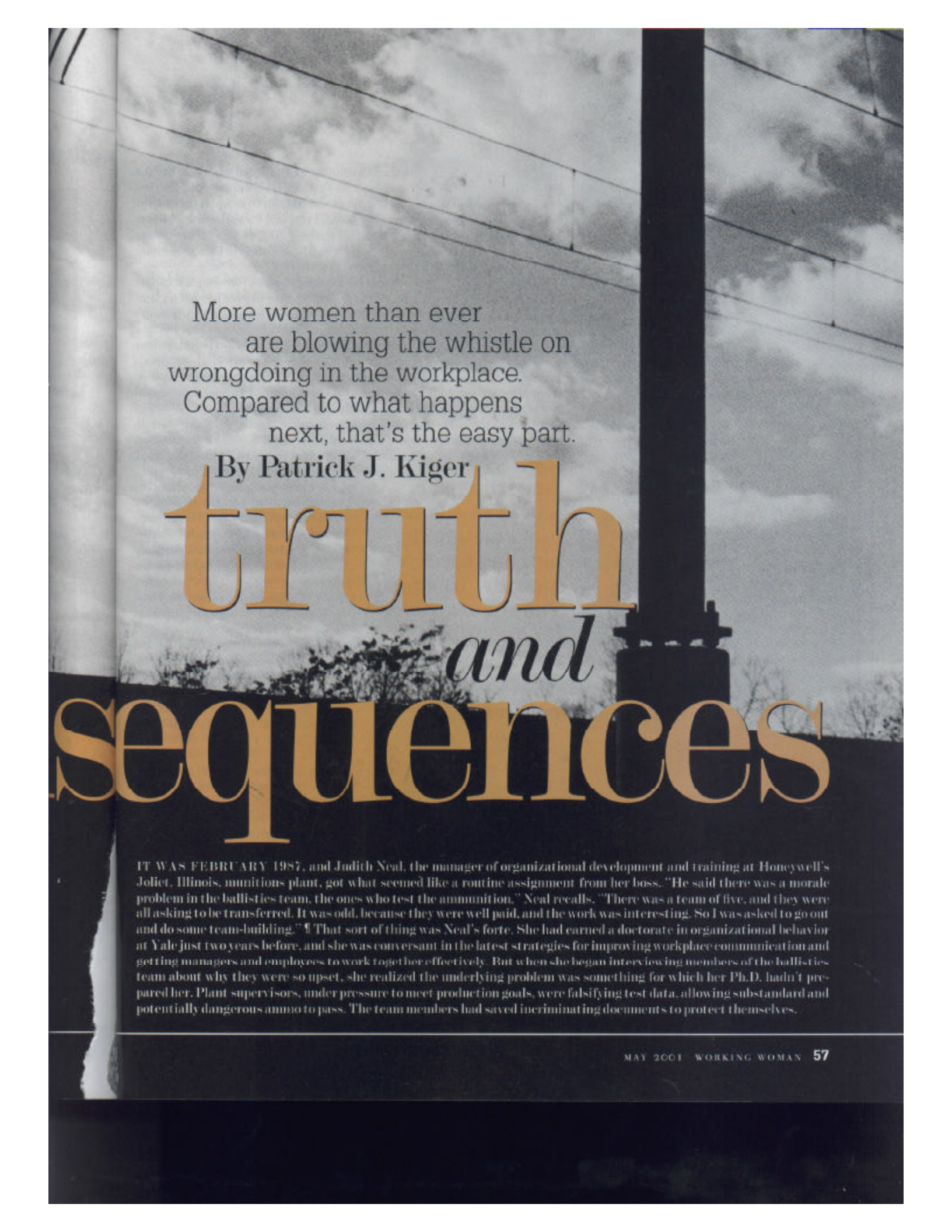




BLACK AND WHITE: The way Judith Neal saw it, she had no choice but to blow the whistle on potentially dangerous ammo being produced by her employer.

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More women than ever
are blowing the whistle on
wrongdoing in the workplace.
Compared to what happens
next, that's the easy part.

By Patrick J. Kiger

truth *and* sequences

IT WAS FEBRUARY 1987, and Judith Neal, the manager of organizational development and training at Honeywell's Joliet, Illinois, munitions plant, got what seemed like a routine assignment from her boss. "He said there was a morale problem in the ballistics team, the ones who test the ammunition," Neal recalls. "There was a team of five, and they were all asking to be transferred. It was odd, because they were well paid, and the work was interesting. So I was asked to go out and do some team-building." ¶ That sort of thing was Neal's forte. She had earned a doctorate in organizational behavior at Yale just two years before, and she was conversant in the latest strategies for improving workplace communication and getting managers and employees to work together effectively. But when she began interviewing members of the ballistics team about why they were so upset, she realized the underlying problem was something for which her Ph.D. hadn't prepared her. Plant supervisors, under pressure to meet production goals, were falsifying test data, allowing substandard and potentially dangerous ammo to pass. The team members had saved incriminating documents to protect themselves.

Maureen Ayril, stockbroker

The case: In 1997, a group of female Merrill Lynch employees filed a class-action gender-discrimination suit against their employer that Ayril, a broker at the firm's Tampa, Florida, office, later joined. The women charged, among other things, that their male colleagues got first dibs on lucrative accounts redistributed when a broker left.

What she went through: Ayril says male co-workers stopped socializing with her when they learned about the suit. In addition, "I was constantly being interrogated by my colleagues as to what I hoped to gain by suing the firm, and how I could ever believe I would have a future there when the case was settled. I began to ask myself the same thing. I wondered if I was really going to effect any positive change or if I was just going to end up shooting myself in the foot." In 1999, with the suit still pending, Ayril left for another firm. But she says Merrill then tried to put her out of business. She was barely out the door when the firm sought a restraining order that would have barred her from serving any of her longtime customers.

The result: Merrill settled the class-action suit in 1998, agreeing to establish new nondiscriminatory policies and to set up a mediation process that allowed women employees to pursue individual claims for damages. Ayril turned down an offer to settle her claim, instead opting for arbitration that is still pending. Merrill disagrees with Ayril's account of events. A spokesman adds that as a result of the class-action suit, the firm has changed its practices and is working on resolving all outstanding claims.



Neal was horrified. The shells manufactured in Joliet went into the Air Force's A-10 attack aircraft and the Army's Apache helicopters and Bradley fighting vehicles, and soldiers and pilots staked their lives upon them. Now that she knew, there was no turning back. "I realized I was the one who was going to have to do something about it," she says. Neal's second reaction was one of fear. "The company was really a macho culture. If I do something about it, I thought, what are they going to do to me?"

While blowing the whistle can be scary for anyone, for women it can be downright terrifying. The role of the female whistle-blower has been glamorized by last year's hit movie on the subject, *Erin Brockovich*, in which the heroine uses her sexuality to her advantage. But the reality is that being a woman can be a whistle-blower's biggest liability. In addition to losing their jobs and even their careers—according to one university study, approximately 60 percent of whistle-blowers are fired or forced to resign—women often also face sexual harassment, threats, and questions about their sexual history that male whistle-blowers rarely if ever encounter.

Despite the risks, more and more women are coming forward. Overall, the number of whistle-blower suits filed with the U.S. Justice Department rose steadily from the 1980s until peaking a few years ago. During that time,

Since the 1980s, women's involvement in whistle-blowing cases has more than doubled. They now account for about half the suits filed with the Justice Department.

the proportion of women involved in these cases has jumped to about 50 percent from 25 percent or less, by some experts' estimates. (The government does not break down these statistics by gender.) And women certainly account for many of the highest-profile cases. Over the past few decades, scores of women have blown the whistle on workplace wrongs ranging from fraud on government contracts and environmental violations to racial and gender discrimination. In the 1970s, geneticist Beverly Paigen risked her supervisors' ire at the New York State Department of Health by helping expose buried toxic waste at Love Canal. In the 1980s, two aerospace workers, Ria Solomon and Sylvia Robins, came forward with allegations about safety problems in the Space Shuttle program. In the 1990s, Bari-Ellen Roberts helped organize a successful class-action suit against Texaco for systematically discriminating against black employees. And last year, Dr. Nira Schwartz, a former senior engineer at TRW, made headlines and appeared on *60 Minutes* after documents were unsealed revealing her charges that TRW covered up flawed test results of its controversial anti-missile system. (This case is still pending.)

"A lot of the scientists and other


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professionals who come to us are women," says Dan Meyer, general counsel of Public Employees for Environmental Responsibility, a group that exposes government and corporate polluters. "Since women are outside the old-boy network, they're less inclined to look the other way and ignore a problem just because it's the accepted way of doing things." Adds John R. Phillips, one of the nation's leading whistle-blower attorneys, "Initially, all the whistle-blowers with False Claims Act cases were in the defense industry, and they were all men. But we get more women now. One reason is there are a lot of cases coming out of the health-care industry, and a lot of women work in that field." One of the highest-profile health-care cases currently pending was brought by Carolyn Gray, a medical social worker who charged her employer, IHS Health Services in Dallas, with bilking Medicare out of tens of millions of dollars.

Whistle-blowing can take many forms. Sometimes it's done anonymously through tips to law enforcement or government regulators or to investigative reporters. But like Carolyn Gray, more and more women are taking the bold step of going public with their charges and filing lawsuits against their employers under the federal False Claims Act. The law, which began as a Civil War-era statute and was strengthened by Congress in 1986, gives citizens the right to sue companies and individuals for cheating the federal government—and if they prevail, to collect as much as 30 percent of the penalty as a reward for exposing the fraud. Thanks to the law, at least a few women have been well compensated for coming forward. In 1996, for example, Jeanne Byrne, a Michigan lab sales rep, aided an investigation that nailed her company for submitting false claims to Medicare. Her share of the settlement: a breathtaking \$9 million.

But occasional headlines about seven- and eight-figure rewards can be misleading. Most whistle-blowers who seek the government's help don't get it: The Justice Department declines to pursue 75 percent of whistle-blower suits filed, and it's notoriously difficult to win False Claims Act suits without the government's involvement. Those whistle-blowers who don't get assistance—and those who aren't covered under the act, which applies only to federal government fraud—often end up spending tens of thousands of dollars on legal fees as they become embroiled in court battles that go on for years and end with unsatisfying results.

Despite society's seeming approval, the reality is that nobody really likes whistle-blowers—not companies, which routinely find ways around the patchwork of state and federal laws that bar retaliation, and not even co-workers, who often see them as a risk to their livelihoods. Research by Don Soeken, Ph.D., a psychologist who's worked extensively with whistle-blowers, has shown that in addition to retaliation from bosses, more than half of whistle-blowers face harassment from their colleagues. "It's ironic," he says. "The most honest person in the office



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Bari-Ellen Roberts, consultant

The case: In 1994, Texaco senior financial analyst Bari-Ellen Roberts and a co-worker, Sil Chambers—both subjected to racial taunts and repeatedly passed over for promotions—organized a class-action discrimination lawsuit against their employer. The suit charged that blacks' career advancement was systematically sabotaged by Texaco's "old-boy network."

What she went through: "The hardest part of the suit was deciding to do it," Roberts recalls. "I'd worked so hard to get to where I was, and I had to risk all of that. Then I had to deal with loneliness and isolation. Even some of the other African-Americans viewed me as a troublemaker. When you're standing up and calling for change it makes people fear for their own security." During the discovery process, the scrutiny was excruciating. "Texaco was saying, 'You had a child before you were married, you once got an 'F' in chemistry. You're not worthy.'"

The result: In 1996, Texaco settled the suit, paying \$141 million to its black workers and agreeing to spend \$35 million to eradicate its discriminatory practices. Roberts, who says she left Texaco after it objected to her writing her memoir *Roberts vs. Texaco*, now runs a Stamford, Connecticut-based firm that works with companies on diversity training and curbing workplace violence and sexual harassment. A Texaco spokesman says that Roberts "resigned voluntarily" and declined to comment on the scathing portrait of the company in her book, except to say that Texaco has made "significant progress" with its diversity program.



Michele Girard, ecologist

The case: Girard, a U.S. Forest Service employee, documented alleged violations of timber-cutting and cattle-grazing regulations at the Big Horn National Forest, near Sheridan, Wyoming. By doing so, she ran afoul of a superior whom she charges was overly friendly to logging and ranching interests, and in 1996 her position was eliminated. Girard fought back by filing a complaint under the federal Whistleblower Protection Act, a 1989 law meant to protect federal employees who expose wrongdoing. In addition, she filed a gender-discrimination complaint with the Equal Employment Opportunity Commission. "They said there wasn't enough money to fund me, but all the men kept their jobs while I lost mine," says Girard, who holds a Ph.D. in botany. "I qualify in range, wildlife, soils, botany, and ecology. Most of them had only one discipline."

What she went through: After losing her job, Girard managed to find another U.S. Forest Service position in Arizona. But it meant giving up a house that she spent 10 years renovating and leaving behind scores of close friends in Sheridan. Girard, who recently took a second U.S. Forest Service position in Arizona, also lost her faith in the laws that she thought would protect her. Five years after she filed her claim, her case remains unresolved. "It shook my view of the system," she says. "The system doesn't work."

The result: Both of Girard's claims are still pending. A Forest Service spokesperson declined to comment on the charges. —P.J.K.

Women have one dubious advantage. "Employers tend to underestimate them, making the employers more vulnerable," says whistle-blower Judith Neal.

ends up being the person no one will trust." Instead of being hailed as heroines, whistle-blowers are often labeled as snitches, disgruntled slackers, or opportunists and sometimes are themselves accused of wrongdoing.

Invariably, sexual harassment is a big part of the counterattack. "You never hear someone say that a man is too flirtatious to be believed," notes Danielle Brian of the Project on Government Oversight, a watchdog group that works with whistle-blowers. "I've seen cases where companies go after a woman's sexuality, portray her as loose and therefore not to be believed. They'll question her credibility because she wears certain clothing. And if the woman's husband also is in the same workplace, they'll try to stir up trouble between them, put pressure on their relationship—things like 'What's the matter, can't you get your wife under control?' It's unbelievable, but I've seen it."

Women have one dubious advantage. And it may in part explain why more of them are coming forward. "Employers tend to underestimate women, which makes the employers more vulnerable," Judith Neal says. "They don't value your opinions and abilities, so they may not realize your tenacity, either. And tenacity is what it takes to win." Being a woman in a male-dominated workplace actually made it easier for Neal to get away with investigating the faked data. When she asked questions about how the ammunition tests were conducted, men at the company often assumed that they could talk over her head.

They assumed wrong. Neal's ability to access incriminating evidence led to an internal investigation and a settlement in which Honeywell paid \$2 million in damages and provided \$400,000 worth of replacement ammunition to the federal government. In addition, two relatively low-level officials at the plant were indicted on federal charges related to the fraud, though no higher-ups were charged.

Such vindication should have been the end of it for Neal, but it wasn't. The protections designed to help whistle-blowers often fail them even as the wrongdoers are punished. Neal's ordeal began during the investigation when word got out that she was the informant. Although she received assurances that her identity would be kept confidential, investigators later told her that at least one manager at the plant knew about her role—"for my own protection," she says. The knowledge that her secret was out made it all the more unnerving when she learned from co-workers that a high-level manager was telling people the leaker was "dead meat." Neal took the threat seriously—the plant, after all, was the sort of macho domain where employees routinely brought hunting weapons to work. She told Honeywell officials of her fears and began sleeping with a gun in her bedroom, but the company took no action against the source of the threats. Eventually the man was transferred to another plant, a punishment that "bore an uncanny resemblance to a promotion," as a federal judge would later note.

Instead, Neal got the feeling she was the one being penalized. After the investigation, Honeywell told her to stay home for a month—again, supposedly for her own safety. But when she returned, her boss took away most of her job responsibilities. Neal found herself staring out her office window most days, watching cows graze in a nearby field. Finally, five months after she'd blown the whistle, Neal quit in frustration. The stress of giving up her job and possibly her career put a strain on her marriage, and that too began to crumble.

Rarely is it just the whistle-blower whose life is thrown into turmoil. According to studies by Don Soeken, eight out of 10 whistle-blowers end up with stress-related illnesses, and 60 percent report that their spouse's health suffers as well. That is, the marriage survives. "When I found out what I was working for was a sham, it made me question everything," Neal says. "My career choice, my marriage, my purpose in life."

Years later, unable to leave behind her outrage about what happened, Neal filed suit against her former employer under a part of the False Claims Act that makes it illegal to sue against whistle-blowers. In 1997, 10 years after she quit Honeywell, she was awarded \$390,000 in back pay and damages, plus \$1.6 million in legal fees and costs. Alliant Systems, the corporate spin-off of Honeywell's munitions business that Neal sued, appealed and lost in May 1999. Neal refused to comment on the case for this story, saying company policy is not to discuss past litigation.

Neal ended up using the money she won to start the Association for Spirit at Work, a nonprofit that encourages whistleblowers in the workplace. Though she's gone on with her life, she will never fully let go of the pain of her ordeal. "I can't think of a single example of a case in which a person has gone forward and remained unscathed. The universal truth is that when you expose a wrong, they try to discredit the person by discrediting you," says Brian of the Project on Government Oversight. In Neal's case, the defense tried to discredit her by bringing up a brief romance she had with a former lover after she quit her job and separated from her husband. Honeywell, she says, tried to portray her as having

left the company not because of retaliation, but because "I was just a slut, having affairs. They tried to make it the central part of their case." During her deposition, she also had to hand over a diary of her dreams and answer questions about being molested as a child. "The first thing I had to do when I got home was to take a shower," she recalls.

Employers have even been known to ask a whistle-blower to seek counseling and then use the person's mental health records as evidence of instability. "It's a common tactic to paint whistle-blowers as psychologically impaired," explains Kris Kolesnik, executive director of the National Whistleblower Center, a public interest organization. "When they want to go after someone, they send her to a shrink." After Sherrie Farver, a radiological technician at the Department of Energy's nuclear weapons facility in Oak Ridge, Tennessee, spoke out publicly about health problems that she and other workers were experiencing, a government-paid psychiatrist diagnosed her as suffering from paranoid delusions and her security clearance was revoked. Farver fought back by suing the psychiatrist for malpractice, and in 1999 a jury awarded her \$600,000 in damages.

But as it was for Neal, the money was small compensation for what she went through. The amount Neal won

"When I found out what I was working for was a sham, it made me question everything: my career choice, my marriage, my purpose in life," says Neal.

was barely noticeable for a corporation with more than \$1 billion in annual sales. "My reaction was, was this all worth it?" she says. "Money can never compensate you for loss of privacy, the humiliation of having your personal life dredged up. Or for the nightmares, the anxiety of wondering if something is going to happen to you

because you've spoken out." Nevertheless, like more than half the whistle-blowers in Soeken's research, Neal says she'd do it again. "The important thing is what you believe in," she explains. "In my life, I had to take a stand." But for all of those would-be heroines who don't want to risk it all to do the right thing, the question is: If we won't protect the whistle-blower, who will protect us? **W**

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Neal says she'd blow the whistle again, despite what she went through.