

# Good example of research paper on whistleblowing

[Business](#), [Company](#)



A whistleblower can be defined as an individual who chooses to expose an injustice or misconduct that occurs in an organization (of which he is typically a member). There are many different types of misconduct that can be exposed in a way that can be construed as whistleblowing – typically, this involves knowing breaking of the laws or defrauding of an individual or interest, or some other kind of corruption. Whistleblowing typically occurs either internally (within the company, for example), or externally (to a larger regulatory body, like law enforcement or the media) (Faunce and Jefferys, 2007).

In one recent prominent case of whistleblowing, whistleblower Josh Harman decided to expose corruption at the Texas-based Trinity Industries, which he claimed “ knowingly defrauded the government of \$175 million since 2005” (Lindenberger, 2014). Essentially, Harman was a former competitor of Trinity, who had interacted with Trinity in previous years regarding patent infringement on his guardrail design, which was designed to keep people safer in car crashes. However, Harman claims that the small changes made to the guardrail caps to avoid copyright infringement were made knowing that they would make the guardrails less safe, thus being successfully accused of false advertising. This change has been linked to several deaths from car crashes into these malfunctioning guardrails since 2005. The changes were also not reported to the Federal Highway Administration, and company correspondence was verified to confirm that officials knowingly withheld this information from FHWA, and that the change was intended to save money (Lindenberger, 2014).

The effect of the whistleblowing act on the whistleblower himself was

relatively mild, considering that Josh Harman was not a member of the organization, but a competitor of Trinity who filed a lawsuit against Trinity for the FHWA (Kessler and Ivory, 2014). To that end, there would be few reprisals against him on the part of the company itself; he is designated a whistleblower due to his connection to the product being discussed and patented, as he was a developer of said product and had brought up concerns about patent infringement before. Because the lawsuit was successful, Trinity Industries was forced to pay out \$175 million dollars, which will be given to Josh Harman and another \$350 million afforded to the United States Treasury (Stech, 2014).

Given the severity of the crimes that Trinity Industries was found guilty of committing (knowingly providing unsafe guardrails to the public, which put people in danger, for the sake of reducing manufacturing costs), Harman's actions were completely justified. The biggest issue, however, is his positioning and motivations for bringing the suit against them. He was not a part of the company, so he was not put at personal risk through his claims; however, he had legal justification thanks to the False Claims Act (Kessler and Ivory, 2014). Thanks to the ruling, Trinity Industries has been punished for knowingly putting failed road safety equipment on the road, which should help to discourage such behavior in the future and save lives.

One interesting question related to the Trinity Industries case is whether or not Josh Harman would be protected under the Sarbanes-Oxley Act of 2002. The Act itself points out that whistleblowers should be protected from retaliation through legal action, including fines and imprisonment (Sarbanes-Oxley Act, 2002). However, Harman would not necessarily be protected

under the act, as he was not technically an employee of Trinity Industries; still, the law stipulates the protection of “ any person” from any harmful action taken against them, so Harman would technically be protected (Sarbanes-Oxley Act, 2002, Section 1107). That being said, the threat of retaliation would be mild, as there would be little legal or financial recourse Trinity could hold against Harman as he was not employed by the company.

## References

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