BEST PRACTICES IN ETHICS HOTLINES

A framework for creating an effective anonymous reporting program

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Abstract

Virtually all organizations are vulnerable to fraud and misconduct in the workplace. By establishing a proactive approach and engaging stakeholders to promote an ethical workplace an organization can significantly limit liability and loss.

A successful strategic approach undertaken by many organizations is the implementation of an anonymous employee hotline. The Sarbanes-Oxley Act, enacted in 2002, requires publicly traded corporations to provide a mechanism for reporting financial irregularities that enables employees who report information to remain anonymous. The positive results realized from this requisite has prompted not-for-profits, private organizations and government agencies to adopt similar reporting mechanisms for detecting and deterring organizational malfeasance. The Sarbanes-Oxley Act has even spurred a global shift as different cultures around the world recognize the value of such a mechanism for reporting unethical activities in the workplace.

The impact of fraud on U.S. businesses is costly to organizations, shareholders and consumers alike. According to the Association of Certified Fraud Examiners' (ACFE) 2008 *Report to the Nation on Occupational Fraud & Abuse*, it is estimated that U.S. organizations will lose 7 percent of their annual revenues to fraud. Based on 2008 figures, that translates to $994 billion in fraud losses.

This paper discusses techniques for developing an effective ethics hotline program by examining three critical stages: planning prior to launch, communicating to stakeholders about the hotline and reacting to hotline tips.

The most effective hotlines offer 24-hour, 365-day access to a skilled interviewer. For the best results, and to simplify communication, organizations should provide a single mechanism for reporting all workplace issues. Reports should be disseminated quickly to designated parties. The hotline should also be promoted with educational materials directed to everyone in the organization, including employees and vendors. This helps maximize usage and supports an ethical environment.

Using a centralized reporting mechanism, information should be disseminated to the most appropriate parties, which likely includes Human Resources, the Audit Committee of the Board of Directors, Legal and Loss Prevention, among others. Dual dissemination of complaints related to fraud acts as a system of checks and balances by ensuring that no single person is in possession of this highly sensitive information. This protects the integrity of the reporting mechanism. The hotline program's case management system should provide a centralized database for documenting the steps taken by the organization to investigate allegations reported via the hotline.

Once the data is available, an effective hotline program should provide management with a means for analyzing and managing the collected information. A robust reporting system offers managers the opportunity to not only view summary hotline information but also drill down to investigate specific details based on the user's unique needs. And it should be accessible, easy-to-use and – through both graphical and numerical interfaces – simple to interpret and analyze.

Taking an analytical approach to hotline data allows an organization to measure trends, compare their results to norms for similar organizations, and identify areas for improvement. The results of a feature-rich reporting system should include the timely, consistent and practical delivery of reports to all stakeholders and provide the ability for an organization to make better business decisions.

Introduction

There is a strong tie between employees reporting misconduct in the workplace and a company's ethics programs. The 2007 National Business Ethics Survey conducted by the Ethics Resource Center (ERC), found that in companies with comprehensive ethics and compliance programs, only 29 percent of employees fail to report misconduct they observe, in contrast to 61 percent in companies with no formal ethics and compliance programs. Nevertheless, still less than 40 percent of employees state that their company has a comprehensive program in place. The same survey found that ethical misconduct is in general very high with 56 percent of employees witnessing ethical misconduct.
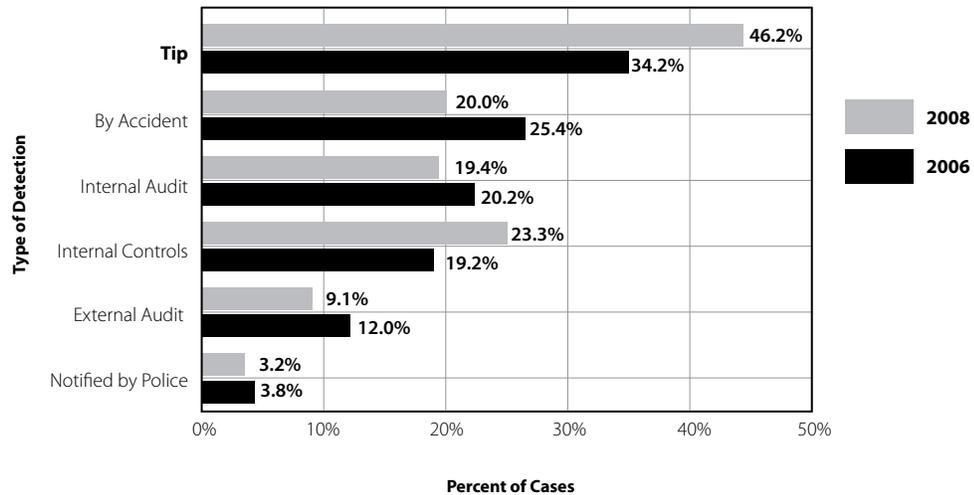
The Federal Sentencing Guidelines for Organizations define a comprehensive ethics and compliance program as one that includes six components:

• Written standards of ethical workplace conduct
• Means for an employee to anonymously report violations of ethics standards
• Orientation or training on ethical workplace conduct
• A specific office, telephone line, e-mail address or Web site where employees can get advice about ethics-related issues
• Evaluation of ethical conduct as part of regular performance appraisals
• Discipline for employees who commit ethics violations

One of the many requirements set forth by the Sarbanes-Oxley Act is providing a process for the anonymous reporting of accounting or audit irregularities. All organizations, whether public or private, benefit from fraud detection and deterrence by having such a mechanism in place.

This legal requirement has proven extremely helpful to auditors, who reap the benefits of a reporting tool that has demonstrated its usefulness in detecting fraud. In its 2008 *Report to the Nation*, the ACFE found tips are the number one method for reporting fraud. In fact, the ACFE found that organizations with a hotline typically cut their fraud by 60 percent. Organizations without a hotline lost an average of $250,000 while those with a hotline lost $100,000. The ACFE also found that tips were the leading common detection method for uncovering million-dollar frauds, accounting for 42 percent of initial reports.

Initial Detection of Occupational Frauds

Type of Detection	2008	2006
Tip	46.2%	34.2%
By Accident	20.0%	25.4%
Internal Audit	19.4%	20.2%
Internal Controls	23.3%	19.2%
External Audit	9.1%	12.0%
Notified by Police	3.2%	3.8%

Percent of Cases

Source: Association of Certified Fraud Examiners 2008 *Report to the Nation*

A key element of the Sarbanes-Oxley Act is that it states that the Audit Committee of the Board of Directors is responsible for "establishing procedures for the receipt, retention and treatment of complaints...regarding accounting, internal accounting controls or auditing matters." It goes on to specifically state that the reporting mechanism must enable employees to remain anonymous when making such a complaint. This is an important step toward protecting a whistleblower from possible retaliation.

SARBANES-OXLEY, SECTION 301 STATES:

Complaints.

Each Audit Committee shall establish procedures for:

A. The receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls or auditing matters; and

B. The confidential anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

Other key organizations have found the ACFE's statistics compelling. The American Institute of Certified Public Accountants (AICPA), the organization that sets ethical standards for CPAs, published a tool for evaluating an anonymous hotline in 2005. The AICPA recommended that all organizations establish a whistleblower hotline, ideally by using an external provider in order to enhance the perception of confidentiality. The AICPA also encouraged using a trained interviewer via the telephone rather than a voice mailbox, maintaining a hotline 24 hours a day, 365 days a year and implementing alternative reporting methods such as Websites, e-mail addresses, fax and regular mail. The AICPA's full advice regarding improving the hotline effectiveness can be found at http://www.aicpa.org/audcommctr/spotlight/jan_05_whistleblower.htm.

As public corporations and other organizations review and revise their governance procedures, there are certain hotline best practices that are helpful in developing a hotline program to uncover fraud and other unethical and/or illegal activities. These best practices are illustrated by breaking down the anonymous reporting process into three steps:

1. Planning the Hotline Program
2. Communicating the Hotline
3. Reacting to Hotline Tips

Step One: Planning a Successful Hotline Program

GETTING STARTED

At first blush, implementing a hotline may seem to be a simple endeavor, but planning an effective reporting process can be quite complex. It must adequately protect the confidentiality of anonymous callers while gathering information necessary to resolve complaints or allegations. A modern hotline program requires a plan for:

• How information is to be received;
• How information is to be distributed; and
• How records of complaints and investigations are to be maintained

Depending on the size and complexity of the organization, it's often best to appoint an executive project leader who champions the implementation process. In order to create a program that meets the needs of the entire organization, the project leader should embrace representatives from Legal, Finance/Audit, Human Resources, Risk Management/ Loss Prevention, Operations, the Board of Directors, Information Technology (IT) and Communications. A group representing all operational areas typically meets several times to discuss the plan and anticipate any enhancements that would make the program more valuable. For example, if the organization is large enough to anticipate a steady stream of reports, Human Resources or Loss Prevention may have an existing case management system. Hotline data can easily be fed into an existing system via an EDI data feed. While this is a simple matter for the IT department, having this conversation early ensures a smooth launch.

GIVE EMPLOYEES, SUPPLIERS AND OTHERS OPTIONS
FOR COMING FORWARD

The most effective way to learn about fraud is to provide employees, suppliers and other stakeholders with a variety of methods for reporting their concerns about illegal or unethical behavior. These intake methods include traditional telephone interviews, Web forms, e-mails, faxes and face-to-face meetings.

Interactive communication, such as a face-to-face conversation or a hotline interview, generates more detailed information than a one-way communication, such as an anonymous voice mail or a Web form. While some individuals may feel comfortable coming forward through an open door policy, others may not and thus the importance of having multiple reporting options available. The hesitation some employees feel about revealing their identity may be due to fears about potential retaliation for reporting a peer or manager. In these situations, the hotline interview is the best option for the organization because an interview conducted by an experienced interviewer maintains anonymity yet results in the capture of the most actionable information possible.

The ultimate goal is to give employees, suppliers and other stakeholders every possible means for coming forward, so they report information to top management or to the Board of Directors, rather than turning to the media. A hotline will most likely uncover additional sensitive situations from employees than previously reported face-to-face, but it is far better to learn about these situations from a hotline than from a surprising telephone call to the CEO, or worse, from a headline. When a concern is reported internally, the organization can investigate and take corrective action, potentially avoiding the additional threat of devastating negative publicity.

Ernst & Young conducted a survey of employees to understand their reporting preferences. Of those surveyed, 80 percent said they would be willing to report a co-worker's illegal or unethical activity, and 39 percent would be more likely to make a report if they could remain anonymous.

The employees who were willing to report fraud stated the following preferences:

• 57% chose a hotline as their preferred method for reporting fraud
• 20% said they would prefer to write an anonymous letter
• 16% said they would use an anonymous Website.

Employees tend to prefer an anonymous telephone hotline because they have more confidence that they can remain anonymous. They often fear that electronic communication can be traced back to them. This fear can cause them to either not report their concern, or worse, report it to a source outside of the organization.

It is interesting to note that not all hotline callers are anonymous. Approximately 46.5 percent of hotline callers give their names, and roughly one-third of hotline callers report they have previously informed management of the situation. These callers use the hotline as an additional mechanism for reporting issues they feel have not been handled adequately through face-to-face reporting.

Factors influencing anonymity include the level of trust participants have that their information will remain confidential, the significance of the issue being reported and the confidence that the report will be acted upon. The type of incident also has an effect on anonymity as individuals reporting customer/competitor interaction and personnel management incidents are more likely to remain anonymous than those reporting incidents in corruption and fraud or company/professional code violations.

INTERNAL VS. EXTERNAL

Some organizations provide an internally managed hotline as an option for employees who are uncomfortable discussing issues face-to-face. Reports to the hotline are frequently routed to an employee somewhere in the organization, generally in Human Resources, Legal or the Ethics office. An internal program may seem attractive, but there are some serious drawbacks. For instance, if employees realize they are calling an internal number, they may be afraid their identity will be traced and decide not to submit the report. There are also operational issues, such as the potential for inconsistent handling of sensitive calls and callers encountering voicemail. An internal hotline also leaves the organization vulnerable to charges of covering up issues involving management.

In comparison, an external process provides greater safeguards of anonymity and avoids even the appearance of impropriety. An external hotline is also typically more attractive to use from home or another location outside the office as there is less fear of detection. It is also important to evaluate what happens on the back end of the hotline. Will adequate case management or reporting be available with an internal hotline? An external hotline may have a set of sound processes in place for managing information that comes from the hotline.

Making the decision early on about whether the hotline will be administered internally or externally is important because it will influence many aspects of the program. For example, the dissemination process may require greater planning for an internal hotline while an external provider will typically have a set of escalation channels and those associated processes pre-defined.

While there are costs associated with an external hotline, the financial investment is small compared to the potentially disastrous financial repercussions associated with malfeasance that goes undiscovered. With the expertise, trained personnel, resources and technology already established to operate a hotline and conduct quality assurance, a professional hotline provider can usually provide these services for much less than it costs to implement them internally.

RECEIVING TIPS: TELEPHONE INTERVIEW, MESSAGE SERVICE OR WEB FORM?

The most effective method for any communication is a two-way conversation in which every unclear or incomplete statement can be clarified. The Federal Bureau of Investigation (FBI) recognizes a hierarchy for communications during an investigation, with face-to-face communication best, followed by telephone interview, followed by written communication. The FBI emphasizes the importance of live interaction over written communication because of its ability to detect and question nuances like the inflections of the voice or the presence of other voices in the background coaching the caller. A skilled interviewer will also be able to notice red flags indicating a potentially bogus report, such as an inability to answer logical questions or an avoidance of certain questions.

This is best illustrated through the example of e-mail. Most people have received an e-mail message that was ambiguous, resulting in a desire to ask the author a clarifying question. This is an inherent risk of written communication over live communication. In the case of an e-mail, the recipient can either reply to the e-mail or can often call the sender to pursue the clarifying information. Unfortunately, when communication is received from an anonymous source such as by means of a Web form or voicemail, the recipient cannot simply reply with a new question. Advances in technology have not altered the fact that a skilled interviewer will ask questions and clarify information to a degree that is not feasible through other intake channels.

The most effective hotlines are staffed 24 hours a day, 365 days a year. Around-the-clock coverage is vital, since nearly 50 percent of hotline calls happen outside of regular business hours, and each call deserves the full attention of an experienced interviewer. Typically, employees don't call from the workplace and won't leave a message, so it's important to have someone standing by 24/7 who knows the right questions to ask in order to gather all critical information and then, importantly, follow escalation guidelines.
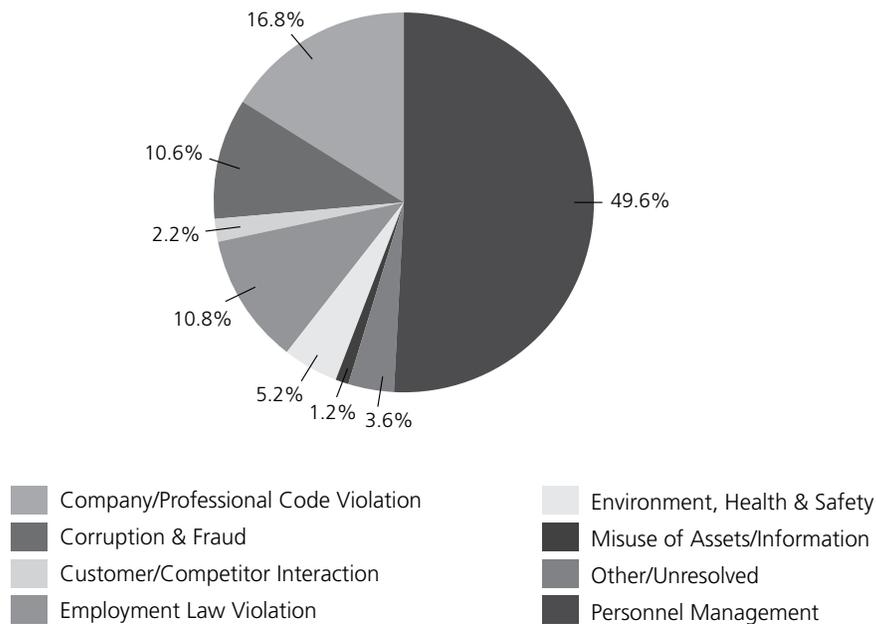
The need for human interaction is especially critical when dealing with an anonymous caller, because there may never be another chance to document his/her complaint. An anonymous caller is typically in an emotionally charged state and may feel threatened. If he or she even leaves a message, it tends to be incomplete and disorganized, omitting details that would help the organization investigate the allegation. Gathering information via a suggestion-box style approach (e-mail, voice mailbox, Web form, etc.) does not make the most of a unique opportunity to learn from a concerned caller. A professionally trained interviewer asks questions that help the organization gain enough information to successfully investigate. Legally, this is a very important point because receiving a tip constitutes notice of an issue. The organization may be exposed to greater liability if it is found to be aware of an issue without taking action to investigate and correct it.

It is important to understand that the organization will continue to receive anonymous information through a variety of channels outside of the hotline program, including voice messages, letters and faxes. Information received through any channel should be funneled to the same people who receive hotline reports. Ideally, this information should be maintained in the same case management system with hotline reports to provide insight into all issues reported, regardless of the source.

SHOULD ONE HOTLINE ACCEPT COMPLAINTS ABOUT MULTIPLE ISSUES?

Employees, suppliers, consumers and other stakeholders are more likely to use a hotline to report an issue that makes them uncomfortable. If complaints regarding discrimination and sexual harassment, both high-liability issues, are turned away because the hotline is "for Sarbanes-Oxley Complaints Only," this may alienate the employee, who has made the difficult decision to take action. It is better to learn about any high-liability issue as early as possible, so that damage control can begin and potential legal action can be averted. Therefore, having a general ethics hotline in place gives the organization an opportunity to limit their liability regarding offenses such as harassment or discrimination.

Frequency of Incident Categories Reported

Pie chart segments labeled: 16.8%, 10.6%, 2.2%, 10.8%, 5.2%, 1.2%, 3.6%, 49.6%

Legend:
- Company/Professional Code Violation
- Corruption & Fraud
- Customer/Competitor Interaction
- Employment Law Violation
- Environment, Health & Safety
- Misuse of Assets/Information
- Other/Unresolved
- Personnel Management

Source: 2007 Corporate Governance and Compliance Hotline Benchmarking Report

Another issue is that many large organizations already have multiple hotlines to report a variety of incidents. For example, there may be one phone number for reporting harassment, another for reporting theft and a third for safety issues. This is typically difficult to communicate, and people may not understand which number is best suited for the nature of their concern. Offering one hotline for a host of complaints makes communication simple for callers. At the same time it reduces the burden of communicating about the hotline. Until the consolidated hotline number is firmly established, numbers can be automatically forwarded to the new universal number. The hotline provider can implement a distribution process that ensures the appropriate people continue to get complaints regarding their areas of responsibility, as discussed in a later section, "Dissemination of Information."

WHO WITHIN THE ORGANIZATION SHOULD "OWN" THE HOTLINE?

In any organization there are several departments that should be interested in the ethics hotline, including Legal, Human Resources, Internal Audit, Security, Risk Management and Loss Prevention. Consider the interests of each department when planning the reporting process.

If the organization is publicly traded, the Legal Department is interested in assuring the organization is in compliance with Section 301 of the Sarbanes-Oxley Act, which requires the organization to provide a mechanism for reporting financial irregularities while offering employees anonymity. The General Counsel should also be aware of complaints that may result in legal action, such as those regarding discrimination, wrongful termination or violations of regulatory standards.

Many of the hotline reports depict unfair treatment, discrimination, harassment, substance abuse or concerns about corporate policies. For this reason, some organizations choose to make Human Resources responsible for managing the hotline program and any hotline vendor relationship. If the organization has an Ethics or Compliance Officer, this person is an ideal candidate for "owner" of the hotline program.

Both HR and Legal need to be involved in organizing the hotline and formulating complaint report distribution rules in order to meet regulatory requirements and ensure that the right people receive information in a timely manner. Other departments, such as Loss Prevention/ Risk Management, Audit and Security are typically involved in developing the report distribution and escalation guidelines. This ensures that the appropriate departments learn about the issues concerning them.

Another department that needs to be involved early on in the planning of a hotline is IT. There may be a need to set up mailboxes or plan for data feeds if there is substantial call volume. Discussing these issues up front makes the entire process run more smoothly in the long run.

DISSEMINATION OF INFORMATION

One of the most important aspects of planning the hotline is deciding where to send information that is received. A system of rules must be developed to determine what happens to information upon completion of the report.

One of the most important aspects of dissemination is planning for checks and balances. Dual dissemination can be a helpful practice for ensuring that complaints are not overlooked or mishandled. A system of dual dissemination involves having an Ethics or Compliance Officer receive copies of all reports as a secondary layer of dissemination, beyond the report sent to the person responsible for investigation. For example, reports of harassment would be sent to Human Resources as the primary recipient of the information, with a copy to the Ethics Officer as the secondary recipient.

Dual dissemination acts as a protective measure in case a report is sent to the accused party. If a report is received by only one person, and that person has a motive for preventing an investigation, the system is vulnerable.

Complaints that have potential legal implications, like allegations of discrimination, should be sent to Legal and HR to ensure that both departments are involved in the investigation. Depending on the organization's structure, there may be other interested groups. For example, some organizations have a Risk Management or Safety department that should receive reports of unsafe working conditions. Similarly, Loss Prevention should receive reports regarding internal theft, Internal Audit should get reports of vendor fraud, and Security should get reports of potential workplace violence.

Sample Report Distribution Structure

ISSUE	POTENTIAL RECIPIENTS
Employee Mistreatment	Human Resources, Ethics Officer
External Fraud	Internal Audit, Loss Prevention, Risk Management, Ethics Officer
Accounting Irregularities	Audit Committee, External Auditors, Internal Audit, Ethics Officer
Workplace Violence	Security, Operations, Legal, Human Resources
Employee Theft	Loss Prevention, Human Resources

Note: The distribution structure will vary based on the organization's structure.

ESCALATION CRITERIA

Another extremely important aspect of the planning process is determining procedures to be followed when a time-sensitive issue is reported. The hotline implementation group, which should include representatives from each operational department, must agree upon a list of topics that are sufficiently critical to require immediate escalation 24 hours a day and what topics are left for normal next-business day notification.

Although many hotline reports do not require immediate notice 24/7, there are certain high-risk situations that may be reported through the hotline. These incidents or allegations should be considered prior to hotline implementation, so the management team has a shared understanding of how such a situation will be handled.

Reports generally requiring immediate escalation include:

• Threat of violence or physical harm to employees or customers
• Threat of business interruption
• Notice that a high-risk incident is expected to happen within the next 24 hours

Depending on the nature of the organization's business, impending incidents requiring immediate escalation will vary. Many organizations classify the following as critical incidents:

• Fraud

• Falsification of company records

• Release of proprietary information

• Theft

• Media inquiries

When a report is received that is designated for immediate escalation, the organization should implement a set process to contact representatives immediately based on a pre-determined list of home and cell phone numbers of key personnel. In the case of a report received at 11 p.m. on a Friday night, immediate notification enables the organization to take preventative action rather than discover the report on Monday morning, which may be too late to address the issue. Use of a professional provider also ensures that there will be no bias involved in the decision to escalate time-sensitive issues.

GLOBAL OPERATIONS

Multi-national organizations face special challenges when it comes to making their hotlines available to global employees. Knowledge of any potential differences in legislation for all locations helps determine what steps must be taken to ensure your hotline program is compliant in countries outside of the United States. A case in point is since the enactment of the Sarbanes-Oxley Act in 2002, many countries including Canada, Japan, France and Germany have established similar legislation or guidelines but with many subtle differences. In France, the hotline must comply with specific criteria outlined by the government privacy agency, Commission nationale de l'informatique et des libertés (CNIL). CNIL guidelines stipulate that anonymous calls are not to be encouraged and that the scope of a hotline must be limited to specific types of incidents. In Germany, guidelines are in line with the CNIL however define the scope of hotlines more broadly to cover ethics issues beyond the purely financial and accounting issues envisaged by the French and European Union (EU) guidance. Another aspect that demands attention is that for companies working throughout Europe they must comply with EU data transfer privacy rules. Understanding the directive for data retention is also important.

In June 2006, Japan enacted its Financial Instruments and Exchange Law. It is effective in all fiscal years ending after April 1, 2008. Commonly referred to as "J-SOX," this law applies to certification of internal financial controls. An ethics hotline is a crucial internal financial control and thus must comply with this law.

Communication to employees must be reviewed for potential cultural issues. As a best practice, many organizations involve managers and labor representatives of international locations in the development stage of all ethics-related communications in order to uncover cultural nuances that should be addressed. Discussing these issues during the early planning stages ensures the program's complete support throughout the organization.

There are also issues regarding the translation of both hotline interviews and communications materials and how to offer equal accessibility (toll-free telephone, Web, etc.) across the globe. Global callers must be able to place a toll-free call to reach the hotline. The organization cannot make the assumption that offering a Web reporting option is sufficient for global support. This assumes that all employees have access to the Internet. In many areas of the world Internet access is not affordable or reliable, so depending on an Internet hotline solution can be the equivalent of only offering the hotline to the highest paid employees.

International dialing options vary by carrier around the globe. For U.S.-based organizations, collect calling is convenient when available, but many telephone providers around the world no longer offer collect calling to the United States. Depending on areas of operations, a method of cost-free reporting needs to be devised and effectively communicated to employees.

Once the employee has placed a report, the hotline interviewer should be able to conduct the interview in the caller's language, using an interpreter if necessary. It is imperative that employees are able to report information in their native language, so they are as comfortable as possible during a potentially stressful conversation.

DATA SECURITY AND RETENTION

Ensuring that information from hotlines is kept in a secure environment is another important aspect of the planning stage. Safe Harbor certification ensures that an organization provides adequate security of personal data in accordance with the Department of Commerce and the EU's directive on data protection. Ask the hotline provider or the IT manager about the processes and safeguards that are in place to protect confidential information. For example, is the data vulnerable to hackers? Are employees of the organization's IT department able to easily access confidential information? Have interviewers been trained about confidentiality? Interviewers should have passed an extensive background check and signed a strict confidentiality agreement as part of the hiring process. Another data protection technique that should be considered is encryption of report information to ensure the security of e-mail transmissions.

As mentioned previously, the CNIL requirements and other directives of EU limit the amount of time that organizations can keep records generated by the hotline. Depending on the country and the findings of the investigation, records must be destroyed within a specified time period. Multi-national organizations seeking to comply with guidelines of different countries should ensure their case management system is set up appropriately.

Step Two: Communication – The Key to Hotline Effectiveness

Once the hotline processes are defined and operational details are in place, it is time to focus on the communications plan. Hotline communications should be part of a broader program of defining the organization's ethics policy and promoting ethical behavior in the workplace. Communications that promote ethics and encourage use of the hotline not only help detect issues, but should also help prevent them by creating a culture of ethical behavior. Statistical data bears this out; the ACFE's 2008 *Report to the Nation* found that the median loss in organizations with fraud awareness or ethics training was $150,000 — half that of the loss for those organizations with no training. Organizations with awareness programs in place also experienced fraud schemes of a significantly shorter duration.

OBJECTIVES AND STRATEGIES

Prior to developing the plan, an organization must first determine the program's goals and objectives. What results does the organization want to achieve? What do they want the program to accomplish and how will the results be tested? A base line needs to be established prior to program implementation.

As with any communication that seeks to modify behavior, there are strategies that help ensure the program's success. Strategies to keep in mind while developing the communications plan include:

Top Down – Is the purpose of the program communicated and supported from the very top of the organization? Visible support from top executives is especially critical in any program seeking to modify employee behavior. If a program is seen as unimportant to top management, employees may disregard the communication.

Shared Understanding – Are the roles of each participant identified and understood? If everyone does not have the same understanding of his/her role within the program, the process will break down.

Documentation – Is there a way to measure and document the program? For example, is there a way to document that each employee has received information? Documentation can help evaluate the causes of a program's success or weakness and guide future decisions.

Recognition – Is there a way to recognize positive performance? For example, if an employee reports theft, is there a way to reward him or her financially? If a hotline report inspires a change in policy, publicly applauding the person who drew attention to the situation demonstrates the usefulness of the program. This, in turn, inspires more participation.

Forward Strategies – How will ongoing support and communication requirements be managed? Is there a plan for evaluating and periodically redirecting the program? Thinking ahead about the future direction of the program ensures its success.

KEY MESSAGES

As mentioned previously, communication about the hotline should ideally help create and maintain an ethical workplace. A communications team that includes top management should be involved in developing an ongoing ethics communication campaign. An ethics communication campaign is essentially an advertising campaign that seeks to inspire a certain behavior within an audience.

As with any advertising campaign, the first step is to determine desired behaviors and the key messages that will help motivate these behaviors. A good place to begin when identifying key messages is with an organization's code of conduct; it is one of the most essential components in creating and maintaining an ethical culture. A code of conduct is a valuable resource for employees to turn to when they have a question about company policies and serves as a central component to a compliance program that helps teach employees how to make ethical decisions.

Key messages should include:

• Behaviors that are expected (i.e., conducting business in a legal and ethical manner)
• Behaviors that the organization does not condone (i.e., illegal and/or unethical behavior)
• What to do if you are aware of unacceptable activities. This aspect of communication must include information about all of the available avenues for reporting unacceptable behavior. This ensures people are aware of their options.
• How to access the anonymous hotline
• What happens when you report through the hotline

It is then relevant to study the target audience (be it employees, suppliers or others) to determine how to effectively reach them. What are their demographics and psychographics? How do they receive communications? Where do they receive such communications? How much of a part does differing locations play in how best to communicate with employees? Also, what is their current attitude toward and perception of the organization and how it handles ethical issues?

Employees may also need special communication from the organization explaining the nature of issues related to Sarbanes-Oxley. These materials should define terms like "accounting irregularities" and "insider trading," which may not be clear to all employees. Topics should include insider trading, improper loans to executives, accounting irregularities, conflicts of interest and whistleblower retaliation. Finally, these materials should emphasize that the Sarbanes-Oxley Act makes it illegal for the organization to retaliate against an employee who reports accounting or audit irregularities. It isn't just managerial employees who report fraud. Support personnel like administrative assistants or building maintenance staff may be aware of unethical behavior, so it's important to communicate clearly to everyone about unacceptable behaviors.

DELIVERY METHODS

When developing a plan it is important to determine a budget in the early stages of the process. This plays a key role in establishing parameters for communication methods and deliverables. For example, if employees are wide-spread, meetings may prove costly while electronic communications are significantly lower in cost than their written counterparts.

These communications should educate participants and motivate them to report their concerns. Based on the results of studying the target audience, it will be clear how to effectively and efficiently communicate your message. Generally, the strongest method of communication is through team-building meetings and other face-to-face opportunities. However, these messages should be reinforced with supporting communications delivered through vehicles such as posters in break rooms, e-mails, Web meetings, articles in employee newsletters, wallet cards, brochures and corporate intranet sites. There is an added "soft benefit" to communication: It reinforces the employee's perception that the organization wants to know about illegal and unethical activities, and it helps an employee decide to make the call.

While developing delivery methods for the hotline communication, organizations at the same time may refresh their code of conduct; for many organizations, their code of conduct is out of date in not only content but format. In today's workplace, a code of conduct, along with an organization's hotline communications, needs to engage employees. The content should be easy to understand, its language suitable for all employees and its tonality positive and inspiring. An effective code of conduct focuses on encouraging employees to support and maintain an ethical workplace. It also requires a delivery makeover, transforming it from a traditional hard copy document to an interactive electronic tool complete with hyperlinks, a searchable database, vivid graphics and illustrations.

Although ethics can be a sensitive topic, an experienced hotline provider can assist the organization in developing effective messages and vehicles for launching the hotline. They can also develop an appropriate plan based on the unique needs of the organization.

LAUNCHING THE PROGRAM

Like any new initiative, a hotline requires the proper launch in order to be truly successful. The initial communication to participants should include an announcement from top management about the program's goals and objectives. This helps set the program's tone by indicating that top management truly supports it.

Employees should be told the organization is providing them with every opportunity to report problems and that the information they report will be sent to top management and/ or to the Board of Directors. It is important to stress reporting anonymity at this point and throughout all communications. Information about the program should be posted on the organization's intranet site and in break rooms. It should also be introduced in face-to-face meetings wherever practical.

Every employee in the organization should receive a letter or flyer announcing the program. Ideally, this packet should include a card that he or she can keep in a wallet or purse as a reminder of the phone number and Website address. Remember, nearly half of hotline reports happen outside of normal business hours, so it is critical to help employees keep the hotline information handy.

To add an element of fun to the kickoff, the use of electronic mediums can play a tremendous role in engaging employees. For example, teaser e-mails with built-in "movie trailers" can create buzz prior to the launch. A live Web meeting for the launch featuring top executives, interactive surveys and sample scenarios can deliver a strong message on an organization's commitment to an ethical workforce while providing clear messages in an upbeat environment.

New employees must receive this information as part of their orientation. Managers throughout the organization should receive an implementation guide that informs them about the program, helps them encourage employees to use the hotline, and prepares them to handle questions.

A REPORT COULD COME FROM ANYWHERE

Hotlines are a well-established tool for detecting fraud, and the best return on investment from a hotline comes from focused communication beyond your employee base. If the organization is being swindled by a supplier, there may be employees working for the supplier who know about it and who may be bothered by the illegal activity. Listing the hotline on checks issued to suppliers is an inexpensive action that has helped uncover fraud for many organizations. The ACFE 2008 *Report to the Nation* also promotes communication efforts to the non-employee audience. The report revealed that more than 30 percent of reports came from external sources.

Public corporations should also inform investors about the hotline. This action tells shareholders the organization has complied with this aspect of Sarbanes-Oxley and validates the corporate commitment to uncovering fraud. Publishing the hotline to investors offers them a convenient way to communicate their concerns to the organization.

Percentage of Tips by Source*
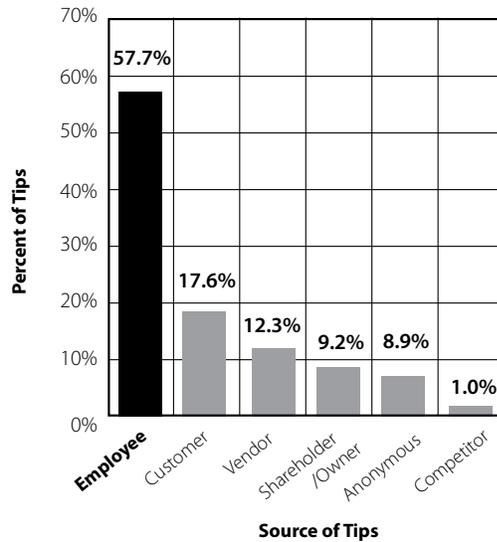
*The sum of percentages in this chart exceeds 100 percent because in some cases respondents identified more than one source of the initial tip.

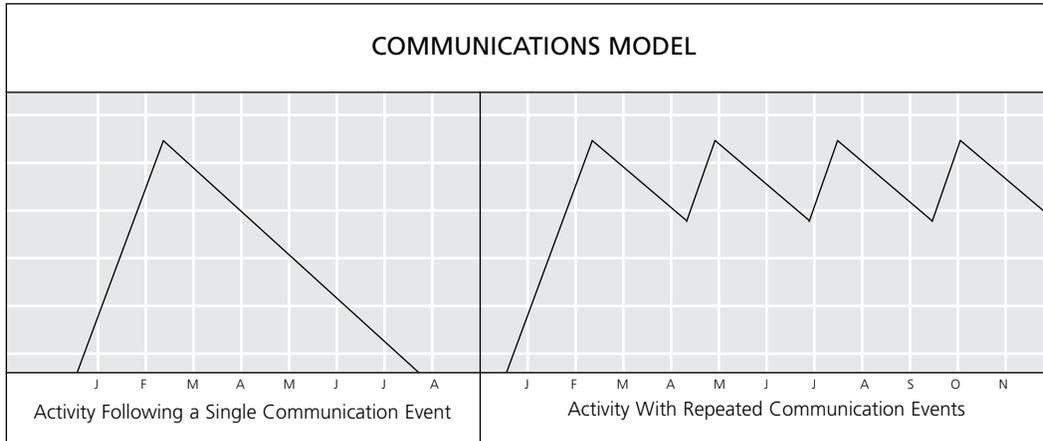Source: Association of Certified Fraud Examiners 2008 *Report to the Nation*

GLOBAL COMMUNICATIONS

For organizations operating outside of the United States or with a diverse employee base, a decision must be made about how to communicate to employees for whom English is not a native language. Depending on the organizational structure, it may be feasible to print bilingual materials, or it may be necessary to have several translations of primary communications tools. The communication pieces must also include specific information and language as mandated by the employee's country of residence. Currently, some European countries require compliance with the CNIL guidelines. Under these guidelines, communications must indicate who has oversight of the hotline and if a third party is engaged to operate the hotline and the location of that company. Communications must also include a required statement that abuse of the hotline can expose the caller to disciplinary actions and that anyone identified in a hotline report must be given the opportunity to access and correct information.

Another issue is hotline access. Some countries may require dialing an international operator or some other step that is not required for callers in the United States. The specific dialing/reporting procedures must be outlined accurately for employees of each country, in their native language.

KEEP THE HOTLINE "TOP-OF-MIND"

A hotline produces stronger results if communication to employees about their options for reporting issues is consistent and persuasive. There is a well-defined pattern of hotline activity that follows a rule of advertising: When a tool is publicized, people use it for a while, and then they forget about it.

COMMUNICATIONS MODEL

J F M A M J J A	J F M A M J J A S O N
Activity Following a Single Communication Event	Activity With Repeated Communication Events

Periodically reminding employees, suppliers and other stakeholders about the avenues for reporting unethical behavior (open door policies, ethics officers/ombudsmen and the anonymous hotline) increases usage and helps the organization uncover a variety of issues that can threaten profitability or reputation. Just as it is important to provide options for reporting concerns, it is equally important to make sure participants are aware of those options. Program maintenance communication is the most overlooked component of a hotline program. The best way to ensure it is not overlooked is by planning for communications at the time of program launch and each year thereafter.

Step Three: After the Call

A standardized system for responding efficiently and appropriately to hotline reports is a key element in fostering a culture of ethics throughout the workplace and aids in limiting the potential liability associated with illegal and unethical acts. Once a hotline report or allegation is reported it has to be addressed and when necessary, fully investigated. An effective preliminary investigation starts with a critical assessment of an organization's available resources to support an investigative process. This organizational assessment will serve as the foundation to determine what an organization can achieve through internal resources or if it is necessary to seek the services of an independent, third-party investigator.

However, prior to initiating an investigation, a series of steps should be taken to "triage" a report in order to determine its logical next steps. Organizations start this process by outlining the different types of unethical and illegal behaviors that may occur within their organization and determining who is best qualified to respond to each hotline report.

REPORT DISSEMINATION

It is important to set up dissemination rules that determine which individuals, groups or departments receive each type of report. The hotline implementation team should periodically review the dissemination structure to ensure any changes within the organization are reflected in the report dissemination rules.

ONGOING COMMUNICATION WITH ANONYMOUS PARTIES

When dealing with an anonymous party, the goal should be to capture complete and accurate information during the interview. This is based on the assumption that there may never be an opportunity to add additional information. An anonymous hotline or Web form should therefore enable the person reporting to follow up to offer additional information while maintaining anonymity. This is generally done by giving the person a process to follow for calling back to answer more questions from the organization. The anonymous party is given a unique code correlating to his/her report and is asked to call back after a pre-determined interval. This gives investigators a chance to review the information and formulate questions to ask the caller if he or she calls back as agreed. While the call-back process can enhance an investigation, roughly two-thirds of anonymous callers never call back, so the quality of every interview is of critical importance. Even if the person reporting provides his or her name, the person may often refuse to answer questions provided by the organization or have second thoughts after making the initial report.

FOR PUBLIC COMPANIES

To ensure that allegations related to Sarbanes-Oxley reach the board, hotline incident reports regarding financial irregularities should be automatically routed to one or multiple Audit Committee members. The organization should set up a report dissemination routine with the hotline administrator. This enables the Audit Committee to receive any reports of

financial irregularities in a timely manner. Many companies elect to simultaneously send such reports to a member of the Audit Committee and to an internal employee, such as an Internal Auditor, Legal Counsel or an Ethics Officer, who works with the Audit Committee to manage the investigation.

INVESTIGATION OF ALLEGATIONS

Having received an allegation, the next step is to determine how the allegation should be investigated. Personnel who receive reports generally have procedures in place to investigate incidents pertaining to them. These processes should be periodically reviewed with legal counsel to ensure they are appropriate and effective.

Allegations of financial irregularities present a somewhat more complicated situation for public companies, as Sarbanes-Oxley requires the Audit Committee of the Board of Directors to develop a mechanism for the "receipt, retention and treatment" of complaints. Some organizations are developing relationships with external parties, such as forensic accountants or independent Certified Fraud Examiners. This gives them an independent resource to manage an investigation, should an allegation arise. Given new independence requirements for external auditors, many accounting firms have formed alliances that enable them to recommend a second firm for special projects such as these.

Regardless of who oversees the investigation, the elements of a thorough investigation are the same: gathering key evidence, conducting in-depth interviews and documenting the findings. The elements are cyclical, as evidence is gathered and personnel are identified, new evidence will present itself along with the names of additional people to interview. It's a process that should continue until objectives are met and a comprehensive report is completed. A thorough investigative report is an organization's best ally in assuring an ethical workplace.

When investigating an incident based on a confidential hotline tip, it is important for the organization not to reveal that it is reacting to a tip. Disclosing this information is a breach of confidentiality and may put the whistleblower at risk. For more information about investigating allegations, visit: http://www.tnwinc.com/downloads/investigativetips_whitepaper.pdf.

TRACKING THE "TREATMENT" OF COMPLAINTS

The tracking of the treatment or management of complaints is best met with a case management-driven database. A sophisticated database enables an organization to document every complaint and then add information regarding the actions they have taken to investigate each allegation. The database should record the final disposition of the investigation and the nature of any discipline or other corrective action taken as a result of the complaint. Should the organization be sued, this documentation can be very helpful in a court of law. This is another area in which a qualified third-party hotline provider can assist the organization by providing an established system for documenting investigative activities.

MANAGEMENT REPORTS

A hotline program is dynamic with activity that peaks and plunges as a result of activity within the organization. The introduction (or elimination) of a training program, a renewed emphasis on ethical behavior by the CEO, a lapse in written communications about ethics – all of these (and a myriad of other factors) can contribute to the number of hotline tips and reports.

Activity Count per Original Report Month
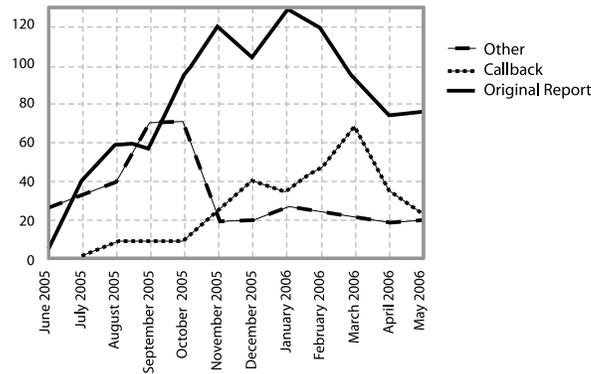
To effectively detect problems, analyze trends and manage the program, an organization needs ready access to a reliable reporting tool. Organizations should seek a reporting tool that provides high-level summary information as well as detailed information and can filter information by incident type, volume, time frame and location. The formatting and display of the data is important; a graphical format can help users better interpret the data and make educated business decisions. And for organizations that use case management tools, reporting should include details about the status, volume and resolution of allegations.

Organizations should look for "hot spots." Is there a division that seems to have more issues than others? If so, there are probably opportunities for employee training or increased management training to improve the situation. Is there an investigator whose number of past-due cases is consistently high? There may be a need to evaluate the investigator's caseload or his/her ability to manage the load. Is there one location where very few calls are made? Perhaps communication about the hotline has not reached this group.

Analysis of data is key to making future enhancements to a program. The best hotline programs are ones that gauge the effectiveness of campaigns, assess the need for additional training, track trends and evaluate the overall health of an organization. An effective reporting tool can drive this effort.

BENCHMARKING

Comprehensive reporting tools give organizations a good grasp on their hotline activity. But to measure its overall ethical health and the value of its ethics program, an organization needs to look outside the bounds of its corporate walls and compare its hotline activity to that of similar organizations.

Are other organizations seeing the same rate of anonymous reports? On average, what percent of employees are reporting through the hotline within a certain industry? What incidents represent the highest number of reports industry-wide? Benchmarking provides organizations with the metrics it needs to determine if its hotline activity is considered high (or low) within the industry. Then the organization can analyze the information in order to determine why the hotline activity fluctuated. This knowledge can drive the need for change within a hotline program, suggest the need for new initiatives or reinforce the conduct of ones that are already in place.

Conclusion

For many years, organizations have been using hotlines to detect theft and fraud with great success. But until recently, some organizations still considered them a luxury, rather than a necessity. Since the passage of the Federal Sentencing Guidelines more than twelve years ago and the more recent corporate scandals, hotline usage has dramatically expanded. A variety of business sectors have found hotlines to be critical tools in their efforts to uncover and manage a variety of unethical or illegal activities. And given the current trend toward outsourcing non-critical functions and the advice of the AICPA, it is logical that hotlines should be externally operated by a neutral, experienced organization.

Lawmakers have further validated the need for this reporting mechanism. Establishing an anonymous hotline gives corporations access to a powerful tool for detecting fraud and other harmful activities. It also assures investors and customers that the organization has made a long-term commitment to maintaining the highest standards of business conduct.

The Association of Certified Fraud Examiners' 2008 *Report to the Nation* suggests hotlines should be open to participants beyond the employee population in order to maximize results. By making hotlines available to vendors, contractors, and the general public, both the quantity and quality of reports would increase. Having these hotlines would also help to deter unethical or illegal activity and demonstrate the organization's commitment to ethics.

Creating a successful hotline program involves thoughtful planning of the reporting process, the communications strategy and the back-end issues of investigation, data management and analysis.

About the Authors

The Network pioneered the employee hotline industry over 25 years ago. Today more than 2,500 organizations, including almost half of the Fortune 500, rely on The Network for centralized reporting of sensitive workplace incidents. The Network also offers comprehensive communications services to support employee communication initiatives. For more information about The Network, call 800-357-5137 or visit www.tnwinc.com.

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