



## Why Hotlines Are Not Enough (updated December 1, 2009)

### Hotlines Receive Only 3% of Misconduct Reports

"Surveys indicate that only about 3 percent of employee concerns are raised through the company hotline. If hotline cases are vulnerable to derailment, what hope is there for the remaining 97 percent raised through other channels, where fewer formal procedures and oversight are likely to be in place?", says Donna Boehme in Compliance Week, July 2009, (Donna is a globally recognized authority in organizational governance, compliance and ethics and a contributing editor of *Ethikos*).

Only 3% of the reports of misconduct are made to a hotline, according to the fascinating Ethics Resource Center (ERC) 2009 National Business Ethics Survey (NBES). 75% of the misconduct reports are made to management (46% direct supervisor and 29% higher management) and 15% to another responsible person. If the hotline receives only 3% of the misconduct reports, and you rely on the case tracking software provided by a hotline service, your case tracking system is not acquiring a substantial portion of the data. Also, most of the data you acquire from various sources may not be stored in a single, central database. Having a hotline without a more comprehensive, case tracking, reporting and management system exposes you and your company to increased risk.

### More Reports of Misconduct Indicate Stronger Program

In 2007, the ERC NBES found that companies with strong ethics and compliance programs receive more reports from employees (66%) than companies that do not (35%). Therefore, companies with stronger programs are able to measure and evaluate more of the risks that actually exist, take steps to mitigate those risks, and alert higher management and the Board of directors to more concerns, risks and trends.

### Problem is Collecting and Organizing All Reports

The problem is collecting, organizing and maintaining all of the reports that don't arrive through the hotline. You get emails, phone calls, and office visits about alleged misconduct. You can quickly become disorganized, with disconnected case reports which are not stored in a single, searchable database. Some cases are in emails, others in Word documents and Excel spreadsheets, others stored in a file cabinet, and some in reports from the hotline. Information can get disconnected and lost. The security of sensitive, confidential information can be compromised. Worst of all, you have no effective way to ensure effective followup, resolution, or performance measurement when incidents/cases exist in all these different forms and locations.

### Solution is a Comprehensive Internal Case Tracking System

The solution is to enter the phone calls, emails, faxes, memos, office visits, and all the other reports into a single comprehensive internal case tracking and management system that provides metrics on all of the activity, not just the hotline reports. A holistic view that focuses on "collaboration, consistency, efficiency, and transparency" is recommended by Michael Rasmussen, in the Open Compliance and Ethics Group's (OCEG) *GRC 360*, Spring 2008. He says a collaborative platform "enables an organization to evaluate the criticality of incidents; assign investigation/response team members; monitor business impact and regulatory requirements; manage the investigation process; and report on loss/impact." A multi-departmental system not only stores much more information

than isolated systems, but also allows collaboration. Working together leads to an improved understanding of the risks.

### **What Happens After Receiving the Hotline Report?**

Even when the report arrives via the hotline, the process must continue. Typical hotline case tracking software reports on a limited number of fields provided to you, but you're going to need more capabilities to move the case to proper closure. An effective, comprehensive case tracking system should provide tools to help you manage your cases, assign investigations and track their progress, store related documents, determine what corrective actions may be necessary and track them through completion and case closure. It then needs a library of reports to compare and measure the data.

### **Collect All the Data So You Can Connect the Dots**

If you don't have a system that serves the entire organization and collects data from all reporting mechanisms, you aren't getting all the scattered ethics and compliance data, and you can't measure it. The OCEG points out that siloing information in isolated databases hinders companies from seeing larger patterns of misconduct which may be developing. If you can't see the data, you can't connect the dots.

### **Keep Multiple Channels Open**

The ERC 2007 NBES offered this advice: "Recognize that your hotline statistics are telling only part of the story. The research demonstrates that whistleblower hotlines and formal internal control mechanisms are important, but they provide an incomplete picture of the amount of misconduct that is occurring. Leaders would be wise to assess their employee populations to find out where they go when they need ethics advice and how they really report misconduct." A hotline system alone with its limited case management features cannot make a company aware of all the issues it needs to know about.

### **Conclusion**

It's not enough to have a hotline without having a comprehensive, sophisticated, automated, electronic case management database that enables you to see, understand and manage the larger picture, including reports of misconduct and noncompliance from all reporting mechanisms. Otherwise many of the organization's risks remain hidden from you and higher management and go largely unmanaged. If you import your hotline reports into a more comprehensive case management software database, you can:

- better collect, record, share, investigate, refer, track, oversee, and report on all of the reports, complaints, tips, inquiries, and referrals that are received in a consistent, orderly manner
- retrieve and analyze them better by identifying risks, links, trends, and patterns that are not noticeable when examined on a more fragmented basis
- focus and report on the most important metrics that will command executive attention
- ensure they are promptly and effectively addressed in a more disciplined, consistent approach to minimize risk
- achieve a much stronger, more effective and efficient, well-documented, well-monitored, well-run program to crack down on corporate wrongdoing and reduce losses to your company.
- feel safer that you have designed and implemented a compliance and ethics program in an effective manner which will be a key mitigating factor that can reduce the penalties imposable under the U.S. Federal Sentencing Guidelines for Organizations for corporate misconduct and will be considered by prosecutors and the SEC in deciding if they should charge your corporation or its employees and agents with a crime.

## Appendix: Some Background Information

- *Ethikos* (July/August 2009, p. 3 & 5, "Hotline Data: Effective Analysis and Benchmarking Can Maximize the Benefits", by Carrie S. Penman regarding Internal Benchmarking:
  - "The sophistication of an organization's case management system will determine how robust the analysis can be – more tracked data, more context, and more opportunity for actionable conclusions. By looking at the data over time, an organization can compare trends, detect trouble spots, and measure the effectiveness of its program.
  - A sophisticated case management system, one that allows tracking and analysis of critical data fields, will pay great dividends in evaluating program effectiveness.
  - Helpline/hotline data is a treasure trove of information about your organization and your compliance program. But data is just that until it is placed into context. To refine the 'art' of analysis and benchmarking", she offers "advice and best practices" including "use a robust case management system."
- *Ethikos* (July/August 2008, p.1-2, "Corporate ethics has taken a wrong turn, says former ERC chief", by Andrew Singer: Gary Edwards (ex-executive director of the ERC), summarized one of his key criticisms: "Hotlines aren't working, but outsourcing them acknowledges – without repairing – a lack of trust in the corporate culture."
  - According to Edwards' firm's survey, 3<sup>rd</sup> party hotlines dampen "reporting within a company – "at least compared with hotlines that are managed in in-house ethics offices. 65% of outside contractors used by respondents heard from less than 1% of employees in the twelve months prior to the survey. By contrast, half of the ethics offices heard from 1-5% of employees, and another 17% of ethics offices heard from 5-10% of employees during the same period. He concludes that "employees are more likely to report misconduct to, or seek ethics advice from, a company's ethics office rather than a vendor".
- *Ethikos* (September/October 2009, p. 10, "A Model to Audit A Company's Ethics and Compliance Program (Part II)," by James Weber and Virginia W. Gerde: Some compliance "organizations ... provide a telephone number in their organizations or an 800-number, but often they fail to sufficiently monitor or promote or make widely available this mechanism. Organizations may only staff the line during daytime hours on weekdays. Compliance organizations may fail to develop sufficient trust among their employees to motivate them to use the line."
- The KPMG 2008-2009 Integrity Survey looked at perceptions of > 5000 employees in the U.S. regarding corporate fraud and misconduct, and found:
  - The preference for reporting misconduct by calling the ethics or compliance hotline has increased, but almost twice as many still prefer to notify their supervisor or another manager.
  - Among employees who work in companies with comprehensive ethics and compliance programs, 90% reported working in an environment in which people feel motivated and empowered to do the right thing, versus only 43% who work in companies without comprehensive programs.
- Integration of information from all sources is key to seeing the larger picture according to the Open Compliance and Ethics Group (OCEG, "*CIO at the Center*", August 2007).
- Michael Rasmussen (a leading GRC analyst and Founder of Corporate Integrity, Inc. in "A Holistic View: Tools for Enterprise Investigation Management", OCEG *GRC 360*, Spring 2008)

- says proper governance, risk and compliance (GRC) requires enterprise-wide metrics
  - warns of dangers of not having an enterprise-wide investigation management system
  - talks about the need for tools to move a case forward all the way to remediation
  - Advises that fragmentation (siloing), inconsistency of approach, and home-grown systems, such as spreadsheets and databases, can't serve enterprise-wide needs.
- In "Compliance Week", July 2009:
    - "The more resources dedicated to the [compliance] program, the more it indicates management's, the CEO's, and the board's view on the importance of having an effective program.", says Steve Barth, a partner with law firm Foley & Lardner who focuses on corporate governance (page 31).
    - "Whatever *e/else* the expected avalanche of new laws, regulations, and stepped-up enforcement will do, they'll undoubtedly reflect significantly reduced tolerance for even questionable, much less outright objectionable, business practices" (page 45) "and it's crucial to be able to point to an emphasis on ethics and a robust compliance program when something actually *does* go wrong." (page 46) – according to Harvey Pitt (ex-chairman of the U.S. Securities and Exchange Commission).
  - According to the KPMG Fraud Survey 2009, of the senior executives surveyed:
    - 66% reported that inadequate internal controls or compliance programs at their organizations enable fraud and misconduct to go unchecked although a significant risk for their industry.
    - most acknowledged needed improvements in monitoring techniques (65%) and fraud and misconduct risk assessment (60%).
    - 71% said if such wrongdoing were to be experienced, the greatest concern is the potential for a loss of public trust.
  - Excerpts from "Working for Integrity: Finding the Perfect Job in the Rapidly Growing Compliance and Ethics Field," by Joseph E. Murphy and Joshua H. Leet, 2006:
    - If the company gets into trouble because the program lacked what it needed, you may be the one held responsible for establishing a weak program. (p. 18)
    - The "federal sentencing guidelines offer a significant break to companies with compliance programs. If a company had an effective program before the offense happened, and it takes other positive steps (voluntarily disclosing the violation, cooperating with the government), its fine will be reduced by up to 95 percent." (p. 5)
    - The "board of directors may face individual liability if a problem could have been prevented had the board ensured that an effective program was in place." (p8)