

How to Blow the Whistle and Still Have a Career Afterwards

Or... How to Conduct Professional Disputes Professionally

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“In looking for people to hire, you look for three qualities: integrity, intelligence, and energy. And if they don't have the first, the other two will kill you.”

Warren Buffet
CEO, Berkshire Hathaway

Many ethical codes and codes of conduct require you to report wrongdoing because early, thorough examination of relevant facts is in the best interest of every organization. For that to happen, witnesses to wrongdoing must bring their concerns to attention. Besides, if there's a rule, the company can show its commitment to doing the right thing.

Still, the codes describe the formal rules; the informal messages we all get can be very different because there are powerful pressures all around us telling us *not* to act. Sorting through these mixed messages is complicated and a critical component of managing your own development and career.



The Pressure To Stay Quiet

Let's start with *don't do anything* messages. The pressures in group settings—like at work or school—generally combine to tamp down your instinct to speak against possible wrongdoing. They lead us to follow the lead of others, to conform to the group, or to rationalize that, if something is truly wrong, someone else will take care of it.

The Bystander Effect. We know that the more people who are aware of a problem, the less likely it is that any one person will step forward; it's called the bystander effect, and some of the most replicated research in social psychology has demonstrated its power across a wide range of settings. This research was catalyzed in the 1960s by news reports of a woman, Kitty Genovese, calling out for help while being stabbed and raped in New York City within earshot of many people in their apartments. Trying to understand how that could have happened, Darley and Latane did a series of experiments in which they staged emergencies in and around groups of people. From smoke pouring into a classroom to fake heart attacks, they found that the more people who were nearby, the less likely anyone was to respond. At the same time, they found that if one person did

step forward to help, that often stimulated others to do the same.

Conformity and Peer Pressure. The impulse to conform, to go along with the group, to do what everyone else is doing, can be stronger than we acknowledge or expect. Even when we think of ourselves as independent voices, willing to swim against the current, it can be surprisingly hard to withstand the pressure around us, particularly when it builds slowly and we generally like and respect the people we work with. This effect is amplified when some of those people have more power than you do, and over your career.

Another famous set of experiments by Solomon Asch illustrates the power of the group. A whole series of reenactments available online show members of a group, one by one, giving a clearly wrong answer with conviction; after several rounds, the lone voice in the group who has been giving the correct answer eventually caves and repeats the wrong answer, though he's obviously confused by the experience. If you have not [seen the videos](#), they're worth watching. Search for them and spend some time considering the power of peer pressure.

Ambivalence about Whistleblowing. While in theory we believe that wrong-doing should be reported, our feelings about the practice are more ambivalent, which also adds to the pressure to follow the lead of others around us. We've all heard about what can happen to people who report what turns out to be serious wrongdoing: Sherron Watkins, the accountant at Enron who first re-

ported the financial shenanigans that eventually brought the whole company down, was the subject of an internal investigation seeking to fire her, and was vilified by the other side's layers when she testified at trial. Jeff Wigand, the scientist who reported that his tobacco company was manipulating nicotine levels in cigarettes, lost his job and his family.

The list is long, in business, in government, in science: we hear all too often that people who report wrongdoing get fired for the effort. After years of limbo, an investigation or a lawsuit may finally substantiate the original report, but the person making the report might have endured serious consequences: unemployment, reputational damage, medical or psychological problems, divorce, financial distress, etc. We hear these stories, and they resonate with us on many levels, reinforcing messages we learned as children.

As a society, we don't much like tattletales; we don't like them as children, and we don't like them as adults. There are a lot of reasons for this, and one big one is mistrust of the motives: Is that person telling to gain advantage over others in the group? Did you tell Mom that Ben got an extra cookie so you could, too, and he'd get in trouble? Or did you ask Mom for help because the fire he set got out of control and it scared you? Those are very different situations, and their analogs recur all the time in working life. At the same time, as we get older, the stakes get higher: if you see or are a part of an unethical practice or violation of professional guidelines, not only could many others get hurt, your career could, too.

When one person, or a group, breaks the rules to benefit themselves, there are often huge costs to others.

So Why Report?

Before you throw up your hands and decide to keep your head down and never say a word to anyone about anything going on around you, stop and consider the bigger picture. As a society, we depend on the idea that people should play by the rules, from

stopping at stop signs to how profits are reported. When one person, or a group, breaks the rules to benefit themselves, there are often huge costs to others: when the safety practices for deep water drilling were “finessed” past sensible limits on the Deepwater Horizon, the livelihoods and homes of hundreds of thousands of people were affected. When two scientists reported they’d achieved desk-top cold fusion research results, the time and money of scores of researchers were diverted—wasted—while trying to replicate and then investigate the false claims.

More personally, who are you and what do you stand for? Do you want your reputation associated with an organization where misconduct is countenanced? If your boss manipulates the sales figures for the quarter, not only could she get caught and end up without a job, you could too. If your adviser fudges data, not only could his career end, yours could be put under a lifelong cloud as well.

How do you figure out if speaking up is worth it? Should any sensible person ever blow the whistle when confronted with evidence of serious wrongdoing?

It depends.

As is so often the case, there are unwritten rules that affect how your situation will play out. Knowing the rules and following them will make all the difference in what you should do and the outcome of your efforts. It is also important to know that for every story that makes the newspapers, there are many that never become public, because the person concerned about

wrongdoing followed the rules, and quietly got the problem corrected. That’s not news and it doesn’t carry huge penalties. Speaking out against wrongdoing *does* show you to be a person of integrity, character and maturity who handles problems professionally and well.

The rules kick in well before you go to file charges; they start with how you handle your concerns from the beginning and how you conduct yourself when

you have disagreements with people at work about matters of import, especially ones with ethical dimensions.

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Start at the Very Beginning: Know The Rules For Having Disputes at Work

Well before you think about reporting what’s going on in your group to others, you start to get uncomfortable in your daily work. You might try to raise questions and get shut down. Or, you keep track, and the pattern of how things are done just doesn’t feel right.

Whether or not you ultimately file charges, you should follow these rules while you assess the situation that bothers you.



Rule One: Consider Alternative Explanations (*Especially That You May Be Wrong*)

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All the following rules are based upon your total and complete compliance with Rule One.

At every turn, consider seriously the fact that your perception of the situation may be mistaken. Remain open to information that provides an alternative explanation to your own. When receiving information that challenges your existing conclusions, go back and re-examine your logic to see if it still holds up. Rule One does not mandate that you ignore clear conclusions from obvious facts; it simply requires you to make a serious and considered effort to assure that your conclusions are sound and will withstand close scrutiny by people more removed from the immediate situation. It is far better for you to perform these checks than for others to expose major flaws in your thinking that you could have discovered had you applied a sufficiently stringent standard.

There may be information you do not have or cannot get; you are not expected to be omniscient, but you are required to be careful and judicious in forming your opinions. No matter how firm your conclusions, it is essential that you follow Rule Two in formulating your concerns. If you can get in the habit of following it even in your interior dialogues, you won't run the risk later of slipping into presentations of conclusions rather than expressions of concern.

Rule Two: In Light of Rule One, Ask Questions, Do Not Make Charges

The word "questions" is critical. Before charging anyone with anything, it is good practice to pose your concerns as questions, particularly allowing for the fact that you

might have misunderstood or misinterpreted the situation. This is especially true for employees new to a department or organization, and those low on the power scale, who do not always have all the information necessary for evaluating a situation.

For example, if your boss tells you to adjust the sales numbers for the quarter in a way you think crosses the line, stop and assess whether there are other sales being reported to your boss that you don't know about. Are there divisions included in your numbers you don't see? Look at the org chart and think about what you don't know. If your adviser tells you to leave out some of

... there are legitimate, non-confrontational questions you can—and should—ask

the data to "smooth" the curve, what kind of experience does she have with the kind of work you're doing, and what's the chance that she or someone else has been doing additional experiments you do not know about that are informing how she instructs you to report? In either case, there are legitimate, non-confrontational questions you can—and should—ask.

Your questions should proceed on the implicit premise there is something *you* do not understand and thus that you are seeking help to improve your own comprehension and learn to be a better contributor to the group: "Have I misunderstood? At the training course (orientation, college, etc.), they instructed us to record sales differently. Can you help me learn what's different about this situation so I can be a better contributor to our group?" or "Am I misinterpreting these results? No matter how often I re-calculate, I'm having trouble getting the result shown on this table in the manuscript. Can you help me see where I'm going wrong?"

It is very important to listen and not just to talk. Whenever you ask these questions, you should be engaging in a two-way conversation. Steps One and Two in the Proce-

dures for Responsible Whistleblowing, also contain some relevant pointers.

Rule Three: Figure Out What Documentation Supports Your Concerns and Where it Is

Playing “he said, she said” is not fun. The more you can keep the focus on factual matters, the better off you will be. All too often, for all the reasons already mentioned, the personality of the person raising the questions becomes the focus in these situations, instead of the issues. You can help prevent this by concentrating relentlessly on the facts and what it takes to assess them, as well as by presenting yourself as professionally and

unemotionally as possible. If you know what the questions are and where the answers are (even if you do not have access to the source of the answers), you can pose questions more directly, and you will make it harder for your questions to be

shrugged off without examination.

Information you might assemble includes answers to some or all of the following questions: What numbers or procedures are at issue? Why is this the case? What are the written regulations or rules that apply? Where are the data to be found? How are they kept (paper, computer file, notebooks, sales reports, etc.)? Who collected them? Using what techniques or procedures? What materials were used in the work? Where did they come from? Who else has useful information about these issues? How can that person or persons be reached?

Rule Four: Separate Your Personal and Professional Concerns

Separate your personal and professional concerns to the maximum extent possible so that you will be presenting yourself only in a pro-

fessional light. If you are overwhelmed by anger, frustration, resentment, or anxiety, consider seeking professional help, or find other outlets for it. It is extraordinarily stressful to confront serious ethical problems at work. Take that seriously and, at the same time, do not ask or expect those to whom you are taking your questions about professional conduct to function as your friend or therapist. You will need friends and you may need a therapist as you go through this process. Just don't confuse those needs with the professional interactions of raising questions about the work of another. Keep your focus in those transactions on the work at issue.

Rule Five: Assess Your Goals

What are you seeking from this situation? What would it take to make you feel that it has been properly resolved? How will you know when you have achieved it? Know the answers to these questions before going any further, because they will affect your next actions.

Are you trying to get the sales numbers fixed? Get the work redone? Catalyze a public or private discussion of the issues? Correct a report to an oversight agency? Make the marketing claims more accurate? Get someone else to admit error and that you are right? Get money for supporting your own theory? Protect yourself from association with misconduct?

Long before you start asking for advice, “going public” or lodging formal charges, it is critical to know what you personally seek from the situation and how you will know when you get it. These situations can escalate very quickly. Lodging charges, in particular, almost always results in a loss of control: analyzing your own motives and goals can be very helpful in choosing the path to follow.



For example, Step One in whistleblowing, below, may well lead to the person you consult becoming concerned on his or her own. If control and personal involvement (as in receiving an apology or public vindication for your contribution) are important enough to you that you will be dissatisfied without personal involvement in a correction to the record, you need to know that and to articulate it in your interactions.

If you do not know what you seek before you get into this process, you may well find yourself unhappy with the outcome, no matter what it is. In addition, if you do file charges, you will almost certainly be asked what recourse you seek. Having a coherent and reasoned answer to this question will have a constructive effect on the process and will reinforce the other steps you have taken to make this a matter of professional conduct, not one of emotional reaction.

Rule Six: Seek Advice and Listen to It

If you have complied to the best of your ability with all these rules and still believe there is a problem, you are ready to approach the step-by-step process of responsible whistleblowing. Note that there are still steps to go through before filing charges. You can only go so far by yourself, so this is the place that you must stop and explore your concerns with someone else.

Yes, again.

Steps One and Two provide information on picking the right person and the overrid-

ing importance of listening to the advice you receive. No matter how honest you have been with yourself nor how critically you have examined your logic, someone else may have information or perspective that you are missing. Keep your mind open to the possibilities. Remember Rule One.

Bear in mind that there can be risk in seeking advice, but if you follow the rules and pay attention to the steps, you should be in a relatively protected position until the point at which you actually report your concerns officially. Note the caveats in these statements: as soon as you tell anyone else what worries you, you run the risk of losing control of the situation. Thus, proceed cautiously, but proceed all the same.

Remember also that the goal of the early steps is to collect enough information to decide whether you will be justified in making an official report of your concerns: at this point, you do not have enough information to know whether you should be filing such a report.

You are behaving professionally and responsibly to determine the appropriate future course.

The Rules for Having Disputes At Work

1. Consider Alternative Explanations (Especially That You May Be Wrong)
2. In Light of Rule One, Ask Questions, Do Not Make Charges
3. Figure Out What Documentation Supports Your Concerns and Where it Is
4. Separate Your Personal and Professional Concerns
5. Assess Your Goals
6. Seek Advice and Listen to It

Reporting Misconduct

Let's say you've followed all the rules and believe you still must move forward to report suspected misconduct. Before moving into the steps, remember that how you conduct yourself will receive a disproportionate and maybe even unfair emphasis in the process. Here's why.

A Few Words About Good Faith and Malicious Charges

It's a rare situation in which the motivation of the whistleblower doesn't come up at some point—think back to your report about Ben's cookie or fire-setting. Good faith whistleblowers must be protected—even when wrong about the ultimate facts. Bad faith or malicious whistleblowers who are mistaken can be charged with misconduct themselves. How to tell them apart?

Filing mistaken charges where there was good reason to know the charges were false is the key element of most definitions of "bad faith." In this context, lawyers sometimes ask whether the accuser "knew or should have known" that the charges were false. That is, if the person bringing the charges should have known that the charges were false from other information readily available, that could be an indication of possible bad faith that will be subject to punishment or prosecution. Are you the one who really took the cookie or started the fire? Saying that Ben did it when you did it yourself or watched Alex do it shows bad faith and would increase the consequences for you. On the other hand, if you saw Ben do it and had no way of knowing that Alex had paid him to do it, or Dad gave him permission, you would likely have been acting in good faith, even if you were happy Ben got into trouble.

In general, the issue of good faith probably gets disproportionate attention to its im-

portance because of how we feel about tattling. After all, if the facts reported are true, the motive of the whistleblower should not matter. Even where the whistleblower delights in the problems of the wrongdoer, if the evidence reveals that important professional or company standards were violated, the motives of the person raising the question should be irrelevant. Our general ambivalence about tattletales probably explains why motive is seldom considered irrelevant in practice. This reinforces your central dilemma: how can you conduct yourself so the question of your motives doesn't become the focus, rather than the acts that are worrying you?

In organizations across the country, there are people whose job it is to receive complaints, grievances, allegations and petitions. You should know that a very large percentage of the problems presented to them turn out to be very different than that suggested by the person who reported the situations. Put another way, every story has at least two sides, and knowing both sides can change completely how the situation looked when knowing only one side. Especially when you are early in your career and at the bottom of the power curve, you may not have access to all the facts it takes to know for certain that wrong has been done. That doesn't let you off the hook or excuse your participating in acts that you know or feel are wrong. It does have strong consequences for how you should handle yourself as you move forward.

It is a reality that once working relationships become strained, trust erodes. Conduct that might have been accepted or explained away when people were on good terms with each other is perceived through a darker lens. The existence of animosity does not in itself establish bad faith. But its existence will affect how events proceed. Those who are experienced at receiving concerns about possi-



ble misconduct know that a very large number of cases involve personality conflicts or escalating political battles. The officials who receive charges will thus almost always probe (consciously or unconsciously) for evidence of bad blood between the players in any situation.

Especially when you are early in your career and at the bottom of the power curve, you may not have access to all the facts it takes to know for certain that wrong has been done. That doesn't let you off the hook or excuse your participating in acts that you know or feel are wrong. It does have strong consequences for how you should handle yourself.

The person probing for information on problems between the principals is not doing so to explain away or excuse fraudulent behavior, but to gain a fuller understanding of what might be going on, to understand both sides of the story.

A key question is whether anything about the work has changed (or has crossed the lines of acceptable professional conduct) or whether instead it is simply the good will that has deteriorated. Because it is also often the case that another explanation may account for the conduct in question, the person receiving the allegations will be searching for information along those dimensions as well. For example, the conduct may not constitute misconduct, but may well be inappropriate on other planes, like misuse or abuse of power, bullying or intimidation of subordi-

nates, etc. The more you present yourself as a calm, collected, professional, the more quickly this portion of the process will go.

So you've prepared as best you can, now it's time to move forward with filing your charges.

Responsible Whistleblowing Step-by-Step Procedures

Step One: Review Your Concerns with Someone You Trust

The first step is always to talk quietly and *confidentially* with someone you trust in a position to evaluate your concerns. If possible, choose a person of equal or greater power than the person about whose conduct you have questions. Two ends are served by this: First, you get reasonable advice from a person with a perspective that may provide insights you do not have on your own. Second, choosing a person of equal or greater power than the person whose conduct concerns you can provide the foundation for a future alliance, if the issue is not resolved through these early steps. Think about mentors you have had, professors who might be helpful, or someone where you did an internship. Think about respected professionals who are family friends. Follow Rules One and Two above very carefully: Ask questions (only), do *not* lodge charges. Explain what concerns you and ask for help understanding the situation.

Note the emphasis on seeking confidential advice. Before you get into the substance of your concerns with someone from whom you seek advice, ask the person if he or she is able to protect your confidences. Some people, because of their organizational positions of responsibility or their personal situations, may not be able to promise confidentiality at this point in the process. For example, if a person with compliance responsibilities learns, even inadvertently, that there may be

violations with respect to subjects that are topics of mandatory reporting for their positions, that person may not be able to avoid checking into the situation, no matter how it might affect the one who raised the issue. Similarly, if by mischance you choose someone with a close personal relationship with the subject of your concerns, the outcome could be unfavorable. If a complete pledge of confidentiality is not possible—and many times, it might not be—then you should seek a pledge that you will be notified before any revelations are made, and that the person will work with you to protect you to the greatest possible extent.

It is usually *not* a good idea to talk with many of your peers about your concerns. First, people at your same level are likely to have the same disadvantage that you do in terms of access to full information about the situation. Second, if word spreads—and it likely will—that you’re questioning the conduct of somebody above you and gossiping (that’s how it will be perceived) about your boss, it will not reflect well on you. There are times when the power of the group can help to get a practice changed, but you’re unlikely to catalyze it by spreading your concerns to people around you before you’ve found a confidential, informed sounding board. While members of your family might have good advice to share, they might also lean to taking your side of the story and not fully understand the work context. Be very careful who you choose and what you confide.

As difficult as it may be, focus on facts at all times, not your feelings about the person whose conduct concerns you. Those feelings may need to be addressed, but they do not affect the substantive issues at the root of your concerns.

Focus on posing questions, not lodging allegations. Also, as you continue to explore

the situation and your options in it, you should be refining the elements of the information you present to make as coherent and logical a presentation as possible. This will include how your concerns first arose, what you did to assess them and/or to seek out alternative explanations, whom you have consulted to date, the advice you received and what you did in response to that advice. It should also include some indication of what data are relevant to your concerns and where they can be found.



Your presentation may have the following flavor: “At our training course [orientation, college], we were instructed that only current quarter completed sales could be included in our reports. I was told to book several sales that, as far as I can tell

from the contracts I’ve processed, are not yet complete. When I asked Ms. Jones about this, she told me not to ask questions and to go ahead and include them. I understand that I’m pretty far down the food chain here, and I’m just trying to do the right thing. Maybe there are procedures I’m too new to know about that make my training not apply here. Can you help me figure out what I should be doing next? Since Ms. Jones told me not to ask her any more questions, and I record all the completed contracts, I’m really concerned. The booked contracts are all recorded in the system. Can you help me understand if I’ve confused something about how it works? Do I need to go back and brush up on my procedures?”

In the research setting, it might go like this: “I first became concerned when I noticed that the figures in the paper didn’t match data I collected. When I asked Dr. Smith about this, I was told that these data came from one of our collaborators who used a more precise instrument than we have available. The thing that worries me is that I used

such an instrument in my previous lab, and its output doesn't resemble what is presented. When I asked about this, I was told it wasn't my concern. I consulted Dr. Deliberate, an expert on this instrument. She confirmed that no version of the instrument could produce data in this form. I am very confused and am trying to figure out an appropriate way to proceed. Can you help me figure out what I should be doing next? I am concerned about asking more questions in my lab, because I've been told explicitly not to do that. On the other hand, I'm worried that a miscommunication may be leading to problems, or just my own confusion. The data I collected are in my notebook on the third shelf from the left in Room 697. I've brought copies for you to see. This is the version of the manuscript that first led to my concerns, and some literature Dr. Deliberate gave me describing the features of the instrument I was told produced the data in figures 4 and 7. What is your advice?"

Step Two: Listen To What That Person Tells You

If the person you select for advice disagrees with your perspective or discourages you from proceeding further with your questions, try with all your might to evaluate that response objectively. Do not assume that person is trying to protect someone else or is a coward if he or she does not agree with you. Those assessments may be correct, but it may also be that you are mistaken or do not fully understand the situation, or that you misinterpreted some aspect of it. Consider carefully the possibility that you are just plain wrong in your suspicions.

If the person you selected for advice disagrees with you, is the disagreement based on the facts you provided, or does it seem to be based on personalities or the way you

conducted yourself in the conversation? That is, does the response have the tone "Based on my experience with x, y and z, that seems unlikely to me for the following reasons..." or is it more like "I know Ruth Jones and she would never do that"? These responses are qualitatively different in terms of being factually-based: one is, and one is not. It's possible, even likely, that a factually-based response might start out expressed in terms of knowledge of character, but if you have documentation support-



ing your concerns, eventually there will need to be facts to compare to your information.

Reassess your conclusions if the objections are fact-based and you cannot rebut them with other facts.

If the person agrees with you that there is or might be a problem, talk about what steps can be taken and who will take them. The person may want or be willing to carry the charges him- or herself. This is one situation in which it can be invaluable if the status of the person you have consulted is of equal or greater power than the person whose conduct is questioned. If that person is convinced there is a problem and that it requires additional steps, you will gain protection from his or her participation in them.

If you're still uncertain about what to do, apply Step Three, with care.

Step Three: Get a Second Opinion and Take That Seriously, Too

Bear in mind before taking this step that most communities are relatively small and that word travels within them. Your actions may well arouse the rumor mill or grapevine, which can be damaging. Your demeanor in the process thus becomes all that more crucial. All the advice from Step One applies



here: Ask questions and stay focused on facts. Be careful to verify that it is possible for the person you consult to provide you with confidential, personal advice and monitor the professional quality of how you present yourself and your motives at all times.

Again, assess the response you receive very carefully, as in Step Two. Does any aspect of it change your perception of the situation? Can you rebut that information with other facts, not just your conviction that Smith is a slippery character who is not to be trusted?

Go back and apply all the rules and reassess where you stand. If you believe that going forward is the right thing to do, work through Step Four carefully and thoroughly.

Step Four: If You Decide to Initiate Formal Proceedings, Seek Strength In Numbers

Inquire whether those you consulted will join you in filing a statement of concern with the appropriate authorities. Are there others in your environment who are experiencing the same problem or who may have observed the same actions that cause you concern? Listen carefully to see if others are expressing the same views. Do so carefully: do not charge in heedlessly. Every additional person with whom you speak forthrightly increases the possibility that you will catalyze the rumor-mill. This increases the chance that the

word will get back to the person whose conduct concerns you in (usually) the most damaging possible way for you. Thus, take special care to stick to the advice in the Rules and continue to ask questions in a way that holds open the possibility that you are mistaken. If it seems prudent and feasible, see if those who are concerned will combine with you in making a report of your concerns or of asking that someone look into the questions you raise.

In the same vein, if none of those you've consulted or asked are willing to involve themselves, try to assess their reasons carefully. Do they disagree with you? Do they agree but think the matter is not important enough to pursue or that another approach would be more constructive? Or are they fearful about the consequences of proceeding? Some of these are more important considerations than others for you to factor into your ultimate decision.

Figure out if there is an ethics hotline or an ombudsperson you can call. Seriously consider using that hotline or person's services.

Try some or all of these approaches. This can be a lonely business and having support may mean the difference between surviving the process with a career intact and not. If all you get from the effort is moral support, that too will be an asset. If, from these efforts, you form a group of people who together present charges, even better. Either way, any steps you can take to reduce or prevent your isolation will be to your benefit.

Step Five: Find the Right Place to File Charges; Study the Procedures

Before taking the step to file officially, make sure the person or organization you intend to ask to review your concerns has some legitimate connection to the work you question. For example, professional societies and journal editors are frequently asked to

investigate claims made in papers submitted to them, but usually lack the resources to do much direct investigation, being dependent instead upon the home institutions of the researchers. Ascertain whether the person whose conduct concerns you is an employee of the organization to which you will be reporting. Does that organization have responsibility over the person because the research was conducted under its auspices or on its premises? You may be setting yourself up for disappointment if you seek recourse from a body that has no authority to look into the questions you raise.

If possible, have some leverage or know how to get it. That is, know what the oversight process (if any) is for the process you are invoking. Sometimes, it may be necessary to alert that oversight system when you formally invoke an organization's procedures so you can assure that your charges do not get lost in the system.

Know before you take your first formal steps what procedures will be followed. Corporations have internal ethics and compliance offices, and those offices will have information about the rules and how to access their systems. Institutions receiving federal research funds are required to have written policies.

There may be facts of which you are unaware that make the situation dramatically different from your perception of it.

Get a copy of the relevant policies or rules and read them. Look for information on the following topics:

- ▶ Are you required to submit your charges in writing, or can it be done orally?
- ▶ Who will be informed of the charges you make?
- ▶ What role will you have in the process?
- ▶ What safeguards will be applied to protect against conflicts of interest among those reviewing the matters you are raising?
- ▶ Who will be informed of the outcome of the process? How will that occur?

The answers to these questions will not necessarily change your next step, but they will prepare you for the process and minimize any unpleasant surprises.

If, after exploring these issues thoroughly, you conclude that your concerns are well founded and the matter serious enough, then—and only then—proceed to Step Six.

Step Six: Report Your Concerns

To the maximum extent possible, continue to pose your concerns neutrally or in the form of questions. Remember that you still are not asserting that “Director Plum is inflating sales numbers” or that “Dr. Mustard is committing scientific fraud.” You are stating facts, asking questions or raising concerns along with specific information about how those concerns may be assessed. The tone will be something like: “The reported sales figures shown in datafiles 93-406 seem discrepant from the division’s reports.” or, “The published data from three experiments conducted between June and December 2009 appear to differ from those in the laboratory books kept in the blue cupboard on the east wall of room 2546,” or, “The first two sections of the paper published by Dr. Scarlet seem to track very closely my dissertation. I am not listed as an author on the paper.”

There may be facts of which you are unaware that make the situation dramatically different from your current perception of it, no matter how carefully you have been following the rules and procedures for responsible whistleblowing. Your interests will be better served in the long run if you can avoid attaching labels, attributing motives, or displaying venom in your interactions.

When you make your report, provide all the documentation you can, or all the information about its location you have available to you.

Step Seven: Ask Questions; Keep Notes

If there is a meeting at which you report your concerns, ask questions and keep careful notes of the answers you are given. Date your notes, and record who was present when you were provided with each item of information. Ask what steps will follow and to what extent you will be kept informed. Ask if there is a person whom you may call or who will contact you regularly to keep you apprised of the status of the situation. Will you be called to testify in the process? Given an opportunity to respond to information presented about your concerns? Informed when the process is over?

If interviewed by a company lawyer or called to testify before an investigating committee, find out if you may be accompanied by a friend or adviser, for moral support if nothing else. These occasions can be stressful, and many people under stress do not hear or remember things as well as they might wish. If you are accompanied by a trusted person, that person can call for a break to help you regain your composure if you get wrapped up in the emotions of the moment, and after the meeting can help you form a balanced perspective about the meeting. Under ordinary circumstances you should not need to engage an attorney, and if you do, it may send signals that are counterproductive. However, it is wise to have someone accompany you who puts your interests first, hears all that is said and can help you assess how the process is functioning.

Please note that there are circumstances that are not ordinary and in which consulting with an attorney in advance may help protect you. If there is not someone you can consult confidentially inside the company or university, or if the conduct that concerns you is very serious if true (such as criminal conduct or serious financial irregularities), you may want some legal advice before you begin. If the university or company has received publicity for treating previous whistleblowers

Responsible Whistleblowing: Step-by-Step Procedures

1. Review Your Concerns with Someone You Trust
2. Listen To What That Person Tells You
3. Get a Second Opinion and Take That Seriously, Too
4. If You Decide to Initiate Formal Proceedings, Seek Strength In Numbers
5. Find the Right Place to File Charges; Study the Procedures
6. Report Your Concerns
7. Ask Questions; Keep Notes
8. Cultivate Patience!

very badly, or for responding to problems with all-out attempts to whitewash, you may want to arm yourself with good legal advice in advance. It still may not be a good idea to be accompanied by an attorney when you file your charges, but having an effective lawyer on your side and/or knowing your legal position in advance of taking action is sometimes a wise precaution. A caution: unless the attorney is experienced or knowledgeable in the specific area of your complaint, the advice may not be of much use to you. Do some networking to find the right lawyer. Contact one of the whistleblower support organizations or a successful whistleblower for advice and/or a referral.

Take all of your documentation and notes when you go to file charges—and be prepared to provide copies if you have not previously.



Again, try to project a calm, non-vindictive demeanor; focus on “big-picture” objectives and avoid slurs on the character of others. Your feelings should not be the focus of these proceedings—the

factual matters in question should be.

Keep your advisors and/or advocates informed. Listen to their advice and try to keep a sense of humor and perspective. Get a lot of exercise and find ways to work off the frustrations that will inevitably arise in the process that will follow.

Step Eight: Cultivate Patience!

This process always takes longer than will feel reasonable. If there is a formal inquiry or investigation, it is likely to be conducted by more than one person, or even by a committee. The logistical problems of getting together and communicating with a number of busy people can impede rapid

progress, even before any other complexities arise.

For this and other reasons, it is important not to make assumptions about what is happening or what it might mean. Ask the person to whom you reported your concerns to call you periodically, or call and ask yourself. Be patient, persistent and professional. Always follow the rules in how you conduct yourself.

Conclusion

It is possible to blow the whistle and still have a career afterwards, but it takes a combination of common sense, prudence, and some luck. If you have followed these rules and steps carefully, you have done a great deal to protect yourself as you move through an investigation of suspected misconduct. There are no guarantees, but following these steps should leave you reasonably well informed and help you to make good decisions.

These proceedings are difficult for everyone involved, but by following these rules, you should be able to maximize the likelihood that questions that concern you moving forward are serious questions deserving of concentrated review. In the process, by looking before leaping, you will minimize some of the worst consequences that can happen to whistleblowers, and still have a productive career with your good name intact.

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