

Having Anonymous Hotline Calls Is Necessary

By Richard Kusserow | December 3, 2020

Providing the option of anonymity to [Hotline](#) callers is often resisted, as doing so limits the ability to evaluate credibility and to ask follow-up questions. However, this should not be a subject of debate. The U.S. Sentencing Commission, Department of Justice (DOJ) guidelines, and Department of Health and Human Services (HHS) Office of Inspector General (OIG) guidance all promote anonymous reporting as an essential part of compliance communication.

In the 2020 [Evaluation of Corporate Compliance Programs](#) guidance, the DOJ tells prosecutors that well-designed compliance programs provide mechanisms for employees to anonymously or confidentially report allegations of a breach of the company's code of conduct, company policies, or suspected or actual misconduct. The DOJ also asks whether the company's compliance program has a system that is in place and publicized and allows for anonymity.

In the [Compliance Program Guidance for Hospitals](#), the OIG notes that “[a]t a minimum, comprehensive compliance programs should include...a process, such as a hotline, to receive complaints, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation.” (Emphasis added.) Failing to provide for and encourage anonymity undercuts the perceived effectiveness of the compliance program.

Also, there are positive reasons for allowing anonymous reporting, such as the following:

1. Disallowing anonymity discourages reporting due to fear of retribution or retaliation. The result is that employees may give their information to someone else, like an attorney, the media, government agencies; or they may simply not tell anyone, which may lead to growing exposure to liability for the organization. As a rule, the more serious the complaint or allegation, the less likely callers will be willing to identify themselves.
2. Those who disclose their identity create a burden for the organization of protecting the caller's identity. Failure to protect identified callers may result in unprotected reprisals or retaliation and serious consequences for the organization that may draw in attorneys and government agencies. There have been cases of litigation for reprisals or wrongful discharge where the company was put in the tough position of trying to evidence that the call did not contribute to the adverse action or termination. This will not be a burden if the caller is anonymous.
3. It is also useful to keep in mind that many callers may want to disclose their identity in order to achieve a protection as a “whistleblower” and forestall performance or conduct-based

actions by trying to invoke the organization's non-retribution/non-reprisal policy. For some, calling the Hotline may be an attempt to block adverse personnel action.

In some cases, it is desirable, and perhaps even necessary, to learn the identity of the caller in order to properly act on the information offered. There are circumstances in which having the caller's identity is essential to act upon a serious allegation. In such cases, callers can be encouraged to identify themselves and be informed that their confidentiality will be protected. As such, it is important to also have a [Confidentiality Policy along with the Anonymity Policy](#). Both policies are called for in the OIG compliance guidance documents.

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