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C O N S U L T I N G

External Provision of a Whistleblower Reporting System

A Relevant Solution for the Federal Government?

By Mark Schacter

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Acknowledgement

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Executive Summary

This report aims to help Departments in the Canadian federal government arrive at an informed assessment of whether management of their whistleblower reporting systems by an external contractor would make these systems more effective. It draws upon the experiences of 21 private-sector and public-sector organizations with the operation of corporate whistleblower reporting systems.

The evidence gathered for this report, although far from conclusive, suggests that the use of an external provider *might* increase employees' level of comfort with whistleblowing, and *might* therefore enhance the effectiveness of Departments' whistleblower reporting systems. Arriving at a more definitive conclusion is hampered both by limited experience in the Canadian government with the use of external providers of whistleblowing services, and by the apparent absence of research proving a correlation between external provision and increased employee confidence in a whistleblower reporting system.

The most compelling feature of external provision of whistleblower reporting systems is that employees who wish to report on wrongdoing are able to interact with an organization that is completely separate from their employer. Evidence from the interviews suggests that this is relevant to the circumstances of the public service, where there is widespread concern among staff about the confidentiality of whistleblower disclosures and about reprisals for whistleblowing.

The argument in favor of external provision is based on interviewees' intuition and on anecdotal reports. Many interviewees, particularly those from private sector organizations, said that they *believed* that the use of an external provider generates greater confidence in the reporting system, though none offered any firm evidence that this was so. On the other hand, interviewees also indicated that perceptions and emotions are an important factor affecting employees' willingness to report on wrongdoing. If – as many interviewees suggested – the use of an external provider creates a favorable *perception* within the organization about the integrity of the reporting system, then it is reasonable to assume that this might contribute to a more effective system.

Evidence from the interviews suggests that if Departments are to opt for external provision of whistleblowing services, they should also take account of other factors that are likely to have an impact on the effectiveness of the reporting system. Key issues include:

- *Communication with Staff about Whistleblowing.* Departmental leadership should continue to communicate credibly, frequently and in a high-profile manner with staff about the value that it attaches to whistleblowing, as well as about its commitment to do as much as possible to respect the confidentiality of whistleblowers, and to protect them from reprisal.

- *Maintenance of Multiple Reporting Channels.* Interviewees from organizations that use external providers observed that some employees continue to feel more comfortable using traditional internal channels – e.g. ombudsman, supervisor, or colleagues in the Legal, Human Resources, or Audit Departments – for reporting on wrongdoing. It would be advisable for Departments to maintain multiple reporting channels even if an externally

managed reporting system were implemented

- ***Case Management.***   The point of a corporate whistleblowing system is not only to gather reports from employees but also to act upon the information that employees provide. It is critically important (no matter what type of whistleblower *reporting* system is established) to implement a system for case management that minimizes the possibility that cases will "slip between the cracks", or that different parts of the organization will treat similar types of wrongdoing in an inconsistent manner.

A.   Introduction

Within the framework of the Government of Canada's *Policy on Internal Disclosure*[1], many government Departments are examining the mechanisms that they make available to staff for "whistleblowing"[2], i.e. reporting wrongdoing in the workplace. One option available to Departments is to hire an outside company to run a whistleblower reporting system. Although virtually unknown in the Government of Canada, the contracting out of whistleblower reporting services has become increasingly common in the private sector, especially in the US. Canadian government Departments are now being approached by providers of these services.

This report aims to help Departments in the Canadian government arrive at an informed assessment of whether management of their whistleblower reporting systems by an external contractor would make these systems more effective. It draws upon the experiences of 21 private-sector and public-sector organizations with the operation of corporate whistleblower reporting systems.[3]

B.   Background: External Provision of Whistleblower Reporting Systems

The contracting out of systems that allow employees to report on wrongdoing by colleagues has become increasingly common in recent years, particularly among private sector organizations in the US, as a result of recent regulatory reforms requiring publicly traded corporations listed on US stock exchanges to provide employees with mechanisms that allow anonymous reporting of financial improprieties.[4] In order to help corporations meet these regulatory requirements, a market has developed for the external provision of whistleblowing "hotlines." Annex 3 provides a sample list of companies currently offering to provide services related to the management of whistleblowing hotlines.

A survey of 373 publicly-traded companies in the US, conducted in mid-2003, found that nearly 80 percent had some type of dedicated "helpline" or "hotline" that employees could use to report ethics and compliance issues. Of the organizations that had such a reporting system, one-third had contracted out its management to an external party.[5] Another survey conducted in late 2003,

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[1] The "Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace" became effective on Nov. 30, 2001. It was later revised to expand the definition of "wrongdoing" to include a breach in the *Values and Ethics Code for the Public Service*, which become effective on Sept. 1, 2003. It is widely expected that proposed legislation covering the disclosure of wrongdoing within the federal government will soon be put before Parliament.

[2] The term "whistleblowing" is used by the Public Service Integrity Officer in the context of the *Policy on Internal Disclosure*. See *Public Service Integrity Officer. 2002-2003 Annual Report to Parliament.* Ottawa: Public Service Integrity Office, 2003. For the purposes of this report, "whistleblowing" is interchangeable with "reporting wrongdoing in the workplace."

[3] For a note on methodology, see Annex 1. For the list of persons interviewed for this report, see Annex 2.

[4] The *Sarbanes-Oxley Act* of 2002 was passed into law in the US in response to well-publicized corporate governance scandals at corporations such as Enron and WorldCom. Section 301 of the *Act* requires corporations to establish procedures for "the confidential, anonymous submission by employees ... of concerns regarding questionable accounting or auditing matters." In January 2004 the Ontario Securities Commission published a similar rule for companies operating under its jurisdiction.
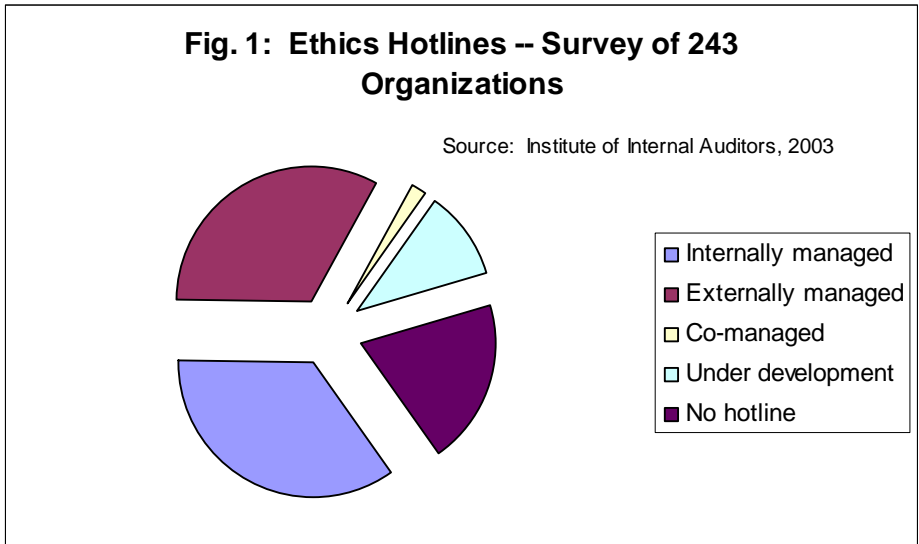
[5] "Business Ethics and Compliance in the Sarbanes-Oxley Era. A Survey by Deloitte and *Corporate Board Member* Magazine." Available at www.deloitte.com/us/corpgov.

covering 243 private-sector, government and not-for-profit organizations in the US and elsewhere, arrived at broadly similar findings. It found that 69 percent of respondents had an ethics hotline, and that nearly 50 percent of organizations that had hotlines had chosen to contract their management to an external provider (see Figure 1).[6]

Some major corporations operating in Canada – particularly those that are listed on US stock exchanges – are now using contractors for the provision of whistleblower hotlines[7]; Canadian government departments have also been approached by providers of these services, and at least one Department[8] is using an external provider.

While the precise details of service offerings from providers may vary, a typical pattern is as follows:

- the provider and the client organization agree on the general types of situations, or "allegation categories" (e.g. "gross mismanagement," "misuse of public funds", "violation of a law or regulation", "harassment", etc.) that the whistleblower reporting service will cover;

Fig. 1: Ethics Hotlines -- Survey of 243 Organizations

Source: Institute of Internal Auditors, 2003

- Internally managed
- Externally managed
- Co-managed
- Under development
- No hotline

- the provider and the client agree on scripts – containing the types of questions that will be asked of, and information that will be sought from, people who contact the reporting service – for each allegation category;

- the provider and the client agree on the contact points in the client company for the various allegation categories; for example, reports about misuse of public funds may be directed to one office in the company while reports about gross mismanagement may be directed to another office;

- when a caller contacts the reporting hotline[9], the agent taking the call makes a judgment about the appropriate allegation category, and runs through the pre-arranged script of

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[6] Survey conducted by the Institute of Internal Auditors. Most of the organizations surveyed were private-sector companies based in the US. The survey included a small sample of Canadian organizations, as well as government and not-for-profit organizations. See www.gain2.org/hot2sum.htm.

[7] For example, of the five companies contacted for this research that use an outside provider of whistleblowing services, four were based in Canada. These were: CIBC, Nortel, Sun Life Assurance Co. of Canada, and TD Financial Group. The fifth company was Dell Computer Corp.

[8] Citizenship and Immigration Canada.

[9] This scenario assumes that the service is telephone based. Some providers also offer an internet-based service where whistleblowers fill in a form on a secure website instead of dealing with a live agent.

questions with the caller; the caller is not required to give his name;

- at the conclusion of the call, the agent opens a case file and assigns the caller a confidential username and password; the caller is asked to call back after a certain number of days;

- the agent who received the call passes on the report of wrongdoing to the appropriate contact within the company;

- in cases where the client-company requires additional information in order to conduct a proper investigation, it contacts the provider with additional questions for the caller;

- the caller calls back the hotline provider on the prearranged date, and logs in with his confidential username and password; the provider asks the additional questions supplied by the client, and relays the information to the client.[10]

The key feature of the system – in cases where the caller chooses to remain anonymous – is that the external provider facilitates a dialogue that involves no direct contact between the employer and the whistleblowing employee.

C.   Typical Rationale for Using an External Provider

External provision of whistleblowing reporting services is a means to an end. The desired end is a whistleblowing reporting system that is as effective as possible. An effective reporting system is one that does the best possible job of encouraging and facilitating complete, timely and accurate reporting by staff of wrongdoing in the workplace.[11]

Organizations that use external providers of whistleblower reporting services, and the providers themselves, generally offer three kinds of arguments to support the claim that external provision makes for a more effective reporting system. The arguments relate to *identity*, *competence* and *convenience*.

Identity.   It is argued that employees will be much more willing to make reports of wrongdoing if the organization that is operating the reporting system has an identity that is entirely separate from that of their employer. The fact that the employee can report on wrongdoing without having direct contact with his employer is seen as an important advantage.

Competence. It is argued that by virtue of being specialized in the provision of whistleblowing reporting services, external providers have a level of competence that cannot normally be found in-house.

Convenience. It is argued that from the perspective of administrative time and effort, it is much more convenient to transfer the task of establishing and maintaining a whistleblower reporting system to an external provider.

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[10] The dialogue will, of course, break down if an anonymous caller chooses not to call back.
[11] An effective reporting system should be complemented by an effective system for case management. See p. 7.

It is important to weigh these arguments against the actual experiences that organizations have had with the operation of whistleblower reporting systems. For example, if few organizations were to indicate that employees were uncomfortable about reporting on wrongdoing in the workplace, then this might suggest that the argument related to identity was not relevant. The next section of this report, which is based on interviews conducted with 25 representatives of 21 organizations in the public, private, and crown corporation sectors, describes the lessons learned in the operation of whistleblower reporting systems.[12] This provides a basis for Departments to assess the relevance of the arguments that are commonly offered in favor of using an external provider.

D.   Key Factors Affecting the Success of Whistleblower Reporting Systems

Fear of Reprisal. The predominant issue emerging from the interviews – especially interviews with representatives of public-sector organizations – was that employees were reluctant to report on serious wrongdoing because of fear of reprisal. One Departmental Senior Officer for disclosure observed that "nobody believes" formal assurances that employees who make good-faith disclosures of wrongdoing will be protected from reprisal[13].

The consequence, public-sector interviewees noted, is that most reports of wrongdoing that do come forward relate to single-victim, "people" issues: typically, these are employment related disputes in which the individual feels that he or she is the victim. Much rarer are reports of wrongdoing that is systemic in nature, that may have broad and serious implications for the public interest, and that affects someone other than the person who brings forward the report.

This echoes the finding of the Government of Canada's Public Service Integrity Officer (PSIO), who observed that most reports coming to him are of the first rather than the second variety ("single-victim" people issues rather than system-wide issues that have major implications for the public interest). He concluded that few public servants make reports of serious wrongdoing that affects the public interest because fear of reprisal outweighs their desire to protect the public interest. Public servants are more willing to come forward with employment related issues where they consider themselves to be a direct victim because, in these cases, the possibility of direct, personal benefit outweighs the fear of reprisal.[14]

Further evidence of fear of reprisal in the public service is found in the manner in which public servants choose to come forward with reports of serious wrongdoing. Officials who jointly occupy the position of Senior Officer for disclosure and Ombudsman note that in virtually all cases where public servants come forward with reports of wrongdoing, they choose to disclose the information to the Ombudsman – who, in most Departments, does not keep formal records and does not have authority to undertake formal investigations – rather than to the Senior Officer.

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[12] Of the 21 organizations, 6 used an external provider of whistleblower reporting services. Of these, five were in the private sector and one was a federal government Department.
[13] The *Policy on Internal Disclosure* states that "no employee shall be subject to any reprisal" for a disclosure made in good faith.
[14] *Public Service Integrity Officer*, p. 26.

Private sector interviewees placed much less emphasis than did public sector interviewees on fear of reprisal, although they did acknowledge that this could be an issue within their organizations.

Concerns About Confidentiality. Closely related to the fear of reprisal is the concern that in cases where the person making a report chooses to reveal his identity, his name will not be held in confidence. Again, the interviews suggested that this issue, while relevant in both the public and private sectors, was more prominent in the public sector.

The interviews identified three underlying issues regarding confidentiality. The first has to do recognition of formal limits on the degree to which Departmental management can, in good faith, protect the confidentiality of public servants who reveal their identity when making a formal disclosure of wrongdoing. The best that a Department can do is to promise not to *voluntarily* reveal confidential information. The PSIO, whose situation regarding confidentiality is identical to that faced by a Departmental Senior Officer for disclosure, has explained that "(o)nly when we are required to do so by law or in accordance with the rules of natural justice will we [reveal confidential information]. This Office, like most other such organizations, is subject to requests for information under the Access to Information and Privacy laws."[15] Public servants recognize, therefore, that there are no absolute guarantees of confidentiality.[16]

The second issue has to do with concerns about the practical impossibility of maintaining confidentiality in certain organizational settings. As many interviewees indicated, it will often be possible to infer the identity of the whistleblower from the circumstances of a disclosure. At the very least, it will often be possible to speculate in an informed way about the range of people who might have been in a position to make a given report. As one interviewee observed, "Word gets out in the organization, and it becomes easy to figure out who is saying what about whom." This same issue would also, presumably, act as a deterrent to someone who was considering making an anonymous report of wrongdoing, e.g. by making an anonymous call to a hotline or sending a "brown envelope" to an executive in the organization.

The third issue has to do with trust that management will act in good faith to protect, to the maximum extent possible, the identity of a person making a report of wrongdoing. Interviewees indicated that staff are much more ready to place their trust in the *individuals* who are responsible for the reporting system than in formal policies and procedures that govern the system. Many interviewees reported that they must invest considerable effort in getting to know staff personally throughout the organization in order to build a level of confidence that is sufficient to cause staff to feel safe about making reports on wrongdoing.

Some , but not all, interviewees suggested that the impediments to reporting that are created by distrust can be virtually impossible to overcome when a reporting system is managed inside the organization. "People will always be highly suspicious of reporting mechanisms that are provided by their own organization," one interviewee stated. Another interviewee observed that

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[15] *Ibid.*, p. 6.
[16] It is widely expected that the forthcoming proposed legislation on whistleblowing in the Canadian government (see footnote 1) will provide for enhanced protection of the identity of whistleblowers.

"the attitude of some staff is, 'I will never, ever make a report on wrongdoing to someone inside the company'".
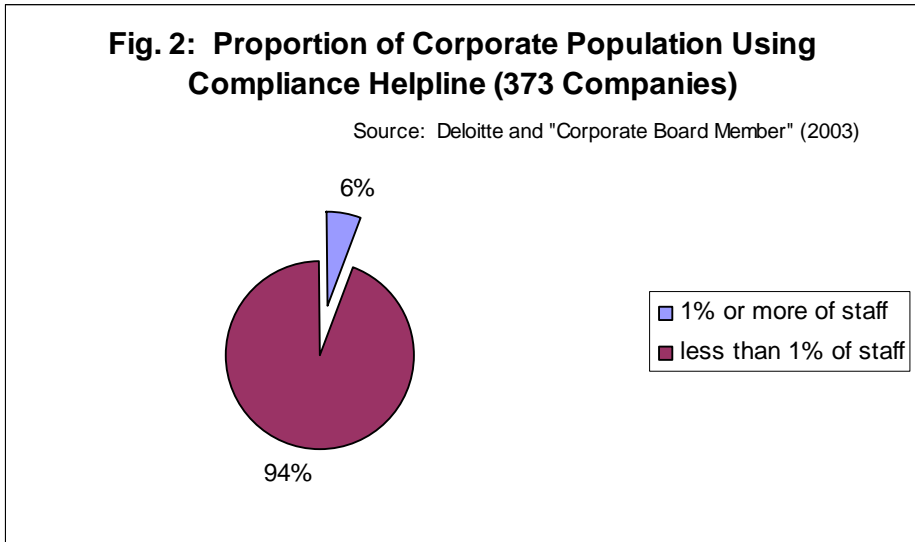
"Cultural" Bias Against Reporting on Wrongdoing. Several public-sector interviewees observed that even if there were not fears about reprisals and confidentiality, there would probably still be a widespread reluctance among employees to report on wrongdoing. This was attributed to the "culture" of the public service. "It's just not part of our culture to rat on people. People just don't like the idea of reporting on their colleagues," one interviewee observed.

Multiple Channels Available for Reporting.   Virtually all of the organizations contacted for this report provided multiple channels by which employees can report on wrongdoing. In most cases, the preferred channel was the employee's immediate or second-line supervisor. However, most organizations encourage employees to use whatever reporting channel is most comfortable for them. Typical options are the legal, human resources or auditing departments, or the corporate ombudsman, or a dedicated reporting "hotline"(which may be managed internally or externally). The predominant view is that given the general level of anxiety (more pronounced in some organizations than others) related to whistleblowing, it is important to provide as many channels for reporting as possible.

On the other hand, a small minority of interviewees stated that they were rethinking the practice of encouraging multiple channels of reporting because of the problems that this can create for case management (see below).

Communication and Awareness-raising.
The survey, noted above, of whistleblowing practices in 373 US companies found that ethics/compliance helplines/hotlines were not well used by employees. In 94 percent of companies that operated such reporting systems, reports of wrongdoing

Fig. 2: Proportion of Corporate Population Using Compliance Helpline (373 Companies)

Source: Deloitte and "Corporate Board Member" (2003)

6%

94%

- 1% or more of staff
- less than 1% of staff

were received from less than 1 percent of the employee population (see Figure 2). This finding was echoed in the interviews conducted for this report. Many interviewees reported receiving only a modest number of reports.

The two mostly likely causes of a low level of reporting are unwillingness of employees to report wrongdoing (for the reasons described above) and lack of awareness among employees about the availability of the whistleblower reporting system and how it operates. In either case, but particularly in the latter case, efforts by the organization to communicate with employees about

the reporting system may lead to improved usage of the system. Many interviewees observed that their organizations are making concerted communications efforts in two directions: first, to build confidence in the system by reiterating messages about confidentiality and the value attached by management to the reporting of wrongdoing[17]; and second, to make employees aware of the existence of the reporting system and its manner of operation.

Case Management. Discussion about the type of reporting system to put in place – e.g. hotline vs. web-based vs. personal contact; internally managed vs. externally managed – only addresses the question of how to *receive* information about wrongdoing from employees. The question of how to *process* that information once it is collected is equally important to the successful operation of a system for addressing wrongdoing. Case management is therefore as important as data gathering.

Ideally, one would want to have one central organizational point – the Senior Officer for disclosure, in the case of a public sector organization – that is aware of all reports that enter the whistleblowing system, and that sees to it that all reports are followed up and investigated (where applicable) in an appropriate manner. Several interviewees noted that the use of multiple channels for the reporting of wrongdoing – which, as noted above, is generally regarded as a positive feature of a reporting system – can create barriers to effective case management. In an organization where some employees may choose to make reports to the Senior Officer for disclosure, while others might go to the Director of Human Resources, others to the Director of Legal, etc., the degree of coordination and information-sharing required to ensure that one senior officer in the organization is able to oversee all significant reporting activity is very high. Indeed, experience with case management across multiple reporting channels has convinced some interviewees that the necessary degree of coordination cannot, as a practical matter, be achieved. One private sector interviewee observed that "trying to tie it all together is a major challenge." Another private sector interviewee said that his company is reviewing their current practice of making multiple channels available to employees for reporting wrongdoing because "case management becomes impossible. There are issues of consistency of treatment from case to case, and apart from that it just becomes very difficult for me to track what is going on across the organization."

E.　The Relevance of External Provision to the Effectiveness of a Whistleblower Reporting System.

It was observed in Section C that three arguments – arguments related to identity, competence and convenience – are typically offered as the foundation for claiming that an external provider improves the effectiveness of a whistleblower reporting system. The analysis in Section D provides a basis for testing the relevance of these arguments against the actual experiences of persons directly involved in operating a whistleblower reporting system. If interviewees identified issues that were strongly related to at least one of the three arguments offered in favor

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[17] The PSIO's first Annual Report argued that public service leaders have not done enough to help create a positive image for whistleblowing in the public service. The PSIO recommended that executives should declare, openly and often, that "disclosure of wrongdoing demonstrates a valuable and even indispensable contribution to an open, honest and accountable Public Service." (See p. 41 of the Report.)

of external provision, then it would be reasonable to conclude that external provision may help make a reporting system more effective.

As noted in Section D, many interviewees indicated that potential whistleblowers – especially in the public sector – strongly fear loss of confidentiality and reprisal. They do not trust their own organizations to respect confidentiality and to protect them from the possible negative consequences of whistleblowing. This suggests that the argument related to the identity of the organization operating a whistleblower reporting system (see p. 3) is the most relevant of the three arguments to the actual situation in the public sector. If many employees do not have faith in the capacity or willingness of their own organization to run a credible whistleblowing system, then it follows that moving whistleblower reporting systems and procedures outside of the organization *may* increase confidence in the system, leading to greater use and a more effective system.

The argument based on identity is indeed the reason most frequently cited, both by providers and users of external reporting systems, for choosing to contract out the operation of a reporting system. Most interviewees whose organizations use an external provider echoed the statement of one interviewee who said that a third party "adds credibility" to the system and "sends a strong signal" to staff about management's commitment to confidentiality and protection from reprisal. Some (though not all) of the public-sector officials interviewed for this study found this line of reasoning to be plausible. On the other hand, interviewees from private sector organizations that do not use external providers held the contrary view, arguing that staff in their company generally trusted the company-managed system.

It should be emphasized that the argument based on identity is founded more on intuition and anecdotal reports than on rigorous empirical evidence. While many interviewees said that they *believed* that the use of an external provider generates greater confidence in the reporting system, none offered any firm evidence that this was so. The research undertaken for this report uncovered no literature demonstrating a correlation between external provision and increased willingness of employees to use a reporting system. And indeed, the evidence from the Deloitte/*Corporate Board Member* survey (see Fig. 2) suggests that very few employees actually use whistleblower reporting systems under any circumstances.

If fears about confidentiality and reprisal are the dominant factors affecting the willingness of public-service employees to report on wrongdoing, then it is unlikely that the use of an external provider would, on its own, be sufficient to alleviate these fears (although it might reduce the level of anxiety). Two issues are pertinent here. *First,* as noted, the interviews suggest that many public-service employees assume, *even in cases of anonymous reports of wrongdoing*, that colleagues will be able to deduce the origin of the report. This concern would, presumably still apply in a situation where the reporting system was externally operated. *Second*, the external provider serves merely as an intermediary between the employee who makes a report of wrongdoing and the employee's organization. In a typical scenario, (see p. 2), the information provided by the employee to the external provider is then handed over to management of the employee's organization. It is certainly conceivable that employees would remain anxious about confidentiality and reprisal under these circumstances.

On the other hand, the interviews also indicate a strong belief that perceptions and emotions are an important factor affecting employees' willingness to report on wrongdoing. If – as many interviewees suggested – the use of an external provider creates a favorable *perception* within the organization about the integrity of the reporting system, then it is reasonable to assume that this would contribute to a more effective system.[18]

The other two major arguments in favor of external provision of reporting services – the arguments related to capacity and convenience – were relevant to issues raised by private sector interviewees, but less relevant to issues raised by public sector interviewees. As noted above (see p. 1), publicly-traded companies that issue securities in the US suddenly found themselves – following the recent enactment of the *Sarbanes-Oxley* legislation – facing a legal requirement to implement an anonymous system for employee reporting of accounting and audit irregularities. As the two surveys cited earlier in this report indicate, many US companies opted to contract out the management of a whistleblower reporting service. Interviews suggest that this was seen as a convenient solution to the problem – both in terms of farming out the administrative burden of operating the system and in terms of avoiding having to invest quickly in building internal capacity to operate the system.

An interviewee with a Canadian government Department that uses an external provider observed that value is added in terms of administrative convenience. The provider plays a useful role in screening initial reports of wrongdoing, many of which deal with human-resources grievances or other matters that are best handled through policies other than the *Policy on Internal Disclosure.* Generally speaking, however, issues of capacity and convenience were given less importance by public sector interviewees. The likely explanation is the absence of the sudden regulatory "push" to implement whistleblower reporting systems that was felt in the private sector. Under the particular set of circumstances faced by organizations in the Canadian federal government, the argument about the identity of the external provider is therefore much more compelling than the arguments about convenience and capacity.

Several interviewees in public and private-sector organizations that do not use an external provider of whistleblowing services questioned the validity of the argument based on capacity. They felt that an external provider would never have the level of understanding of the organizational and cultural subtleties of their company or Department that would be required in order to be effective at gathering information from a whistleblower.

F.   Implications for Departments

Any decision by a Department to opt for external provision of a whistleblowing reporting system should be based on a judgment about whether a system managed by an external provider will be more "effective" (as defined on p. 3) than a system that is managed internally. The analysis in Sections D and E is far from conclusive, but it does suggest that inserting an independent organizational intermediary between the whistleblower and his Department *might* have a positive impact. The analysis suggests that the use of an external provider *might* increase employees'

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[18] An interviewee from a Canadian government Department that uses an external provider took the opposite view. He concluded that even with the use of an external provider, "the general perception [among employees] is that it is not a confidential process."

level of comfort with whistleblowing, and *might* therefore enhance the effectiveness of a Department's whistleblower reporting system.

Arriving at a more definitive conclusion is hampered both by limited experience in the Canadian government with the use of external providers of whistleblower reporting systems, and by the apparent absence of research proving a correlation between external provision and increased employee confidence in a whistleblower reporting system. On the other hand, the perceptions of many of the persons interviewed for this study suggest that it is reasonable to assume that such a correlation may exist under circumstances that are typical in the federal government – i.e. widespread concern among staff about the confidentiality of whistleblower disclosures and about reprisals for whistleblowing. Therefore, it would be reasonable for Departments to believe that contracting out the management of a whistleblower reporting system *may* make staff feel more comfortable about reporting wrongdoing, and that external-party provision might thus have a positive impact on the effectiveness of a Department's reporting system.

The analysis in Section D suggests that any decision by a Department to opt for external provision of whistleblower reporting systems should not be made in isolation, but should take into account other key factors that are likely to have an impact on the effectiveness of the whole whistleblowing system (of which the reporting system is one component). The following issues are especially important:

- *Communicate with Staff about Whistleblowing.* External provision of whistleblower reporting services may reduce employees' level of concern about confidentiality and reprisal, but it is unlikely that these fears will ever be entirely eliminated. It would be important for Departmental leaders to continue to communicate credibly, frequently and in a high-profile manner with staff about the value they attach to whistleblowing, as well as about their commitment to do as much as possible to respect the confidentiality of whistleblowers, and to protect them from reprisal. Communication is also important simply in order to make employees aware of the existence of a whistleblower reporting system and to remind them to use it. Research on whistleblower reporting systems in the US (see p. 1) has shown that they are rarely used by employees. A low level of employee awareness about the availability of the system and its manner of operation (as well as concerns about reprisal) is believed to be a significant explanatory factor.

- *Maintain Multiple Reporting Channels.* Even if an externally-managed whistleblower reporting system is implemented, the evidence from the interviews suggests that it is important to leave open other internal channels by which employees can report on wrongdoing. Interviewees from organizations that use external providers observed that some employees continue to feel more comfortable using traditional internal channels – e.g. ombudsman, supervisor, or colleagues in the Legal, Human Resources, or Audit Departments – for reporting on wrongdoing. Leaving multiple channels for reporting open to employees – even though this creates challenges for case management (see p.7) – helps to make it as easy and as comfortable as possible for employees to report on wrongdoing.

- *Give as Much Emphasis to Case Management as to Employee Reporting.* The point of a corporate whistleblowing system is not only to gather reports from employees but also to act

upon the information that employees provide. In organizations that provide employees with multiple channels for reporting wrongdoing, it is critically important to implement a system for case management that minimizes the possibility that cases will "slip between the cracks", or that different parts of the organization will treat similar types of wrongdoing in an inconsistent manner. The case management system should make it possible for one central office within the organization to track all reports of wrongdoing from the moment that a file is opened until it is closed.

Annex 1 – Methodology

The report is based primarily on interviews – some conducted in person, and others conducted over the telephone – with 25 officials representing 21 - organizations: 11 private sector companies, 8 federal government Departments and 2 Crown Corporations (the list of organizations is found in Annex 2). The list of interviewees was drawn primarily from the membership list of the Conference Board of Canada's Corporate Ethics Management Council, and from the participant list of the January 2004 meeting of the Learning Network on Values and Ethics within the federal government. Interviewees were either directly responsible for, or closely involved with, systems for the reporting of wrongdoing within their organizations.

Of the 21 organizations that were contacted for this study, 6 used an external provider of whistleblower reporting services. Of these, five were in the private sector and one was a federal government Department.

The research also included an internet-based search for information on experiences with, and availability of, external-party provision of whistleblower reporting services.

With respect to the interviews, there was no set questionnaire, but all discussions covered the following general points:

- the main features of the system for the reporting of wrongdoing in the workplace at the interviewee's organization;

- major factors contributing to/working against the successful operation of the reporting system;

- perspectives on the value of using an external party to run a whistleblower reporting system;

    o organizations that do not use an external party were questioned about why they had chosen not to do so, and whether they might consider doing so in the future;

    o organizations that do use an external party were questioned about their experiences and lessons learned.

Annex 2 – List of Organizations Interviewed

1.	Alcan
2.	Business Development Bank of Canada
3.	Canadian Heritage
4.	Canadian International Development Agency
5.	CIBC
6.	Citizenship and Immigration Canada
7.	Dell Computer
8.	Department of National Defense
9.	Export Development Canada
10.	Foreign Affairs Canada
11.	General Electric Canada
12.	Health Canada
13.	Indian and Northern Affairs Canada
14.	International Trade Canada
15.	Nortel
16.	Sun Life Assurance Co. of Canada
17.	TD Bank Financial Group
18.	Telus
19.	The Bank of Nova Scotia
20.	TransCanada
21.	Vancouver City Savings Credit Union

Annex 3 – Sample List of Providers of Whistleblower Reporting Systems

The following is a sample list of 17 providers of whistleblowing reporting services[19].

AlertLine	www.ci-pinkerton.com/workplace/alertline.html
Bison Security Group	www.bgscorp.com/confidenceline.html
BMCI Investigations and Security	http://www.bmciconsulting.com/security_company_main.htm
Clearview Strategic Partners	www.clearviewpartners.com
ComplianceLine	www.complianceline.com
Edcor	www.edcor.com/services/compliance.html
EthicsAlert	www.steelefoundation.com/pdf/EA_Overview.pdf
EthicsPoint	www.ethicspoint.com/en/default.asp
Global Compliance Services	www.globalcomplianceservice.com
inTouch	www.getintouch.com/services.htm
KPMG Whistleblower Line	www.kpmg.ca/en/services/forensic/whistleblowerline.html
MessagePro	www.messagepro.net/ethics.html
National Hotline Services	www.hotlines.com/comp.htm
Ruskin & Associates	www.complianceofficer.com/webhotlines.htm
Shareholder.com	www.shareholder.com/home/Solutions/Whistleblower.cfm
Silent Whistle	www.silentwhistle.com
The Network	www.tnwinc.com/tnw_overview.asp

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[19] All of the names except for BMCI were obtained by doing an internet search using the following keyword combinations: "ethics hotline", "confidential hotline"; "compliance hotline", "whistleblower hotline". Information about BMCI was obtained from one of parties interviewed for this study.

Annex 4 – Issues Related to Selecting an External Provider

One interviewee, an official with a large private-sector corporation, provided a detailed description of the features that his organization was looking for when it selected an external provider for its whistleblower reporting service. He emphasized three issues:

- *Training and qualifications of the staff.* It was seen as critically important that the staff who interacted directly with whistleblowers had a sophisticated understanding of human behavior and were skilled in interviewing techniques. The company looked especially for staff with university-level qualifications in disciplines such as sociology and psychology.

- *Speed of processing reports.* The company sought data on the speed with which the contractor was able to process reports and pass them along to management.

- *Capacity to categorize and prioritize reports.* The company looked for evidence that the provider's staff were well trained in coding reports properly (so that they were passed on to the appropriate people in the company) and in prioritizing reports (so that management's attention was drawn first to the most urgent reports of wrongdoing).

Before making its final decision about selecting a provider, the company undertook the following kinds of investigations:

- visited the provider's call center operations;

- interviewed the provider's staff;

- ensured that the provider had an emergency back-up center (in the event of a power failure or other catastrophic event at the provider's main call center);

- assessed the provider's staff-training content and procedures;

- interviewed the provider's clients;

- arranged with the provider to make "test calls" to the provider's call center, to witness a live example of how a call was handled.