

Ethical Tension Points in Whistleblowing

J. Vernon Jensen

ABSTRACT. This paper analyzes the number of procedural and substantive tension points with which a conscientious whistleblower struggles. Included in the former are such questions as: (1) Am I properly depicting the seriousness of the problem? (2) Have I secured the information properly, analyzed it appropriately, and presented it fairly? (3) Are my motives appropriate? (4) Have I tried fully enough to have the problem corrected within the organization? (5) Should I blow the whistle while still a member of the organization or after having left it? (6) Should I keep anonymity? (7) How ethical is it to assume the role of a judge? (8) How ethical is it to set in motion an act which will likely be very costly to many people? Substantive tension points include such questions as: (1) How fully am I living up to my moral obligations to my organization and my colleagues? (2) Am I appropriately upholding the ethical standards of my profession? (3) How adversely will my action affect my family and other primary groups? (4) Am I being true to myself? (5) How will my action affect the health of such basic values as freedom of expression, independent judgment, courage, fairness, cooperativeness, and loyalty?

The phenomenon of whistleblowing occurs all around us. The mass media make us aware of many episodes, and we experience others in our personal circles. A member of a manufacturing firm tells the public that his company is illegally selling military equipment abroad to a hostile country, a member of a Senator's staff publicizes wrong doings of her

employer, a student tells the community newspaper that cheating on examinations is common and overlooked at his school, or an accountant publicly accuses his superiors of seriously mismanaging funds. Obviously, the contexts for whistleblowing are endless.

Whistleblowing has been steadily increasing since the 1960s, along with a gradually increasing public support.¹ Though an increasing number of individual cases have been the subject of a considerable number of articles and books, the phenomenon has not been studied very thoroughly from a communication perspective. In this paper we are interested in whistleblowing as a communicative act in all human contexts, not just in business, industry or government, which has usually been the case of most of the literature on the subject. Our objective is to secure a deeper insight into the ethical tension points which are generated in the rhetorical act of whistleblowing.

Whistleblowing can be defined as a communicative act which is (1) intentional, (2) responsive, (3) accusatory, (4) public, (5) support seeking, (6) via various media, (7) refutational, and (8) straining a contractual agreement. A whistleblower can be defined as (1) a single person, (2) subordinate to the accused, (3) well informed, (4) an insider, (5) greatly agitated, (6) highly motivated, (7) participant turned judge, and (8) perceived to be a traitor/hero.

These rhetorical characteristics of whistleblowing and of the whistleblower raise a number of specific ethical concerns, illuminating a number of ethical tension points (ETPs). The accumulation of these ETPs builds to a complex and agonizing ethical struggle for the potential whistleblower and for society in general. We will define ethics as the human concern for the degree of rightness involved in making intentional and voluntary choices in conduct touching on such moral values as justice,

J. Vernon Jensen is professor in the Department of Speech-Communication at the University of Minnesota where he teaches courses in ethics among other subjects. Some recent publications are 'Teaching Ethics in Speech Communication', (Communication Education 34 (October, 1985), 'Bibliography: Ethics in Speech Communication', (Rhetoric Society Quarterly 15 (Winter & Spring, 1985), and Argumentation: Reasoning in Communication (1981).

goodness, and truthfulness, and which carries the potential for significantly affecting other people. The term 'degree' is important, for it is closer to reality than to assume that actions are totally 'ethical' or 'unethical', and it permits us to place our judgment on a continuum. Asking whether some act is 'ethical' or 'unethical' elicits a 'yes' or 'no' response, and the ensuing discussion is immediately cast in a two-valued framework. On the other hand, the question "How ethical is it?" elicits a statement of degree of ethical quality (EQ), which, for example, could be placed on a seven point scale: highly ethical (7), moderately ethical (6), slightly ethical (5), neutral (4), slightly unethical (3), moderately unethical (2), or highly unethical (1).

In making our ethical judgments we are guided by a variety of standards, no doubt acting together in some indistinguishable togetherness, but with one or more probably having a premier role in given instances. Johannesen has summarized and discussed a number of such perspectives very well. He suggests that we may be using the political values of our nation, religious admonitions, legal regulations, the utilitarian perspective (greatest good for the greatest number), some situational guidelines, emphases furthering innately human characteristics (e.g., ability to reason, symbol-using ability, making value judgments), or showing concern for the dialogical dimension (recognizing other participants as persons to be respected, not things to be manipulated).

In exploring the ethical tension points in whistleblowing, we will divide them into (1) procedural and (2) substantive. Obviously some other categorization scheme could be developed.

A number of ETPs may be looked upon as basically procedural. First, how serious is the problem? Is the whistleblower merely an irritating problem-monger, exaggerating the current and potential importance and danger of the situation? Does that person simply have a low tolerance level for shortcomings, prematurely claiming serious problems, much like parents who react too quickly and strongly to some minor misbehavior of their children? Is the problem only temporary? Are predictions of dire consequences exaggerated?

Second, how carefully has the whistleblower handled the information? Have the facts been carefully checked and re-checked for accuracy, completeness, and relevance? Is there enough data to

warrant the charges? Is the information really relevant to the claims? Can the information be documented? Is the data recent or out-dated? Is the case being presented as clearly as possible, with a minimum of ambiguity and innuendo? Have the values that are supposedly endangered been clearly identified? Does the whistleblower see the whole picture? Has the whistleblower let bias color the selection and treatment of the data? How proper were the procedures in securing the information in the first place, that is, how ethical is it to remove and photograph files?

Third, have one's motives been carefully explored and aired to one's satisfaction? How powerful is the personal desire for notoriety operating? Is one engaging merely in a personal vendetta, desiring to "get even" with some supervisor or group? Is one's secret agenda being kept from the public? Is the whistleblower too rigidly or surreptitiously applying standards of a religious or other allegiance? Does one really have the concern for others uppermost?

Fourth, has the whistleblower endeavored fully enough to have the situation corrected internally through regularly established channels? Has the whistleblower gone to the immediate supervisor and to other appropriate personnel up the ladder? Has there been an adequate attempt to reason with the wrong-doer(s)? Has the wrong-doer(s) been given enough time to improve the situation? Has the whistleblower demonstrated a positive, non-threatening attitude, that is, a genuine desire to correct the problem from within, thus demonstrating one's basic loyalty to the group? In short, has the whistleblower sought to keep the problem "in the family" as long as possible?

Fifth, when should whistleblowing occur? Should it be engaged in on company time or only during off-hours? What is the ethical quality of whistleblowing while still an employee versus when one no longer is, that is, having resigned, been fired, or retired? Literature on whistleblowing usually labels whistleblowing while still on the job as 'pure', that is, the person is not leveling charges from a safe distance, but while still within the organization. If whistleblowing is done after leaving, it is termed 'alumnus', and carries a connotation of being less 'pure', that is, less credible because the whistleblower is making accusations from the safety of distance, presumably not brave enough to face the full

consequences of the act. Peters and Branch have posed the dilemma:

Does one leave the organization to become an alumnus whistle-blower, containing some maneuvering room but sacrificing the drama and immediacy of an inside exposure? Or does one stay inside, where the battle will draw more press coverage, but where there is great danger of being neutralized by a confusing barrage of emotion-filled loyalty and motive charges?²

Sixth, should whistleblowing be done anonymously or openly? Engaging in whistleblowing openly tends to create a greater credibility, since the person exhibits great courage in courting considerable punishment from the organization. Keeping one's identity secret obviously carries with it more protection, at least initially, and may embolden the whistleblower to be more comprehensive and incisive, thus getting to the heart of the case more quickly and more effectively. But sooner or later the identity may be revealed, and in the meantime, the credibility will be somewhat suspect, since the whistleblower did not dare to become publicly identified. How fair is it to the public not to know the source of the charges? The cost/benefit ledger has to be carefully weighed on anonymity versus openness.

Seventh, with what intensity and how often does one blow the whistle? The manner and frequency may have ethical considerations. That is, how important is it whether one is strident or composed in one's presentation, and circumspect or not in the frequency of one's charges? Is the intensity unfair, that is, does it create a misleading and exaggerated fearful context?

Eighth, what is the proper audience for the whistleblower? To whom ought one to give the information? How ethical is it to channel one's case to a newspaper reporter, to some political candidate, or some government official? Such audiences may use the information for their own purposes and distort the case, or indeed they may be the ideal outlet. Should one publish one's charges through a letter to the editor, in a public speech, or in written memoirs? Will the intermediary, that is, the reporter, newspaper or book publisher, etc., be put in a difficult position or will they, on the other hand, gain too much prestige and power in the role? In

short, what immediate audience is the most ethical one to which the whistleblower should deliver the message?

Ninth, how right is it for the person to shift roles from participant to judge? Is the whistleblower arrogantly and unilaterally taking on an inappropriate role, one which does not belong to that person? 'Whistleblowing' is an apt metaphor. In sports, basketball for instance, a trained person is paid to blow a whistle to signal a rule violation. Blowing the whistle momentarily stops the action, the referee identifies the violator and the rule infraction, the violator is punished, and the team is penalized (by giving the victim a "free throw" at the basket). Players, coaches, fans, and sportswriters may grumble about the whistleblowers, but the authority of such referees is unquestioned, for the 'game' depends on them. Without a designated whistleblower, anarchy, not a game, would exist. But it is important to note that the whistleblower is a third party, a non-participant, a trained person, and is fulfilling previously agreed upon functions. An indignant player may insist that he did not foul an opponent, but the referee, not the player, makes that judgment. When a tennis player continually complains about the calls of the lineman, the player apparently expects to be both participant and referee. You can not be both. Either play the game or judge the game. In a non-sports whistleblowing act, a 'participant', an employee in many instances, takes on the role of 'referee', and therein lies the ethical tension. What right does that person have for doing so? In most organizational structures, superiors, not subordinates, have the designated role of making judgments. It is of course usually asserted that such superiors are not properly fulfilling their role or are indeed the violators of the rules, and hence some subordinate participant needs to assume the role of whistleblower. But is the whistleblower thus attempting to play God?

Finally, how ethical is it to undertake an effort which will likely be very expensive both to the whistleblower and the accused, in terms of time, money, effort, and mental involvement? Similar costs may have to be borne by additional parties who may be called in to investigate or testify. In short, is the whistleblowing act worth the expenditure? Could all those resources be channeled to more productive, more ethical endeavors?

Even more agonizing, perhaps, than these procedural ethical questions, are a number of substantive ones. The overarching ethical dilemma in whistleblowing grows out of trying to determine how to balance multiple loyalties, obligations, values, 'goods'. A nurse, for example, agonizes over whether to blow the whistle on what she feels are seriously inadequate practices in her health care unit of the hospital. She realizes an obligation to the patients, to her peers, to her supervisors, to the medical profession, to the hospital administration, to her own self-worth, to the general public, and to "the truth". How can she balance all of these loyalties and commitments when they begin to conflict? Usually they exist together with no problem, but conditions warranting whistleblowing usually mean that some of these loyalties are now battling each other. Which will take precedence in that particular situation? Where in that mix of loyalties does one's priority fall? Which loyalties will have to be sacrificed, or at least set aside temporarily?

First, what is one's obligation to the organization? As was noted earlier, some kind of contractual arrangement, written or understood, exists. In a commercial context, an employee agrees to give talent, effort, time, willingness to grow and improve, harmonious relationship with colleagues, and loyalty to the organization and its enterprise. On the other side of the contract, the company agrees to give the employee wages, an opportunity to use skills, decent facilities and conditions for working, and various stipulated items, such as promotions, pensions, parking, etc. The company does not, however, own the employee; and free, thoughtful loyalty from the employee is quite different from expecting blind and coercive subservience.

Loyalty often involves confidentiality, and for a person to spread inside information to an outside audience is a direct violation of the contractual understanding. Industries have many secrets in order to protect their well-being *vis-à-vis* their competitors, and any revelation of those secrets would be a gross violation of contractual expectations. In some instances, an actual pledge of secrecy is entered into upon becoming a member, such as the CIA, some lodge, a religious cult, or an underground gang. A family expects to keep its secrets to itself. What conditions could warrant breaking that solemn pledge, that understanding of confidentiality? Was

the pledge of secrecy valid or reasonable in the first place? Was the group's behavior so improper and dangerous that violation of secrecy would be a small offense by comparison? Will the revelations be unfairly damaging to the organization, to its functioning, its profits, its internal harmony, and its credibility? Thomas Nilsen has made the sensitive suggestion that a person faced with such an agonizing decision needs to engage in a mock trial within oneself, trying both sides to see which is the stronger, and to be mindful that following one's conscience "should be a matter of rigorous thought as well as righteous feeling."³

Whistleblowers challenge the assumption that what is good for the organization is good for the larger public. Whistleblowers have decided that the value of loyalty to the group has to be superceded by other values, such as the dignity of life and equality and efficiency. Non-conformity is a laudable value when the group's norms or activities are of an extremely low ethical quality, but the whistleblower has to prove this. As Ernest Bormann has written: "The participant in a group must make choices relating to his allegiance to his group when he finds their norms and ends in conflict with the larger purposes and norms of his society."⁴ Whistleblowing occurs when one "draws a line where the ethical values involved force one to transcend loyalty to one's business corporation and to expose publicly what one considers the unconscionable practices of one's own business."⁵ The whistleblower, of course, may believe that the public revelations will actually in the long run help the organization. That is, once it is cleansed of its sins, its errors corrected, its financial accounting straightened out, its safety measures installed, its new leadership in place, it will go forward to greater accomplishments, greater profits, and greater credibility.

The degree of loyalty to the group varies in different cultures. For example, in Japan an employee is usually linked to the firm for life, thus whistleblowing would be highly unusual. In the United States, with its transient population, its strong unions and deep individualism, employees are less secure and less committed to the company and are in a confrontational stance with the employer, and hence whistleblowing would be more likely. In some cultures families are intensely loyal, and in some totalitarian states, young people are encour-

aged by the government to whistleblow on their parents.

Second, what are one's moral obligations to one's colleagues in the organization? How ethical is it to affect their lives? Their financial security may be damaged if the company's business declines. Their job may be threatened. Their life may be made miserable with the increased tension and the probing of reporters. They may feel betrayed by a colleague, and friendships may be frayed or severed. Ties of mutual respect with immediate superiors may be broken. One's co-workers may be led to feel guilty that they did not come forward with the information themselves. On the other hand, perhaps they will feel relieved that someone had the courage to publicize the problem, so they would not have to. They may be relieved that now the company can correct itself and move on to a more secure future. Thus, one's colleagues may have their morale lowered, raised, or unaffected. Whatever may be the case, the whistleblower must be sensitive to a moral obligation to them.

Third, what are one's ethical obligations to one's profession? How does one balance one's commitment to one's profession with the obligation to help one's company make profit when those two come in conflict, for example, if a research doctor in a firm permits insufficiently tested drugs to be sold on the market? Not to blow the whistle may result in a lowering of the profession's credibility. Publicizing the serious shortcomings of one's fellow engineers may weaken public faith and trust in that profession.

Fourth, will the act of whistleblowing adversely affect one's family? How fair is it to subject one's family to the publicity, the financial insecurity, the psychological agony, the loss of friends, and the general social ostracism that may result? A spouse may even be led to suicide.⁶ Will one's children encounter cruel taunting in school and on the playground? One whistleblower indicated that "the impact on his children (was) comparable to radiation — difficult to measure but potentially very damaging."⁷ Other primary groups, such as one's club, one's church, etc., may likewise be adversely affected by association with the whistleblower. What indeed, is one's moral obligation to those intimate and close relationships?

Fifth, what about the moral obligations one has toward oneself? Potential punishments are many and

devastating. They have included loss of job, loss of financial security, loss of mutual respect from peers and superiors, loss of friendships, much psychological stress, general social ostracism, and even losing the confidence of one's family and loved ones. When applying for another job, no references could be secured, for the person is labeled as an untrustworthy employee. Imprisonment may even be the result. One may be permitted to remain with the company but be shunted off to a less desirable position and have less likelihood of job satisfaction, promotion, and salary increases. Initial support of colleagues may wither away as they get promotions and wage increases. One might be forced into early retirement. Some whistleblowers were even forced to take psychiatric tests to show fitness for service until the government in 1984 forbade supervisors from requiring such stressful tests for employees.⁸ One might be subjected to the silent treatment or to vocal harassment. One's motives might be impugned and one's personal life invaded. One may come to feel inwardly torn and fragmented, as is hauntingly expressed in the Bhagavad Gita, one of the Hindu scriptures, when one comes to feel ". . . like a broken cloud, having severed its allegiance, and yet having failed to gain a new one, come to nothing and melt away to nothingness."⁹ On the other hand, could one live with oneself if one did not publicize the damaging information? One's integrity and feeling of self-worth are at stake. Are one's ethical standards being altered by one's actions, either violated or strengthened? Whatever the situation, "Almost always," Westin has concluded, "their (whistleblowers's) experiences are traumatic, and their careers and lives are profoundly affected."¹⁰ Glazer is more optimistic, as he concluded his study of ten whistleblowers by pointing out that virtually all of them were

. . . able to rebuild their careers and belief in their competence and integrity. They found an escape hatch in private practice, consulting, and the media. Ironically, perhaps the diversity of American economic and social institutions provides opportunities to those who have dared defy the authority of the established ones.¹¹

Sixth, what is one's ethical obligation toward the general public, those 'outsiders' to whom the message is addressed? The whistleblower is ostensibly

their knowledgeable protector, sensitively warning them of potential dangers. The public might be greatly heartened by the exposé, or they might feel unduly apprehensive or fearful. The short-range and long-range effects may be quite different. For example, the public may temporarily suffer from lack of availability of energy supply if an atomic energy plant is forced to close down for prolonged inspection; but in the long run greater safety and efficiency and alternative energy supplies may well result. How ethical is it to at least 'upset' society? But how ethical would it be not to warn them?

Finally, what will be the effect on certain bedrock values themselves? Will the whistleblower be strengthening the value of freedom of expression by speaking out? Or will it be weakened? Certainly if the remarks are irresponsible and false, the principle will be shaken, and the rights of the accused will be violated. Will the whistleblower be strengthening or weakening the values of independent judgment, courage, fairness, justice, cooperativeness and loyalty? Perhaps without the whistleblower, 'truth' will lie hidden and unknown, will go unserved. Will some values, such as friendship, in that particular context have to be sadly subordinated to other values? It usually does come down to prioritizing of values, to the making of hard choices as to which value indeed takes precedence in that situation. Or one may adhere to an *a priori* ranking of values, as for instance, Werhane does when she vigorously asserts that individual moral rights take precedence over utilitarianism;

If the notion of a moral right makes any sense, one must recognize that persons have such rights, if they do, just because they are persons, that is, just because they are rational, autonomous individuals. They cannot have such rights as the right to life or to liberty because, and only so long as, acknowledging these rights promotes the general welfare. . . . The existence of such fundamental rights cannot depend on whether collective interests are enhanced. . . . The moral rights of the individual 'trump' utilitarian calculations, both outside and inside the workplace.¹²

Whatever the priority of values, whatever the circumstances, one can conclude, as Peters and Branch do, that "Every whistle-blower who is right contributes to a kind of education by example for

the country, even if he is widely regarded as a failure or as an important martyr for his particular cause."¹³ To that we need to add that every whistleblower who is wrong, weakens the fabric of society.

In summary, a conscientious whistleblower struggles with a number of ethical tension points. Many reside in procedural decisions which the whistleblower has to make. (1) Am I fairly and accurately depicting the seriousness of the problem? (2) Have I secured the information properly, analyzed it appropriately, and presented it fairly? (3) Do my motives spring from serving a public need more than from serving a personal desire? (4) Have I tried fully enough to have the problem corrected within the organization? (5) Should I blow the whistle while still a member of the organization or after having left it? (6) Should I reveal my identity or keep it secret? (7) Have I made my claims with proper intensity and with appropriate frequency? (8) How ethical have I been in selecting my audience? (9) How ethical is it for me, a participant in the functioning of the group, to assume the role of a judge? (10) How ethical is it to set into motion an act which will likely be very costly to many people?

In addition, in trying to balance loyalties in many directions, the sensitive whistleblower encounters a number of substantive ethical dilemmas. (1) How fully am I living up to my moral obligations to the well being of my organization? (2) How fully am I living up to my moral obligations to my colleagues in the group? (3) Am I appropriately upholding the ethical standards of my profession? (4) How adversely will my action affect my family and other primary groups? (5) Am I being true to myself, to my own integrity and well being? (6) How will my action affect the health of such basic values as freedom of expression, independent judgment, courage, fairness, cooperativeness, and loyalty?

Notes

¹ For a helpful brief historical survey, see Alan F. Westin, *Whistle Blowing: Loyalty and Dissent in the Corporation* (New York: McGraw-Hill, 1981), pp. 1-14.

² Charles Peters and Taylor Branch, *Blowing the Whistle: Dissent in the Public Interest* (New York: Praeger, 1972), p. 295.

³ Thomas R. Nilsen, 'Confidentiality and Morality', *Western Journal of Speech Communication* 43 (Winter 1979), 47.

- ⁴ Ernest G. Bormann, *Discussion and Group Methods: Theory and Practice*, 2nd ed. (New York: Harper & Row, 1975), p. 65.
- ⁵ Wilfred L. LaCroix, *Principles for Ethics in Business*, rev. ed. (Washington, D.C.: University Press of America, 1979), p. 119. The verb 'transcend' should remind us that one does not necessarily abandon loyalty to the corporation, one simply goes 'higher'.
- ⁶ *Manchester Guardian Weekly*, June 2, 1985, p. 5.
- ⁷ Myron Glazer, 'Ten Whistleblowers and How They Fared', *The Hastings Center Report* 13 (Dec. 1983), 39.
- ⁸ Deborah Baldwin, 'The Loneliness of the Government Whistleblower', *Common Cause Magazine*, Jan./Feb. 1985, pp. 32–34.
- ⁹ *The Bhagavad Gita*, compiled and adapted by Yogi Ramacharaka, rev. ed. (Chicago: Yogi Publication Society, 1935), p. 78.
- ¹⁰ Westin, p. 1.
- ¹¹ Glazer, p. 40.
- ¹² Patricia Werhane, 'Individual Rights in Business', in Tom Regan, ed., *Just Business: New Introductory Essays in Business Ethics* (Philadelphia: Temple University Press, 1983), p. 116.
- ¹³ Peters and Branch, p. 297.

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*Department of Speech Communication,
317 Folwell Hall,
University of Minnesota,
Minneapolis, MN 55455,
U.S.A.*