GOVERNANCE

BASEL INSTITUTE ON GOVERNANCE

Protecting Whistleblowers: Successful experiences and lessons learned from country experiences

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Basel Institute on Governance



Governance (anti-corruption)

Anti-Money Laundering

International Center for asset recovery

Governance core activities

- Public & private sector anti-corruption mandates
- UNCAC compliance reviews
  - Indonesia, Kenya, Bangladesh

To blow the whistle





Current situation in Switzerland

- No whistleblower law
- Strong obstacles in labour law: strong duty of loyalty
- Compensation for unfair dismissal not more than 6 monthly salaries max.
- No reversal of burden of proof
- No right of reinstatement
- Not clear when external reporting is permitted
- Reports to the media only as the last resort

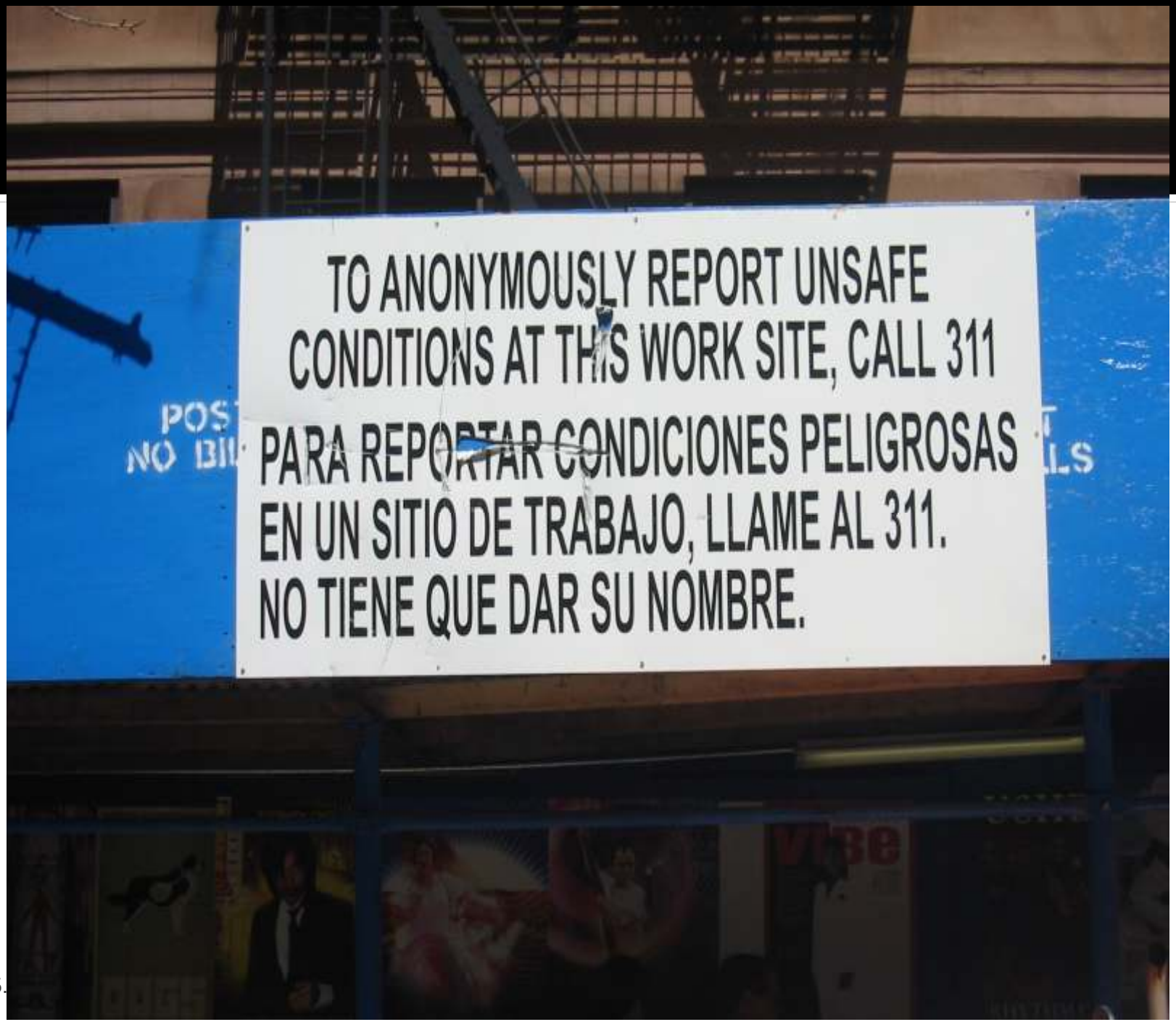
Bill pending in Parliament

- Everything stays the same; except
- External reporting possible if
  - Employer takes no measures within due course
  - Reasonable grounds to believe that employer will not take measures
  - Evidence might be destroyed
  - To eliminate imminent danger

Lessons learned

- Elements of an effective whistleblower law
- Involvement of the private sector crucial
- Taking concerns seriously
- Different cultures


TO ANONYMOUSLY REPORT UNSAFE
CONDITIONS AT THIS WORK SITE. CALL 311
PARA REPORTAR CONDICIONES PELIGROSAS
EN UN SITIO DE TRABAJO. LLAME AL 311.
NO TIENE QUE DAR SU NOMBRE.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Elements of an effective whistle-blower law

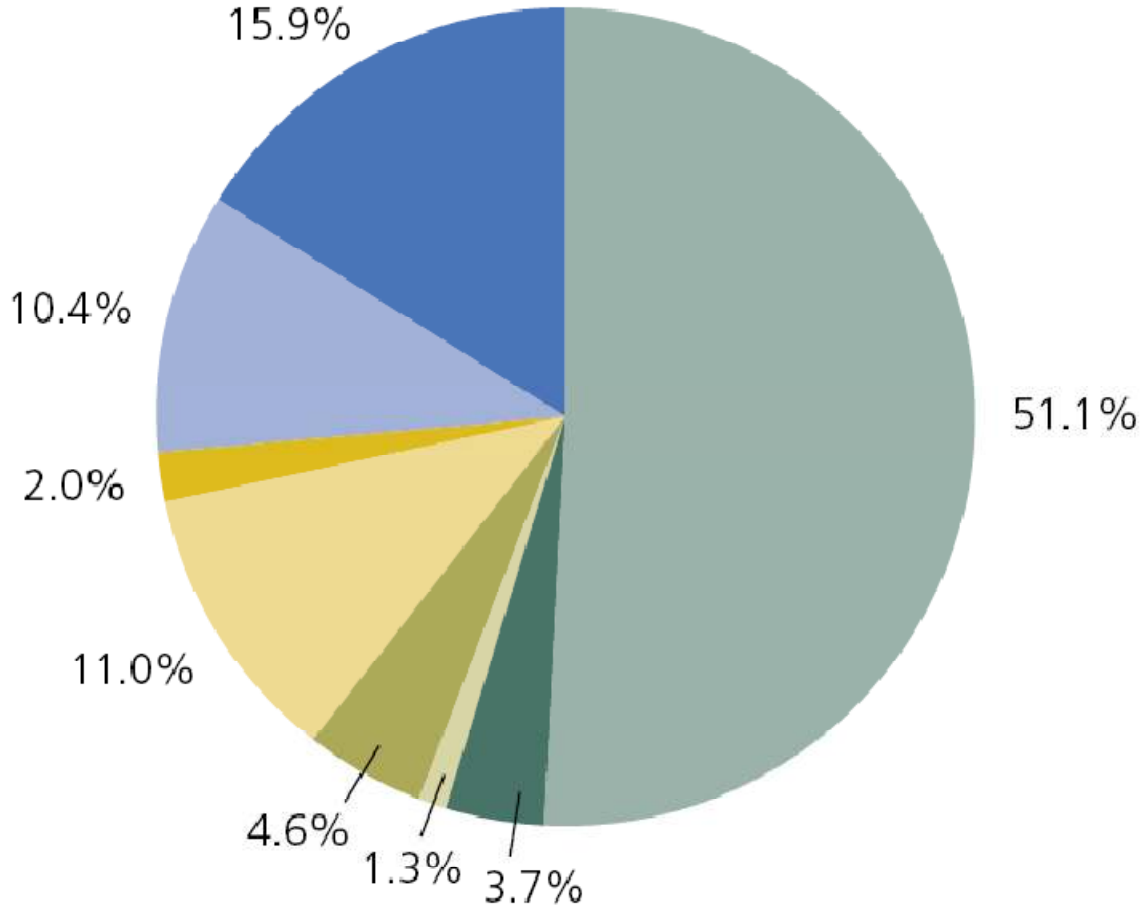
- Covering the public and the private sector
- Sanctions for retaliation (unfair dismissal)
- Burden of proof (partially) reversed
- Reinstatement & compensation for unfair dismissal
- No provisions of secrecy, loyalty etc. as obstacles
- Incentives for the private sector to introduce internal reporting mechanisms
- Obligation for p.o. to report illegal conduct

Further elements

- Codes of conduct
- Internal reporting mechanisms in the public and the private sector
- Designated authority/body to receive reports
- Anonymous reports possible
- Reports treated confidentially
- Training on how to use helplines

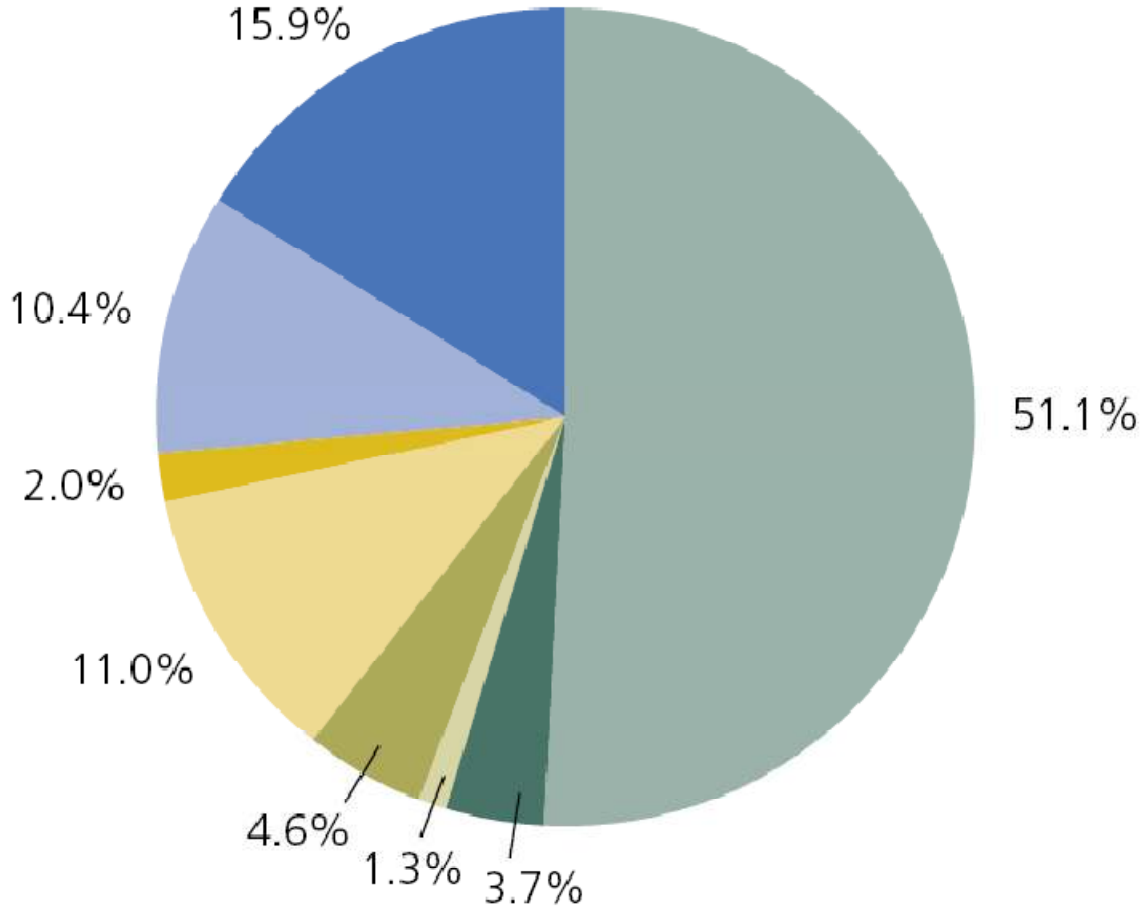
Incident categories reported

- Personnel management



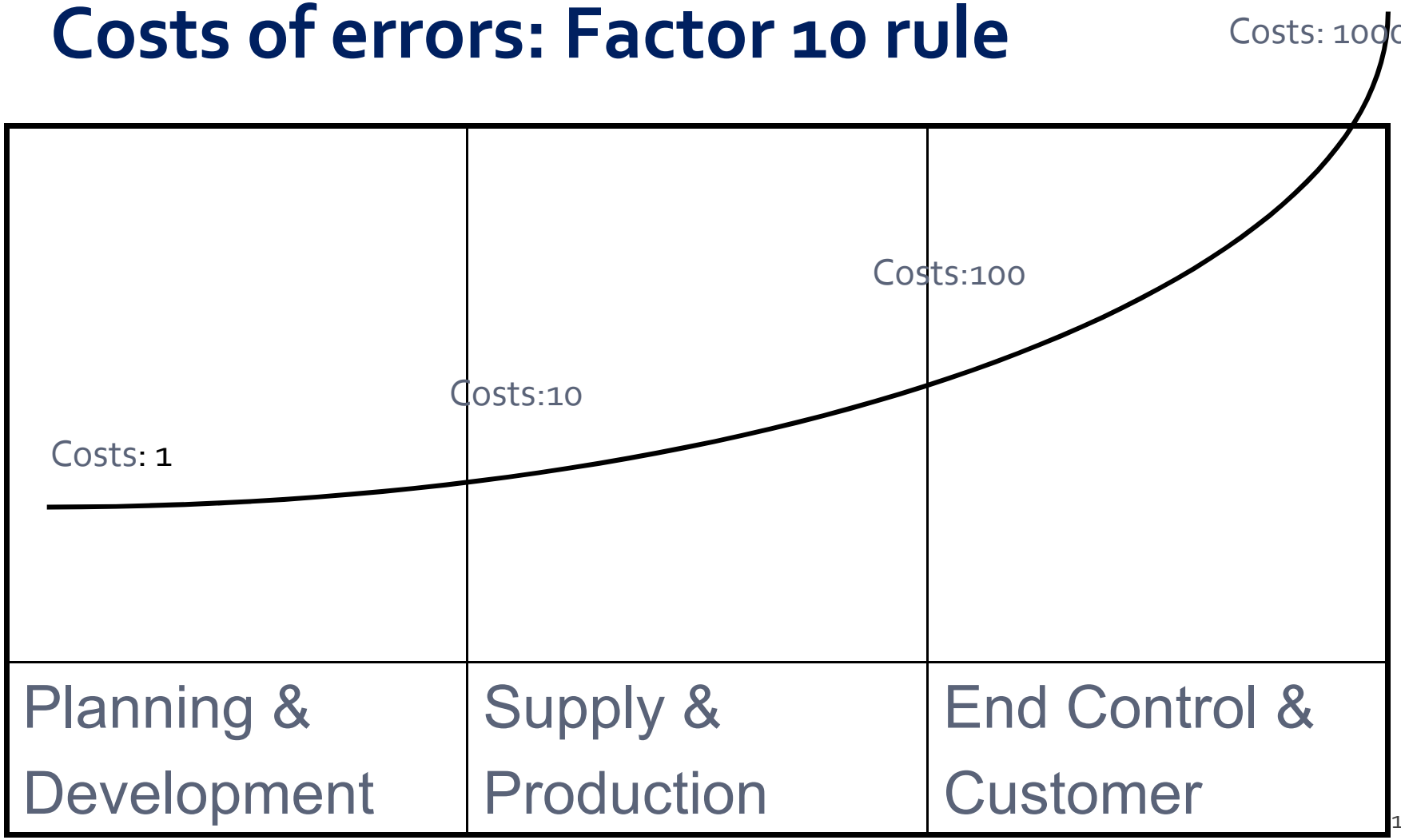
Incidents categories reported

- Company / Professional Code Violation (15.9 %)
- Employment Law Violation (11%)
- **Corruption and Fraud (10.4%)**
- Environment, Health and Safety (4.6%)
- Other / Unresolved (3.7%)
- Customer / Competitor Interaction (2%)
- Misuse of Assets / Information (1.3%)

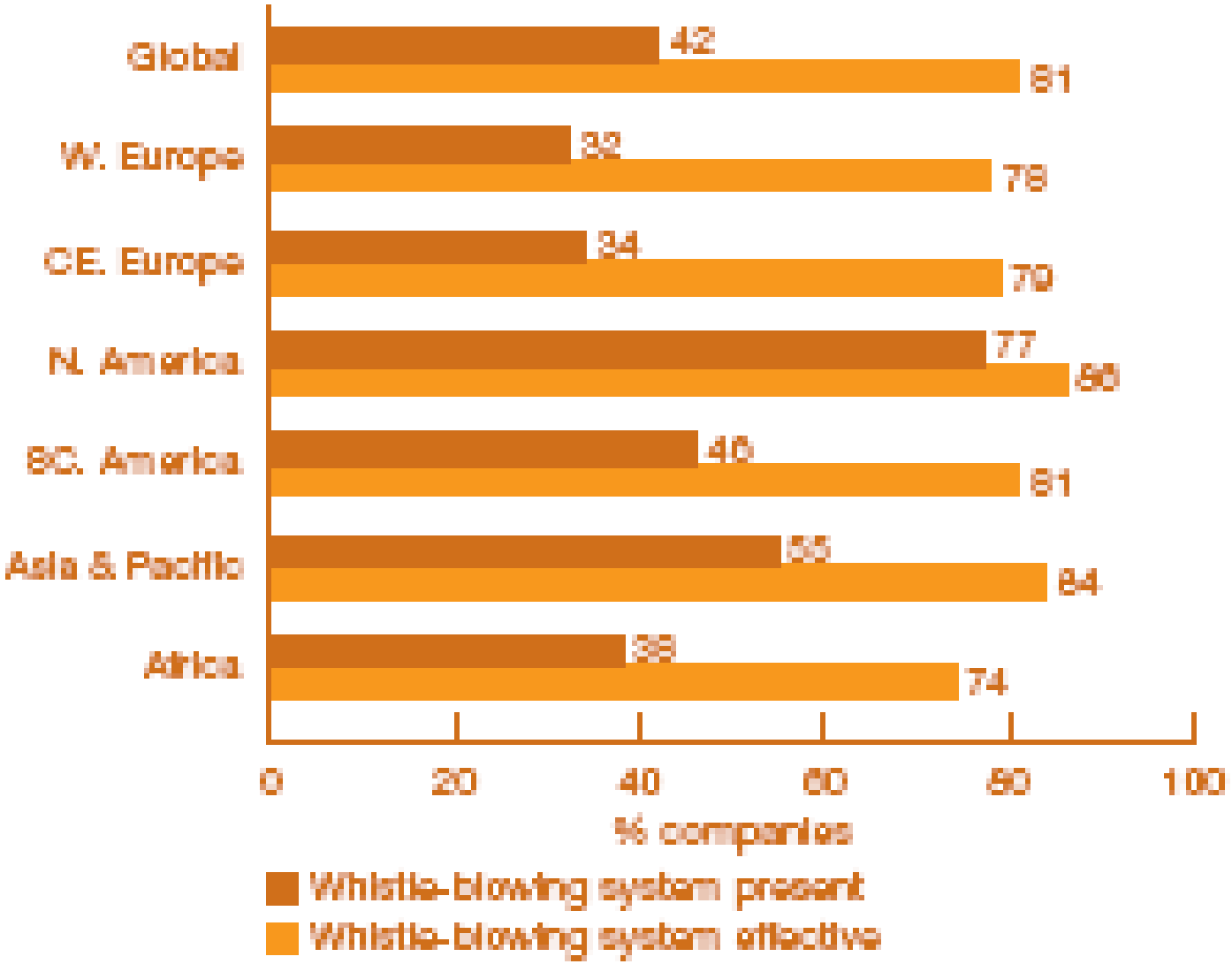


Involving the private sector

Costs of errors: Factor 10 rule



Whistle blowing systems in companies

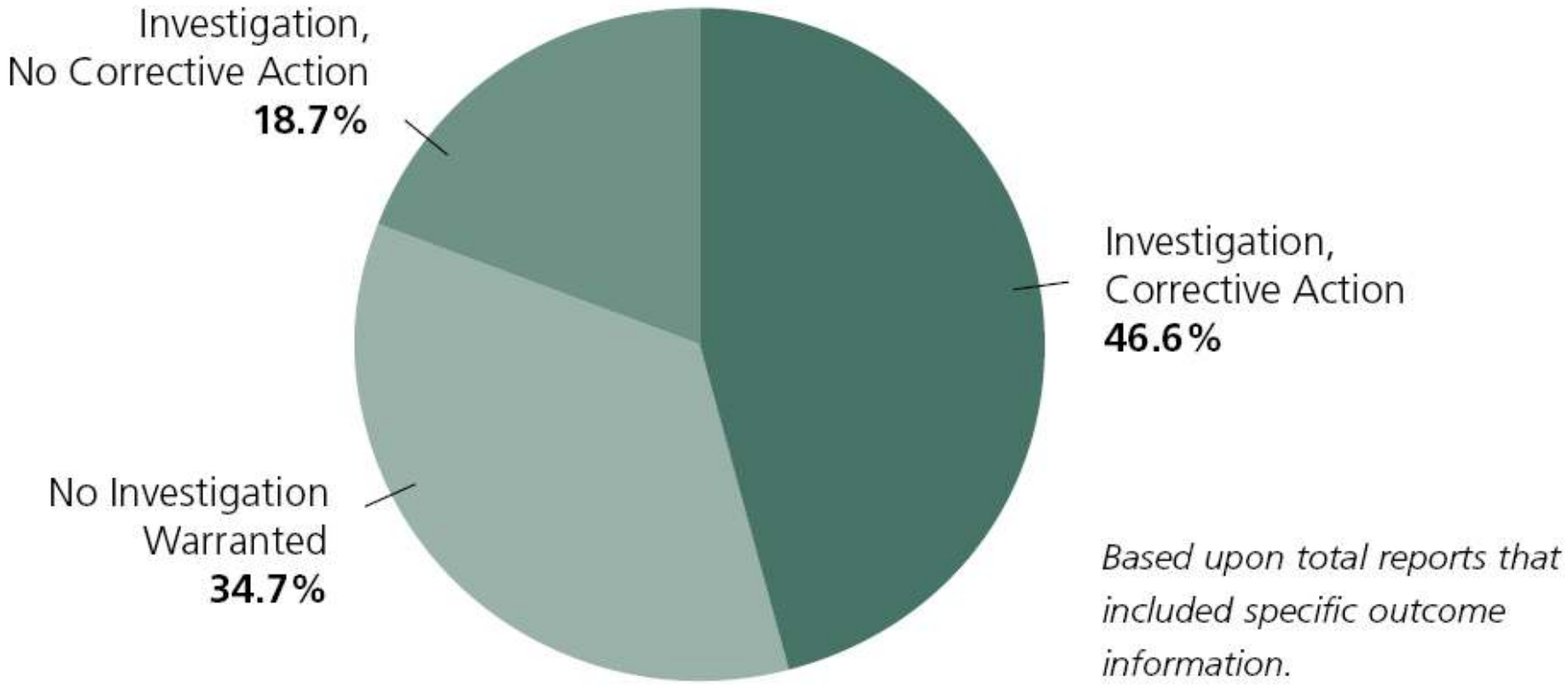


Lessons learned - concerns

- Whistleblowers = spies and snitches
- Whistleblowers = disloyal traitors
- Government / companies will be drowned in reports
- People will report mostly to get revenge
- People will report in order to be not dismissed

- Thank you for your attention

Case Outcomes



Based upon total reports that included specific outcome information.

Fear of Retaliation

- Ignore the message, shoot the messenger
- In 82% of the cases employees
  - were fired
  - quit under duress
  - had significantly altered responsibilities as a result of bringing fraud to light.
- More than half of all employees witness an act of misconduct each year (!)
- More than half of them are not reporting this observation due to fear of retaliation