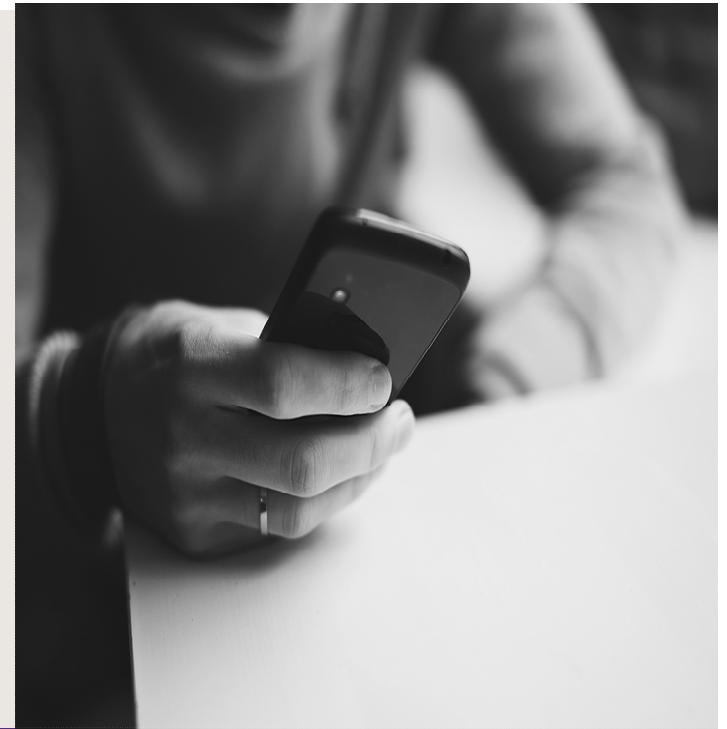




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The World of the Whistleblower: Things Are Starting to Change



Presented to Ryerson Corporate Social responsibility Institute

November 2016

Overview



1. Whistleblowers and fraud – the history;
2. Common myths about whistleblowers and who they really are;
3. The emerging consensus on the value of whistleblowers with Canadian examples;
4. Understanding the multiple benefits that an effective whistleblower system can bring to an organization; and
5. The new guideline and how Canadian CFEs can help their clients understand and harness the power of the whistleblower.
6. Conclusions

We all know what you do with messengers. . . .

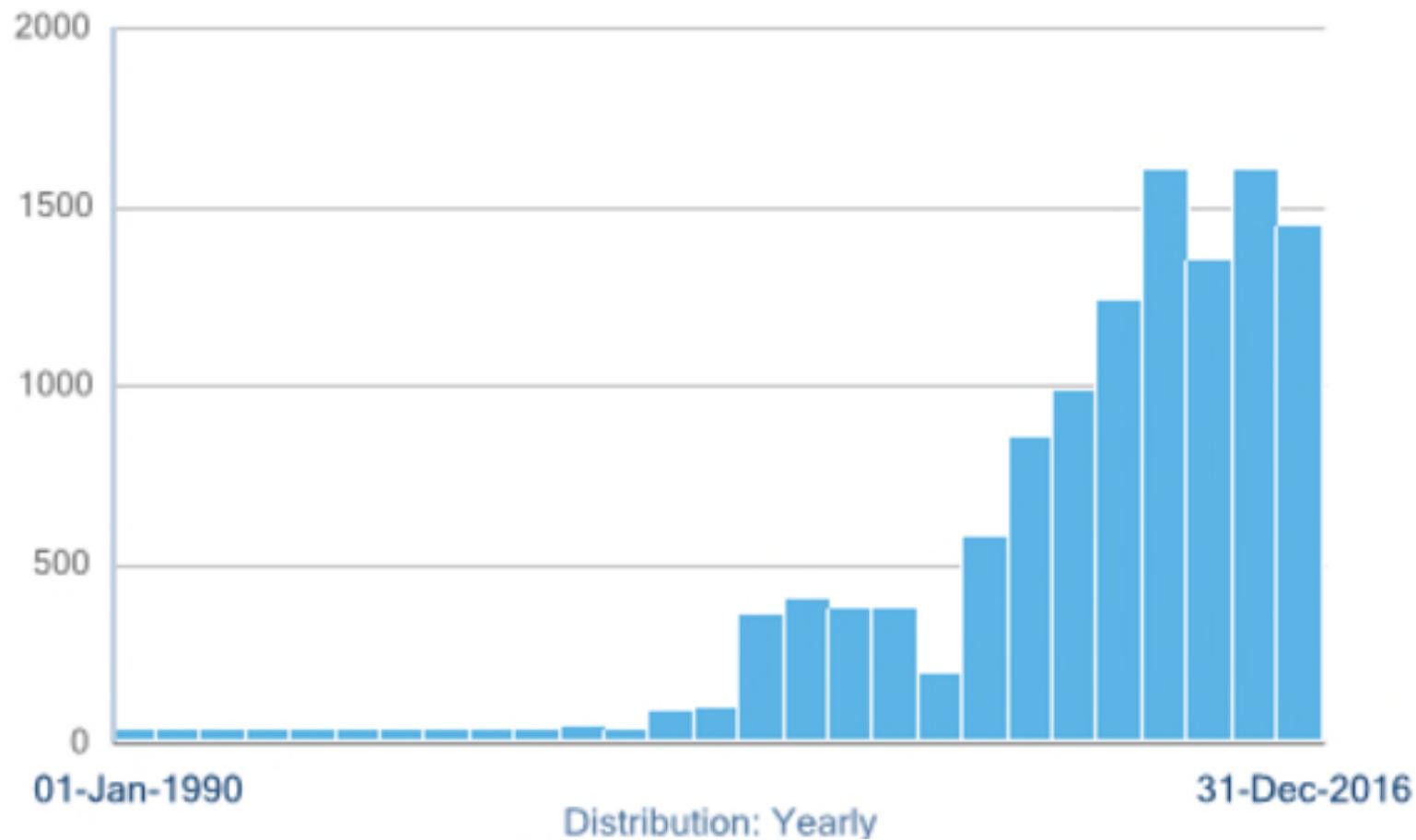


The New View of Whistleblowers

- » Perceptions are changing
- » Inaccurate myths have been debunked
- » Whistleblowers are a precious resource
- » Troublemaker to hero
- » Key facet of corporate governance programs
- » Wide significance in all kinds of investigations (e.g., fraud, corruption, environmental damage, corporate wrongdoing, crime)



Use of "whistleblower" in Canadian News



Whistleblowers and Fraud – The History

- » The term “whistleblower” seems to have been coined in the late '60s or early '70s.
- » It is generally attributed to Ralph Nader, a U.S. author, political activist, and five-time presidential candidate who for decades has challenged governments to be more open and accountable.
- » In 1972, he co-authored a book titled *Whistle Blowing: The Report of the Conference on Professional Responsibility* (Nader, Petkas, and Blackwell 1972), and this is widely accepted as the origin of the term.

ACFE Whistleblower Statistics

The 2016 *Report to the Nations* indicates that 39.1% of the 2,410 cases included in the survey were detected through a tip. Regional variations on this statistic are also interesting.

- » Canada 32.6 %
- » United States 37%
- » Sub-Saharan Africa 37.3%
- » Asia-Pacific 45.2%
- » Latin America and Caribbean 36.9%
- » Western Europe 40.9%
- » South Asia 53.1%
- » Middle East and North Africa 39.2 %
- » Eastern Europe & Central Asia 47.4%

ACFE Whistleblower Statistics (continued)

Effectiveness is clear—figures are double or more than figures for the next most common method of detection.

Consistent over a long period and also match closely with those of other similar published surveys.

These are fraud statistics, but the value of whistleblower systems has been demonstrated in many other circumstances that they are a valuable tool in fighting a broad spectrum of illicit activities.

Other examples where they have proven effective include the **capital markets, anti-corruption compliance, and with professional bodies.**

ACFE Whistleblower Statistics (continued)

Figure 49: Change in Implementation Rates of Anti-Fraud Controls

Control	2010 Implementation Rate	2016 Implementation Rate	Change from 2010–2016
Hotline	51.2%	60.1%	8.9%
Fraud Training for Employees	44.0%	51.6%	7.6%
Anti-Fraud Policy	42.8%	49.6%	6.8%
Code of Conduct	74.8%	81.1%	6.3%
Management Review	58.8%	64.7%	5.9%
Surprise Audits	32.3%	37.8%	5.6%
Fraud Training for Managers/Executives	46.2%	51.3%	5.2%
Independent Audit Committee	58.4%	62.5%	4.1%
Management Certification of Financial Statements	67.9%	71.9%	4.0%
Rewards for Whistleblowers	8.6%	12.1%	3.5%
Job Rotation/Mandatory Vacation	16.6%	19.4%	2.8%
External Audit of Internal Controls over Financial Reporting	65.4%	67.6%	2.2%
Employee Support Programs	54.6%	56.1%	1.5%
External Audit of Financial Statements	80.9%	81.7%	0.8%

Why Are Whistleblower Systems Not More Effective?

- » Social conditioning works against whistleblowers who are often viewed as being “outsiders” or not team players.
- » The perception of whistleblowers themselves is only just beginning to change for the better.
- » Retaliation against them when they expose wrongdoing is still the norm.
- » Most **organizations do not understand the dynamics of whistleblowing**, either generally or in their own organization.
- » Corporate thinking has often not gone any further than deploying a system.
- » We need to look at ways in which a **greater understanding of these dynamics** can enable the more effective use of whistleblowers.

Negative Societal Perceptions

- » *Snitch, informer, stool pigeon, sneak, rat, grass, mole*, and other pejorative terms reflect the disdain with which the criminal fraternity hold those who expose them to the police.
- » In everyday life, people who “tell” on others are often described negatively as a *tattler, squealer, telltale*, or *Judas*.
- » A common societal phenomenon, but often not in the best interests of the group.
- » In most cases where a whistleblower reports wrongdoing, the negative behaviour is detrimental to the organization and the group as a whole.

Common Whistleblower Myths

- » Whistleblowers are trouble makers who are out for their own goals.
- » Whistleblowers are not team players and make reports for negative reasons, such as jealousy and revenge
- » Whistleblowers cannot be trusted, and their information is unreliable or inaccurate
- » Whistleblowers are often accused of having mental health issues. (Sadly this is sometimes the case, although I have seen a number of cases where the mental health issues were directly caused by retaliation and intimidation.)
- » Whistleblowers manipulate reporting systems and use them for their own ends

Why do whistleblowers become victims?

1. Bullying, intimidation, harassment and malicious negative information propagated by the subjects of whistleblower reports
2. Rebroadcasting and enhancement of negative perceptions as a result of 1
3. Whistleblowers are often ostracized by other co-workers because of negative perceptions
4. Knee jerk defensive reactions from supervisors and management
5. Inability of whistleblowers to be heard or believed

These result in cumulative negative impacts on the whistleblower's ability to work, financial stability, health and family life

Charbonneau Commission Whistleblowers

Karen Duhamel, who worked for an engineering company, was intimidated, demoted, and eventually resigned.

Joseph Farinacci, a City of Montreal official responsible for real estate deals, was pressured and resigned when he could not stop a corrupt deal because senior public officials were involved.

François Beaudry was an engineer advising the deputy transport minister. He found evidence of high-level bid rigging and reported it to his superior, Jean-Paul Beaulieu. Mr. Beaudry testified that public construction in Montreal “was 100 percent controlled by the Italian Mafia.” Mr. Beaulieu refused to approve cost overruns for a project at a traffic circle in Montreal. The payments were issued anyway, and he was transferred to another department.

Charbonneau Commission Whistleblowers

Ken Pereira was a labour leader who had reported FTQ Construction union executives regarding expense claims. He was offered the keys to a Mercedes in return for keeping quiet but refused. He was summoned to a meeting where he met “Raynald Desjardins, a mobster who was a former confidant of Vito Rizzuto, the godfather of the Montreal Mafia.” Scared for his life, Mr. Pereira went to the police and one union member was later convicted.



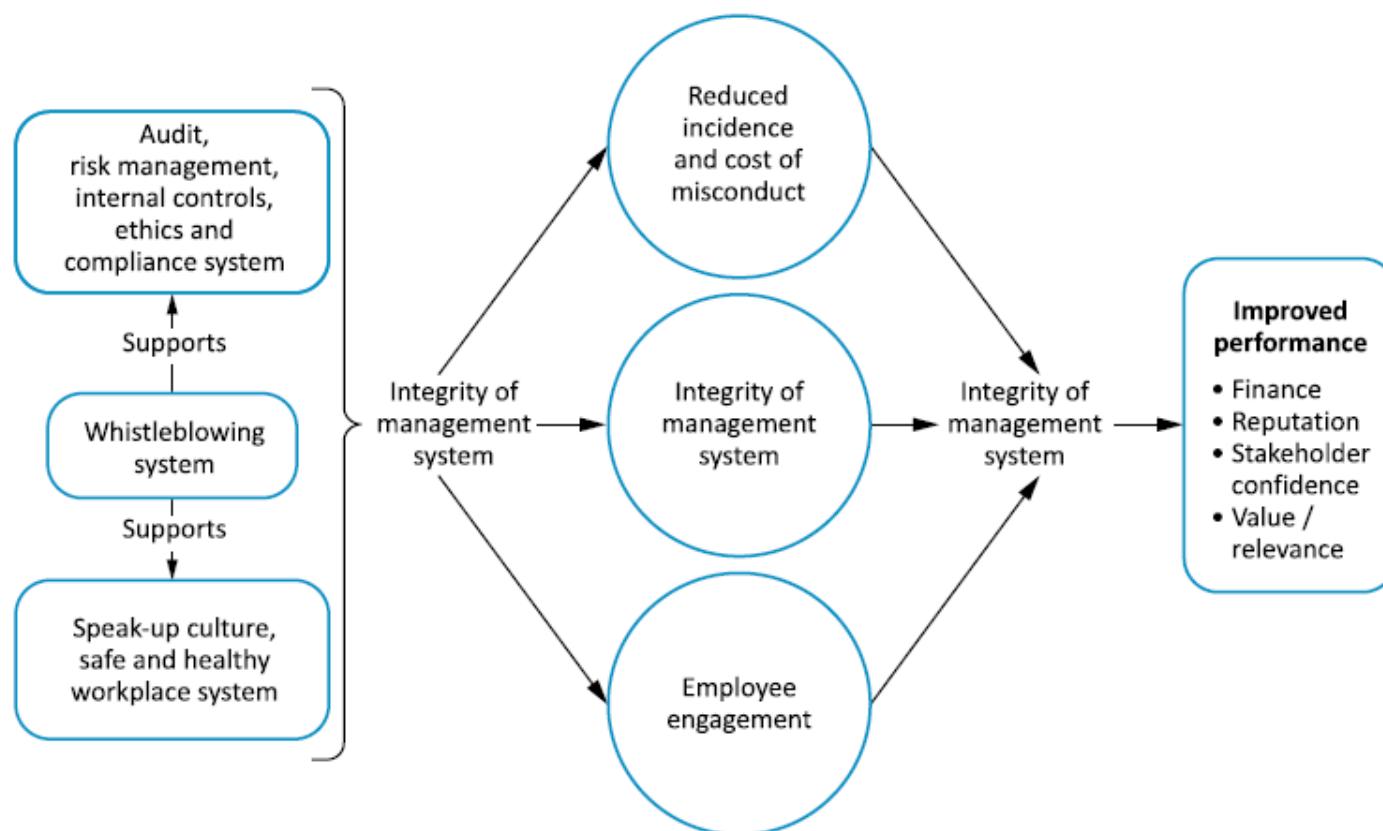
Photo courtesy of www.cbc.ca

Charbonneau Commission Findings

- » The government must **do more to protect whistleblowers**.
- » The industry must stop corruption and corruptors that interfere with people who want to blow the whistle.
- » **All whistleblowers must be taken seriously** by anyone who they approach with their concerns.
- » It is recommended that the government adopt better processes and stronger measures to **ensure that whistleblowers are protected**.
- » It is also recommended that the issues of lobbying, lack of ethics, lack of protection for whistleblowers, lack of transparency, and management of public funds be addressed.

Understanding the Benefits of a Whistleblower System

Whistleblowing and its relationship to performance



Structural Benefits

- » Wrongdoing can be identified, often earlier.
- » Management can shut down inappropriate activities.
- » Problems can be identified before they become serious or more serious.
- » A clear benefit in shortening the time to detection is that it reduces the damage done.
- » Bad actors can be identified and investigated and illicit activities stopped.
- » Other management programs are likely to be more effective.
- » A workplace free of fraud and wrongdoing will be more productive and employees will be more engaged.

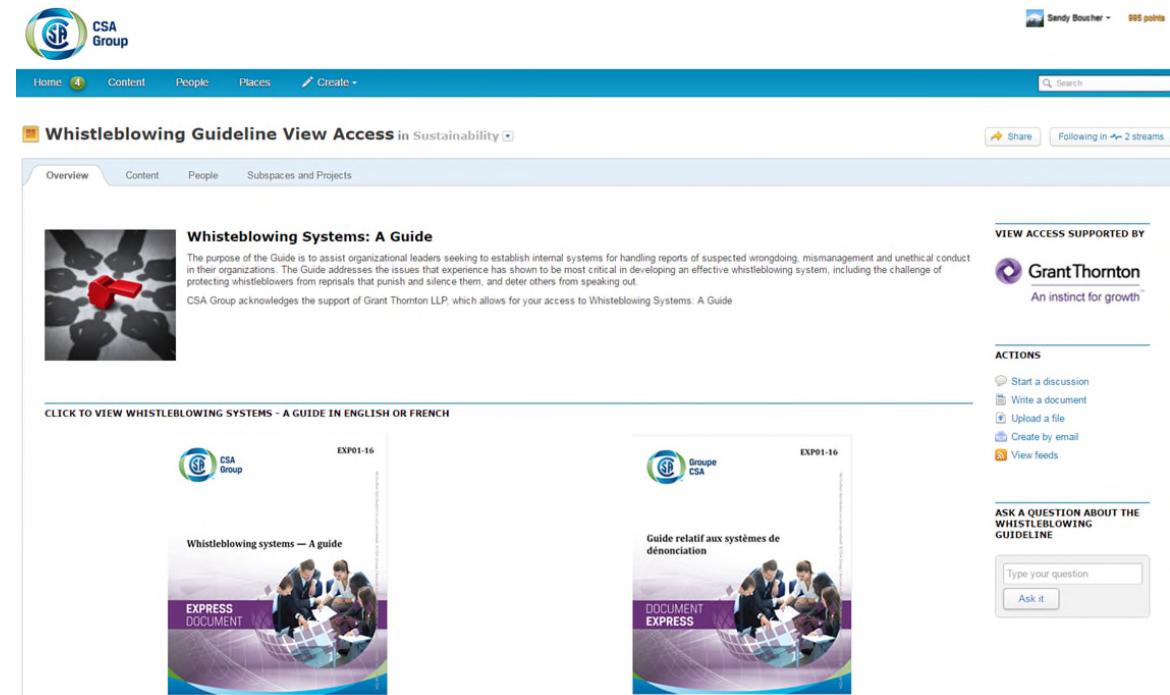


People Benefits

- » Acting on information demonstrates management is **serious** about handling problems
- » Increases the **confidence** of others to come forward in the future
- » Improves **morale** of all other workers. Seeing wrongdoing go unpunished demotivates people.
- » Fair and effective **remediation** sends a positive message.
- » A workplace where there is **trust**, including management, is more productive.
- » All of these things have been proved to promote improved **performance** and **reputation**, as well as confidence.

Canadian Standards Association Guideline

<https://community.csagroup.org/community/sustainability/whistleblowing-guideline-view-access>



The screenshot shows a social media post for the 'Whistleblowing Guideline View Access' in the 'Sustainability' group. The post includes a thumbnail for 'Whistleblowing Systems: A Guide', a description of the purpose of the guide, and a note of appreciation to Grant Thornton LLP for supporting the document. It also features two versions of the document cover (English and French) and sections for actions, sharing, and asking questions.

Whistleblowing Guideline View Access in Sustainability

Whistleblowing Systems: A Guide

The purpose of the Guide is to assist organizational leaders seeking to establish internal systems for handling reports of suspected wrongdoing, mismanagement and unethical conduct in their organizations. The Guide addresses the issues that experience has shown to be most critical in developing an effective whistleblowing system, including the challenge of protecting whistleblowers from reprisals that punish and silence them, and deter others from speaking out.

CSA Group acknowledges the support of Grant Thornton LLP, which allows for your access to Whistleblowing Systems: A Guide

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ACTIONS

- Start a discussion
- Write a document
- Upload a file
- Create by email
- View feeds

ASK A QUESTION ABOUT THE WHISTLEBLOWING GUIDELINE

Type your question Ask it

CSA Guideline – The background

- » Designed to **assist organizational leaders to establish a whistleblower system.**
- » Of a general nature and can therefore be **of value to any organization**, large or small, public or private for profit or not.
- » It is hoped that it will help to **further the global efforts** of promoting such systems and harnessing the good that they can bring to an organization.
- » It contains a short reference to Canadian whistleblowing law. Transparency International Canada recently completed a “Report on Whistleblower Protections in Canada it is on their website at; www.transparency.ca

CSA Guideline – Key Planning Considerations

- » Management's **understanding of the primary stakeholders**
- » Considering the **applicable laws**, regulations, industry standards
- » What type of system is required and what kind of reports will it generate
- » How to manage policy issues, create new policies or amend old ones?
- » How to **bring the process to life**.
- » How to establish the governance and administrative aspects of the system.
- » Primary consideration is **how to develop the trust of users**.
- » **Confidentiality and anonymity** of reports.
- » Ensuring the impartiality of subsequent investigation

CSA Guideline – Desired Outcomes

The concepts behind the desired outcomes for a whistleblowers system are straightforward and the guide succinctly outlines them as follows;

- » Wrongdoing is addressed
- » Diminishing the potential for reprisal
- » Impartial investigation
- » Reprisals are investigated
- » Reprisals are remediated
- » Reporting is routine and relevant

CSA Guideline – Critical Elements

Built to suit the specific environment and requirements of the organization.
Three management elements and six system elements universally important.

1. The commitment of leadership to the system and its optimal operation.
2. Management must take their responsibilities seriously and be seen to do so.
3. Effective management decision-making systems and structure to run the system
 - » Reporting and qualification of concerns
 - » Investigations of both suspected wrongdoing and alleged reprisals
 - » Corrective and preventive actions and accountability
 - » Protection and remedies for whistleblowers and witnesses
 - » Communication, education, and training
 - » Evaluation, reporting, and improvement of system performance

CSA Guideline – Implementing a Whistleblower System

- » Engage senior leadership and gain their support and commitment early on.
- » Establish the governance structure which becomes the foundation of the whole system.
- » Transparency and the quality of the structure may become key deciding points for potential whistleblowers when making a decision about trusting the system
- » Foundational decisions; who can use the system and what they can report must be made
- » Clearly establish the independence & integrity of the system and operations
- » Oversight of operations, reports and investigations, problems and successes.

CSA Guideline – Implementing a Whistleblower System continued

- » Management decision-making systems and structure play a key role here in fostering a “speak-up culture”.
- » All of this must be underpinned by effective and transparent policy documentation for the system.

Other elements that have proven effective are;

- » Development of channels for raising concerns, asking questions or seeking support.
- » Establishing clear anti-retaliation policies and procedures will bolster trust and support whistleblowers who suffer reprisals.
- » Once operating, the system must be continually monitored, not only the reports, but also to ensure effective impartial investigations of reports and retaliation complaints.

CSA Guideline – Implementing a Whistleblower System continued

- » Once the organization has completed its investigation, it must take the necessary preventive and corrective actions including disciplining of wrongdoers if necessary.
- » This provides accountability and a useful measuring tool of the system's effectiveness.
- » A good system will have a plan for the protection of whistleblowers that make use of the system which may include remediation if they suffer harm.
- » Information about the system must be properly communicated to all interested parties and
- » Training is required at various levels to ensure that the system's use is properly understood and that it is working effectively.

CSA Guideline – Monitoring and improving the Whistleblower System

- » Establish protocols for reporting information and measurements to demonstrate effective operation & identify areas for improvement
- » Establish qualitative reports, & success indicators to determine whether performance targets are being met. Typical measurement categories include
 - a. **Output indicators**; number of cases addressed, processing times, number of investigations, and other outputs such as awareness and training events;
 - b. **Satisfaction indicators**; employee trust/ confidence in the system, ease of use, accessibility, satisfaction - process & outcomes (management and users)
 - c. **Effectiveness indicators**; year-on-year trends in frequency/severity of reported issues, degree to which cases addressed within expectations, outcomes on performance, costs, savings and reputational effects
 - d. **Efficiency indicators**; resources expended per case, management & program time invested per case, efficiency of training and awareness activities.

Is there some hope?

June 2016

A fear of reprisals is the main reason why federal public servants are reluctant whistleblowers, says a report done for the Office of the Public Sector Integrity Commissioner.

The report, Exploring the Culture of Whistleblowing in the Federal Public Sector, was prepared by Phoenix SPI, an Ottawa public opinion and market research firm.

It summarizes the results of 10 focus groups held with federal public servants last November in Ottawa, Winnipeg, Regina, Quebec City and Moncton. One group in each location was conducted with non-management employees and the other with executives and managers

How Can We Improve Things?

1

Don't shoot the messenger.

3

Develop a speak-up culture.

Create a system that:

- ✓ Engenders employee trust
- ✓ Protects whistleblowers
- ✓ Reaps the rewards

2

4

Questions?



Sandy Boucher, CFE

Senior Investigator

Forensics and Dispute Resolutions

Grant Thornton LLP

T: +1 416-369-7027

E: Sandy.Boucher@ca.gt.com



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