ETHICS & COMPLIANCE INITIATIVE

Ethics **Research** Center

INCREASING EMPLOYEE REPORTING FREE FROM RETALIATION

Insights From The National Business Ethics Survey® 2013

A Research Report from the National Business Ethics Survey® (NBES® 2013)

The Ethics Research Center (ERC) is America's oldest nonprofit organization devoted to independent research to advance high ethical standards and practices in public and private institutions. Recognized as the industry's leading research group, ERC analyzes current and emerging issues to produce new ideas and benchmarks.

The Ethics Research Center is part of the Ethics & Compliance Initiative.

ETHICS & COMPLIANCE INITIATIVE

Leading the Movement for Responsible Organizations Worldwide

For more information, please contact:

Ethics Research Center
2345 Crystal Drive, Suite 201
Arlington, VA 22202

Telephone: 703.647.2185 | FAX: 703.647.2180
www.ethics.org | ethics@ethics.org

ABOUT THIS STUDY

A RESEARCH REPORT FROM THE NATIONAL BUSINESS ETHICS SURVEY® (NBES® 2013)

The National Business Ethics Survey® (NBES®) generates the U.S. benchmark on ethical behavior in corporations. Findings represent the views of the American workforce in the private sector. Since 1994, the NBES and its supplemental reports have provided business leaders a snapshot of trends in workplace ethics and an identification of the drivers that improve ethical workforce behavior. With every report, ERC researchers identify strategies that business leaders can adopt to strengthen ethics cultures.

To view past issues of the NBES, please visit our website at www.ethics.org/nbes.

To support the NBES or other ERC research projects, please visit our website www.ethics.org/donate.

THIS REPORT IS PUBLISHED BY THE ETHICS RESEARCH CENTER,

PART OF THE ETHICS & COMPLIANCE INITIATIVE

AND IS MADE POSSIBLE IN PART BY SUPPORT FROM OUR SPONSOR:

KPMG International's trademarks are the sole property of KPMG International and their use here does not imply auditing by or endorsement of KPMG International or any of its member firms.

EXECUTIVE SUMMARY

Managing the risk of non-compliance is among corporate leaders' most important responsibilities. One way to minimize this risk is to create an environment where employees feel that they can alert leadership when problems arise without punishment through retaliation. High rates of reporting give companies a chance to identify and root out systemic problems. Low rates of retaliation tend to boost reporting because workers feel it is safe to report what they see. In combination, high reporting levels and low retaliation rates can create a virtuous cycle that reduces future misconduct and organizational risk.

Given the importance of reporting and retaliation, we, the Ethics Research Center (ERC), dug deeper into the data from our most recent National Business Ethics Survey® (NBES®) to find out what companies can do to influence these key behaviors. The bottom line: companies that manage their own ethics and compliance risks are able to do so through effective Ethics and Compliance (E&C) Programs and the development of strong ethics cultures. Accountability is a key ingredient in those organizations; where fairness is perceived and violators at all levels are held accountable, the likelihood of retaliation against reporters is lessened. When organizations do not take on these efforts, retaliation in particular becomes a risk unto itself.

Highlights from the findings include the following:

- Reporting rates soar in companies with effective E&C Programs. More than eight of ten workers (84 percent) report misconduct in companies with the most effective programs, compared to 33 percent in companies where programs are weakest or do not exist at all.

- When workers do not report in companies with effective programs it is usually because the problem has already been taken care of either by themselves or another employee.[1] All told, 97 percent of observed misconduct is either reported or taken care of by employees — only three percent of violations are allowed to pass without some notice in companies with effective programs.

- Reporting is high in companies with strong ethics cultures (and companies with effective E&C Programs are also more likely to have strong ethics cultures). Eighty percent of employees report observed misconduct when ethics cultures are strong, compared to 55 percent in weak ethics cultures.

- Confidence in management is another key motivator. Employees report misdeeds 71 percent of the time when they believe top management is committed to ethics and 69 percent of the time when supervisors are committed to ethics, compared to 56 percent of the time when ethics appears to be a lower priority.

- Employees are less likely to report when misconduct involves those with more authority. When non-managers are the primary offenders, 67 percent of employees report, but when the primary offenders are top managers or middle managers, 59 percent report the misconduct.

---

1. Resolution entails any of three responses to an observation of misconduct: reporting, not reporting because the individual handled the issue on their own, and not reporting because someone else addressed the issue.

- Employees are less likely to report when misconduct is more pervasive. When misconduct is ongoing or company-wide, reporting rates are 59 percent and 57 percent, respectively. However, when misconduct is an isolated incident or involves a single person, reporting rates are 65 percent and 66 percent, respectively.

- Effective E&C Programs mean less retaliation. Only four percent of reporters experience retaliation in companies with the most effective programs, whereas 53 percent of reporters say they face retaliation in companies without effective E&C programs.

- Management behavior has a significant impact on retaliation as well. Only about one in 20 employees suffer from retaliation in companies where senior leaders share credit, are perceived as doing the right thing, or treat all employees well. But retaliation rates climb to near 50 percent in instances when any of those behaviors are absent.

- When employees at all levels are held accountable, retaliation is not as prominent. The retaliation rate is only 16 percent when managers are held accountable compared to approximately 40 percent when managers are not held accountable.

The evidence is clear. Organizations with effective E&C Programs that build strong ethics cultures are places where employees feel confident in doing the right thing when faced with an ethical situation. They are also seen to be workplaces where employees are less likely to retaliate against one another. Higher reporting and lower retaliation are good for companies and employees alike. Effective E&C Programs and strong ethics cultures are investments that pay off.

INCREASING EMPLOYEE REPORTING FREE FROM RETALIATION:
Insights From The National Business Ethics Survey 2013

Managing the risk of non-compliance is one of corporate leaders' most important responsibilities. Ethics and compliance violations can hurt the bottom line in part due to the legal fees, fines, and other sanctions that add costs and divert energy from the business. Additionally, loss of trust and reputation impact a brand's image and can harm relationships with existing and potential customers, clients, and partners.

Few efforts are more critical for tackling ethics and compliance risk than encouraging employees to report rules violations when they see them. Reporting, as well as the frequency of retaliation against those who report misconduct, may tell as much as observed misconduct about future ethics performance and whether it is likely to improve or worsen.

WHY DO REPORTING AND RETALIATION MATTER?

High rates of reporting give companies a chance to identify and address systemic problems. They also indicate that workers will not tolerate bad behavior and that they have the confidence to blow the whistle. The combination of high rates of reporting and low retaliation rates can create a climate that reduces future misconduct.

Our data show that low reporting rates, by contrast, are primarily due to employees' lack of confidence that their report will make a difference, to uncertainty that their identity will remain confidential, and to fears of retaliation or awareness or experience of retaliation in the past. Our data also show that some

misconduct is ignored because employees do not always understand the rules well enough to realize they were broken (23 percent of non-reporters said they did not report because at the time they did not believe the observed behavior was a type of misconduct).

Retaliation rates matter because they affect workers' willingness to report misconduct. Employees who feel safe from retaliation are more likely to report. Ninety-six percent of those who say the company does not retaliate against reporters say they will report in the future compared to 78 percent of those who believe the company retaliates. While most reporters who have experienced retaliation claim they will report again in the future (86 percent) should the need arise, a significant number (14 percent) of those who have faced retribution say they are more likely to turn a blind eye the next time a colleague breaks the rules versus five percent of those who did not experience retaliation.

Given the importance of reporting and retaliation, we, the Ethics Research Center (ERC), dug deeper into the data from our most recent National Business Ethics Survey® (NBES®) to find out what actions companies can take to boost reporting and reduce retaliation. Our findings show that companies have the ability to change their ethics environment, encourage reporting, and reduce retaliation, trimming their business risks in the process.

REPORTING & RETALIATION QUICK FACTS

✧ Reporting and retaliation rates have been steady since 2011

✧ In 2013, 63 percent of those who observed misconduct reported it

✧ Among reporters, roughly one in five (21 percent) experienced retaliation as a result

✧ Among non-reporters, 53 percent cited fear or knowledge of retaliation as a reason for not reporting

EFFECTIVE ETHICS AND COMPLIANCE PROGRAMS ARE KEY

Among all workers surveyed for NBES 2013, 63 percent said they reported misconduct when they saw it. But reporting rates were much higher in companies with effective E&C Programs.

In companies with the most effective programs – those with all six of the key measures present (see sidebar below) – more than eight of ten employees (84 percent) blow the whistle on violations, which is a 50 percentage point payoff compared to companies where programs are the weakest (i.e., where employees indicated that their company's program lacked key effectiveness attributes or were unsure if the company had them).

REPORTING INCREASES WITH THE EFFECTIVENESS OF PROGRAMS

PERCENTAGE OF EMPLOYEES WHO REPORTED THE MISCONDUCT THEY OBSERVED

NUMBER OF PROGRAM EFFECTIVENESS MEASURES PRESENT
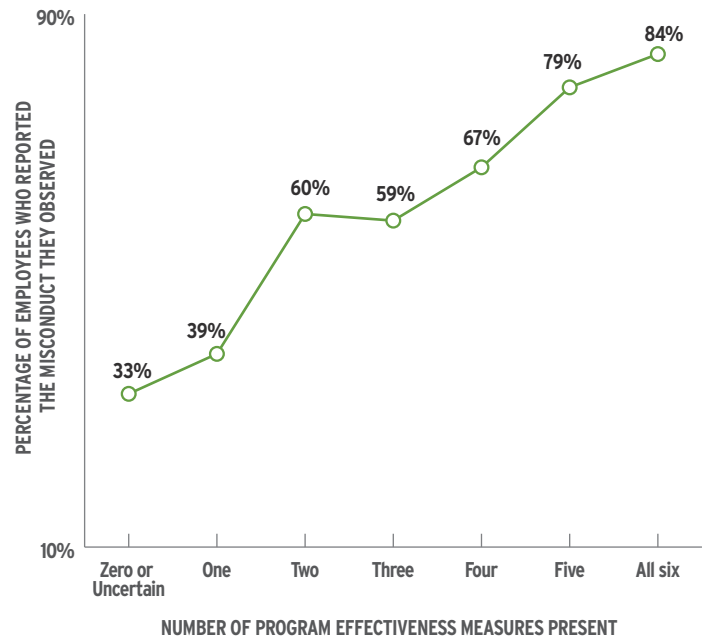
WHAT IS A WELL-IMPLEMENTED ETHICS & COMPLIANCE PROGRAM?

A well-implemented program is both **comprehensive** and **effective**.

Comprehensive Ethics and Compliance Programs (E&C Programs) include six key elements: 1) written standards of ethical workplace conduct; 2) training on the Standards of Conduct; 3) company resources that provide advice about ethics issues; 4) a means to report potential violations confidentially or anonymously; 5) performance evaluations of ethical conduct; and 6) systems to discipline violators.

(NOTE: The study cited here (NBES® 2013) did not include an in-depth investigation of these elements and their impact.)

Effective E&C Programs are vital, living parts of a company's ethos and way of doing business. Effective programs ensure that ethical conduct is rewarded and that employees know how, and feel supported in their efforts, to uphold ethics standards in their work. ERC measures six hallmarks of a company with an effective ethics and compliance program: 1) freedom to question management without fear; 2) rewards for following ethics standards; 3) not rewarding questionable practices, even if they produce good results for the company; 4) positive feedback for ethical conduct; 5) employee preparedness to address misconduct; and 6) employee willingness to seek ethics advice.

TRAINING MAKES A DIFFERENCE

Confidence and knowledge are associated with increased reporting. Employees who say that they are equipped to handle ethics issues have greater confidence that their company will take action against those who commit misconduct. They also are far more likely to report (72 percent) than those who say they are not prepared to handle ethics issues (46 percent).

Training on ethics and compliance standards is an important factor in helping employees to feel this confidence, and also to know what to do if/when ethics and compliance violations arise. While topics and methods vary from organization to organization, the purpose of this training is three-fold: 1) to help employees recognize the values of the organization and conduct that oversteps the regulations and laws relevant to their area of work; 2) to increase employees' knowledge of the actions they are expected to take if/when they observe wrongdoing; and 3) to educate employees about what actions the company will take when it receives a report of potential misconduct. Importantly, effective training also addresses the company's stance on retaliation against employees who report – communicating that retaliation is a form of misconduct that will be treated as a violation of the company's values.
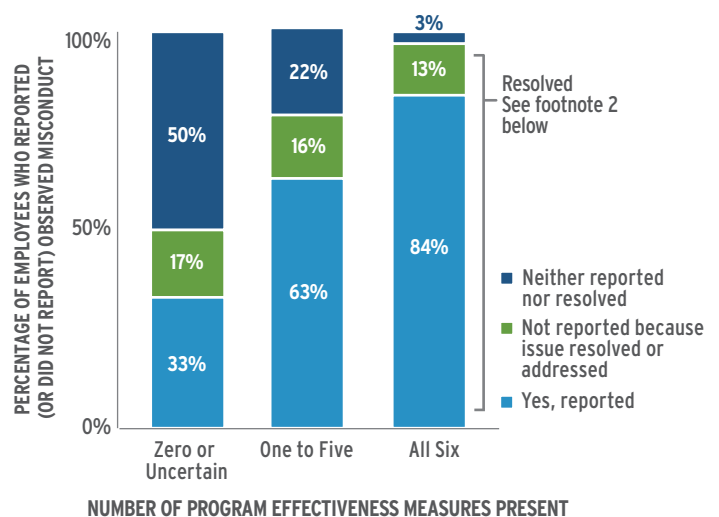
In companies that do not provide ethics training, reporting is less likely; 49 percent report compared to 67 percent who report in companies that provide such training. In companies without ethics training, 62 percent who did not report said it was because they did not believe corrective action would be taken in response; whereas in companies with ethics training, 52 percent who did not report cited that as a reason for not reporting. In the absence of training, employees appear less likely to believe that management cares enough to address misconduct.

IMPACT OF DIRECT INTERVENTION

Non-reporting does not always indicate ethics shortcomings, especially when programs are effective. Eighty percent of non-reporting employees in companies with effective programs said that they did not report misconduct they observed because they already had resolved the issue and/or someone else had already addressed it.

If we consider resolution[2] of observed misconduct more broadly, we find that in companies with all six indicators of an effective program, 97 percent of observations are reported or addressed by the employee or another employee. Less than three percent of violations are allowed to pass without notice in companies with effective programs. In companies where programs are not effective, 50 percent of observations go unreported or are unresolved.

REPORTING INCREASES WITH THE EFFECTIVENESS OF PROGRAMS

PERCENTAGE OF EMPLOYEES WHO REPORTED (OR DID NOT REPORT) OBSERVED MISCONDUCT

Zero or Uncertain: 33% Yes, reported; 17% Not reported because issue resolved or addressed; 50% Neither reported nor resolved

One to Five: 63% Yes, reported; 16% Not reported because issue resolved or addressed; 22% Neither reported nor resolved

All Six: 84% Yes, reported; 13% Not reported because issue resolved or addressed; 3% Neither reported nor resolved

Resolved
See footnote 2 below

■ Neither reported nor resolved
■ Not reported because issue resolved or addressed
■ Yes, reported

NUMBER OF PROGRAM EFFECTIVENESS MEASURES PRESENT

2. Resolution in this broader sense entails any of three responses to an observation of misconduct: reporting, not reporting because the individual handled the issue on their own, and not reporting because someone else addressed the issue.

Such direct intervention by employees is a bit of a good news/bad news conundrum. Quick resolution can be a positive action that nips wrongdoing in the bud and signals that rules violations will not be tolerated. But, such ad hoc solutions may be ineffective or inappropriate in some instances. In those circumstances, containing the problem without alerting higher management might unintentionally block senior leaders from learning about and addressing systemic issues. Ideally, workers who address problems personally would also report the misconduct, if only to ensure a beneficial flow of internal information to guide decision-making about measures to encourage reporting and limit retaliation.

STRONG ETHICS CULTURES BOOST REPORTING

The strength of organizational ethics cultures also makes a significant difference in reporting levels. Eight of ten employees (80 percent) in strong or strong-leaning ethics cultures say they report

wrongdoing when they see it, compared to a 55 percent reporting rate where company ethics cultures are weak or weak-leaning. The commitment of workers at every level – from non-management to senior-most leaders – makes a difference, although the impact of culture on reporting is more profound the higher the commitment originates.

REPORTING MORE FAVORABLE WITH STRONG LEADERSHIP CULTURE

STRONG ETHICS CULTURE INDICES
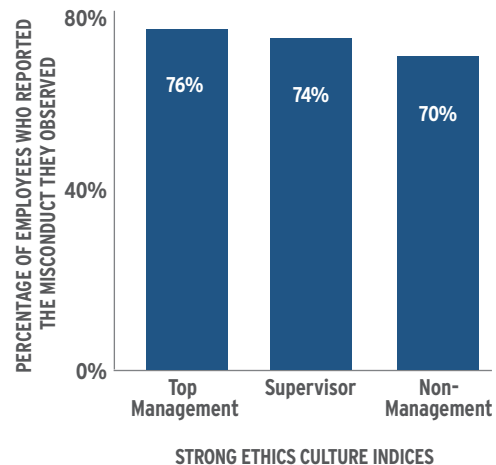
WHAT IS ETHICS CULTURE?

Culture is another way of referring to "the way things are done around here."

In business, culture encompasses everything from how employees dress, to the way they work with customers, and their interactions with those to whom they report.

Ethics is a component of culture. The NBES® measures critical aspects of ethics culture, including: management's trustworthiness, whether managers at all levels talk about ethics and model appropriate behavior, the extent to which employees value and support ethical conduct, accountability, and transparency.
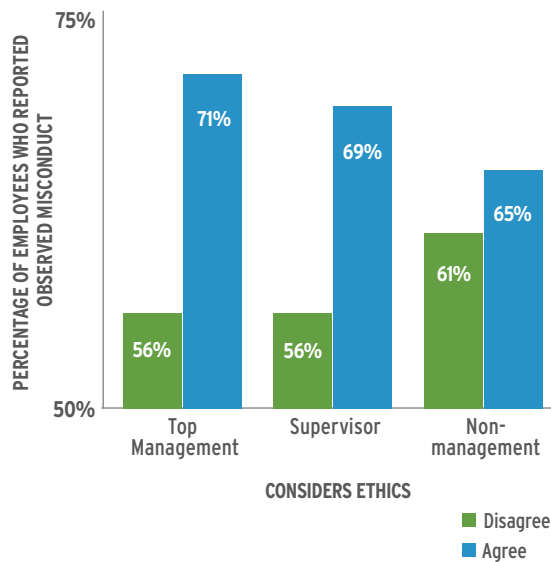
The strength of ethics culture indicates the extent to which employees at all levels of the company are committed to doing what is right and successfully upholding values and standards.

Ethics Culture includes:
  - Ethical leadership - tone at the top
  - Supervisor reinforcement of ethical behavior
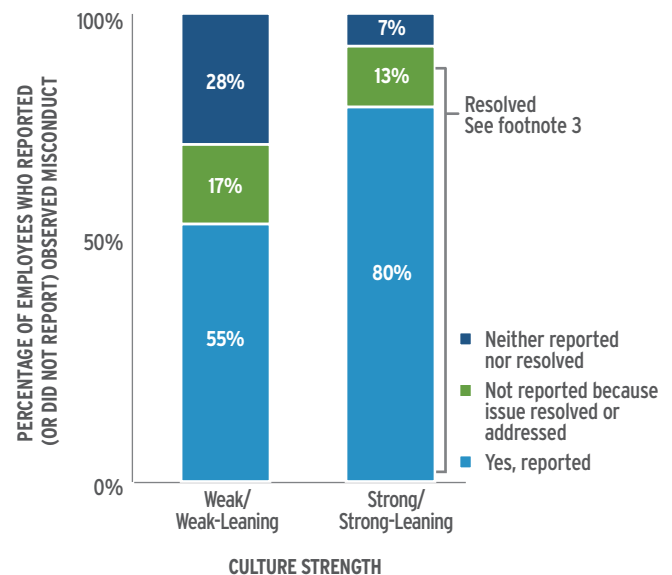 - Peer commitment - supporting one another in doing what is right

For example, employees are more likely to report misconduct when they see top management and/or their supervisor considering ethics when making decisions, compared to when they see their coworkers considering ethics in their decision-making.

In companies with strong and strong-leaning ethics cultures, 93 percent of observed misconduct was resolved.[3] This is 21 percentage points better than in companies with weak or weak-leaning ethics cultures where 72 percent of observed misconduct was resolved. As in companies with effective programs, the reason cited most by employees for not reporting in strong or strong-leaning ethics cultures is because someone else had already addressed the problem (49 percent).

EMPLOYEES REPORT WHEN THEY BELIEVE OTHERS, ESPECIALLY MANAGEMENT, CONSIDER ETHICS

Y-axis: PERCENTAGE OF EMPLOYEES WHO REPORTED OBSERVED MISCONDUCT (50% to 75%)

- Top Management: Disagree 56%, Agree 71%
- Supervisor: Disagree 56%, Agree 69%
- Non-management: Disagree 61%, Agree 65%

X-axis: CONSIDERS ETHICS

Legend: ■ Disagree ■ Agree

REPORTING MORE FAVORABLE IN STRONG CULTURES

Y-axis: PERCENTAGE OF EMPLOYEES WHO REPORTED (OR DID NOT REPORT) OBSERVED MISCONDUCT (0% to 100%)

- Weak/Weak-Leaning: Yes, reported 55%; Not reported because issue resolved or addressed 17%; Neither reported nor resolved 28%
- Strong/Strong-Leaning: Yes, reported 80%; Not reported because issue resolved or addressed 13%; Neither reported nor resolved 7%

Resolved — See footnote 3

X-axis: CULTURE STRENGTH

Legend:
- ■ Neither reported nor resolved
- ■ Not reported because issue resolved or addressed
- ■ Yes, reported

3. Resolution in this broader sense entails any of three responses to an observation of misconduct: reporting, not reporting because the individual handled the issue on their own, and not reporting because someone else addressed the issue.
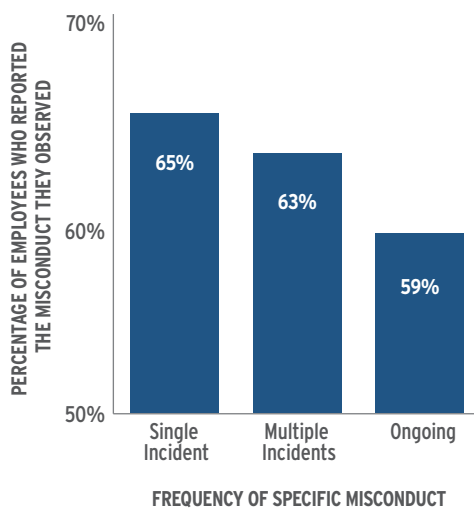
EMPLOYEES MAY BE "SPEECHLESS" IN A NEGATIVE ENVIRONMENT

In some companies, the frequency and breadth of misconduct can be so overwhelming that large percentages of employees feel helpless and decide to look the other way instead of reporting.
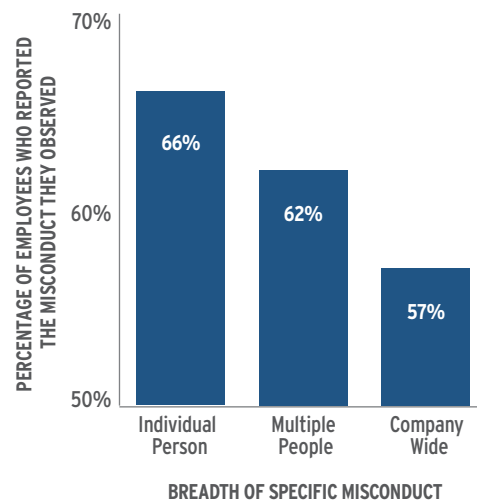
The pattern is clear: when misconduct is ongoing, is more widespread within a company, or involves senior leaders, reporting declines. Employees who would willingly report individual violations or those by a lower level worker become more reticent as the infractions grow more common or involve senior leaders. For example, 66 percent of employees report when misconduct is less pervasive, but the percentage who report falls to 57 percent when violations are company-wide.
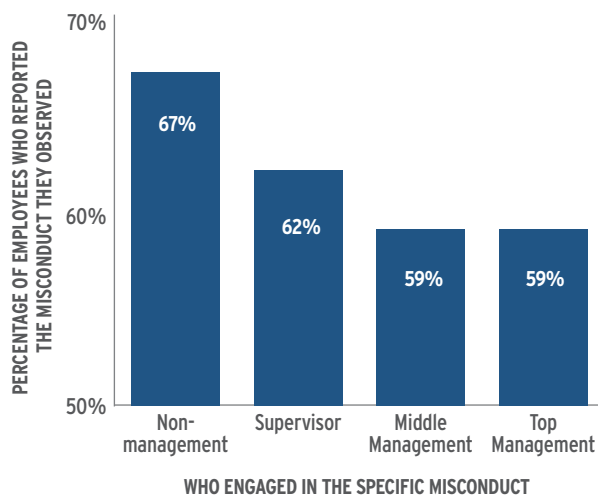
REPORTING DECREASES AS THE FREQUENCY OF MISCONDUCT INCREASES

PERCENTAGE OF EMPLOYEES WHO REPORTED THE MISCONDUCT THEY OBSERVED

- Single Incident: 65%
- Multiple Incidents: 63%
- Ongoing: 59%

FREQUENCY OF SPECIFIC MISCONDUCT

REPORTING DECREASES AS THE BREADTH OF MISCONDUCT INCREASES

PERCENTAGE OF EMPLOYEES WHO REPORTED THE MISCONDUCT THEY OBSERVED

- Individual Person: 66%
- Multiple People: 62%
- Company Wide: 57%

BREADTH OF SPECIFIC MISCONDUCT

REPORTING DECREASES AS THE PERPETRATOR OF MISCONDUCT HAS MORE AUTHORITY

PERCENTAGE OF EMPLOYEES WHO REPORTED THE MISCONDUCT THEY OBSERVED

- Non-management: 67%
- Supervisor: 62%
- Middle Management: 59%
- Top Management: 59%

WHO ENGAGED IN THE SPECIFIC MISCONDUCT

WORKERS REPORT INTERNALLY WHEN ETHICS AND COMPLIANCE PROGRAMS AND ETHICS CULTURES ARE STRONG

Historically, employee decision-making about where to report has been associated with program effectiveness and strength of ethics cultures.

In companies with less effective programs and weaker ethics cultures, employees are much more likely to take their concerns to outsiders. Employees give multiple reasons for reporting externally, but the most commonly cited reasons are the belief that the problem is ongoing (50 percent) (which we found is more likely in weak cultures) and a lack of trust in the company (45 percent). Fear of losing one's job (40 percent), past retaliation for reporting (40 percent), concern that the problem would harm people and/or the environment (39 percent), and dissatisfaction with the company's response to an internal report (36 percent) are other oft-cited reasons reasons that employees decide to report externally. It is worth noting that the potential for a monetary reward was the least cited reason; the potential for a bounty motivated only 14 percent of external reporters. [4]

We also found that when programs are less effective, employees often report both internally and externally. Eight of ten (81 percent) employees in companies with the weakest programs report internally first, but a large percentage of employees in companies with the weakest programs also report externally. All told, nearly half (46 percent) of reporters in companies with the least effective programs ultimately report externally. In contrast, in companies with the most effective programs, 97 percent of employees share their complaints internally first and almost as many

(94 percent) only report to internal authorities.

COMPANIES WITH EFFECTIVE PROGRAMS HAVE MORE INTERNAL REPORTING
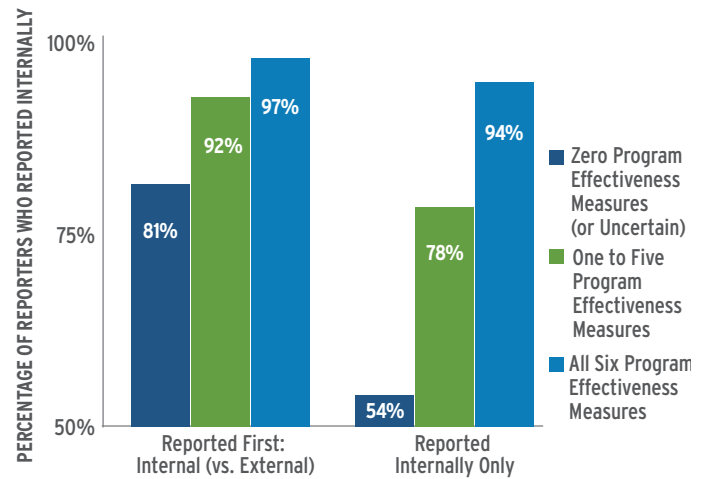
When employees feel prepared to handle situations that could potentially lead to ethics violations, they are more likely to report misconduct through internal channels, whether it is their only means of reporting or just the first location they report to. [5]

WHEN EMPLOYEES FEEL WELL-PREPARED THEY ARE MORE LIKELY TO REPORT INTERNALLY

---

4. However, analysis of NBES® 2011 data revealed that those motivated by monetary rewards, albeit a small percentage of all reporters, may be critical as they tend to be from demographics that underreport. In essence, while only a handful of reporters are motivated by bounty, such rewards might still be a valuable tool for encouraging those who would otherwise remain silent.
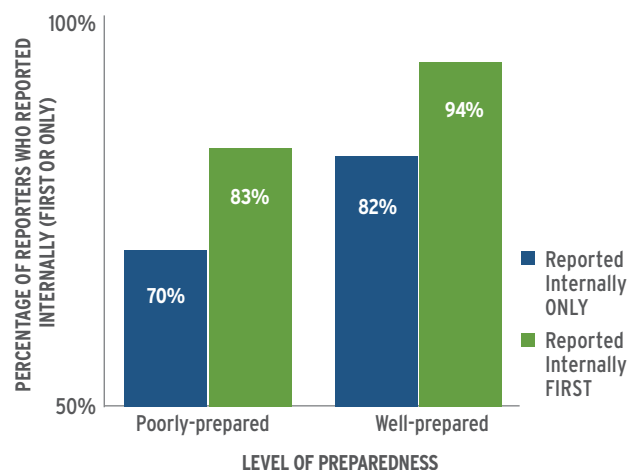
---

5. *First* report is based on the question, "To whom did you first report?" *Only* report is a created variable based upon the survey taker's reporting locations.

Weak ethics cultures also seem to drive external reporting at the expense of internal reporting. One of ten employees in weak ethics cultures report misconduct externally before reporting internally. That is double the rate of external-first reporting in companies with strong ethics cultures.

Past ERC research[6] has shown consistently that employees prefer to report problems internally to someone they know and feel comfortable with. Since first studying this issue in NBES 2007, we have found that managers are the recipient of misconduct reports over 75 percent of the time. In 2013, 92 percent of employees first reported internally and 82 percent reported to their supervisor at some point.

External reporting can be viewed as less beneficial because company leadership lacks the awareness and control to appropriately address the concerns. When employees report outside the company, they may unintentionally undermine their company's ability to respond to problems quickly and effectively.

Additionally, companies where employees only report internally can be confident that employees feel safe to report their concerns to management.

GOVERNMENT AS A REPORTING OPTION

Relatively few employees take their concerns to the government or a regulatory authority. In comparison to other reporting channels, only four percent of reports are made to the government. Most employees who make a report to the government, report internally first.

The likelihood that reporters will turn to the government depends in part on the rank of the alleged offender. The more senior the perpetrator, the

more likely employees will report to a governmental or regulatory authority.

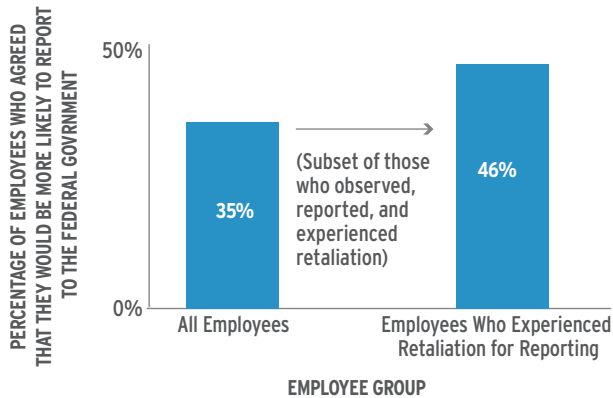### THE MORE SENIOR THE PERPETRATOR, THE GREATER THE LIKELIHOOD OF THE REPORTER GOING TO THE GOVERNMENT
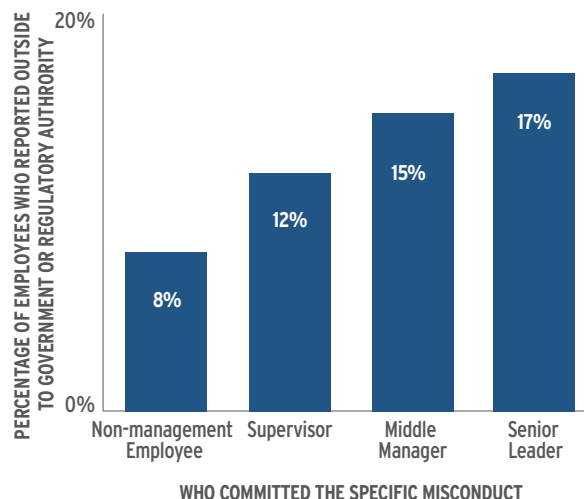
For employees who are afraid to report internally or do not believe it will make a difference, federal government programs that offer protection against retaliation or other incentives for reporting provide a safe alternative.

Greater awareness of federal protections for whistleblowers could encourage even more employees to report misconduct to the government in the future, especially if they have experienced retaliation for reporting misconduct. Thirty-five percent of all employees say that whistleblower protections provided by the Dodd-Frank financial reform law make them more likely to report violations to the Federal Government.[7] Forty-six percent of reporters who experienced retaliation state the protections make it more likely they will report to the government.

---

6. Ethics Resource Center, National Business Ethics Survey® 2007, 2009, 2011, and 2013

---

7. NBES® 2013

THOSE WHO EXPERIENCED RETALIATION ARE MORE LIKELY TO REPORT TO THE FEDERAL GOVERNMENT

PERCENTAGE OF EMPLOYEES WHO AGREED THAT THEY WOULD BE MORE LIKELY TO REPORT TO THE FEDERAL GOVRNMENT

- 50%
- 35% — All Employees
- 46% — Employees Who Experienced Retaliation for Reporting
- (Subset of those who observed, reported, and experienced retaliation)
- 0%

EMPLOYEE GROUP

RETALIATION INCREASES THE LIKELIHOOD OF EMPLOYEES LEAVING THE COMPANY WITHIN TWO YEARS

PERCENTAGE OF EMPLOYEES PLANNING TO STAY FOR SPECIFIED AMOUNT OF TIME

- 100%
- All Employees: 74% / 26%
- Those Who Observed and Reported: 62% / 38% (Subset of those who observed and reported misconduct)
- Those Who Experienced Retaliation: 45% / 55% (Subset of those who reported and experienced retaliation)
- 50%
- 0%

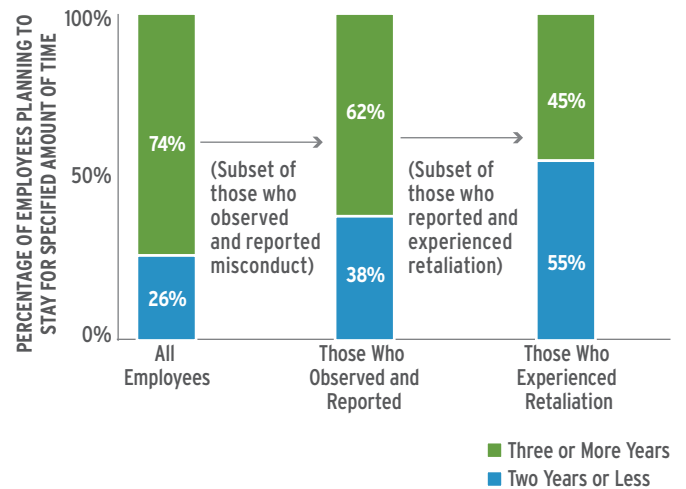■ Three or More Years
■ Two Years or Less

RETALIATION AS A BUSINESS RISK

Not only do a sizeable percentage (40 percent) of reporters cite past retaliation as a reason for going outside the company to report, they also go outside the company looking for other employment opportunities. As we saw in our 2011 survey, employees who experience retaliation are less likely to commit to the company.[8] In 2013, almost three-quarters of all employees plan to stay with their company for at least three years, but only 45 percent of employees who experienced retaliation for reporting plan to stay with their company past the two-year mark.

Employees who have experienced retaliation are also less likely to be strongly engaged with their company. Sixty-five percent of reporters who did not experience retaliation are strongly engaged, compared to 44 percent of those who did experience retaliation.

EMPLOYEES WHO EXPERIENCED RETALIATION ARE LESS LIKELY TO BE ENGAGED IN THE COMPANY

PERCENTAGE OF EMPLOYEES WHO ARE STRONGLY ENGAGED

- 80%
- 65% — Reporters Who Did NOT Experience Retaliation
- 44% — Reporters Who Did Experience Retaliation
- 0%

As previously noted – fears of, experience with, or knowledge of retaliation can contribute to the company not learning about misconduct. Fifty-three percent of those who did not report misconduct cite at least one of these as a factor for not reporting. Those who experience retaliation for reporting are less likely to report in the future.
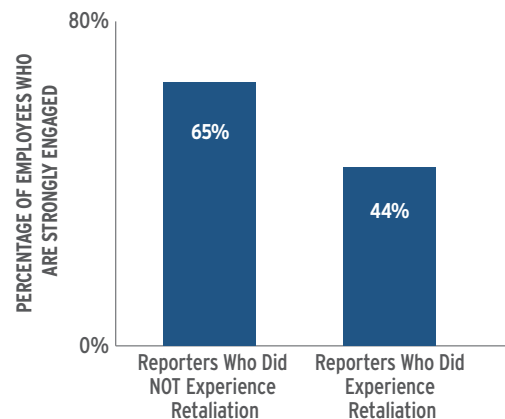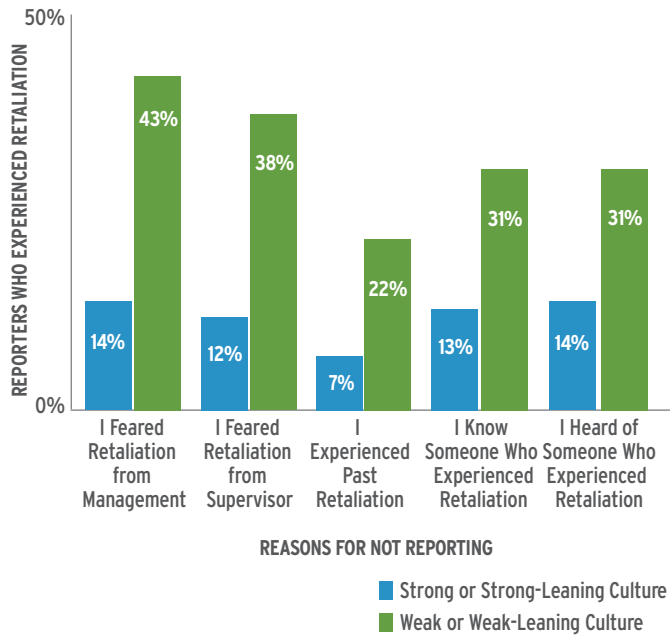
---

8. In 2011 we found that 31 percent of those who experienced retaliation for reporting planned on staying with their company more than five years, which is about half of those who did not experience retaliation (57 percent).

EMPLOYEES WHO OBSERVE MISCONDUCT IN STRONG ETHICS CULTURES ARE LESS LIKELY TO CITE RETALIATION AS A REASON FOR NOT REPORTING

declining retaliation rates might enhance program effectiveness by removing the fear that dissuades some employees from reporting misconduct.

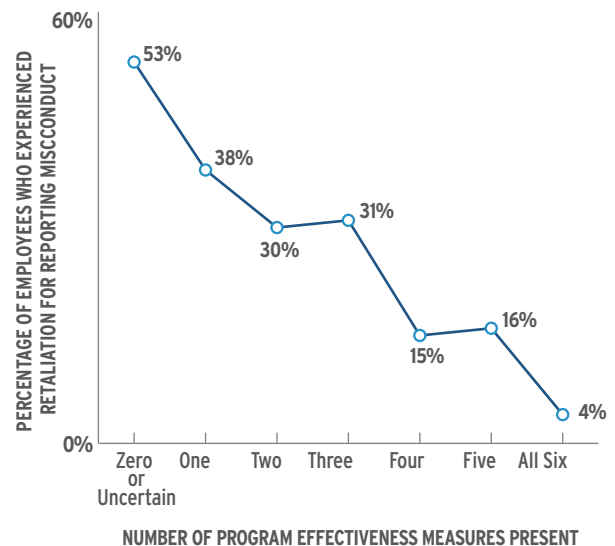**RETALIATION DECREASES AS THE EFFECTIVENESS OF PROGRAMS INCREASES**

In sum, retaliation has a detrimental effect on an organization. Retaliation can prevent the company from becoming aware of misconduct, which removes the ability to resolve issues associated with the misconduct. If a valuable employee is retaliated against, the company could incur extra costs associated with finding and training a replacement. As a result, retaliation is not only an ethics risk, but can become a business risk.

EFFECTIVE PROGRAMS AND STRONG ETHICS CULTURES REDUCE RETALIATION

Just as effective programs tend to boost reporting levels, they also improve the ethical environment by reducing retaliation. While more than half of those who report misconduct say they experienced retaliation in companies without effective E&C Programs, only four percent say they have suffered from retaliation in companies with effective programs. The data show a clear progression with retaliation falling steadily as the number of program effectiveness measures increase. What's more,
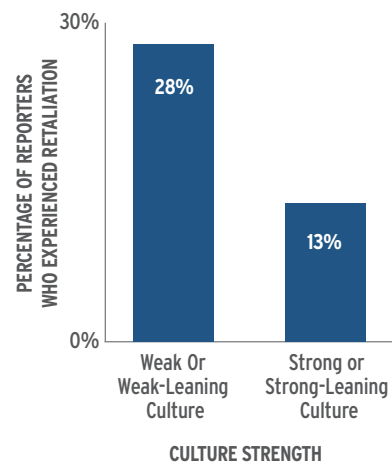
Employees in strong cultures are less likely to experience retaliation for reporting. Only 13 percent of reporters in strong or strong-leaning ethics cultures say they were retaliated against for reporting, compared to 28 percent in weak or weak-leaning ethics cultures.

STRONG ETHICS CULTURE IS ASSOCIATED WITH LOWER RETALIATION
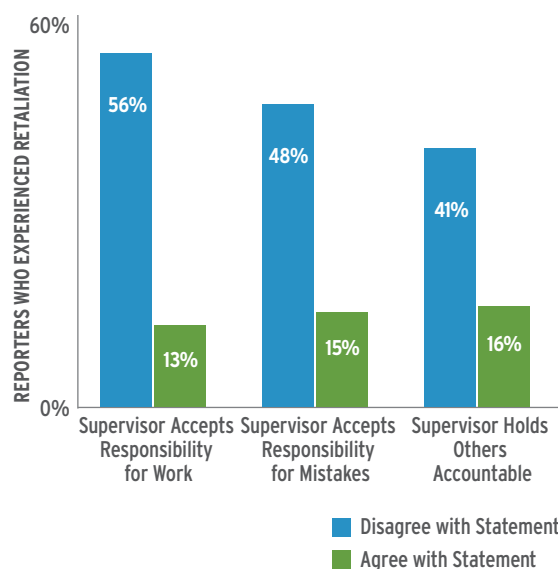
LEADERSHIP BEHAVIOR REDUCES RETALIATION

Program effectiveness also may be reinforced by management behaviors that correlate with lower levels of retaliation. Whistleblowers are much less likely to experience retaliation in companies with strong ethical leadership.

Approximately one in twenty workers experience retaliation in companies where senior leaders would do the right thing, share credit, and/or treat all employees well, compared to almost one in two in companies where employees say these behaviors are rare (46 percent, 49 percent and 47 percent, respectively).
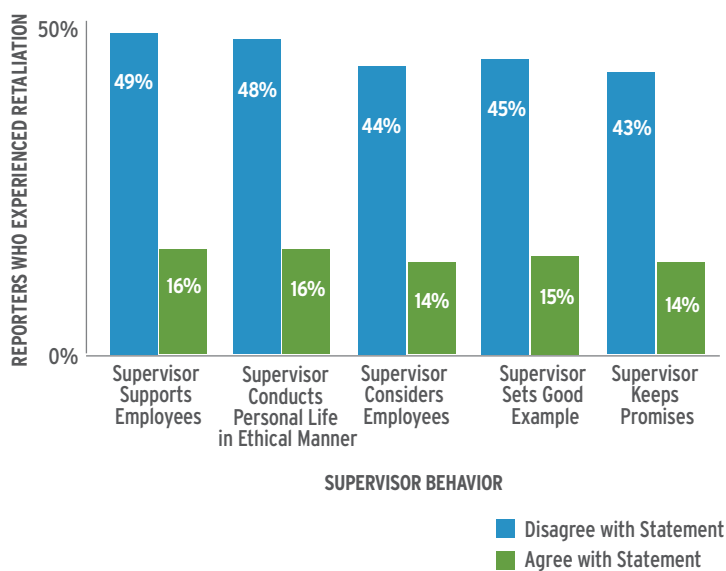
Supervisory behavior also correlates with reduced retaliation. The likelihood of retaliation is far lower when supervisors take responsibility for their work obligations, accept responsibility for their mistakes, and/or hold others accountable. In companies where supervisors do not accept responsibility for work obligations nearly six of ten employees who reported misconduct said they experienced retaliation, compared to 13 percent where supervisors accept their work responsibilities.

RETALIATION LOWER WHEN TOP MANAGEMENT IS ETHICAL

REPORTERS WHO EXPERIENCED RETALIATION

4%	5%	6%
Top Management Would Do The Right Thing	Top Management Gives Credit to Others	Top Management Treats All Employees Well

ETHICAL LEADERSHIP BEHAVIORS

RETALIATION LOWER WHEN SUPERVISOR ACCEPTS RESPONSIBILITY AND HOLDS OTHERS ACCOUNTABLE

REPORTERS WHO EXPERIENCED RETALIATION

	Supervisor Accepts Responsibility for Work	Supervisor Accepts Responsibility for Mistakes	Supervisor Holds Others Accountable
Disagree with Statement	56%	48%	41%
Agree with Statement	13%	15%	16%

■ Disagree with Statement
■ Agree with Statement

In companies where supervisors exhibit ethics-related actions, such as supporting employees in following ethics, keeping their promises and commitments, and holding themselves to an ethical standard, retaliation is less common.

RETALIATION IS LOWER WHEN SUPERVISORS ARE ETHICAL

REPORTERS WHO EXPERIENCED RETALIATION

Supervisor Behavior	Disagree	Agree
Supervisor Supports Employees	49%	16%
Supervisor Conducts Personal Life in Ethical Manner	48%	16%
Supervisor Considers Employees	44%	14%
Supervisor Sets Good Example	45%	15%
Supervisor Keeps Promises	43%	14%

SUPERVISOR BEHAVIOR

■ Disagree with Statement
■ Agree with Statement

ETHICS-RELATED ACTIONS BY LEVEL (PARAPHRASED)

Ethics culture is shaped by the actions of individual employees who set expectations for behavior that is acceptable. The ethics-related action (ERAs) listed below are the employee behaviors that evince an employee's ethics.

Top Management

- Provides adequate information about what is going on in the company
- Keeps promises and commitments
- Talks about the importance of workplace ethics
- Sets a good example
- Supports employees in following ethics standards
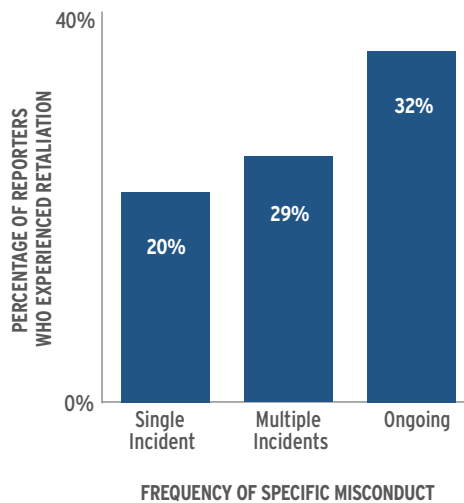- Does not tolerate retaliation against reporters

Supervisor

- Provides adequate information about what is going on in the company
- Keeps promises and commitments
- Talks about the importance of workplace ethics
- Sets a good example
- Supports employees in following ethics standards
- Gives positive feedback for ethical conduct
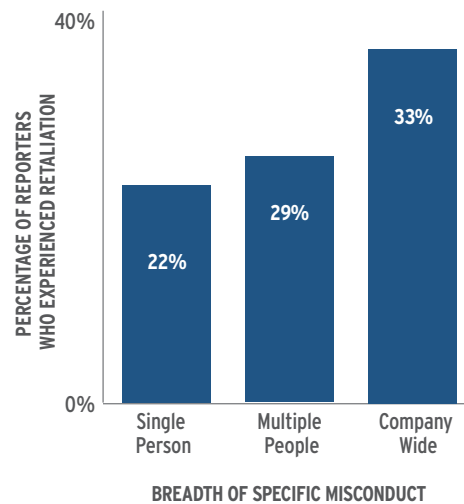- Disciplines employees when they violate ethics standards

Coworkers

- Keep promises and commitments
- Talk about the importance of workplace ethics
- Set a good example
- Support others in following ethics standards
- Consider ethics when making decisions

In contrast, retaliation is higher in environments in which misconduct is both frequent and/or widespread. In environments with pervasive misconduct, especially wrongdoing involving higher-ups, retaliation rates soar. When misconduct is ongoing, widespread, and/or involves management, over 30 percent of reporters experienced retaliation. These behavior patterns suggest systemic ethics issues that management is unaware of or condones and that feed on themselves.
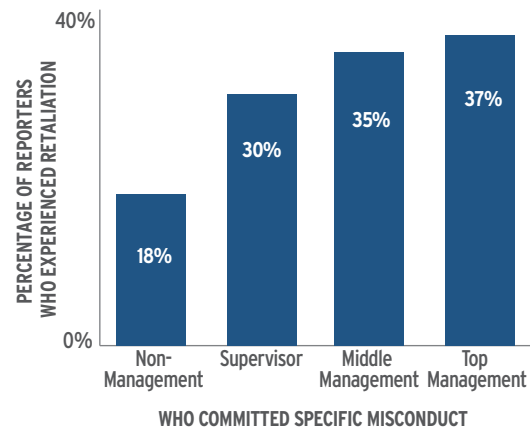
RETALIATION INCREASES AS BREADTH OF MISCONDUCT INCREASES

PERCENTAGE OF REPORTERS WHO EXPERIENCED RETALIATION

- Single Person: 22%
- Multiple People: 29%
- Company Wide: 33%

BREADTH OF SPECIFIC MISCONDUCT

RETALIATION INCREASES AS FREQUENCY OF MISCONDUCT INCREASES

PERCENTAGE OF REPORTERS WHO EXPERIENCED RETALIATION

- Single Incident: 20%
- Multiple Incidents: 29%
- Ongoing: 32%

FREQUENCY OF SPECIFIC MISCONDUCT

RETALIATION INCREASES AS THE PERPETRATOR OF MISCONDUCT HAS MORE AUTHORITY

PERCENTAGE OF REPORTERS WHO EXPERIENCED RETALIATION

- Non-Management: 18%
- Supervisor: 30%
- Middle Management: 35%
- Top Management: 37%

WHO COMMITTED SPECIFIC MISCONDUCT

RETALIATION IN ITS MANY FORMS

Specific types of retaliation against whistleblowers have decreased since 2011. However, the findings are eye-opening. The higher-ranking the employee, the more likely he or she is to experience some forms of retaliation. Top managers are significantly more likely to be relocated or reassigned than supervisors or non-managers. Top and middle managers are more likely to be harassed at home and demoted in comparison to supervisors or non-management employees. Top and middle managers are more likely to be denied promotions or raises than first-line supervisors. All levels of management are significantly more likely to experience physical harm and online harassment than non-management employees.

TYPES OF RETALIATION AGAINST WHISTLEBLOWERS

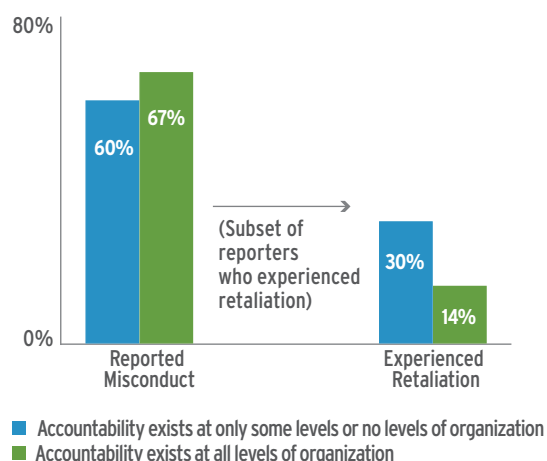|	Overall	Employee Level Experiencing Retaliation			
		Senior Leader	Middle Manager	Supervisor	Non-management Employee
Retaliation Overall	21%	22%	17%	24%	22%
Supervisor intentionally ignored or began treating me differently	69%	68%	68%	54%	*75%*
Other employees intentionally ignored or began treating me differently	59%	64%	56%	67%	52%
Supervisor or management excluded me from decisions and work activity	54%	59%	48%	56%	52%
I was verbally abused by supervisor or someone else in management	49%	62%	52%	48%	50%
I was not given promotions or raises	47%	*62%*	*57%*	33%	48%
I was verbally abused by other employees	43%	42%	47%	*65%*	34%
I almost lost job	38%	41%	51%	32%	36%
My hours or pay were cut	29%	26%	*44%*	17%	28%
I was relocated or reassigned	28%	*52%*	41%	13%	26%
I was demoted	21%	*39%*	*37%*	15%	16%
I was harassed at home	18%	*52%*	*40%*	14%	9%
I experienced physical harm to person or property	16%	*36%*	*32%*	*18%*	7%
I experienced online harassment	15%	*29%*	*40%*	*20%*	7%

*Green percentages in the employee level columns indicate the percentage is statistically higher than the non-green percentages in that row.
*Blue percentages in the employee level columns indicate the percentage is statistically higher than some values, but not statistically different than others.
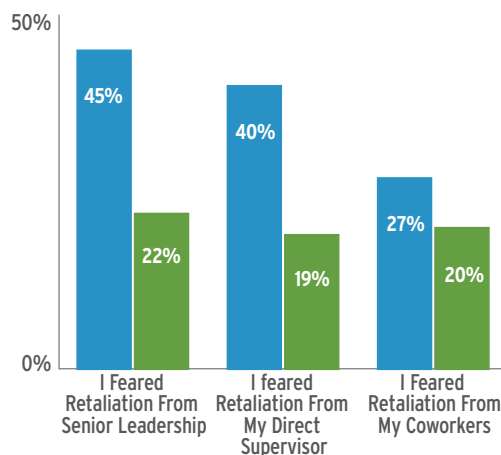
ACCOUNTABILITY MATTERS

Rates of reporting and retaliation are more favorable in companies where all levels of employees from the C-suite down are held accountable if they break rules. In companies with company-wide accountability, reporting is slightly higher and retaliation is half of that in companies without company-wide accountability (14 percent vs 30 percent respectively).

COMPANY-WIDE ACCOUNTABILITY IS ASSOCIATED WITH HIGHER RATES OF REPORTING AND LOWER RATES OF RETALIATION

- Accountability exists at only some levels or no levels of organization
- Accountability exists at all levels of organization

Even when an employee chooses not to make a report of potential misconduct, reasons for not doing so are less likely to be those involving retaliation than for employees who do not perceive the same wide-ranging accountability. Employees who perceive accountability at all levels of the organization are less likely to cite fear of retaliation from top managers, their direct supervisors, and/or their coworkers as reasons for not reporting. The connection between fear of retaliation and reporting is strongest when it comes to fear of retaliation from senior leaders. Of those who do not perceive accountability at all levels, 45 percent choose not to report at least in part because of fear of retaliation from senior leaders. Of those who perceive accountability at all levels, 22 percent cite fear of retaliation from senior leaders as a reason for not reporting.

EMPLOYEES WHO PERCEIVE ACCOUNTABILITY COMPANY-WIDE ARE LESS LIKELY TO FEAR RETALIATION
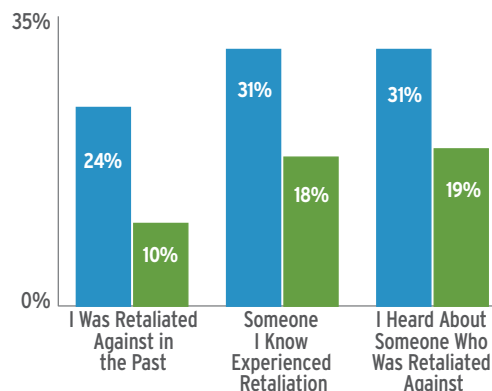

REASON FOR NOT REPORTING MISCONDUCT

- Accountability exists at only some levels or no levels of organization
- Accountability exists at all levels of organization

In addition, decisions to not report due to having experienced and/or having knowledge of retaliation are also less likely in companies that hold all employees accountable. Almost one-third (31 percent) of non-reporters in companies lacking in accountability say they did not report because they know of or heard about someone who experienced retaliation, compared to approximately one in five in companies with accountability (18 percent). Almost one-quarter (24 percent) of non-reporters say they did not report due to past retaliation compared to only 10 percent of non-reporters in companies with a strong sense of accountability.

EMPLOYEES WHO PERCEIVE ACCOUNTABILITY COMPANY-WIDE ARE LESS LIKELY TO EXPERIENCE OR HAVE KNOWLEDGE OF RETALIATION

REASON FOR NOT REPORTING MISCONDUCT

- Accountability exists at only some levels or no levels of organization
- Accountability exists at all levels of organization

Holding employees accountable, especially managers, extends beyond a reduction in retaliation. It also strengthens a company's ability to prevent and manage misconduct. Seventy-seven percent of employees who agree that top managers are held accountable also agree that employees can question management's decisions without fear of retaliation. This increases to 80 percent when employees agree that all levels of employees in their company (top managers, their direct supervisors, and their coworkers/peers) are held accountable. Only 41 percent of employees who believe that accountability exists only at some levels or not at all (compared to all levels) believe that they can question management's decisions.

Employees who believe there is accountability across all levels of their organizations are also more likely to say that their company does not retaliate against employees who report misconduct. Eighty-one percent of those who perceive accountability across all levels of the organization believe that their company does not retaliate against reporters, compared to 46 percent of employees who perceive accountability at only some levels of their organization or not at all.

Given that well-implemented programs increase reporting and reduce retaliation,[9] and that holding employees accountable is a probable manifestation of an organization's program,[10] it is likely that accountability is a driver of higher reporting rates. It might also be a driver of increased comfort with being able to question management's decisions without fear of retaliation.

While it is important that employees at all levels are held accountable, the accountability of management level employees seems to have the largest impact on retaliation. There are 24 and 23 percentage point declines in rates of retaliation, respectively, when top managers and supervisors are held accountable (40 percent and 39 percent, respectively to 16 percent). These compare to a 16 percentage point decline when non-management employees are held accountable (35 percent to 19 percent).

RETALIATION IS LOWER WHEN ALL EMPLOYEES ARE HELD ACCOUNTABLE

REPORTERS WHO EXPERIENCED RETALIATION

	Top Managers Are Held Accountable	Supervisors Are Held Accountable	Non-management Employees Are Held Accountable
Disagree	40%	39%	35%
Agree	16%	16%	19%

ACCOUNTABILITY

- Disagree that employee level is held accountable
- Agree that employee level is held accountable

EMPLOYEES WHO PERCEIVE ACCOUNTABILITY COMPANY-WIDE ARE MORE LIKELY TO BELIEVE COMPANY DOES NOT RETALIATE

	Employees Can Question Decisions of Management Without Fear of Retaliation	My Company Does Not Retaliate Against Employees Who Report Misconduct
Some/no levels	41%	46%
All levels	80%	81%

- Accountability exists at only some levels or no levels of organization
- Accountability exists at all levels of organization

9. Ethics Resource Center. (2011). 2011 National Business Ethics Survey: Workplace Ethics in Transition (pp. 34-35). Arlington, VA: ERC.

10. Accountability could be exhibited through systems to discipline employees and through written resources that set forth the consequences for misconduct, for example.

When organizations can ensure that employees at all levels, and most importantly the highest levels of management, are held accountable there are positive implications for the company culture and workplace environment. More employees report misconduct when they see it, but even when they do not report, their reasons for not reporting are less likely to pertain to retaliation. More employees feel they can raise concerns without fear of retaliation and believe that the company does not retaliate against reporters. These feelings and beliefs increase the potential of reporting. There is also a lower likelihood of retaliation when there is accountability. The diminished rates of retaliation could be due to an array of reasons, including employees knowing that they would be held accountable if they were to retaliate; and, employees feeling that they do not need to take retributory action against others, because they are confident that the company's systems (the effective E&C Programs) will respond to and address problems. Regardless of the reasons, higher reporting rates and lower rates of retaliation are positive outcomes.

ETHICS AND COMPLIANCE PROGRAMS REINFORCE SPEAK UP CULTURE

The evidence is unequivocal. Effective E&C Programs that build strong cultures create a safe environment where employees feel confident in doing the right thing when faced with an ethical situation, making it more likely that employees will report infractions and give companies the chance to resolve problems before they create crises or interfere with performance. Effective programs also contribute to companies' well-being by reining in retaliation, which boosts the odds that employees will blow the whistle and report to internal authorities. It seems reasonable to assume that accountability influences reporting and retaliation rates as well. The impact of accountability on employees' reporting and the rates of retaliation is a topic for further research. Higher reporting and lower retaliation are good for employees and businesses alike. The data show that effective E&C Programs and strong ethics cultures are investments that pay off.

RECOMMENDATIONS

Review Effectiveness of the Ethics & Compliance Program with special attention to program scope to ensure that it includes all six key results of an effective program (see sidebar, page 7). Steps to effectively integrate E&C programs into workplace practices should be an ongoing effort. To assess success, each program effectiveness measure should be reviewed to identify strengths to build on and weaker areas that should be enhanced.

Conduct a Culture Analysis to identify areas for additional attention. Efforts to improve the ethics culture may include refinements in the overall E&C program as well as separate measures to emphasize organizational values and bolster commitment to these values among managers and employees at all levels of the company.

Review Internal Reporting and Response Processes to ensure employees have a variety of widely-known and accessible options for reporting. This review should include a critical analysis of the company's systems for reviewing and addressing reports of misconduct to build and/or maintain employee confidence that reporting is worthwhile. Also consider whether managers, especially first-line supervisors, are fully prepared to address reports of misconduct.

Consider Special Education Initiatives on Reporting and Retaliation and encourage employees to report misconduct even when they have addressed problems directly. Direct and appropriate resolution of problems by employees can be a sign of a strong culture; however, lack of official reporting can deprive management of critical information and may open the door to retaliation. To limit this risk, the company should encourage the reporting of resolved misconduct.

Introduce and/or Expand Informational Efforts about Federal Protections for whistleblowers to encourage increased reporting. When informed about these protections, significant numbers of employees say the new awareness makes them more likely to report misconduct in the future and that they are almost as likely to report internally as well as externally.

Consider Creating Response Protocols[11] for those times that reports are made to an authority outside the organization. Include a list of potential consequences and responses. Keep in mind that the objective is to resolve the reported problem, and that the reporter is likely your best source of initial information as well as a potential ally. The primary reason employees report outside (cited by 50 percent) is that the misconduct is ongoing and they are seeking help to stop it. Forty percent said that they went outside because they were retaliated against after reporting internally.

Develop and Publicize an Anti-Retaliation Policy, including zero-tolerance of retaliation supported by a clear description of what that entails and measures to support employees who have experienced retaliation.

Demonstrate that all Employees are Held Equally Accountable to the Rules so that all employees feel equally valued. Publicize aggregate statistics of reports received, substantiation of cases and the subsequent actions taken by the organization against individuals who violated the standards of the organization. Highlight that all employees are accountable.

---

11. Response protocols could include steps to re-engage the employee.
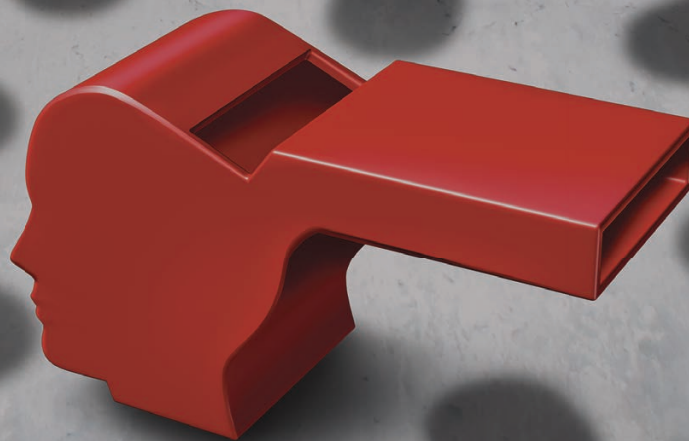
INCREASING EMPLOYEE REPORTING FREE FROM RETALIATION

Insights From The National Business Ethics Survey® 2013

ETHICS & COMPLIANCE INITIATIVE

Ethics **Research** Center

2345 Crystal Drive, Suite 201, Arlington, VA 22202
Telephone: 703.647.2185 | FAX: 703.647.2180 | www.ethics.org | ethics@ethics.org

Support our research by making a donation at www.ethics.org/donate