

Fall meeting
2019 October 3



Whistleblowers: a curse or a blessing?



Gerwinde Vynckier

The importance of whistleblowers



Whistleblowers can be crucial

- To bring to light incorrect behavior
- To bring to light illegal activities and corruption
- To save the environment
- To save lives



What does it take to change a culture? Too often the answer is disaster.

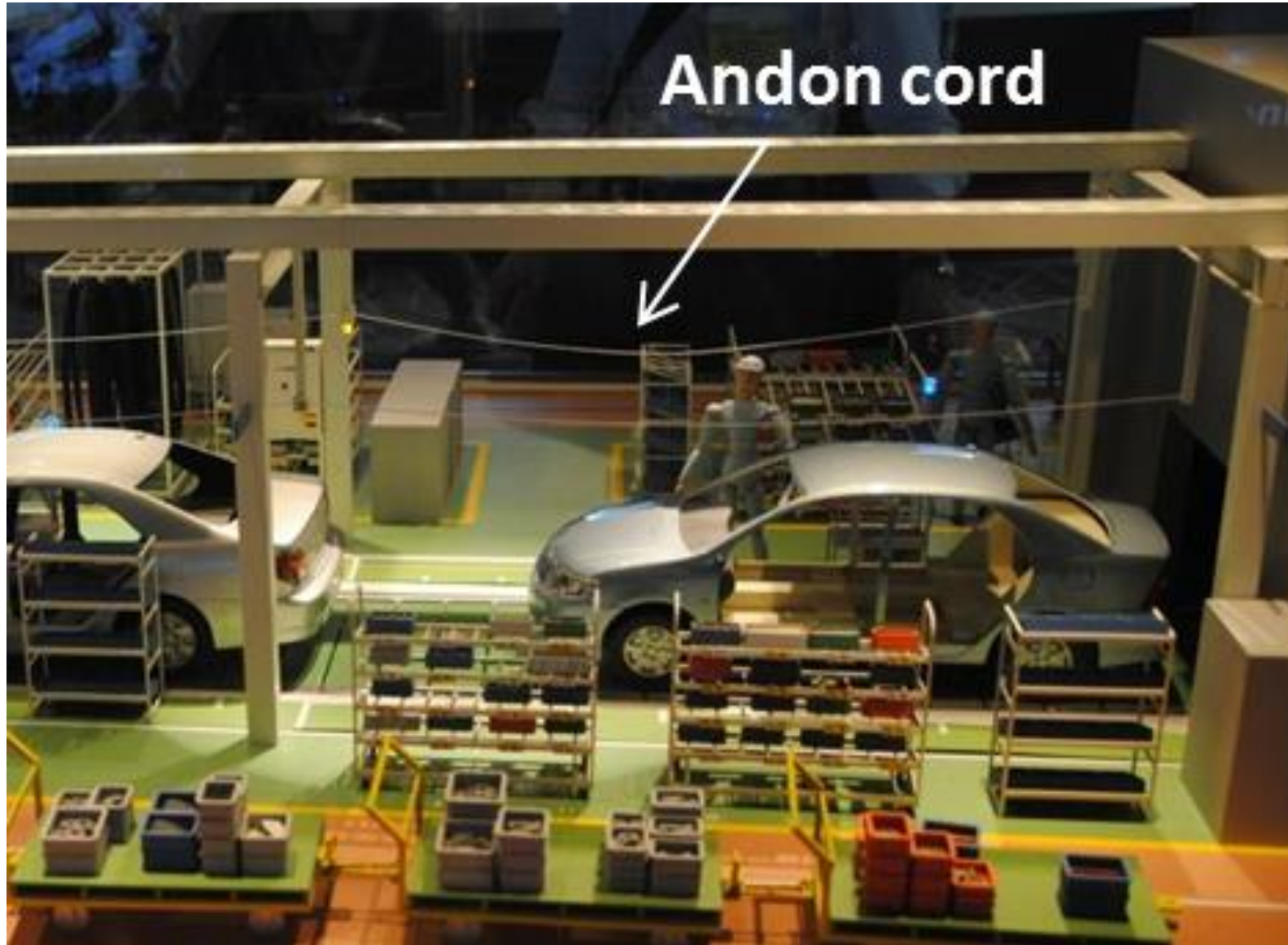
*In the aftermath of the **two fatal accidents of Boeing 737 Max jets**, tentatively blamed on the over-automation of Boeing's flight systems, renewed attention to Boeing production facilities was perhaps inevitable. Evidence is now trickling out that workers in the troubled Boeing 787 Dreamliner plant in South Carolina were pushed to maintain an overly ambitious production schedule and fearful of losing their jobs if they raised concerns. This is a textbook case of how **the absence of psychological safety** — the assurance that one can speak up, offer ideas, point out problems, or deliver bad news without fear of retribution — can lead to disastrous results.*

Amy C. Edmondson



Imagine free enterprise unchecked, self-reverential. Imagine a “spirit of free enterprise” that places capital above both labour and product. Then imagine a “pride of free enterprise” certain of its own merits; too careless to consult history regarding past shipping disasters; too mean to spare a fiver in order to avert catastrophe.

The Independent

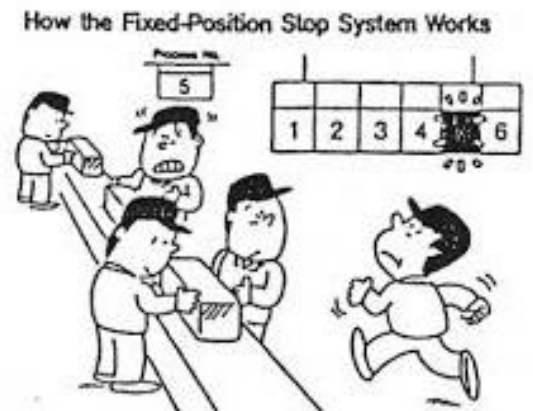




The Japanese way

- 'Andon' : signal to highlight an anomaly (a flashing light)
 - Sign boards signal the specific workstation
 - The system stopped until the problem was solved
 - 'Jidoka' - Toyota System Corporation
 - Stopping the system => opportunity for improvement / finding the root cause
- Prevents the process from continuing to produce defective parts

Andon can save lives... (and avoid costs and \searrow production)





Not the tools but the culture!

- Andon cord pulled → go-see by a team leader
- the team member was **thanked** for pulling the cord
- The problem was immediately addressed
- safety cut off switch (**by anyone** without permission)
 - to instill **autonomic behavior patterns** ('Kata')



Whistleblowers Are a Good Thing

February 7, 2019 By [Kate Bischoff](#) – [1 Comment](#)

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A recent *Harvard Business Review* article pointed out something startling – whistleblowers are a good thing for companies. In fact, according to the HBR article, “The more employees use internal whistleblowing hotlines, the less lawsuits companies face, and the less money firms pay out in settlements.” Seriously.



If we step back from this for a moment, the conclusion doesn't seem as counterintuitive as it first appears. Companies that **use and champion** their internal reporting structures have opportunities to learn about problems faster. **Employees feel like they actually can and should report** irregularities and problems, even if those problems aren't really problems after all. When employees do speak up, they **know that their organizations will actually do something about it.**

FIG. 9 How is occupational fraud initially detected?

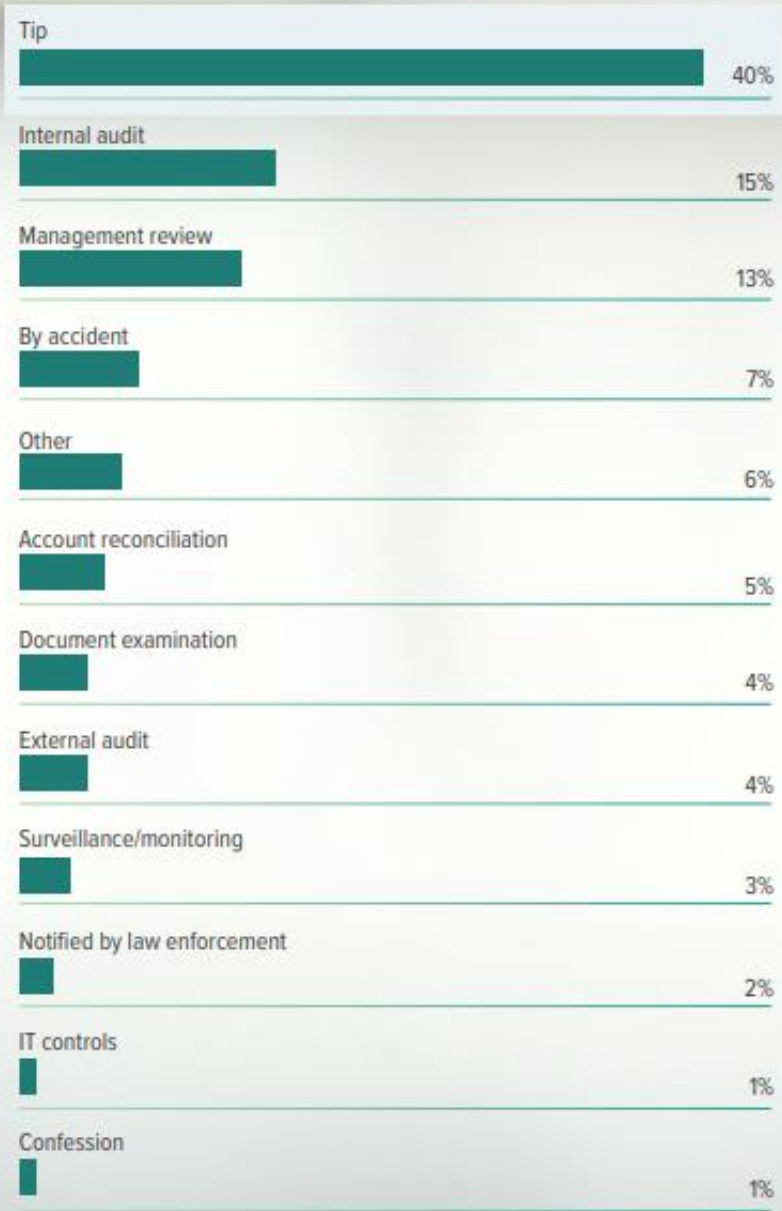
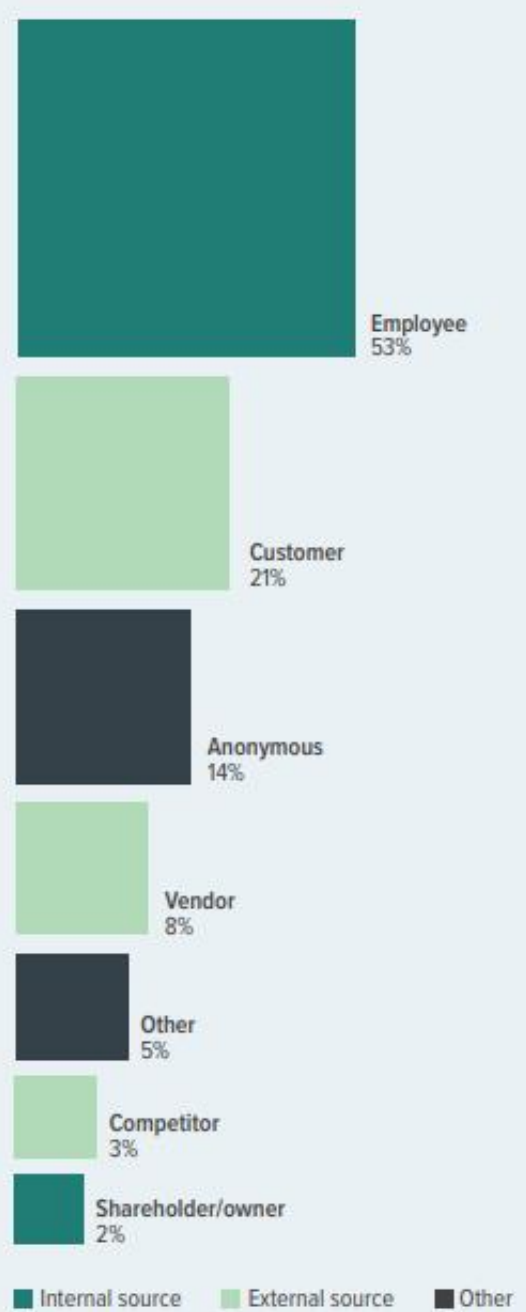


FIG. 10 Who reports occupational fraud?





EU-directive protection whistle-blowers

- protection of whistleblowers who bring to light infringements in a work-related context in areas such as public procurement, financial services, money laundering, public health, (nuclear, product and transport) safety, consumer protection and data protection.
 - Protection and safeguards against retaliation
- ! not only for the reporter himself/herself but also for those who assist him/her
- not only public sector, also companies

The importance of a good whistleblowing system



‘How an organization deals with whistleblowing
= barometer of its ethical culture and values’

→ How to implement a successful WB system?



Reporting paradox

- Works well in an open organizational culture in which reports are handled in a constructive way



- In such cultures a reporting system is the least necessary.
 - Reports are taken more seriously
 - Retaliation becomes less likely due to strong social disapproval
- However, whistleblowing remains very useful, even when culture is not present:
 - It is an instrument of cultural change in itself
 - Condition = embedded in a global policy

FSMA onderzoekt mogelijk geknoei met cijfers Nyrstar

17 augustus 2019 17:38



De vestiging van Nyrstar in Port Pirie. ©nyrstar

De auditor kaart een reeks problemen aan, van facturen voor de ombouw van de vestiging in Port Pirie tot zelfs betalingen van privéreizen, bloemen voor vrouwen en een feestje in een bar met kredietkaarten van de firma. Maar Guinikoukou struikelt vooral over wat volgens hem manipulatie is van een aantal cijfers voor voorraden.

WHEN FACTS MATTER

Ontslag

'Was aan de slag' omdat hij begin vorige week door Nyrstar aan de deur werd gezet. Officieel omdat er wegens de doorstart onder Trafigura-vlag geen plaats meer is voor hem. Maar het ontslag komt niet uit de lucht vallen: het volgt op een aantal demarches van de man om wat volgens hem wantoestanden zijn aan de kaak te stellen. Hij lichtte het topmanagement en de raad van bestuur in, met privé-afspraken met CEO Hilmar Rode en voorzitter Martyn Konig, maar omdat die volgens hem weinig of niets deden stapte hij vorig najaar ook naar de FSMA.

Chantage

Het ontslag is volgens Guinikoukou trouwens niet de eerste intimidatie aan zijn adres. In een mail aan Rode van maart 2018 klaagt hij aan dat hij gechanteerd wordt: hij riskeert zijn job te verliezen als hij uit de biecht klapt, kreeg hij te horen. In dezelfde mail heeft hij het over een 'echt verrotte controleomgeving bij Nyrstar'. Ook de FSMA laat hij weten dat zijn baan in gevaar is, als 'lastige getuige'.



DECIDING TO BLOW THE WHISTLE ON WRONGDOING CAN BE THE SINGLE MOST IMPORTANT PROFESSIONAL DECISION YOU MAY EVER HAVE TO MAKE.

Brave individuals who have exposed abuses of power have changed the course of history with their disclosures. They have saved lives, prompted lasting government reforms, and strengthened our democracy.

BUT

Few paths are more professionally treacherous than challenging abuses by your own employer.

Blowing the Whistle
May be Hazardous
to Your Professional
Health



"Don't do the **right thing** looking for a reward, because it might not come."

MAJOR HUGH THOMPSON JR.
HELICOPTER PILOT WHO HELPED
END THE MY LAI MASSACRE

...s Told a Helicopter Pilot
...sted to Superior on Mylai

CHECK YOUR PARACHUTES BEFORE YOU LEAP

Tips for Whistleblowers

Notwithstanding the above, you may choose to blow the whistle. As we explain in later chapters, often employees do not even think they are engaging in dissent, believing they are just doing their jobs. But then they wake up one day to find that they somehow made the transition from valued worker to Public Enemy Number One. In other instances, the employee is in a situation where they have nothing to lose by fighting.

It Is Not a Fair Fight

One person against a government agency is inherently a David-versus-Goliath struggle. The organization holds most of the cards.

Harnessing the Collective Voice to Shield Individuals

Make sure you are comfortable with how little control you may have once you hand over information.





Misunderstanding 1: 'whistleblower'

Talk about "reporter"!



Empirical research and personal experience show that it is often about:

- Productive, valued and committed employees
- With a certain authority and/or seniority within the organization
- And a higher job satisfaction than the "silent ones"

Misunderstanding 2: reporting ≠ snitching



Taking professional responsibility

VU-research: loyalty conflict

- ✓ General interest – organisation
- ✓ Loyalty group – organisation



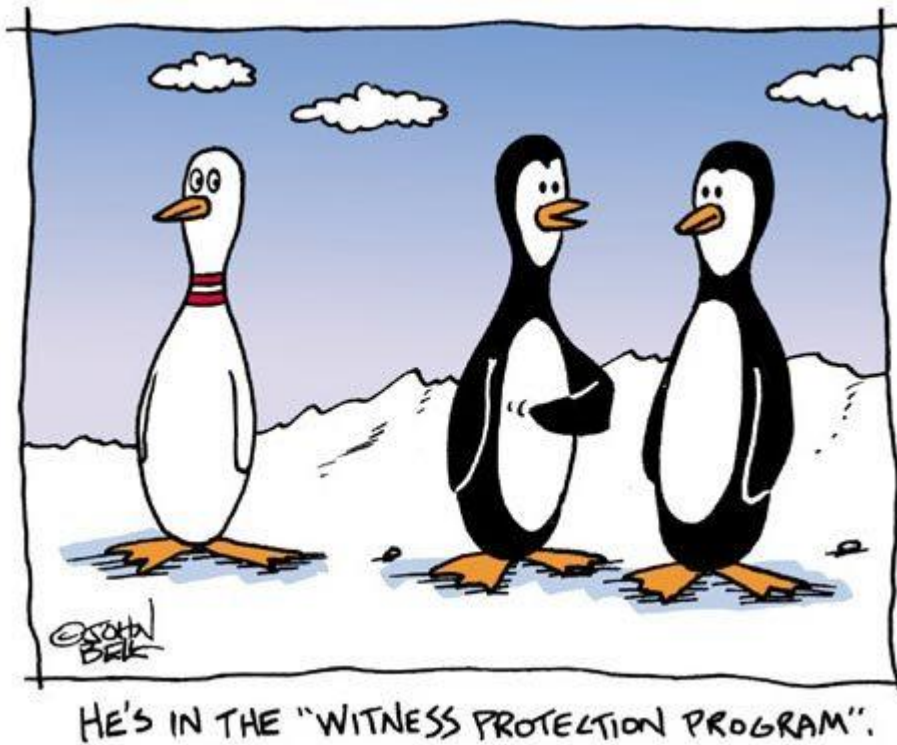
Doubt



Misunderstanding 3: the protection dilemma



Conceal identity reporter!



Protect who?

Reporter:

Enable anonymous reporting

Accused:

Making anonymous reporting impossible

Misunderstanding 4: WB-regulation = procedure

legal and organisational



- The rules
 - Definitions
 - Terms of use
 - Procedure (process)
 - Protection regime
 - Sanctions for malicious reporters



- Part of the organisational structure
 - Reporting channels
 - Communication
 - Advice and guidance
 - Assessment method
 - Research capacity
 - Management reporting


Misunderstanding 5: Position of external hotline



Safety net!



- ‘Royal’ road = internal reporting
 - Manager
 - Confidential advisor
 - ✓ Sufficient authority and autonomy
 - ✓ Confidentiality guaranteed
- External hotline= last redboard
 - Internal not possible/desirable
 - Suspicion of serious offence

The background of the left side of the slide features a close-up, low-angle view of several classical columns. The columns are light-colored, possibly marble or limestone, and have ornate capitals. The lighting is soft, creating a sense of depth and texture. The columns are arranged in a way that they appear to recede into the distance, creating a strong sense of perspective.

Not a tool in itself,
...but part of the
policy!

Purpose = an honest
organization

Step 1: Customization

**Step 2: Consultation
and decision**

Step 3: Preparation

Step 4: Implementation

Step 5: Evaluation

Inside the mind of a WB

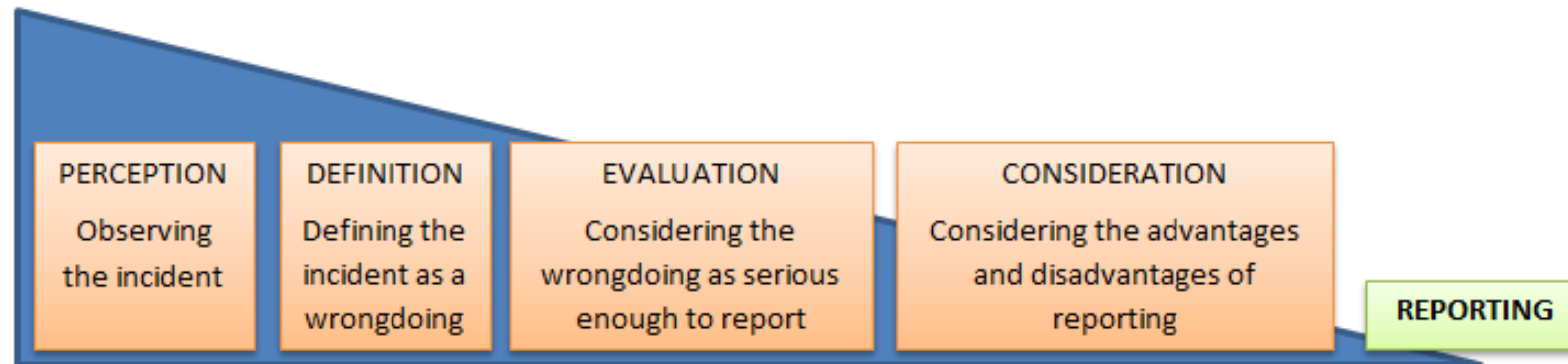
Research Ethics Resource Center (2012)



1) Awareness

Employees who say they observed misconduct < 1/2 of those who witnessed

⇒ Fail to see behaviors as violations



2) Reporting

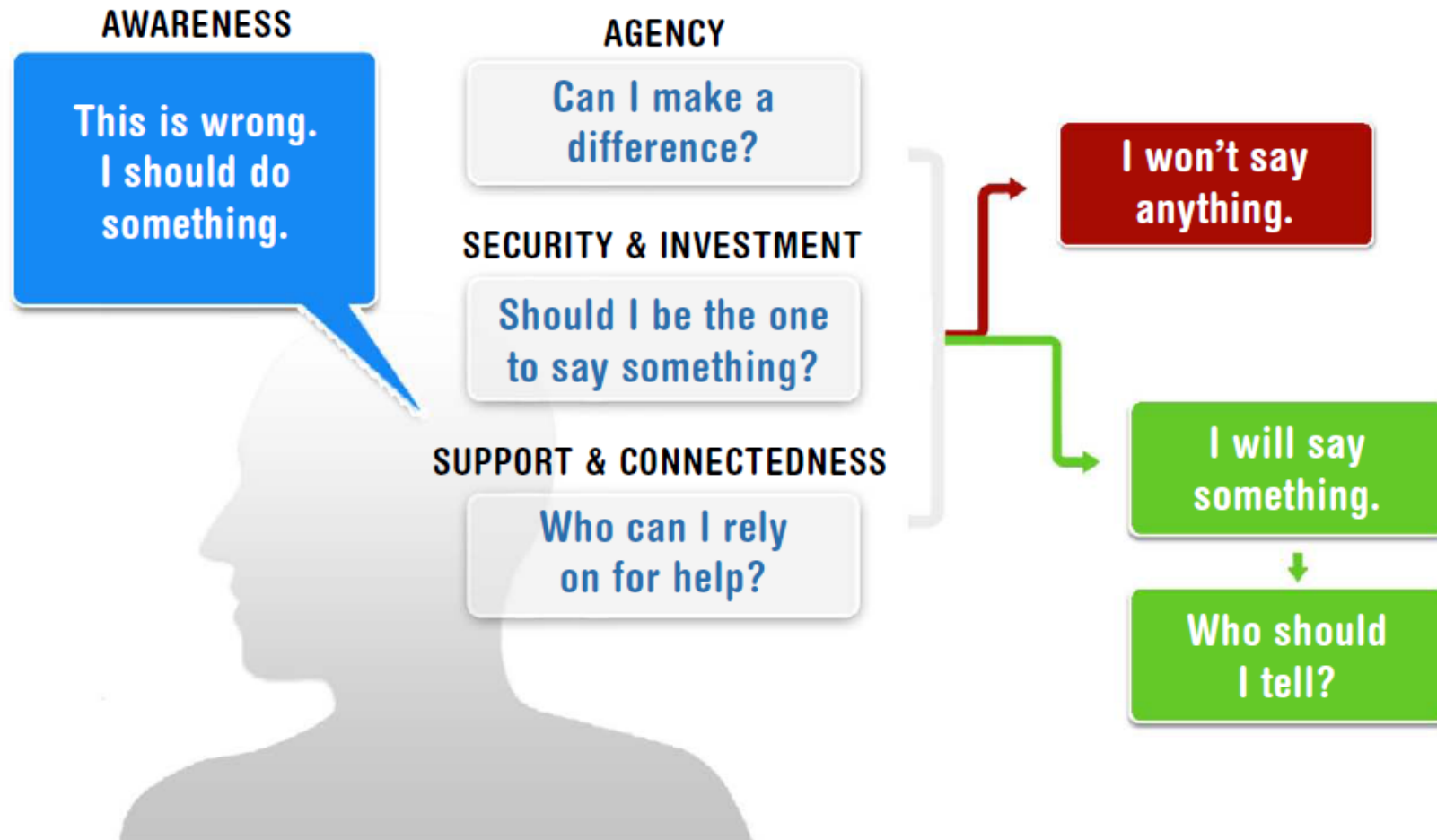
> 1/3 observers decide not to report

Inside the mind of a WB

Research Ethics Resource Center (2012)



What separates reporters from those who do nothing?



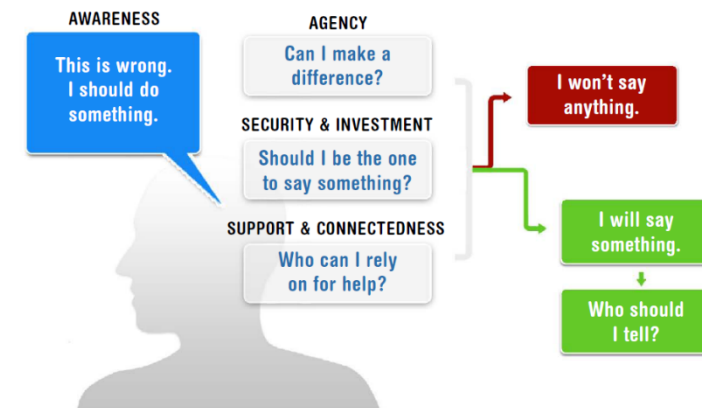
Inside the mind of a WB

Research Ethics Resource Center (2012)



What can companies do to encourage internal reporting?

- Increase **AWARENESS**
 - Of the behaviors the company considers as wrongdoing
 - Of the resources available
- Promote a sense of **AGENCY**
 - Show employees they make a difference (reports + actions taken)
 - Communicate reporting wrongdoings helps the company and that reporters are valued
 - Acknowledge and reward the reporter's courage



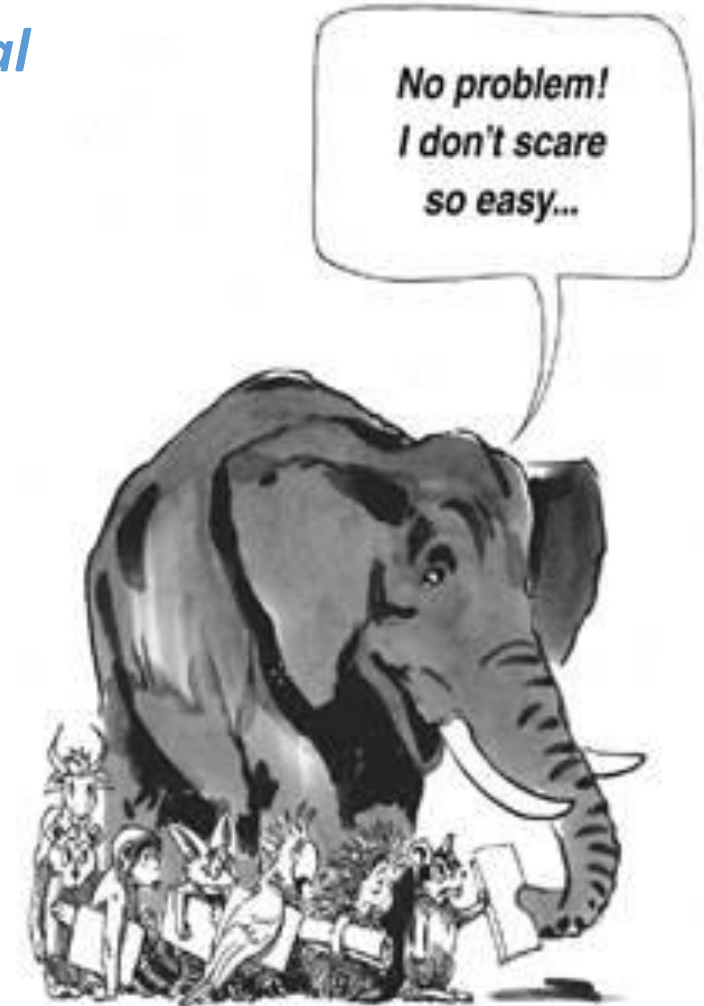
Inside the mind of a WB

Research Ethics Resource Center (2012)



What can companies do to encourage internal reporting?

- Help employees to feel **SECURE**
 - Communicate the well-being of the company
 - Provide resources to seek advice
 - Tell stories
- Develop a sense of **CONNECTEDNESS**
- Provide **SUPPORT** to reporters
 - Train managers to respond
 - Develop ombudsprograms
- Make clear ethics is priority





Some preconditions..

- Tone at the top
- Communication
- Sanctions for failing to protect whistleblowers
- Listen and act!
- Training
- The right people
- Rewarding the reporter



Practical advices

1. Make a checklist for staff receiving a WB 's disclosure
2. Integrate HR, Legal and Compliance teams
3. Act quickly, listen to the whistleblower and do NOT overpromise
4. To investigate or not to investigate ?
5. Assesing risk: begin with the end in mind
6. Document, document, document
7. Keep it confidential
8. Know and avoid actions that constitute retaliation



Reporting system

Purpose:

- **Reinforcing positive effects**
 - Preventing and, where necessary, penalising reported irregularities
- **Reducing negative impacts**
 - Minimising damage to the organisation and whistleblower as much as possible

Good regulation = win-win for both the reporter and the organization

