The Ethics & Compliance Initiative (ECI) empowers organizations to build and sustain High Quality Ethics & Compliance Programs (HQPs). ECI provides leading ethics and compliance research and best practices, networking opportunities and certification to its membership.
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INTRODUCTION AND CONTEXTUAL BACKGROUND

This report was developed through a series of discussions by an Ethics and Compliance Initiative sponsored benchmarking group, comprised of many different companies and organizations, including public, private, non-profit, and governmental, ranging in size and geographic scope. Participating companies and organizations have compliance and reporting programs that vary in structure, but nonetheless reflect common themes such as investigation quality, confidentiality, non-retaliation, and consistent discipline. Most ethics and compliance departments work closely with other departments, such as Law, Internal Audit, and Human Resources, though they may not reside under the same reporting structure. Larger and/or more heavily regulated companies have a more autonomous organizational structure for their ethics and compliance function, while other companies maintain that function within their legal department. Ethics and compliance departments typically have ownership of the case management tool and oversight of the hotline, even if the intake process and investigations are managed by another department.

This paper outlines what these companies and organizations collectively determined were the best practices for reporting functions based on individual experience of what works well and what does not. For purposes of this paper, the term “reporter” is used to summarize the various ways these companies and organizations refer to individuals reporting issues to ethics and compliance functions (e.g., reporter, reportant, reporting party, complainant, caller).

A company or organization may elect to utilize these best practices in varying forms. The key is to embrace the underlying principles in a fashion which best serves to balance the organizations size, legal needs and resources with quality and integrity of investigative outcomes.
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EXECUTIVE SUMMARY

Fundamentals of workplace and compliance investigations are what matter. Fairness, objectivity, and thoroughness, evenly applied through the continuity of investigative processes across the organization, will ensure reliable and defensible outcomes, while active remediation and consistent discipline flowing from findings protect the organization in the event of a legal challenge. The U.S. Department of Justice (DOJ), Criminal Division, Fraud Section, considers specific factors (known as the “Filip Factors”) when conducting an investigation of a corporate entity, determining whether to bring criminal charges, and negotiating plea or other agreements. These Filip Factors include “the existence and effectiveness of the corporation’s pre-existing compliance program,” and the corporation’s remedial efforts “to implement an effective corporate compliance program or to improve an existing one.”

The DOJ recognizes that each company’s risk profile and solutions to reduce its risks warrant particularized evaluation, and accordingly, the DOJ looks at common questions that may be asked when making an individualized determination in each case. Of these common questions, one category highlighted by the DOJ is the subject of this white paper, namely, “Confidential Reporting and Investigation.” This category is summarized by the DOJ in three areas: effectiveness of the reporting mechanism, properly scoped investigation by qualified personnel, and response to investigations. To aid in being able to answer questions raised under the Filip Factors, this paper outlines what the participating companies and organizations collectively determined were the best practices for reporting functions, based on individual experience of what works well and what does not, related to hotlines and investigations.

Additional considerations exist for publicly traded companies listed on a U.S. stock exchange and thus governed by the Sarbanes-Oxley Act of 2002. That statute contains two very different provisions addressing corporate “whistleblowers,” including:

- the whistleblower procedures that audit committees must establish pursuant to Exchange Act Rule 10A-3 (mandated by Sarbanes-Oxley Section 301), and
- the whistleblower protections provided by Title 18 of the U.S. Code (mandated by Sarbanes-Oxley Section 806).

Rule 10A-3 of the Exchange Act directs NYSE, Nasdaq and other national securities exchanges or associations to require a listed company’s audit committee to establish formal procedures for addressing complaints relating to accounting and auditing matters. Rule 10A-3 implements the new audit committee rule that the SEC adopted effective April 25, 2003. Listed companies must have these whistleblower procedures in place by the earlier of (a) their first annual meeting after January 15, 2004 or (b) October 31, 2004.

1  U.S. Department of Justice, Criminal Division, Fraud Section, Evaluation of Corporate Compliance Programs, p.1.

2  USSG § 8B2.1(b)(5)(C); FCPA Guide, p. 61; OECD Handbook, C.10, p.60 et seq.
Specifically, audit committees must establish procedures for the receipt, treatment and retention of complaints that the company receives from any source regarding accounting, internal accounting controls or auditing matters. Further, companies must take affirmative steps to protect reporters from retaliation and take all reasonable measures to protect confidentiality of investigations.

Rule 10A-3 does not require specific procedures that audit committees must establish. The SEC recognized in its final rule release that procedures effective for a smaller issuer may be very different from those effective for large multi-national corporations. The audit committee should also ensure that the procedures are aligned with the company’s ethics program, including the Sarbanes-Oxley mandated code of ethics and the code of conduct. Accordingly, this paper outlines general, not specific procedures that will help companies and their audit committees align with regulatory expectations.

Nonetheless, the procedures should, at a minimum, provide that the audit committee be copied on all complaints and be informed of the outcome of investigations based on such complaints which may have an impact on the company’s financial performance. That review may include matters which are not inherently financial in nature, including employee behaviors and cultural concerns which may give rise to greater operational impact.
Legitimacy of corporate hotline and investigation (“H&I”) functions is most dependent on the integrity of the investigation methodologies, sophistication of the investigators, the objectivity with which an investigation is conducted, and whether or not prescribed actions are effectively taken. Where corporate investigation models may be subject to scrutiny by government agencies, litigants, or Ethics and Compliance watchdog groups, the ability to demonstrate these quality indicators are essential to defensibility of process and results.

INVESTIGATIVE METHODOLOGY

It is critical that H&I functions are designed to drive a fair and objective investigation, and that conclusions be reasonable based on available and obtainable evidence. Process consistency is key to this goal. As a best practice, companies should utilize a unified, standard protocol for investigations that is documented, observed throughout the organization, and governed by a single function. Ensuring that investigations are conducted consistently each time also aids in the performance management of the investigative team.

The value of a well-developed defined intake and triage process cannot be understated. The process should be viewed as an important first contact with the reporter to gather information, as well as educate the reporter to the process and set expectations. Continuous integration of customer and stakeholder feedback, as well as identification of common themes, can support the build of a knowledge warehouse the intake specialist can utilize to respond to common questions or comments.

The intake and triage of allegations can be managed externally, internally, or a combination of both. It is critical to define a standard set of questions for intake whether through phone, web, or SMS to capture the minimum information needed to illicit responses to capture basic information to move forward with an investigation.

Additional consideration should also be given to establishing common taxonomy that aligns with systems and reporting capabilities, as well as determining clear guidelines as to what types of cases will be handled by an investigator or a subject matter expert. A well-defined distribution list outlining which types of cases should be assigned to each investigative unit minimizes delay in the start of the investigation.

Once an allegation is received and effectively triaged, a case plan should be developed by the investigative team to assure that all aspects of that allegation are effectively addressed and sources of evidence recovery are identified. Obtaining evidence can take some time, particularly if that evidence is in electronic formats, and so timeliness of the investigation cycle will be dependent on early requests for information from internal sources.

It is also recommended that companies formally adopt a standard of proof to guide the evidentiary
burden. Most companies use a preponderance of the evidence or totality of the circumstances standard (i.e., more likely than not that the allegation is true). Where termination of an employee may result, and thus in anticipation of a legal challenge by said employee or a labor union, some companies elevate the standard of proof to clear and convincing evidence.

Other considerations, such as language capabilities of the reporter and witnesses, whether or not to conduct interviews offsite, and the key questions that the investigator(s) will need to ask, should all be part of the case management plan.

**INVESTIGATOR PREPAREDNESS**

Establishing a training curriculum applicable to all investigators, case managers, and subject matter experts who will assist in evidence gathering and preparation is essential. Regularly scheduled trainings should be certification-based for tracking purposes, and refresher sessions should be required every three years. For dedicated investigators, or those in functions where investigators are typically found (e.g., Human Resources), onboarding processes for new hires can also include such training.

Training content should embrace, at a minimum: standard investigative principles, company rationale for having an H&I function, how to identify subject matter experts in the company, interview techniques, record keeping, confidentiality requirements, outbriefing expectations, and circumstances where escalation is required or desirable to the organization. Soft skills are also important to convey during training, such as composure under pressure, exercising objectivity, issue spotting, and applying analytical reasoning.

It is also helpful to assure that case managers and investigators have resources they can connect with outside of formal training, if required. Webinars are an efficient way of communicating program changes or enhancements to a broad audience, as are electronic newsletters and email notices. Standardized investigation tools, such as checklists, final report templates, quick reference guides, and other forms should be available for self-help access whenever needed.

**INDEPENDENCE OF THE HOTLINE & INVESTIGATIVE FUNCTION**

Companies differ in the structure and ownership of their H&I functions. Some companies utilize dedicated staff to conduct investigations. Most leverage internal staff who have “day jobs” and only do investigations occasionally. Certain companies prefer that their H&I functions are overseen by an independent company representative (e.g., Ombudsman), without direct reporting responsibility to executive leadership. Alternatively, some manage their H&I functions through legal, ethics and compliance, human resources, risk management, forensic, or audit functions.

Generally, most investigation functions have, at a minimum, a dotted-line reporting responsibility to the organization’s board of directors. Historically, public companies have required some sort of reporting responsibility to boards to demonstrate compliance with whistleblower statues, however similar structures are being implemented across private and non-profit entities as well to assure significant matters and trends are properly escalated for consideration in corporate governance.
As a best practice, any combination of approaches that will achieve the greatest level of independence is critical. Thus, a company with an internally governed H&I function should have dedicated investigators, while a company that lacks such dedicated resources should consider a model where an individual with investigation management and oversight reports to the company’s board of directors.

Notwithstanding the selection of approach, it is important that the H&I function be unified to the greatest extent possible. Varying investigative protocols, oversight of case management, and functional discretion, as well as different case management systems and “siloed” investigative information that can result, weaken the integrity and defensibility of corporate investigations. Further, the potential perceived or actual bias that can result from a lack of functional unity can compromise quality and create improprieties or inconsistencies in the outcome(s).

Typically, investigations are conducted through company staff with other primary responsibilities; dedicated, full-time investigators are not widely utilized. Most commonly, investigators come from functions such as ethics and compliance, legal, human resources, safety, security, and corporate audit. Outside resources, such as law firms, accountants, and security companies, can also be used where the matter necessitates complete independence in the investigation process or expert consideration. Regardless of the function, investigators must be savvy enough to determine the contributing factor(s) and/or root cause of a particular matter. Such contributing factor/root cause analysis is becoming essential to demonstrate meaningful compliance regimes in legal proceedings or government enforcement actions, particularly in light of the DOJ’s guidance on the “Filip Factors.”

**CONTINUITY OF DISCIPLINE AND PRESCRIPTIVE ACTION**

Employee discipline and remedial action must be identified and carried out timely for all substantiated allegations. Therefore, it is important that at the end of an investigation, all stakeholders meet to determine satisfaction with the results and formulate agreements on the action plan.

Many companies use an ad-hoc or a defined review committee method that follows a standard format for review of investigative findings and for discipline decisions. Generally, a case is not considered closed until it is reviewed and approved by a case manager or lead investigator for consistency, clarity, thoroughness, objectivity, and sufficiency of evidence. From there, the Ombudsman or Investigations Officer may revert the matter to the investigative team if not complete. By the time the matter reaches any decision-makers, everything should be well in order, with findings of fact supported by the evidentiary burden, analysis of the evidence, a conclusion, a proposed action plan that considers the contributing factors/root causes, and/or recommended disciplinary action included. Reports should protect the confidentiality of anonymous reporters to the extent possible. After the appropriate action is determined, case findings can be shared, on an anonymized and sanitized basis, with business and compliance stakeholders to leverage learnings across the organization.

For the review committee, stakeholders from ethics and compliance, human resources, legal, and business or functional management may be chosen depending on the circumstances. Actions taken for a
particular matter should be consistent with prior cases, and agreed to by all participants to assure follow-through and confirmation of completion, and documents in the case file, with dates of specific agreed actions taken. Additionally, follow up with the reporter (if identified) provides notification the investigation has been closed, thereby building trust with the reporter the organization has taken the allegations seriously. It also offers an opportunity to thank the reporter for raising concerns to be addressed promptly by the organization.

In some organizations, surveys are also distributed to the reporter to get feedback on the process. The results of the survey are reviewed to identify areas of satisfaction as well as areas of opportunity.

“Many companies use an ad-hoc review committee method that follows a standard format for review of investigative findings”
To be truly successful, an organization must be concerted in its messaging—across its internal departments, functions, and businesses—of the necessity to create a “speak up” culture. While the legal or ethics and compliance group often owns the task of producing awareness materials, companywide commitment by executive management, as well as site and local leadership, is essential. The value proposition behind transparency and escalation of issues in a timely manner must be well understood by both executive and middle management.

Posters, literature, and intranet postings, while still often utilized, are generally passive advertising. Companies are adopting more aggressive marketing methods to force conversations around transparency. Resources such as blogs, automated “Q&A” intranet-based solutions, roundtables, and management training sessions using ethics scenarios, are getting traction in public companies particularly. Such a wide range of awareness material is recommended, particularly when developed for varied audiences and reporting trends. The concept is to develop an understanding, through each company’s individualized compliance and training programs, of what is and is not acceptable in a way that employees can then recognize and escalate the behavior. It is also important to remember that ethics and compliance are contextual concepts. For example, a manufacturing plant with a low engagement survey score and a hotline reporting history of hostile work environment may benefit from line manager led anti-harassment training in lieu of desktop anti-corruption vignettes. Such an approach shows employees that the company, and their direct manager, are taking ownership of issues of importance to them. A confident employee who feels valued is also going to be more likely to report issues that may have a negative impact on the company, as personally, their needs have been met.

Organizations are aware that many of their employees do not have access to electronic communications, and in response, are looking for creative ways to connect with these employees. Personal device applications, while a great way to reach a broad audience, require significant legal consideration. Many production environments use computer kiosks to allow employees to access email, company announcements, and materials; however, the likelihood that effective compliance programs can be fulfilled through a kiosk serving 500 employees at a time is unlikely. Personal digital presence inevitably appears to be the path forward.

Materials should also be effectively distributed to drive results. Companies are leveraging tools, such as organization-wide ethics assessments or employee engagement surveys, to better understand local concerns. Also, allowing local or site management to engage with reporting functions to discuss high-

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1 Corporate Executive Board (CEB) offers an ethics survey utilized by multiple participants.
level trend data can help illuminate business conditions that trigger particular types of reporting, thus allowing for the generation of on-point materials that can be leveraged across other sites.

Another significant vehicle for marketing an H&I function is through recommitment processes to the organization’s ethics program. While most companies do this annually, it is also a good practice to seek recommitment after a significant investigation where leadership has demonstrably failed. Recommitment to ethical conduct and a duty to escalate compliance and workplace concerns should be led with a “tone at the top” approach, and then cascaded downward through the organization (i.e., CEO, VPs, senior management, middle management, first-line management, leads, employees). A program can also only be successful if the organization is led by example. Accordingly, organizations are increasingly leveraging terminations of leaders for compliance reasons to demonstrate unwavering commitment to their ethical principles and compliance with law. Employees who feel that they work for an ethical organization, that will not tolerate unethical or fraudulent behaviors within their leadership teams, will be more likely to avoid misconduct themselves and report the same when it occurs.

“Materials should also be effectively distributed to drive results”
Of critical importance to the integrity of a reporting program is the manner and speed in which reports are received, responded to, and assigned. A reporter needs to be reassured that their concern has been heard, and that someone will respond to it. Replying to a reporter within a short period (ideally within 48 hours) is essential to reassure the reporter that the program is effective, and to build trust in the process, both of which fosters cooperation of the reporter during the investigation. The initial response to the reporter is of such significance that companies are measuring and tracking this particular element through key performance indicators (KPIs), such as the initial response cycle-time, anonymous reporting (or conversion to confidential) rate, and/or number of reporters who refuse to respond to the initial H&I contact.

It is also imperative to have a reporting system that will allow for anonymous reporting and follow up communication with a reporter, as this will encourage the most reluctant reporter to come forward. Of course, it is ideal if the reporter sufficiently trusts the company’s assertions of confidentiality and non-retaliation; however, it is reasonable that some employees will doubt the process, particularly if the report implicates a manager or leader in a position of influence to the organization. However, an anonymous reporter may well decide to make their identity known, and increase cooperation after a report is filed, if the investigative team is responsive and sufficiently reiterates the company’s non-retaliation policy and reassures the reporter that the company will not tolerate retaliation.

Anonymous reporters’ issues tend to have a lower substantiation rate than identified reporters, as investigators often cannot follow-up to obtain additional information than that contained on the initial complaint, thus impeding the ability to investigate the matter fully. As such, H&I functions attempt to convert anonymous reporters to identified reporters, if possible, by explaining the confidentiality of the reporting and investigations processes. Some companies’ third-party reporting (intake) systems allow for anonymous reporters to be engaged via follow-up questions posted to the website of the service provider, while still maintaining anonymity. If no response is received from the anonymous reporter within 30 days, the case is closed; however, cases can be reopened in the future if the anonymous reporter makes contact again.

**INTAKE CHANNELS**

A majority of companies use a third-party hotline and case management system for compliance and workplace allegations. Such a tool supports the confidentiality of the data, and allows the company to more effectively manage legal elements of reporting in varying jurisdictions. Hotlines can be configured on a country-by-country basis to only receive reports permissible under local law. Further, most providers offer local numbers and operators who speak the reporter’s native language. Web-based intake forms
are generally also provided in multiple languages, and case management systems have translation capabilities. Some providers are also developing or have developed SMS, text, and proxy reporting capabilities that remove some of the formality of reporting.

Companies should also leverage opportunities for reporting during recommitment to their code of conduct, as part of an engagement survey, and during exit interviews. Managers and Human Resources representatives should be trained on and commit to escalate reports they may receive from employees who seek their guidance. Local investigations should be strictly prohibited to assure matters reach the investigation function. Offering multiple intake channels, with appropriate language, supports increases in the likelihood that employees will escalate issues.

TRIAGING A CASE

Reported concerns are typically triaged by dedicated staff, the number of which varies depending on the size of the organization. Dedicated resources for this phase of the investigation cycle is critical to assure like matters are similarly managed. Additionally, the process should require consideration of: whether the reporter has previously reported other relevant matters, whether the current matter has been previously investigated, the location at which the matter took place, any language issues that need consideration, the complexity or severity of the issues presented, and if the matter requires immediate notification to the company’s legal representatives or other compliance functions. Once all necessary considerations are made, assignments should generally follow in a manner consistent with previous, similar investigations.

ASSIGNING A CASE

Many companies adhere to a matrix formula for assigning case managers and investigators, across teams or departments, based on the type of issue. Management of cases often vary by the nature of the issue(s) presented. For example, an ethics function may manage compliance allegations, forensic audit may manage those of fiscal malfeasance, workplace misconduct may be handled by Human Resources, et cetera. Some companies prefer cross-functional assignment in intake-triage roles to assure checks and balances in the process. A case identification number, typically assigned by the case management software, is used for recording and retrieving case information and records. All case notes and information gathered during the intake process are passed along to the investigator; for those who operate in the same case management system (preferably), intake and investigations are managed under the same case file; for those who operate in different systems, information is shared with investigators through manual, less efficient case transfer protocol. Companies who use disparate case management systems risk inefficiency and/or inconsistencies in the results. This is where a centralized, electronic case management system—which is administered generally by dedicated staff, but which the multiple functions engaging in investigations can access—is preferable and affords many benefits. Whatever the preferred approach, it is important to employ consistency throughout the investigation cycle to ensure quality, balanced, and comparable outcomes.

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1 CEB Risk Clarity Benchmark suggests that a high percentage of reports get “stuck” at the middle management and Human Resources level.
At the foundation of any effective ethics and compliance program sits the cornerstones of maintaining confidentiality within the H&I function, as well as preventing retaliation for reporting a matter and/or cooperating in an investigation.

**CONFIDENTIALITY**

An effective reporting mechanism will afford the reporter, witnesses, and other involved parties confidentiality to the fullest extent the H&I function can afford. Companies and organizations almost universally allow a reporter to remain anonymous if they so desire, or they may choose to self-identify, upon which they are provided confidentiality to the fullest extent possible. Information related to allegations or the investigation is generally maintained as confidential until the end of the investigation, to not taint the investigative process. It is at this point where companies and organizations differ on the release of information, despite a business need-to-know enough detail to take necessary disciplinary or preventive action measures. Some companies maintain absolute confidentiality of the reporter, unless required by law to disclose, even avoiding the use of identifiable pronouns. Some companies redact both the reporter’s and all involved parties’ information from all versions of investigation reports, even those provided to functional partners (e.g., Human Resources) or business leader decision-makers. Remaining companies only redact the reporter’s or involved parties’ information if there is an affirmative request to remain confidential, otherwise those with a business need-to-know are provided with identifiable and attributable information from which business decisions can be made.

The release of limited information to functions and/or business leaders at the conclusion of an investigation turns on such things as: the seriousness of the allegation(s), the resulting business disruption, gaps in management, addressing ongoing issues between employees, need for organizational training, and/or implementation of internal controls, process improvements, or recommendations. Such release of information can come in the form of distribution of an investigative report, whether substantiated or not, or via a verbal summary of relevant details (e.g., an unsubstantiated allegation where there is less of a need-to-know pertinent details since no disciplinary action will result).

**ANTI RETALIATION**

Another effective reporting mechanism will afford the reporter, witnesses, and other involved parties with notice that prohibits retaliation for their involvement in the H&I process. Retaliation is taken seriously by all participating companies and organizations, and there is universal agreement that allegations
of retaliation should be promptly investigated, with substantiated allegations of retaliation receiving significant discipline. Statements regarding policies of anti-retaliation, and potential consequences for violating such, are added to codes, internal policies, and provided during H&I process steps. Retaliation cases are generally investigated by the same investigation team who performed the investigation on the initial complaint, as those investigators are the ones who provided the anti-retaliation warnings, are most knowledgeable of the facts of the case, and have a rapport with the involved parties. Companies engage in a monitoring process (i.e., a check-in) with the reporter at certain time intervals to ensure that no retaliation has resulted from their involvement in the H&I process. While it is not advisable to ask reporters if they have been “retaliated” against, as that is a legal conclusion, it is important to ask reporter’s questions to elicit responses that ensure no retaliatory behavior has occurred following making the complaint, such as no change to the reporter’s role, responsibilities, performance ratings, pay and benefits, work location, assignments, development opportunities, et cetera. Documenting the reporter’s response(s) verbatim, even if no retaliation has occurred, is a best practice should future external complaints or litigation be initiated against the company by the reporter.

“Companies and organizations almost universally allow a reporter to remain anonymous if they so desire, or they may choose to self-identify, upon which they are provided confidentiality to the fullest extent possible”
An emerging area for companies and organizations is using predictive analytics and root cause analysis for continuous improvement of ethics and compliance programs. Given that workplace investigators speak to most, if not all, of the involved parties, gather relevant information, and analyze the case to objectively reach findings of fact, investigators are in the best position to provide companies with the contributing factors—or drilling deeper to determine the root cause—of a matter. This information can be used to aid companies and organizations in developing preventive action plans, not only using the anecdotal information gleaned from a case report, but by analyzing the contributing factor/root cause data stored on each case over the course of time. Companies are expected to take such steps, as the DOJ “Filip Factors” ask specifically if analytics and remediation of underlying misconduct through root cause analysis is being considered, as follows:

### ANALYSIS AND REMEDIATION OF UNDERLYING MISCONDUCT

**Root Cause Analysis** – What is the company’s root cause analysis of the misconduct at issue? What systemic issues were identified? Who in the company was involved in making the analysis?

**Prior Indications** – Were there prior opportunities to detect the misconduct in question, such as audit reports identifying relevant control failures or allegations, complaints, or investigations involving similar issues? What is the company’s analysis of why such opportunities were missed?

**Remediation** – What specific changes has the company made to reduce the risk that the same or similar issues will not occur in the future? What specific remediation has addressed the issues identified in the root cause and missed opportunity analysis?

### DATABASES

Nearly all companies and organizations identified that a common or unified system for recording all data related to investigations is a best practice. However, those same companies and organizations reported having multiple systems or databases for storing case information, leading to fragmented data collection. On a positive note, companies are generally moving to a more centralized database approach, although oversight responsibility of such database may still be shared between various departments. Common,

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1 U.S. Department of Justice, Criminal Division, Fraud Section, Evaluation of Corporate Compliance Programs, p.1-2.
shared systems are desired for reporting and benchmarking purposes, as well as to encourage more formalized, consistent protocol for investigations. A single case management system, i.e. database, allows for trends and “hot spots” to be more easily identified and responded to, thereby allowing for more effective predictive and preventive actions to be developed and deployed.

**DATA INTEGRITY**

As mentioned previously, H&I functions operating in alignment under a single, common case management system helps ensure the visibility and viability of data related to all matters from reporters, as well as consistency in the data’s completion and thoroughness. As the old adage goes, “Garbage in, garbage out.” Companies and organizations reported that having investigation “silos” can, at times, create conflicting and confusing data sets, as well as different disciplinary and root cause corrective action outcomes. Ensuring data integrity supports the business case for compliance, as it helps identify trends in matters across a corporate enterprise, helps identify and control deficiencies, provides for consistency in record-keeping to assure policy adherence, and helps data privacy and jurisdictional legal matters to be properly addressed. Additionally, training all H&I functional staff in database content and format under a common, single case management system increases data integrity, which in turn, aids in ethics and compliance programs being effective and robust.

**METRICS AND STANDARDIZED REPORTING**

Reported concerns and resolutions are routinely reported to pertinent parties. There is a universal call for H&I data analytics by top leadership within companies and organizations, predominantly by boards of directors, audit committees, executive management, and functional leaders (e.g., legal, ethics and compliance). Content of reports are generalized and anonymized. The reporting cadence at most companies for data analytics report-outs is quarterly, and no less than once per year. Reports typically include trends and analysis to signal behaviors of business units or locations, with the typical information shared being:

- volume of reports overall
- volume of reports by category
- volume of reports by business units and/or sites
- volume of anonymous reporting, substantiated versus unsubstantiated cases
- resulting discipline or corrective actions

In addition to generalized and anonymized data, companies should also leverage the learnings from specific cases to design controls around non-compliance; utilizing such information is a compelling justification for overriding some elements of confidentiality of case information, provided that adequate anti-retaliation measures are in place.
SURVEY RESPONSES

In preparation for this white paper, a survey was conducted amongst participating companies and organizations. Results from the survey are as follows:

**HOW OFTEN DOES YOUR INVESTIGATION ORGANIZATION REPORT ON ALLEGATIONS TRENDS?**

- **MONTHLY:** 16%
- **QUARTERLY:** 22%
- **ANNUALLY:** 40%
- **ON DEMAND:** 19%
- **OTHER:** 3%

**OTHER:**
- Weekly for the CEO,
- quarterly for the Board,
- and on Demand for Business Unit Executives

**REPORTS ARE GENERALLY PREPARED FOR...**

- **THE BOARD:** 19%
- **EXECUTIVE TEAM (OPERATING COMMITTEE):** 13%
- **BUSINESS LEADERSHIP:** 13%
- **FUNCTIONAL GROUPS:** 6%
- **OTHER:** 2%

**OTHER:**
- Site Leadership
- CEO Weekly Ad Business Leadership On Demand
IF YOUR ORGANIZATION USES KPIs AND INVESTIGATOR SCORECARDS, WHICH OF THE FOLLOWING ARE MEASURED?

- Investigation cycle time (Open to close)
- Timeliness of updates to the case management system
- Percentage of substantiated cases
- Reply to reporter timing
- Other

OTHER:
- Not applicable
- Quality checks, % of investigators trained
- Don’t use
- Number of investigations conducted

ASIDE FROM ALLEGATIONS, WHAT OTHER INFORMATION IS GENERALLY INCLUDED IN YOUR REPORTS?

- Geography
- Site detail
- Anonymous vs. known reporter
- Investigation cycle
- Other

OTHER:
- Outcome/resolution
- Summary
- Number of allegations opened/closed in quarter
- Remediation/discipline, % of certification
- Allegation rates
- Total number of reports, intake method
- Days open
- Types of reports, actions taken
- Substantiation rates, allegations per 1000
- Substantiated/unsubstantiated
CONCLUSION

A company or organization should consider the collective best practices discussed in this white paper, regardless of whether it considers its H&I program as robust and fully developed. In order to continue the momentum of building a high quality ethics and compliance program, organizations should regularly revisit their program structure and strategies, especially with regard to the intake and investigation processes. As technology advances, considerations should be made as to how better to handle the intake and case management processes. Global organizations that have regional-based intake processes may wish to consider centralizing intake processes and building a triage approach to drive better investigator assignments, to ensure consistent handling, and to set case expectations, including cycle-time goals at the time of creating an investigation plan. In addition, the program elements with regard to contributing factors/root cause analysis will continue to be an area for further growth and advancement, in order to drive higher or more effective prevention efforts versus historical discipline approaches. Removing the “bad apple” is simply not enough. Through robust intake and investigation processes, an organization can better position itself for having the right resources to conduct the investigation, and subsequently, garner the best outcome(s).