Whistleblowing at work Can ICT encourage whistleblowing?

Mostafa Hussien^{1*}

¹⁻²Graduate school of Information
Technology, Kobe Institute of
Computing
Kobe, Japan
S15154@st.kic.ac.jp

Toshiyuki Yamanaka²

¹⁻²Graduate school of Information
Technology, Kobe Institute of
Computing
Kobe, Japan
Yamanaka.toshiyuki@gmail.com

Abstract: This paper discusses different aspects of whistleblowers and how ICT can encourage whistleblowing. Reporting a misconduct at work should never be underestimated as a little spark can grow to a flame in a short time. There is a positive impact of using ICT framework when dealing with whistleblowing at work. The act presented in the paper consists of six components, the first component is creating an online reporting tool that streamlines the allegation process by providing a single reporting mechanism for whistleblowers with possible anonymous reporting functionality. Second is stating that any act that harms the organization considered a malpractice and will be treated seriously with complete discretion about the whistleblower. Third is the organization is vowed to protect reporters and treat information with great confidentiality while conducting inspection process through the online reporting tool. Fourth is penalties for claiming a false allegation. Fifth is awards for reporting depending on reflection report from inspection committee personnel who are utilizing data from the online reporting tool. Finally, clear way of conducting interrogation with stakeholders with utmost respect and value their privacy.

Keywords: whistleblowers, safe reporting environment setup, anonymous reporting, ICT role in whistleblowing, whistleblower protection act, Business intelligence and data mining, Artificial intelligence and deep learning.

I – Introduction

Are you with or against whistleblowers! Do they deserve punishment or embracement? Are they the angels that want to have a work environment clear of any misconducts and run daily like a clockwork or they are the devils who are reporting the mischievous acts of their peers and don't care about values, ethics and friendship and they deserve to be called “a snitch”. A whistleblower is a person who exposes any kind of

information or activity that is deemed illegal, unethical, or not correct within an organization that is either private or public.

While internal whistleblowing to higher management may be perceived by supervisors as disloyal, it cannot be treated as a breach of employee's common law duty of confidence or fidelity (Lewis,1995). It is obvious that internal reporting offers advantages to both employer and employees. The employer is given the opportunity to deal with the problem without external pressures or publicity. From the employee's point of view, once the whistle has been blown externally, they may be seen as an adversary and be more likely to suffer retaliation (Micelli and Near,1992:42). CEO and management level should consider whistleblowers as an asset that provides valuable information and might require a framework of regulations that help save their face and protect their integrity. Because basically employees and stakeholders are usually the best to first detect that there is something wrong happening within the organization. (Public Concern at work, 1995).

Whistleblowing is more strategic than just a practice that should be embraced as an early whistle over a malpractice might quickly alert management level before “too late” spread all over the organization. The key point in creating a successful strategy for alerting the management level with utmost fear free and peace of mind is to show employees that there is a clear framework that not only allows but encourages disclosure of information in case of running through any practice of misconduct in work environment. (Public Concern at work, 1995).

A healthy work environment should neither adopt conspiracy theories nor encourages an employee to turn into accomplice by hiding vital information in order to avoid unknown hassles of interrogation about the act of misconduct while in the presence of clear strategy/framework that will definitely boost confidence in the reporting stakeholder and perhaps makes him start looking for a bounty or award due to his fast act.

The 1970s were notable for cases in which employees who had known of product defects or hazards decided to "swallow the

whistle," as Alan Westin, Henry Kurtz, and Albert Robbins put it in their book, Whistleblowing. The result was that consumers and other employees were seriously harmed; and when the information went public, so were the organizations that were damaged by awards in the millions.

Even in cases where whistleblowing occurred, it was not always heeded. In 1972, Firestone Tire Director of Development Thomas A. Robertson sent top management a memo warning that the 500 tire was inferior and subject to belt-edge separation at high speeds. His warning was ignored despite reports about poor performance from major customers such as General Motors, and the 500 tire was kept on the market. By the time Time magazine reported that accidents caused by blowouts had resulted in more than 41 deaths and hundreds of serious injuries, the company had already replaced 3 million tires and spent millions of dollars in personal injury lawsuits. If Robertson had received an internal hearing or blown the whistle externally, such disasters for the public and the company could have been avoided.

In 1996, Jeffery Wigand, a tobacco researcher, revealed that Brown & Williamson Tobacco Corp. knew tobacco was addictive. His revelations had a dramatic impact on public policy and public perceptions of the tobacco industry. However, although he was vindicated by the attention he received in the media and by the fact that after his revelations, victims of tobacco-related illnesses began to be successful in their litigation against the tobacco companies, he still experienced severe personal consequences including threats against his family, loss of income, divorce, and the threat of litigation for breach of confidentiality.

Those three mentioned examples of different acts towards the organization are all sharing a negative aspect when there is no framework supporting whistleblowing is presented and in the next chapter the authors are presenting a model based on exploratory of previous information to support the hypothesis of the need to have stakeholders whistle on malpractice without fear or hesitation.

III-Proposed Model

In 1996 a questionnaire of an entity planned to submit a paper to Nolan committee received a response from 171 out of 431 who managed to understand and respond properly to it and the result was 39 respondents out of 171 claimed that they have a whistleblowing procedure/framework while 44 out of 171 said they have plans to soon integrate it within a span of few months. (Public Concern at work, 1995/Lewis,1996b).

The authors suggest six points that whistleblowing framework should include the following:

1. Creating an online reporting tool that streamlines the complaint/allegation process by providing a reporting mechanism for whistleblowers. Now, employees will be able to anonymously "optional" report allegations

of respective regulatory misconduct to upper management, providing the organization with a new expanded insight into problems that otherwise might not be seen. Furthermore, the development of the application should give additional functionality to every report adding sufficient details to allow the interrogator to properly assess the allegation.

2. Any act that harm the organization considered a malpractice and will be treated very seriously with complete discretion about the whistleblower.
3. The organization is vowed to protect reporters and treat information with great confidentiality while conducting inspection process taking advantage of available information on the online reporting tool.
4. Penalties for claiming a false allegation determined by business intelligence analysis done by the reporting tool.
5. Awards for reporting depending on reflection report from inspection committee.
6. Clear way of conducting interrogation with stakeholders with utmost respect and value their privacy.

On the date of signing employment contract with new staff the code of ethical obligation regarding the above points should be phrased clearly prior to signature. Reporting to a certain department should be pre-determined based on organization rules and regulations.

Fig1. A graphical representation of conceptual proposed model by authors

Explaining the above diagram. First component consists of three steps and the first step after whistleblowing initiated is to create a ticket on the reporting application indicating that submitters who are using the new system will receive a letter of acknowledgment to their complaints, which will include tracking information that can be used to follow-up on the outcome of organization's investigation. The reporting tool as a lever of ICT has been used by FDA organization to enable employees of reporting complaints by visiting the portal, sending a written complaint to the closest office, or ling a complaint via online mobile app. No particular form is required and complaints may be submitted in any language.

Fig2. FDA online reporting tool.” FDA.gov”

The need for a versatile ICT portal that enables both anonymous reporting and reporting with ID exposure in case the reporter decided to reveal his/her identity voluntarily. However, some current whistleblower systems do not guarantee anonymity. Voice recognition techniques can be used to trace hotline calls. Private detectives can use handwriting analysis to trace anonymous letters and so forth IP tracing can be achieved via ICT team to enable tracing an online reporter. Also, Anonymous e-mails can be traced back to the whistleblower's computer. The best practices described in providing greater guarantees of anonymity by permitting communication only through the whistleblower's personal counsel and permitting the whistleblower to form an entity to further hide his or her identity. Many companies do not adequately communicate the whistleblower online system. As a result, average employees may not realize that the company even has an anonymous whistleblower system. A survey by the Institute of Internal Auditors indicates that employee familiarity with the organization's hotline is a key factor in encouraging its use” Mary B. Curtis. (2006)”.

The second step is that seriousness test incepted by the organization's investigation to check whether or not the complaint is making sense and worth looking over counting on histograms generated from previous reports. The seriousness test mentioned is done by a neutral team to enable transparency and avoid any early spread of information that might lead to retaliation. There is also a written act to protect employees from retaliation in case he or she opts for exposing their identity online and it's vowed for this kind of protection.” FDA Food Safety Modernization Act Fact”.

Third step which is reality check where measurements should be taken into consideration and compared against real life situation regardless of the boundaries (inside/outside the organization). Here rises a question could artificial intelligence and deep learning play a role in evaluating a filed complaint without interference of human factor in the near future? The anonymity of reporting might enable spamming many unreal scenarios yet it encourages internal reporting without the need of referral that can evoke fear and hesitation to report. Therefore, the reality check shall result in evaluating the reported complaint. Taking further repercussions requires management to understand nature of the employee reporting as whistleblowing research suggests several conditions that are necessary if whistleblowing is effectively managed. First, your employees must be informed of the appropriate steps to take in communicating their ethical concerns internally. Studies of

federal government employees indicate that there is a significant association between employees knowledge of appropriate internal channels and the likelihood that they will report perceived wrongdoings” Miceli, M. R. and Near, I. P.(1985)”. Then, your employees must believe that their concerns will be taken seriously and will be investigated. Studies suggest that many employees who first report their concerns internally later go outside the company with their information if they perceive their organizations to be unresponsive” Miceli, M. R. and Near, I. P.(1988)”. Your employees must feel confident that they will not suffer personal reprisals for using internal channels to report perceived wrongdoing. Whistleblowing studies suggest that employees who believe that management will retaliate for expressing concerns may be more likely to blow the whistle outside the organization” Near, J. P. and Jensen. T. C. (1983)”.

Fourth step is belonging to the second component in the framework and it's about discerning the big picture of the problem which is usually counting on data mining, analysis and reports generated from the first component steps.

The fifth step which is referring to the significance of management recognition of problem can be done properly if the organization understood the purpose of the reporting system which is to identify fraudulent actions, catch those responsible for the act and decrease the level of risk within the company to avoid consequences and save face. This case raises the question, who makes the decision whether to investigate a report or not? It's important that companies select people for this position wisely, as the person must be neutral to reputation threats, in order to make sure that each case receives a fair evaluation before deciding not to follow through with an investigation. In many cases, this role is taken on by either HR department or a third party that handles the responsibility of maintaining anonymity for claimants in case presented throughout the investigation process. Management recognition of the problem is tested in this framework by a reading states that whistleblower system allows for anonymous whistleblowers which is a main function provided by ICT to protect reporter's identity. However, that system does not work well for all organizations because the audit committee or its counsel may need to further question the person whose identity has been hidden. The result is that audit committees tend to provide fewer resources to investigate anonymous complaints. “James E. Hunton and Jacob M. Rose”.

Sixth step is taking problem to higher level when the complaint is critical, requires additional authority or relates to entities outside the organization. Then comes whistleblowers protection act, Whistleblower protection laws and regulations guarantee freedom of speech for workers and contractors in certain situations. Whistleblowers have the right to file complaints that they believe are reasonable evidences of a violation of a law, rule or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Seventh step is based on data generated from reality check and analyzing indicators using business intelligence to support

decision making and the need to involve other parties from outside the organization.

Eighth step is a part of the third component of the framework and stating that protection of the employee reporting is a must as in 1989 President Bush signed a federal "Whistleblower's Protection Act" which extends protection available to federal employees who disclose government waste, fraud, and abuse. This law does not directly affect private sector employers. However, numerous legal scholars have recommended comprehensive federal legislation protecting both public and private sector whistleblowers. Congress is expected to consider legislation in 1992 that will extend federal whistleblower protection to private sector employees" Hamilton. J. (1991)".

Ninth step is about penalties for false claims and it belongs to the fourth component of the framework which is emphasizing on falsifying a claim which slows down work progress, tarnishes reputations and results in time being wasted. In USA false claims made on or after August 1, 2016, the civil penalties are estimated between \$10,781 to \$21,563 per false claim. In addition to these damages and penalties, violations of the "False Claims Act" can trigger a host of potential collateral consequences. "U.S government publishing office".

Tenth step which is belonging to the fifth component of the framework which is about giving awards to whistleblowers. In 2016 the Securities and Exchange Commission of USA announced a whistleblower award of more than \$17 million to a former company employee whose detailed tip through the online portal as a tool for ICT innovation has substantially advanced the agency's investigation and ultimate enforcement action. The award is the second-largest issued by the organization since its online whistleblower program began nearly five years ago. CEO of the organization mentioned that whistleblowers are uniquely positioned to protect investors and blow the whistle on a company's wrongdoing by providing key information to the organization so we can investigate the full extent of the violations "sec.gov.cg".

Fig3. Total awards given by Securities and Exchange Commission for whistleblowers reporting online "KMBlegal.com"

Finally, eleventh step which belongs to the sixth component of the framework and stating that conducting results is a big step that is underpinned by disclosure, honesty and precision that should be in the hands of organization's investigation team

who can use resources collected from data analysis, business intelligence and probably deep learning knowledge base in case available to determine final product of case investigated and consequently determine penalties and awards.

IV-Conclusion and future work

In this paper the authors discussed the importance of whistleblowing framework "six components" along with detailed conceptual model "eleven steps" inside any organization and totally reject the negative description of reporters/whistleblowers to be referred as snitches or people who are betraying their colleagues and on the contrary to be treated with utmost respect as they provide a critically valuable information that is likely to save an organization.

ICT, B.I., A.I. and deep learning can definitely help in recognition of reported claims and help in decision support. Using ICT to build a portal is not a final step as replacing human factors in evaluating the complaint by data mined from deep learning is a futuristic work and hopefully a hope to be realized soon. Deep learning can make a machine compare previously attained experiences to one another so it can develop intelligence humanoid that can help in making decision.

Employees are often the first to realize wrongdoing within the organization. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the employer. They are worried about any misconduct during interrogation that would make a lack of discretion viable and they lose faces. They might whisper to themselves why don't we just turn blind eye rather than reporting what may just be a suspicion of malpractice scenario. Thus, in order to prevent problems being overlooked and avoid external whistleblowing it is suggested that the framework of whistleblowing should be clear and enables staff to report their concerns specially in the presence of ICT which enables creation of an online robust tool to enable possible anonymity while submitting a report.

Having said that, it could be argued that it is not just the precision of arrangements established by an organization that is significant. What's also important is that employers demonstrate commitment to ethical behavior at the highest level and that new modern ICT procedures for handling concerns is tested, agreed and validated with a proof in the contract and known as a policy channeled to the workforce. Definitely those who are following the act of whistleblowing in case presented in the organization are providing a valuable information that worth looking over and handling with extreme professionalism and an organization that proposed an ICT model as shown in this paper is a highly professional organization seeking a hassle free work environment and a highly boosted morale among stakeholders and employees.

Can deep learning and knowledge acquisition supported by rapid gains in nowadays ICT development replaces human factor in a whistleblowing proposed model?

- [1]Public Concern at Work. 1995. Creating the Right Environment: A Checklist for Employers, London: Public concern at work
- [2]Lewis, D. 1995. 'Whistleblowers and job security'. Modern Law Review, Vol. 58,208.
- [3]Lewis, D. 1996a. Report on Whistleblowing Procedures in The Times Top 500 UK Firms, London.
- [4]Micelli, Z. and Near, J. 1992. Blm'ng the Whistle, New York Lexington Books.
- [5]Whistleblower: Filing Whistleblower Complaints under the FDA Food Safety Modernization Act Fact Sheet (OSHA FS 3714 - 2014).
- [6]James E. Hunton and Jacob M. Rose, "Effects of Anonymous Whistle-Blowing and Perceived Reputation Threats on Investigations of Whistle-Blowing Allegations by Audit Committee Members," Journal of Management Studies 1, no. 48 (2011): 75–98.
- [7]Mary B. Curtis, "Whistleblower Mechanisms: A Study of the Perceptions of 'Users' and 'Responders'," Dallas chapter of the Institute of Internal Auditors, April 2006.
- [8]Miceli, M. P., and Near, I. P. (1988), "Individual and Situational Correlates of Whistleblowing," Personnel Psychology, 41, 267-281.
- [9]Near, J. P. and Jensen. T. C. (1983), "The Whistleblowing Process: Retaliation and Perceived Effectiveness," Work and Occupation, 10, 3-28.
- [10]Keenan, I. R (1988), Communication Climate, Whistleblowing, and the First-Level Manager: A Preliminary Study," Paper presented at the Southern Academy of Management, Atlanta.
- [11]Miceli, M. R. and Near, I. P. (1985), "Characteristics of Organizational Climate and Perceived Wrongdoing Associated with Whistleblowing Decisions," Personnel Psychology, 41, 525-544.
- [12]Miceli. M. P., Roach, B. L., and Near, I. R (1988), "The Motivations of 'Deep Throat': The Case of Anonymous Whistleblowers," Public Personnel Psychology, 17, 281-296.
- [13]Hamilton. J. (1991), "Blowing the Whistle Without Paying the Piper," Business Week, June 3, 138- 139.