Whistle Blowing

Ethics and Computing
Chapter 7

Motivation

- Engineering professionals are responsible for disclosing unethical actions
- Unethical behavior can lead to catastrophic results
- If you are not part of the solution, you may be part of the problem
AITP Standards of Conduct

- Never misrepresent or withhold information that is germane to a problem or situation of public concern, nor allow any such known information to remain unchallenged.

Software Engineering Code of Ethics

- Disclose to appropriate persons or authorities any actual or potential danger to the user, the public, or the environment, that they reasonably believe to be associated with software or related documents.
ACM Code of Ethics

- General moral imperative 1.2: Avoid harm to others
- In the work environment the computing professional has the additional obligation to report any signs of system dangers that might result in serious personal or social damage. If one’s superiors do not act to curtail or mitigate such dangers, it may be necessary to “blow the whistle” to help correct the problem or reduce the risk.

ACM Code of Ethics

- Misguided reporting of violations can itself be harmful
- Before reporting violations, thoroughly assess the risk and responsibility
- Seek advice from other computing professionals
IEEE Code of Ethics

- Item 1
- “Accept responsibility in making engineering decisions consistent with the safety, health and welfare of the public, and to disclose promptly factors that might endanger the public or the environment.”

Whistle Blowing

- Exposing negligence, abuses or dangers that threaten the public interest
- Often about the company for which the whistle-blower works
- Exposure viewed as a threat to those allowing the practice
- Whistle-blower’s career and livelihood may be at risk
Stages of a Whistle-Blowing Incident

1. Assess the potential for a whistle-blowing scenario.
2. Assess the seriousness of the issue.
3. Reality check to be sure you are right.
4. Become aware of the big picture.
5. Force management to recognize the problem.
6. Take the problem to upper management
7. Take the problem outside the organization
8. Live with the results.

Stage 1: Assess Potential for Whistle-Blowing Scenario

- Scenario must meet three conditions
  - You learn that your organization is acting in a way you consider ethically wrong
  - You believe you know relevant information not generally known
  - You believe exposure of this information would cause a change in the questionable actions
Stage 2: Assess Seriousness

- Subjective
- Does the issue impact only the organization or the public as well?

Stage 3: Reality Check

- You think something should be done
- Are you sure you are right?
- Discuss with colleagues
- Try to be a team player
- Consensus will be rare
Stage 4: Get the Big Picture

- Gather information outside your immediate domain
- Perhaps issue is being addressed elsewhere

Stage 5: Force Management to Recognize the Problem

- Goal: Remedy the problem with minimal conflict
- Get management to “go on record” that they are aware of the problem
  - Written letter asking for response
- Your responsibility does not end here
- Begin gathering evidence and help
- Be prepared for a job change
Stage 6: Take the Problem to Upper Management

- Immediate management ignoring problem
- “Going over the boss’s head” is not an acceptable business practice
- Who in upper management?
  - Interested and responsible in the problem area
  - Likely to sympathize with the engineer’s approach
  - Has enough clout to effect change
- Anonymous?

Stage 7: Take the Problem Outside the Organization

- Organization ignoring the problem
- Get help: professional and legal
- Seek regulatory agencies or legal authorities
- News media should be last resort
- Act as an individual, not an employee
Stage 8: Be Prepared to Live with the Results

- Expect a job change
- Expect little support from professional organizations and society in general
  - IEEE Involvement [Appendix B]

General Words of Wisdom

- Document everything
- Be on your best behavior
- Your voice can make a difference
- Try to avoid whistle blowing, but stick to your principles
Laws Protecting Whistle Blowers

- Federal Whistle Blower Protection Act [Bowyer]
- False Claims Act
- State whistle-blowing acts
  - E.g., Florida [Bowyer]

Federal Whistle Blowers Act

- Passed in 1989
- Applies only to federal employees
- Protects federal employees against prohibited personnel practices as a result of their whistle blowing
False Claims Act

- Originated by President Lincoln in 1863 to fight Civil War profiteering
  - Amended in 1986
- Allows an individual to file a civil suit against a business that defrauds the federal government
- Individual shares in money recovered
  - 15-25%
  - 25-30% if government not involved

Case Study

- Chester Walsh’s False Claims Act against General Electric in 1990
- GE pled guilty to charges of fraud, money laundering, and corrupt business practices
- GE fined $9.5M criminal, $59.5M civil, and $2.5M fees
- Walsh awarded $13.4M (22.5%)
Points to Remember

- Blowing the whistle
  - Exhaust all internal avenues first
  - Keep careful documentation
  - Get legal representation
    - There are laws to protect you
  - Expect a job change

Points to Remember

- Whistle blowing is not a pleasant experience
- Many times the whistle is “swallowed”
  - Don’t rationalize; act
  - Individuals can make a difference
  - Is whistle-blowing disloyal?
Resources

  - http://www.ieee.org/about/whatis/policies
- Phillips & Cohen, Attorneys at Law
  - http://www.whistleblowers.com
- Taxpayers Against Fraud
  - http://www.taf.org