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RETALIATION: WHEN WHISTLEBLOWERS BECOME VICTIMS

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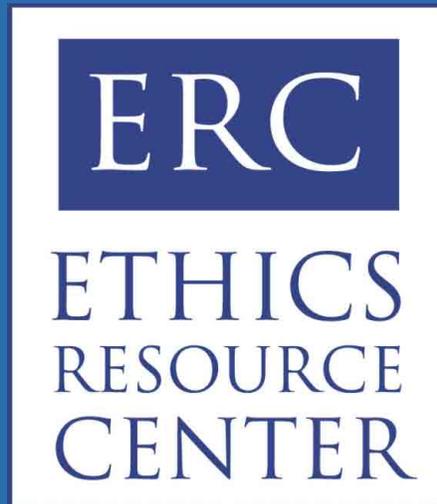
About the National Business Ethics Survey® (NBES®)

The National Business Ethics Survey® (NBES®) generates the U.S. benchmark on ethical behavior in corporations. Findings represent the views of the American workforce in the private sector.

Since 1994, the NBES and its supplemental reports have provided business leaders a snapshot of trends in workplace ethics and an identification of the drivers that improve ethical workforce behavior. With every report, ERC researchers identify the strategies that business leaders can adopt to strengthen the ethical cultures of their businesses.

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The Ethics Resource Center (ERC) is America's oldest nonprofit organization devoted to independent research and the advancement of high ethical standards and practices in public and private institutions. Since 1922, ERC has been a resource for public and private institutions committed to a strong ethical culture. ERC's expertise informs the public dialogue on ethics and ethical behavior. ERC researchers analyze current and emerging issues and produce new ideas and benchmarks that matter — for the public trust.

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RETALIATION: WHEN WHISTLEBLOWERS BECOME VICTIMS

If only she'd walked by a few minutes earlier, or a few minutes later, she wouldn't be in this mess. But she did walk by – right then – at that unfortunate moment. She heard what she heard, and now she is stuck dealing with it. She knows that someone has to do something about the situation and, it seems, she's going to have to be that someone.

A few days later, she reports what she overheard to her supervisor. He acknowledges the seriousness of the allegation, promises to protect her anonymity, and vows to keep her as informed about the investigation as he is allowed to by policy. A few weeks pass and she hears nothing. Finally, her supervisor notifies her that management determined there's not enough evidence to go forward. The next month, she learns she is being transferred to an office with lots of problems and a terrible reputation. Within a year, she decides to return to a previous employer with whom she'd maintained a good relationship.

When her friends at work inquire about why she is leaving, she reveals the shocking things she heard, the way her supervisor promised to look out for her and didn't, and how the sudden transfer was the last straw. After hearing her story, her colleagues look at their managers – their whole workplace – in a new way. Not that it was perfect before, but now people are getting away with things that are clearly wrong; management stands up for the people with power, but no integrity, and pushes out people who try to speak up. Her two closest coworkers, both trusted and respected employees, stop speaking their mind at meetings and become less and less invested in their company and their work. Within a year, they, too, choose to leave.

RETALIATION AGAINST WHISTLEBLOWERS



It's the kind of thing that happens every day in workplaces across America. An employee stumbles upon a troubling situation, then does the right thing and reports it to her¹ supervisor. Management tries to handle it in the best way possible, but the employee feels like she has not been heard. She has a negative experience at work, which she feels must be related to her report, and sees it as a sign that the supervisor she entrusted to report to has now set her adrift. Her positive view of management, her commitment to her company, and her connection to work fade. And, even if she does stay with the company, she will have formed an opinion about 'how things are really done around here' and will be unlikely to report ever again. Her attitude might be noted by other employees and may discourage them from taking appropriate action.

The 2011 National Business Ethics Survey® (NBES®) revealed that nearly half (45 percent) of employees observe misconduct each year. The majority (65 percent) of those who observe misconduct report it. Unfortunately, more than one in five (22 percent) employees who reports perceives retaliation for doing so. Additional research conducted on the NBES dataset reveals that,

1. Because both men and women experience retaliation, we will use both masculine and feminine pronouns throughout this report. Unless otherwise noted, comments and findings refer to both genders, regardless of which pronoun is used in a particular sentence.

not only is retaliation on the rise nationally, it is rapidly becoming an issue even at companies with a demonstrated commitment to ethics and integrity. The rapid rise in retaliation is troubling on a number of levels.

The 2011 data from the NBES research revealed some additional findings. Most importantly:

- Employees who feel more secure and supported (who are more likely to report misconduct) are more likely to experience retaliation;
- The more an employee persists in reporting a concern, the more likely he/she is to experience retaliation; and
- Where an employee chooses to report also makes a difference.

Furthermore, whistleblowers² whose reports are substantiated are equally likely to experience retaliation as those whose claims are not.

2. At Ethics Resource Center (ERC), we use the terms "reporter" and "whistleblower" interchangeably to refer to employees who report observed misconduct, either internally or externally. Some argue that they are distinct groups of people. Yet our data reveals that "reporters" and "whistleblowers" are essentially the same people. The stigma assigned to a "whistleblower" as a rogue and disloyal employee is inaccurate.

Retaliation, as defined in this report, is a negative consequence experienced by an employee for reporting observed misconduct. While not all claims of retaliation have merit, some coming from disgruntled employees and others being the result of unfortunate miscommunications and/or misperceptions, there are ramifications for every incident of misconduct that is observed by an employee. Companies that are committed to ethics work hard to address every claim of misconduct they receive and recognize that some claims will be substantiated. Whether substantiated or not, each claim and the means by which it is handled will leave the employee with an impression about the way things are done within the company. Even when retaliation is nothing more than a misperception, employee concerns merit attention. In a similar vein, given that as researchers we are not in a position to determine the veracity of victims' claims, we respond as if each claim were retaliation and consider its potential impact on the company.

Retaliation:

Why Does It Matter?

Whether merely an errant perception (like being passed over for a promotion that she would not have received anyway), or an unequivocal experience of victimization (like receiving harassing calls or emails), retaliation against reporters has a profound impact on both the victim and the company.

When retaliation occurs, companies have two new problems:

- 1) A second form of misconduct has been observed³ and a new victim emerges – the whistleblower;
- 2) Retribution against the reporter can create an environment that is cancerous to the organization.

These new issues have major ramifications in terms of the victim's commitment to her company and the likelihood that, going forward, she and her coworkers will alert management to problems they observe.

Retaliation weakens employee commitment. When we looked at workers who observed and reported misconduct, two of three (67 percent) workers said they felt engaged in their company. When looking at this same

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3. As stated previously, it may be the case that no actual wrongdoing took place. Nonetheless, even the perception of wrongdoing has ramifications in terms of the (perceived) victim's workplace experiences as well as those he interacts with.

PUTTING THE FINDINGS IN CONTEXT

THE INCREASE IN RETALIATION IS HISTORIC

In 2011, 22 percent of American workers who reported misconduct experienced retaliation, compared to 15 percent in 2009.



The number of workers experiencing retaliation jumped by **2.3 million Americans** from the 2009 NBES when 15 percent of reporters said they were retaliated against.



Houston, Texas
Population = 2.1 million*



New Mexico
Population = 2 million**



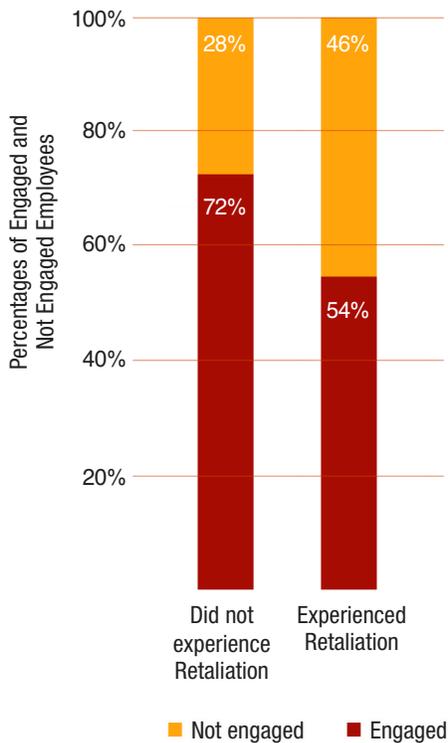
* Houston (city), Texas. (2010). Retrieved from <http://quickfacts.census.gov/qfd/states/48/4835000.html>

** 2010 Census Interactive Population Search: NM – New Mexico. (2010). Retrieved from <http://2010.census.gov/2010census/popmap/ipmtext.php?fl=35>

*** Albani, S. & Luczak, R. (2011, June 2). "The Daily Show with John Stewart" Tops the Competition in May as the Highest-Rated Late Night Talk Show among Persons 18-49, Persons 18-34, Persons 18-24, Men 18-34 and Men 18-24 [Press Release]. Retrieved from http://www.comedycentral.com/press/press_releases/2011/060211_daily-show-dominates-late-night-in-may.html

group of reporters, but splitting them up based on who experienced retaliation, the engagement levels were dramatically different. Of those who experienced retaliation, only 54 percent of the reporters said they felt engaged. In contrast, 72 percent of those reporters who did not experience retaliation felt engaged in their companies.

RETALIATION LINKED TO DRAMATIC DECREASES IN EMPLOYEE ENGAGEMENT



Similarly, employees who experience retaliation are far more likely to leave imminently. Among all employees, only about one in 10 (11 percent) plans to leave within the year, but that number more than doubles (to 23 per-

cent) among reporters who experience retaliation. And only about half as many victims of retaliation (31 percent) plan to stay for five years or more compared to employees in general (59 percent).

EMPLOYEES EXPERIENCING RETALIATION INTEND TO LEAVE COMPANY MUCH SOONER



Not only are victims of retaliation less engaged and more likely to leave imminently, they are also significantly more likely to take their concerns outside the company. Fewer than half (46 percent) of those who reported and did not experience retaliation would consider reporting to the federal government or government agency if it meant losing their job. However, a sizeable majority (62 percent) of those who experienced retaliation would be willing to go to the federal government even if their job was at risk.

One of the most common reasons that employees choose not to report misconduct is fear of retaliation. This has consistently appeared across Ethics Resource Center's (ERC) research.⁴ Both reporters and nonreporters take cues about the consequences for reporting from the experience of others who have reported. Once employees perceive that others are retaliated against for reporting, they will refrain from coming forward when they have concerns. Misconduct that goes unreported can continue, increasing risk, because management is never given the opportunity to address the problem.

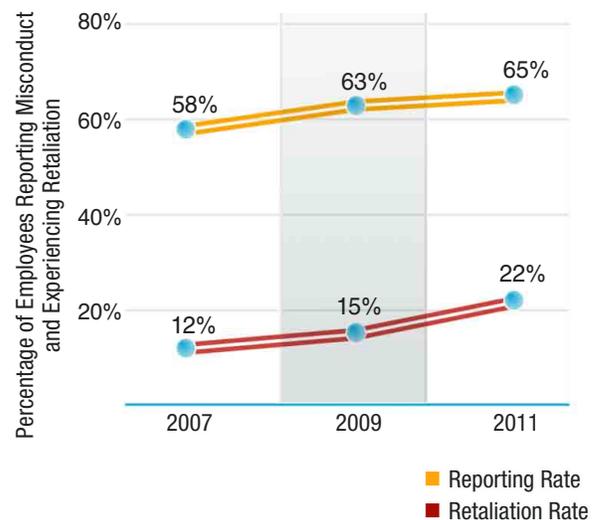
A Long-Term Look at Retaliation and the Troubling Picture it Paints

Because of the many problems created by even a single incident of retaliation, the ERC has identified retaliation as a key topic in its National Business Ethics Survey.⁵

4. Nearly half (46 percent) of those who choose not to report observed misconduct cite fear of retaliation as the cause. Ethics Resource Center. (2005). *National Business Ethics Survey®: How employees view ethics in their organizations 1994-2005*. Washington, DC: Ethics Resource Center.
5. Although ERC surveyed NBES participants about retaliation prior to 2007, those data are not comparable. Prior to 2007, only reporters who indicated their dissatisfaction with the reporting process were asked whether they had experienced retaliation. Beginning in 2007, all those who observed then reported misconduct were asked about possible experiences of retaliation.

Unfortunately, since 2007, retaliation has increased steadily. During this time period, reporting rates have also increased - but at a far slower rate. In the last five years, there has been an 83 percent increase in the rate of retaliation, but reporting has only increased by 12 percent.⁶ The increase in reporting is certainly positive news, but, as retaliation becomes more prevalent, it is likely to drive down reporting rates.

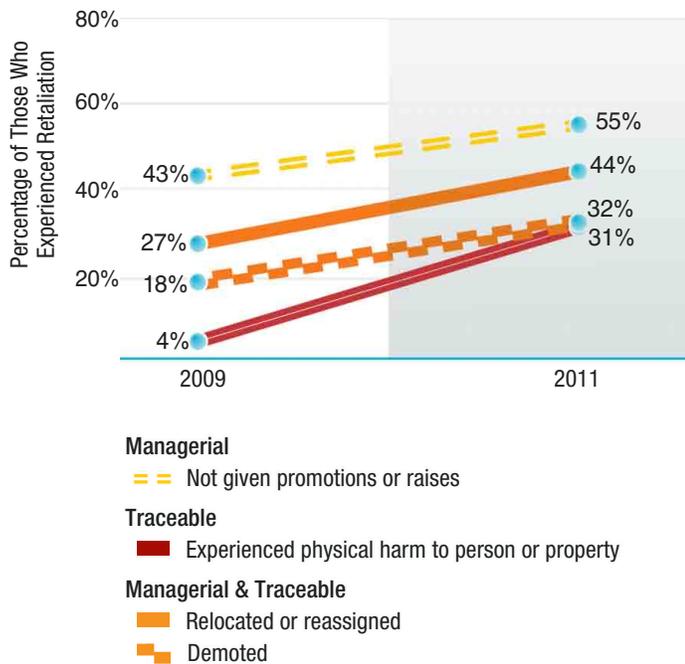
RETALIATION RATES RISING FAR MORE QUICKLY THAN REPORTING



6. Rates of increase measure the magnitude of change. By nature, smaller initial numbers can increase more substantially than higher numbers. For example, an increase of five percent to 10 percent, while only a five percentage point increase, is a 100 percent increase in magnitude. An increase from 50 percent to 55 percent, however, is only a 10 percent increase in magnitude.

Along with retaliation in general, several specific forms of retaliation have increased dramatically since 2009. Traceable retaliation (see description on page 10) has increased 27 percentage points (ppt)⁷ in just two years; traceable, managerial retaliation has increased as much as 17 ppt.

STRIKING INCREASES IN SPECIFIC TYPES OF RETALIATION



Not All Reports Are Created Equal:

Reporting Location(s) & Retaliation

Many companies already recognize the need to actively protect reporters from retaliation and to manage their perceptions so they do not feel retaliated against unintentionally. But it can be difficult to pinpoint when employees are most likely to be at risk and who is the most vulnerable. Recognizing that reporting happens in many different ways, ERC explored how decisions about reporting impact the likelihood of experiencing retaliation. We learned reporting rates vary considerably depending on where a person chooses to report and how many times he sounds the alarm.

Reporters who go to higher management, and especially to the hotline, are significantly more likely to say they experienced retaliation. More than one in four (27 percent) employees who first report to higher management experience retaliation, and 40 percent of whistleblowers who go first to the hotline experience retaliation. Far fewer employees (17 percent) who feel comfortable enough to report first to their supervisor end up experiencing retaliation. It is likely that differences in retaliation rates by reporting locations are indicative of the seriousness of the kinds of misconduct being reported. It seems likely many reporters would choose to go to higher management when their supervisors are the ones who committed the misconduct. Employees often report significant violations of the law (e.g., insider trading⁸) to the hotline because it provides an assurance of anonymity and protection which an in-person report does not.

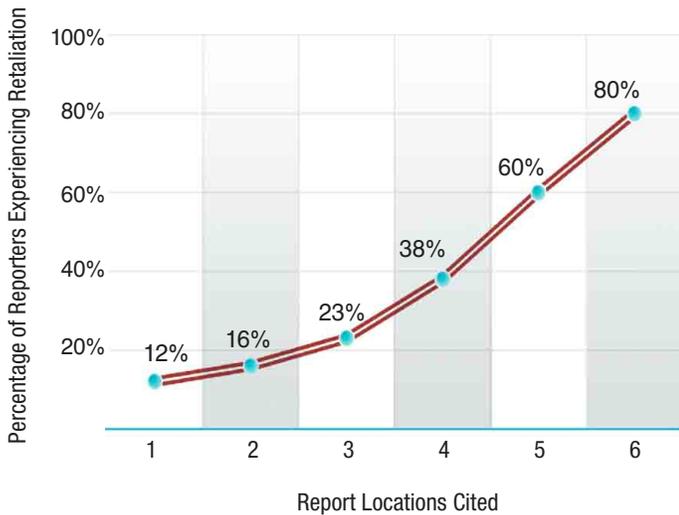
7. “Percentage points” (ppt) express the percentage-point change. For example, while an increase from five percent to 10 percent would be a 100 percent increase in magnitude, it would only be a five percentage-point increase.

8. For example, insider trading is first reported to the hotline at a much higher rate (22 percent) than many other kinds of misconduct. By way of comparison, among all forms of misconduct, only five percent are reported to the hotline first.

Regardless of the location, it is essential that companies promptly and thoroughly address any reports they receive, and make it clear reports have been taken seriously and are being addressed. Many reporters who do not feel sufficiently heard and/or who see misconduct persist feel compelled to report in multiple ways. With each additional reporting location the likelihood that a reporter becomes a victim of retaliation increases. Only 12 percent of those who reported to a single location experienced retaliation, compared to four out of five (80 percent) of those who reported in six different ways;⁹ basically, the more people a reporter tells, the greater the risk of retaliation.

23% Whistleblowers whose reports are substantiated are as likely¹⁰ to experience retaliation as **26%** reporters whose claims are not.

RETALIATION INCREASES ALONG WITH NUMBER OF REPORTING LOCATIONS⁷



Under Pressure:
Situations That Put Employees at Risk

Certain situations seem to breed perceptions of retaliation. Again and again,¹¹ we have found that pressure and stress are linked to increased retaliation. The majority of reporters (52 percent) who feel pressure to compromise standards end up experiencing retaliation after reporting. But only 12 percent of reporters without such pressures experience retaliation. And, among employees who observed misconduct and chose to report it, those who had to work harder than two years ago were more likely to experience retaliation than those who work about the same (30 percent vs. 17 percent).

In addition to stressors at the individual level, business strategies and management decisions are linked to dramatic changes in retaliation rates. Employees in companies with recent¹² mergers and/or acquisitions are at

9. As stated previously, it may be the case that no actual wrongdoing took place. Nonetheless, even the perception of wrongdoing has ramifications in terms of the (perceived) victim’s workplace experiences as well as those he interacts with.

10. Analysis showed that there was no statistically significant difference between the two retaliation rates of those whose reports were substantiated and those who reports that were not.

11. E.g., Ethics Resource Center. (2010). *2009 National Business Ethics Survey®: Retaliation: The cost to your company and its employees*. Arlington, VA: Ethics Resource Center.

12. Specifically, “recent” refers to any occurring within the last two years.

far greater risk of experiencing retaliation. At companies in transition, one in three (34 percent) reporters experienced retaliation; this is more than twice the number in more stable workplaces where 16 percent of whistleblowers experienced retaliation. Retaliation rates also rose considerably when management responded to the recession by creating an environment of increased pressure and compelled compliance (see table below).

Retaliation Rates			
Recession-survival tactics related to increased pressure and/or compelled compliance	Among reporters who Disagree/ Strongly Disagree the tactic occurs	Among reporters who Agree/ Strongly Agree the tactic occurs	PPT Increase in Retaliation Rate
Watched more by management	11%	37%	26 pts
Bad actors are laying low	16%	36%	21 pts
Employees are more cautious	17%	29%	13 pts

It is difficult to discern whether retaliation is actually more common in highly stressful environments or if it is merely that employees in such situations are more likely to perceive themselves as being victims. From the point of view of the victim and, in terms of retaliation’s negative impact on the company, the outcome is the same. There is a critical lesson for management in companies undergoing stressful changes (e.g., in companies undergoing mergers and acquisitions): be particularly mindful of whistleblowers’ feelings of vulnerability; make sure to provide adequate support and protection; and intentionally manage expectations and perceptions.

Who Is at Greatest Risk?

The (Changing) Profile of the Victim

To determine who is at the greatest risk of retaliation, we explored how company culture and demographic factors relate to rates of retaliation. The Appendix (p. 18) includes a full list of demographic groups at increased or decreased risk of each form of retaliation. Not surprisingly, many of the groups at heightened risk for specific forms of retaliation mirror ERC’s earlier findings.¹³

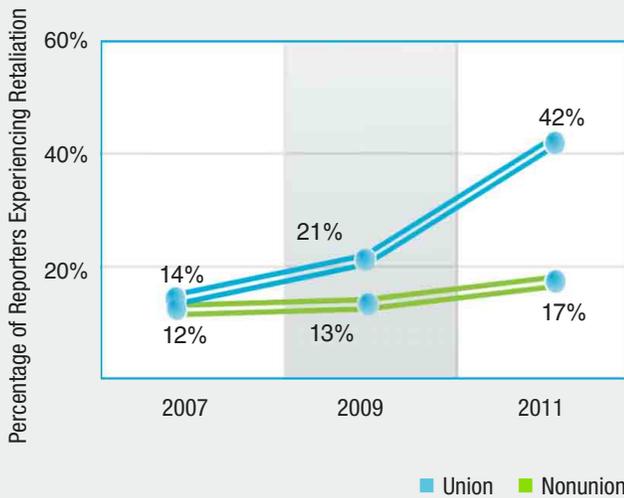
But, in 2011, retaliation also rose sharply among some surprising groups. Retaliation is up among employees in positions of greater job security (e.g., unions and management); those with increased power (higher levels of management); and employees with increased personal

13. See Ethics Resource Center. (2010). Supplemental research brief to the 2009 National Business Ethics Survey®: Retaliation: The cost to your company and its employees. Arlington, VA: Ethics Resource Center.

security. In 2007 and 2009, members of unions were somewhat more likely to experience retaliation than their nonunion coworkers (by a difference of two pts and eight pts, respectively). In 2011, the percentage of union employees experiencing retaliation doubled, resulting in a 25 ppt difference between union and

nonunion workers. Also, management status no longer seems to bring with it protection from retaliation for reporting. For the first time in NBES history, managers are now more likely to experience retaliation than nonmanagement employees.

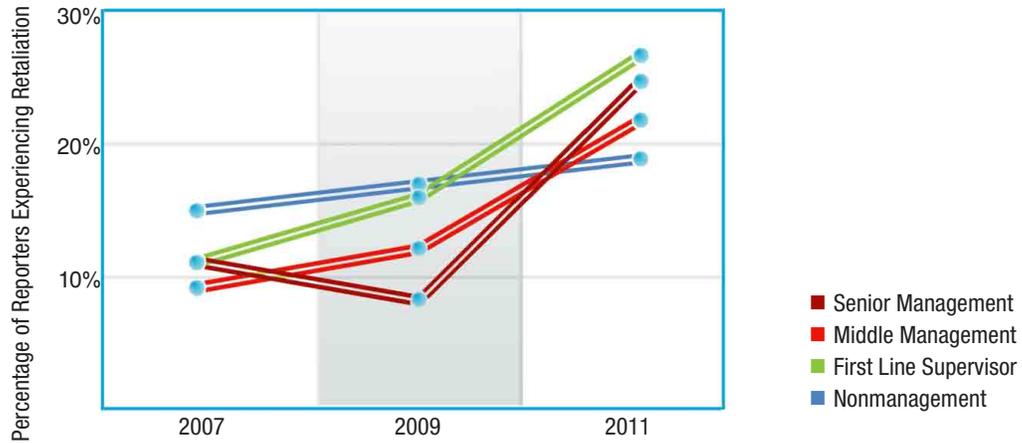
GREATER DIFFERENCE IN RETALIATION RATES BETWEEN UNION MEMBERS AND NONUNION EMPLOYEES



MANAGEMENT NOW MORE LIKELY TO EXPERIENCE RETALIATION



SENIOR MANAGERS FACE GREATEST RISE IN RETALIATION

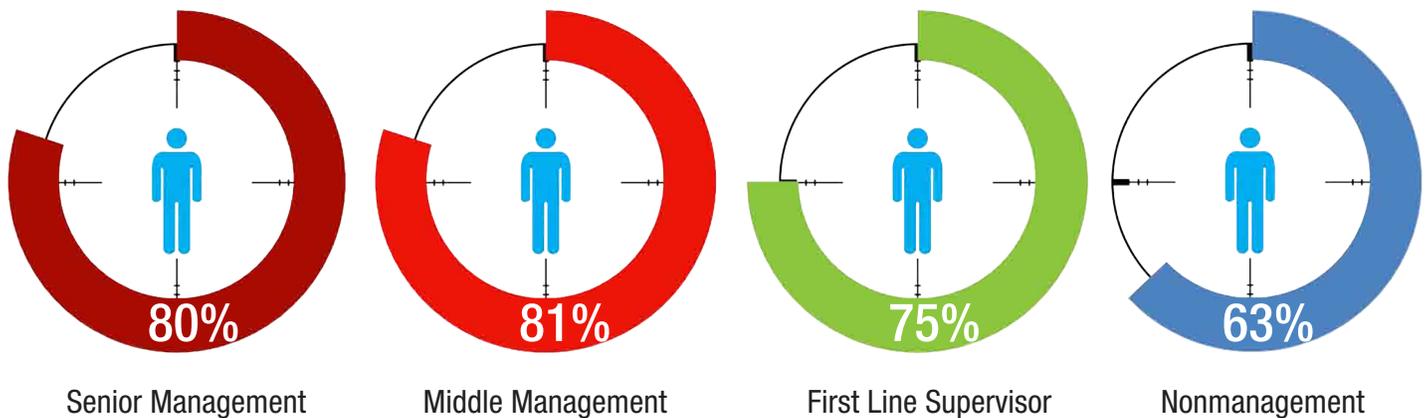


Furthermore, the biggest jump in retaliation rates of all employee levels occurred among senior management. What is more, employees at higher management levels are more likely to experience traceable forms of retaliation.

Traceable forms of retaliation are those that leave proof of having happened: physical harm, online harassment, harassment at home¹⁴, job shift, demotion, cuts to hours or pay.

SENIOR MANAGERS MORE LIKELY TO EXPERIENCE TRACEABLE RETALIATION

Percentage of Reporters Experiencing Traceable Retaliation



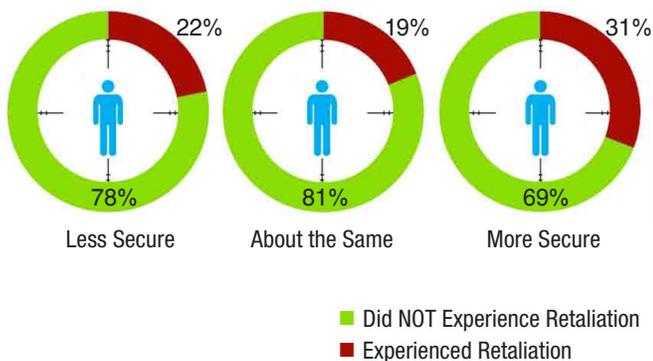
14. Harassment at home might or might not leave traces, but could if it were a threatening phone call or property damage.

Moving from one’s professional to personal situation, we see that traditional sources of security (finances and personal supports¹⁵) do not shield a reporter from retaliation. Retaliation is significantly more common among whistleblowers whose financial situation has become more secure over the last two years (31 percent) than among those whose situation is less secure (22 percent) or about the same (19 percent).

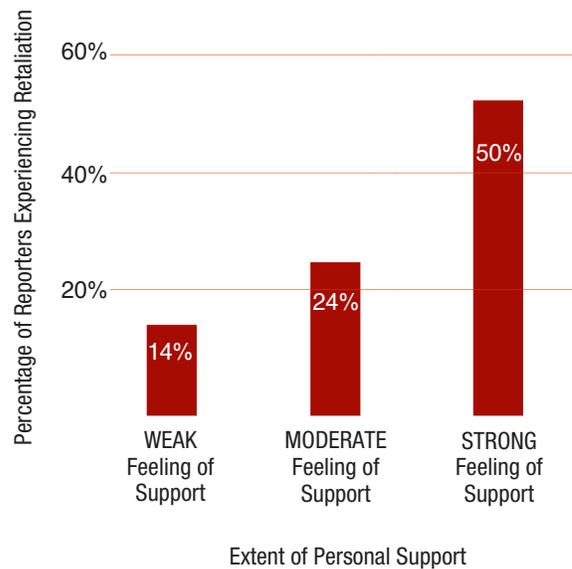
And the more a whistleblower feels supported personally, the more he/she is likely to experience retaliation. As reporters’ personal support becomes stronger, the likelihood of experiencing retaliation increases from one in seven, to one in five, and finally, among those with the strongest personal supports, to one in two.

HIGHER RATES OF RETALIATION AMONG EMPLOYEES WHOSE PERSONAL FINANCIAL SITUATION IMPROVED

Compared to two years ago, my personal financial situation is...



THOSE WITH MORE PERSONAL SUPPORTS ARE MORE LIKELY TO EXPERIENCE RETALIATION



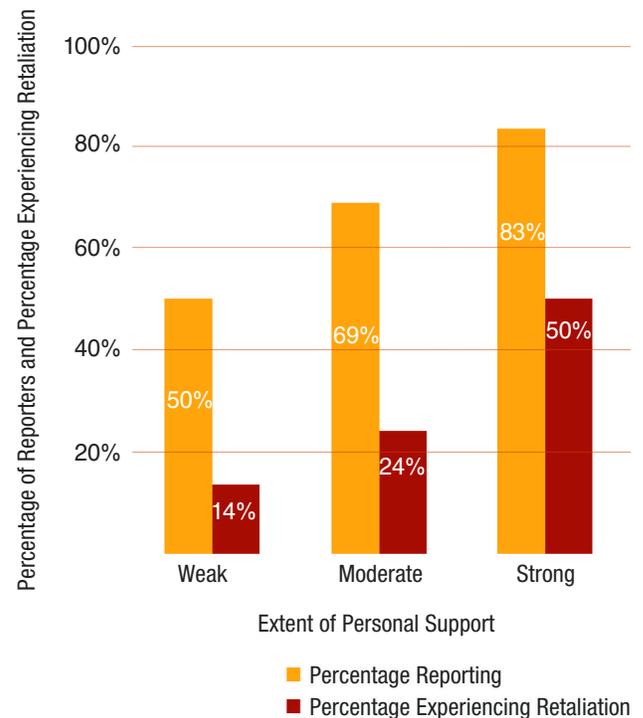
15. Personal supports include family, religious community, neighbors, classmates, online friends, social clubs, and public resources.

No Good Deed Goes Unpunished?

Previous research¹⁶ conducted by ERC uncovered several positive factors which empower employees to report (i.e., awareness; agency; security and investment; and support and connectedness). Unfortunately, it seems that these attributes also make one vulnerable to retaliation; **employees with greater supports and security are more likely to report and, therefore, report in situations that put them at heightened risk for retaliation.**

For example, employees who are more supported and connected are more likely to report to the federal government even at the expense of their jobs. Our data reveal that one in three reporters willing to blow the whistle to the government experiences retaliation, far higher than the national retaliation rate of 22 percent. Also, supported and committed employees report repeatedly if their reports are not addressed, and each additional report brings with it an increased likelihood of retaliation. Finally, as the next chart illustrates, reporting and retaliation rates rise in tandem as one's level of personal support increases.

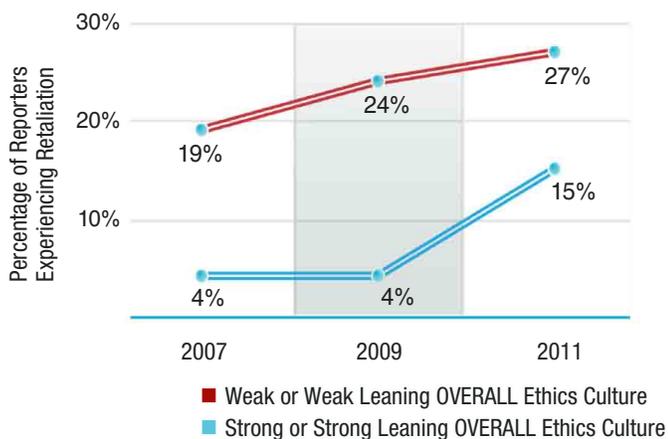
REPORTING AND RETALIATION RATES SIGNIFICANTLY HIGHER FOR THOSE WITH STRONG PERSONAL SUPPORT



16. See Ethics Resource Center. (2012). *Inside the Mind of a Whistleblower: A supplemental report to the 2011 National Business Ethics Survey®*. Arlington, VA: Ethics Resource Center.

It appears that the positive aspects of a strong ethical culture, which increase support and encourage reporting, put employees at risk. The more committed an employee is to reporting, the more likely she is to report in situations that leave her vulnerable to becoming a victim of retaliation. The connection between increased support and heightened vulnerability to retaliation helps explain one of the most surprising findings of the 2011 NBES: while retaliation rates are up across the board, the most striking change is in companies with strong ethical cultures. In workplaces where employees at all levels demonstrate a commitment to integrity and ethical business conduct, the rate of retaliation is nearly four times as high as in 2009. (It should be noted that retaliation has risen comparatively little in weaker ethical cultures.)¹⁷

ALTHOUGH OVERALL RATES ARE UP, BIGGEST INCREASES ARE IN STRONG CULTURES



17. Some conjectures as to why retaliation might not have risen appreciably in weaker cultures are that: the rate is already high and might have hit its upper limit; employees report to fewer locations, decreasing the likelihood of a vast rise in retaliation, and; employees do not perceive retaliatory behavior as retaliation (it is the norm).

What Can Be Done About It?

Factors Linked to Lower Retaliation Rates

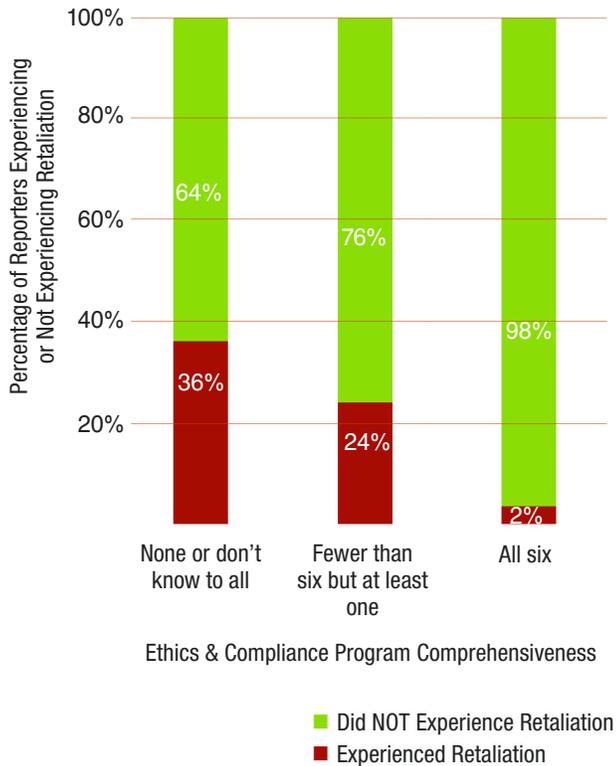
Increasingly, retaliation is becoming a problem for employees at all levels and in a variety of work situations. But victimhood is not inevitable. There are steps companies can take to build nonretaliatory work environments which protect employees. Confirming past research,¹⁸ in 2011 the data demonstrate that ethics and compliance programs, strong ethical cultures, high standards of accountability that are consistently applied, and positive management behaviors are all linked to a reduced likelihood of experiencing retaliation.

Ethics and compliance programs are highly effective in reducing retaliation. In companies which lack all of the standard program elements,¹⁹ more than one in three (36 percent) reporters experiences retaliation. Retaliation rates decline steadily as the program improves. In fact, only one in 50 reporters at companies with comprehensive ethics and compliance programs becomes a victim of retaliation.

18. See Ethics Resource Center. (2010). *2009 National Business Ethics Survey®: Retaliation: The cost to your company and its employees*. Arlington, VA: Ethics Resource Center.

19. The six elements considered in the chart include: 1) written standards of ethical workplace conduct, 2) training on the standards, 3) company resources that provide advice about ethics issues, 4) a means to report potential violations confidentially or anonymously, 5) performance evaluations of ethical conduct, and 6) systems to discipline violators. A seventh element is a stated set of guiding values or principles.

AS THE NUMBER OF THE PROGRAM ELEMENTS INCREASES, RETALIATION DECREASES

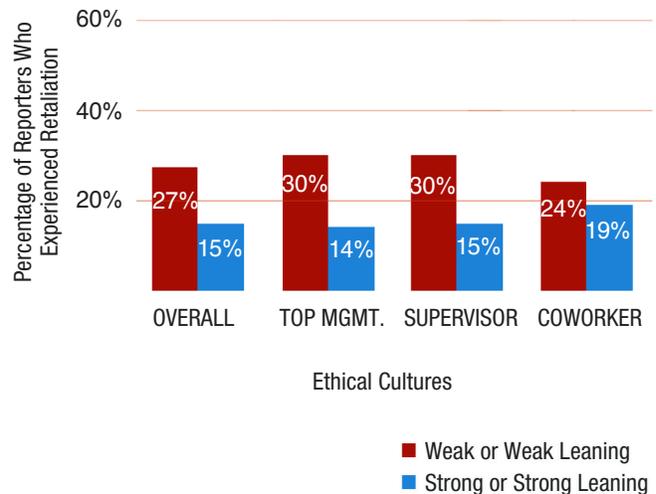


Furthermore, retaliation decreases when employees are prepared to handle situations which could lead to violations of company ethics standards, company policy, or the law. This feeling of preparedness, which is linked to training²⁰ efforts, relates to a decline in retaliation from 50 percent among reporters who feel poorly prepared or very poorly prepared to 19 percent among those feeling well prepared or very well prepared.

20. It is likely that training also helps employees have a clearer understanding of what does and does not constitute retaliation, preemptively reducing the number of employees who will feel retaliated against.

Although (as noted previously) retaliation is up significantly in stronger ethics cultures,²¹ it is still true that there is less retaliation in companies where employees at all levels share a commitment to integrity. As the graph below demonstrates, retaliation declines precipitously when top management and supervisors make ethics a priority and model ethical conduct. In such workplaces, retaliation rates are half of those at companies with weaker ethical commitments. The ethical commitment of coworkers also has an impact in retaliation rates, albeit a less significant one.

RETALIATION IS FAR LESS COMMON IN STRONGER ETHICS CULTURES

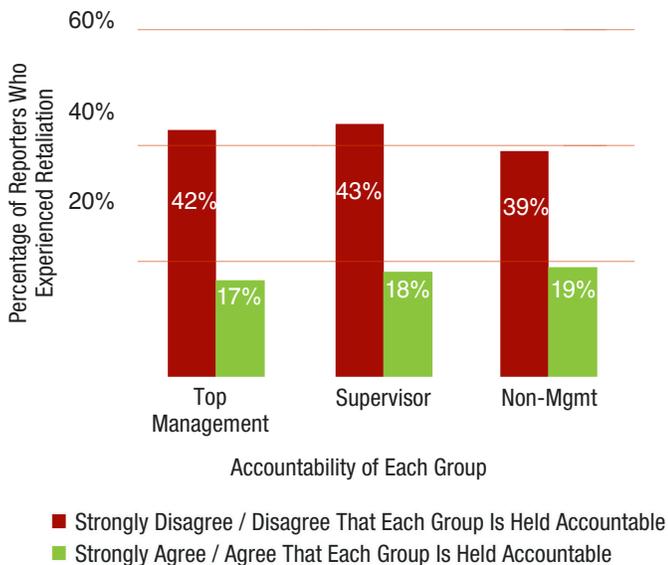


21. As we have seen, it appears that the marked increase in retaliation at companies with strong ethics cultures seems to be an unfortunate and troubling side effect of a positive trend. In stronger ethics cultures, employees feel more committed and supported. As a result, they feel empowered and beholden to report even in situations that put them in danger of experiencing retaliation.

In terms of specific cultural factors that are drivers of retaliation rates, **accountability and the actions of management** are both important. A comparison of retaliation rates at companies with strong accountability (i.e., where employees agree that top management would be held accountable if caught violating the company’s ethics standards, company policy, or the law) to those with weaker accountability, reveals that **accountability at all levels** is critical. In workplaces where employees agree that top management would not get away with breaking the rules, retaliation is far less common (17 percent vs. 42 percent) than in those with weak accountability. Accountability at the supervisor level is also associated with a 25 ppt decrease in retaliation rates. While a less dramatic difference occurs when nonmanagement employees are held accountable, the improvement is still noteworthy.

Managers can take heart (and should take heed) that their actions and decisions have the power to curb retaliation. When they are trustworthy and clearly committed to ethics, retaliation is far less likely. In order to protect reporters (and encourage reporting in the future), managers should work to create a transparent environment where employees feel safe voicing their opinions and concerns and where trustworthiness and promise-keeping are the norms at all levels. In such environments, retaliation declines from 27 percent to 17 percent. The impact of each of these positive management behaviors is detailed below.

WHEN ACCOUNTABILITY IS HIGH, RETALIATION IS SIGNIFICANTLY LESS COMMON



RETALIATION IS FAR LESS COMMON IF MANAGEMENT IS TRUSTWORTHY & COMMITTED TO ETHICS



What Is a Leader to Do?

Steps That Management Can (& Should) Take

When whistleblowers suffer retaliation (or even just perceive that they have been the targets of retaliation), what was once a single issue, i.e., the original act of misconduct that was observed, balloons into several complex problems. In addition to the precipitating event, there is now a second form of misconduct – the retaliation that took place. This has also created a new victim who is now more likely to report outside the company, perhaps to the media or a government agency, and who probably will not want to report in the future. She becomes less engaged in and committed to her work. And, as long as she remains with the company, she may share her story with colleagues, weakening their trust in leadership and making them less likely to report any misconduct that they observe. Retaliation is a problem that takes on a life of its own.

Accordingly, we encourage leaders to:

- **Assess your organization.** Find out the extent to which employees believe they will experience retaliation for reporting misconduct. Conduct a survey of your employees, and ask them about their views of the reporting process and protection of individuals who come forward to report concerns.
- **Target managers.** Implement targeted anti-retaliation training so managers know how to recognize when reports are being made, accurately address them, move them through the system, effectively update reporters on the status of their reports (e.g., whether an

investigation will take place) and interact with reporters in ways that are not perceived as being retaliatory.

- **Communicate broadly among employees your company's efforts related to the reporting process as well as its protections for those who report.** Inform employees what the reporting process should look like so they feel reassured things are progressing appropriately. And it's not enough just to provide training of managers. Other employees need to know that training is provided to their supervisors, so they will have more faith in their management if/when they need to report.
- **Move the investigation process along quickly and pay particular attention to individuals who report more than once.** Many whistleblowers bring up their concerns in multiple ways, especially if they feel that they are not being heard and that no progress is being made. With each additional report, the likelihood that they will experience retaliation increases. Ensure procedural justice²² (and manage expectations about the reporting process) to avoid putting reporters in such a position.

22. In their report on procedural justice, the ERC Fellows note that when employees are aware of the process by which decisions are made, they are more likely to be accepting of the outcome. Specifically, we recommend that companies take concrete steps to communicate how they proceed through the decision-making process, how investigators are selected, and how they ensure the impartiality of the investigators. In addition, supplemental training for investigators on the principals of procedural justice is recommended to help increase the perception of a fair and just process.

- **Take steps to ensure retaliation does not happen.** A zero-tolerance policy for retaliation is a recognizable symbol to employees but alone it might only be seen as a tool to coerce compliant behavior. Put in place systems and procedures that ensure confidentiality, provide for anonymity, and actively protect reporters – systems that help in determining if actions are retaliation and that show fairness and consistency are the norms in the company.
 - **When a claim of retaliation is substantiated, take action in a way that is both decisive and, to the extent possible, visible to employees.** Accountability matters. As we have seen, in workplaces where employees feel that retaliation is not tolerated, retaliation is far less common.
 - **Track progress and periodically check up on reporters.** Instead of merely hoping reporters will be safe, regularly check in with them after any investigation is complete to make sure they continue to be safe and feel supported.
- (For policymakers and enforcement officials):
- **Encourage protections and follow-up by designing policy which encourages pre-emptive protection for whistleblowers.**
 - **Include retaliation statistics as a key metric when judging the effectiveness of ethics and compliance programs.**

APPENDIX: OTHER FINDINGS & TRENDS

WHO EXPERIENCES WHAT? DEMOGRAPHICS & SPECIFIC FORMS OF RETALIATION

Form of retaliation	Percentage	Groups LEAST likely to experience this form of retaliation ^{1,2}	Groups MOST likely to experience this form of retaliation
Experienced Retaliation in general	22%	30-44 years-old (21%) ³	18-29 years-old (29%)
		45-63 years-old (18%) ³	
		6-10 years tenure (16%)	3-5 years tenure (25%)
		Privately held (18%)	Publicly-traded (29%)
		Workers who do not supervise others (18%)	Workers who supervise others (24%)
		Nonmanagement (19%)	First line supervisors (27%)
		Workers who are not members of unions (17%)	Members of unions (42%)
Other employees gave a cold shoulder	62%	18-29 years-old (56%) ³	30-44 years-old (75%)
		45-63 years-old (59%) ³	
		1-2 years tenure (54%) ³	3-5 years tenure (72%) ³
		6-10 years tenure (50%) ³	11+ years tenure (72%) ³
		Privately held (51%)	Publicly-traded (70%)

1. All numbers in the LEAST and MOST categories are significantly different from each other.
2. The following groups were too small and were not included in the analysis:
 Age: 64 years-old and older
 Tenure: less than one year
 Foreign vs U.S.: Foreign companies operating in the U.S.
3. These demographic groups are not significantly different from each other, but are significantly different from the opposite (LEAST/MOST) demographic group.

Form of retaliation	Percentage	Groups LEAST likely to experience this form of retaliation ^{1,2}	Groups MOST likely to experience this form of retaliation
Supervisor or management excluded from decisions and work activity	64%	45-63 years-old (53%)	18-29 years-old (72%)
		6-10 years tenure (51%)	3-5 years tenure (68%)
		Employees of U.S. companies operating in the U.S. only (54%)	Employees of U.S. companies operating also in foreign countries (71%)
		Top management (48%)	Nonmanagement (68%) ³ Middle management (66%) ³
Verbally abused by supervisor or someone else in management	62%	45-63 years-old (54%)	30-44 years-old (69%)
		First line supervisors (52%)	Nonmanagement (70%)
Verbally abused by other employees	51%	18-29 years-old (42%)	30-44 years-old (63%)
		1-2 years tenure (44%)	3-5 years tenure (61%)
		Privately-held (43%)	Publicly-traded (61%)
		Workers who do not supervise others (41%)	Workers who supervise others (58%)
		Nonmanagement (45%) First line supervisors (45%)	Middle management (66%)
		Workers who are not members of unions (46%)	Members of unions (60%)

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Form of retaliation	Percentage	Groups LEAST likely to experience this form of retaliation ^{1,2}	Groups MOST likely to experience this form of retaliation
Experienced physical harm to person or property	31%	Females (16%)	Males (41%)
		45-63 years-old (24%)	18-29 years-old (37%)
		1-2 years tenure (20%) ³ 11+ years tenure (23%) ³	3-5 years tenure (46%)
		Privately held (17%)	Publicly-traded (42%)
		Employees of U.S. companies operating in the U.S. only (29%)	Employees of U.S. companies operating also in foreign countries (44%)
		Workers who do not supervise others (20%)	Workers who supervise others (35%)
		Nonmanagement (15%)	First line supervisors (31%) ³ Middle management (45%) ³ Top management (38%) ³
		Workers who are not members of unions (17%)	Members of unions (46%)

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Form of retaliation	Percentage	Groups LEAST likely to experience this form of retaliation ^{1,2}	Groups MOST likely to experience this form of retaliation
Harassment online	31%	Females (14%)	Males (44%)
		45-63 years-old (18%)	18-29 years-old (30%) ³ 30-44 years-old (41%) ³
		1-2 years tenure (19%) ³ 6-10 years tenure (25%) ³ 11+ years tenure (26%) ³	3-5 years tenure (53%)
		Privately held (23%)	Publicly-traded (43%)
		Workers who do not supervise others (13%)	Workers who supervise others (44%)
		Nonmanagement (13%)	Top management (57%)
		Workers who are not members of unions (18%)	Members of unions (53%)
		Harassment at home	29%
45-63 years-old (13%)	18-29 years-old (35%) ³ 30-44 years-old (39%) ³		
6-10 years tenure (21%) ³ 11+ years tenure (22%) ³	3-5 years tenure (40%)		
Privately held (19%)	Publicly-traded (37%)		
Workers who do not supervise others (15%)	Workers who supervise others (36%)		
Nonmanagement (11%)	Middle management (43%) ³ Top management (45%) ³		
Workers who are not members of unions (14%)	Members of unions (47%)		

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Form of retaliation	Percentage	Groups LEAST likely to experience this form of retaliation ^{1,2}	Groups MOST likely to experience this form of retaliation
Not given promotions or raises	55%	Females (37%)	Males (68%)
		11+ years tenure (49%)	3-5 years tenure (65%)
		Privately held (46%)	Publicly-traded (65%)
		Nonmanagement (46%)	First line supervisors (67%)
Relocated or reassigned	44%	45-63 years-old (30%)	18-29 years-old (50%) ³ 30-44 years-old (50%) ³
		1-2 years tenure (17%)	3-5 years tenure (61%)
		Privately held (40%)	Publicly-traded (52%)
		Nonmanagement (37%)	Top management (57%)
		Workers who are not members of unions (37%)	Members of unions (58%)
Demoted	32%	Females (26%)	Males (36%)
		1-2 years tenure (26%) ³ 11+ years tenure (28%) ³	3-5 years tenure (42%)
		Privately held (23%)	Publicly-traded (45%)
		Workers who do not supervise others (20%)	Workers who supervise others (40%)
		Nonmanagement (19%)	First line supervisors (38%) ³ Middle management (39%) ³ Top management (54%) ³
		Workers who are not members of unions (25%)	Members of unions (44%)

- All numbers in the LEAST and MOST categories are significantly different from each other.
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 - Foreign vs U.S.: Foreign companies operating in the U.S.
- These demographic groups are not significantly different from each other, but are significantly different from the opposite (LEAST/MOST) demographic group.

Form of retaliation	Percentage	Groups LEAST likely to experience this form of retaliation ^{1,2}	Groups MOST likely to experience this form of retaliation
Hours or pay cut	46%	45-63 years-old (39%)	18-29 years-old (54%)
		1-2 years tenure (32%)	3-5 years tenure (50%)
Almost lost job	56%	45-63 years-old (47%)	18-29 years-old (60%)
		1-2 years tenure (44%) ³ 6-10 years tenure (42%) ³	3-5 years tenure (61%)
		Workers who are not members of unions (48%)	Members of unions (65%)
Other	14%	Males (8%)	Females (20%)
		18-29 years-old (7%) ³ 30-44 years-old (8%) ³	45-63 years-old (25%)

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I AM THE
29%
OF MILLENNIALS
RETAALIATED
AGAINST AFTER
REPORTING
MISCONDUCT

*See the numbers
everyone is talking
about.*

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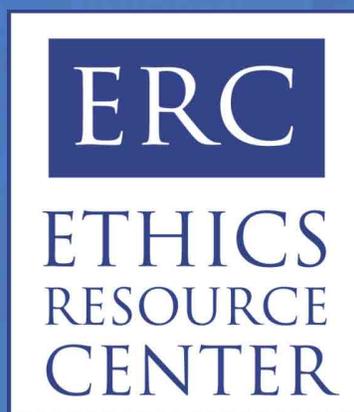
In this update to the popular 2009 report, ERC will investigate how age, generational cohort, and time in the workforce impact ethics experiences at work. Key questions include:

- Do different generations observe different kinds of misconduct? Are different generations equally likely to report misconduct when observed?
- What factors drive reporting decisions in each age group, and what sorts of targeted efforts can management take to maximize reporting?

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One of the key findings of NBES 2011 was the unique—and often troubling—experiences of active social networkers. This report will investigate key questions related to this important movement in the workplace:

- Who are active social networkers, and how do their beliefs about their companies compare to non-networkers?
- How can companies support active social networkers and leverage opportunities to make social networking a positive force for creating stronger ethics cultures?



The report was made possible in part by generous contributions from our sponsors:



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