
Letter to the Editor

Whistleblowing: Neither reward, nor protection

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Boumil *et al*¹ praise the False Claims Act (1863, United States). I wish there were a similar act in France; instead French law makes whistleblowing an offense. This does not encourage whistleblowers. In France whistleblowers are never ‘rewarded for their efforts with monetary compensation and protection from retaliation’. Nor are they in many other European jurisdictions. In fact, the highest administrative court in France (Le Conseil d’Etat) requires that whistleblowers remain silent.² First of all, whistleblowers in Europe are looking for better protection: Harmonization – comparability across jurisdictions – across Europe. Too many European Union directives are useless, here is a case for a strong action.

However, even in the United Kingdom where legislation is protective, the Employment Rights Act (1996, United Kingdom) did not protect Stephen Bolsin from leaving England for Australia after he successfully disclosed the Bristol Royal Infirmary case.² The worst are not the guys you whistle at, the worst are those around who knew and accepted: The latter are so numerous and they cannot accept that their lack of action will be disclosed.³ No False Claims Act can protect someone against the passive onlookers who do not acknowledge and cooperate in reporting and remedying infractions of the sort discussed by Boumil *et al*. In neither France nor the United Kingdom is there now a future for a successful whistleblower!

Lastly to focus on ‘rampant’ fraud is dangerous. It is why we cannot (want not to) see the forest for the trees. Most frauds are overt. The US\$19 million in payments over a few years to Dr Thomas A. Zdeblick (chairman of the University of Wisconsin’s Department of Orthopedics, editor of the *Journal of Spinal Disorders and Techniques*) by Medtronic Inc deserves many comments. I do not know if it was fraudulent but I cannot imagine how it could have been rampant.



References

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Conflict of interest: Alain Braillon has recently been sacked.

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