

WHISTLE BLOWING IN THE
FEDERAL BUREAUCRACY

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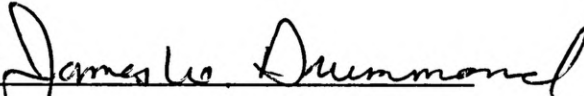
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ABSTRACT

Classical bureaucratic theorists have always asserted that control in a bureau must rely predominantly upon routine, rules and a rigid hierarchy of authority. Historically, the presumption has been that fraud, waste and other types of abuses are of little consequence to the bureau and can be prevented by regulation and enforcement of procedures and policy.

Abuses however, are ubiquitous in any bureaucracy. Employees who are knowledgeable about an irregularity in the bureau are confronted with the dilemma of reporting the abuse to discharge their perceived moral obligation, or remaining silent to prevent retribution from superiors and peers.

The Federal government confronted the problems of fraud, waste and abuses in the Federal bureaucracy in 1978 by implementing the Inspector General Act. The Act enabled the establishment of autonomous investigators in various departments and agencies to investigate employee reports of irregularity and to protect the confidentiality of "whistle blowers." The ultimate goal of the Act was to improve integrity and efficiency in the Federal bureaucracy.

Federal employees were surveyed in 1980 to determine their knowledge about and confidence in the new Offices of Inspectors General. Results of the survey indicate that the Inspectors General have been somewhat effective, but that further efforts must be made to inform employees about the offices, publicize the results of investigations and provide greater safeguards to a "whistle blower's" confidentiality.

Although the intent of the Inspector General Act was to promote employee disclosure of abuses, the Inspectors General have frequently neglected employee reports and have instead developed a reliance upon computer technology to control those abuses that are easily monitored and quantifiable.

CHAPTER 1

INTRODUCTION

Few organizations, whether public or private, can operate effectively or efficiently without exhibiting some of the characteristics of a true bureaucracy. Max Weber states that a bureaucracy is characterized by a hierarchy of authority with supervisors instructing subordinates, impartial rules of operation, specialization, and a pervasive attitude that the good of the bureau transcends individual interests.¹ The characteristics of a bureaucracy promote consistency, efficiency, effectiveness and overall advancement of the good of the organization.

While a bureaucratically administered organization has many desirable characteristics, it may be affected by less desirable qualities that create additional costs or hinder effectiveness. Individuals within the bureau may misinterpret the written rules, circumvent standard operating procedures, use the system for covert personal gain, or be wasteful or incompetent.

Employees within a bureau who are knowledgeable of waste or impropriety are often limited in the actions that can be taken to rectify the abuse. The hierarchy of authority in a bureaucracy discourages an employee from reporting abuses to anyone but an immediate superior, who may be part of the problem. Other employees at the workplace assert normative influences to prevent a dissident employee from taking action that might jeopardize group perquisites. Most importantly, loyalty by

an employee to the organization and superiors is demanded, and those who exhibit questionable allegiance to the bureau are scorned and sometimes punished.

Those employees who do challenge an individual or practice within a bureau are known as "whistle blowers" for their acts of voicing their concerns outside of normal channels. A typical example of the retribution suffered by a whistle blower is the case of Dr. Gary Peterson. Dr. Peterson, an employee of the U.S. Fish and Wildlife Service in North Dakota, protested publicly the plans for an irrigation project in North Dakota.² Dr. Peterson felt that the project would be harmful to wildlife. In 1975, shortly after his protest, Dr. Peterson was told to transfer to a new position out of state. When he refused, he was fired.

The federal bureaucracy rewards "team players" and chastizes, or even dismisses those, like Dr. Peterson, who use informal channels to circumvent the chain of command. Retribution against the individual may occur even when the impropriety that is exposed is detrimental to the organization or the general public. Therefore, greater reliance must be placed upon formal reporting channels within the bureaucracy to rectify abuses.

In 1978, Congress and President Jimmy Carter recognized that waste and abuse must be controlled in the federal government and that bureaucratic constraints must be lifted to allow employees to come forward with their knowledge of impropriety. The Inspector General Act of 1978, Public Law 95-452, was enacted to provide a mechanism for employee reports of abuses and to establish an independent office to investigate and rectify irregularities.

The Inspector General Act established twelve offices in various agencies and departments. The twelve new offices were in addition to offices already existing in the Departments of Energy and Health, Education and Welfare. The Act authorized the Inspectors General to accept and investigate employee complaints concerning fraud, waste, mismanagement or other abuses. The Inspectors General were required to protect employee rights and confidentiality. Concurrent Legislation, P.L. 454, also created a Special Counsel to the Merit Systems Protection Board to review and correct reprisal action taken against a whistle blower. It is the purpose of this paper to assess the effectiveness of the Inspector General Act and adequacy of employee protection.

In Chapter 2, this paper explains violations of basic bureaucratic principles and deficiencies in the structure of bureaucracy that cause waste, corruption, mistakes and malfeasance. This Chapter then discusses and evaluates both informal and institutional means to correct these abuses.

Chapter 3 will describe several instances of employee efforts to "blow the whistle" on abuses in the federal bureaucracy and the retribution that followed. This section will also describe the organizational disincentives that deter employees from reporting abuses and the federal government's legislation to encourage greater employee willingness to report abuses.

Chapter 4 will summarize the results of the Inspector General Act and assess employee knowledge of the new legislation based upon a 1980 survey. This Chapter will also discuss recommendations by the Merit

Systems Protection Board to improve administration of the Inspector General Act.

The final Chapter will summarize the preceding material and discuss implementation of further changes to improve the effectiveness of the Inspector General Act.

CHAPTER 2

RECOGNITION AND CORRECTION OF PROBLEMS IN BUREAUCRACY

This Chapter explores various possible causes for waste, corruption and malfeasance in bureaucracies. It then discusses and evaluates briefly both formal and informal means for correcting these abuses. This provides the basis for more in depth discussion, in succeeding chapters, of the phenomenon of whistle blowing and an evaluation of Congress's formal response to the problem, the Inspector General Act.

Structural Deficiencies and Violations
of Bureaucratic Principles

While most public and private organizations are structured bureaucratically to promote efficiency and productivity, problems of waste, corruption and malfeasance are found to occur. The causes of these problems are twofold: individual violations of bureaucratic principles and the inflexibility of some bureaucracies in meeting the demands of a changing environment.

Principles of Bureaucracy

Organizations that are structured bureaucratically typically exhibit similar characteristics. The organization has established goals, assigned areas of responsibility for organization members, routine methods of transacting business and some system of directing and controlling the individuals who have tasks to accomplish.

According to Max Weber,

The decisive reason for the advance of bureaucratic organization has always been its purely technical superiority over any other form of organization. The fully developed bureaucratic apparatus compares with other organizations exactly as does the machine with the nonmechanical modes of production. Precision, speed, unambiguity, knowledge of files, continuity, discretion, unity, strict subordination, reduction of friction and material and personnel costs -- these are raised to the optimum point in the strictly bureaucratic administration.³

Weber believes that a properly functioning bureaucracy will exhibit certain characteristics including:

- rules that structure duties, establish authority, and specify the qualifications for employment
- a hierarchy of authority in which lower functions are supervised by a higher office
- written records and standard operating procedures
- a recognition that the individual does not own the position in the organization and is not entitled to property of the organization
- specialization of the individuals within the bureau
- an expectation that employees of the bureau will devote their full attention to the bureau during working hours
- ongoing rules based upon the technical specialties of the law, administration and business management
- impartiality in administration of rules and policy.⁴

While Graham T. Allison concurs with Weber's model bureaucracy, he expands the model to include:

- systematically solving problems to reach goals
- planning for the future
- the ability to find solutions for problems atypical to the bureau
- the willingness and ability to change as needs require.⁵

It is important to note that the Weberian model of bureaucracy is a static one. It assumes that once an organization is functioning at an optimal level, that the organization may continue perpetually with little change. Allison, on the other hand, believes that a bureau must expect change and plan ahead in anticipation of the need for change in its rules, its goals, or even the structure of the organization. Despite these differences, both models stress employee adherence to the overall goals and compliance with current rules. Violations of these and other bureaucratic principles constitute one type of problematical behavior in an organization setting.

Violations of Bureaucratic Principles

While the formal structure of bureaucracy described by Weber is expected to create a highly effective organization capable of achieving its goals efficiently, it is also true that in practice a certain degree of impropriety will occur as well. Individuals within the bureaucratic organization may knowingly or sometimes unwittingly violate the principles of the organization. Felix A. Nigro argues that:

All criticism of the bureaucrats cannot simply be dismissed as propaganda by people opposed to the government programs concerned. Some men will misuse their authority; this is true in any kind of organization, public or private.⁶

Nigro outlines eight violations of bureaucratic principles by individuals in an organization:

- dishonesty
- unethical behavior
- overriding the law
- unfair treatment of employees
- violations of due process
- failure to respect legislative intent

- gross inefficiency
- covering up mistakes
- failure to show initiative⁷

The predominant violation of bureaucratic principles is that of failure to follow rules. Whereas Weber believes that the success of bureaucracy is in part due to stable rules, Anthony Downs recognizes that not all members of a bureau will respect these rules. He states that a superior's desire for personal influence will cause him to break rules.⁸ Other leaders in a bureaucracy may violate rules not for personal gain, but because of personal disposition or bias. Deena Weinstein states:

Failure to perform according to the rules, either because of a total disregard for them (arbitrary despotism) or because of subjective considerations such as racial prejudice, greed, or sexual attraction, constitute bureaucratic malfeasance.⁹

Whether rule violations are caused by self interest, willful disregard, or personal prejudices, the violation may reduce the ability of the bureau to function properly.

Some members of a bureaucracy may defy the bureaucratic principle of separating personal interest from their organizational positions. Those who use a position within a bureaucratic hierarchy to generate personal income or perquisites are guilty of corruption. According to Perrow, "People tend to act as if they own positions; they use them to generate income, status, and other things that rightfully belong to the organization."¹⁰ Those individuals who line their pockets do not necessarily always do so at great cost to the bureau, but nonetheless are in violation of rules at the expense of professional and organizational integrity.

Another violation of bureaucratic standards is that of functional incompetence by some members of a bureaucracy. Weber refers to strict standards and qualifications for members of a bureaucracy, but in many organizations the members are unable to perform the routine assigned tasks for which they were hired, or have been elevated to positions beyond their capability. Weinstein postulates that incompetence can be due to many factors including job alienation, inflexibility, alcoholism and mental illness.¹¹ However, she cites Lawrence Peter:

People are rewarded for doing their jobs well by promotion to other jobs which usually have more status, higher income, and greater power. Competent performance of a new task will eventuate in still another promotion. However, when an employee no longer performs adequately the promotion process will end. Over time, then, positions tend to be filled by incompetents.¹²

Those employees who are incompetent or incapable of performing assigned functions violate the principles of the model bureaucracy. Their incompetence results in a lack of efficiency in the organization, a burden upon others who must bear a greater share of workload, and a financial burden to the organization that must pay them at a level above that which they should be receiving.

The final type of violation of bureaucratic principles is that of employees simply making mistakes. Nigro lists reasons for mistakes in any bureau:

- cognitive nearsightedness; favoring short range needs at the expense of long range implications
- oversimplification; dealing with symptoms of a problem rather than long range cures
- overreliance on one's experience

- preconceived notions
- reluctance to decide¹³

While these reasons for mistakes are not in direct violation of Weber's model bureaucracy, they do contradict Allison's guidelines which recognize the importance of planning, the ability to remain flexible, and a willingness to change.

Inadequacies of the Bureaucracy

Not only is a bureaucracy subject to violations of bureaucratic principles by individuals, but it may also suffer from inadequacies of the organizational structure itself.

While both Weber and Allison rely upon adherence to impartial rules and procedures, overadherence may result in losing sight of the true intent of the regulation. As Robert Merton writes:

Adherence to the rules, originally conceived as a means, becomes transformed into an end-in-itself; there occurs the familiar process of displacement of goals whereby an instrumental value becomes a terminal value.¹⁴

By losing sight of the organizational goals, the constituency being served or the product being produced, individuals in the bureau may plod along accomplishing mechanical tasks that do not actually produce desired results. Robert H. Kharasch agrees, stating:

Whatever the internal machine does is perceived within the institution as the real purpose of the institution. Here is the distinction of high significance, offering the clue to much otherwise mysterious institutional behavior. This all important distinction is between what is said to be the purpose of the institution and what is perceived within the institution as its real purpose.¹⁵

By adhering to rules tenaciously, individuals in the bureau may in fact harm the constituency they are organized to serve. Peter M. Blau and Marshall W. Meyer state:

This emphasis [on rules] sometimes becomes overpowering, with the result that punctilious adherence to formalized procedures is elevated into the primary objective of bureaucratic activities. . . . Compelled by this orientation to find the right rule before making the least commitment, a bureaucrat will refuse to take any action if there is no clearcut precedent or if there is the slightest doubt about whether it is entirely within his official sphere of jurisdiction. The well known phenomenon of "passing the buck" and other practices that obstruct operations are often expressions of this tendency.¹⁶

The appearance of a well-operated organization may result from rigid compliance with rules. However, this appearance is at times an incorrect perception of the employee who is following the rules but not recognizing their purpose or results.

The second structural deficiency of a bureaucracy is the absence of formal mechanisms to allow employees to participate in the correction of abuses. According to Weinstein, "bureaucracies resemble authoritarian states because they do not provide for legitimate and institutional opposition."¹⁷ Frederick C. Mosher agrees and says, "By removing itself as far as possible from the normal channels of political complaint, debate and appeal, a professionally dominated agency denies the general public the opportunity for democratic direction and decision."¹⁸

When employees of a bureau are aware of rule violations, zealous overadherence to rules, misinterpretation, corruption, incompetence or mistakes by another employee, they may be torn between reporting the violation and remaining silent. The structure of a bureau usually dictates that any report be made to a direct superior. If the superior is involved in the problem, loyalty to the individual, fear or lack of

an alternative reporting mechanism encourage continued silence. According to Perrow, "Another attribute often associated with tall hierarchies is timidity and caution on the part of subordinates who fear criticism from superiors and thus fear to pass unpleasant information up the line."¹⁹

When an employee is courageous enough to expose knowledge to a direct superior, the superior may choose to withhold the information also out of fear or because there is no clear-cut procedure for dealing with employee disclosures. Louis C. Gawthrop postulates that, "demands for change which deviate from the established set of responses are either distorted to fit the standard responses or, worse, completely ignored until their scope and intensity reach potentially catastrophic proportions."²⁰

The Weberian model bureaucracy is devoid of any formal mechanism to allow an employee to report an abuse or allow another in the hierarchy to legitimately accept and address the complaint. This limitation effectively prolongs abuses and increases employee anguish.

The final area of bureaucratic deficiency is the pervasive belief within a bureau that as long as rules are written clearly and legally, that issues of morality and policy should not be questioned. According to Weinstein,

When people judge that the organization is violating moral and not only bureaucratic standards, they are placed into a condition of role conflict. In such cases the role of the employee, which in a bureaucracy prescribes obedience to the commands of superiors, clashes with the more generalized dictates of citizenship, religious faith, or what Weber called ethics of ultimate ends.²¹

Paradoxically, societies that espouse freedom of expression often vigorously oppose it in bureaucratic organizations. Blau and Meyer postulate:

Bureaucratic and democratic structures can be distinguished, then, on the basis of the dominant organizing principle: efficiency or freedom of dissent. This does not mean that one principle prevails to the exclusion of the other . . . democratic values require not only that social goals be determined by majority decision, but also that they be implemented through the most effective methods available -- that is by establishing organizations that are bureaucratically rather than democratically governed. The existence, therefore, of such bureaucracies does not violate democratic values. But these values are threatened by the encroachment of concern for bureaucratic efficiency upon those institutions where freedom of dissent is essential, where the guiding goal is to enable men to arrive at democratic decisions.²²

The restriction on employee dissent may serve to increase short term organizational efficiency, but can limit constructive comments that would ultimately improve the bureau.

In order to achieve employee silence on issues of policy or morality, the bureaucracy may rely either on subtle behavior patterns or on more aggressive restraints. According to Carl J. Friedrich:

It is undeniable that great inconveniences might and often do result from technical authorities bringing out facts which make the official policy appear in a questionable light. Hence instances of gag rules are quite frequent.²³

Most often however, social or normative behavior prevails in a bureaucracy to reduce dissent. Victor A. Thompson states:

Status behavior adds social conditioning and social fear to the hierarchical institutions. Status protocol tends to control the initiation of communication, problem solving, and distribution of credit. Status protocol plus the superior's power over the subordinate's ambitions result in withholding and editing of information. Unpleasant or discrediting information is especially subject to editing (falsifying).²⁴

By editing or preventing criticism, bureaucracy amplifies the other structural deficiencies that hinder correction of abuses.

Although the Weberian model of bureaucracy does not address violations of its principles, employees nonetheless will violate the rules, act in a corrupt manner, make mistakes or be functionally incompetent. However, bureaucracy itself is not without fault. The actual structure of bureaucracy results in overadherence to rules, absence of channels to report abuses and the prevailing protocol that limits any questioning of policy. These flaws all serve to reduce the ability of the organization to control or correct deficiencies.

Enforcement of Integrity and Efficiency

When employee knowledge of rule violations, corruption, fraud, waste or mistakes is restricted by bureaucratic structure, correction of the abuse is difficult. Some authorities believe that correction of bureaucratic deficiencies may be impossible. According to Carl Friedrich:

Responsible conduct of administrative functions is not so much enforced as it is elicited. But it has been the contention all along that responsible conduct is never strictly enforceable, that even under the most tyrannical despot administrative officials will escape effective control -- in short, that the problem of how to bring about responsible conduct of the administrative staff of a large organization is, particularly in a democratic society, very largely a question of sound work rules and effective morale.²⁵

Others believe that individuals within a bureaucracy can influence the organization to initiate change. According to Weinstein:

Under ideal circumstances there is no conflict between the performance of a role and the efficient achievement of official organizational goals. Each employee is assumed to be

competent, motivated to perform the prescribed function, and able to contribute to the overall purpose. When any of these assumptions are not met, and they are never met completely, there is a possibility for opposition to business as usual.²⁶

Individuals who are determined to rectify an abuse are limited in their action by the structure of the organization and are forced to choose between the formal mechanisms within the bureau or informal strategies that are not recognized as legitimate within the organization.

Informal Enforcement

Those employees who use normal bureaucratic channels within the hierarchy of authority to challenge abuses may find that their complaints are ignored or challenged. If the complainant firmly believes that the report is legitimate and founded in truth, the only remaining recourse is to circumvent normal channels to rectify the abuse. Weinstein states:

Attempts at change from below, which emanate from those who lack authority, are labeled bureaucratic oppositions because they occur outside normal administrative routine and are challenges to authority. However, their aim is not to usurp the machinery of power but to alter practices and personnel.²⁷

Those employees who attempt to correct abuses by going outside the normal administrative channels will be met with a high degree of resistance, particularly if the complaints can be interpreted by management as personal or trivial. Paul H. Appleby postulates:

Employees who go out of channels to report petty and distinctly personal matters reveal themselves as deficient in organizational loyalty, understanding and performance. Loyalty to the more inclusive responsibility is prized, even though it does -- as it must in some degree -- involve disloyalty at a lower level. But mere disloyalty to intervening responsibilities earns no respect.²⁸

Whether trivial or momentous, reports of abuses are seldom welcome. Weinstein agrees:

Opposition within them [bureaus] is a threat to the exercise of authority and will nearly always be perceived by officials as a signal that control is giving way to chaos. As in all authoritarian situations, the first concern of officials is that obedience be maintained.²⁹

Employees aspiring to correct an irregularity in the bureau must recognize that those in authority will oppose the change or balk at the recognition of the significance of the problem. Weinstein recommends that employees plan carefully before taking any action to correct abuses. She states:

Once a goal is set, even provisionally, the general plans for achieving it need to be developed and put into effect. These general plans or strategies fall into two major classes, based on whether they primarily involve giving information about perceived abuses to authorities, outside agencies, or news media, or involve taking direct action against the abuses, such as harassment, filing suit, or disrupting the routine of work.³⁰

Even when careful planning is involved in the attempts to rectify any abuse, the desired changes may not occur. According to Weinstein, information provided to others outside the chain of command "may be ignored, used against those proffering it, or used to further the goals of the opposition."³¹

Strong collective action against bureaucratic imperfection is recommended by Appleby. He states:

The group reaction is usually more impressive and effective than an individual reaction. In either case the first recourse is protest and the second is appeal. Manner and method are important in both, but since the group is relatively strong and the individual is relatively weak, manner and method of individual protest and appeal become particularly crucial. In both cases, action within the organization -- rather than by resort to gossip columnists, interest groups, or members of the legislature -- is the limit of

loyal practice short of some ultimate sense of wrong. Protest and appeal normally proceed, too, in steps of regular progression up the hierarchy or according to some condensed by regularized process of level-skipping. These are the ordinary dictates of organizational morality.³²

Although Appleby recognizes that the constraints of "organizational morality" usually limit employees to internal efforts to correct bureaucratic abuses, he notes publicity of abuses to outside the bureau as a strategy. B. Guy Peters says:

Although it may be considered a method in itself, publicity is one organizational means of controlling the bureaucracy. It would tend to be particularly useful in dealing with individual actions both going beyond, or excessively adhering to, rules and procedures. Publicity carries little or no direct sanction, but instead depends largely upon the organization to correct the errors brought to light.³³

During the last decade, employees who have resorted to publicity outside of normal channels to rectify bureaucratic abuses have come to be known as "whistle blowers". They have made public accusations (i.e., blown the whistle) to unions, the media, or to policy makers such as Congress.

The act of whistle blowing relies upon an individual within the bureaucracy with knowledge of impropriety or illegality making that information known to others in an attempt to rectify the abuse. Ralph Nader refers to whistle blowing as:

the act of a man or woman who, believing that the public interest overrides the interest of the organization he serves, publicly blows the whistle if the organization is involved in corrupt, illegal, fraudulent or harmful activity . . . compelled to speak out against the activities of their organizations.³⁴

Taylor Branch refers to whistle blowers as a "truly new breed."³⁵ He further states:

This fresh creature unexpectedly threw off the deepest impulses of the organization man -- loyalty to the "team" and self-promotion as a team player -- to publicly expose the crimes and inadequacies of his own institutions for a higher cause, generally the public interest.³⁶

The act of blowing the whistle, as discussed in the next chapter, is recognized as legitimate by both the public and the press, but the results are not always as the whistle blower had hoped. By blowing the whistle the informer not only rejects the rules and norms of the bureaucracy, but violates the norms of society to a certain extent. According to Branch:

Getting loyally along is so vital a social command that a child's flesh learns to crawl early at the thought of a tattle tale or turncoat, however noble his purpose. And an adult knows instinctively that he who slays his institutional home will wear the mark of Cain.³⁷

Those who are courageous enough to contemplate whistle blowing not only bear the burden of self doubt about the accuracy of information, ethics and legality of their action, but must also fear the responses of their organization, peers and the public in general. According to Nader, the whistle blower must ask himself, "What will be the likely responses from various sources -- inside and outside the organization -- to the whistle blowing action."³⁸ Often the responses to the action can be traumatic to the whistle blower. Referring to a symposium of whistle blowers Branch comments, "It was clear that their employers -- chiefly government agencies -- were villains against the public, but it was also clear that these employing organizations had struck back harshly against them."³⁹

The employee who takes individual initiative and blows the whistle on abuses may achieve the satisfaction of seeing the abuse eventually

rectified. However, the whistle blower may also expect responses from the bureau that are detrimental to career goals, status and even to continued employment by the bureau. Hence informal, or unsanctioned attempts to correct bureaucratic abuses are sporadic at best. Therefore, some degree of utility must be expected from formal procedures to discover and correct problematical behavior.

Formal Enforcement

Some bureaucracies are aware that abuses exist within the organization and will attempt to establish some form of standards of performance to remove ethical behavior. Most bureaus attempt to elicit responsible behavior with codes of ethics. Nigro postulates that written codes of ethics are a beginning point in the enforcement of employee responsibilities. He states, "The codes can do no harm, and their potentialities for good may be great. . . . In the main, they serve the very important function of reminding the individual of his professional obligations."⁴⁰ Codes of ethics are difficult to enforce, however, and there are few set penalties for failure to perform according to such written standards.

Some progressive bureaucracies will establish an independent office to serve as a liaison between those reporting abuses and the upper levels in the hierarchy. These offices, normally staffed by a specific individual, are known as Ombudsmen or as Inspectors General.

Ombudsmen normally accept allegations or complaints from citizens outside the organization and utilize internal means to investigate and rectify the reported problem. According to Weinstein, ombudsmen "give their citizens redress of grievances against official agencies."⁴¹

Inspectors General, on the other hand, are viewed as mechanisms for review of internal allegations from bureau employees. Both the Ombudsmen and Inspectors General have the same goal in principle -- that of investigation and correction of bureaucratic waste or misdeeds.

One of the difficulties with this type of solution to bureaucratic abuses is that individuals who act as Ombudsmen or Inspectors General typically have some allegiance to the organization that they investigate. They are usually appointed by the administrator of the organization and may at some point in time move into the organization's hierarchy. According to Weinstein:

Because the ombudsman offices are ultimately controlled by the administration within the bureaucracies, policies and rule violations that are in the administration's interest cannot be opposed by them. Thus the offices serve a rather limited function in correcting abuses.⁴²

Similarly, Inspectors General are "only as effective as their top echelon allows them to be."⁴³

The principle criticism of either an Ombudsman or Inspector General is the uncertainty about the degree of interest that the various offices may exhibit toward a citizen or employee complaint. Weinstein feels that some bureaus view the investigative offices as "pressure escape valves" with little authority to make substantive changes.⁴⁴

In theory, the investigative offices of Ombudsmen or Inspectors General can serve a legitimate function. These offices are in a position to receive and investigate citizen or employee grievances. Thus, the offices should initiate constructive changes to the organization if given authority to do so by the officials in the bureau. If fully implemented in good faith, such a formal channel for reporting may serve

to circumvent the social and structural obstacles to reporting of abuses, perhaps eliminating the need for or risk associated with blowing the whistle.

Summary

While bureaucratic theory suggests that most organizations are structured bureaucratically to promote efficiency and effectiveness, bureaucracy is not without fault. Individuals within any bureaucracy may violate the principles of the organization and be guilty of rule infractions, corruption or malfeasance. Other individuals may make mistakes or lack competence necessary to perform an assigned task.

The rigidity of the bureaucratic structure of the organization may lend itself to problems and abuses. By unwavering compliance with rules that may not be morally correct or meet desired outcomes, employees become unwitting, ineffective pawns of the bureaucracy. The bureaucracy has few channels to allow an employee to report an abuse, and the act of opposing regulation or policy is not recognized as a legitimate function of a worker in a bureau.

Relevant literature indicates that employees of a bureaucracy who choose to circumvent normal reporting channels to report abuses are subject to severe organizational constraints that limit enforcement of ethics and efficiency. Reporting employees may choose to make their knowledge known to unions or others within the hierarchy outside of routine channels, or may choose to blow the whistle publicly to the media or Congress. In either case, the employee risks personal retribution from individuals or the organization.

Some bureaucracies have established institutional reporting channels to receive and investigate employee complaints. These investigators, Ombudsmen or Inspectors General, are considered legitimate by the organization, but may be subject to whims and pressures from the leadership of the organizations. Nevertheless, there is some argument that such a formal procedure might be a viable alternative to whistle blowing.

These insights, derived from a review of pertinent research and discussion, provide a focus for the analysis of recent formal and informal attempts to correct bureaucratic abuse in the federal government.

CHAPTER 3

LEGITIMIZING WHISTLE BLOWING IN THE FEDERAL BUREAUCRACY

This Chapter expands upon some of the points previously made about the problem of enforcing bureaucratic integrity. After describing a number of widely publicized instances of employees blowing the whistle, it attempts a systematic explanation of why such behavior is discouraged in an agency setting. This leads to a discussion of the attempt by Congress and the President to solve the problem by legislating formal channels to encourage employee reporting of bureaucratic abuses. The Chapter concludes with a description of the events leading up to the legislation and explains the laws' provisions.

The Incidence of Whistle Blowing

The act of going outside of normal bureaucratic channels to report fraud, waste, abuses, corruption, incompetence or errors is recognized as one method of enforcing bureaucratic standards. However, by stepping outside of normal hierarchical constraints, the whistle blower is subject to hostile attention from those who disagree with the complaint or are part of the reason for the disclosure.

The chronicles of federal, state and corporate whistle blowers confirm that retribution is swift and most vigorously administered. The most widely publicized case of a whistle blower and the punishment

he received is that of Ernest Fitzgerald who exposed extensive cost overruns on a military project.⁴⁵

Fitzgerald, a cost control specialist with the Air Force, was invited to testify before Senator William Proxmire's Joint Economic Subcommittee in November 1968. Immediately following the invitation, Fitzgerald was told by his superior, Robert C. Moot, that he should not accept the invitation. According to Fitzgerald:

Mr. Moot told me that the Assistant Secretary of Defense for Installations and Logistics was disturbed by the prospect of my testimony. He asked if I would turn the matter over to him, in effect assigning the invitation. . . . Later, after it had been decided by the Secretary of Defense and the Air Force, over my objections I might add, that I would appear only as a backup witness, and that I would not prepare a statement, Mr. Nielsen and I met with Mr. Moot to discuss the matter.⁴⁶

Fitzgerald was in fact called upon to testify at the hearing, and when asked by Senator Proxmire about the C-5A airplane project, he reported a \$2 billion cost overrun that had been concealed from Congress for over two years.

Immediately following the testimony, Fitzgerald was removed from all his normal duties and relegated to minor tasks. He was no longer invited to staff meetings and was shunned by his peers. Fitzgerald commented about the atmosphere at his office, "my quarantine from the major programs continued accompanied by a degree of social ostracism."⁴⁷ Twelve days after the testimony, Fitzgerald's career status was revoked. The revocation of career status was explained by blaming the original status upon computer error.

A January 1969 memorandum to the Secretary of the Air Force from Fitzgerald's supervisor stated that three different actions were being

considered to handle the Fitzgerald matter. He could be fired, have his position abolished, or change his position to career civil service (rather than consultant) and not hire him for the newly created position. Richard Nixon echoed the view of the Air Force. Watergate tapes document the President telling his aides, "get rid of that S.O.B."⁴⁸ On November 4, 1969 Fitzgerald received official notice that his position had been abolished as part of cost cutting reorganization. His job was the only one that was abolished during the "reorganization."

Fitzgerald's efforts to regain his position met with rebuke as he arduously wound his way through administrative channels. When attempting to utilize a Federal statute that forbids impeding a Congressional witness, Fitzgerald found that "civil servants and military personnel appear well protected by statutes providing tough penalties for retaliation against government witnesses before Congressional committees. But who's going to enforce them?"⁴⁹ He also was unable to get any action through Civil Service Commission review. He lamented, "We have to exhaust all administrative remedies before we can file charges in court, instead; those remedies are exhausting us."⁵⁰ Fitzgerald finally took his case to the court system. In 1973 he was rehired by the Pentagon with back wages. By 1978 he had spent over \$400,000 attempting to regain his former position in cost control.⁵¹ In 1980 he won a \$142,000 settlement from former President Nixon for damages and wages. Finally in 1982, the courts ordered Fitzgerald's reinstatement in his former job where he is currently reporting on \$7 hammers that the Pentagon purchases for \$436 and 25¢ washers that cost the government \$693."⁵²

Another example of the ramifications of "blowing the whistle" began in 1964. James Boyd and Marjorie Carpenter were staff members of Senator Thomas J. Dodd when they discovered financial impropriety between the Senator and large campaign contributors.⁵³ When the Senator found Boyd and Carpenter snooping for information, they were dismissed from his staff. For seven months after their dismissal, the pair took no action, but finally they pilfered documents from the Senator's office and had them published in the Washington Post.

Congress at first refused to take action due to "their universal fear of having facts about them exposed by rebellious staff members -- to focus their scorn on the 'stool pigeon' question and on the probable chromosome mutations of traitors to the Congress."⁵⁴ The Senate did finally bend to public pressure and censured Dodd on June 23, 1967. The "whistle blowers" however, received greater censure from their new employers than did Dodd at the hands of the Senate. Branch states that:

Carpenter received support from her new employers, the Lawyer's Committee for Civil Rights Under Law, but she resigned when her new fame produced strain and apprehension. . . . Boyd quickly lost his job as a part-time speechwriter for a House Subcommittee.⁵⁵

Boyd, like Fitzgerald, was part of a one-man reduction in staff.

A final example is Riley B. McClelland, a sixteen-year veteran of the National Park Service, who attempted to blow the whistle "through channels" in 1971. He protested to his superiors about the building of boardwalks, use of herbicides and the pollution of water sources in national parks.⁵⁶ According to Michael Frome, "first his job -- resource management specialist -- was abolished. Then he was ordered to pack and move to the regional office in Omaha to prepare environmental

impact statements. He was threatened with 'adverse action' if he failed to accept."⁵⁷

Although McClelland filed a number of grievances, the courts and the Civil Service Commission supported "the agencies' allegation that his services had been urgently needed in Omaha -- in a position that, ironically, has never been filled."⁵⁸ McClelland left the Federal government.

Fitzgerald, Boyd, Carpenter, McClelland and the myriad of other documented cases of whistle blowing have much in common. Each case involved wrongdoing by an individual or organization, alienation from the organization and peers when the violation was reported, the lack of protection from retribution, and ineffective grievance procedure when retribution did occur.

Most importantly, however, the whistle blowers had few mechanisms within the structure of the bureau to allow constructive criticism or encourage change.

Social and Organizational Disincentives to Whistle Blowers

Employees of a bureaucracy are unquestionably subject to pressures and retribution when they choose to circumvent normal channels to correct a perceived injustice. Peers of a dissident employee will encourage compliance with norms of the work group, which in turn, dictate compliance with directives from supervisors. Management will expect and demand acceptance of management control and a strict hierarchy of authority. If either peer or management expectations are violated, the

whistle blowing employee is often the target of scorn, punishment or other injustices.

In order for management to achieve willing compliance from a subordinate, an unspoken agreement for mutual cooperation must exist. The superior may make his demands reasonable or foolish, just or unjust, difficult or simple, or clear or confusing. The subordinate may in turn choose to obey or not obey, obey precisely or obey using common sense, or obey in a workmanlike or careless manner. The manner in which the supervisor assigns a task has a great deal of bearing on the reciprocal actions of the subordinate. The Law of Counter Control, as discussed by Downs, states, "the greater the effort made by a sovereign or top level official to control the behavior of subordinate officials, the greater the efforts made by those subordinates to evade or counteract such control."⁵⁹ Even though efforts to increase the control of subordinates often result in high levels of evasion by an employee, bureaucracy has nonetheless evolved a complex system of employee controls.

The most commonly used methods of control in a bureaucracy are rewards and punishment. According to Chris Argyris

Rewards and penalties serve to increase the individual's awareness and responsibility for as much of the total organization as possible, enlarge the experience of interdependence with others and with the whole, and increase the control that the whole has over its own destiny.⁶⁰

Rewards may become a penalty when they are withheld by a superior from an employee who expected to be rewarded. E. Wight Bakke lists ten areas of rewards that may be freely given as a reward or withheld as a penalty:

- personal approval by superiors or peers
- money or materials
- privileges or perquisites
- physical comforts
- freedom
- enlargement of functions
- tenure
- personal advancement
- cooperation
- adequacy of judgement⁶¹

Superiors may at times become lenient in administering rewards and penalties. The purpose of the leniency is often to gain further control or future reciprocity from the subordinate. According to Peter Blau and Marshall W. Mayer, "Leniency in supervision is a potent strategy, consciously or unconsciously employed, for establishing authority over subordinates, and this is the reason why the liberal supervisor is particularly effective."⁶²

Superiors may utilize direct penalties to uphold their authority or to provide control. However, according to Bakke, "the most frequent form of penalty is merely a withholding of the positive reward, although in certain cases like fines, reprimands, ostracism, restrictions on choice of work, suspension and discharge, they may be positively negative."⁶³ The use of rewards, withholding of rewards, or direct penalties by management are intended to bring about behavior desired by the superior or compliance with bureau philosophy and rules. As previously illustrated, whistle blowing elicits this kind of management behavior. Employee knowledge of the potential rewards and penalties presumably discourages those who desire to blow the whistle.

Other employees at the workplace may also provide a control mechanism within the bureau, knowingly or unknowingly. The work groups, which are ubiquitous in any workplace, develop social norms and

standards that guide the worker in interrelationships with other employees and management. Employees feel compelled to think and act like their peers or be subjected to subtle clues to conform, and at times blatant ostracism if compliance is not forthcoming. According to Blau and Meyer:

This process of identification with bureaucratic standards does not occur in isolation, but in a social situation. All members of the work group find themselves in the same position of dependence on their supervisor. . . . Together, they can obtain concessions from the supervisor, because he is anxious to obligate them by granting some of their demands. In exchange, they feel constrained to comply with many of his directives.⁶⁴

Work groups are cognizant of the benefits of unanimity and potential rewards for uniform compliance of all members of the group. Bakke argues that some rewards

are forthcoming primarily as a result of a person being a member of a group. In the latter case they are not basically associated with any particular cause within the control of the individual. Such, for instance are items like vacations, holidays, pensions, insurance, and recreational facilities.

These rewards are important to individuals in the bureau, and they will strive to bring greater favor to the group as a whole in order to achieve additional recognition.

When a member of a work group does not comply with normative standards of the group, the other members of the group may feel that future rewards or favors by a superior are in jeopardy. The group will begin actions to receive compliance from the employee who has broken the unwritten rules. Bakke states:

Fellow workers have available fewer types [of rewards and penalties] but these are extremely important -- namely personal approval . . . personal advancement . . . cooperation, adequacy of judgement, and general satisfactory relationships.⁶⁶

When a member of the work group makes a statement or criticism that does not comply with group norms or is threatening to future rewards, the group will immediately respond. Irving L. Janis states:

Whenever a member says something that sounds out of line with the groups norms, the other members at first increase their communication with the deviant. Attempts to influence the non-conformist member to revise or tone down his dissident ideas continue as long as most members of the group feel hopeful about talking him into changing his mind. But if they fail after repeated attempts, the amount of communication they direct toward the deviant decreases markedly. The members begin to exclude him, often quite subtly at first and later more obviously, in order to restore the unity of the group.⁶⁷

Most employees who circumvent normal group behavior or jeopardize group rewards will be met with some form of group control. Consequently whistle blowing may result in social isolation or even unveiled abuse in the bureaucratic workplace.

In addition to conformity and loyalty to a work group, individuals within a bureau are expected to develop a sense of loyalty to the organization as a whole. This loyalty is cultured by the organization to assure compliance with its goals and beliefs. George E. Berkly states:

Organizations build group loyalty in various ways. Rituals, uniforms, songs, mottos, and codes of conduct are only some of the more obvious devices. Most of the activities an organization undertakes and most of the services it provides for its members play some part in making these members think of themselves as components of a formal group. To the extent that the organization meets the individual's financial, professional, and particularly his emotional needs, the more likely it is to develop in him a sense of organizational loyalty. . . . Words like morale and esprit de corps are often used to designate the benefits that presumably flow from such a merger of individual and group identity.⁶⁸

Loyalty to the bureau is considered integral to ongoing control of individuals within the organization. Louis Gawthrop believes:

Control patterns within any organization are made effective as a result of a willingness on the part of all members to

accept the view that individual interests and goals can be satisfied only if organizational goals and interests are realized. . . . Loyalty is, in effect, an essential, intangible quality which must be present if an organization is to represent something more than a mere assemblage of persons.⁶⁹

Not only loyalty toward the organization, but also loyalty toward a superior is elicited in a bureau. An employee must exhibit some degree of loyalty toward an immediate superior in order to receive rewards or negate punishment. According to Charles Perrow, "The marginally competent manager who is promoted over others is vulnerable and thus had better be loyal."⁷⁰

Within the hierarchy of an organization, some supervisors find that the loyalty that is evoked or purchased from a subordinate may be crucial to their own position. Downs states:

Personal loyalty to one's superior, and from one's subordinates, play vital functional roles within a bureau. Its first role stems from the rarely discussed fact that all top-level officials (and many others) are frequently in danger of being embarrassed by revelation of their illegal acts, failures, lack of control over their subordinates, and sheer incompetence. If their subordinates are personally loyal to them, they can rely upon those subordinates to be discreet in handling of information dealing with these potentially scandalous matters. Therefore, in order to protect themselves, they tend to select subordinates who exhibit such loyalty.⁷¹

The structure of most bureaucratic organizations dictates that a formal hierarchy of authority is recognized as absolute and that employees must realize that loyalty is expected toward the individuals in authority as well as the organization as a whole. Those employees who do not conform to written as well as informal rules and etiquette may well pay the price of not being rewarded, being subjected to punishment, or being scorned and rejected by superiors and peers.

The known cases of whistle blowers and the retribution that they received illustrates that management controls, normative peer pressure and loyalty to the organization and individuals dramatically reduce the effectiveness of exposing impropriety. Thus, it is unlikely that we can rely solely on informal enforcement of rules and integrity to correct problems of waste, fraud or corruption.

The Inspector General Act of 1978

There is little doubt that many whistle blowers have actual knowledge of fraud, waste or abuse, and are not merely fabricating a story. Federal departments and agencies, by their own admission, have billions of dollars of unreported loss due to fraud and inefficiency. The Justice Department believes that at least \$25 billion is lost annually from fraudulent activities.⁷² The Department of Health, Education and Welfare placed fraud and waste between \$6.3 and \$7.4 billion each year.⁷³

Congressional hearings on the matter of waste and fraud found that up to 8% of food stamp recipients in 1977 were not qualified for federal support.⁷⁴ The hearings cited other similar examples in the General Services Administration, Department of Health, Education and Welfare, and in many of the federally insured loan programs.⁷⁵

Examples of abuses cited by the federal government typically make no mention of non-quantifiable abuses in areas of policy, poor administration, substandard performance by federal employees, or failure to follow legislative intent. Nonetheless, known abuses are tremendously costly to the federal government, and if unknowns such as inefficiency

are included, the cost of fraud, waste, incompetence, mismanagement and other abuses has a major impact upon the federal budget.

In 1978, President Carter officially recognized abuses in the federal bureaucracy and vowed to initiate corrective action. In an address to Congress on March 2, 1978, Carter recommended a major overhaul of the Civil Service Commission authorities and procedures.⁷⁶ He stated, "the system has serious defects. It has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion."⁷⁷ Carter also proposed a Special Counsel "appointed by the President and confirmed by the Senate, who will investigate and prosecute political abuses and merit system violations. This will help safeguard the rights of federal employees who 'blow the whistle' on violations of laws or regulations by other employees, including their supervisors."⁷⁸

In June of 1978, the Senate Subcommittee on Governmental Efficiency and the District of Columbia held hearings on the proposed restructuring of Civil Service. The Committee found that "recent evidence makes it clear that fraud, abuse and waste in the operations of Federal departments and agencies in federally-funded programs are reaching epidemic proportions. Undoubtedly, the problem is not new. However, increased attention by the press and by government officials has brought to light increasingly disturbing testimony of the magnitude of these problems."⁷⁹ The Committee found that the Federal government had "failed to make sufficient and effective efforts" in either the prevention or correction of fraud, waste or other irregularities.⁸⁰ Testimony presented to the

Committee highlighted two major weaknesses in the government's efforts to control or correct internal problems. The first was the lack of funding and manpower to adequately perform audit functions or pursue allegations of wrongdoing. The Committee cited cases such as only four auditors in the Department of Transportation to control abuses in the \$6 billion highway program.⁸¹ During the hearings many agencies and departments appeared to express inadequate resources for audit, and referred to audit activities behind schedule from 9 to 20 years.⁸²

The Committee found the second major weakness of the audit or investigative efforts of the Government to be in the organization structure of the individual departments or agencies. The Committee determined that most auditors were directly under the authority of the individuals whom they were investigating. According to the Committee:

In general, the lack of independence of many audit and investigative operations in the executive branch is striking. In some agencies where complaints have been received, investigators have not been permitted to initiate investigations without clearance from the officials responsible for the programs involved. The Chief of the Community Services Administration's inspection division, for example, testified that he had been denied permission to investigate allegations of wrongdoing in several cases. In one such case, a later investigation resulted in 22 indictments.⁸³

The Committee recommended the establishment of Offices of Inspector General within various departments and agencies to act as independent auditors and investigators. The report of the Committee states:

The Inspector General concept, which can best be described as the consolidation of auditing and investigative responsibilities under a single high-level official reporting directly to the head of the establishment, responds directly to the major problems which have been identified in current Federal efforts to prevent and detect fraud and waste.⁸⁴

The Committee was very explicit when it stated that not only must the Inspector General be "a strong advocate for resources when needed," but also "an individual whose independence is clear and whose responsibility runs directly to the agency head and ultimately to the Congress."⁸⁵

The Committee also recognized the importance of protecting Federal employees who might choose to report fraud or waste and be subject to alienation from fellow employees or discipline from a superior. The report states:

The inspector and auditor General should handle employee complaints seriously and systematically. Because of the employee's position within the agency, employee complaints carry with them a high likelihood of reliability. Because it is never easy to "blow the whistle" on one's supervisors or colleagues, the situation may often be serious. Additionally, the Committee believes that most employees would much prefer an effective channel inside the agency to pursue complaints rather than seeking recourse or publicity outside the agency. This preference should be encouraged.⁸⁶

The Committee referred to additional legislation, Senate Bill 2640, that would establish a Merit Systems Protection Board Special Counsel who would investigate employee complaints of retribution for reporting of fraud and illegal acts. The Special Counsel "should, in addition to safeguarding the employee from prohibited personnel practices, refer the complaint to the agency head for investigation of merits."⁸⁷

It was the intent of the Committee that an employee would be protected by Special Counsel from reprisal when a report was made to the press of danger to health or safety. When an employee did not go outside of agency channels, the Inspector General was to protect a whistleblower from reprisal.

On October 12, 1978, the Inspector General Act of 1978 (Public Law 95-452) was signed into law. The law established offices of Inspector General in the Departments of Agriculture, Commerce, Housing and Urban Development, Interior, Labor, and Transportation. It also included the Community Services Administration, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, Small Business Administration, and the Veterans Administration. The new offices were in addition to Offices of Inspectors General already existing in the Department of Health, Education and Welfare and in the Department of Energy.

The new law specified that the Inspectors General are to be appointed by the President and confirmed by the Senate. Section 3 of the Act states that the Inspector General will be under the authority of the head of the department or agency that he/she is assigned to, or to the individual immediately subordinate to the agency head. However, the Act specifically prohibits any agency official from interfering with, or preventing audit or investigations by the Inspector General.

Each Inspector General is to appoint an assistant to oversee audit functions and an assistant to be responsible for investigations.

Section 5 of the Inspector General Act gave each Inspector General the responsibility for:

- 1) developing and implementing audits of its Department or Agency;
- 2) reviewing all proposed legislation pertaining to the Department or Agency and making recommendations about efficiency, cost and prevention of fraud or abuses;
- 3) recommending changes in policy affecting efficiency, fraud or

abuse in ongoing Department or Agency operations;

- 4) coordinating with other Agencies, state and local bodies, and non-governmental entities on programs to improve efficiency, detection of fraud, and prosecution of participants in fraud or abuse; and
- 5) reporting to both Congress and the head of the Department or Agency involved concerning fraud, abuses, and inefficiency and to recommend specific steps necessary to correct the problem.

Section 7 of the Act gave the Inspector General the ability to accept and investigate employee complaints concerning "violation of the law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety."⁸⁸ The same section also grants the Inspector General the right to keep any employee allegation confidential "unless the Inspector General determines such disclosure is unavoidable during the course of the investigation."⁸⁹

Presidential and Congressional intent to protect whistle blowers is met in Section 7 (c). The Act states "Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity."⁹⁰

Section 6 of the Inspector General Act authorizes each Inspector General to:

- have access to records, reports, audits, or any other material held by the relevant Agency;
- make any investigations or reports that the Inspector General deems necessary;
- request information or assistance from other Federal, State or local entities;
- have the power of subpoena to gain access to any needed information;
- have immediate and direct access to the head of the Department or Agency being investigated;
- select, appoint and hire all help necessary to conduct its stated function; and
- contract additional help that may be necessary.

The same Section of the Act requires any Federal Agency to provide information required by an Inspector General that is not specifically prohibited by statute. The Agency under investigation is also required to provide office space and services if an Inspector General or his staff are conducting an investigation.

The reporting function of the Offices of Inspectors General is addressed in Section 5 of the Act. The Inspectors General are required to compile a report semiannually detailing any instances of fraud, abuses or deficiencies found during the preceding period, recommendations of corrective actions, identification of problems reported previously that had not yet been corrected, prosecutions and convictions, a summary of reports sent to Agency heads, and a list of all audit reports completed during the preceding six months.

The Act specifies that the Inspector General will provide the head of the Department or Agency the final semi-annual report. The head of the Department or Agency will transmit the report to Congress within thirty days unaltered from the form that it was in when received from the Inspector General. The Agency may provide accompanying comments when transmitting the report to Congress.

In addition to semi-annual reports, the Act mandates that an Inspector General must notify an Agency or Department head if he/she uncovers "any particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment."⁹¹

Summary

Those within the federal bureaucracy who were aware of improper activities and chose to report their knowledge suffered professional mistreatment, emotional duress and financial hardship. The dissenting employees, lacking legitimate reporting channels, were forced to violate the written and normative rules of the bureau and suffered retribution for their action.

The bureaucracy exerts constraints upon its members by rewarding those who conform to the system and penalizing those who are viewed as rebellious. The work group itself encourages behavior most likely to bring favor to the group and may ostracize a co-worker who creates unfavorable attention from those at higher levels in the hierarchy. Both employees and management exhibit some degree of loyalty toward the bureau and may attempt to prevent any information or publicity that would

bureau and may attempt to prevent any information or publicity that would shed unfavorable light upon the organization, its policies or members.

The Inspector General Act was an attempt by Congress and the President, through formal action to correct this problem by creating a safe and legitimate channel to allow federal employees to report abuses. The Act established independent investigators to accept employee allegations of abuses, investigate the complaints and take corrective action if warranted. The next Chapter will assess the actual success of this legislation.

CHAPTER 4

ASSESSING THE INSPECTOR GENERAL ACT

Actual Impact of the Inspector General Act

The Inspector General Act of 1978 was intended to set in motion a dramatic overhaul of the federal bureaucracy. Congressional intent was to create a formal mechanism independent of politics and departmental influences to investigate allegations of wrongdoing and to protect the accusers.

Soon after the Inspector General Act became law, President Carter began the selection of individuals to staff the new offices. According to Joseph Nocera, "Carter is said to be looking for young, sharp lawyers to head the Office of Inspector General, people who have the smoothness to handle the press and no desire to become career bureaucrats."⁹² He points out however, "neither Ken Mansfield, the Inspector General at DOE, nor Thomas Morris at HEW fits that bill. Both are career government investigators known primarily for their ability to survive, to compromise, and who have learned, in Lyman Kirkpatrick's phase, the tolerable limits of what they can do and still keep their jobs."⁹³

The final slate of Inspectors General included both former bureaucrats and new blood from outside the federal service. Approximately one half were professional auditors and the remainder were experienced investigators.⁹⁴ In addition, the Offices of Inspector General employed a

staff of 5600 auditors, accountants and investigators operating on an annual budget of \$300 million.⁹⁵

One criticism of the new offices was voiced by Nocera:

When the office was set up in each department, the inspector general had to take the people who were already there, those who worked in the old office of audit or investigations. The civil service wouldn't have it any other way . . . the auditor who had been looking at department books for the last 20 years under the office of audit would continue to do that, except now he would be doing it for the inspector general.⁹⁶

Nocera states that the major improvement in the office is "ending the practice of having bureaucrats serve for a few years as investigators before moving elsewhere in the bureaucracy."⁹⁷

One of the first acts of the newly appointed Inspectors General was to notify all employees within the department of the new position and the willingness of the office to investigate complaints. Nocera believes that the initial reaction was one of distrust. He states:

Whistle blowers have a hard time seeing much difference between these inspectors general and the offices they replaced. Most departments already had in place an office of audit and an office of investigations, and the people who worked in these sections were never known for their aggressiveness in finding and pursuing internal wrongdoing.⁹⁸

One other action taken by the Inspectors General that met with a much more positive response was the installation of toll free numbers in each of the Inspector's offices as well as a centralized toll free service, (800) 424-5454, that forwards calls to a specific Inspector General. The toll free number was not only provided to Federal employees, but was published by various media in hopes that citizens would participate in reporting abuses.

By August of 1979, over 4000 calls had been received by the Inspector General "hotlines" with at least a third that the Inspectors General

felt worth pursuing.⁹⁹ Over half of the callers reported ineligible recipients of federal funds and programs.¹⁰⁰ While half of the reports of abuses were against non-government entities, over 60% of "hotline" callers refused to give their names because they were federal employees who feared retaliation.¹⁰¹

The initial ambition of the Inspectors General under the Carter administration was to create activity highly visible to the public and federal employees while testing their new administrative authorities. The Offices of Inspector General, under President Carter's direction, spent the first three years of existence initiating and administering the new law without deviating from the course charted by Congress and the President in 1978. However, with the change in administrations in 1981, the Inspectors General began to strive for greater effectiveness and less bravado.

In March 1981, President Reagan created the President's Council on Integrity and Efficiency by executive order. The Council, made up of each Inspector General and a representative of each cabinet level department, was directed to provide coordination and cooperation among the new investigative entities of the federal government. The report of the Council for the first half of fiscal 1982 stated that the combined activities of the Inspectors General resulted in \$14.1 million of savings to the federal government.¹⁰²

The report of the President's Council for the second half of 1982 valued monetary returns from fines at \$11.6 million, restitutions at \$7.7 million, settlements of \$2.6 million and investigative recoveries of \$15.6 million.¹⁰³ The same report stated that 8,778 allegations of

fraud, waste or abuse were received by the Offices of Inspectors General.¹⁰⁴

By 1984, the President's Council had shown a great deal of improvement in monetary savings. The report of the second half of fiscal 1984 states that \$59.2 million was actually recovered during the reporting period, and that an additional \$1.0 billion had been recognized as recoverable by agency and department management.¹⁰⁵ During the same reporting period, 10,666 allegations of wrongdoing had been made to the Offices of Inspectors General.¹⁰⁶

From the time of the implementation of the Inspector General Act until the most recent reporting period in 1984, the monetary savings to the government through actions by the Inspectors General has increased dramatically. On the other hand, the increase in employee or citizen reports is insignificant. From the time that "hotline" numbers were established in early 1979 until August of 1979, 9,000 reports were received by the Inspectors General. During a similar reporting period, the second half of fiscal 1984, 10,666 reports were taken. The increase of 1,666 calls per reporting period from 1979 to 1984 could indicate that either little impropriety was occurring in the federal government, or that employees were still unwilling, unable or lacked the knowledge to make a report to an Inspector General.

U.S. Merit System's Protection Board

Survey and Evaluation

Recognizing that employee willingness to report abuses in the federal bureaucracy and knowledge of reporting channels are integral to

the success of the Inspector General Act, the government attempted to evaluate employee perceptions and attitudes.

In December, 1980, surveys were sent by the U.S. Merit Systems Protection Board to the home address of 13,000 federal employees. The survey recipients were all employees of agencies or departments with a new Office of Inspector General.

The survey was structured to determine the respondents' knowledge of fraud and waste, analyze the actions that employees aware of abuses take, and to find out the results of the employees' actions. Most importantly, the survey was intended to assess the impact of the Inspectors General and to determine employee knowledge of whistleblowing. Of the 13,000 surveys sent, 8,600 were completed and returned to the Merit System Protection Board. No statistical data was compiled concerning the types of positions held, age, sex or race of the respondents.

The results of the survey were released in October 1981 in a report entitled "Whistleblowing and the Federal Employee -- Blowing the Whistle on Fraud, Waste, and Mismanagement -- Who Does it and What Happens."

The report summarized the responses of federal employees on questions in the categories of actual employee knowledge of fraud or waste, reasons that employees do not report fraud or mismanagement, the extent of retribution against whistleblowing employees, employee willingness to report fraud or waste, employee knowledge of reporting channels, and employee views and suggestions for increasing disclosures of impropriety.

The Merit Systems Protection Board hoped that results of the survey would lead to concrete recommendations for the improvement of administration of the Inspector General Act of 1978.

The Merit System Protection Board survey directed specific questions to each of the respondents concerning personally observed instances of illegal or wasteful activities. Over 45% of the respondents stated that they had personally observed one or more instances of theft, waste, poor management, corruption or public danger during the preceding twelve-month period. The following categories list the type of wrongdoing observed and percentage of all the respondents who claimed personal knowledge of the offense:¹⁰⁷

- wasteful goods or services	25%
- badly managed programs	18%
- employee theft of federal property	17%
- use of position for personal gain	15%
- dangers to public health or safety	15%
- ineligible recipients of goods or services	11%
- favoritism to vendors or contractors	8%
- bribes or kickbacks	2%
- theft of federal funds	2%

Of the respondents who said they had personal knowledge of the fraud or waste listed in one or more of the categories above, 31% stated that the activity cost the government between \$100 and \$1000. Twenty-three percent of the respondents claimed that the activity exceeded \$1000 in expense and 9% felt that the activity cost in excess of \$100,000.¹⁰⁸ The survey was not structured in such a manner that it could

be determined if a respondent had observed one or a hundred instances of theft in any dollar category. Nor did the survey classify or define waste, theft, favoritism, danger to health or bribes. Therefore, an employee who had observed another take a pencil home from work, receive lunch paid for by a vendor, or throw away a reusable paper clip, may have responded in one or more of the categories listed.

The results of the survey also showed that of the respondents who were aware of abuses or waste, 75% had observed instances in their own agency, 14% had observed the wrongdoing in another federal agency, 15% were aware of ineligible recipients of federal services, and 16% blamed instances of wrongdoing on organizations who dealt with the federal government.¹⁰⁹

The survey was not prepared in a manner that would allow a legitimate assessment of the actual costs or extent of waste or abuses in the federal bureaucracy. However, results do confirm that federal employees are aware of impropriety in the government and recognize the cost involved.

In the survey, those employees who said that they were aware of fraud, waste or mismanagement were asked if they had reported their knowledge to groups or individuals including co-workers, supervisors, personnel officers, Inspectors General, unions, Congress or the news media.

Thirty percent of those who had observed waste, abuse or mismanagement responded that they had reported their knowledge to someone else.¹¹⁰ Of those who did make a report, 28% were in positions such as accounting or audit that required reporting of abuses as part of ongoing duties.

The survey pointed out that federal employees for the most part continue to observe the hierarchy of authority when reporting an abuse. The person or place where reports of impropriety are made and the percentage of respondents who have made one or more reports include:¹¹¹

- Immediate supervisor	79%
- co-workers	51%
- someone above immediate supervisor	39%
- union representative	10%
- personnel office	9%
- Office of Inspector General	8%
- a member of Congress	6%
- news media	2%
- General Accounting Office	1%
- Special Counsel to the MSPB	.8%

The results indicate that an employee who reports an abuse will typically make the report to more than one entity. On the other hand, the results might indicate that the reporting employee may report trivial matters to co-workers or supervisors, and report matters perceived to be significant to others.

This same section of the survey found that the higher the grade of the employee, the more likely he/she was to report improper activities. Of those aware of waste or abuse, 25% of those in grades GS-1 through GS-8 said that they had reported their knowledge to others. Thirty-one percent of those employed in grades GS-9 through GS-12, 36% in grades GS-13 through GS-15 and 39% of the senior executive service voluntarily reported their knowledge.¹¹²

The majority of those who did report fraud or other abuse did not feel that efforts were made to rectify the problem. Seventy-two percent of those who reported to a work group or supervisor, and 73% who reported outside the hierarchy either believe the problem was not resolved, or do not know if any corrective action was taken.¹¹³ Since the survey did not define the significance of the problem reported, it must be assumed that some petty or minor complaints that would provide minimal savings to the government would not be acted upon immediately if at all. The report does not indicate whether the complaints not acted upon are from a GS-3 complaining about excessive use of office stationary, or from the Senior Executive Service concerning military supplier kickbacks. In either case, the results of the survey indicate that insufficient feedback on outcomes is provided to employees who make a report.

While the survey found that 30% of federal employees who were aware of waste, mismanagement or abuses made a report to someone else concerning their knowledge, it also attempted to determine the reasons that the remaining 70% did not make a report. The categories offered for response and the results include:¹¹⁴

- | | |
|--|-----|
| - do not feel anything will be done | 53% |
| - do not feel anything can be done | 20% |
| - the risk is too great | 19% |
| - someone else already made the report | 18% |
| - insufficient evidence | 18% |
| - unsure where to make a report | 18% |
| - activity too unimportant to report | 12% |

- did not want to get another employee in trouble 8%
- did not want to embarrass organization 7%

It is significant to note that contrary to classical bureaucratic literature, few employees indicated loyalty to the organization, superior or peers as a reason for remaining silent. On the other hand, most of the respondents perceived a lack of responsiveness on the part of the bureau to correct any reported problems.

Nineteen percent of the respondents indicated personal fear was a reason for not making a report. This response implies that either the employees' superiors or co-workers are involved in the impropriety and that retribution might be forthcoming if a report was made.

The survey determined that the vast majority of those who reported abuses were not subject to any overt reprisal. When asked what happened after making a disclosure, the results and percentage of responses evidences:¹¹⁵

- nothing happened to the employee 55%
- an impression that the supervisor was unhappy 27%
- an impression that the supervisors' superiors were unhappy 26%
- positive credit was bestowed by management 11%
- impression that co-workers were unhappy with report 9%
- received actual reprisal 8%
- received threats of reprisal 6%

Those employees who are actually subjected to reprisal were asked to categorize the form of action that was taken against them. The

results of the survey concluded that the type and frequency of reprisal included:¹¹⁶

- poor performance appraisal	40%
- assigned to a less desirable position	36%
- denial of promotion	33%
- denial of training	24%
- transfer or reassignment to another job	19%
- transfer to a different geographic area	5%
- suspension	4%
- demotion	3%

Some of the reprisals perceived by employees were the denial of rewards rather than a harsh penalty. However, poor performance appraisals, transfers, reassignments, suspensions and demotions indicate that some employees are not receiving the protections provided in the Inspector General Act.

Surveyed employees were asked if they personally supported reporting of illegal and wasteful activities. Not surprisingly, 96% of the respondents approved.¹¹⁷ When asked if the federal government should actively encourage further reports of abuses, 94% of the responses were supportive. The same responses, 94%, was received when those surveyed were asked if it was in the best interest of the federal government to have fraud and waste reported.

Although respondents favor and support reporting activities, they did not feel that adequate protection existed for those who made the report. Eighty-two percent of the respondents were either not sure of the protection afforded to a whistle blower, or did not believe that

the protection is adequate.¹¹⁸ Responses were evenly divided on the question of whether or not the government is able to adequately protect employees who report abuses. Forty-four percent felt that the government can protect reporting employees and 44% felt that the government is unable to provide protections. The remainder were unsure.¹¹⁹

The responses to this part of the survey once again point out that while few employees who make a report actually receive retribution, that most employees are not aware of existing protections under law and the lack of retribution against those who have disclosed abuses.

Specific attention was given to employee knowledge of the channels available to report abuses in the federal government. Forty-seven percent of the respondents stated that they knew where to report irregular or wasteful activities, 19% were unsure where to make a report, and 33% said that they definitely did not know about reporting channels.¹²⁰

Employees were also asked about their knowledge of three investigative entities including the General Accounting Office, the Special Counsel to the Merit System Protection Board, and the Offices of Inspector General.

When asked about the General Accounting Office:¹²¹

- | | |
|---|-----|
| - had never heard of the GAO | 12% |
| - had a vague idea | 24% |
| - knew of the GAO, but did not know its functions | 20% |
| - had a good or very good idea of the function of the GAO | 43% |

When asked about the Special Counsel of the Merit System Protection Board, respondents stated:¹²²

- had never heard of the organization 51%
- had a vague idea about the Special Counsel 16%
- knew of the Special Counsel, but did not know
its function 20%
- had a good or very good idea of the function of
the Special Counsel 13%

Responses to the question of awareness of the Offices of Inspectors General included:¹²³

- had never heard of the Office of Inspector
General 23%
- had a vague awareness of the Inspector General 22%
- knew of the office, but unsure of its function 20%
- had a good idea or very good idea of the function
of the Offices of Inspectors General 35%

In all cases, less than half of the employees surveyed knew a significant amount about investigative or reporting channels. In the case of both the Office of Special Counsel and the Offices of Inspectors General, inadequate knowledge exists to assure employee utilization. This statistic indicates that insufficient efforts had been made to disseminate information about the reporting channels established in 1978.

Not surprisingly, the less an employee knows about an investigative agency, the less confidence that the employee has when reporting abuses. Of the respondents who had a good idea of the purpose of the Inspectors General, 55% felt that their confidentiality would be protected, and 66%

stated that the Inspector General would give careful consideration to their allegations.¹²⁴

On the other hand, only 19% of those employees who had little knowledge of the function of the Inspectors General felt that their confidentiality would be respected.¹²⁵ Twenty-three percent of the same group felt that the Inspector General would give careful consideration to their complaint.

This section of the survey clearly pointed out that federal employees are not generally aware of changes in the bureaucracy to allow employee reports. However, those employees who are knowledgeable have a relatively high degree of confidence in the offices.

On the survey, federal employees were asked to select two of seven possible incentives that they felt would encourage them personally to report waste or other abuses that they observe. The incentives and responses include:¹²⁶

- | | |
|--|-----|
| - knowing that attempts would be made to rectify the problem | 81% |
| - knowing that protection from reprisal was adequate | 41% |
| - management viewing the allegation seriously | 36% |
| - anonymity in reporting abuses | 28% |
| - limiting scorn from others | 10% |
| - cash rewards | 2% |
| - other | 1% |

This section of the survey once again illustrates that federal government employees are most concerned about seeing abuses corrected.

While personal issues such as protection from reprisal were important to the respondents, perquisites such as cash rewards held little value.

Results of the U.S. Merit Systems Protection Board survey clearly point out that federal employees are exposed to wasteful or illegal activities in the agencies and departments that were surveyed. However, 70% of those who were aware of abuses did not reveal their information to anyone else. The reasons that employees do not make a report are varied, but include a feeling that nothing will or can be done, personal risk, or lack of knowledge of where to make a report.

Although some of the employees failed to make a report because of fear of personal risks, the survey also demonstrated that reprisal usually does not occur when an employee blows the whistle.

The survey concluded that while almost all federal employees support the concept of reporting abuses in the government, that few are aware of reporting channels within the bureaucracy and resort instead to the usual chains of command.

Responses to the Merit Systems Protection Board Survey

Based upon the results of the federal survey, the Merit Systems Protection Board issued five broad recommendations for improving the efforts to control fraud, waste and abuses.¹²⁷

The Merit System Protection Board first suggested that intensive efforts should be made by the Inspectors General, Office of General Counsel and the Merit System Protection Board to provide all federal employees with addresses and telephone number of investigators.

The second recommendation was to reduce adverse publicity concerning those who reported an abuse and received retribution as a result. The recommendation also stated that federal employees should be notified that most employees who make a report are not harmed in any way.

The Merit Systems Protection Board also recommended that each agency or department head utilize the results of the survey to determine the extent that their agency differed from the norm. The recommendation also stated that agencies should develop strategies to improve their own Office of Inspector General if the office was functioning less effectively than other Offices of Inspector General.

The fourth recommendation called for increased publicity about agency investigations. The Merit System Protection Board felt that all federal employees should be advised of the results of investigations. It was suggested that special efforts should be made to provide feedback to employees and the agency affected by the investigation.

The final recommendation of the Merit Systems Protection Board was the establishment of either ad hoc employee committees, or further confidential surveys to continually maintain employee input concerning their knowledge of irregular activities.

The Merit Systems Protection Board hoped that the survey results and recommendations would convince employees "that their observations are welcomed by their own management, will be given serious consideration, and will be acted upon where the facts warrant."¹²⁸

Prior to the release of the Merit Systems Protection Board survey recommendations, the Council on Integrity and Efficiency had been formed by President Reagan. The individuals on the council, the fourteen

Inspectors General, were those who would be most able to implement the suggestions of the Merit Systems Protection Board. However, the report of the President's Council for the first half of 1982 made no reference to the recommendations of the Merit Systems Protection Board. The report revealed an emphasis on computer applications to detect abuses rather than on non-quantifiable employee reports. The long range plans discussed in the 1982 report suggested that increased reliance on computers and technical controls would be the most effective method of preventing abuses.¹²⁹

The report by the President's Council for the second half of 1982 does not refer to specific recommendations made by the Merit Systems Protection Board. The report does however express the computer oriented philosophy of the Inspectors General and the President's Council:

The key to reducing fraud, waste and abuse in the Federal government is prevention rather than after the fact detection of problems. The Inspectors General have recognized the importance of prevention, however, it is difficult -- if not impossible -- to prevent misuse when the majority of auditing processes are done by manual methods.¹³⁰

Even though the report discredits the usefulness of the disclosure of abuses that have already occurred, the President's Council does make a token reference to employee participation. The report comments:

The opportunities to prevent fraud, waste and abuse in Government programs and operations are available not only to agency or department managers and the Inspectors General but also to individuals. The administration has encouraged Federal employees and private citizens to help improve their government by reporting instances of waste and mismanagement to the Inspectors General. The members of the President's Council have recently developed procedures for giving awards to individuals who have contributed significantly to the management of the Federal government by disclosing waste. In September, 1982, the first of these cash awards was granted by the Veterans Administration Inspector General.¹³¹

By 1984, little had changed in the attitude of the Inspectors General and the President's Council toward employee reporting of fraud, waste or mismanagement. The report of the second half of 1984 focused upon technical methods of preventing abuses rather than after the fact investigation. The report states that the staff members of the Offices of Inspectors General had completed computer literacy courses to fully utilize computers to seek out abuses of federal loan, grant and expense items. Most of the comments by the 1984 President's Council were directed at technological advancements rather than employee observations. No mention was made in the 1984 report of employee participation, whistle blowers or protection for those who report impropriety.

The inattention given to the whistle blower has not gone unnoticed since the 1978 Inspector General Act was signed into law. Referring to the Act, Naomi B. Lynn stated in 1983:

Whistleblowers receive special protection in the new law, reflecting the general public approval for this courageous and often lonely activity. Because of low funding and the problems of getting started, however, the support of whistleblowers has been less extensive than many had hoped for.¹³²

O. Glenn Stahl offers one explanation, arguing that the Inspector General Act and the protection offered to whistle blowers is not workable due to five problems including:

1. Encouraging and protecting complainants puts the executive on the defensive and provides a presumption of guilt on the part of management.
2. The invitation to insubordination shatters any mutual feeling of trust between workers and managers.
3. Whistle blowing provides a medium for mischief for those who are chronically discontented.
4. No thought has been given to protecting the wrongfully accused manager.

5. Whistle blowing creates a system of snitches who forget their responsibility to the administration.¹³³

Stahl further refers to the Inspector General Act as,

an example of a very questionable approach -- creating as it does, an incentive for insubordination. The Merit Systems Protection Board is empowered to stop any personnel action that is allegedly in reprisal for blowing the whistle on top management and to require an agency to make a full report on the matter to the President and the Congress. . . . So far, there is no evidence that this provision has led to uncovering any genuine wrongdoing in the executive departments.¹³⁴

The views of Stahl indicate that he feels that the hierarchy of authority and loyalty to the organization are of more value than the ability to report abuses.

In all likelihood, Stahl need not be so concerned. The results of the reports from the President's Council on Integrity and Efficiency indicate that the Inspectors General are increasingly drawn to technology to wage a war against abuses. The Council views direct employee input as important, but not sufficiently to be the major focus of time and effort.

Summary

The reports of the President's Council on Integrity and Efficiency indicate that the Inspectors General have been successful in monetary savings to the government since the implementation of the Inspector General Act. However, the U.S. Merit Systems Protection Board Survey signifies that while the Act served to increase reporting of bureaucratic abuses, its effectiveness could be increased substantially by enhancing communication with employees and encouraging agencies to administer the process more aggressively.

While the response of the administration and the Inspectors General in the early stages of the Act was to focus upon employee participation and reporting, the emphasis has shifted to computer technology and highly quantifiable methods of reducing abuses. This emphasis on hard data allows budgetary saving while maintaining neutrality on policy or political issues. By neither encouraging nor discouraging employee reporting, agency and management embarrassment is minimized while those employees truly intent upon reporting an abuse continue to have a legitimate administrative remedy.

CHAPTER 5

SUMMARY AND ASSESSMENT

Classical bureaucratic theory confirms that the principle of opposition or blowing the whistle on abuses is not legitimate in a bureaucracy. The model bureaucracy does not recognize either individual violations of bureaucratic principles or deficiencies in the bureaucratic structure. Therefore, there is no mechanism legitimized in the model bureau to allow correction of abuses.

While neither Max Weber nor Graham T. Allison recognize abuses in a bureaucracy, they nonetheless exist. Individuals may be subject to rule infractions, corruption, malfeasance, incompetence or mistakes. These violations of bureaucratic principles are caused by individuals rather than the bureaucracy itself. The structure of bureaucracy, however, may promote problems by encouraging compliance with rules or procedures that may be immoral or do not meet the original intent of the policy. The bureaucracy does not provide for employee disclosures of abuses and exerts pressure upon the members of the organization to comply with policy and all directives of those at a higher level in the hierarchy.

Without formal channels, employees who insist upon disclosing an abuse in the bureaucracy may resort to informal reporting methods not recognized as legitimate by the organization. These informal methods include level skipping in the hierarchy, group demands or utilizing

unions or professional organizations. If the report is not acted upon within informal professional or organizational channels, the final informal strategy is to go public or "blow the whistle" to Congress or the media. Whistle blowing usually involves substantial personal risk to the employee.

Some bureaucracies will initiate formal legitimized channels for employee disclosure of abuses. Ombudsmen or Inspectors General are recognized as institutional investigators who may receive and investigate employee complaints. These offices are subject to some skepticism due to the qualifications of the individual investigators and the close ties with the organization.

Prior to 1978, employees of the federal government who had knowledge of fraud, waste and mismanagement had few forms of recourse in exposing their knowledge. Most often, the dissenting employee had to work within the chain of command and be subjected to recrimination from the organization or alienation by peers. The few federal agencies that had independent investigators were either understaffed or too closely tied to the organization to be effective. Employees who blew the whistle outside of normal channels received swift and harsh punishment often culminating in the loss of employment.

The Inspector General Act of 1978 was the formal response of the federal government to the deficiencies of model bureaucracy. It attempted to legitimize employee exposure of improper activities and provide a responsive, independent investigative arm within the bureaucracy. The Act established Offices of Inspectors General in twelve federal agencies and gave each office the responsibility to receive

and investigate employee and citizen disclosure of abuses in federal policy or programs. The act also specified that the right of the informer to anonymity was to be protected unless absolutely unavoidable.

In December, 1980, federal employees were surveyed to determine their knowledge of fraud, waste and abuses in the bureaucracy. The survey also sought to determine employee attitudes toward fraud and waste in the government and to determine employee knowledge of reporting channels.

The results of the survey were released in October, 1981 in a report entitled "Whistleblowing and the Federal Employee." The survey found that fraud, waste and abuse exists in the federal government, and for the most part goes unreported. Only 30% of federal employees surveyed who had knowledge of abuses chose to disclose their knowledge to someone else.

Based on the survey, the greatest obstacle to the reporting process is that federal employees do not believe that anything can or will be done to rectify the problem that they report. In order to encourage greater employee participation in disclosure of abuses, the Inspectors General must make a greater effort to vigorously investigate employee allegations and to announce the results to the rank and file employees. This recommendation was one of the five highlighted by the Merit Systems Protection Board in their survey results, and is a suggestion that has not been implemented.

The report on the survey also disclosed that the majority of employees who report abuses through formal channels are not subject to any form of reprisal or adverse action. In fact, 11% of the respondents felt that they received positive recognition for their disclosure.

However, reporting abuses is not without risk. Fifty-three percent of the respondents felt that someone at a higher level was unhappy with the report, and 9% felt negative peer pressure. Six percent of the respondents were threatened with reprisal and 8% actually had action taken against them as a result of reporting abuses. When asked on the survey if whistle blower protection is adequate, 82% of the respondents felt that it is inadequate or were unsure of protections afforded to employees. The survey clearly demonstrates that while most employees who actually report an abuse do not suffer for their actions, that some are still subject to retribution.

In order for the Inspector General Act of 1978 to be effective, employees who make legitimate reports without malice must be protected by both the Inspectors General and the Special Counsel to the Merit Systems Protection Board. Those supervisors who take negative action against the whistle blower must be punished if the allegations of the employee are founded in truth. In addition, the Special Counsel to the Merit Systems Protection Board and the Inspectors General must make a greater effort to allow employees who are experiencing reprisal to seek relief. The survey confirmed that 41% of the employees experiencing retaliation did not take any further action, and 28% complained to a higher level in the chain of command. Only 11% filed a complaint against the retaliation with independent investigators. This indicates that post reviews of all employee complaints or reports should be initiated to assure continued protection of the rights of whistle blowers. In addition, all employees making reports to the Inspectors General should be informed of the protections offered against reprisal.

The report on the survey also pointed out that federal employees are not being made aware of the channels available to report abuses. Only 47% of the respondents knew where to make a report and 63% stated that they would like further information about reporting channels. This statistic indicates that regardless of the efforts made to publicize the independent investigators, that many federal employees have not been contacted or are not in possession of current literature listing the function and contact point for investigative offices. Further efforts in the form of periodic memorandums, office notices and notices enclosed with mailings such as payroll or tax information would raise employee awareness of investigative services available and protections afforded the employee.

Employees also suggested that greater levels of employee protection, anonymity and the demonstration that the agency views the report seriously would lead to greater employee participation. The survey once again points out that results of investigations must be widely publicized and greater interaction must occur with federal employees to create an atmosphere of working together to improve the bureaucracy.

One other finding highlighted by the report was the wide variance in employee perceptions depending upon the federal department that they represented. The recommendations of the Merit Systems Protection Board stated that greater efforts should be made by the Inspectors General to coordinate activities and to administer the office as aggressively as their counterparts in other agencies. The establishment of the President's Council on Integrity and Efficiency has provided a forum

for all of the Inspectors General to determine what the others are accomplishing.

In conclusion, it is apparent that the Inspector General Act of 1978 is positive legislation that has made great strides in improving efficiency and reducing fraud and waste in the federal government. The Act, implemented in response to the limitations of the Weber type bureaucracy, has formalized a legitimate channel for employees to participate in constructive change.

However, the increasing reliance of the Inspectors General on computerization should be a warning to those who sought the original legislation. Each new report of the President's Council on Integrity and Efficiency indicates declining interest in encouraging employee reports of abuse in the federal bureaucracy. The 1984 report does not even mention the topic of employee disclosures, rather it boasts of technological methods that will cure any quantifiable evil.

The Inspectors General may be quite satisfied with their evolving role. Overall savings to the federal government are increasing due to the data based tracking systems of the Inspectors General. Presumably, the Inspectors General find the use of computer technology to be both cost beneficial and politically preferable. Reliance upon technology undoubtedly limits the conflicts with budget providers over non-quantifiable issues of policy, morality, incompetence and corruption. While the Inspectors General increase their reliance upon computers, they can respond to critics that the legislation continues to allow an employee to blow the whistle.

However, this paper has shown that federal employees are not knowledgeable about formal reporting channels and protections provided under law. If the Inspectors General are unwilling to aggressively administer the legislation, then federal employees will be relegated to an arduous search for reporting mechanisms. The changing focus of the Inspectors General from employee participation to technological quantification may negate the original legislative purpose.

The principle of eliciting employee input by providing information and encouragement must be rejuvenated before it becomes lost in the archives of dusty federal regulation.

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