

6 min read

# Preparing for Whistle- blowers

In its 2019 Annual Report to Congress, the Securities and Exchange Commission released its most current whistleblower findings. The report notes that in 2019 the SEC received its second-largest number of whistleblower tips, leading to increased enforcement and investigatory action.

While it may be the case that unethical or illegal behavior is on the rise, it could be that this activity has not increased but whistleblowers are only becoming more comfortable with reporting them. Financial rewards for successful tips have only encouraged reporting. For business professionals, this growing trend will play an important part in the responsibility of protecting the company and its employees.

## Staying Prepared

It is important for business leaders to stay prepared for potential complaints and handle them appropriately. Vetting and investigating complaints is critical to ensuring the activity stops and to prevent further damage or liability. So how do organizations stay proactive for potential investigations?

Leaders within the business community should (1) understand the motivators for potential whistleblowers, (2) develop appropriate tools to combat fraudulent activity, and (3) encourage a corporate culture that embraces ethical behavior and healthy employee relationships. Let's take a look at each.

**Motivators** - There are many reasons a whistleblower may file a complaint, many of which will be what motivates the fraudulent activity. Potential motivators may include money, ideology, compromise, and ego.

- **Money.** Money becomes a motivator during certain situations such as loss of income, a financial crisis, or big whistleblower payouts.

# Whistleblowers (cont)...

- **Ideology.** Ideology can play a role when a company has overzealous employees. While every organization appreciates staff who are loyal to the company, this at times may go too far. These employees may see an issue when there isn't one or have distorted views on what is legal or ethical when it comes to business.
- **Compromise.** Many times, individuals may have been caught in their own misconduct or are expecting to be. They may seek to provide a "bigger fish" in the hopes that their activity may be overlooked.
- **Ego.** Some whistleblowers may feel slighted or underappreciated and see an opportunity to file a complaint as a way to get back at a superior or the company.

Understanding each motivator will help businesses assess not only potential whistleblowing but also the illegal activity.

**Tools** – There are many types of tools organizations can use to prevent fraud and ultimately prevent whistleblower investigations. Ongoing internal auditing will bring awareness to many potential issues. Analytic software may be used to monitor financial transactions and communication platforms including email, chat and social media.

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Also, with the increase in the development of Artificial Intelligence, new and complex data analysis is becoming more available. This AI can learn specific functions and activity within the organization over time and quickly identify irregularities before they become issues.

**Corporate Culture** – A final and possibly most important step organizations can take is understanding the importance of corporate culture. Appropriate policies and responsive, respected leadership can go a long way in preventing bad behavior and complaints.

Many safeguards should be developed, including steps to make sure anything that needs to be reported is done so internally before it is ever done externally. Tight controls communicate to potential violators that they will be caught and should help to prevent the fraud.

If money is a big motivator, rather than the reporter being incentivized to report outside the company, an internal reward could be



provided. Many times, an internal reward will prevent an outside investigation. Finally, if the culture dictates that all employees are treated equally and appreciated, this should reduce the ego motivator.

### **Investigation Challenges**

Whistleblowers are typically provided a high level of credibility because they are insiders and are privy to information outsiders typically aren't. From the start, this provides different types of investigatory challenges. The main objective is determining if the allegations are true.

One of the biggest challenges faced during an investigation is the different types of skills, experience, and departments involved. Typically, HR, Accounting and other departments are involved across the organization. Because of the increased use of technology in today's changing business landscape, IT is frequently relied on for forensic evaluation across platforms, software and communication devices.

Critical thinking should be used to prevent and respond to whistleblower complaints. Concerning or unusual activity should not be overlooked and at the least, briefly reviewed. Unusual transaction volumes should alert management when reviewed against historical averages. The same review may alert the organization to unusually high value transactions as well.

Transactions originating in suspicious locations outside the normal places of business should arouse suspicion. If the organization only conducts business in its own country and then several transactions take place in a foreign country, this should raise a red flag. In addition, some countries arouse suspicion even for organizations conducting business globally. New transactions in Russia, North Korea, or Iran, for example, should alert leaders to the possibility of fraud.

Outlier events in general warrant a second look to ensure there's no impropriety. Any of these red-flag events, when paired with user logs, provide sufficient reason to investigate the individuals tied to these activities.

### **Whistleblower Protection**

Finally, it is important to remember, regardless of the outcome, that whistleblowers are heavily protected in most countries. Even if the complaints appear to be out of spite or as revenge, they should be taken seriously. In the United States, the Whistleblower Protection Act was signed into law in 1989. In it, freedom of speech is guaranteed and protection is provided in most situations.

This includes protection against retaliation for disclosing information that provides evidence for potential law, rule or regulation violations, gross mismanagement, waste of funds, abuse of authority or danger to the public health or safety.

It is prudent for all organizations and professionals to treat the potential for these complaints seriously.

