MANAGING THE RISK OF IMPLEMENTING A HOTLINE AND RESPONDING TO HOTLINE COMPLAINTS

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USF **AGENDA**

- Defining hotline objectives
- Developing an implementation plan
- Establishing an operational plan for implementation
- Developing supporting policies and procedures
- Hotline management- perils & pitfalls
- Handling hotline complaints- perils & pitfalls

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USF **OBJECTIVES OF A HOTLINE**

- Establish a reporting system whereby employees can report misconduct without fear of retribution.
- Receive and resolve allegations of misconduct or other problems.
- Address and remedy conduct or unethical activity before it becomes unlawful or the company is required to report it to regulators.
- Meet regulatory requirements.

Potential Risk: Not understanding management's key objectives can result in implementing a system not aligned with your core culture.

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FACTORS DRIVING HOTLINE IMPLEMENTATION

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- Regulatory Requirements:
  - Sarbanes Oxley Act of 2002
  - HIPAA Privacy & Security Rules
  - Federal Sentencing Commission Guidelines
  - State mandates for Compliance & Ethics Programs
- Fraud Awareness & Rates of Occurrence:
  - Reputational Risk
  - Operational Risk
  - Financial Risk
  - Strategic/Compliance Risk

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IMPLEMENTATION PLAN

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- Will you buy it or build it?
- Who will fund start-up costs?
- What will be the recurring costs?
- When will the hotline "go live"?
- Who will be responsible after "go live"?
- How will it be communicated to users, by whom?
- What are our staffing needs?
- Who will train responders?

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PLAN OF OPERATION

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- Operating protocol and procedures
  - Who will be reporting?
  - How will you incentivize individuals to report?
  - What will they be able to report?
  - Who will respond to complaints?
  - What monitoring & reporting of hotline will occur?

Potential Risk: Once reported, concerns must be addressed promptly and consistently or they can create additional risks to the organization.

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POTENTIAL CATEGORIES

- Accounting, Auditing and Financial Reporting
- Business Integrity
- HR, Diversity, Workplace Respect
- Environmental, Health & Safety
- Misuse & Misappropriation of Assets

5% 7% 2% 15% 71%

Source: NAVEX Global 2016 Hotline Benchmark Report

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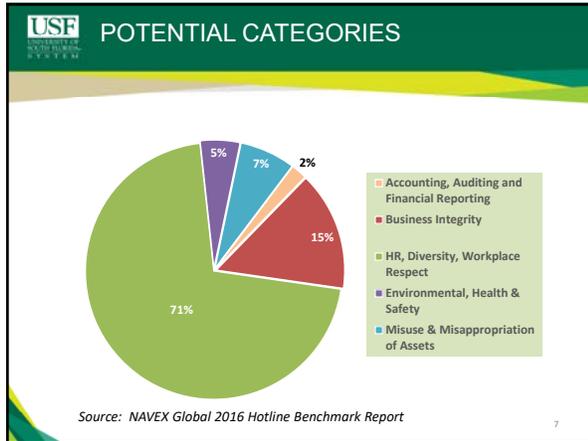
SUPPORTING POLICIES AND PROCEDURES

- Hotline Operation Procedures
  - Assignment of responsibility by reporting category
  - Monitoring and reporting of hotline results
- Fraud Policy
  - Duty to report
  - Anonymity/Confidentiality
  - Reporting to legal authorities
- Prohibition against Retaliation/Retribution/Reprisals
- Case management guidelines for hotline allegations/complaints

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PERIODIC REVIEWS

- Call volume and quality of calls received by the hotline consistent with intent
- Case closure time
- Results of reviews (Substantiated, Unsubstantiated)
- Actions taken as a result of the complaint
  - Disciplinary actions
  - Change in policy or procedures
  - Enhanced communication
- Number of instances where reporters used an external hotline which is referred to you.

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CALL VOLUME AND QUALITY

- Volume per 100 employees annually
  - 44% increase since 2010 (2015 range .3-10.3)
- Anonymous vs Named Reporters
  - 59% of reporters were named (small decrease)
  - 30% of anonymous reporters followed up
- Substantiated Rate
  - 11% increase since 2010 (2015 - 41%)
  - 47% of substantiated reports included named reporter

Source: NAVEX Global 2016 Hotline Benchmark Report

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HOTLINE MANAGEMENT- PERILS & PITFALLS

- Low Volume
- False Reports
- Vague Reports

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PITFALLS AND PERILS: LOW VOLUME

- Reporter is unwilling to report
  - Worried they will be labeled by peers as 'snitch'
  - Concerned company will be unwilling to take action
  - Distrusts leadership - doubts anonymity
  - Fears retaliation, retribution, and reprisals
  - Prefers to handle the matter themselves
  - Doesn't feel obligated to report
- Utilizing the hotline as the sole source for receiving a complaint is a mistake

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THREAT LANDSCAPE

USA vs. Median

Top Misconduct		
Abuse	Lying	COI
22%	22%	19%

In the absence of pressure: 17% observed Misconduct

Source: 2016 Global Business Ethics Survey

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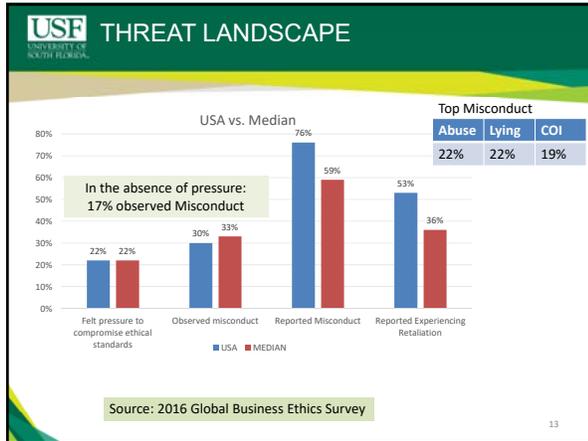
PITFALLS AND PERILS: FALSE REPORTS

- Malicious complaints should be covered with specific sanctions in your whistleblower/fraud policy and standards of conduct.
- Cannot assume vague anonymous complaints are not credible.
- Evaluate whether each complaint needs to be investigated based on established criteria before forgoing an investigation.

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EXAMPLES OF CRITERIA

- Gravity of the disclosed information doesn't justify the time and expense of an investigation;
- Benefit to the organization to have a final report on the disclosed information justifies investigation;
- Whistleblower information primarily concerns personnel practices and there is a low potential for an investigation to yield recommendations that might improve efficiency and effectiveness;
- Too vague or excessive time that has elapsed between the alleged event and the disclosure of the information.

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PERILS AND PITFALLS: VAGUE COMPLAINTS

- Communicate with anonymous reporter to obtain additional information.
- If individual received information secondhand, ask for the name of someone who can corroborate their concern.
- Let reporter know without additional information you will be unable to investigate their complaint.
- Follow your standard procedures for determining whether or not to pursue an investigation.

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HANDLING HOTLINE COMPLAINTS

- Complaint Intake
  – Initial communication with reporter
  – Notification of parties
  – Criteria for review

- Complaint Handling

- Complaint Closure
  – Final communication with reporter

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COMPLAINT INTAKE

- Have a formal process for intake of the complaint.
- Determine if there is an immediate need to notify other parties prior to determining predication.
  – Potential health or safety issue
  – Potential loss of sensitive data
  – Immediate threat of public relations damage
- Any scope limitations or material impairments directly related to a specific case.

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USF PITFALLS AND PERILS: FAILURE TO ACKNOWLEDGE RECEIPT

- Acknowledge receipt of each report with consistent messaging back to the reporting party.
- Communicate with the reporting party when they can expect information regarding the status of the complaint.
- Have a process in place which notifies the reporter if you are not going to pursue a complaint and why.
- Give the complainant a reasonable amount of time to respond to the notification prior to closing the complaint.

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USF PITFALLS AND PERILS: ANONYMOUS REPORTERS

- Don't try and determine the identity of the reporter
  - The information they offer is more important
- Learn about the reported event in other ways.
  - Interview individuals involved in the process, department heads or individuals named in the report.
  - Invite the report to call you anonymously via the hotline
  - Post questions to the reporter

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USF PERILS AND PITFALLS: MULTIPLE COMPLAINT SOURCES

- Complainant often file reports with multiple offices or organizations resulting in duplicative efforts.
- Have an established protocol for notifying other units or agencies who may have received the complaint.
  - Based on the nature of the complaint
  - Document reason for exceptions to this policy
- Maintain a record of everyone who is notified of the allegations throughout the investigation and the business need to know.

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PERILS AND PITFALL : FAILURE TO SECURE EVIDENCE TIMELY

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- Have a formal process in place for securing evidence:
  – Address the timing of evidence retrieval based on organization's data storage, retention, and retrieval processes.
  – Ensures personnel rights are not violated.
    • Involve human resources and legal counsel when appropriate.
  – Address situations where records may need to be secured prior to determining whether a full investigation will be performed.
  – Ensures those involved in the complaint are not involved in records security processes.

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PITFALLS AND PERILS: SLOW RESPONSE

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- Close cases which do not meet your criteria for further review on a timely basis.
- Communicate expectations to the responder.
- Communicate regularly regarding complaint status.
- Ensure adequate staffing to meet the hotline volume.
- Consider referring out low risk complaints to other departments for review.

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CASE CLOSURE – MEDIAN DAYS

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Source: NAVEX Global 2016 Hotline Benchmark Report

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PERILS AND PITFALL: COMMUNICATING WITH COMPLAINANT

- Manage the reporters expectations from the start.
  - Be honest about confidentiality expectations
  - Make sure they understand you don't recommend disciplinary actions
  - Do not let the reporter believe that the "actions they want" might occur if this is not likely to happen
- Do not "overshare" information being obtained during the investigation.
- Do not let the reporter control the investigation process or timeline.

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PERILS AND PITFALL: COMMUNICATING RESULTS

- Have a formal process for closing out hotline complaints.
- Make sure that the responder is given a reasonable amount of time to make a final response prior to shutting them out of the hotline system.
- Be cognizant of the data being stored within the hotline as it is discoverable and likely is subject to public records laws.

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