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Haruna Ndebugri and Emmanuel Tweneboah Senzu

Cape Coast Technical University, Frederic Bastiat Institute

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Examining the Whistle blowing “Act” of Ghana and it effectiveness in combating corporate crime

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Haruna Ndebugri

[Haruna.ndebugri@cctu.edu.gh](mailto:Haruna.ndebugri@cctu.edu.gh)

Director of Academic Planning & Quality Assurance, Cape Coast Technical University

And

Emmanuel Tweneboah Senzu

[Tsenzu706@gmail.com](mailto:Tsenzu706@gmail.com) / [Tsenzu@cctu.edu.gh](mailto:Tsenzu@cctu.edu.gh)

Director of Frederic Bastiat Institute, Cape Coast Technical University

## ABSTRACT

The Study, sort to deeply investigate the structural dynamics of corporate crimes in public Institutions, which are recognized and recorded in the criminal records of Ghana and the effectiveness of the whistle blowing “Act”, which was passed in 2006 by the Parliament of the Republic of Ghana to curb the menace.

### 1. INTRODUCTION & BACKGROUND TO THE STUDY

It is observed, almost every blessed day, a lot of Ghanaians witness different forms of crimes, which has the potential to jeopardize the health, safety or lives of others. Most individuals who witness such misconduct often remain silent, indifferent or conclude that there is nothing they can do to stop the crime. On the other hand, there are others, who chooses to observe and speak-out, though on the quiet. Such people seek to make a difference by “blowing the whistle” on any unethical or corrupt conduct (Dennis, 2010). It is further noted, according to Dannis (2010), historical and cultural factors equally pose challenges to whistle blowing all over the world, where corporate crimes are committed by employees. A whistle-blowing program is one of several best-practices and corporate operational expressions of an organization’s concrete efforts to build a responsible and ethical organizational culture that requires conscious and unwavering commitment. (Dennis, 2010, -source [www.ghanaanticorruption.org](http://www.ghanaanticorruption.org).) Since the Whistle blowing “Act” was passed in October 2006, its implementation has witnessed a lot of controversies, mainly due to lack of understanding on the part of individual whistle-blowers and the organizations that handle or are supposed to handle the information provided by the whistle-blowers. It is reported, most Ghanaians who blew whistle, had passed through harrowing experiences. This has

significantly contributed fears in future whistle-blowers, observed from our findings. According to Mafunisa (2001:125) and cited by S. A. Mboyi (June, 2007) “unethical and criminal behaviour by public officials is harmful to the government. Once, it infects the blood-stream of any public institution, it causes irreparable damage to the moral fiber of the organization. Consequently people end up losing faith in the integrity of the organization in which they work. It is in the light of this that Parliament of the Republic of Ghana passed the Whistle-blower Act (Act 720) in 2006, as an important anti-corruption tool. The purpose of the “Act” was to improve the nation’s ability to fight corruption and other forms of illegal and unethical conduct that negatively affect State corporate Institutions. The “Act” was based on the idea that if ordinary citizens are empowered to disclose crimes, without fear of victimization, will curb the corrupt and other criminal acts of the employees, to save millions of cedis every year, and have a deep respect for decent behaviour, which will cause integrity to rise, thereby producing quality of public service to improve, and speed the development of Ghana’s economy. For these reasons, the ‘Act’ encourages and supports individuals to “blow the whistle” on unlawful or other illegal conduct or corrupt practices of culprits. It also protects any person who “blows the whistle” or exposes the corrupt or other unlawful conduct of culprits. This was necessary in order to ensure that whistle-blowers are not victimized by being fired from their work, harassed, intimidated, discriminated against, assaulted or even killed by those who engaged in such improper conduct, or those who may benefit from it.

This brings to the fore, the enormity of the challenges bedeviling the corporate Institutions of Ghana in a form of corporate crime. Shady deals in the public sector has become an acceptable convention in Ghana. For instance, some employees in the public service want to have their palms

greased before they render a legal service for which they are mandated by their terms of employment contract. A notable instance is the exposé of Anas Aremeyaw Anas of the New Crusading Guide, which spread like the wild bush fire in the savannah and had again brought to the fore the deepening state of institutional corruption in Ghana especially among the revenue collectors of the country who were supposed to generate money for our national coffers for social infrastructure and economic development. What it therefore means is that, the state is denied national development. Transparency International (TI) defines corrupt operation as “the abuse of entrusted power for private gain” and adds that bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law and at times paid to obtain services the bribe receiver is prohibited. ([www.ghanaweb.com](http://www.ghanaweb.com), Saturday 11<sup>th</sup> February, 2011). When the New Crusading GUIDE also got access into the Customs Electronic system – a repository of all transactions that goes on, at the Ghana ports – where they found very worrying cases of tax exemptions and unrecovered debts owed to the state worth billions of cedis. This expose’ brought to fore many cases of tax exemption offered in the name of the Office of the President over the years. Many other exemptions were given out to individuals and companies on condition of “Awaiting Parliamentary Approval” culminating in losses of huge sums of money to the nation. Among the devils of Max Weber’s theory of bureaucracy, was corruption which negatively affects the smooth running of public institutions, depriving the state of deserved revenue, rendering millions poorer and creating few rich people in society. Such societies are deemed unjust. It slows the pace of development and creates a stratification system making more people deprived of opportunities which otherwise would have been opened to all. Corruption, both institutional and political in Ghana has been common since independence and, probably started with Adam as the

father of human race per biblical records, as a prominent politician in Ghana echoed. According to the Wikipedia, a 1975 book, Victor T. Le Vine wrote that bribery, theft and embezzlement arose from reversion to a traditional winner-takes-all attitude in which power and family relationships prevailed over the law. Since 2006, Ghana was scored and ranked on the Transparency International Corruption Perception Index, to have improved slightly, however the growing perception in Ghana that government-related corruption is on the rise as Anas's story of the Ghana port officials scandals, exposes the facts glaringly. There has been several reports with evidence from the investigative journalist Anas Aremeyew Anas and the recent, was when he investigated the cocoa smuggling, along some borders of cocoa producing areas, but the strange happenings is that, almost all the CEPS officials and their acquaintances who were being prosecuted had been freed due to judicial technicalities. Different corporate crimes ranging from fraud to smuggling, sale of dangerous or substandard goods are crimes committed, which impact negatively on the lives of Ghanaians. According to the then Chairman of the Public Accounts committee of Parliament, Mr. Albert Kan-Dapaah on Tv3 news at 7:00 GMT On 28<sup>th</sup> March, 2012, Ghana loses 3million dollars annually to fraud and unethical practice in public institution. One therefore wonders whether the state is committed in fighting corruption in the country and whether the President's promise of dealing decisively with those alleged corrupt officials had soon been forgotten, however it must be acknowledged, the Institutionalization of an independent prosecutor for public service corruption by current government, may hold that capabilities to curb the menace. A case in point is the whistle-blowing of financial malfeasance at Presec Senior High School-Legon by the headmaster and the bursar of the school. This whistle blowing moved by the assistant headmaster and some concerned staff led to a massive witch hunt of the informants by

Ghana Education Service even though a committee set up to investigate led by the director at the GES in charge of Senior High School education came out with findings which affirmed the claims of the informants. The assistant headmaster and the concerned staff in this whistle blowing act, have all been issued with transfer letters. Even though the headmaster at the center of the scandal has been transferred, claims have it that the incoming headmaster has dreaded working with loud-mouthed colleagues. This is a typical case of victimization which is a setback to the objectives of the whistle blowers Act of 2006 ([www.modernghana.com](http://www.modernghana.com), The Public Agenda). To enhance the ability of boards of directors to prevent and detect corporate frauds, the Sarbanes–Oxley Act of 2002 (§301 (4) B) requires that audit committees of publicly traded firms provide an anonymous whistle-blowing channel to employees to report ‘. . . questionable accounting and auditing matters’. The benefits and detriments of anonymous channels, thus far, has been investigated from the perspective of employees’ intentions to reports information to the audit committee. Research of this nature finds that employees are less likely to use non-anonymous channels when anonymous channels are made available, and suggests that anonymity has the capacity to enhance the effectiveness of whistle-blowing reporting because anonymous channels encourage employees to report allegations without fear of reprisal (Ayers and Kaplan, 2005). Thus, anonymous channels have been mandated in order to increase the likelihood that wrongdoings are reported and to protect whistle-blowers from persecution and victimization as in the instance above. The provisions of the whistle blowers “Act”, must roll out a plan that can enable informants blow the whistle, anonymously to prevent instances of persecution and victimization of whistle blowers. Nonetheless, the whistle bowing has chalked some successes in routing out corporate crimes as per the outcome of the expose’ of the economic crimes committed by staff of Ghana

Custom Excise and Preventive Service (CEPS) and the Ghana Ports and harbours Authority (GAPOHA). This expose' by the investigative journalist Anas Aremeyaw Anas of the New Crusading Guide, led to some positive revelations, three months after, the CEPS exceeded their revenue target by an unprecedented amount. The Customs Division of Ghana Revenue Authority has raked in revenue in excess of GH¢72 million from January to March, 2010, Mr. Isaac Apronti, Deputy Commissioner in charge of Policy and Programmes announced at the weekend on 10<sup>th</sup> April 2010. The Commissioner, who was also the Head of Ethics Committee of the Division, failed to disclose the actual target for the period, but stressed that the money was the by-product of increase in import. Mr. Apronti added that a boost in the morale of Customs personnel coupled with the decline in reports of malfeasance due to the "checks and balances" instituted by the Division, were contributory factors. He was speaking at the end of a health walk organized by his outfit to foster cordial relations among the officials and to promote team work in Accra ([www.ghanabusinessnews.com](http://www.ghanabusinessnews.com)). This was a good case of whistle blowing, which encourage, not only the informants but enhance national development. Other remote positive effects of whistle blowing tend to deter corporate criminals from carrying out their criminal plans. Just like the expose' at the Ghana Ports, due to the shaming, naming and tagging of the institution concerned with rot, people refrain from criminal acts to preserve their image. After the expose', corporate crime at the port has reduced to the barest minimum, giving room for an excess revenue of GH¢72,000,000; this received a commendation from the late President Prof. John Evans Atta-Mills. However the positive turn of events here, must not be concluded as the end of this unethical practice since there is the tendency for recidivism. According to the National Human Rights Report of Ghana (2008), the Ghana Prison Service is changing its focus and becoming more of a

correctional service with a focus on reformation and rehabilitation of inmates. The Service is therefore under-going a restructuring process to ensure that prisoners, come-out as reformed citizens but not to resort to the same crime ([www.dspace.knust.edu.gh](http://www.dspace.knust.edu.gh)). Recidivism has psychological and emotional connotations. It is not enough exposing corporate criminals and prosecuting them but to also plan on blocking all tendencies to resort to the same crime. The psychological aspect of recidivism is defined as the chronic tendency towards repetition of a criminal or anti-social behaviour earlier committed. The American Heritage Dictionary of the English Language (1998) explains recidivism as habitual relapse into crime. Recidivism is defined by the Criminal Justice System of the United States of America (2005) as the act of committing wrongdoing or behaviour unacceptable in society after warnings and corrective action have already occurred. The term recidivism can be used in comparison with substance abuse and criminal behaviour. In the criminal justice context, this term can be defined as a person who reverts back to criminal behaviour after being convicted and punished. Those in the criminal justice refer to the do again criminals as recidivists. The rooting out of corporate crime is indispensable in national development as witnessed above in the whooping increase in CEPS revenues after the action of the whistle blown by the investigative journalist Anas Aremeyaw Anas of the New Crusading Guide. However constitutionally mandated institutions must also map out mechanism to monitor the behaviour of corporate criminal convicted officials after exposure and prosecution to forestall any tendency for recidivism.

## 2. LITERATURE REVIEW

### 2.1 Definition of Whistle Blowing:

There is no universally accepted definition on the concept "whistle-blowing". In 2000, the Organization of Economic Co-operation and Development (OECD) provided the following explanations for **[whistle blowing]**: "[a] Bringing an activity to a sharp conclusion as if, by the blast of a whistle (Oxford English Dictionary); [b] Raising a concern about malpractice within an organization or through an independent structure associated with it (UK Committee on Standards in Public Life); [c] Giving information (usually to the authorities) about illegal or underhand practices (Chambers Dictionary); [d] Exposing to the press a malpractice or cover-up in a business or government office (US, Chamber's Dictionary); *le*] (origins) Police officer summoning public help to apprehend a criminal; *[f]* referee stopping play after a foul in football" (Dehn 2000). Near and Micelli (1985) describe whistle-blowing as "the disclosure by organization members (former and current) of illegal, immoral and illegitimate practices under the control of their employees, to persons or organizations that may be able to effect action on the disclosure. When considering a legislation aimed at encouraging whistle-blowing, policy makers have chosen to use the generic term "disclosure" when referring to Whistle-blowing (see, for example, the South African Protected Disclosures Act of 2000 and the United Kingdom's Public Interest Disclosure Act 1998). However, the concept "disclosure" only refers to the information that is made known, whether internally or in the public domain, and not to the complex process that constitutes whistle-blowing. From the literature, it is clear that the concept whistle-blowing implies the presence of specific **actors**, identifiable **actions** and a processes consisting of several steps that occur in a **specific sequence**. The actors are:

- i. The wrongdoer, whether it is an individual or an organization;
- ii. The whistle blower;
- iii. The person who receives evidence of alleged wrong-doing
- iv. The organization that is called upon to act to rectify the situation that gave rise to an incidence of whistle-blowing.

Ghana's [Whistleblower Act 2006](#) provides for the manner in which individuals may, in the public interest, disclose information that relates to unlawful or other illegal conduct or corrupt practices of others. The Act provides for the protection against victimization of persons who make these disclosures, and for a fund to reward individuals for doing so. Ghana has often been criticized in the past for its lack of effective protection of people who chooses to report incidents of corruption. Although the Whistleblower (Act 2006) has presumably led to better protection and provisions for whistleblowers, however, there has not been any reviews of the implementation of the Act. According to [Global Integrity 2009](#), the protection of whistleblowers is not always enforced in practice, neither in the public sector nor in the private, where a high unemployment rate deters people from reporting on cases of corruption or abuse of power by employers. The media have reported on such abuses, but no steps have been taken to investigate the reports. The law does not make provisions for an internal mechanism for civil servants to report cases of corruption, but complaints related to corruption in the public sector can be submitted to and handled anonymously by the Commission on Human Rights and Administrative Justice. The Judicial Service of Ghana's [Complaints Unit](#) and the [Police Intelligence and Professional Standards Bureau](#) receive public complaints on the conduct of judicial staff and the police, respectively.

## 2.2 Background of Whistle-Blowing;

Whistle-blowing could be historically traced back to 1963 in USA, when Otto Otopoka of the State Department, revealed classified documents on security risks, to the chief counsel for the Senate Subcommittee on Internal Security, and was dismissed from his job for improper conduct, by the Secretary of State at that time (Petersen and Farrel, 1986:3). Various actions have been taken in support of whistle-blowers internationally. One such action towards acknowledging the whistle-blower as a 'do-gooder' is probably the suggestion made by the United Kingdom Government Committee that whistle-blowers should be included in the British Honourary systems for their good corporate citizenship (Vinten, 2000:166). Whistle-blowing is the exposure of fraud and abuse by an employee. The Federal Law that legitimated the concept of the whistle-blower, the False Claims Act (1863, revised 1986), was enacted to combat fraud by suppliers to the Federal Government during the Civil War. Under the Act, whistle-blowers can receive a percentage of the money recovered or damages won by the government in fraud cases they expose. The act also protects whistle-blowers from wrongful dismissal, allowing for reinstatement with seniority, double back pay, interest on back pay, compensation for discriminatory treatment, and reasonable legal fees. Federal legislation in 1978 barred reprisals against those who exposed government corruption in a form of harassment and dismissal. However the revelation of widespread waste and fraud in defense contracting, led Congress to strengthen the position of whistle-blowers in 1989. Many states also have employment laws that deal with discriminatory treatment of whistle blowing (Columbian electronic encyclopedia, -[www.infoplease.com](http://www.infoplease.com)).

### 2.3 The Process of Whistle Blowing

Whistle-blowing is an overt operation and concerns, making it out to the public certain issues of an individual acting on his or her own accord, who believes that both his or her motives and the accusation made, will stand up to public investigation. Four components of whistle-blowing can be identified:

- I. An individual performs an action or series of actions intended to make information public about an alleged act of wrongdoing.
- II. The information, in fact, becomes a matter of public record. Successful whistle-blowing requires that information becomes public and that it is accessible to others as part of a formal or open record.
- III. The information is about possible or actual wrongdoing in an organization, such as illegal, dangerous or unethical activities in the organization.
- IV. The individual who makes the information public is not necessarily a journalist or an ordinary citizen, but a member or former member of the organization.

Thus, whistle blowers sound an alarm, from within the very organization, which they work, aiming to spotlight issues neglected or abuses that threatens, such as issues relating to national security and public order. Confidentiality would be of the utmost importance and a breach of confidentiality through whistle-blowing, could have detrimental effects on everyone. A public official may resort to whistle-blowing, if the conduct of another official is seriously offensive to the standing and fundamental interests of the public. The changing character of political masters could lead to conflict of interests occurring between the public servants and the government Executives (Williams 1985). Whistle-blowing occurs, whenever individuals take it upon themselves to point

out what they believe to be unethical or inappropriate behaviour. However, such an action is often met with a great deal of resistance from others in the organization. Superiors often view such actions as being an affront to their authority or as a challenge to the organizational imperative, which they find useful to protect. Colleagues and subordinates are often unwilling to express their support either for fear of losing their own jobs, or because of fear for the future of the organization (Feldman 1999). If public officials had accepted the correct ethical values and behaviours, then whistle-blowing can be an effective measure that can be used by the government in its campaign against corruption. There are three inevitable stages in the process of whistle-blowing.

- a. During the first stage, defined as the [Causation level], a person perceives an activity as illegal, unethical, or immoral. The whistle blower then chooses {i} to ignore this perception, {ii} to acquiesce in the conduct of the activity, {iii} to participate, {iv} to object or to walk away. Over time, these four choices are not mutually exclusive as an individual's decision on how to behave at any given time, may be reconsidered later. Irrespective of personal conduct, there may be no option but to proceed.
- b. In the second stage, defined as the [Disclosure level], the institutions regulated by legislation, which include all companies in democratic societies, there may be strict rules requiring their disclosure of information to the external regulator or auditor. Auditors and other compliance officers are themselves under strict rules of disclosure. In situations of disclosure, the response of some institutions is to get rid of the problem, not by sorting out the revealed wrong, but by sorting out the whistle blower.
- c. Thus, the third stage in the whistle-blowing process is [Retaliation level].

- d. Disclosure is often by means of confidential information including documents, but even so, the whistle blower's identity may not be obvious. Consequently, identification of the whistle blower is a matter of extreme importance to the wrongdoer while preserving anonymity, may perhaps be of greater importance to the whistle blower (Feldman 1999).

In South Africa, the case of eleven chemical factory workers who lost their lives in Lenasia is well-known. Concerned employees blew the whistle to the Department of Labour, three months before the incident about working conditions in the factory. These included being locked up with gas bottles for up to 16 hours, fire extinguishers that were not in working order, lack of ventilation and the absence of an emergency alarm system - conditions that were inexcusable if not illegal. Twenty years ago, in 1984, Indian workers, together with a local journalist, raised concerns about a gas leak and safety measures to the local authority and Union Carbide India Limited, which chose to ignore them. This resulted in the death of 3,800 people and 2,680 were left with partial deformities. Sherron Watkins, an internal accountant at Enron, set out her concerns in a letter to the Chief Executive, Kenny Lay in 2001. While this letter has proved extremely useful to the subsequent investigation into the collapse of Enron, it did not initiate the investigation and Ms Watkins did not take action until the investigation was already under way ([www.psir.org](http://www.psir.org)). This may be explained by the fact that there is no comprehensive whistle blower protection for private sector employees in the US.

The mass media could also act as whistle blowers. This can be either a journalist who is approached in his or her role as reporter on the initiative of an organizational whistle blower, or the journalist as investigative reporter who uncovers evidence of wrongdoing in the course of his or her work. For example, there have been many highly publicized investigative current affairs programmes

such as Carte Blanche broadcast on national television in South Africa where investigative journalists have conducted research based on material provided by a company employee.

## **2.4 Characteristics of a Whistle Blower**

Research on the characteristics of whistle blowers as individuals, spans many fields, including psychology (Braebeck 1998; Near & Micelli 1986), organizational theory (Dozier & Micelli 1985; Graham 1986; Micelli & Near 1983), business ethics (Glazer 1998; Greenberger et al. 1987; Jenson 1987; Near & Micelli 1985) and auditing (Arnold & Ponemon 1991; Lampe & Finn 1992). These studies provide consistent findings with respect to the moral reasoning level of whistle blowers and their position within the organization. For instance, (Near and Micelli, 1985) suggest that, the theory of moral reasoning as advanced by Lawrence Kohlberg and others is fundamental to an understanding of an individual's ethical propensity to blow the whistle, especially in relation to the organization or its management. To test this proposition, Arnold and Ponemon (1994) examined perceptions of whistle blowing and the reasoning characteristics. Others have also attempted to relate moral reasoning to whistle-blowing behaviour. Brabeck (1984) examined whistle-blowing among college students in an experimental study, using the Defining Issues Test (Rest 1979), a well-known measure of moral reasoning, she found that, students with higher DIT results were more willing to reveal wrongdoing than low moral reasoning students. Further, Dozier and Micelli (1985) argue that whistle blowers are more altruistic than other organizational members; possess higher moral reasoning capacities, and are able to resist organizational retaliation. Researchers also believe that certain positions within an organization prescribe whistle-blowing behaviour (Near & Micelli 1985, 1986; Spencer 1987) For example, (Near and Micelli, 1986) found that

internal auditors may be instructed to blow the whistle as part of their jobs; that is, their behaviour is role-prescribed, and they should therefore have more power in the organization. Even though such reporting is role-prescribed, actual behaviour is uncertain. In a later study, (Near and Micelli, 1988) suggest that the internal auditor's role in reporting wrongdoing highly depends on material provided by company employees.

Whistle blowers who are credible has increased chances to persuade the top management team of an organization of wrongdoing. In essence, credible information is a resource in short supply in most organizations. Whistleblowers who can *convince* others that wrongdoing has occurred should *have* greater power to change organizational *behaviour*. According to Kotter and Schlesinger (1979), members of organizations resist change when they do not trust those who want change - thus, the credibility of the whistle blower is of great importance. Credibility can depend on the *perceived* motives of the whistle blower. These could be seen primarily as altruistic or egotistic (Brief & Motowdlo 1986; Graham 1983, 1986, 1989). Some people consider whistle blowers to be loyal employees (Kolarska & Aldrich 1980), whereas others *view* them as snitches or traitors (e.g. Bok, 1982; Polman, 1989). The actual *motives* of whistle blowers will *vary* from one situation to another and cannot be completely known by others. *However*, their *motives* are often *perceived* to be the deciding factor in judging their credibility. The perceived *validity* of a complaint should realistically rest on the evidence that wrongdoing has occurred and not on an individual's reason for calling attention to it. That is, *even* the most scurrilous liar may *have* witnessed real wrongdoing committed by others. Moreover, the literature on minority influence suggests that the credibility of the complaint is important. In many instances, evidence may be sketchy or contradictory, and the complaint recipient, co-workers, or others may rely on indications that they

can *believe* the complaint. Factors that enhance the credibility of the whistle blower will, therefore, be expected to lead to higher level of effectiveness in dealing with the complaint.

The relative power of an organization's members is often reflected in their status, for a *variety* of theoretical reasons. For example, the organization's dependence on the whistle blower may be partly reflected in his or her status. Individuals with low status may be easy to replace, whereas the organization may depend more *heavily* on individuals with higher status, because of their technical or executive *value*, as reflected in their hierarchical position or pay grade, for example (Near & Micelli, 1986), or their professional status (e.g. Lawyer, scientist, or engineer in organizations where most members do not *have* this status). These individuals may be considered as more central or critical to the organization (Perry 1992). Status may also *convey* competency or credibility, *variables* that are important in minority influence (Greenberger et al. 1987). Similarly, the extent of congruence between the *values* of whistle blowers and those of the dominant coalition may enhance their perceived status in the organization.

## 2.5 Anonymity

Whistle blowers may file a report without signing it, or provide incriminating evidence with no indication of its source. Whistle blowers may hide their identities in order to avoid retaliation, but then, risk losing their effectiveness, for at least three reasons:

- a. Organization members may dismiss the concern of whistle blowers who are not willing to "face" the target of their accusations, and, presumably, give the accused an opportunity to confront them (Elliston 1982), weakening the minority influence of anonymous whistle blowers.

- b. Secondly, if whistle blowers do not provide sufficient evidence of wrongdoing, complaint recipients are unable to seek additional information from them, reducing their expert power. These factors suggest a main effect for revealing identity at the outset.
- c. Thirdly, if whistle blowers are viewed as credible complainants because of their characteristics, remaining anonymous reduces their credibility. A person may wish to remain anonymous, however, to prevent retaliation but this is sometimes difficult.

## **2.6 Analysis of motivated versus unmotivated communication**

With the exception of Glazer (1983), none of the empirical studies on whistle blowing examines the condition where an individual chooses to blow the whistle - not on the basis of altruism or self-sacrifice - but to advance personal interest in or outside the organization. As noted by Glazer (1983), motivated self-interest is the underlying rationale for the whistle-blowing act in many well-known cases. For example, individuals who found fraudulent activities in the US federal government were often motivated to report their findings to government officials in order to receive a handsome finder's fee for their discovery. Others have used whistle-blowing for career advancement within an organization, or even to exact revenge against others in the same company. For example, in the now infamous ZZZZ Best case, the fraud committed by Barry Minkow (the company's president) was disclosed to the auditing firm (Ernst &Whitney) as an anonymous tip for ransom and personal revenge against Minkow. The motivation of the whistle blower has important implications as it can reduce the quality of the whistle blower's report, as well as the integrity of the company's system of internal control.

Blowing the whistle to expose corruption within institutions, confronts those who chooses this route with several dilemmas. In practical terms, if someone is concerned about corruption or serious wrongdoing in or by an institution, he or she has the option to stay silent; to blow the whistle internally or to the responsible person; or to blow the whistle outside to the authorities or the media. The predicament of the potential whistle blower may in part be due to economic dependence and in part, to legal obligations of confidence owed to employers (Borrie in Camerer 1996). Besides the real fear of victimization resulting from such disclosures, a primary dilemma involves the conflicting loyalties between the desire to follow inherent moral beliefs and expose misconduct, and the organizational pressures to conform to a culture of loyalty and confidentiality, albeit misplaced (Camerer, 1996). Silence is the option with the least risk for both the individual employee and for a responsible institution that encounter wrongdoing. It will be attractive for many reasons. The whistle blower will realize that his or her facts could be mistaken or that there may be an innocent explanation. Where other colleagues or competitors are also aware of the particular suspicious conduct but stay silent, the whistle blower will wonder why he or she should speak out. In institutions where labour relations are adversarial and in cultures where corruption is common, the whistle blower is likely to assume that he or she will be expected to prove that the corrupt practice is occurring, rather than see those in authority to investigate and deal with the matter. Even though he or she has no control over it, the whistle blower may feel the responsibility for any action that may be taken against the wrongdoer. Even though the whistle blower, may believe there is a good chance that something will be done to address the wrongdoing, it is almost inevitable that he or she will stay silent (Dehn & Borrie, 2001).

As earlier stated, *several* empirical studies linked whistle-blowing judgment to the moral reasoning paradigm. With the exception of Lampe and Finn (1992), however, most of these works focus on pre-decisional behaviour rather than the overall decision-making process from which the prospective whistle blower departs. As a starting point, consider the 'Four Component' model (Rest 1986), which defines basic psychological processes that underlie all ethical behaviour and action:

- i. [Sensitivity] describes how the individual interprets the situation surrounding a particular set of ethical actions and alternatives
- ii. [Reasoning] describes the psychological processes from which an individual selects, among the various courses of action available, a single 'best' ethical choice
- iii. [Value assignment] describes the assigning of "moral" values among other non-moral values, such as career success, leisure time, economic gain, or power, to the ethical course of action
- iv. [Perseverance] describes the process by which an individual follows through on a particular ethical choice; as noted by Rest, many factors will foster or hinder an individual's ethical perseverance.

The applied literature of psychology shows that, taken together, these four components provide a realistic mechanism for integrating the complex process of ethical behaviour and action. More specifically, drawing on all four components, the whistle-blowing process can be analyzed in an organizational setting. To start with, the prospective whistle blower, must be sensitive to the possibility of wrong doing.

## 2.7 The Effectiveness of Whistle Blowing

The effectiveness of whistle-blowing may be defined in a variety of ways. Legal scholars tend to define the effectiveness of the outcome in terms of the win/lose ratio of lawsuits involving whistle blowers (Terpstra & Baker in Near & Micelli 1985:55). The focus here is primarily on whether the whistle blower accomplished what he or she set out to accomplish - namely, the initiation of organizational change as opposed to obtaining a judgment. Therefore, the effectiveness of whistle-blowing is defined by the extent to which the questionable or wrongful practice (or omission) is terminated at least partly as a result of whistle-blowing and within a reasonable time frame. Near & Micelli (1985:51) recommended that the operationalization of "effectiveness" should be addressed. Obviously, "reasonableness" (in terms of resolution time) involves judgment and perception, and it is likely that it varies from situation to situation, as well as from person to person. There should be some concrete evidence that an action has been halted (e.g., corrected financial reports accepted by an outside authority), that cessation is attributable to the whistle blower's action, and that the time period is reasonable (e.g., before a deadline). Lacking this, some consensus should exist among the parties involved in the whistle-blowing, but the limitations of this approach must be recognized by researchers. There are five primary factors that influence the termination of wrongdoing:

- The nature of the whistle-blowing event
- The characteristics of the complaint recipient
- The characteristics of the wrongdoer
- The characteristics of the act of wrongdoing
- The characteristics of the organization.

Five sets of variables affect these factors. Some are individual variables (pertaining to the whistle blower, complaint recipient and wrongdoer), and others are situational variables (organizational and wrongdoing variables). An effective whistle-blowing process may have implications for an organization's future (Farrell & Petersen in Near & Micelli 1985). One potential long-term outcome is organizational performance (Perry in Near & Micelli 1985). Although it is generally assumed that corporate wrongdoing harms an organization's performance (Clinard & Yeager in Near & Micelli, 1985), empirical results suggest that this is not always the case (Baucus & Near in Near & Micelli, 1985). If public discovery of corporate wrongdoing does not reduce long-term performance, then executives have little incentive to terminate the wrongdoing.

Characteristics of the unit in which the whistle blower operates concern its overall climate for wrongdoing. (Near & Micelli 1996). True organizational variables focus more directly on the organization as a whole, though variations might be found in these variables at the sub-unit level of analysis (Victor & Cullen in Greenberger, 1987). For the time being, it is assumed that some homogeneity exists across subunits of the organization in these characteristics and that organizations vary in their responses to attempts to change. In particular, some resist change, whereas others seem to embrace it. This partly reflects the perspective of the dominant coalition toward change and the appropriateness of whistle-blowing. Beyond this, the organization's overall climate and its structure both reflect and influence its members' resistance to change. Whistle-blowing is therefore not about informing in a negative, anonymous sense. Rather, it is a key tool in promoting individual responsibility and organizational accountability. The bravery of being prepared to blow the whistle is seemingly directly related to cultural resistance to the promotion of transparency and accountability in many organizations. The reality is that, in sticking their necks

out to raise concerns within their place of employment, employees more often than not risk victimization, recrimination and sometimes dismissal as it is often the case that the messenger, rather than the important message that is conveyed, is attacked. Within this context, whistle blowers acting in good faith and in the public interest may be the bravest of citizens

## 2.8 Corporate Crimes

The world is drowning in corporate fraud, and the problems are probably greatest in rich countries – those with supposedly “good governance.” Poor-country governments probably accept more bribes and commit more offenses, but it is rich countries that host the global companies that carry out the largest offenses. Money talks, and it is corrupting politics and markets all over the world. Hardly a day passes without a new story of malfeasance. Every Wall Street firm has paid significant fines during the past decade for phony accounting, insider trading, securities fraud, Ponzi schemes, or outright embezzlement by CEOs. A massive insider-trading ring is currently on trial in New York, and has implicated some leading financial-industry figures. And it follows a series of fines paid by America’s biggest investment banks to settle charges of various securities violations. ([www.truth-out.org](http://www.truth-out.org)). According to Dr. David Florunsho –Department of Commercial and Property Law, Delta State University, Nigeria, Corporate crimes are defined as, illegal acts, omissions or commissions by corporate organizations themselves as, social or legal entities or by officials or employees of the corporations acting in accordance with the operative goals or standard, operating procedures and cultural norms of the organization, intended to benefit the corporations themselves. ([doceftom@yahoo.com](mailto:doceftom@yahoo.com)). in criminology, **corporate crime** refers to crimes committed either by a corporation (i.e., a business entity having a separate legal personality from the natural persons that manage its activities), or by individuals that may be identified with a corporation or other business entity. Some forms of corporate corruption may not actually be criminal if they are not specifically illegal under a given system of laws. For example, some jurisdictions

allow insider trading. (en.wikipedia.org). A corporate crime, is the act of its personnel and need not be authorized or ratified by its officials. It is sufficient, if the officials were exercising customary powers on behalf of the corporation. Thus, to a substantial degree, the crime of the corporation is interwoven with the acts of its officials. Such criminal acts are reflective of the character of the persons who manage the corporation. Consequently, it would seem reasonable to utilize a corporate crime committed to impeach a corporate official's credibility, if the official is connected to the crime. (Wikipedia definition, en.wikipedia.org). The term, "corporate crime," has two meanings, and to which meaning courts and commentators prefer to apply, is not always clear. "Corporate crime" may refer to the criminal liability of the corporate entity. The term may also refer to the criminal conduct and liability of an agent of the firm. Although the two meanings are related, it is important to distinguish misconduct at the corporation from misconduct *by* the corporation. Indeed, the firm is not always a perpetrator. A business firm may be a victim of an agent's misconduct, and in some cases, may be both a victim and a perpetrator ([www.usdoj.gov](http://www.usdoj.gov)). The concept of corporate crime as committed by the entity does not occupy a comfortable berth in corporate governance law. Nor does it occupy a natural place in criminal law, reflecting as it does an inherent tension in criminal law theory. Criminal theory teaches that punishment is justified only when one has chosen to disobey the law. Despite exceptions like conspiracy, the general rule is that individuals are responsible only for their own actions. Criminal liability is a function of immorality of conduct and culpability of the actor, which includes an individual's decision to flaunt community norms and disobey the law. In contrast to a human being, a corporation-an unnatural, artificial person can act only through others. To paraphrase Gertrude Stein, "there is no person there, thus, the justification for punishing a corporation does rest on personal choice. Instead, federal corporate criminal liability rests squarely on the concept of vicarious liability." Indeed, the 1909 Supreme Court decision that

established corporate criminal liability was based on a beneficial consequence of punishing the corporation-enhancing the government's ability to control and regulate corporations. ([www.usdoj.gov](http://www.usdoj.gov))

## 2.9 The potential impacts of Whistle blowing on corporate crimes

A couple of years ago, the Government of Ghana promulgated Internal Audit Agency Act, Public Procurement Act, Financial Administration Act and related governance policies to enhance the efficacy of the current Public Sector Reform Program. However, it is the implementation of such policies that determines their effectiveness within the entity and impact on the society or otherwise. Apparently, in the execution of the above-cited Acts and corresponding practices, “Whistle blowing” within the respective government agencies will play a significant and positive role (overseeing and reporting corrupt, immoral, illegal practices and related reportable conduct) if applied judiciously and without malice and prejudice. In line with sound governance practices, there should be commitment to effective reporting of corrupt and illegal practices, and all behaviour that is contrary to the Code of Conduct, by people at all levels within an entity, starting with the board of governing body, the chief executive officer (CEO) and senior management. As indicated above the main objective of devising and implementing the above-mentioned Acts is to have an efficient and effective Public Service whose outcomes will positively impact on the society by translating the government’s policies in a transparent and accountable fashion. Hoping to generate a ‘squeaky clean’ practitioners with self-governance attributes (integrity, commitment and leadership skills) within our Public Service to achieve these goals ‘with no financial loss to the state, with the believe that, there will be public servants with excellent attributes, who may be ready to assume the role of ‘Whistleblower’. But our society is

such that in their attempt to do the right thing for their country, these 'whistleblowers' will be labeled as being 'disloyal' by the concept of 'friendship/mastership' which will in turn be identified as an additional layer of discouragement hindering the development of a robust whistleblower culture. In setting up a whistleblower program, an element of confidentiality is very essential. A whistleblower who reports or seeks to report, reportable conduct, should be given a guarantee of anonymity (if anonymity is desired by the whistleblower) bearing in mind, that in certain circumstances, the law may require disclosure of the identity of the whistleblower in legal proceedings. And where as a result of whistle blowing, the culprit is found to be a senior officer and the whistleblower is a junior officer the latter is then subjected to all kinds of reprisals: dismissal, demotion, discrimination, harassment, intimidation, victimization, current and future bias etc. Whistle blowing in the **South African context** is understood to mean the [act of disclosing] information for the public interest. It is increasingly recognized that whistleblowers have an important role to play in combating corporate crime or unethical conduct (Mbatha, 2005) because of the confusion about the meaning of the term "whistle blowers" this has led to unfairly acquired bad reputation as being trouble makers, busy-bodies and disloyal employees. A major cause of this negative perception in South Africa is the unfair confusion of whistle blowing with apartheid era, informants (popularly known as *Impimpis*) who betrayed their comrades (Auriacombe, 2004 and Camerer, 2000). This historical context is now likened to that of former Soviet Union block countries as well as societies in some European countries such as France that were deeply scared by world War (II), were unfortunately allowed to go through the stigmatization of whistle blowing as an activity to be despised rather than to be encouraged (Mbatha, 2005). Thus one of the purposes of this study was to provide information on who

whistle blowers are and the required processes entailed in whistle blowing, in an attempt to support its de-stigmatization. Given the historical connotation of whistle blowing in South Africa, it seems that any whistle blower in South Africa, will expect a negative organizational response to his or her action. If potential whistle blowers perceive whistle blowing to be an act with real risks, given the outcome of some of the whistle blowing cases, then they may be discouraged as a result reduced such correctional action. However, protection for disclosing wrong is not, as is it commonly assumed, expressed solely via Public disclosure Acts, but it's also dependent upon on-going trust between employers and employees in an organization (Mbatha, 2005) cited by S. A. Mboyi, 2007.

### **3.0 METHODOLOGY AND EMPIRICALS**

The research is a case study on the effect of whistle blowing on corporate crime on selected public institutions in the Republic of Ghana. The case study approach will be adopted because of its ability to facilitate an in-depth study of the problem. According to Best and Kaln (1998), the case study probes deeply and analyzed interactions between factors that explain present status or influence change or growth. Thus data can be gathered in this regard through interviews or by observations by the researcher. The case study allows the researcher to study selected issues, cases or events in details to explore and describe them. It also allows the researcher to study issues, which occurs in their natural settings where human behaviour occurs. Fieldman (1996) in contrast to survey in which many people are studied, a case study is an in-depth study, intensive investigation of individuals or small groups of people. Case studies also include psychological testing in which a carefully designed set of questions are used to gain some insight into the personality of the

individual or group being studied. When case studies are used as research technique, the goal is often not only to learn about a few individuals but to use the insight gained to better understand people in general. The target population is defined by Jaeger (1998) as “the group of persons, objects or institutions that define the objects of the investigation”. Frankel and Wallen (2000) state that the population is a group to which result of a study are intended to apply. That is the target population to which the researcher is interested in gaining information and drawing a conclusion. In this study, the target population comprises lower, middle and top officials of public institutions in the Republic of Ghana. Since an essential requirement of survey research is the “explicit and equivalent definition of the target population” Jaeger, (1998) some boundaries will be set for the selection of the respondents for the research. Thus the questionnaire will be administered to only the human resource comprising the lower, middle and top level managers of public institutions in Republic of Ghana. A sample enables the researcher to study a relatively small number of units in place of the larger unit. Fowler (1993), admits that a size of a sample is one of the most common questions posed to survey methodologists. To him one familiar misconception people have is that the adequacy of the sample size depends heavily on the population included in that sample. Fink and Kosecoff (1995) also stated that the size of a population from which the sample of a particular size is drawn has virtually no impact on how well a sample is likely to describe a population. Fowler (1993), reports that a sample size of one hundred and fifty (150) respondents will describe a population of fifteen thousand (15,000) or five million (5,000,000) with virtually the same degree of accuracy, assuming all other aspects of the design and sampling procedure were the same. In general, a sample refers to a selected subset of the accessible population which is a representative of the whole population. In this case the researcher will use judgmental or purposive sampling

technique to sample hundred (100) respondents from public institutions for the study. Judgmental or purposive sampling, targets a particular group of people. When the desired population for the study is rare or very difficult to locate and recruit for a study, purposive sampling may be the only option (Patton, 1990). Because of the fewer number of personnel that are privy to corporate crime due to the sensitive nature of it, the researcher would have to access a particular subset of people with similar responsibilities in the organization. Sampling is necessary because in dealing with a large number of respondents, there is the need to get a fair representation of the people since everybody in the population cannot be studied. However, the question about the right sample size in quantitative research is one that is of prime importance for most social investigators. In simple terms it refers to basic questions such as how large or small must a sample be for it to be representative (Sarantakos, 1997). The study targeted 100 selected public institutions in the ten regions of Ghana. All public institutions to be captured in this study will be randomly selected. The lottery method will be used; names of all public institutions in Ghana and their regional branches will be written on a separate piece of paper and placed in a box. The first five will be selected for the study. The picking will be done by an independent person. Questionnaires will be used to gather the data. The Oxford Learners Dictionary defines a questionnaire as a form containing a set of questions, especially one addressed to a statistically significant number, subjects as a way of gathering information from a survey. Questionnaires are an inexpensive way to gather data from a potentially larger number of respondents. Often it is the only feasible way to reach a number of respondents large enough to allow the researcher statistically analyze the results of the study. A well designed questionnaire that is used effectively can gather the information on both the overall performance of the test system as well as information on specific components of the system such

as information about the practices, conditions, opinions, and the attitudes of the respondents. Amedahe (2002), defines questionnaires as consisting of the list of questions or statements relating to the aims of the study, hypothesis and the research questions to be verified and answered to which the respondents are required to answer by writing , ticking, marking or circling the response necessary. Questionnaires are very cost –effective when compared to face-to face interviews. This is especially true for studies involving large sample sizes and large geographic areas. Questionnaires become even more cost-effective when the number of research questions increases: a questionnaire is very easy to analyze. Data entry and tabulation for nearly all surveys can be easily done with many computer software packages. Questionnaires are familiar to most people, nearly everyone has experience completing a questionnaire and they generally do not make people apprehensive. Questionnaires reduce bias since there is a uniform question presentation and no middle-man bias. The researcher’s own opinion will not influence the respondent to answer questions in a certain manner. There are no verbal or visual clues to influence the respondent. Questionnaires are less intrusive than telephone or face to-face surveys. When a respondent receives a question in a mail, he is free to complete the questionnaire on his own time table within a stipulated time frame. Unlike other research methods, the respondent is not interrupted by the research instrument. Thus for the above stated reasons the questionnaire was adopted as the research instrument for this survey. There was a pilot study, which preceded the main study. A pilot test of the instrument was conducted with public institutions in the Ministries at Greater Accra. The choice at Ministries in Accra was based on the assumption that the activities of public institutions in Accra could easily be used to determine the trend, across

Ghana. In all, thirty (30) public officials were surveyed for the study. All the questions were grouped according to the issues raised in the research questions as follows;

- i. What is the nature of corporate crimes in public institutions?
- ii. Who are the collaborators of corporate crimes in public institutions?
- iii. What role does whistle blowing play in the reduction of corporate crime committing?
- iv. What is the benefit of whistle blowing by individuals when it comes to corporate crimes?
- v. Is whistle blowing deterrent enough to prevent corporate crimes in public Institutions in Ghana?

Reponses to open-ended questions were coded for analysis. The objective of the pilot study was to check whether, there were flaws in the instrument used in the data collection prior to the main study. The pilot study was done from 19<sup>th</sup> to 23<sup>rd</sup> February, 2018. The statistical package for the service solution (SPSS) software was used to analyze the data into frequencies and percentages. To determine the data reliability of the research instrument, the Cronbach's Alpha co-efficient which is part of the (SPSS) package was used.

A descriptive survey, is the design for the research and as such, the results will be quantitatively analyzed using frequencies and percentages. The statistical package for service solution and excel software were used to analyze the data collected into frequencies and percentages. The responses were grouped according to their various categories. In the case of open-ended items the responses were coded for analysis. This was done by putting similar responses under one heading. Similar responses are considered as belonging to the same category. All the questions will be grouped

according to the issues raised in the research questions. The main study commenced from the 26<sup>th</sup> February to 20<sup>th</sup> March, 2018; after all the needed correction and adjustment were effected.

Findings obtained from the field report is tabled and analyzed below;

Table 1. Positions of respondents for the general survey

<b>No.</b>	<b>Respondents</b>	<b>Frequency</b>	<b>Percentage</b>
1.	Administrators	31	31%
2.	Financial Managers	21	21%
3.	Lecturers/Research fellow	27	27%
4.	Courts Registrar	9	9%
5.	HR-Manager	12	12%
		100	100%

*Ndebugri & Senzu, (2018) Field data report*

After the survey across the 10 regions of Ghana, it was observed that Administrators of public institutions were the largest respondents to the questions, holding 31% and the Court Registrars were the least respondents to the survey holding a statistical position of 9%.

An effort was made to understand the nature of corporate crime committed in public institutions of Ghana and the findings were tabled below as Table 2.

Table 2. Corporate crime common in Public Institutions of Ghana

<b>Crime</b>	<b>Number of Institution</b>	<b>Percentage</b>	<b>Order occur</b>
Embezzlement	33	33%	1 <sup>st</sup>
Theft	22	22%	3 <sup>rd</sup>
Fraud	17	17%	4 <sup>th</sup>
Illegal acquisition of public assets	28	28%	2 <sup>nd</sup>
	100	100%	

*Ndebugri & Senzu (2018) Field Reports*

It was observed from the studies that “Embezzlement”, top corporate crime in public institutions in Ghana, followed by “illegal acquisition of public assets”, then “theft” and “fraud”. This is in consonance with the assertion by Victor T. Le Vine in a Wikipedia book in 1975 that theft, bribery and embezzlement arose from reversion to a traditional winner-takes-all attitude in which power and family relationships prevailed over the law. Indeed, aside attraction to the outcomes of the contacts for the study was the fact that one hardly finds a public institution in Ghana without at least five of the employees being relatives. This breeds a cycle of unethical conducts among employees of public institutions since culprits hide under the shield of their relatives who may either be their bosses or occupy influential positions. In order to break this cycle, heads of public institutions must always make recruitment into various positions in the public service competitive and based on merit.

The next step was to examine, estimatedly, the crime occurrence intervals in the course of every 12months in public institutions, as graphically displayed below as figure 1.

*Fig.1: Interval occurrence of corporate crime in Public Institution of Ghana*



*Senzu & Ndebugri (2018) Field Report*

The studies concluded that, theft was a weekly crime conducts in Public Institutions, followed by embezzlement noted to have a monthly occurrence, then fraud with an interval occurrence on quarterly bases of the year and illegal acquisition of public assets observed to occur on yearly bases. This was in conformity to the observation on 27<sup>th</sup> March, 2012 in TV3 news item at 19: 00 GMT by Mr. Albert Kan Dapaah, then the chairman of the Public Accounts Committee of the Parliament of Ghana, which he stated, the country loses about three million dollars annually as a result of embezzlement, fraud and other related crimes in public Institutions. The issue about corporate crimes should therefore be dealt with, all the due attention it deserves by anti-corruption institutions.

### **3.1 Nature of Corporate Crime in Public Institutions of Ghana**

Due to the sensitive nature of this topic, information about crimes are not accessible to all employees. Contacts with employees in public institutions for this information were therefore selective and confidential. As it can be seen in table-one above, the target group of respondents for this study were based on the employees' capacity to give the right information for the research. Administrators, financial managers, lecturers/research fellows, court registrars and human resource managers, which constitute the groups that are usually privy to criminal information in public institutions, were targeted for the purpose of credibility. An effort was made under this content to find the preventive measures to corporate crime in Public Institutions. The data was tabled as Table 3.

Table 3. Examining the existence of preventive measures to corporate crime

Response	Frequency	Percentage
Yes	45	45%
No	0	0
Decline	55	55%
	100	100

*Ndebugri & Senzu (2018) Field Report*

Out of the 100 questionnaires administered, only forty-five (45) affirmatively responded that management had preventive measures against corporate crimes, with the rest declining to respond as table 3 above depicts.

### 3.2 Assessing the Effectiveness of Preventive Measures of Corporate crime

Table 4. Embezzlement preventive assessment measure

<i>Crime</i>	Assessment	Frequency	Percentage
<i>Embezzlement</i>	Effective	24	24%
	Ineffective	76	76%
		100	100%

*Ndebugri & Senzu (2018) Field Reports*

Table 5: Fraud preventive assessment measure

<i>Crime</i>	Assessment	Frequency	Percentage
<i>Fraud</i>	Effective	26	26%
	Ineffective	39	39%
	Uncertain	35	35%
		100	100

*Ndebugri & Senzu(2018) Field Reports*

Table 6: Theft preventive assessment measure

<i>Crime</i>	Assessment	Frequency	Percentage
<i>Theft</i>	Effective	39	39%
	Ineffective	31	31%
	Uncertain	30	30%
		100	100%

*Ndebugri & Senzu (2018) Field Reports*

Table 7: Illegal Acquisition of Public Assets preventive assessment measure

Crime	Assessments	Frequency	Percentage
Illegal Acquisition of Public Assets	Effective	55	55%
	Ineffective	29	29%
	Uncertain	16	16%
		100	100%

*Ndebugri & Senzu (2018) Field Reports*

Based on the analysis from tables 3-7 above, there is an average effectiveness of 36% on preventive measures on corporate crimes by management of their respective institutions; this depicts a situation that indicate some level of efforts were applied by heads of public institutions to prevent the incidents of unethical practices. This is in consonance with Terpstra & Baker in Near & Micelli, 1985 who suggested that the effectiveness of whistle-blowing may be defined in a variety of ways. Furthermore, he says that legal scholars tend to define the effectiveness of the outcome in terms of the win/lose ratio of lawsuits involving whistle blowers (Terpstra & Baker in Near & Micelli 1985). The focus here is primarily on whether the whistle blower accomplished what he or she set out to accomplish - namely, the initiation of organizational change as opposed to obtaining a judgment. Therefore, the effectiveness of whistle-blowing is defined by the extent to which the questionable or wrongful practice (or omission) is terminated at least partly as a result of whistle-blowing and within a reasonable time frame. Near & Micelli (1985:51) recommended that the operationalization of "effectiveness" should be addressed. This assertion by Terpstra & Baker is a clarion call on heads of public institutions to map out strategies to close all loopholes in the preventive measures adopted in curbing corporate crimes in public Institutions.

### 3.3 Dynamics in the collaboration to commit corporate crime

This section of the questionnaire was to examine the dynamics in the collaboration to commit corporate crime in public institutions. Findings were tabled into T9 and T10.

Table 9: Collaborators of Corporate crime  
(Inside-Outside collaborators)

<i>Response</i>	<i>Frequency</i>	<i>Percentage</i>
<i>Yes</i>	58	58%
<i>No</i>	42	42%
	100	100%

*Ndebugri & Senzu (2018) Field Reports*

Table 10: Collaborators of Corporate Crime  
(Inside-gang Connivance)

<b>Response</b>	<b>Frequency</b>	<b>Percentage</b>
<b>Yes</b>	61	61%
<b>No</b>	39	39%
	100	100%

*Ndebugri & Senzu (2018) Field Reports*

According to Table 9, about 58% of corporate crimes are committed by inside-outside collaborators, while about 61% are inside-gang connivance based on the data from Table 10. However it became very clear that inside-outside collaborations facilitate easy access to

information to effectively commit corporate crime, that are mostly recorded as large scale corporate crime. According to the table 9 above, insider-outsider collaboration to commit crime is rife in public institutions especially in the Ghanaian public system. Individuals hide under the cover of certain public privileges and immunities to defraud the nation of several millions of cedis. This goes to buttress the findings of the New Crusading GUIDE, after they had access into the Customs Electronic system – of the repository of all transactions that goes on at the Ghana port – with established cases of tax exemptions and unrecovered debts owed to the state worth billions of cedis. This brought to the fore many cases of tax exemption offered in the name of the Office of the President over the years. Many other exemptions were given out to individuals and companies on condition of “Awaiting Parliamentary Approval” culminating in losses of huge sums of money to the nation. ([www.ghanaweb.com](http://www.ghanaweb.com)). This was a case of direct collaboration in crime among no less public institutions than the office of the president, parliament, individuals and private companies culminating in loss of huge sums to the nation. Results of table 10, tells us that the propensity for individuals to compromise on professional ethics either for their personal selfish desires or to please their bosses or political masters in order to protect their jobs is high in the public system: after all, they are not into operations for profit motive. It is no wonder that Williams asserted that the changing character of political masters could lead to conflict of interests occurring between the public servants and the government executives (Williams 1985). More often than not individuals take it upon themselves to point out what they believe to be unethical or inappropriate behaviour. However, such an action is often met with a great deal of resistance from others in the organization. Superiors often view such actions as being an affront to their authority or as a challenge to the organizational imperative, which they find useful to protect.

Colleagues and subordinates are often unwilling to express their support either for fear of losing their own jobs, or because of fear for the future of the organization (Feldman 1999). The data also evidence the insider supply of information to facilitate easy execution of criminal intents. In the US, hardly a day passes without a new story of malfeasance. Every Wall Street firm has paid significant fines during the past decade for phony accounting, insider trading, securities fraud, Ponzi schemes, or outright embezzlement by CEOs. A massive insider-trading ring is currently on trial in New York, and has implicated some leading financial-industry figures. And it follows a series of fines paid by America’s biggest investment banks to settle charges of various securities violations. Multi-national companies are the major funders of political campaigns in places like the US, while politicians themselves are often part owners, or at least the silent beneficiaries of corporate profits. Roughly one-half of US Congressmen are millionaires, and many have close ties to companies even before they arrive in Congress. ([www.truthout.org](http://www.truthout.org))

**3.4 How is suspect managed during crime Investigation in Public Institutions?**

This section was designed to examine how management deals with suspects, during independent Investigations. The findings tabled as Table 11.

Table 11: Interdiction of Suspects for Independent Investigation

Response	Frequency	Percentage
Yes	55	55%
No	45	45%
	100	100%

*Senzu & Ndebugri (2018) Field Reports*

55% indicated, suspects relating to a particular corporate crime are interdicted. Those who held a contrarily view, indicated, they are mostly suspended within some weeks in their Institutions. It also became evidence that, collaborators mostly pre-planned before carrying-out missions. Which

provide a clue that heads of institutions, should not handle suspicions activities with a pinch of attention. This will help in providing a proactive measures to unravel any plan to commit corporate crimes. Conversely, some of the respondents were of the view that, certain crimes could be carried out abruptly but under cover through insider-outsider collaboration as a test case of institutional security alertness to keep them informed in future about how to modify the plan to commit the crime on a large scale.

**3.5 The structural role of whistle blowing to curb corporate crime**

The section of the research study, focused on the structural role of whistle blowing to curb corporate crime. As a result, public Institutional code of conducts, compliance to the code of conducts and how incidence of whistle blowing cases are managed at the institutional level were all critically examined. The data obtained, were all tabled as follows;

Table 12: Examining the existence of code of conducts in public Institutions

<i>Response</i>	<i>Frequency</i>	<i>Percentage</i>
<i>Yes</i>	76	76%
<i>No</i>	-	0
<i>Uncertain</i>	24	24%
<i>Total</i>	100	100%

*Senzu & Ndebugri (2018) Field Reports*

Table 13: Examining the level of compliance with the code of conducts

<i>Response</i>	<i>Frequency</i>	<i>Percent</i>
<i>Yes</i>	50	50%
<i>No</i>	50	50%
<i>Total</i>	100	100%

*Senzu & Ndebugri (2018) Field Reports*

Table 14: Examining how whistle blowing cases is handled at the Institutional level

<i>Response</i>	<i>Frequency</i>	<i>Percent</i>
<i>Yes</i>	67	67%
<i>No</i>	33	33%
<i>Total</i>	100	100%

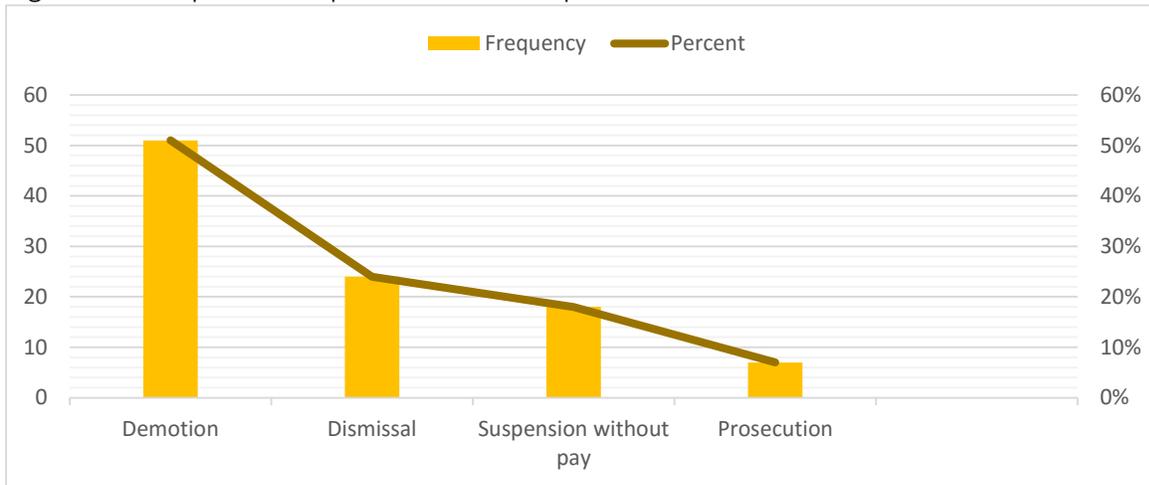
*Senzu & Ndebugri (2018) Field Reports*

In respect to Table 12, the data, indicated that, generally public servants in Ghana are well abreast with the code of conduct of their various institutions, with an average rate of 0.76 attesting to that facts. However the state of compliance to such code of conducts was observed to be in a scale range of 50% as Table 13, affirm. Since there were enough evidence of reported corporate crime in almost all the public Institutions in Ghana, as a result an effort was made to examine how this suspects are handled at the Institutional level. About 67% opined, it handled internally at the management level and 33% suggested, it always depends on the weight of the crime reports to be referred externally at the court of competent jurisdiction or the Police investigative Department or to the media to draw the public attention. Due to the denting of a company’s corporate image some public companies have a policy of handling unethical conducts internally, therefore a standing disciplinary committee are designed to deals with issues of corrupt practices in the organization. According to Mafunisa (2001) cited by S. A. Mboyi (2007) “unethical behaviour by public officials is harmful to the government. Once it infects the blood-stream of any public institution, it causes irreparable damage to the public morals. Consequently people end up losing faith in the integrity of public administration, and if it is not diagnosed and treated, it will eventually destroy public credibility and institutional effectiveness”. Addressing the effects of an internal whistle-blowing culture in the public sector, the UK Committee on Standards in Public Life (1996:22) commented that placing staff in a position where they feel driven to approach the media

to ventilate concerns is unsatisfactory both for the staff member and the institution. It is far better for systems to be put in place that encourage staff to raise concerns within the institution, which allow recourse to the parent department where necessary.

The next effort was to investigate, how culprits of corporate crime are dealt with at the Institutional level. And findings were graphically displayed below as fig 2.

Fig 2. How culprits of corporate crimes are punished



*Senzu (2018) Field Reports*

Corporations sensitivity to the fact that individuals working within cannot be punished in isolation but summarily on the entity in which the culprit is working, puts a special burden on management to develop certain internal controls in the form of punishments for unethical conduct. To paraphrase Gertrude Stein, “there is no person there, thus, the justification for punishing a corporation, as it does not rest on personal choice. Instead, federal corporate criminal liability rests squarely on the concept of vicarious liability.” Indeed, the 1909 Supreme Court decision of the United States Department of Justice that established corporate criminal liability was based on a beneficial consequence of punishing the corporation-enhancing the government's ability to control and regulate corporations. ([www.usdoj.gov](http://www.usdoj.gov))

### 3.6 Victimization of Whistle Blowers

This section of the research study was to focus in the investigation of the victimization of whistle blowers and remedies. Therefore findings were tabled as T15 and T16.

Table 15: Examining the extent of victimization of whistle blowers in Public Institutions

Response	Frequency	Percentage
Yes	67	67%
No	33	33%
	100	100%

*Ndebugri & Senzu (2018) Field Reports*

Table 16: Examining the extent of remedies to the victimize whistle blowers

Response	Frequency	Percentage
Yes	61	61%
No	39	39%
	100	100%

*Ndebugri & Senzu (2018) Field Reports*

In table 15, there is high incidence of whistle blower victimization of 67%. Hence according to Borrie in Camerer 1996:2 the whistle blowers decision in respect of victimization has to do with the predicament that the potential whistle blower may face due to economic dependence and in part to legal obligations of confidence owed to employers. Besides the real fear of victimization resulting from such disclosures, a primary dilemma involves the conflicting loyalties between the desire to follow inherent moral beliefs and expose misconduct, and the organizational pressures to conform to a culture of loyalty and confidentiality, albeit misplaced (Camerer 1996:2). An effective whistle-blowing process may have implications for an organization's future (Farrell & Petersen in Near & Micelli, 1985:60). One potential long-term outcome is organizational performance (Perry in Ner & Micelli 1985:63). Although it is generally assumed that corporate

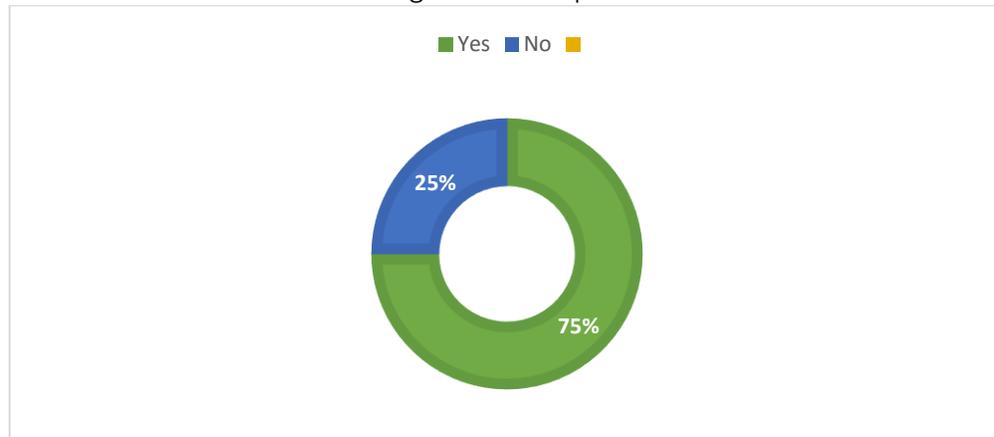
wrongdoing harms an organization's performance (Clinard & Yeager in Near & Micelli 1985:67), empirical results suggest that this is not always the case (Baucus & Near in Near & Micelli 1985:68). If public discovery of corporate wrongdoing does not reduce long-term performance, then executives have little incentive to terminate the wrongdoing. However according to (Near & Micelli 1996) Characteristics of the unit in which the whistle blower operates has an influential effects on the overall climate for wrongdoing., True organizational variables focus more directly on the organization as a whole, though variations might be found in these variables at the sub-unit level of analysis (Victor & Cullen in Greenberger 1987). For the time being, it is assumed that some homogeneity exists across subunits of the organization in these characteristics and that organizations vary in their responses to attempts to change. In particular, some resist change, whereas others seem to embrace it. This partly reflects the perspective of the dominant coalition toward change and the appropriateness of whistle-blowing. Beyond this, the organization's overall climate and its structure both reflect and influence its members' resistance to change. Various actions have been taken in support of whistle-blowers internationally. One such action towards acknowledging the whistle-blower as a 'do-gooder' is probably the suggestion made by the United Kingdom Government Committee that whistle-blowers should be included in the British Honour systems for their good corporate citizenship (Vinten, 2000). The federal law that legitimated the concept of the whistle-blower, the False Claims Act (1863, revised 1986), was created to combat fraud by suppliers to the federal government during the Civil War. Under the act, whistle-blowers can receive a percentage of the money recovered or damages won by the government in fraud cases they expose. The act also protects whistle-blowers from wrongful dismissal, allowing for reinstatement with seniority, double back pay, interest on back pay, compensation for

discriminatory treatment, and reasonable legal fees. Federal legislation in 1978 barred reprisals against those who exposed government corruption. Harassment and dismissal of and the revelation of widespread waste and fraud in defense contracting, led Congress to strengthen the position of whistle-blowers in 1989. Many states also have employment laws that deal with discriminatory treatment of whistle blowing (Columbian electronic encyclopedia, 6<sup>th</sup> edition- www.infoplease.com).

### 3.7 Effectiveness of whistle blowing Act on corporate crime

This category of study, investigated the effectiveness of whistle blowing Act, against corporate crime in public Institutions. The findings were graphically displayed as Fig. 3

Fig 3. The effectiveness of whistle blowing Acts on corporate crime in Public Institutions

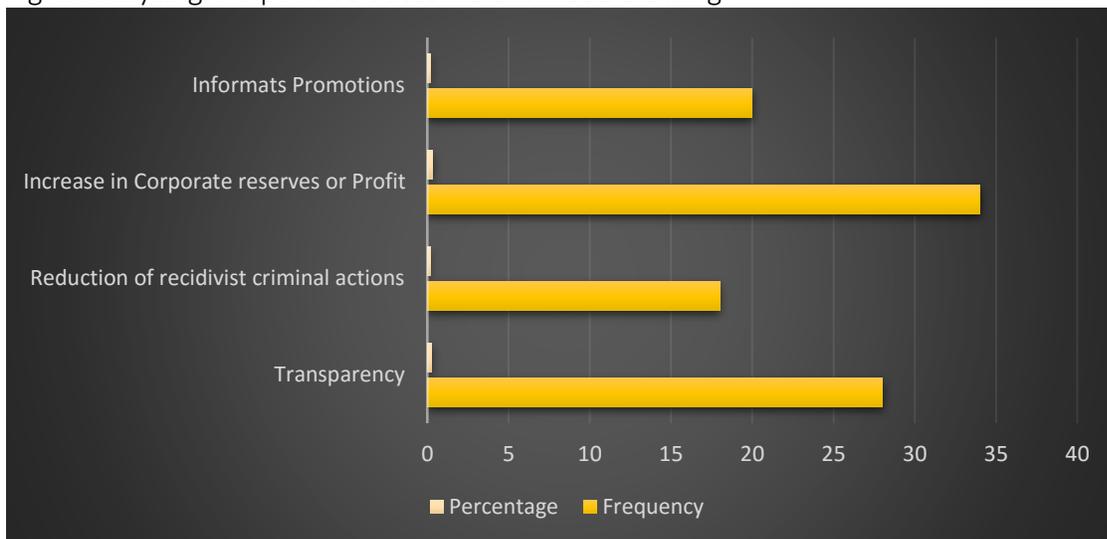


*Senzu & Ndebugri (2018) Field Reports*

The green portion of the pie chart was an affirmation of the public servants, who believed in whistle blowing, as an effective instrument to curb corporate crime in public institutions. There was an evidence, which justify the effectiveness of whistle blowing as a tool in dealing with corporate crime and deduce, it leads to organizational accountability and individual responsibility. According to Victor & Cullen in Greenberger, 1987 the organization's overall climate and its

structure, both reflect and influence its members' resistance to change. Whistle-blowing is therefore not about informing in a negative, anonymous sense. Rather, it is a key tool in promoting individual responsibility and organizational accountability. The bravery of being prepared to blow the whistle is seemingly directly related to cultural advocacy in the promotion of transparency and accountability in many organizations. The reality is that, in sticking their necks out to raise concerns within their place of employment, people more often than not risk victimization, recrimination and sometimes dismissal as it is often the case that the messenger, rather than the importance of the message conveyed, is attacked. Within this context, whistle blowers acting in good faith and in the public interest may be the bravest of citizens (Victor and Cullen in Greenberger, 1987). We further studied the major quality of outcome in whistle blowing to the benefit of Public Institutions and the data was interpreted graphically as figure 4, below;

Fig.4. Analyzing the positive outcome of whistle blowing



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Respondents, all answered in affirmation to the positive outcomes of whistle blowing such as transparency, reduction of crime, increase in reserves or profits and promotion of informants as

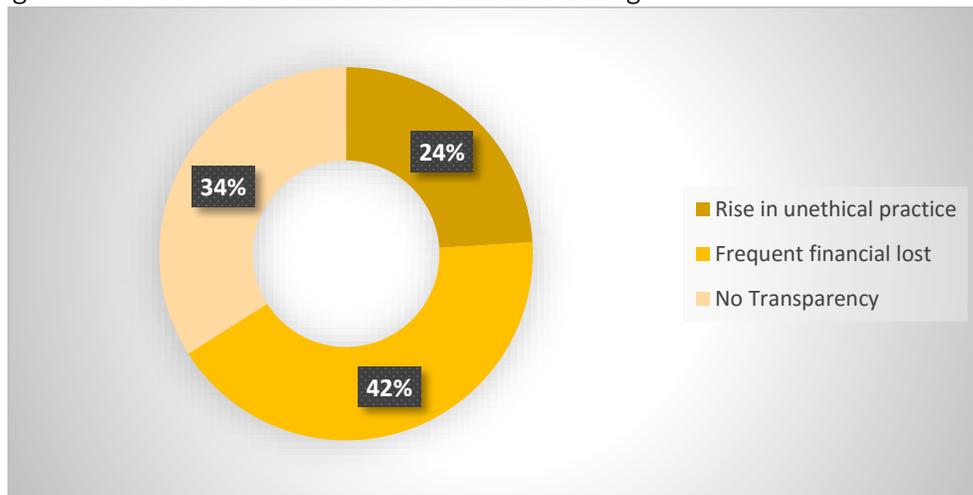
represented in figure 4, above. According to Canberra, Australia, 1994, the main objective of devising and implementing the whistle blowers' Acts, is to have an efficient and effective Public Service whose outcomes will positively impact on the society by translating the government's policies in a transparent and accountable fashion. The issue is, do we have 'squeaky clean' practitioners with self-governance attributes (integrity, commitment and leadership skills) within our Public Service to achieve these goals 'with no financial loss to the state'? Notwithstanding we have public servants with excellent attributes, who may be ready to assume the role of 'Whistleblower'. He further indicates that in some jurisdictions (in addition to protection) and by way of incentives, whistleblowers receive a percentage of the recovered illegally obtained financial advantages, which is distinct from providing financial inducements and is a highly effective tool.

Canberra finally concluded, where as a result of whistle blowing, the culprit is found to be a senior officer and the whistleblower is a junior officer, the latter is then subjected to all kinds of reprisals, like dismissal, demotion, discrimination, harassment, intimidation, victimization, current and future bias etc. thereafter. This is where there will be a need for whistleblowers to be protected from reprisals via a robust whistle blowing legislation. This conforms to the views of the respondents, which suggest that effective whistle blowing can still be achieved in the wake of the above stated reprisals. According to Victor and Cullen in Greenberger, (1987) whistle-blowing is therefore not about informing in a negative, anonymous sense. Rather, it is a key tool in promoting individual responsibility and organizational accountability. The bravery of being prepared to blow the whistle is seemingly directly related to cultural resistance to the promotion of transparency and accountability in many organizations. The reality is that, in sticking their necks out to raise concerns within their place of employment, people more often than not risk victimization,

recrimination and sometimes dismissal as it is often the case that the messenger, rather than the important message that is conveyed, is attacked. Within this context, whistle blowers acting in good faith and in the public interest may be the bravest of citizens.

In the instance whereby whistle blowing is non-existence in a public institution, what could be the implications? This was examined and the findings was graphically displayed as figure 5.

Fig.5: The effects in the absence of whistle blowing



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In respect to Fig.5, the respondents all indicated that silence or the refusal of the informants to blow the whistle has the effects such as, a rise in unethical conduct, lack of transparency and financial loss to the state or organization concerned. This is in contrast to the assertion by Dehn & Borrie (2001) that silence is the option with the least risk for both the individual employee and for a responsible institution that encounter wrongdoing. It will be attractive for many reasons. The whistle blower will realize that his or her facts could be mistaken or that there may be an innocent misrepresentation. Where other colleagues or competitors are also aware of the particular suspicious conduct but stay silent, the whistle blower will wonder why he or she should speak out. In institutions where labour relations are adversarial and in cultures where corruption is common, the whistle blower is likely to assume that he or she will be expected to prove that the corrupt

practice is occurring, rather than see those in authority investigate and deal with the matter. Even though he or she has no control over it, the whistle blower may feel the responsibility for any action that may be taken against the wrongdoer. Even if the whistle blower believes there is a good chance that something will be done to address the wrongdoing, it is almost inevitable that he or she will stay silent (Dehn & Borrie 2001).

## **4.0 FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

### **4.1 Findings**

- i. Our findings revealed that crimes existing in public institutions are generally embezzlement, fraud, theft and illegal acquisition of public assets. It was further noted that embezzlement as a corporate crime, top the list of corporate crimes in Ghana, which deprive the nation several millions of cedis. According to fig. 1, in order of frequency of occurrence, embezzlement again tops as the crime which occurs monthly with the least occurring crime being illegal acquisition of public assets occurring annually.
  
- ii. The results of the study indicate that there is high incidence of collaboration by public officials and private individuals as well as institutions to commit crimes in the form of fraud against the nation. It was established, public officials divulge information to outsiders to facilitate easy connivance to commit crimes in public institutions.

- iii. The findings also revealed that some instances of whistle blowing are dealt with internally in order not to dent the image of the institution. The results also establish that whistle blowing has led to the realization of some positive effects such as transparency, increase in reserves, promotion of informants and accountability. These inure several benefits to the nation since with transparency and accountability, unethical practices are brought to the barest minimum.
- iv. The study also established that whistle blower indifference to whistle blowing is a recipe to reduction in reserves, little or no transparency and accountability. This may defeat the purpose of the Ghana whistle blowers act, Act 720 of 2006.
- v. Analysis of the data also indicates that protective instrument shields whistle blowers. This sustains their interest in the defense of the public purse since a nation that honours its heroes is worth dying for.

However during the studies, there was a noted limitation to the research efforts. The research team had some few difficulties to access information to the best of our desire, since most workers in the public service were reluctant to release sensitive information especially as it borders on the issue of corporate crime, which bores down to the fact that the Right to information bill is still pending before parliament, the only means to easily access comprehensive data of information from public service records.

## 4.2 Conclusions

- i. This study was conducted to analyze, review and describe the role of whistle blowing in dealing with corporate crime. In effect, whistle-blowing is therefore the disclosure by organizational members (former and current) of illegal, immoral and illegitimate practices under the control of their employees, to persons or organizations that may be able to effect action on the disclosure. When considering a legislation aimed at encouraging whistle-blowing, policy makers have chosen to use the generic term "disclosure" when referring to Whistle-blowing (see, for example, the South African Protected Disclosures Act of 2000, the United Kingdom's Public Interest Disclosure Act 1998 and the Ghana Whistle Blowers Act 720 of 2006).
- ii. **Corporate crime** refers to crimes committed either by a corporation (i.e., a business entity having a separate legal personality from the natural persons that manage its activities), or by individuals that may be identified with a corporation or other business entity.
- iii. Based on the research, it has been established that unethical conduct such as embezzlement, theft, fraud and illegal acquisition of public assets are rife in public institutions.

- iv. The research conducted on all the public institutions, opted and describe whistle blowing as the best tool in dealing with corporate crimes mentioned above with positive outcomes such as protection of informants, increase in reserves, transparency and accountability

### 4.3 Recommendations

- i. We recommend that government and for that matter parliament speeds up with the passage of the freedom to information bill to make way for access to transactions of public institutions. This will lead to transparency, accountability and adherence to due process.
- ii. We again recommend that recruitment into public institutions should be done on merit but not on family relations and nepotism which has the tendency to breed corruption.
- iii. We were of the opinion based on our studies that a subject like “citizenship” and “patriotism” should be included in our curriculum from the basic level to the tertiary level in order to firmly orient all Ghanaians on patriotism and nationalism. This will make public officials to see the office they are holding as theirs and eschew all forms of parochial and unethical tendencies.

- iv. We further recommend that a commission in charge of public disclosures be set up to handle all issues of whistle blowing relating to investigations and dealing with all issues of victimizations and reward of informants or could setup such a proposed commission as a departmental office of Commission on human rights and administrative justice (CHRAJ) in Ghana
  
- v. We recommend that hotlines be put in place to facilitate anonymous reporting of unethical conduct for action.
  
- vi. Anti-corruptions institutions such as the Ghana Anti- Corruption Coalition (GACC) must collaborate with investigative journalists to expose cases of corrupt practices.
  
- vii. Parliament and anti-corruption institutions should put in place periodic appraisals of the performance of the whistle blowers Act.
  
- viii. Transfers of public officials must be done every four years in order to break certain cycles of groups which may be engaged in unethical conduct as a result of over familiarity with institutional history and machinery.

- ix. We recommend that regular external audits be conducted of all transactions of public institutions since the tendency for the accounts department to connive to commit unethical conduct is high.
  
- x. We further recommend that immunities to certain public institutions must be stripped off to prevent hiding under the immunity instrument to commit corporate crimes.

## 5.0 APPENDIX

1. CEPS ..... Custom Exercise and Prevention Service
2. GHAPHA..... Ghana Ports and Harbour Authority
3. CDGRA..... Custom Division of Ghana Revenue Authority
4. GRA.....Ghana Revenue Authority
5. IRS..... Internal Revenue Service
6. GACC....Ghana Anti-corruption Coalition
7. CHRAJ.....Commission on Human Rights and Administrative Justice
8. GoG.... Government of Ghana

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