



Journal of the

International Ombudsman Association



INTERNATIONAL
OMBUDSMAN
ASSOCIATION

VOLUME 2, NUMBER 1, 2009

Dealing with — or Reporting — “Unacceptable” Behavior*

(With additional thoughts about the “Bystander Effect”)

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ABSTRACT

People in organizations often see behavior that they think is unacceptable, unsafe, illegal—even criminal. Why do people who observe such behavior hesitate to act on their own, or to come forward promptly—even when affected by that behavior? Why do they not immediately report those whom they see to be acting in an intolerable fashion?

Hesitation of this kind has been recognized for years; for example, there is a controversial literature about the “bystander effect.” In real life hesitation is not confined just to bystanders. People in all roles may hesitate to act. Why do some people—including many managers—waver, rather than acting effectively to stop behavior they find to be unacceptable?

The most common reasons for hesitation are: fear of loss of relationships, and loss of privacy, fear of unspecified “bad consequences” or retaliation, and insufficient evidence. There are many other barriers and they are often complex. Perceptions of the organization and of supervisors are important, as is a complaint system that is seen to be safe, accessible and credible.

Some people *do* act on the spot or come forward when they see unacceptable behavior. Reviewing the reasoning of people with whom we have talked may provide ideas for employers designing or reviewing a conflict management system.

KEY WORDS

bystander effect, retaliation, whistleblower, conflict systems, complaint options, organizational ombudsman, workplace trust, workplace fear, procedural justice

WHY DID I NOT KNOW ABOUT THIS?

Rupert McGillicuddy, the COO of Global Manufacturing, was alarmed and upset. He came in Monday morning to find that Chris Lee, the company’s computer systems wizard, had quit over the weekend. Lee was in the second, and crucial, year of adapting and implementing a new, international, inventory tracking and control system. No one else understood the (not yet fully documented) system as well as Lee. Lee also was unique in another respect. As a child he had learned the several languages and dialects of his four grandparents. Fortuitously this had made him into a “one of a kind” gem for Global Manufacturing—the inventory management system was being built together with teams in three of those language areas.

McGillicuddy made a few, quiet phone calls. He was dismayed by the information that came back. It seemed that Lee was a quiet and devout person who had been uncomfortable working with the head of IT, Greg Garious. Greg’s sense of humor was described as a bit crude. It appeared that Greg made jokes about everyone. One of his many jokes was about the fact that Lee’s four grandparents came from four different countries. Many people had heard these jokes about Lee’s parentage and “probable multiple personalities,” but apparently no one had remonstrated with Greg.

McGillicuddy was told there had been gossip about Greg for years —about different issues. There was a suggestion that Greg made merry when on travel. His “outgoing nature really blossomed” away from home. There was a story about dare devil driving. There were whispers about his receiving recreational drugs from one of the vendors and “sharing” with his staff. HR said they had not investigated any concerns about Greg, “We never had a complaint.”

*The authors wish to thank the many dozens of ombuds in the East Coast Ombuds Group and in IOA workshops who contributed to this study over a ten-year period. We thank JIOA Editor Alan Lincoln, JIOA Associate Editor Tom Sebok, JIOA reviewer James Lee, and Bruce Jacobson and Timothy Rowe for very helpful comments.

Greg had allegedly bought the new inventory system from a vendor where he was said to be “very close with” the relevant sales representative. Someone said the woman was a cousin; others thought it was Greg’s wife’s cousin. One person supposedly had thought the sales rep was Greg’s mistress. When that person had (supposedly) asked a supervisor in Purchasing about this, apparently no one had looked into a possible conflict of interest. (The rumor mill said that the supervisor in Purchasing had simply asked about “whether Greg and the sales vendor had the same last name.”)

Greg had told everyone that he had chosen the new inventory control system because it cost less than others. However, it appeared that Chris Lee had determined that the staffing model had been grossly underestimated. Lee’s staff had grumbled. Might Greg have underestimated the staffing to make his choosing this inventory control system look better?

When presenting a public report about the new computer system, Greg blamed the staffing problem on the “slow pickup” of his computer systems staff. When a woman who worked for Chris Lee had then raised her hand, another department manager had whispered that she should cool it, because there was no time at the meeting to discuss details. Lee quit after that meeting.

McGillicuddy was told that his managers wanted to do the right thing, but they simply did not know what to do. They did not know how to evaluate the significance of the gossip and concerns. They seemed afraid to bring attention to something that spelled trouble; they felt there might have been “repercussions.” Ignoring the problems seemed the easiest response. Computer systems staff said that Chris Lee had felt deeply humiliated by Greg’s comment: “Greg had added insults to injury.”

Listening to the car radio on Friday morning McGillicuddy heard someone quoting a speech by a senior national security expert: “The only answer for electronic systems protection is training and earning the loyalty of employees—who could enable security breaches—whether in government or the private sector.” This focused his attention.

McGillicuddy immediately called his General Counsel. “Could these IT rumors possibly be true, or is it all contemptible gossip? Is there anything more to learn? Could you please do a real investigation here? And, if

there was a problem, *why was I not told about this?*”

WHY DO SOME PEOPLE HESITATE?

People in organizations often see behavior that they think is unacceptable, unsafe, illegal—even criminal. Why do people who observe such behavior hesitate to act on their own or to come forward promptly—even when affected by that behavior? Why do they not immediately report those whom they see to be acting in an unacceptable fashion?

Hesitation of this kind has been recognized for years; for example, there is a controversial literature with simple explanations about the “bystander effect.” In reality, hesitation is not confined just to bystanders and it is not simple. People in all roles may hesitate to act. Why do some people—including many managers—waver, rather than acting effectively to stop behavior they find to be unacceptable? To add to the puzzle, some people *do* act on the spot or come forward when they see unacceptable behavior. Can we learn why?

The topic is important to all those who would like a better understanding of why truly unacceptable behavior continues. If people fear to act when they see unacceptable behavior, or otherwise find it is not in their interests to take action, then employers can learn why this is so and think about specific responses. If people *do want* to act but feel powerless, then an employer may help by providing options.

The limitations of this study: We took a wide-angle perspective, rather than focusing tightly on testable hypotheses. We were tracking all kinds of perceived misbehavior, rather than just one kind. We use the terms “unacceptable,” and “offensive,” to refer to any behavior that was judged to be unacceptable by people who came to ombuds offices in many different organizations. We realize that a scientific study might find that people deal differently with different issues. By the same token people might behave differently at different times. And some might act on the spot or report unacceptable behavior but not both. This study simply pulls together all the reasons that were reported to us for not taking action, or for taking action, about unacceptable behavior.

The data presented here are not drawn from surveys, or a sample of employees and managers. The data are drawn from “close observations” of thousands of visitors who contacted dozens of ombuds offices over

a ten-year period. We were not attempting to assess the efficacy of a single complaint procedure. We report instead some perceptions of the context in which people find themselves, (and also their comments about themselves).

We are aware that new research in neuroscience suggests that many decisions are made intuitively or unconsciously and that people often do not know (let alone report truthfully) why they make the decisions that they make. We also believe that many small errors and transgressions should simply be ignored and forgiven and that some people in fact complain too much. We hope it may nevertheless be useful to present what people report about their inactions and their actions.

The goals of this study: We present what people say, about why they do not act or do act, hoping to be useful to academics, to employers, to policy makers, and, especially, to ombuds practitioners and other human resource professionals.

We present a long list of self-reports, as to why people do not act, and a short list about why they do. We are aware that academic research studies have already affirmed many of the self-reports presented here and hope there will be more such research. We hope that employers may be able to read through these self-reports for ones that will be relevant in their own organizations.

It is important for policy makers who are concerned about illegal behavior to consider a *wide range of barriers* to coming forward. We hope that ombuds practitioners and other human resource professionals, who are faced with a person who refuses to come forward, will be willing to listen to all the concerns and interests that the visitor might have. We hope that this article will make it easier to develop options that address the *specific interests of the individuals who see unacceptable behavior* so these individuals may find it easier to take appropriate action.

PEOPLE HAVE MANY COMPETING INTERESTS

Many people clearly do not want to take action when they see unacceptable behavior, and many see nothing unreasonable about their point of view. Society may determine that certain behavior is unacceptable or declare it to be illegal. Employers make policies in accord with their own values and the

law. However employees and managers may have conflicting interests to consider, as they decide how to react to unacceptable behavior. They may want to stop or report behavior they see as unacceptable—or, on balance, they may *not* want to. They may even not want to learn the rules.

Many barriers: We report on two sets of barriers—which interact with each other: perceptions about the organizational context and managers, and personal factors.

Most people consciously or intuitively consider the context when they perceive behavior that they think is wrong. They may consider the rules—and also the actual norms—of their *organization*, about acting on the spot or “coming forward.” They may review their own and their colleagues’ perceptions of the *local supervisor*. They may, consciously or intuitively, evaluate their *complaint system and its options*, in terms of safety, accessibility and credibility. Recent events may also affect peoples’ actions.

Personal factors include how people understand the issues at hand, their personal preferences, gender and cultural traditions, and their perceived power or lack of power. People also may behave differently depending on their role in the situation—as an injured party, a perpetrator, supervisor, senior officer, peer or “bystander.”

PERCEPTIONS OF THE ORGANIZATION

Many people say they fear that “something bad” will happen if they take action with respect to unacceptable behavior. One traditional understanding of this fear is not entirely accurate—it is that people hesitate to act because they are afraid of classic retaliation.¹ Legislators have responded by requiring employers to prohibit retaliation, but this may not help very much.

Forbidding retaliation is morally important, but for at least two reasons the proscription is not very effective. The first is that very few people understand or trust such a policy. Retaliation is hard to prevent, and hard to prove, especially where the retaliation is delayed, indirect, diffuse, outside the workplace, or covert. The second reason is that classic retaliation is only one of many fears. *People fear a whole panorama of “bad consequences” for speaking up.* One purpose of this article is to illuminate *the wide scope of possible*

negative consequences that are reported by employees and also by managers.

In addition to various fears, how do employees and managers describe their thinking, when they hesitate to take responsible action? How might employers respond—what options are needed?

PERCEPTIONS ABOUT RELEVANT MANAGERS

- One of my managers is the problem
- Local managers have the most influence
- Risk management—we do not have enough resources to deal with it
- Teamwork—I am loyal to the team
- Stoicism
- Diversity and globalization
- Affinity group loyalty

One of my managers is the problem: Some managers are perceived to lack integrity and some are dishonest. Some managers are believed to be unwilling to pay to remove serious safety hazards. Some managers are thought to engage in bribery, blackmail, discrimination, harassment, intimidation or conflicts of interests. Some are arbitrary and capricious—their reactions cannot be predicted. Incidents may have disclosed that managers have been misrepresenting or disguising wrongful behavior. Vague, euphemistic language—in reports that hide human costs, kickbacks, and losses, or that cover-up widely disparate perks and compensation—may have set the stage for distrust.

Local managers seem to have the most influence: Employers often communicate that they do—and also do not—want to hear what is going wrong. A chief executive may say, “Report illegal behavior,” and the local manager may be heard to say: “In these times of lay off we will be keeping those who keep their minds on the job.” *Wherever the immediate interests of local managers do not overlap with the public rhetoric of the employer, there will be mixed messages about coming forward.* Examples abound.

Some senior officers are believed to approve “whatever it takes” to get the job done—even if their local employees and managers behave in an unacceptable way in order to meet high goals. It is common to reward productive managers who are very problematic as supervisors. One hears of harsh taskmasters

who achieve impossible deadlines by abusing employees, vendors and others. Managers like this may feel and act powerful, and enjoy their power. They may be unaware they are behaving in an unacceptable way, or, alternatively, they may enjoy the fact that others are intimidated. Either way, people may say, “My manager will never change, because he is being rewarded for it.” Employees may report that the manager is “indispensable,” and being compensated well, in terms of money, and in terms of recognition and power—the signals from the top are clear.

Organizational rules may not matter if the local manager is blind to unacceptable behavior, since the local manager is the person who can reward or punish. An influential unit head may make a decision, or give an order, or simply have a brusque demeanor, such that most people are discouraged from responsible action. Sometimes a unit head is very direct: “If I ever hear that someone from my unit has brought a problem outside this unit I will see that they regret it.” Sometimes a unit manager simply does not know what is going on, has just arrived on the scene because of re-assignments, is completely exhausted, or listens only to good news.

Risk Management: Virtually all managers pursue a conscious or unconscious “risk management” strategy in which competing values are weighed. There are not enough resources to pursue every possible concern. In addition no one would actually want every manager and employee to speak up every time they are offended by something—the world would grind to a halt. Most supervisors pursue this kind of “cost-benefit” approach to hearing complaints. “We are so swamped with work and the deadlines are so tight—is it worth it to pursue this concern?”

Teamwork and the team: A strong emphasis on productive teams, cultivating loyalty and “protecting the image of the employer,” may inhibit a person from speaking up. Many teams have been taught to “work things out” on their own as a part of delegating decisions to the level of the team. Many professionals and managers are expected to handle their conflicts on their own.

A peer or bystander may wish not to “spoil an otherwise perfect record for the team.” A bystander also may not want to get a well-liked senior manager in trouble if that person did not know of the problem. By the same token, if an employer holds supervisors strictly accountable, a senior supervisor may not

report illegal behavior for fear that it will reflect badly on his or her *own* performance, and that it might reflect on other managers in the line of supervision. In addition, sometimes a person will not speak of a problem because it attaches to a situation or project that is tightly held, “company confidential,” or hidden from public view by security regulations.

Stoicism: Many people are taught to “tough it out” in the face of adversity. Especially if times are hard, teammates may think, “we just have to get through this—the boss does not want to hear bad news.” If a teammate misbehaves or is exhausted to the point of creating an unsafe work environment, bad behavior may be ignored in the “family environment,” or people may say, “we have only one bad apple—forget it,” or “it was understandable under these extreme circumstances,” or “we have been through worse than this and we survived it.”

Diversity and Globalization: Sometimes a person does not speak up because the employer places strong emphasis on cross-cultural tolerance, or effective work on an international team. “I will be misunderstood, I will not look good, I will be called a bigot, and I will probably be ignored as well, if I complain about (that person who is not like me).” Employees working outside their own culture may be dependent on successful globalization and be reluctant to criticize others.

Affinity group loyalty: “Affinity group loyalty” among professionals or union members or senior managers may inhibit action. This also may be true among clan or family members, among members of the same ethnic or age group, or the same gender.

This may happen if an in-group member who is misbehaving is also performing very well in other ways. Affinity group members may be blind to the unacceptable behavior. “I cannot believe that he would do anything wrong—and if he did do it, surely he did not really mean it. Besides, it makes no sense for a person like him to do a thing like this.” In addition, when someone who is *not* a member of a given affinity group feels harassed by a member of the in-group, the affinity group may underestimate how painful it is. This will be especially true if the group members do not like the person who is not a member of their group. People may say, “She deserves any-

thing she gets,” if the person who is getting hurt is not performing well, or if she has behaved badly in the past, or if she frightens other people.

COMPLAINT PROCEDURES NOT SEEN AS SAFE, ACCESSIBLE AND CREDIBLE

- Ignoring ugly behavior that is not overtly illegal
- Requiring conclusive proof of an alleged offense
- Important people get treated very differently
- No one understands our complaint system
- The complaint system procedures are not “accessible”
- Zero tolerance policies

Sometimes policies and procedures convey mixed messages. For example, an employer may say that it expects all unacceptable behavior to be reported—but many aspects of the complaint system are viewed with distrust. Current events may exacerbate this distrust. Some sources of distrust include:

Ignoring ugly behavior that is not overtly illegal:

Some employers will only “hear” complaints if the behavior is obviously illegal *and* actually at the workplace. Examples of problematic behavior which might be “invisible” to the employer include: paying two white male professionals grossly inequitably for the same work when one is a “favorite;” bullying someone who is not of a protected class; grossly crude behavior toward a person who is not a “valued customer.”

Hazing, and even stalking or assault, may be ignored, if offenses by employees happen away from the work site, and especially if they happen far from headquarters. Offenses may be overlooked if, like heavy drinking, pornographic movies and sexual partying, they are seen to be part of “traditional high jinks” or “that’s his private life,” at an off-site celebration—even if everyone is expected to attend. Offenses also may be overlooked, even if they are patterns of offenses, if they are not public knowledge, or if they are subjective in nature, or “everybody does it” and “no harm was intended.”

Requiring immediate and conclusive proof of an alleged offense:

The need for credible evidence is a serious concern, when someone brings a serious complaint. Responsible employers must safeguard the rights of alleged offenders. However extreme attitudes about evidence may constitute a barrier for complaints. The word of an offended person or a concerned bystander sometimes is just ignored,

unless there are multiple emails, VOIP records, fingerprints, DNA, photos, audiotapes, videotape on YouTube, or prominent witnesses immediately available.

An employer may be reluctant about fact-finding if it could be publicly embarrassing, or if an investigation would cost a lot, or if a thorough investigation might involve people outside the organization, or require forensic evidence and subpoenas—or if the problem seems peculiar or complex, and hard to assess. Ironically, employers may be reluctant to launch investigations if a problem is thought to have persisted for a very long time. They may fear to discover evidence of long-term misbehavior about which action should have been taken. The result may be that many people suffer before the organization will do an investigation.

Important people get treated very differently: In every organization some people are seen to be more believable than others. People whose work is seen to be good, persons of a shared and “traditional” background, people in certain job categories, and those on a fast track may be seen to be particularly “credible.” Anyone who is not on the high credibility list may not have the same access to report unacceptable behavior, or the same ability to act effectively on the spot when they perceive unacceptable behavior. In addition important people may be protected if others complain of their behavior.

“No one understands our complaint system:” An employer may say that it “welcomes” reports of unacceptable behavior—but in fact be ambivalent—and it therefore lacks comprehensible, consistent policies and procedures. Or it may fail to train employees and managers.

The complaint system procedures are not “accessible:” For reasons of accountability and control, an employer may insist that all complaints go through a tightly prescribed process. This process however may not be comfortable for employees of a certain ethnic or class background or a given gender. Sometimes a complaint must be in writing (with copies). Sometimes the intake person seems to act as if it is the complainant who is the problem. Some intake people are uncomfortable around people unlike themselves. Some systems do not permit a complainant to bring an “accompanying person.” Sometimes the complaint process is convoluted, and seems to take forever—or privacy is not respected. Sometimes an appeals

process requires going up the ladder to the very people who are seen to be the problem.

In multi-national and otherwise highly dispersed organizations, accessibility may be restricted by geography. In the complex world of today it is often difficult to understand where and how to bring a multi-issue, multi-cohort, multi-jurisdiction problem.

Zero tolerance policies: Ignoring complaints will discourage reporting, as noted above. A strict “zero tolerance” policy creates problems at the other end of the spectrum—that is, zero tolerance also discourages some reporting of illegal behavior.

This is true for several reasons. In order to gain control over criminal behavior, and to be seen to be doing so, an employer may *require everyone to report* such behavior. The employer may also require a formal investigation of complaints. It may also *prescribe just one or two options* for reporting (usually line management and a compliance office). And it may require punishment of proven offenses.

However, many people were brought up to solve their problems themselves, do not wish to be tattletales, are in fact expected by the manager “to deal directly” with conflicts, would prefer to act effectively on their own to resolve any problem. Many do not wish to get other people fired or be seen to get others into trouble. Many do not trust the employer to do a fair investigation. As a result, zero tolerance policies may inhibit reporting.

Many require confidential or anonymous options for seeking advice and for reporting. Zero tolerance policies do not mix well with many of the “personal barriers” to coming forward (see below). There is therefore a powerful tension between “getting problems solved efficiently at the lowest possible level” by helping people to act on their own—which requires delegating a significant proportion of conflict management—and trying to establish complete control over all unacceptable behavior by centralizing conflict management.

The employer must manage a balance between encouraging people to act on their own and requiring them to report all unacceptable behavior. Some workable balance is also required between individual complainants and compliance offices, between compliance officers and line managers, between managers and those who report to them, and also between headquarters and autonomous subsidiaries

or field offices. A workable balance requires offering safe options in the complaint system. If the dilemmas are managed badly by providing too few options, (and zero tolerance may offer no options), fewer people will come forward.

PERSONAL BARRIERS TO ACTING OR COMING FORWARD

- Loss of privacy and relationships
- Fear of reprisal
- Fear of other losses
- I do not have enough evidence
- It is important for me to keep my head down for now
- Too exhausted, too busy, de-sensitized
- Formidable dislike of formal investigations
- My employer will do nothing
- My employer will overreact
- Lack of skills
- Someone else will take action
- Fear of becoming responsible for the problem
- Things will work out
- Loss of professional image
- Wrongdoers and potential wrongdoers have many barriers
- A few people prefer covert revenge

Individuals, like employers, pursue a conscious or unconscious “risk management” approach in which competing interests are weighed. Virtually everyone who notices unacceptable behavior hesitates, at least briefly, about coming forward or otherwise acting effectively. This is true for supervisors, senior officers, peers and bystanders, those who injured by the behavior, and perpetrators. There are many personal barriers and they are often complex.

The most commonly reported reasons for hesitation are: fear of loss of relationships, and loss of privacy; fear of unspecified “bad consequences” or retaliation; and insufficient evidence. People may be particularly hesitant if they are required by organizational policy to define unacceptable behavior in terms of illegality and immorality.

Privacy and relationships: Almost everyone who perceives a serious problem within an organization thinks first about losing their privacy, and about damaging their personal and professional relationships. People report a fear of losing relationships with

the problem person, with co-workers and supervisors and future colleagues—and also with family and friends. This is especially true in cultures where people do not confront issues or people head-on, and where families and friends may blame a person for rocking the boat or “sticking their head out.”

Many people have been taught not to be tattletales. Bystanders (including managers) may especially fear that friends may turn on them: “This wasn’t *your* business!” Some people who have been abused in childhood may especially fear loss of privacy and loss of relationships. In addition, people have different points of view. Many people are in fact not offended by behavior that seems intolerable to others, even if the behavior is illegal. *Those who are not offended are particularly unlikely to risk their relationships by coming forward.*

Fear of reprisal: Especially if a person believes that his or her direct supervisor is the cause of the problem, he or she may fear classic retaliation—being punished by the employer. In addition, many will believe in more subtle “bad consequences,” for example, that their careers might mysteriously stall, even if they are not “punished.” Even in the rare circumstance where people are overtly commended for coming forward, they may believe they will thereafter be sidelined.

Even if the employer highlights a “no retaliation” policy—which is not a common thing to do—very few people trust such a policy. *A surprising number of people are afraid for their physical safety.* Many people know that the employer and the police and the courts cannot protect them and their families from a vengeful manager or co-worker. This fear may be much more acute if there is any chance that the apparent offender will be fired.

Few people believe that an employer can actually prevent covert, delayed, indirect, subtle, or “unconscious” retaliation, for example, the kind of reference that offers faint or irrelevant praise. Many forms of retaliation leave little trace. In addition, a person may fear retaliation by a third party—shunning by co-workers, gossip by colleagues in another institution, angry criticism from neighbors, punishment by a friend of the offender.

Fear of retaliation is especially common among contract workers, and in multi-national and international organizations—wherever the work force is very fluid and very diverse, and where there are fewer

long-term relationships to build trust. Fear of retaliation becomes very acute in bad economic times and in areas where there is a high unemployment rate. Fear of reprisal is especially painful for those who have no “fall-back position.” Single breadwinners and foreign workers who have no options for a comparable job are especially vulnerable. Those who fear reprisal may argue openly for silence.

Public trust in “no retaliation” policies may be further compromised by the fact that a few people who come forward may, themselves, be poor employees subject to progressive disciplinary action. If such a person is demoted or fired, co-workers often believe the action took place because the person “spoke up.” This kind of misunderstanding can also happen if someone is disciplined whom people erroneously *thought* was a whistleblower. Widespread layoffs also undermine trust, because sometimes people who “come forward” also get laid off. The message that is received may be, “You can get away with being an inadequate employee, but only so long as you do not reveal our mistakes and problems.”

It also sometimes happens that careers *in fact* get sidelined or ended, or a whistleblower is punitively laid off. Even one such case, if widely discussed, may undermine trust throughout an organization.

Fear of overt and covert retaliation may also be especially marked if external regulators appear to be antagonistic, and take a humiliating approach to investigation. Interactions with the media also may affect the fears of employees and managers.

Fear of other losses: Coming forward sometimes leads to serious losses even if there is no retaliation and even when reports of unacceptable behavior are handled perfectly. The company may suffer financially or even go bankrupt. Goods may have to be recalled. A plant or a department may close. A close work team or a wonderful boss may be re-assigned.

Insufficient evidence: Some people may feel concern about a situation—but are not certain that there actually *is* a problem or that it is a serious problem. “I do not know the rules well enough. I will wait until it happens again.” Or they may not be certain who it is that is behaving badly. Some people do not want to admit even to themselves that a bad thing has happened, or think it may have been “just an error.”

Many people who see a problem fear they will not be believed. Most feel they lack *sufficient* evidence in a situation of “his word against mine,” especially if a

problem person is of high status. Bystanders often consider quitting or a transfer, before thinking about coming forward, because of the “evidence” problem. This problem is especially serious if the bystander belongs to a non-traditional group and members of the organization are seen to be racist, sexist, etc.

It is important for me to keep my head down for now: “I am just going to wait for a new boss to come along. If I speak up right now on this one, I may lose my effectiveness on bigger things the next time around, or lose my ‘access.’ I am the only person who actually knows what has been happening here so I have got to stay here and wait until the time is right.”

Too exhausted, too busy, de-sensitized: Some people who perceive a problem are in serious distress or “overload” and do not want to invite more stress or distraction or overload by raising an issue. This problem is truly severe for senior managers as well as for junior employees. Many people believe that successfully pursuing a grievance will require a formidable commitment of time and soul and resources. Many employees are reluctant to lose focus at work, be distracted, derail the team, or “lose time on the job.” People may also get detached and de-sensitized about unacceptable behavior—especially if they are exhausted and especially if managers use euphemisms to describe the unacceptable behavior. The observer then will be all the more unwilling to lose time from work.

Formidable dislike of formal investigations: *Most people truly hate formal investigations—this fact is often under-estimated.* In every organization there will be a substantial minority of employees and managers who do believe in formal complaint options and who like them. But a large majority will be very hesitant about formal options. Those who despise investigations are of course reluctant to provoke (or be seen to provoke) a formal finding of fact. Since employees may believe that anything reported to a supervisor has to be formally investigated, they may be especially reluctant to “rock the boat.”

“My employer will do nothing.” Some people think the employer will not act to address misconduct. “You can’t change City Hall.” They think reporting a problem is pointless, especially if the problem person is well respected, or powerful, or brings in a lot of money, or is seen to have gotten away with bad behavior in the past. “Misdeeds among the star performers are tolerated here and sometimes even celebrated—look

what has happened in the past.” Lack of trust in the organization is very common, especially if morale is low in a whole unit. Lack of trust also grows in times when prominent politicians, religious leaders and corporate leaders are seen to be unscrupulous. Recent events can be very important in sowing trust—and distrust.

The idea that a complaint is useless is worsened by the fact that most employers do not let the workplace know, if justice has been served, after a complaint has been made. Many people therefore assume a) that “nothing happens,” and b) that the consequences to the complainant will be painful.

There is another reason why employees may not trust senior management. Lower level employees who know that problems exist often presume that senior managers know what is going on, when this is not true. Senior people are usually quite insulated and many are geographically dispersed. Some are ill informed about real problems in the trenches—and some are incompetent. As a result people may wrongly believe that a manager knowingly tolerates or even approves of unacceptable behavior.

“My employer will overreact:” Some people also do not want the employer to “do too much.” They “just want the problem solved,” but do not want anyone punished. This will especially be true if “the damage is already done—the task now is to minimize damage and get on with it.”

Concurrent beliefs—that the employer will do too little and that the employer may do too much—pose a real dilemma for employers. This dilemma is one of the reasons why a conflict management system needs informal as well as formal options.

Lack of skills: Some people feel they do not have the skills to express themselves or pursue a complaint, or that they lack sufficient understanding of complex rules. Many have no idea about the resources available to help them, or do not trust the resource people to act prudently. “There is no one to listen and help me know what to do.” This is especially a problem if it is “not in anyone’s job description to stop this behavior.”

In many US workplaces, there is *in fact* no one with the “time to listen,” so an offended person may not be able to find a safe advisor inside the organization.

Someone else will take action: Many people simply assume that, “Someone else—maybe someone close

to the problem—will do something about it.” Or they may decide not to act “because no one else has taken action.” (These beliefs are the traditional explanation for the controversial “bystander effect.” As we see in this study, these two barriers to action are only two of many possible barriers—and they are not always important.)

Fear of becoming responsible for the problem:

Some people may fear to become legally liable if they admit they know of a problem, or that people will think that now they are responsible for taking care of the problem.

Things will work out: Many people simply presume everything will work out ok in the end, “even if there are some problems along the way.”

Loss of professional image: Some people fear being seen as a troublemaker, or thin-skinned, or obsessed, or lacking in a “sense of humor.” They do not want to lose professional image, especially if they feel injured, but appear not to have been an intentional target. “I am not going to take this personally—she is just ignorant.”

Wrongdoers and potential wrongdoers: The reasons why *wrongdoers* do not come forward are numerous. Some perpetrators, of course, know that they have been at fault, enjoy the fruits of their transgressions, and simply want to avoid punishment or being forced to make restitution. Some people have been bribed or blackmailed not to report illegal behavior. This people may not come forward to report someone else’s offense, because they do not want their own behavior to come to light. Some people are afraid that admitting one of their mistakes might illuminate a whole pattern of unacceptable and illegal behavior.

Some are ashamed. People who have injured themselves or others may feel too humiliated to act or come forward. Some people may, rightly or wrongly, believe that they colluded with a perpetrator and allowed that person to behave illegally. This is a common belief with regard to sexual behavior, “I did not say ‘no’—it is all my fault.” This belief is also common with respect to theft, accepting kickbacks, unsafe work conditions, failures to stop discrimination, and failure to do work as specified by code or contract.

Some wrongdoers may just recently have realized that they themselves acted in the past in a wrongful

manner. They may not have been sufficiently aware of social rules or the employer's rules—but they now realize their own culpability and want to protect themselves by keeping quiet. Some made their mistakes by accident and are afraid of the consequences. Some feel entitled—"the rules are ridiculous—these rules do not apply to me." Some enjoy risk-taking. Some believe they never will get caught. A significant number believe, perhaps almost unconsciously, that "If God really wanted me to stop I would be stopped."

Some people have family members who stop them from reporting their faults. Some wrongdoers and some of their friends say, "Feeling guilty is punishment enough." Many wrongdoers do not act appropriately or come forward, because they do not know how to apologize or make amends.

A few people prefer covert revenge: People who feel let down, humiliated or betrayed by a manager may feel they no longer need to be loyal to their organization, and may seek revenge. They plan on dropping a dime to a government agency, posting gossip in a chat room or a video on YouTube, putting up anonymous graffiti or posters. Some, including targets of unacceptable behavior, would prefer to trap the wrongdoer with a cell phone recorder or camera, even if such a trap is illegal. Their purpose is to settle scores, not to support the employer by acting promptly.

WHY DO SOME PEOPLE STOP OR REPORT UNACCEPTABLE BEHAVIOR?

- This is my job
- There is a moral imperative to act
- Tangible and intangible rewards for speaking up
- Tangible and intangible sanctions for people who do not speak up
- I am *forced* to speak up
- There is strong evidence that will support speaking up
- I know the rules and can find out how to come forward
- I can do it without being identified
- I can talk with (the offender) directly
- Important people will help me
- It is reassuring not to have to act alone"
- If it all goes bad I have a good fall-back position

- I will never give up; I am committed

When people who observe unacceptable or illegal behavior do act effectively or come forward, why do they do it? To understand why people hesitate, it can be valuable to learn the opposite—why some people *do* find it in their interests to act or speak up.

Some people believe that rank is synonymous with organizational power and that people of high rank should feel they have enough power to stop bad behavior. As we have seen however, many managers hesitate to act effectively to stop unacceptable behavior.

On the other hand many managers—and many employees—do act effectively. They speak of other kinds of power: a sense of moral authority, having enough information about the rules, trust in a local supervisor, having proof that the proscribed behavior actually happened, having strong relationships with colleagues and family, and having a fallback position. Occasionally some one will say, "I believe in this organization."

Some reasons people give for speaking up:

This is my job: "I am responsible and accountable for this kind of problem." "It is part of my professional responsibility to protect others from this kind of behavior."

There is a moral imperative to act: "Peoples' lives are at stake here." "My religion requires I do this." "I can't sleep at night (or look myself in the mirror, or go to services) unless I bring this forward." "My family believes this is the only moral option—it is the way I was brought up."

Tangible and intangible rewards for speaking up: "I might be rewarded for reporting the problem." "My team—or my candidate for promotion—might win." "The offender will be punished and that person deserves it." "We all lose by silence—it is not doing (the offender) any kindness to be allowed to get away with this—it will hurt him (or her) if it continues—and all the rest of us will be better off if this stops."

Some people facing negative performance reviews or layoff may come forward about unacceptable behavior in order to safeguard their jobs.

Tangible and intangible sanctions for people who do not speak up: "Our honor code requires me to act." "I will be held responsible if I do not act, even though it is not my fault." "The mission of the institu-

tion will be compromised if I remain silent." "I'm innocent, and must come forward, to protect my reputation."

Some people believe that they are forced to speak up: A force outside them requires this. "The computer system—or the surveillance camera system—is set up so that I am forced to disclose what happened." "A group of vigilantes in the X department will go after the bad guy if I do not act." "If and when I am subpoenaed I will have to tell what I know—I have to act." "I am going to get caught anyway. So, I had better come forward on my own and throw myself on the mercy of my boss."

There is strong evidence that will support speaking up: "I have incontrovertible proof—I am not worried about whether people will believe me." "There are emails and photos." "I have witnesses." "I can easily tape-record this terrible behavior."

"I know the rules and can find out how to come forward": "We have a poster (had a training program/have a website) that lays out the rules and the procedure." "I can go to an ombuds office (HR/EAP/ethics office/chaplain) and they will help me."

"I can do it without being identified": "I think I know how to set this up so that the information is found by the right people." "I know how to trap the bad guys so they get caught in the act." "I will just call Audit and leave a message after hours." "I will put an anonymous letter under someone's door (or call the ombuds office at night, or I will send anonymous email). I don't want to be seen to rock the boat, but I do not have to." "I have heard that sometimes they can send out a generic letter to get this kind of behavior stopped; that would suit me fine. All I want is for this bad stuff to stop."

"I can talk with (the offender) directly": "I have the option of writing a letter to him; that may stop him." "I can take this problem to Mediation and talk with (the offender) with a third party there and no one else needs to know."

"Important people will help me": "Our department head is fair and approachable on every subject—he really wants to know if there is anything wrong." "My relationships are solid inside and outside the organization." "Our HR person helped a friend of mine last year. I will try that." "My supervisor is not going to let me get hurt by this, and neither will my team." "My family is behind me—this matters to me more than

anything else." "My concern is legitimate, my lawyer says I am right and I can win." "The ombudsman is in the CEO's office; the ombudsman says that the CEO and her whole team take this seriously."

"It is reassuring not to have to act alone": "I was not certain if something really was amiss but others think so too—we could not all be wrong." "If we complain together, we may be taken more seriously and there is safety in numbers." "I am allowed to bring a co-worker with me. My office-mate will accompany me and I will not be alone."

"If it all goes bad I have a good fall-back position": "I am leaving anyway—thank God I have just accepted another job, so I can not be harmed by speaking up." "My spouse has a good job so we are going to be ok." "I have nothing left to lose." "I am going to let people know before I die." (A person full of rage, or a mentally ill person, may not think of consequences—this is itself a kind of fallback position.)

"I will never give up": "I am committed—I want justice—no matter what or how long it takes." "I want revenge and I am going to drop a dime." "An authority needs to decide—and come what may I am going to get this issue to the court." "No matter what they do, I'm going to go right on speaking up." (Not to care what happens, because of overwhelming commitment to a goal, is also a kind of fallback position.)

These reasons, while not an exhaustive list, illuminate the fact that individuals who speak up seem to feel it is in their interests to speak. They see an option that fits their interests. *They also seem to feel that they have "enough power" to speak up, by comparison with those who choose to keep silent.*

Organizational ombuds do not hear many people who "trust the system." However, people some of the time do trust some *individual*, especially a local department head, to do the right thing.

A FEW IDEAS FOR EMPLOYERS

There are *many* reasons why people do not act or come forward when they perceive unacceptable behavior. Two famous reasons: fear of retaliation and the "bystander effect," are only two of many.

"Zero tolerance" policies have not been shown to help, and "No Retaliation" policies, while necessary, are not very effective. It is important for employers to focus on more than one barrier to action.

Employers might wish to review the many findings above and devise individually tailored solutions for problems in this list that are especially important in their own organizations. We offer here just a few ideas.

The employer that wishes its employees and managers either to act on the spot or report unacceptable behavior must try to provide a complaint system that is *safe, credible and accessible*. And it needs to do whatever it can to help people to think that it is *in their interests and in their power* to stop unacceptable behavior.

All large organizations need a “zero barrier” office, like that of an organizational ombudsman. A zero barrier office is almost totally confidential, is neutral and independent, and has no formal managerial power; it does not represent or accept notice for the employer and therefore can be approached off the record. People need to be able to discuss their concerns and their evidence; they need to be able to review rules, and organizational norms, and learn negotiating skills; it may help for them to role-play; they need to learn about effective formal and informal options—at no risk. *Dealing with the fear of “bad consequences” is an essential task for employers. It is especially urgent where people fear for their safety.*

Employers should provide anonymous, systems change, self-help, generic, shuttle diplomacy, and mediation options that may be able to remedy unacceptable behavior at little cost to the complainant. Complainants need to be able to be accompanied by a co-worker, if they wish to be accompanied, when they express their concerns.

Employers must be willing to take formal action with respect to cruel and illegal behavior no matter who the offender is. Employers should try to find ways to let complainants know, when action is taken with respect to unacceptable behavior—for example, with appropriate, partial information; by means of generic yearly reports; or by asking for signed privacy agreements in return for feedback.

Employers should provide appropriate incentives for *wrongdoers* to come forward, including appropriate privacy protection, the right of accompaniment, the possibility of making restitution and perhaps, in appropriate cases, the possibility that the employer will not pursue charges.

Employers should provide clear standards of conduct and “values” training, for all levels in the organiza-

tion—including training for “bystanders.” *Local unit heads need special training in active listening and complaint handling.* All cohorts should be able to have regular discussions about why it is important to understand and deal with behavior that is seen to be unacceptable. Everyone in an organization should be able to talk how to deal with behavior that is illegal, and behavior that that is contrary to the values of the organization.

We close with one scholarly note: Tom Tyler has written extensively about the relationship between an organization’s commitment to and enactment of principles of procedural justice, and its employees’ compliance with its policies and rules². He has demonstrated that in a wide variety of organizational settings procedural justice affects the degree to which individuals identify with a group. He found that the strength of their identification is related to the extent of their cooperation with the group. Tyler has found four major contributors to the perception of procedural justice:

- * fairness of formal decision making rules;
- * quality of treatment received under those rules;
- * fairness of decision making by the immediate supervisor;
- * quality of treatment by that supervisor.

In organizations in which there is a strong commitment to procedural justice, and thereby some employee identification with the organization, more people may deal effectively with behavior they find unacceptable.

Organizations concerned with creating a climate in which its members are more willing to come forward need to think more broadly than just creating the right policy about and procedure for reporting wrongdoing. *There is no single policy that will make an organization seem trustworthy and no single procedure or practice that will guarantee that people will overcome all the barriers to coming forward.* A well-publicized commitment to fairness and to procedural justice may be a good beginning.

ABOUT THE AUTHORS

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Rowe has a number of special interests in the field of conflict management: unacceptably unprofessional behavior of all kinds, harassment of all kinds, "micro-inequities," that is, small insults that do damage; mentoring and career development, including "micro-affirmations;" dealing with very difficult people and people who "won't let go," options for action if one sees something bad happen, mediating intellectual property disputes, work/family concerns, the role of apologies. (You might call her if you think you owe someone an apology—or if someone owes you an apology). She likes children, gardens, music, scuba, chocolate—and admires the artistic achievements of other people.

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HOWARD GADLIN has been Ombudsman and Director of the Center for Cooperative Resolution at the National Institutes of Health since the beginning of 1999. From 1992 through 1998 he was University Ombudsperson at UCLA. He was also director of the UCLA Conflict Mediation Program and co-director of the Center for the Study and Resolution of Interethnic/Interracial Conflict.

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An experienced mediator, trainer, and consultant, Dr. Gadlin has years of experience working with conflicts related to race, ethnicity and gender, including sexual harassment. Currently he is developing new approaches to addressing conflicts among scientists. He is often called in as a consultant/mediator in "intractable" disputes. Dr. Gadlin has designed and conducted training programs internationally in dispute resolution, sexual harassment and multicultural conflict.

Dr. Gadlin is past President of the University and College Ombuds Association (UCOA) and of The Ombudsman Association (TOA). For three years, he was chair of the Ethics Committee of the Society of Professionals in Dispute Resolution. He also served 5 years as Chair of the Coalition of Federal Ombudsmen.

Dr. Gadlin is the author, among other writings, of "Bargaining in the Shadow of Management: Integrated Conflict Management Systems;" "Conflict, Cultural Differences, and the Culture of Racism," and "Mediating Sexual Harassment." He is the co-author of "Neutrality: What an organizational ombudsperson might want to know" and "Conflict Resolution and Systemic Change."

ENDNOTES

¹ In this article we use the term "classic retaliation" in the technical sense of employer action taken against a person engaging in a protected activity. To prove retaliation one would need to show: that one engaged in a protected activity (such as filing a discrimination claim or reporting illegal activity); that one suffered an adverse employment action (such as termination); and that the protected activity and the adverse action are connected or linked. We wish to differentiate this term from the cascade of many "bad consequences" that people fear, often without a clear formulation of the "bad consequences," when they think about taking action or coming forward.

² Tyler, T.R. (2000) Social Justice: Outcome and Procedure. *International Journal of Psychology*. 35(2) 117-125.