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Australian Institute of Criminology

IBAC corruption, prevention and integrity conference

The experiences of whistleblowers after misconduct is reported

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Introduction

Funding

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Aims

- to identify the nature of retaliation experienced by whistleblowers
- to determine the nature of the factors associated with retaliation experienced
- to identify ways in which retaliation could have been avoided and how whistleblowers can better be protected from victimisation

Qualitative methods

- 36 whistleblowers (24 Whistleblowers Australia; 12 STOPline) – 11 public sector; 25 private sector / 20 men; 16 women
 - 21 disclosure recipients – four Ombudsman, 8 public sector, 5 private sector, 4 hotline staff / 15 men; 6 women
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Reporting procedures

Type of behaviour reported

- Mainly workplace grievances – bullying, harassment, intimidation
- Low-level employment problems rather than major fraud or corruption

Avenues of reporting

- Public sector – supervisors and Human Resources
- Private sector – external hotlines e.g. STOPLine
- 60% wanted anonymity – more difficult to obtain in the public sector
- IBAC Victorian procurement survey – 36% feared disclosure of names

Identified problems

- Didn't know what protections were available for whistleblowers
 - Didn't know where to go: 'a frustrating, time-wasting, merry-go-round'
 - Were not kept informed of what was happening with complaint
 - Expectations of whistleblowers poorly managed
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Consequences of reporting

Whistleblowers' views

- Ostracism, isolation, exclusion from meetings, bullying, harassment
- Being subject to derogatory remarks on social media
- Disciplinary action and counter-allegations that had to be defended

Disclosure recipients' views

- The problem of causation between reporting and reprisals
- Difficulty in knowing what had happened to whistleblowers afterwards

Consequences identified by disclosure recipients

- Feelings of fear, surveillance at home, social isolation
 - Bullying, harassment and, occasionally, violence and assault
 - Criticism, blaming, not being promoted, not being treated properly, being forced to resign, dismissal, given menial work
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Consequences of reporting

...the whistleblower reported to the manager who then took it to higher management. The whistleblower was called to a meeting where the whistleblower was confronted by the wrongdoers and the whistleblower was asked to repeat the allegations to their faces. The whistleblower refused to do that ...but the next day the whistleblower's job was changed...now being told to drive a tractor with a trailer and shovel and fill in rabbit holes in the park ...the whistleblower resigned and never came back... (DR-27)

Consequences of reporting

The whistleblower lived on-site in a correctional facility and had witnessed other staff smuggling contraband into the prison for prisoners...When the whistleblower reported what he had seen, he suffered assaults for having spoken up... and there were inadequate procedures to guard against this (DR-27)

Impact of reporting

Psychological

- Emotional stress, exhaustion, mental and physical health-related issues
- Bitterness, sense of injustice; loss of confidence and trust in people

...just destroys you...horrible people lie about you...get their cronies to write about you...don't do it...the worst thing I ever did...best is just to leave, resign ...it changes your personality...(WBA-45)

Impact of reporting

Economic - employment

- Loss of job – all were no longer working in the same workplace
- Costs of legal advice, loss of income when employment terminated, contracts not renewed, promotions not obtained, careers damaged
- Some did further education, wrote books, changed careers, established whistleblower support organisations

Would you do it again?

- 50% said they would make a report again; 50% said – ‘no never’!
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Support provided

Disclosure recipients' views

- Support was either absent or inadequate—apart from some general counselling services provided by some organisations

Legislation

- Neither whistleblowers nor disclosure recipients thought that legislative protections were effective in preventing and deterring acts of retaliation
- Whistleblowers believed that legislative thresholds for providing protection against reprisals are too high and not applicable to most forms of workplace misconduct

Policies

- More and better education in the workplace is needed about whistleblowing procedures and processes
 - Policies in place actually need to be implemented and complied with
 - Practical welfare support needs to be made available to whistleblowers
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Conclusion

Suggestions for reform

- Changing workplace culture to improve psychological safety through reducing conflict and delivering training in workplace ethics
- Establishing effective grievance procedures in all sectors
- Providing independent support and counselling to assist whistleblowers in reporting and dealing with reprisals and victimisation
- Enabling peer groups to offer support and advice to whistleblowers
- Having independent investigations – not by Human Resources
- Providing timely feedback of the results of investigations
- Providing financial compensation to whistleblowers (e.g. *Qui Tam*)
- Disciplining and prosecuting those who retaliate against whistleblowers
- Recognising and thanking whistleblowers with an annual award

Joint Committee on Corporations and Financial Services Report

- Recommendations for enhancing whistleblower protections (Sept 2017)
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It's not all bad . . .

...to survive the whistleblower process, to survive the pain and suffering...you need humour, spirituality and support and find solace in writing...being a whistleblower has been very good for me...it has turned me into a totally different person... (WBA-55)



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