resources
Educate and Train the Workforce

- Anti-Retaliation Policy
- What is Retaliation?
- Complaint Procedures
- Standards of Conduct
- Roles and Responsibilities
- Official in Charge
- Contact Persons
- What about those who observe and don’t report?

Post All Information on A Single Site
Disseminate widely and frequently

- Policy on reporting
- Policy on protection
- Complaint process
- Contact person(s)
- Definitions and resources
- Educational materials
Retaliation Hotline

Anonymous reporting

- Educate workforce on Hotline
- Define misuse
- Define fraud, embezzlement
- Define wrongdoing
- Clear instructions and procedures

Enforcement

- Strongly worded standards: Zero tolerance policy!
- Be credible: Violators will be disciplined
- Demonstrate commitment to enforcement: Post results/consequences on valid cases
Preventing Retaliation

Is good public policy


Thank you!

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