

Money Does Matter: The Effect of the SEC Reward Provision and Anti-Retaliation Protection on Corporate Whistleblowing

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Introduction

Since the turn of the century, the United States federal government has passed two sweeping pieces of legislation containing whistleblower provisions affecting publicly traded companies that are specifically intended to increase fraud reporting intentions. The first was the *Sarbanes-Oxley Act of 2002* (Sarbanes-Oxley Act)¹ which contained an anti-retaliation provision (Section 806 of the Sarbanes-Oxley Act). The Sarbanes-Oxley Act was passed because of accounting scandals that included Enron and WorldCom which involved Arthur Anderson. The second piece of legislation was the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* (Dodd-Frank Act) which introduced a new whistleblower provision (Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act). The Dodd-Frank Act introduces a reward incentive along with a significant extension of the anti-retaliation protection provided by the Sarbanes-Oxley Act. The Dodd-Frank Act was passed because of the global financial collapse of 2008. These pieces of legislation each contain whistleblower provisions intended to encourage fraud reporting intentions in relation to publicly traded companies.

The whistleblowing provision contained in the Dodd-Frank Act is now in force, but its practical implications have yet to be examined. To understand the true effectiveness of the Dodd-Frank Act's whistleblower provision, this study examines the effectiveness of key components contained in the Dodd-Frank Act against those in the Sarbanes-Oxley Act's whistleblower provision. This research has clear implications regarding both the evaluation of current legislation and the formulation of future federal legislation targeting an increase in whistleblowing behavior.

Recent studies identify Dodd-Frank and Sarbanes-Oxley as key motivators of their research applying some of the basic whistleblowing incentives to a corporate structure but not as motivation to report to the Securities and Exchange Commission (SEC) (Robinson, Robertson, and Curtis, 2012; Pope and Lee, 2013; Brink, Lowe, and Victoravich, 2013). These studies do not address the core effectiveness of the provisions included in the Dodd-Frank and Sarbanes-Oxley Acts that are designed to encourage and promote whistleblowing behavior. The whistleblower provisions included in the Sarbanes-Oxley and Dodd-Frank Acts are fundamentally different in their approach to encourage reporting of fraudulent behavior.

The whistleblower provision in the Sarbanes-Oxley Act is focused strictly on providing protection to the whistleblower (anti-retaliation protection); whereas the Dodd-Frank Act introduces an extrinsic financial incentive to disclose knowledge of irregularities (reward incentive), in addition to strengthening and expanding the anti-retaliation protection initially introduced in the Sarbanes-Oxley Act. By exploring the impact of each of these pieces of legislation, this study attempts to tease out the effect these two distinct whistleblower provisions have on fraudulent reporting intentions. As a result of the examination of this legislation, more efficient and targeted legislation designed to encourage and foster the reporting of fraud may be discovered.

Whistleblowing—reporting of fraud through tips—is the most significant source of fraud discovery (Association of Certified Fraud Examiners, 2018). The Association of Certified Fraud Examiners' (ACFE) 2018 Report to the Nations on Occupational Fraud and Abuse indicates that 40 percent of occupational fraud is initially discovered through tips (ACFE, 2018). Interestingly, this initial detection of fraud through tips decreased from 43 percent in 2012 which is the when the

¹ Also known as the “Public Company Accounting Reform and Investor Protection Act” in the U. S. Senate and the “Corporate and Auditing Accountability and Responsibility Act” in the U.S. House of Representatives.

Dodd-Frank Act went into effect (ACFE, 2012). To examine the effect of a reward incentive and increased anti-retaliation protection on whistleblowing intentions, reporting intentions were measured using two different methods: a seven-point Likert-scale and a binomial scale (report yes/no).

Findings of this study provide insight into two distinct areas of whistleblower protection. This study suggests that while internal whistleblowing is often preferred by whistleblowers, a monetary reward provided by an external governmental entity is sufficient to increase whistleblowing behavior. The second key finding of this study suggests that the increased anti-retaliation protection is not sufficient in-itself to increase whistleblowing. This finding may inform future research into the judgement and decision-making process when anti-retaliation protection is present as well as inform legislators and regulators of the limitations of increasing reporting behavior through increased anti-retaliation protections.

The next section presents additional background information related to the Sarbanes-Oxley and Dodd-Frank Acts, a discussion of related literature, and the hypotheses' development. The third section relates to research methodology, and the fourth section includes the results of the study as well as a discussion of these results as they relate to our hypotheses. The final section concludes the paper and addresses the implication of the findings, the limitations of the study, and possible future research.

Hypotheses Development

Reporting Intentions

Near and Miceli (1985) define whistleblowing as “the disclosure by organization members (former or current) of illegal, immoral, or illegitimate practices under the control of their employers, to persons or organizations that may be able to affect action”. The most recent biannual *Report to the Nations on Occupational Fraud and Abuse* states that tips are reported as the most common fraud detection method (40 percent) with this number increasing to 46 percent for companies that provide hotlines for whistleblowers (ACFE, 2018). Further, after examining a sample of corporate frauds occurring between 1996 and 2004, Dyck and colleagues (Dyck, Morse, and Zingales, 2010) found that an employee detected the fraud in 17.1 percent of cases.

The intended recipient of the fraud disclosure influences the whistleblower's reporting decision (Dozier and Miceli, 1985; Gundlach, Douglas, and Martinko, 2003; Hooks, Kaplan, and Schultz, 1994; Ponemon, 1994). The intended recipient is often thought of as either an internal or external reporting option with research suggesting that internal reporting is preferred (Dworkin and Baucus, 1998; ERC, 2007; Kaptein, 2011; Miceli and Near, 1992). The Dodd-Frank Act has shifted focus of external whistleblowing to the SEC as it has become necessary to report to them if a whistleblower would like to be considered eligible for a financial reward.

Foundational whistleblower studies examine the fundamental nature of whistleblowing (Near and Miceli, 1985, 1988a, 1988b, 1996). Subsequent research examining reporting intentions suggest several factors that influence reporting intentions. These factors include variables such as presence of inquiry, trust, length of relationship, organizational structure and type, power, distance, etc. (Kaplan, 1995; Kaplan, Pany, Samuels, and Zhang, 2009; Kaplan, Pope, and Samuels, 2010; Kaplan, Pope, and Samuels, 2011; Kaplan and Schultz, 2007; Kaplan and Whitecotton, 2001; Scheetz and Wilson, 2019; Wilson, McNellis, and Latham, 2018). Whistleblowing is an activity that is inherently higher risk to the whistleblower because it often requires reporting sensitive information and can sometimes involve the reporting of criminal behavior.

Legislation with Whistleblowing Provisions

There is a history of federal legislation containing whistleblower incentives dating back to 1863. Many of these pieces of legislation contain some form of reward provision. Some of these reward incentives, such as the False Claims Act of 1863 and the 2006 revisions to the Internal Revenue Service's (IRS) whistleblower program, have been successful while other programs, such as the Insider Trading Act, have been shown to be less effective.

The False Claims Act was passed on March 02, 1863, as a result of unscrupulous activity during the American Civil War.² Contractors were providing the Union Army with lame horses, faulty munitions, and spoiled rations. A key component of the law gives private individuals the right to bring *qui tam*³ actions on the government's behalf against individuals

² Since the False Claims Act was passed under President Abraham Lincoln, it is often referred to as the “Lincoln Law” (Stier, 2010).

³ “*Qui tam* is the Latin abbreviation for the Latin phrase ‘*qui tam pro domino rege quam pro se ipso*,’ which means ‘he who pursues this action on our Lord the King's behalf as well as his own.’ 1 JOHN T. BOESE, CIVIL FALSE CLAIMS AND QUI TAM

defrauding the government. The government retains the right to take the primary role in a *qui tam* suit and the individual may choose to remain a party to the suit. The False Claims Act became the first piece of legislation to contain a reward provision as it entitled the *qui tam* plaintiff to between 15 and 30 percent of the amount recovered.

Stier (2010, 2) captures the political thinking at the time of the passing of the False Claims Act and quotes Senator Jacob Howard regarding a statement made in 1863:

The law clearly understands these whistleblowers may not be entirely clean themselves. To know about the fraud well enough to expose and convict its principal authors, they may have participated in or even benefited from it—but exposing and ending the fraud is judged a greater public good than letting one of the guilty off.

“In short, sir,” argued Sen. Jacob Howard, the chief proponent of the law in 1863, “I have based the [*qui tam* provision] upon the old-fashioned idea of holding out a temptation, and ‘setting a rogue to catch a rogue,’ which is the safest and most expeditious way I have ever discovered of bringing rogues to justice.”

The tactic has been very successful. To illustrate its success, in fiscal year 2016, the government recovered \$4.7 billion from False Claims Act cases (Department of Justice, 2016). The reward provision induced reports resulted in the recovery of \$2.9 billion related to lawsuits filed under the *qui tam* provision of the False Claims Act. Total payout to whistleblowers was \$519 million. Additionally, from January 2009 to the end of fiscal year 2016, the federal government recovered nearly \$24 billion under the False Claims Act with payouts to whistleblowers of more than \$4 billion.

In 2006, Congress reevaluated the IRS’s whistleblower program and determined to pay rewards to tax whistleblowers. Like the False Claims Act, the IRS is now required to pay out between 15 and 30 percent of collected proceeds. Three criteria must be met to receive the IRS award: First, the information must substantially contribute to the decision to take administrative action. Next, the reported individual taxpayer must have an annual gross income exceeding two hundred thousand dollars. Last, the amount recovered by the IRS must exceed two million dollars. Early data has shown the program’s effectiveness. In 2007, the IRS received only eighty-three claims alleging under reporting of eight billion dollars. In 2016, the IRS made 418 awards to whistleblowers totaling \$61 million and rejected 12,395 claims due to a combination of claims not being specific enough, credible, or being speculative in nature (Internal Revenue Service, 2016). The increase in tips has been accredited to the whistleblower reforms. Though legislation seemed successful in this instance, not all legislation has been equally effective.

The reward provision of the Insider Trading and Securities Fraud Enforcement Act of 1988 (Insider Trading Act) is widely considered non-effective. This is quantifiable, as data shows that over the life of the program, the SEC only made rewards to five claimants totaling \$159,537 (Blount and Markel, 2012). There are three main reasons this program has fallen short of expectations: First, the Insider Trading Act caps all reward payouts at ten percent compared to the 15 to 30 percent range awarded to whistleblowers under the False Claims Act and the IRS’s whistleblower program. Second, the SEC limits its rewards strictly to penalties imposed. Finally, the awards are entirely at the SEC’s discretion and have no judicial oversight (Blount and Markel, 2012). Currently, the Insider Trading Act has been largely supplanted by the new whistleblowing provision in the Dodd-Frank Act (Skadden, 2010).

The federal government recently passed two additional pieces of legislation containing major whistleblower provisions. They are the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The provisions in these pieces of legislation address whistleblowing in fundamentally different ways. The Sarbanes-Oxley Act contains an anti-retaliation provision, whereas the Dodd-Frank Act introduces a reward provision along with expanded anti-retaliation protection. The anti-retaliation provision in the Dodd-Frank Act significantly strengthens the original provision contained in the Sarbanes-Oxley Act by providing a broader range of protection to the whistleblower.

Sarbanes-Oxley Act

ACTIONS 1-7 (3d ed., 2007). *Qui tam* actions have their origins in the courts of Ancient Rome. *Qui tam* actions flourished under the common law and statutes of England during the Middle Ages and were transported to the American colonies and later into American law. See Geoffrey Christopher Rapp, *Beyond Protection: Invigorating Incentives for Sarbanes-Oxley Corporate and Securities Fraud Whistleblowers*, 87 B.U. L.REV. 91,96 n. 19 (2007)” (Blount and Markel, 2012, p. 1029).

Section 806 of the Sarbanes-Oxley Act institutes an anti-retaliation provision. It specifically provides protection to whistleblowers by stating that public companies cannot “discharge, demote, suspend, threaten, harass, or in any other manner discriminate” (Sarbanes-Oxley Act, 2002, 1) against the whistleblower if they report internally. The legislation goes further and requires that public companies provide anonymous (confidential and secure) reporting channels for employees to report financial irregularities. The provision guarantees reinstatement, back pay, and coverage of related legal fees if retaliation is proven. To give the provision additional strength and encourage compliance, criminal penalties are included in the legislation allowing up to ten years imprisonment for anyone found guilty of retaliating against a whistleblower (Sarbanes-Oxley Act, 2002).

Blount and Markel (2012) identify Sarbanes-Oxley Act failures: the anti-retaliation provision of the Sarbanes-Oxley Act fails to provide effective whistleblower protection and lacks incentive to risk whistleblowing. It also fails to provide a financial reward (incentive) for whistleblowing. The redress process is a bureaucratic nightmare that often lasted years, leaving the whistleblower in a financially difficult position. There is also a narrow 90-day statute of limitations that required very prompt action. This temporal limitation hinders a whistleblower’s ability to benefit from protection, identify their rights, and engage in a course for redress. Finally, the compensation award includes compensatory damages for lost wages, but lacks provisions for any punitive or general damages. The low compensation, expense, and restrictive redress process are some of the reasons the Sarbanes-Oxley Act failed.

The redress process under the Sarbanes-Oxley Act is very specific. Before any litigation can occur in court, whistleblowers must submit their claims to the Department of Labor (within 90-days of the perpetration of the incident). The Department of Labor refers the claim to the Occupational Safety and Health Administration which is the government organization responsible for the investigation. Once the investigation has been completed, an administrative judge working for the Department of Labor hears the case and provides a judgment. This process can be stopped at any point if the accused employer can demonstrate that the employee’s treatment was not a result of the employee’s whistleblowing. Stauffer and Kennedy (2010) reported as of July 2010, over six hundred cases had been filed with the Department of Labor. Many of these cases were voluntarily withdrawn, summarily decided, or dismissed by the administrative judge. Blount and Markel (2012, 1034) blame the redress process provided by the Sarbanes-Oxley Act for the “shamefully low number of cases found in favor of SOX claimants”. More was needed to incentivize whistleblowers.

Dodd-Frank Wall Street Reform and Consumer Protection Act

The federal government has been using reward programs for more than 140 years to incentivize whistleblowing (Blount and Markel, 2012). Under a reward model, private informants are incentivized to provide information to the government to receive a portion of penalties recovered as a direct result of the information provided. These programs are not met with universal approval.

Opponents of a reward provision cite ethical and policy reasons for their position. They claim reward provisions create perverse incentives that may be fueled by greed or revenge (Blount and Markel, 2012). Former U.S. Senator Harry Reid of Nevada has spoken openly of his opposition to reward provisions claiming, in a 1988 congressional debate, that the IRS whistleblower program is a “reward for rats” (Cong. Rec., 1988).

The Dodd-Frank Wall Street Reform and Consumer Protection Act was passed in 2010 to address the identified issues that contributed to the financial crisis of 2008. This piece of legislation was sponsored by Senator Christopher Dodd and Representative Barney Frank. Included in the Dodd-Frank Act is a provision (Section 922) related to whistleblowing incentives. The provision includes qualifications and policy implications related to factors such as a reward incentive and improved anti-retaliation protection.

Dodd-Frank Reward Incentive

Incentives in Section 922 (Dodd-Frank Act, 2008) apply only in situations involving whistleblowers with independent knowledge or analysis, information not previously known to the SEC from another source, and information not derived from a third-party source (judicial or administrative hearings, audit, news media, etc.). Until the information is reported and analyzed by the SEC, a potential whistleblower is not guaranteed a reward, nor is the actual value of the payment determined. The information disclosed by the whistleblower is not necessarily limited to financial fraud but can be related to other issues, including security violations, insider trading, irregularities in commodities trading, and violations of the Foreign Corrupt Practices Act. If the above criteria are met, whistleblowers are entitled to financial compensation of

between 10 and 30 percent of the government recovery. The SEC considers four factors in determining payout to the whistleblower: the significance of the information provided, the degree of assistance provided by the whistleblower, the programmatic interest of the SEC in deterring the violations in question, and additional relevant factors (Dodd-Frank Act, 2008). Thus, the first hypothesis is as follows:

H1: Reporting intentions will be higher when a reward incentive is present than when a reward incentive is absent.

Dodd-Frank Anti-Retaliation Protection

In addition to the reward incentive, the Dodd-Frank Act expands the anti-retaliation protection originally provided under the Sarbanes-Oxley Act. The changes are addressed by Blount and Markel (2012) and Stauffer and Kennedy (2010) in a client advisory report. The significant changes are as follows:

1. Whistleblowers are no longer limited to seeking redress through the Department of Labor. The Dodd-Frank Act allows whistleblowers to bring an action in federal district court without first filing a complaint with the Occupational Safety and Health Administration.
2. If a whistleblower feels they have been targeted by retaliation, they are entitled to request a jury trial rather than a bench trial or trial by an administrative court judge to determine if they have been retaliated against.
3. Compensation to the whistleblower is significantly expanded. Whistleblowers can now recover double back pay with interest, legal costs, attorney fees, and expert witness costs.

These specific changes are designed to affect whistleblower reporting intentions. Thus, the second hypothesis is as follows:

H2: Reporting intentions will be higher when a strong anti-retaliation provision is present than when a weak anti-retaliation provision is present.

Method

Design

This study examined the effects of the reward incentive and increased anti-retaliation protection on whistleblowing behavior. Reward incentive was manipulated as either present (Dodd-Frank Act) or absent (Sarbanes-Oxley Act) resulting in a 2 x 2 experimental design. The second factor—anti-retaliation protection—also was manipulated at two levels reflecting the anti-retaliation protection given under the Sarbanes-Oxley and the Dodd-Frank Acts. For purposes of this study, these are labeled weak anti-retaliation protection and strong anti-retaliation protection, respectively.

Participants

Data was obtained from one hundred forty online Amazon Mechanical Turk (MTurk) participants.^{4,5} The mean age for the sample was 35 years old and the participants reported an average of 15 years of professional work experience. Participants were 58 percent male/42 percent female and reported 69 percent having completed a bachelor degree with an additional 24 percent having completed a master degree. Many participants were either management (38 percent) or salary employees (40 percent) with only 12 percent reporting that they were hourly employees. See Table 1 for full details of the demographic information. [See Table 1, pg. 201]

Experimental Task and Materials

The participants were initially provided with a brief description of a fictitious manufacturing company located in the United States. The manipulation of the reporting options was then provided to the participants. Following the manipulation, a scenario describing a fraud case was presented to the participants. Participants were given a series of questions following the fraud scenario to measure the desired dependent variables. A manipulation check was used to evaluate whether the participants were able to identify the salience of the reward and anti-retaliation manipulations.

⁴ As this study involved human subjects, proper IRB approval was obtained from Ohio University's IRB.

⁵ Many prior studies have validated the use of MTurk participants. Experimental data from these studies have shown participants to be reliable. Studies have also shown participant demographics are more diverse and representative of the U.S. population than a student sample (Buhrmester, Kwang, and Gosling, 2011; Farrell, Grenier, and Leiby, 2017; Horton, Rand, and Zeckhauser, 2011; Paolacci, Chandler, and Ipeirotis, 2010).

Independent Variables

The reporting options available under the Dodd-Frank and Sarbanes-Oxley Acts were identified and are used as the manipulations in this study. Two key components were identified: reward incentive and anti-retaliation protection.

Manipulation of Reward Incentive

In light of successful reward incentive programs instigated by the federal government (i.e., IRS Whistleblower program and the False Claims Act), the Dodd-Frank Act includes a reward incentive. The Dodd-Frank Act introduced a reward incentive for fraud reporting to the SEC under specific conditions. The reward incentive was manipulated two ways: a reward incentive was either present (representing conditions under the Dodd-Frank Act) or absent (representing conditions under the Sarbanes-Oxley Act).

Manipulation of Anti-Retaliation Protection

Anti-retaliation protection was also manipulated two ways. The first manipulation reflected the anti-retaliation policy contained in the Sarbanes-Oxley Act (weak anti-retaliation protection). This was accomplished by describing the Sarbanes-Oxley anti-retaliation provision. The second manipulation reflected the anti-retaliation policy contained in the Dodd-Frank Act and was manipulated by describing the protections guaranteed under the Dodd-Frank anti-retaliation whistleblower provision (strong anti-retaliation protection).

Dependent Variables

Reporting intention is a direct measurement of whether the participant would report the fraud. The scenario was presented in third person and the reporting intention measure was based on first asking the participants about the likelihood that the employee described in the case would report the fraud (third person) and then whether they personally would report the fraud (first person). The responses were recorded on a seven-point Likert-scale labeled from 1 (extremely unlikely) to 7 (extremely likely). In order to assess the effects of social desirability bias (SDB), the dependent variables were measured in first person and third person.⁶ This approach was also taken due to the mixed approach taken in recent reporting intentions literature.⁷ Following a newer method employed by Brink et al. (2013), participants were also asked in a binary yes/no format (1 = no; 2 = yes) whether the employee described in the case would report the fraud (third person) and then whether they personally would report the fraud (first person).

Covariate

Participants were asked to respond by providing their reporting intentions in both third and first person. The responses to the third person and first person reporting intention questions were compared to determine the extent of SDB (Cohen, Pant, and Sharp, 1996). After comparing responses for first and third person reporting intentions, it was seen that SDB is a concern. Consequently, SDB was measured as the difference between first person and third person reporting was included as a covariate in the statistical analysis.

Manipulation Check Questions

Participants were asked to identify the level of anti-retaliation protection extended and whether a reward incentive was provided. Seventy-nine percent of participants correctly answered the reward manipulation question check and 71 percent correctly answered the anti-retaliation protection manipulation check question. Results were compared for the full sample as well as the subgroup that passed both manipulation check questions. As the findings were not significantly different, the full sample was included in the data analysis.

Results

⁶ Social desirability bias (Cohen et al., 1996) becomes a concern when the responses obtained may not truly reflect an honest response. Social desirability predicts that responses will be inflated related to questions measuring positive behavior (i.e., reporting fraudulent behavior) and deflated related to questions measuring negative behavior (i.e., teen alcohol consumption).

⁷ Three recent accounting studies have measure reporting intentions in three separate ways. Reporting intentions has been measured in first person (Brink et al., 2013), first person and third person (Pope and Lee, 2013), and the average of first person and third person (Robinson et al., 2012).

To tease out the effect of reward incentive and anti-retaliation protection, a 2 (reward incentive: present/absent) x 2 (anti-retaliation protection: weak/strong) between subject ANOVA was analyzed. To examine the effect of these variables on reporting intentions, reporting intentions were measured using two different methods: a seven-point Likert-scale and a binomial scale.

The first method of analyzing the impact of reporting intentions used a seven-point Likert-scale. See Table 2 for the ANOVA results and Figure 1 for a display of the mean values. H1 predicted a main effect of reward incentive on the whistleblower's intention to report questionable behavior. This effect was marginally significant ($F = 2.254$, $p = 0.068$) as the mean reporting intention response for the reward present condition (Mean = 4.05, SD = 1.397) was marginally significantly higher than the mean response for the reward absent condition (Mean = 3.57, SD = 1.415). Therefore, H1 was supported indicating that there is a main effect of reward incentive on reporting intentions. [See Table 2, pg. 202 and Figure 1, pg. 199]

Reporting intentions were also examined using a binary reporting scale. See Table 3 for the ANOVA results and Figure 2 for a display of the mean values. Again, H1 predicted a main effect of reward incentive on the whistleblower's intention to report questionable behavior and this effect was significant ($F = 3.546$, $p = 0.031$) when using a binary response. The mean reporting intention response for the reward present condition (Mean = 1.83, SD = 0.376) was significantly higher than the mean response for the reward absent condition (Mean = 1.69, SD = 0.466). We see that H1 was again supported, suggesting there is a main effect of reward incentive on reporting intentions. This finding was anticipated based on the incentives provided by the current whistleblowing legislation. [See Table 3, pg. 203 and Figure 2, pg. 200]

H2 predicted a main effect of anti-retaliation protection on the whistleblower's intention to report questionable behavior and this effect was not significant ($F = 0.060$, $p = 0.403$). See Table 2 for the ANOVA results and Figure 1 for a display of the mean values. The mean response for the strong anti-retaliation protection condition (Mean = 3.79, SD = 1.377) was not significantly higher than the mean response for the weak anti-retaliation protection condition (Mean = 3.79, SD = 1.472). Therefore, H2 was not supported.

When evaluating the effect of anti-retaliation protection on reporting intentions using a binary scale, the effect was still not significant ($F = 0.000$, $p = 0.498$). See Table 3 for the ANOVA results and Figure 2 for a display of the mean values. The mean response for the strong anti-retaliation protection condition (Mean = 1.77, SD = 0.427) was not significantly higher than the mean response for the weak anti-retaliation protection condition (Mean = 1.75, SD = 0.436). This finding is unexpected as the current legislation was designed to strengthen the anti-retaliation protection provided to potential whistleblowers. Future research into the reason for this unexpected finding could be enlightening to legislators and regulators.

Discussion

The key components of the Dodd-Frank Act's whistleblowing provision include strengthened anti-retaliation protection and a reward incentive. As such, this study examined the effect of a reward incentive and strengthened anti-retaliation protection on reporting intentions. It was found that while a reward incentive provided by an external governmental entity had a significant effect on reporting intentions, strengthened anti-retaliation protection did not. This work contributes to the understanding of legislation effecting SEC whistleblowing rewards and protections as it provides unique insight into the effect of the Dodd-Frank Act's whistleblower provision.

A key finding of this study is the impact anti-retaliation protection has on reporting intentions. A key criticism of the Sarbanes-Oxley Act was the weakness of the anti-retaliation protection provided to whistleblowers. The significantly increased anti-retaliation protection provided in the Dodd-Frank Act was expected to increase whistleblowing behavior. This was not the case and should be noted as it is contrary to expectations of the new legislation and worthy of future research.

Two limitations common to whistleblowing behavioral research are the quality of the participant pool (as to whether they are a valid proxy for the desired population) as well as the fact that the fraud scenario provided cannot carry the stresses and reality of an actual fraud discovery. While the subjects used for gathering the data in this study are not actually exposed to real fraud, this group represents a reasonable proxy given the mean age of thirty-five and approximately 15 years of work experience. As we are not focusing on senior level management, this group is an appropriate proxy to use in this research. The second limitation is that the fraud scenario is a representation regardless of how realistically conveyed; it is not real. If

firsthand fraudulent experiences had been encountered, an individual's responses may have been different. While acknowledging that the responses may not perfectly capture how an individual would respond when encountering fraud, this approach most closely recreates a fraudulent scenario.

As previously mentioned, the disparity between strengthened anti-retaliation protection and whistleblowing behavior should be explored. It is a key piece of the Dodd-Frank whistleblowing provision which seems not to be effective. Future research into whistleblowing motivation would be beneficial for crafting future legislation. Future research could also explore how anti-retaliation protection is influenced by common whistleblowing concerns such as fraud type, power-distance, perceived justice, or organizational commitment.

These findings contribute to practice in two ways: First, it validates the impact of a reward incentive provided by an external governmental entity. Additionally, the findings related to the anti-retaliation protection are particularly informative as retaliation is a common concern with whistleblowing and is often a factor in not reporting. Further investigation into the judgment and decision-making process when anti-retaliation protection is present would be beneficial to better understanding whistleblowing behavior.

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Figure 1: Reward Incentive and Anti-Retaliation Protection on Reporting Intention

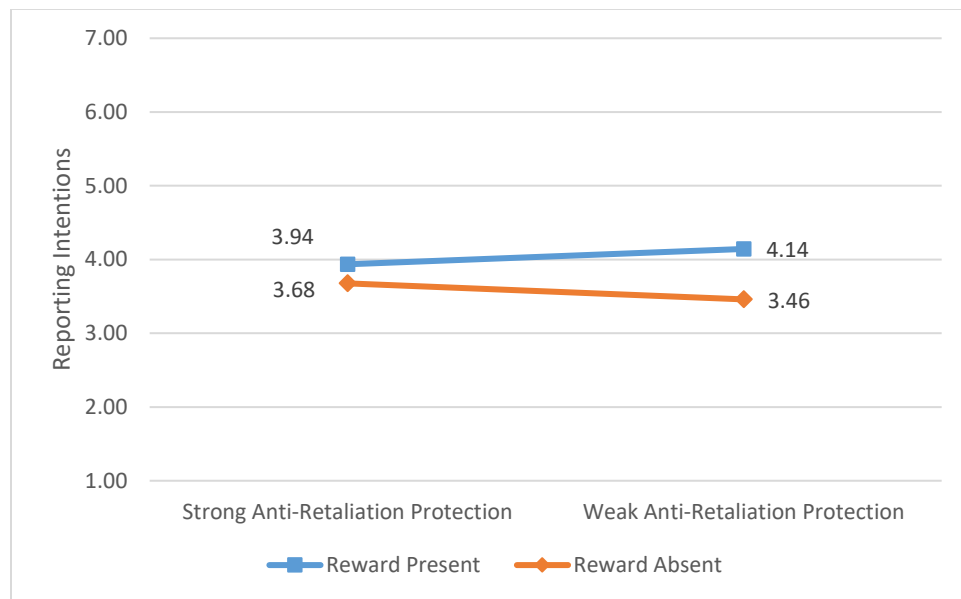


Figure 1: Analysis of the 2 (anti-retaliation protection: strong/weak) x 2 (reward incentive: present/absent) repeated measures design examined the effect of reward incentive and anti-retaliation protection on reporting intention using a seven-point Likert scale.

Variable Definitions:

Reporting Intentions = participants indication that they would report the fraud based on a seven-point Likert-scale (1 = extremely unlikely, 7 = extremely likely).

Reward Incentive = two-level factor manipulating whether a monetary reward is present or absent.

Anti-Retaliation Protection = two-level factor manipulating the strength of anti-retaliation protection provided.

Figure 2: Reward Incentive and Anti-Retaliation Protection on Reporting Intention

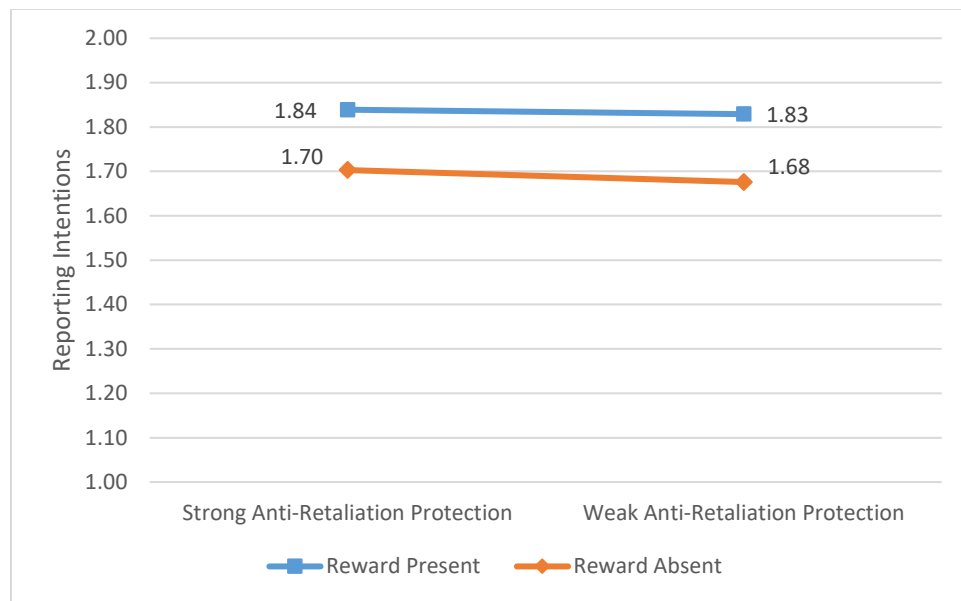


Figure 2: Analysis of the 2 (anti-retaliation protection: strong/weak) x 2 (reward incentive: present/absent) repeated measures design examined the effect of reward incentive and anti-retaliation protection on reporting intention using a binary scale.

Variable Definitions:

Reporting Intentions = participants indication that they would report the fraud (1 = no, 2 = yes).

Reward Incentive = two-level factor manipulating whether a monetary reward is present or absent.

Anti-Retaliation Protection = two-level factor manipulating the strength of anti-retaliation protection provided.

Table 1
Demographic Information for Sample (n = 140)

Gender	
Male	81 (58%)
Female	59 (42%)
Age (mean)	
	35
Race/Ethnicity	
Caucasian	106 (76%)
African American	16 (11%)
Hispanic	5 (3%)
Asian	12 (9%)
Other	1 (1%)
Education	
High School Diploma or Equivalent	1 (1%)
Associate Degree	9 (6%)
Bachelor Degree	96 (69%)
Master Degree	34 (24%)
PhD or Equivalent	0 (0%)
Job Type	
Self-employed	9 (6%)
Executive	4 (3%)
Management	53 (38%)
Salary employee	56 (40%)
Hourly employee	17 (12%)
Other	1 (1%)
Years of work experience (mean)	
	15

Table 2: Experimental Results: Reporting Intentions Repeated Measure Results and Cell Means (7-point scale)

Panel A: Reward x Anti-Retaliation Protection ANOVA on Reporting Intentions (n=140)					
Source of Variation	df	Sum squares	Mean squares	F	p-value
Corrected Model	4	41.439	10.360	5.838	0.000
Intercept	1	1090.916	1090.916	614.782	0.000
SDBPer	1	31.900	31.900	17.977	0.000
Reward	1	4.000	4.000	2.254	0.068
Anti-Retaliation Protection	1	0.107	0.107	0.060	0.403
Reward * Anti-Retaliation Protection	1	1.584	1.584	0.893	0.173
Error	135	239.554	1.774		
Total	140	1721.000			
Corrected Total	139	280.993			

*p-values of reward, anti-retaliation protection, and interaction are one-tailed.

Panel B: Cell Means

	Anti-Retaliation Protection		
Reward Incentive	Strong	Weak	Total
Absent	3.68 (1.334) n = 37	3.46 (1.502) n = 37	3.57 (1.415) n = 74
Present	3.94 (1.436) n = 31	4.14 (1.375) n = 35	4.05 (1.397) n = 66
Total	3.79 (1.377) n = 68	3.79 (1.472) n = 72	3.79 (1.472) n = 140

Variable Definitions:

Reporting Intentions = participants indication that they would report the fraud based on a seven-point Likert-scale (1 = extremely unlikely, 7 = extremely likely).

Reward Incentive = two-level factor manipulating whether a monetary reward is present or absent.

Anti-Retaliation Protection = two-level factor manipulating the strength of anti-retaliation protection provided.

Table 3: Experimental Results: Reporting Intentions Repeated Measure Results and Cell Means (Binary Yes/No)

Panel A: Reward x Anti-Retaliation Protection ANOVA on Reporting Intentions (n=140)					
Source of Variation	df	Sum squares	Mean squares	F	p-value
Corrected Model	4	9.485	2.371	19.691	0.000
Intercept	1	184.932	184.932	1535.653	0.000
SDBYN	1	8.745	8.745	72.620	0.000
Reward	1	0.427	0.427	3.546	0.031
Anti-Retaliation Protection	1	4.893E-6	4.893E-6	0.000	0.498
Reward * Anti-Retaliation Protection	1	0.025	0.025	0.205	0.326
Error	135	16.257	0.120		
Total	140	242.000			
Corrected Total	139	25.743			

*p-values of reward, anti-retaliation protection and interaction are one-tailed.

Panel B: Cell Means

	Anti-Retaliation Protection		
Reward Incentive	Strong	Weak	Total
Absent	1.70 (0.463) n = 37	1.68 (0.475) n = 37	1.69 (0.466) n = 74
Present	1.84 (0.374) n = 31	1.83 (0.382) n = 35	1.83 (0.376) n = 66
Total	1.77 (0.427) n = 68	1.75 (0.436) n = 72	1.76 (0.430) n = 140

Variable Definitions:

Reporting Intentions = participants indication that they would report the fraud (1 = no, 2 = yes).

Reward Incentive = two-level factor manipulating whether a monetary reward is present or absent.

Anti-Retaliation Protection = two-level factor manipulating the strength of anti-retaliation protection provided.