

Don't Fear Whistle-Blowers

With HR's help, principled whistle-blowers can be a company's salvation. Here is how several organizations encourage a culture where bad news can be heard and acted on before it's too late.

By Janet Wiscombe

FBI whistle-blower Coleen Rowley launched a bombshell memo in May accusing her bosses of ignoring warnings of the September 11 terrorist attacks. She angrily blasted agency director Robert Mueller and others for “a delicate and subtle shading/skewing of facts” and for making “a rush to judgment to protect the FBI at all costs.” And she sharply criticized the bureau for rewarding careerism and promoting a “culture of fear.”

Two months before, Enron executive Sherron Watkins had penned another incendiary memo. She sent it to then chairman Kenneth Lay, detailing the firm’s dire financial problems. Her candor was hardly rewarded. Management factions intent on squelching bad news admonished her and tried to get her sacked for telling the truth.

Since the energy company’s meltdown last fall, Watkins has talked publicly about what she calls Enron’s culture of intimidation. She has stated that there was widespread knowledge within the organization of controversial off-the-books partnerships and shaky finances, but that no one was confident enough to confront company officers. As the impact of the two powerful memos unfolds, HR professionals and others who deal with matters of ethical conduct in the workplace are raising these questions: Why did so few employees come forward to report that something was amiss? Certainly most rank-and-file employees wouldn’t have had the same access to information that Rowley and Watkins had. But it is no leap of logic to assume that scores of employees did see red flags. Why didn’t they talk? What can organizations do to protect whistle-blowers, and others who voice complaints—internally and externally? How do you protect employees from being ostracized or forced to commit career suicide if they report what they know?

As the colossal FBI and Enron scandals are analyzed and the players scrutinized, there is one reality that no one questions: to silence a whistle-blower or to muzzle a watchdog is very likely to result in further compounding problems—whether in the public or private sector. When an organization creates a culture in which employees feel they have to conceal and distort information, the consequences can be catastrophic, say HR executives, business leaders, and ethical advisers.

“It is absolutely and unequivocally important to establish a culture where it is possible for employees to complain and protest and to get heard,” says Michael Josephson, attorney, author, and founder of the Josephson Institute of Ethics in Marina del Rey, California.

As a consultant, Josephson works closely with HR professionals to help them establish cultures that actively encourage employees to share information without fear of reprisal. It’s HR’s job to take a leadership role in creating an atmosphere that won’t tolerate concealment and distortion of information, or discourtesy to and harassment of whistle-blowers, he says.

HR is ideally set up for the task, concurs Linda Treviño, a professor of organizational behavior and the Franklin H. Cook fellow in business ethics at Penn State’s Smeal College of Business Administration. Ethics programs work best when they are woven into the fabric of an organization, she says. To assure a successful ethics

program, “requires working across the organization with lots of different people, and a lot of those need to be people in HR.”

Whistle-blowers are employees who often risk everything by taking public some malfeasance. They can also be those who come forward internally to report wrongdoing. Some are people of high moral character; others are not. But in much the same way that the FBI is compelled to investigate a bomb threat, Josephson says, it is imperative that a whistle-blower’s information is taken seriously.

“Your company cannot make good decisions based on incomplete and often bad information,” he says. “People who bring complaints must, must, be treated with respect—and even gratitude.”

For HR, setting up channels and other mechanisms that not only allow but also promote healthy, open communication can involve sorting through a great deal of information. It can mean training managers throughout the organization to fully understand and encourage candid employee comments. And it can entail implementing more effective solutions for receiving feedback such as conducting anonymous employee surveys and setting up confidential help lines.

Josephson currently is working with a Fortune 500 company that was sued for mistreating a whistle-blower. He recalls a similar case he had a few years ago involving an employee who worked at a pharmaceutical company. The man believed that a device the firm was making was potentially dangerous, and reported the problem to his bosses. The company was under enormous pressure to get the product out. If the problem were to be corrected, manufacturing would be delayed six months. The whistle-blower’s bosses dismissed the warning, insisting that the employee didn’t know what he was talking about.

Well, the employee did know what he was talking about. “He was frustrated, so he went to the federal government,” Josephson says. “They put a wire on him. There was a lawsuit. The company lost huge money.”

In many companies, Josephson says, there’s almost a paranoia among managers about employee complaints.

“Who told you that?” they defensively demand. “Who dared leak that?”

“That’s why HR has to conduct an internal survey to find out which managers are ‘Kill the Messenger Managers,’” he says. “No boss wants to hear an employee say, ‘I don’t think that’s right.’ But it’s HR’s job to listen and to begin to weed out people who can’t be relied on to make subordinates comfortable. If ‘Kill the Messenger Managers’ repress information from an employee, they must be retrained, and they must be treated the same way you would treat any employee who misbehaves.”

Developing an honest, open culture

There has been a trend in the past decade among large employers to create departments that specifically deal with ethical matters. A 1999 study conducted by accounting professor Curtis Verschoor at DePaul University found that among 300 large public companies, the firms that made an explicit commitment to follow an ethics code provided more than twice the value to shareholders in comparison to companies that did not.

Sears, Roebuck and Co. established an ethics program in 1994 to deal with standards and conduct, and to develop effective lines of communication for receiving candid information from employees, known as “associates.” At Sears’ headquarters in Chicago, Gael Hanauer, director of associate services/ethics, serves as company ombudsman. The corporation has several programs related to ethics, including an annual 70-question survey titled “My Opinion Counts.” Sample questions include “Do you believe unethical issues are tolerated or not tolerated here?” and “Do you know how to report an ethical issue?”

The survey was developed as a way for employees to report problems without fear of reprisal, Hanauer says. Like many other companies, particularly large corporations, Sears also offers anonymous help lines to its 330,000 employees. “Questions come up about how to interpret company policy, how an employee wasn’t treated fairly, what to do about an associate who is misusing a discount, or mis-ringing the register, or how Joe backed up a truck to a loading dock and a TV disappeared,” she says.

Last year, 17,000 calls were made to one of Sears’ two assist lines. About 11,000 were directed to an associate-relations line that is staffed by an HR manager and five associates, all of whom are trained in negotiation, conflict resolution, and investigation. There are also 18 HR consultants specifically trained to handle ethical problems such as theft, fraud, and violence. Their responsibilities include listening to callers, documenting cases, and helping to launch investigations.

“Our HR consultants receive an intense couple of weeks of training in ethics,” Hanauer says. “By next year, we

hope to increase the number we have to 25. We are using fairly seasoned HR people in the call center. They have to know how to talk to people and leave them with dignity so they will come to us with problems, and not to the EEOC, or the lawyers, or the news media.

“The staff has to be trained to ask the right questions,” she adds. “The employee who calls is likely to be upset. There’s almost always been a lack of communication.”

What works, what doesn’t

Steve Priest, founder of the Ethical Leadership Group in Wilmette, Illinois, helps companies throughout the world develop ethics and compliance programs. He’s a businessman with an MBA who also holds a master’s degree in theology from Harvard University. He says the first task in building an ethics program that helps create a safe environment for whistle-blowers is to conduct an organizational assessment to look at existing standards. Areas to examine include the level of commitment from a firm’s senior managers, the nature of training programs, communication tools such as help lines, and the magnitude of company risks in matters ranging from internal harassment to product safety.

“What’s most important is integrating standards and ethical values into everything—from hiring to firing—training, compensation, everything,” Priest says. “Programs fail if they are simply overlaid on an existing culture and viewed as something separate.

“At the root of most failures is that only about a third of employees who observe something unethical do anything about it. It’s very depressing. One of the biggest obstacles is that most of us fear confrontation. We fear it with children, spouses, bosses. Employees fear retaliation. Or they believe that if they speak up, nothing will happen, so what’s the point? Or they don’t know where to go or what to do.”

He’s the first to acknowledge that the task of developing an open culture is laborious. It requires constant role-modeling by company leaders, and has to be transferred into the HR performance process, he says. And, “the second time a CEO screws up and shoots the messenger, you have to start all over again.

“It’s pick-and-shovel work. Employees are too smart to believe it when a CEO swoops down and gets religion and says everything is going to be open and ethical.”

A recent study conducted by Priest’s firm shows that 90 percent of the Fortune 500 companies surveyed now offer employees toll-free help lines to report personal and company concerns. He wryly notes that Kenneth Lay, a featured speaker at ethics conferences and a man who waxed poetic about moral standards, didn’t offer Enron employees a help line—nor did Arthur Andersen.

Priest says that about half of the issues raised by employees on help lines are HR related, and include such complaints as “I should have gotten the promotion.” “My fellow colleague is abusing me and the boss doesn’t do anything.” “My boss swears at me all the time.”

Mark Meister, vice president of human resources and chief ethics officer for the Lubrizol Corp. in Wickliffe, Ohio, says he knows from bitter personal experience how intimidating it is to work for people who don’t have ethical standards, or who subtly broadcast the message that bad news isn’t welcome. At the beginning of his career, he was asked by a boss at a different company to submit a bogus food-expense claim. “It was deplorable. I had six kids and I was scared to death,” he recalls. “But I had to tell him I wouldn’t do it.”

Lubrizol is a sponsoring partner for the Ethics Officer Association in Boston, a nonprofit organization exclusively for managers of ethics and compliance programs. Given that the company has 4,500 employees who work in 25 countries throughout the world, he says, establishing a corporate ethical framework with teeth is essential.

Lubrizol, a fluid technologies firm, houses its ethics program in HR. “It’s a natural place for it to be,” Meister says. “HR is asked to be an advocate of the people and to stand in the gap between employees and management. It works well for us.”

If a company’s ethical issues are addressed in both HR and a separate ethics department, it is critical that the ethics and HR programs work closely together, says Joan Dubinsky, labor attorney and president of the Rosentreter Group, business ethics consultants in Kensington, Maryland. “Don’t create separate processes,” she notes. “First, ethics and HR share a common goal: ethical behavior. Second, employees don’t distinguish between the two. They don’t care.”

At Lubrizol, ethical issues have ranged from an employee who used the corporation to advance a personal business to HR matters like sexual harassment. The company offers a help line, conducts employee surveys, and

deals with questions about the ethical behavior of leaders in 360-degree performance reviews. Employees might be asked, for example, to rate a manager on a 1-to-10 scale on the following questions: “Does the manager exhibit moral courage by doing what is right?” “Would the manager make an ethical decision even if it would cause personal loss or discomfort?”

Once a year, Meister personally meets with and trains HR ethics representatives at locations throughout the world, or at company headquarters. The representatives are responsible for disseminating ethics information to their respective staff members. As a takeoff on *Who Wants to Be a Millionaire?* he also developed a program for all employees called “Who Wants to Be an Ethics Leader?” “It’s a way to make it interesting,” he says. “I give out cheesy prizes like ethics pens and mugs. It’s fun.”

A large part of his job is marketing the ethics program so employees know what it is and how it works. He and his staff repeatedly remind employees with posters and newsletter articles that they are available. Bad news is welcome. Employees also can visit the firm’s Web site for help or to review the company’s ethics guidelines. Referring to the help line, he says the company takes its promise of protecting whistle-blowers very seriously. “Employees can call anonymously if they choose. When we investigate, only those who need to know will learn what’s going on. The employee’s manager wouldn’t necessarily know about the problem. We’ve created a mechanism that is discreet. There is no retaliation. It’s our job to protect the caller and the accused—both parties.”

If, for example, there was an allegation of expense-report padding, he or another HR professional would collect and analyze accounts and reports, create spreadsheets, and ultimately invite the employee to respond to questions and give his side of the story. “When you’re dealing with people’s careers and reputations, you have to be very careful. It’s serious stuff.

“It is my responsibility to operationalize Lubrizol’s philosophical statement: We are committed to insisting on honesty and integrity when dealing with our customers, suppliers, third parties, and with one another.”

A lingering issue that won’t go away

Six years ago, Jeffrey Wigand disclosed the tobacco industry’s darkest secrets. The former research scientist for Brown & Williamson broke a confidentiality agreement by speaking with *60 Minutes* about the firm’s unethical behavior. He revealed that his former employer knew how addictive and lethal cigarettes are and intentionally sacrificed public health for profit. The story became the subject of the 1999 film *The Insider*, starring Russell Crowe.

Wigand abhors the term “whistle-blower.” Speaking from his home in Charleston, South Carolina, where he now runs an organization called Smoke-Free Kids, Inc., he says the expression suggests disloyalty, or that the person who comes forward is a tattletale.

He personally paid very dearly for speaking out. He was treated like a traitor. He lost his job. He received death threats. His wife divorced him. “It was like I was radioactive,” he says. “It has not been an easy ride.”

Companies such as Motorola that have total quality-improvement processes that encourage employee input—from the president to the floor-sweeper—are to be applauded, he says. Before working as a tobacco executive, he had a job at Johnson & Johnson, a firm he lauds for ethical corporate standards.

HR can help develop and promote those values, he says, but the ethical tone of a company must come from the top. If he were a CEO, he says, he’d broadcast an open-door environment that was highly receptive to employee input—no matter how bad the news.

In recent years, Wigand has become a sought-after national speaker on business ethics. He says he knows it’s one thing for an employee to tell management about an improvement that could be made in the workplace, and quite another to broach the subject of company wrongdoing. “Management is not receptive to that,” he says flatly.

“We ought to welcome people with moral conviction. We ought to teach moral conduct in schools, and it should be part of all workplace training.”

Shifting ethical gears

As co-founder and editor of *Business Ethics* magazine, Marjorie Kelly is very familiar with the best—and the worst—examples of quashing dissent. She has written extensively about corporate responsibility, including *The Divine Right of Capital: Dethroning the Corporate Aristocracy* (Berrett-Koehler Publishers, Inc., 2001).

She says there’s a need for ethics officers and for management tools such as confidential 800 numbers for

employees. She also offers this suggestion: Organizations should share stories with employees about people at the company who have come forward with information—even calamitous news about corruption or grand-scale scandals.

“And if there are no such stories to trumpet,” Kelly notes, “management should ask themselves why.”

Her much larger concern, however, is that she doesn’t think the corporate structure is designed to support ethical behavior in the first place. “It will take more than a cultural change to get more internal justice,” she maintains.

“Where is the structural support for ethics in business? It’s not there. Is it possible to have ethical behavior in companies solely focused on the bottom line, where the shareholders are the only ones with structural clout and the employee is powerless?

“The system militates against ethical behavior. Companies need an internal court that has the power to implement internal justice, a separation of powers. It’s called a democracy. Corporations are pre-democratic in spirit. They are essentially monarchies. One person has all the power.”

There are companies such as TWA and Federal Express, she says, that have developed good internal-justice programs. FedEx’s open-door policy specifies that employees can discuss any work issue or problem with any manager—not just their own supervisor.

It’s a lesson that a lot of people in very high places are paying attention to. In May, a contrite FBI director publicly referred to Rowley’s bombshell memo, and thanked her for her forthrightness. The action was applauded in many business and government circles. Mueller spoke like a veteran HR ethics professional when he added:

“As our focus changes to terrorism prevention, we must be open to new ideas, to criticism from within and without, and to admitting to and learning from our mistakes.”

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