

Some Paradoxes of Whistleblowing

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Introduction

By "paradox" I mean an apparent—and, in this case, real—inconsistency between theory (our systematic understanding of whistleblowing) and the facts (what we actually know, or think we know, about whistleblowing). What concerns me is not a few anomalies, the exceptions that test a rule, but a flood of exceptions that seems to swamp the rule.

This paper has four parts. The first states the standard theory of whistleblowing. The second argues that the standard theory is paradoxical, that it is inconsistent with what we know about whistleblowers. The third part sketches what seems to me a less paradoxical theory of whistleblowing. The fourth tests the new theory against one classic case of whistleblowing, Roger Boisjoly's testimony before the presidential commission investigating the *Challenger* disaster ("the Rogers Commission"). I use that case because the chief facts are both uncontroversial enough and well-known enough to make detailed exposition unnecessary. For the same reason, I also use that case to illustrate various claims about whistleblowing throughout the paper.

Justification and Whistleblowing

The standard theory is not about whistleblowing, as such, but about justified whistleblowing—and rightly so. Whether this or that is, or is not, whistleblowing is a question for lexicographers. For the rest of us, mere moral agents, the question is—when, if ever, is whistleblowing justified?

We may distinguish three (related) senses in which an act may be "justified." First, an act may be something morality permits. Many acts, for example, eating fruit at lunch, are morally justified in this weak sense. They are (all things considered) morally all right, though some of the alternatives are morally all right too. Second, acts may be morally justified in a stronger sense. Not only is doing them morally

all right, but doing anything else instead is morally wrong. These acts are *morally* required. Third, some acts, though only morally justified in the weaker sense, are still required all things considered. That is, they are mandatory because of some non-moral consideration. They are *rationally* (but not morally) required.

I shall be concerned here only with *moral* justification, that is, with what morality permits or requires. I shall have nothing to say about when other considerations, for example, individual prudence or social policy, make (morally permissible) whistleblowing something reason requires.

Generally, we do not *need* to justify an act unless we have reason to think it wrong (whether morally wrong or wrong in some other way). So, for example, I do not need to justify eating fruit for lunch today, though I would if I were allergic to fruit or had been keeping a fast. We also do not need a justification if we believe the act in question wrong. We do not need a justification because, insofar as an act is wrong, justification is impossible. The point of justification is to show to be right an act the rightness of which has been put in (reasonable) doubt. Insofar as we believe the act wrong, we can only condemn or excuse it. To condemn it is simply to declare it wrong. To excuse it is to show that, while the act was wrong, the doer had good reason to do it, could not help doing it, or for some other reason should not suffer the response otherwise reserved for such a wrongdoer.

Most acts, though permitted or required by morality, need no justification. There is no reason to think them wrong. Their justification is too plain for words. Why then is whistleblowing so problematic that we need *theories* of its justification? What reason do we have to think whistleblowing might be morally wrong?

Whistleblowing always involves revealing information that would not ordinarily be revealed. But there is nothing morally problematic about that; after all, revealing information not ordinarily revealed is one function of science. Whistleblowing always involves, in addition, an actual (or at least declared) intention to prevent something bad that would otherwise occur. There is nothing morally problematic in that either. That may well be the chief use of information.

What seems to make whistleblowing morally problematic is its organizational context. A mere individual cannot blow the whistle (in any interesting sense); only a member of an organization, whether a current or a former member, can do so. Indeed, he can only blow the

whistle on his own organization (or some part of it). So, for example, a police officer who makes public information about a burglary ring, though a member of an organization, does not blow the whistle on the burglary ring (in any interesting sense). He simply alerts the public. Even if he came by the information working undercover in the ring, his revelation could not be whistleblowing. While secret agents, spies, and other infiltrators need a moral justification for what they do, the justification they need differs from that which whistleblowers need. Infiltrators gain their information under false pretenses. They need a justification for that deception.¹ Whistleblowers generally do not gain their information under false pretenses.

What if, instead of being a police officer, the revealer of information about the burglary ring were an ordinary member of the ring? Would such an informer be a (justified) whistleblower? I think not. The burglary ring is a criminal organization. The whistleblower's organization never is, though it may occasionally engage in criminal activity (knowingly or inadvertently). So, even a burglar who, having a change of heart, volunteers information about his ring to the police or the newspaper, does not need to justify his act in the way the whistleblower does. Helping to destroy a criminal organization by revealing its secrets is morally much less problematic than whistleblowing.

What then is morally problematic about the whistleblower's organizational context? The whistleblower cannot blow the whistle using just any information obtained in virtue of membership in the organization. A clerk in Accounts who, happening upon evidence of serious wrongdoing while visiting a friend in Quality Control, is not a whistleblower just because she passes the information to a friend at the *Tribune*. She is more like a self-appointed spy. She seems to differ from the whistleblower, or at least from clear cases of the whistleblower, precisely in her relation to the information in question. To be a whistleblower is to reveal information with which one is *entrusted*.

But it is more than that. The whistleblower does not reveal the information to save his own skin (for example, to avoid perjury under oath).² He has no excuse for revealing what his organization does not want revealed. Instead, he claims to be doing what he should be doing. If he cannot honestly make that claim—if, that is, he does not have that intention—his revelation is not whistleblowing (and so, not justified as whistleblowing), but something analogous, much as pulling a child from

the water is not a rescue, even if it saves the child's life, when the "rescuer" merely believes herself to be salvaging old clothes. What makes whistleblowing morally problematic, if anything does, is this high-minded but unexcused misuse of one's position in a generally law-abiding, morally decent organization, an organization that *prima facie* deserves the whistleblower's loyalty (as a burglary ring does not).³

The whistleblower must reveal information the organization does not want revealed. But, in any actual organization, "what the organization wants" will be contested, with various individuals or groups asking to be taken as speaking for the organization. Who, for example, did what Thiokol wanted the night before the *Challenger* exploded? In retrospect, it is obvious that the three vice presidents, Lund, Kilminster, and Mason, did not do what Thiokol wanted—or, at least, what it would have wanted. At the time, however, they had authority to speak for the company—the conglomerate Morton-Thiokol headquartered in Chicago—while the protesting engineers, including Boisjoly, did not. Yet, even before the explosion, was it obvious that the three were doing what the company wanted? To be a whistleblower, one must, I think, at least temporarily lose an argument about what the organization wants. The whistleblower is disloyal only in a sense—the sense the winners of the internal argument get to dictate. What can justify such disloyalty?

The Standard Theory

According to the theory now more or less standard,⁴ such disloyalty is morally permissible when:

- (S1) The organization to which the would-be whistleblower belongs will, through its product or policy, do serious and considerable harm to the public (whether to users of its product, to innocent bystanders, or to the public at large);
- (S2) The would-be whistleblower has identified that threat of harm, reported it to her immediate superior, making clear both the threat itself and the objection to it, and concluded that the superior will do nothing effective; and
- (S3) The would-be whistleblower has exhausted other internal procedures within the organization (for example, by going up the organizational ladder as far as allowed)—or at least

made use of as many internal procedures as the danger to others and her own safety make reasonable.

Whistleblowing is morally required (according to the standard theory) when, in addition:

- (S4) The would-be whistleblower has (or has accessible) evidence that would convince a reasonable, impartial observer that her view of the threat is correct; and
- (S5) The would-be whistleblower has good reason to believe that revealing the threat will (probably) prevent the harm at reasonable cost (all things considered).

Why is whistleblowing morally required when these five conditions are met? According to the standard theory, whistleblowing is morally required, when it is required at all, because "people have a moral obligation to prevent serious harm to others if they can do so with little cost to themselves."⁵ In other words, whistleblowing meeting all five conditions is a form of "minimally decent Samaritanism" (a doing of what morality requires) rather than "good Samaritanism" (going well beyond the moral minimum).⁶

A number of writers have pointed out that the relation between the first three conditions and the full five does not seem to be that between the morally permissible and the morally required.⁷ If, for example, the whistleblower lacks evidence that would convince a reasonable, impartial observer of the threat in question (S4), her whistleblowing could not prevent harm. Since it could not prevent harm, her whistleblowing would not be even morally permissible: what could make morally permissible an attempt to help a stranger when the attempt will probably fail and the cost be high both to the would-be Samaritan and to those to whom she owes a competing obligation? The most that can be said for blowing the whistle where only conditions S1-S3 are met seems to be that the whistleblower has an excuse when (without negligence) she acts on inadequate evidence. So, for many writers, the standard view is that S1-S5 state sufficient conditions for morally *required* whistleblowing even though S1-S3 do not state sufficient conditions for morally permissible whistleblowing but (at best) for morally *excusable* whistleblowing.

The standard theory is not a definition of whistleblowing or even of justified whistleblowing. The theory purports to state sufficient

conditions, not necessary conditions (a "when" but *not* an "only when"). But these sufficient conditions are supposed to identify the central cases of morally justified whistleblowing. Since a theory that did only that would be quite useful, we cannot object to the theory merely because it is incomplete in this way. Incomplete only in this way, the theory would be about as useful as theories of practical ethics ever are.

Three Paradoxes

That's the standard theory—where are the paradoxes? The first paradox I want to call attention to concerns a commonplace of the whistleblowing literature. Whistleblowers are not minimally decent Samaritans. If they are Samaritans at all, they are good Samaritans. They always act at considerable risk to career, and generally, at considerable risk to their financial security and personal relations.⁸

In this respect, as in many others, Roger Boisjoly is typical. Boisjoly blew the whistle on his employer, Thiokol; he volunteered information, in public testimony before the Rogers Commission, that Thiokol did not want him to volunteer. As often happens, both his employer and many who relied on it for employment reacted hostilely. Boisjoly had to say goodbye to the company town, to old friends and neighbors, and to building rockets; he had to start a new career at an age when most people are preparing for retirement.

Since whistleblowing is generally costly to the whistleblower in some large way as this, the standard theory's minimally decent Samaritanism provides *no* justification for the central cases of whistleblowing.⁹ That is the first paradox, what I might call "the paradox of burden."

The second paradox concerns the prevention of "harm." On the standard theory, the would-be whistleblower must seek to prevent "serious and considerable harm" in order for the whistleblowing to be even morally permissible. There seems to be a good deal of play in the term "harm." The harm in question can be physical (such as death or disease), financial (such as loss of or damage to property), and perhaps even psychological (such as fear or mental illness). But there is a limit to how much the standard theory can stretch "harm." Beyond that limit are "harms" like injustice, deception, and waste. As morally important as injustice, deception, and waste can be, they do not seem to constitute the "serious and considerable harm" that can require someone to become even a minimally decent Samaritan.

Yet, many cases of whistleblowing, perhaps most, are not about preventing serious and considerable physical, financial, or psychological harm. For example, when Boisjoly spoke up the evening before the *Challenger* exploded, the lives of seven astronauts sat in the balance. Speaking up then was about preventing serious and considerable physical, financial, and psychological harm—but it was not whistleblowing. Boisjoly was then serving his employer, not betraying a trust (even on the employer's understanding of that trust); he was calling his superiors' attention to what he thought they should take into account in their decision and not publicly revealing confidential information. The whistleblowing came after the explosion, in testimony before the Rogers Commission. By then, the seven astronauts were beyond help, the shuttle program was suspended, and any further threat of physical, financial, or psychological harm to the "public" was—after discounting for time—negligible. Boisjoly had little reason to believe his testimony would make a significant difference in the booster's redesign, in safety procedures in the shuttle program, or even in reawakening concern for safety among NASA employees and contractors. The *Challenger's* explosion was much more likely to do that than anything Boisjoly could do. What Boisjoly could do in his testimony, what I think he tried to do, was prevent falsification of the record.¹⁰

Falsification of the record is, of course, harm in a sense, especially a record as historically important as that which the Rogers Commission was to produce. But falsification is harm only in a sense that almost empties "harm" of its distinctive meaning, leaving it more or less equivalent to "moral wrong." The proponents of the standard theory mean more by "harm" than that. De George, for example, explicitly says that a threat justifying whistleblowing must be to "life or health."¹¹ The standard theory is strikingly more narrow in its grounds of justification than many examples of justified whistleblowing suggest it should be. That is the second paradox, the "paradox of missing harm."

The third paradox is related to the second. Insofar as whistleblowers are understood as people out to prevent harm, not just to prevent moral wrong, their chances of success are not good. Whistleblowers generally do not prevent much harm. In this too, Boisjoly is typical. As he has said many times, the situation at Thiokol is now much as it was before the disaster. Insofar as we can identify cause and effect, even now we have little reason to believe that—whatever his

actual intention—Boisjoly's testimony actually prevented any harm (beyond the moral harm of falsification). So, if whistleblowers must have, as the standard theory says (S5), (beyond the moral wrong of falsification) "good reason to believe that revealing the threat will (probably) prevent the harm," then the history of whistleblowing virtually rules out the moral justification of whistleblowing. That is certainly paradoxical in a theory purporting to state sufficient conditions for the central cases of justified whistleblowing. Let us call this "the paradox of failure."

A Complicity Theory

As I look down the roll of whistleblowers, I do not see anyone who, like the clerk from Accounts, just happened upon key documents in a cover-up.¹² Few, if any, whistleblowers are mere third-parties like the good Samaritan. They are generally deeply involved in the activity they reveal. This involvement suggests that we might better understand what justifies (most) whistleblowing if we understand the whistleblower's obligation to derive from *complicity* in wrongdoing rather than from the ability to prevent harm.

Any complicity theory of justified whistleblowing has two obvious advantages over the standard theory. One is that (moral) complicity itself presupposes (moral) wrongdoing, not harm. So, a complicity justification automatically avoids the paradox of missing harm, fitting the facts of whistleblowing better than a theory which, like the standard one, emphasizes prevention of harm.

That is one obvious advantage of a complicity theory. The second advantage is that complicity invokes a more demanding obligation than the ability to prevent harm does. We are morally obliged to avoid doing moral wrongs. When, despite our best efforts, we nonetheless find ourselves engaged in some wrong, we have an obligation to do what we reasonably can to set things right. If, for example, I cause a traffic accident, I have a moral (and legal) obligation to call help, stay at the scene until help arrives, and render first aid (if I know how), even at substantial cost to myself and those to whom I owe my time, and even with little likelihood that anything I do will help much. Just as a complicity theory avoids the paradox of missing harm, it also avoids the paradox of burden.

What about the third paradox, the paradox of failure? I shall come to that, but only after remedying one disadvantage of the

complicity theory. That disadvantage is obvious—we do not yet have such a theory, not even a sketch. Here, then, is the place to offer a sketch of such a theory.

Complicity Theory. You are morally required to reveal what you know to the public (or to a suitable agent or representative of it)¹³ when:

- (C1) what you will reveal derives from your work for an organization;
- (C2) you are a voluntary member of that organization;
- (C3) you believe that the organization, though legitimate, is engaged in serious moral wrongdoing;
- (C4) you believe that your work for that organization will contribute (more or less directly) to the wrong if (but *not* only if) you do not publicly reveal what you know;
- (C5) you are justified in beliefs C3 and C4; and
- (C6) beliefs C3 and C4 are true.

The complicity theory differs from the standard theory in several ways worth pointing out here. The first is that, according to C1, what the whistleblower reveals must derive from his work for the organization. This condition distinguishes the whistleblower from the spy (and the clerk in Accounts). The spy seeks out information in order to reveal it; the whistleblower learns it as a proper part of doing the job the organization has assigned him. The standard theory, in contrast, has nothing to say about how the whistleblower comes to know of the threat she reveals (S2). For the standard theory, spies are just another kind of whistleblower.

A second way in which the complicity theory differs from the standard theory is that the complicity theory (C2) explicitly requires the whistleblower to be a *voluntary* participant in the organization in question. Whistleblowing is not—according to the complicity theory—an activity in which slaves, prisoners, or other involuntary participants in an organization engage. In this way, the complicity theory makes explicit something implicit in the standard theory. The whistleblowers of the standard theory are generally "employees." Employees are voluntary participants in the organization employing them.

What explains this difference in explicitness? For the Samaritanism of the standard theory, the voluntariness of employment is extrinsic. What is crucial is the ability to prevent harm. For the

complicity theory, however, the voluntariness is crucial. The obligations deriving from complicity seem to vary with the voluntariness of our participation in the wrongdoing. Consider, for example, a teller who helps a gang rob her bank because they have threatened to kill her if she does not; she does not have the same obligation to break off her association with the gang as someone who has freely joined it. The voluntariness of employment means that the would-be whistleblower's complicity will be more like that of one of the gang than like that of the conscripted teller.¹⁴

A third way in which the complicity theory differs from the standard theory is that the complicity theory (C3) requires moral wrong, not harm, for justification. The wrong need not be a new event (as a harm must be if it is to be *prevented*). It might, for example, consist in no more than silence about facts necessary to correct a serious injustice.

The complicity theory (C3) does, however, follow the standard theory in requiring that the predicate of whistleblowing be "serious." Under the complicity theory, minor wrongdoing can no more justify whistleblowing than can minor harm under the standard theory.¹⁵ While organizational loyalty cannot forbid whistleblowing, it does forbid "tattling," that is, revealing minor wrongdoing.

A fourth way in which the complicity theory differs from the standard theory, the most important, is that the complicity theory (C4) requires that the whistleblower believe that her work will have contributed to the wrong in question if she does nothing, but it does *not* require that she believe that her revelation will prevent (or undo) the wrong. The complicity theory does not require any belief about what the whistleblowing can accomplish (beyond ending complicity in the wrong in question). The whistleblower reveals what she knows in order to prevent complicity in the wrong, not to prevent the wrong as such. She can prevent complicity (if there is any to prevent) simply by publicly revealing what she knows. The revelation itself breaks the bond of complicity, the secret partnership in wrongdoing, that makes her an accomplice in her organization's wrongdoing.¹⁶ The complicity theory thus avoids the third paradox, the paradox of failure, just as it avoided the other two.

The fifth difference between the complicity theory and the standard theory is closely related to the fourth. Because publicly revealing

what one knows breaks the bond of complicity, the complicity theory does not require the whistleblower to have enough evidence to convince others of the wrong in question. Convincing others, or just being able to convince them, is not, as such, an element in the justification of whistleblowing.

The complicity theory does, however, require (C5) that the whistleblower be (epistemically) justified in believing both that his organization is engaged in wrongdoing and that he will contribute to that wrong unless he blows the whistle. Such (epistemic) justification may require substantial physical evidence (as the standard theory says) or just a good sense of how things work. The complicity theory does not share the standard theory's substantial evidential demand (S4).

In one respect, however, the complicity theory clearly requires more of the whistleblower than the standard theory does. The complicity theory's C6—combined with C5—requires not only that the whistleblower be *justified* in her beliefs about the organization's wrongdoing and her part in it, but also that she be *right* about them. If she is wrong about either the wrongdoing or her complicity, her revelation will not be justified whistleblowing. This consequence of C6 is, I think, not as surprising as it may seem. If the would-be whistleblower is wrong only about her own complicity, her revelation of actual wrongdoing will, being otherwise justified, merely fail to be justified *as whistleblowing* (much as a failed rescue, though justified as an attempt, cannot be justified as a rescue). If, however, she is wrong about the wrongdoing itself, her situation is more serious. Her belief that wrong is being done, though fully justified on the evidence available to her, cannot justify her disloyalty. All her justified belief can do is *excuse* her disloyalty. Insofar as she acted with good intentions and while exercising reasonable care, she is a victim of bad luck. Such bad luck will leave her with an obligation to apologize, to correct the record (for example, by publicly recanting the charges she publicly made), and otherwise to set things right.

The complicity theory says nothing on at least one matter about which the standard theory says much—going through channels before publicly revealing what one knows. But the two theories do not differ as much as this difference in emphasis suggests. If going through channels would suffice to prevent (or undo) the wrong, then it cannot be true (as C4 and C6 together require) that the would-be whistleblower's

work will contribute to the wrong if she does not publicly reveal what she knows. Where, however, going through channels would *not* prevent (or undo) the wrong, there is no need to go through channels. Condition C4's if-clause will be satisfied. For the complicity theory, going through channels is a way of finding out what the organization will do, not an independent requirement of justification. That, I think, is also how the standard theory understands it.¹⁷

A last difference between the two theories worth mention here is that the complicity theory is only a theory of morally required whistleblowing while the standard theory claims as well to define circumstances when whistleblowing is morally permissible but not morally required. This difference is another advantage that the complicity theory has over the standard theory. The standard theory, as we saw, has trouble making good on its claim to explain how whistleblowing can be morally permissible without being morally required.

Testing the Theory

Let us now test the theory against Boisjoly's testimony before the Rogers Commission. Recall that under the standard theory any justification of that testimony seemed to fail for at least three reasons: First, Boisjoly could not testify without substantial cost to himself and Thiokol (to whom he owed loyalty). Second, there was no serious and substantial harm his testimony could prevent. And, third, he had little reason to believe that, even if he could identify a serious and considerable harm to prevent, his testimony had a significant chance of preventing it.

Since few doubt that Boisjoly's testimony before the Rogers Commission constitutes justified whistleblowing, if anything does, we should welcome a theory that—unlike the standard one—justifies that testimony as whistleblowing. The complicity theory sketched above does that:

- (C1) Boisjoly's testimony consisted almost entirely of information derived from his work on Booster rockets at Thiokol.
- (C2) Boisjoly was a voluntary member of Thiokol.
- (C3) Boisjoly believed Thiokol, a legitimate organization, was attempting to mislead its client, the government, about the causes of a deadly accident. Attempting to do that certainly seems a serious moral wrong.

- (C4) On the evening before the *Challenger* exploded, Boisjoly gave up objecting to the launch once his superiors, including the three Thiokol vice presidents, had made it clear that they were no longer willing to listen to him. He also had a part in preparing those superiors to testify intelligently before the Rogers Commission concerning the booster's fatal field joint. Boisjoly believed that Thiokol would use his failure to offer his own interpretation of his retreat into silence the night before the launch, and the knowledge that he had imparted to his superiors, to contribute to the attempt to mislead Thiokol's client.
- (C5) The evidence justifying beliefs C3 and C4 consisted of comments of various officers of Thiokol, what Boisjoly had seen at Thiokol over the years, and what he learned about the rocket business over a long career. I find this evidence sufficient to justify his belief both that his organization was engaged in wrongdoing and that his work was implicated.
- (C6) Here we reach a paradox of *knowledge*. Since belief is knowledge if, but only if, it is *both* justified *and* true, we cannot *show* that we know anything. All we can show is that a belief is now justified and that we have no reason to expect anything to turn up later to prove it false. The evidence now available still justifies Boisjoly's belief both about what Thiokol was attempting and about what would have been his part in the attempt. Since new evidence is unlikely, his testimony seems to satisfy C6 just as it satisfied the complicity theory's other five conditions.

Since the complicity theory explains why Boisjoly's testimony before the Rogers Commission was morally required whistleblowing, it has passed its first test, a test the standard theory failed.

Notes

I should thank Vivian Weil for several discussions provoking this paper, as well as for commenting on several drafts; members of the Program in Ethics, Science, and Environment, Oregon State University, for raising several hard questions after I read an early version of this paper to them, April 24, 1996; those who asked questions (including my

copanelist, Roger Boisjoly) at a session of the annual meeting of the Northwest Section of the American Society of Engineering Educators, Oregon Institute of Technology, Klamath Falls, Oregon, April 26, 1996; attendees at a symposium sponsored by the Centre for Professional Ethics, University of Central Lancashire, Preston, England, November 12, 1996; and the editors of *Business and Professional Ethics Journal*.

1. This is, I think, one (but not the only) reason to reject the forgotten—but perceptive—definition of "whistleblowing" in Frederick Elliston, John Keenan, Paula Lockhart, and Jane van Schaick, *Whistleblowing Research: Methodological and Moral Issues* (New York: Praeger, 1984), p. 15: "An act of whistleblowing occurs when: 1) an individual performs an action or series of actions intended to make information public; 2) the information is made a matter of public record; 3) the information is about possible or actual, nontrivial wrongdoing in an organization; and 4) the individual who performs the action is a member or former member of the organization." While this definition confounds whistleblowers with spies, informers, and the like and is designed for research on whistleblowing rather than for developing a justification, its wrong-based approach makes it closer to the complicity theory offered below than to the standard theory. (Though the book has four authors, they credit the whole of the first chapter, including this definition, to someone else, Deborah Johnson.)

2. I do not mean that, for some purpose, for example, a whistleblower protection act; it might not be convenient to include among whistleblowers those who reveal information unwillingly. What I mean is that, for purposes of developing a general theory of justified whistleblowing, such cases are uninteresting. Avoiding contempt of court or Congress generally provides sufficient justification for testifying about serious wrongdoing, and avoiding perjury, a sufficient justification for telling the truth, which is a stronger justification than either the standard theory or the alternative I shall offer.

3. There is, of course, a problem about organizational loyalty, especially when the organization is a business and it understands its employees as instruments rather than members. While justifying whistleblowing is easier the less loyalty one owes the organization in question, we will learn more if we focus on the harder cases, those where we admit significant obligations of loyalty. So, that is what I do here.

4. Throughout this paper, I take the standard theory to be Richard T. De George's version in *Business Ethics*, 3rd. Edition (New York: Macmillan, 1990), pp. 200-214 (amended only insofar as necessary to include non-businesses as well as businesses). Why treat De George's theory as standard? There are two reasons: first, it seems the most commonly cited; and second, people offering alternatives generally treat it as the one to be replaced. The only obvious competitor, Norman Bowie's account, is distinguishable from De George's on no point relevant here. See Bowie's *Business Ethics* (Englewood Cliffs, NJ: Prentice-Hall, 1982), p. 143.

5. De George, *op. cit.* Specifically, p. 214, De George says something more daring: "It is not implausible to claim both that we are morally obliged to prevent harm to others at little expense to ourselves, and that we are morally obliged to prevent great harm to a great many others, even at considerable expense to ourselves." De George (quite rightly) considers the opportunity to prevent great harm (as distinct from serious harm) so rare that he can safely ignore it.

6. There is now a significant literature on the responsibilities of the minimally decent Samaritan. See, for example: Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs*, Vol. 7, No. 2 (1972): 229-243; Alan Gewirth, *Reason and Morality* (Chicago: University of Chicago Press, 1978), pp. 217-230; Patricia Smith, "The Duty to Rescue and the Slippery Slope Problem," *Social Theory and Practice*, Vol. 16, No. 1 (1990): 19-41; John M. Whelan, "Charity and the Duty to Rescue," *Social Theory and Practice*, Vol. 17, No. 3 (1991): 441-456; and David Copp, "Responsibility for Collective Inaction," *Journal of Social Philosophy*, Vol. 22, No. 2 (1991): 71-80.

7. See, for example, David Theo Goldberg, "Tuning In to Whistle Blowing," *Business and Professional Ethics Journal*, Vol. 7, No. 2 (1988): 85-94.

8. For an explanation of why whistleblowing is inevitably a high risk undertaking, see my "Avoiding the Tragedy of Whistleblowing," *Business and Professional Ethics Journal*, Vol. 8, No. 4 (1989): 3-19.

9. Indeed, I am tempted to go further and claim that, where an informant takes little or no risk, we are unlikely to describe her as a whistleblower at all. So, for example, I would say that using an internal or external "hot-line" is whistleblowing only when it is risky. We are, in other words, likely to consider using a hot-line as disloyalty (that is,

as "going out of channels") only if the organization (or some part of it) is likely to respond with considerable hostility to its use.

10. After I presented this paper in Klamath Falls, Boisjoly told me that, though his motive for testifying as he did was (as I surmised) to prevent falsification of the record, part of his reason for wanting to prevent that was that he wanted to do what he could to prevent the managers responsible for the disaster from having any part in re-designing the boosters. This *secondary* motive is, of course, consistent with the complicity theory.

11. De George, p. 210: "The notion of *serious* harm might be expanded to include serious financial harm, and kinds of harm other than death and serious threats to health and body. But as we noted earlier, we shall restrict ourselves here to products and practices that produce or threaten serious harm or danger to life and health."

12. See Myron Peretz Glazer and Penina Migdal Glazer, *The Whistleblowers: Exposing Corruption in Government and Industry* (New York: Basic Books, 1989) for a good list of whistleblowers (with detailed description of each); for an older list (with descriptions), see Alan F. Westin, *Whistleblowing! Loyalty and Dissent in the Corporation* (New York: McGraw-Hill, 1981).

13. The problems with "public" in any definition of "whistleblowing" are well known (perhaps even notorious). I simply ignore them here. For our purposes, the public to whom the whistleblower reveals information is that individual or group to whom she must reveal it in order to end her complicity. Who the public is will vary with circumstances.

14. Do I claim that slaves, prisoners, inmates in mental hospital, or students in a school cannot blow the whistle—or, at least, cannot do so justifiably? Well, not exactly. That the usual lists of whistleblowers include no involuntary participants in wrongdoing is, I think, important evidence for the claim that involuntary participants cannot blow the whistle. But, since how we *have* used a word does not determine how we *can* use it (especially a word like "whistleblowing" where usage is still evolving), that evidence is hardly decisive. What I think is clear is that involuntary participants will not have the same obligation of loyalty as the typical whistleblower; hence, any theory justifying their "going public" will have a somewhat different structure than the theory developed here. What about *voluntary* participants who are not employees, such as unpaid volunteers in a political campaign? While the com-

plicity theory clearly counts them as capable of justified whistleblowing, the standard theory must make some special provision.

15. If the revelation seems likely to prevent harm as well, or to undo some injustice as well, that will, of course, strengthen the justification, making that much better a justification already good enough. But, according to the complicity theory, such good consequences are not necessary for justification.

16. We are, of course, assuming the standard case of whistleblowing where complicity involves only information. We can imagine more complicated cases where, in addition to information, there are benefits from the wrongdoing (say, a bonus derived from past wrongdoing). In such complex cases, revealing information (including the bonus) may not be all that is morally required but, even so, it will, I think, end the complicity relevant to whistleblowing. That, however, is a matter about which I am still thinking.

17. Compare De George, p. 211: "By reporting one's concern to one's immediate superior or other appropriate person, one preserves and observes the regular practices of firms, which on the whole promote their order and efficiency; this fulfills one's obligation of minimizing harm, and *it precludes precipitous whistle blowing.*" (Italics mine.)