

# Compliance & Ethics Professional

September  
2017



A PUBLICATION OF THE SOCIETY OF CORPORATE COMPLIANCE AND ETHICS

[www.corporatecompliance.org](http://www.corporatecompliance.org)



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# In the mind of a whistleblower

- » An internal reporter (or whistleblower) will always have a preconceived expectation about how the information he or she provided will be used.
- » The way you manage the initial contact will determine what the reporter can expect.
- » The safest way to approach the initial communications with internal reporters is under the assumption that everything you respond with could one day become public.
- » You can set a tone of trust by advising the reporter that the information received will be investigated and that your organization will not tolerate retaliation against internal reporters.
- » Understanding that anonymous reporters might be motivated by different interests will help you keep your mind open to assess, in an objective manner, the information you receive.

## What motivates someone to speak up? To break the silence?

Despite the well-documented cases of corporate malfeasance brought to light by internal reporters, the word “whistleblower” still carries certain negativity.



Rueda

Whistleblowing may evoke images of individuals speaking behind someone’s back, which is not necessarily associated with honesty and candor. Some people prefer the term “reporter.” The words “reporter” and “whistleblower” are used interchangeably throughout this article.

Many reporters choose to remain anonymous, which can also be misinterpreted by others. “Why don’t these people show their faces?” “If what they have to say is true, why do they have to hide?” The answer is not always straightforward.

The following story may explain, to some extent, what goes on in someone’s mind when faced with the dilemma of reporting what is perceived to be unethical behavior.

## Reporters don’t always have the benefit of a full picture

Years ago, an employee (let’s call her Alice) advised through our ethics reporting hotline that she had information possibly pointing at significant ethical breaches. During our exchanges, it became evident that Alice had witnessed some questionable actions but was uncertain whether to provide further evidence or a statement. When I asked if she was willing to meet confidentially to review the evidence, Alice was hesitant.

Alice was not specifically concerned with retaliation. Instead, she was well aware that she only had a partial picture of the situation. In this regard, although the optics of what she was observing were not good, Alice also understood that she did not have sufficient information to determine if she was indeed witnessing violations of policy.

She was concerned with being portrayed in an unfavorable way if what she reported was either (a) properly approved and handled per standard procedures not known to her or (b) condoned and accepted by the company as the cost of doing business (which, fortunately, was not the case).

The second scenario is especially problematic. Even if an organization does a good job controlling the threat of retaliation against internal reporters, there might still be the question on whether a company's "culture" allows the behavior being observed.

Which brings us back to the topic of what goes on in the mind of the reporter.

### Managing the reporter's expectations

I have corresponded with more than 500 internal reporters over several years. Most of them were, and will remain, anonymous; therefore it is virtually impossible to try to categorize the reporters' motivations. But one aspect is always certain: an internal reporter (or whistleblower) will have a preconceived expectation about how the information he or she provided will be used.

This is the reason why you, the compliance professional, will play an important role. The manner in which you manage the initial contact will determine to a great extent what the reporter can expect from the report.

### Communicating with the reporter

We cannot assure the reporter that corrective action will be taken, as this would imply that the report had full merit. Conversely, we cannot advise the reporter that no policy is being violated, as we can almost never be sure if he or she has provided all information available.

The safest way to approach the initial communications with internal reporters is under the assumption that **everything you respond with could one day become public**. Clearly, an anonymous reporter is not going to ask for your permission before posting your responses (including voice messages) on social media.

How do we respond then? It is much more positive, safe, and productive to assure the reporter that the information has been received and that it will be investigated.

Some reporters do press for answers, wanting to know the outcome of an investigation. Unfortunately, if the reporter has remained fully anonymous, it is not recommendable to outline what was done. You do not know if the reporter might be one of your competitors or an overzealous member of the media.

You can set a tone of trust by advising the reporter that the information received will be investigated and that your organization does not tolerate retaliation against internal reporters.

For reporters that insist on remaining anonymous, it is always recommended to remind them that it is their responsibility to be careful with whom they discuss the information they have. They can also be cautioned about conducting their own inquiries, as this may compromise an investigation and attract attention that may undermine their anonymity.

### What motivates a whistleblower?

It is essential for you, the compliance professional, to remember that there could be numerous factors and interests that motivate a reporter. These could range from goodwill and ethics, to sense of justice, to vindictive intent, among others. You should be comfortable with the idea that, many times, you will not know what finally moved a reporter to speak up.

Understanding that anonymous reporters might be motivated by different interests will help you keep your mind open to assess, in an objective manner, the information you receive.

By managing the reporter's expectations, establishing reasonable communication parameters, and understanding what motivates reporters, you will be in a better position to make the most out of ethics and anonymous reports, and ensure a meaningful contribution from the compliance function in your organization. \*

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