



Sophisticated Solutions to Complex Workplace Problems: The Modern Employee Hotline



A New View

The Association of Certified Fraud Examiners' (ACFE) 2006 *Report to the Nation* revealed that the majority of fraud schemes within organizations are discovered through the receipt of employee tips.¹ With organizational losses amounting to approximately \$652 billion annually due to fraud, and in the wake of the Sarbanes-Oxley Act of 2002, many organizations have implemented anonymous reporting mechanisms in recent years. The ACFE maintains that such reporting systems can potentially reduce these losses by as much as 50%. The exposure of corporate scandal in the early years of this century has certainly eroded the public faith in American business and organizations are learning difficult lessons in the aftermath.

While organizations have scrambled to provide new avenues to receive employee reports of misconduct, there is evidence to suggest that it remains difficult for employees to bring forward their concerns and information.² The fear of retaliation and reprisal still impedes employees from making a report, especially in an environment with limited reporting mechanisms in place. The implementation of anonymous incident reporting systems has served to curb some of that fear because employees have the opportunity to

make a report while remaining completely anonymous. Gone are the days in which employees felt comfortable enough to walk into the office of their supervisor or manager to report concerns of misconduct. Open-door policies are not enough to ensure an organization is equipped with the knowledge necessary to prevent and detect corporate crime, misconduct, and fraud.

The Difference is Our Expertise

MYSAFEWORKPLACE[®], developed and provided by Business Controls, Inc. (BCI), is the preeminent incident reporting system used by organizations worldwide today. What truly differentiates MYSAFEWORKPLACE[®] from all other incident reporting systems is our expertise.

Founded in 1994, Business Controls is a corporate risk mitigation firm specializing in the discovery, analysis, resolution, and prevention of losses that occur from workplace misconduct. Joining state-of-the-art technology with combined industry experience of over 150 years, we offer comprehensive services in 5 primary areas: Anonymous Incident Reporting, Psychology and Behavioral Sciences Services, Research and Due Diligence, Investigations and Consulting, and Education and Training.

Discovery of workplace misconduct can be accomplished through our Anonymous Incident Reporting system, MYSAFEWORKPLACE[®]. Discovery of workplace misconduct can also take place through investigation. We are the largest provider of workplace undercover investigations in North America.

¹ Association of Certified Fraud Examiners. (2006). Report to the Nation on Occupational Fraud and Abuse.

² Near, J. P. & Miceli, M. P. (1996). Whistleblowing: Myth and reality. *Journal of Management*, 22. 507-527.



We provide corporate special investigations and consulting to assist organizations in managing suspected or known violators of company policy, regulations, or laws. We not only have vast experience in these areas, but we also bring an objective, third-party approach that cannot be achieved through traditional internal investigations. Internal investigations can be fraught with liability-creating errors including conflicts of interest, inexperience or lack of knowledge about how to properly investigate situations, or fear of employee retaliation due to improper solutions or actions taken during or as a result of the investigation.

With expertise in forensic psychology and criminal behavior, our Behavioral Sciences Team provides analysis, resolution, and further prevention of workplace misconduct. We provide education, training, and intervention pertaining to misconduct in the workplace such as substance abuse, violence, harassment, and identity theft. We also consult with organizations on how to conduct their own internal investigations properly.

Other exposure-reducing solutions include pre-employment screening, threat assessment, fitness-for-duty evaluations and background checks for our clients.

The founder and CEO of Business Controls, Mr. Eugene Ferraro, is a Professional Certified Investigator (PCI), a Certified Protection Professional (CPP), and a Certified Fraud Examiner (CFE). Both Mr. Ferraro and Mr. Steve Foster, our COO, have extensive law enforcement experience and both are distinguished members of

ASIS (American Society for Industrial Security), holding the professional certification CPP. The balance of our management team and professional staff include individuals with advanced degrees and professional certifications in civil and employment law, law enforcement, threat assessment, forensic psychology, and consulting.

There are many significant differences between MYSAFEWORKPLACE[®] and other incident reporting systems. The expertise of our staff, as well as our partnership with Microsoft and Fujitsu Consulting, has profoundly affected both the development and delivery of MYSAFEWORKPLACE[®] as a litigation avoidance tool for your organization. Our expert focus on litigation avoidance and risk mitigation is built into the features and protocols included in MYSAFEWORKPLACE[®].

Understanding workplace misconduct and the detrimental impact it has on organizations was fundamental to the innovative design of MYSAFEWORKPLACE[®], making it a secure and anonymous method for employees to report incidents, putting your organization in the best possible, defensible position in the event of any litigation resulting from an incident or violation.

Choosing the Right System

The mandates of Sarbanes-Oxley limit an organization's ability to provide strictly internal reporting mechanisms. There are



many advantages to outsourcing anonymous incident reporting hotlines. First of all, vendor technology capabilities typically tend to exceed those of most organizations. Third parties have the ability to develop and maintain highly specialized software and web-reporting tools that requires only minimal set-up and resource investment by the organization.

Engaging a third-party to provide hotline services allows organizations to offer not just a hotline employees can call, but also a web portal by which employees can report their concerns directly. Additionally, third-party vendors generally employ better trained call takers and collect the data most pertinent to the issue being reported so that the client organization has the information necessary to pursue their investigation and find an appropriate resolution. Our experience has shown that many reporting employees find comfort in knowing that a third party is responsible for gathering all the initial information, while the issue will still be reported and managed by their organization.

The MYSAFEWORKPLACE® solution will notify organizational managers of issues within three minutes of the report being filed. The organization, therefore, has the ability to swiftly and effectively manage all issues, especially those concerning the immediate safety of their employees. Traditional internal hotlines rely on the availability of one or two individuals, typically human resource managers, who cannot be expected to field all calls at all hours of the day and night. Furthermore, these managers are responsible for a whole host

of other duties that make it impossible to devote all attention to the receipt, retention, and treatment of employee complaints. MYSAFEWORKPLACE® provides live, around-the-clock coverage, 365 days per year, supporting multiple languages.

Probably one of the greatest advantages to outsourcing an employee hotline lies in the issue of confidentiality and anonymity. A traditional internal hotline is managed directly by an employee of the organization. Therefore, the reporting employee only has the option of disclosing or not disclosing his or her identity to the organization. Even when employees choose to remain anonymous, there is often fear that their voice may be recognized by the person answering the phone or receiving the voicemail message. MYSAFEWORKPLACE® offers a third level of anonymity that an internal hotline cannot. With MYSAFEWORKPLACE®, the employee may have the opportunity to remain completely anonymous to his or her organization but provide contact information to the third-party only. That way, should the organization need to follow up with the reporting employee but find it difficult to do so, MYSAFEWORKPLACE® can facilitate communications between the reporting party and the organization, while continuing to keep the reporting party's identity anonymous.

MYSAFEWORKPLACE® further provides expert assistance in effectively rolling out and communicating the hotline solution to their employee base. Experience shows that anonymous incident reporting solutions are destined to fail if they are not effectively –



and repeatedly - communicated to the employees who are the intended users of the service. Third-party vendors specialize in such communication and can ensure each organization's very specific objectives in implementing the solution are met.

The responsible vendor will further take all steps necessary to assist the client organization in avoiding litigation and liability exposure.

Value-Driven Features and Support

Many vendors of incident reporting systems allow for a myriad of ways in which to submit a report including phone, Internet, fax, email, and mail. While it may seem advantageous to offer a wide variety of intake methods, several of these provide significant legal pitfalls. Fax, email, and mail all require human intervention to make the information available to the client. In doing so, errors can be made, either in content or distribution, which can significantly increase your legal liability. Confidentiality can easily be compromised by this human intervention. MYSAFEWORKPLACE® requires no human interaction in the distribution of reports, and the incident report content cannot be manipulated by anyone for any reason.

Some vendors purposefully impose human intervention in the report distribution process after the information has been submitted by the reporting employee. Such a procedure is implemented reportedly to check the incident account for "errors and cohesion." The inherent problem with a

triage process is the acknowledgement that reports can be and are changed after the reporting employee has provided his/her account of the incident via the phone or submitted through the web portal. Such intervention compromises the integrity of systems operating in this manner. MYSAFEWORKPLACE® has limited the liability exposure for our clients in this area by providing a secure database for the submission of reports directly by the employee or on their behalf by a call center agent, and by preventing human intervention in the distribution or content of reports as submitted.

MYSAFEWORKPLACE® distributes all incident reports to your organization in the fastest guaranteed time in the industry. Our Service Level Agreement provides notification and access to a report within three minutes of its submission. Other providers of hotline services have contractual guarantees of 12 to 24 hours – up to 480 times longer response than you will see from MYSAFEWORKPLACE®. Additionally, MYSAFEWORKPLACE® treats *every* incident as urgent so that our clients can decide the severity of each report, not leaving that important determination to their vendor. Therefore, incidents, particularly those posing safety risks to employees, can be addressed immediately.

Within the administrative case management portal of MYSAFEWORKPLACE®, audit-trail functionality records each time a report is viewed by an authorized user or the reporting party. Message board functionality provides a mutually anonymous and secure communication tool for both the



organization and the reporting party. Additionally, this communication tool provides powerful litigation support by documenting access and input from both parties.

As an example of how this audit trail can support litigation avoidance, you will be able to document each attempt to communicate by either the reporting party or the organization as part of your good faith investigation efforts. One of our clients did exactly that, and as a result, avoided possible litigation by the reporting party, alleging a failure to act on the part of the organization. Our client, through MYSAFEWORKPLACE[®], was able to document repeated attempts to reach the reporting party to obtain clarifying information needed to allow the investigation to go forward. As the initial report was vague, the client did not have sufficient information to complete their good faith investigation. The questions posed by the client through the message boards were not answered by the reporting party, even though the reporting party had logged back into the system and viewed their report on multiple occasions. This documentation was shared with the reporter's attorney, and any pending litigation was halted. BOTH parties have an affirmative responsibility to resolve issues raised, and the audit process supports the actual efforts made in this area.

With any reporting system, not just MYSAFEWORKPLACE[®], the actual report itself is a discoverable document, which means that if there is litigation arising as a result of a report, the initial report is something

that can be obtained in the discovery process by the reporting party's attorney. MYSAFEWORKPLACE[®] allows our clients the ability to mark communications as "Attorney Work Product." This distinction is not only unique to MYSAFEWORKPLACE[®], but allows your legal representative to use our system and significantly decrease the ability for their communications to be discoverable.

Final Thoughts

There are clearly very good reasons for organizations to implement anonymous incident reporting systems and, further, very good reasons to outsource such services. Successful and effective corporate ethics programs incorporate anonymous ethics reporting mechanisms as part of their commitment to compliance and principled corporate governance.

Employee hotlines clearly provide organizational management with insight into their organization they likely would not otherwise have, providing them the opportunity to capitalize on their strengths and swiftly manage their areas of weakness. All of this effectively increases the bottom lines and ensures the security of the organization for the long-term.

Implementing an anonymous reporting system for employees helps them realize the stake they have in their organization and their ability to help the organization protect its assets, ultimately protecting their own job security and workplace safety.