

MEDIA

# Anonymous Harassment Hotlines Are Hard to Find and Harder to Trust

By NOAM SCHEIBER APRIL 21, 2017

When multiple allegations of sexual harassment by Bill O'Reilly were reported publicly this month, representatives for 21st Century Fox and Mr. O'Reilly pointed to the company's anonymous hotline, saying no employee had ever used it to make a complaint about the Fox News host.

But employment law experts say that a company's hotline often exists in obscurity, and that even when it is well-known among employees, it can be a tool for suppressing harassment allegations rather than dealing with them.

Debra Katz, a longtime lawyer representing whistle-blowers and clients alleging sexual harassment and discrimination, said in an email that it is "very common for companies to bury information about how employees can file confidential complaints and for employees to be completely unaware of the existence of hotlines." She added in a follow-up interview that many companies also neglect to mention the hotlines in training sessions.

That was the experience for several former Fox News staff members, who said they did not know about the company hotline and had not been told about one, even in sessions about sexual harassment.

According to a lawyer for Andrea Tantaros, a longtime Fox News personality who left the network last year, “Ms. Tantaros was never alerted to the existence of any hotline, and never heard any Fox employee ever use it.” Ms. Tantaros is suing the network over retaliation she claims to have experienced for complaining about sexual harassment.

The former Fox News anchor Alisyn Camerota, who worked there for more than 15 years before joining CNN in 2014, echoed that claim on her morning show Thursday.

“There was no hotline; I can’t underscore this enough,” she said on the CNN program “New Day.” “When you have a real hotline, you put up posters: ‘If you see anything, feel anything, here’s the number to call.’ That did not exist.”

In a follow-up interview after the show, Ms. Camerota said that she had attended two sessions about sexual harassment during her last years at Fox and that she did not recall participants ever being alerted to a hotline.

“There was no mention of a hotline,” she said. “Basically they just give you scenarios where you have to determine if that constituted harassment.”

One other former on-air Fox News employee, who requested anonymity to avoid harassment by the network’s defenders, described similar experiences.

A spokesman for 21st Century Fox said the hotline had existed at the company since 2004. The spokesman said that employees are required to certify annually that they understand the company’s standards of conduct, which they do by responding to questions as they make their way through the material online, and that the material includes information about the hotline.

Since the fall, the company has highlighted the hotline during sessions about harassment, which have also become more formal and systematic, the company said.

The company and Mr. O’Reilly invoked the hotline in statements provided to The New York Times for an article this month reporting that five women had reached settlements involving claims of sexual harassment or other inappropriate behavior by Mr. O’Reilly. “No current or former Fox News employee ever took

advantage of the 21st Century Fox hotline to raise a concern about Bill O'Reilly, even anonymously," 21st Century Fox said.

In his own statement, Mr. O'Reilly said, "In my more than 20 years at Fox News Channel, no one has ever filed a complaint about me with the Human Resources Department, even on the anonymous hotline." Mr. O'Reilly, who has denied the allegations against him, was ousted from his position as a Fox News host on Wednesday.

But experts say such claims can be misleading, since many employers create hotlines merely to help insulate themselves from legal liability without ever following up on complaints.

Joseph Beachboard, a management-side lawyer at Ogletree Deakins who advises companies on these matters, said that no reporting system is effective "unless people feel like you care and that they'll be protected from retaliation." He added, "If you don't do those two, it doesn't work."

Those elements were a factor at Fox News, current and former employees have told The Times. The support the company provided Mr. O'Reilly after a prominent sexual harassment case in 2004, which ended with him paying a settlement of about \$9 million to a producer, served as a deterrent to other women who might have come forward, they said.

According to Chai Feldblum, a commissioner at the Equal Employment Opportunity Commission who has written extensively on the subject, roughly 70 percent of employees who have experienced harassment do not report it to their employer, typically because they fear retaliation or indifference.

Douglas Wigdor, a lawyer representing three women who are suing Fox News and its corporate parent over racial discrimination from a longtime employee whom the network recently dismissed, said heavy reliance on an anonymous hotline for reporting allegations could be inherently suspect.

Employees tend to come forward when they feel that their company is going to handle their complaints fairly and responsibly, whether or not the hotline is

anonymous, Mr. Wigdor said. “Where it’s clear based on prior conduct, messaging, how you treat employees when they come forward to make a complaint — that they’re not going to be retaliated against, that it’s taken seriously, I don’t see a need for a hotline,” Mr. Wigdor said.

(Mr. Wigdor said that none of his three clients, who have collectively worked at Fox and its predecessor for more than 25 years, had any recollection of a hotline at the company. The Wigdor firm also represents two employees of The New York Times in a pending federal lawsuit against The Times, alleging age, race and gender discrimination.)

Other plaintiff’s lawyers said anonymous hotlines are often anything but. “They are usually run by third-party vendors, who assign a number to a case, and ask for a method to get back to you,” Ms. Katz said. “Unsophisticated people will provide the company an email and will frequently become the subject of investigation themselves.”

At Sterling Jewelers, the parent company of Kay Jewelers and Jared, employees who reported allegations of sexual harassment by colleagues to an ostensibly anonymous tip line were sometimes contacted by company officials, according to filings in a class-action case against the company. One claimed she was fired not long after being told by a district manager to “grow some thick skin.”

Worse, the veneer of anonymity can perversely make retaliation by the employer easier: Companies can claim they could not possibly have retaliated because they did not know the identity of the tipster, when in fact they did. “If you suffer retaliation, you’re not able to say, ‘The reason I was demoted, sent to Siberia, is because I reported this,’” Ms. Katz said. “The company can say, ‘Hey, it was anonymous, we had no idea.’”

On the other hand, Ms. Katz said, companies often think twice about retaliating against someone who has come forward while using their name because the retaliation is easier to demonstrate.

Amid complaints that the Fox News human resources department was insensitive and even hostile to complaints from employees during the tenure of the

former Fox News chairman Roger Ailes, the network recently brought on a new executive vice president for human resources in a wide-ranging effort to revamp the department, a network spokeswoman said.

In one respect, at least, the Fox hotline did hold an advantage over the news channel's old human resources division: It appears to have been painstakingly impartial.

According to Lisa Bloom, who represents three clients who have made allegations against Mr. O'Reilly, contacting the hotline, whose operators work for a third party, was "like calling in a car insurance claim."

Her three clients made calls to the hotline that ranged from about 15 to 30 minutes in length, with some time spent on hold, she said. The clients were all asked to provide a short summary of their complaint and the person they were complaining about, and their name and contact information if they did not wish to remain anonymous.

"Each time they had to spell out Bill O'Reilly," she said. "How do you spell that? 'O' 'apostrophe' 'R.'"

She added, "Each time I had the sense that the individual taking the call was very professional, but had absolutely no idea of the significance of the call they were receiving."

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