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## Decades into Maturing Compliance Programs, Are Anonymous Reporters Treated With the Respect They Deserve?

Presented By  
 Carrie Penman | CCO and SVP Advisory Services, NAVEX Global  
 Debra Sabatini Hennelly | Founder and President, Resiliti

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Presented By resiliti | NAVEX GLOBAL



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 NAVEX Global



**Debra Sabatini Hennelly**  
Founder and President  
 Resiliti

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Agenda resiliti | NAVEX GLOBAL

- Context
- Perceptions About Anonymous Reporting
- Latest Data on Anonymous Reporting
- Key Takeaways
- Questions

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Context

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Background resiliti | NAVEX GLOBAL

- The pros, cons, myths and truths of anonymous reporting have been discussed in the compliance and ethics community and among boards and executive teams **for decades**.
- **With all of this discussion and work** on building effective compliance and ethics programs:
  - Many employees still feel that anonymous reporting is the safest way to raise issues.
  - Many leadership teams still express frustration about accepting these types of reports.
- Internationally, **anonymous reporting is a challenging cultural concern** and is also **subject to regulations** on the types of issues that can be reported anonymously.

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An "Effective" Ethics & Compliance Program is... resiliti | NAVEX GLOBAL

... a comprehensive system of policies, processes and procedures designed to **prevent** – or **detect and correct** – violations of law (or company policy).

**Helpline or Hotline is a critical program element: "Mechanism" for employees to raise concerns and ask questions without fear of retaliation for doing so\***

\* Paraphrased from US Federal Sentencing Guidelines for Organizations 18 USC §8B2.1

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**Our Goal: A “Speaking Up” Culture** resiliti | NAVEX GLOBAL

- The environment in which we can prevent, detect and correct violations, issues and concerns effectively
- The “WHY” – Proactively raising issues and concerns leads to early identification of issues and mitigation of risks
- The “WHAT” and “HOW”
  - Helplines (or Hotlines) are one of several channels or “reporting mechanisms” for raising issues and concerns or asking questions
  - Perceptions and fears of reporters drive the interest in confidential or anonymous reporting options

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**Definitions are Important** resiliti | NAVEX GLOBAL

*There is a difference between “confidential” and “anonymous” reporting:*

- **Confidential Reporting:** absolute confidentiality is very difficult to guarantee (unless you are a priest in the confessional); but with care, confidentiality can and should be protected
  - The first question is often “who called you?”
  - Don’t refer to a reporter’s gender
  - Reports and notes that leave your office should safeguard identity of the reporter
- **Anonymous Reporting:** anonymity is only possible if you do not know the reporter’s identity

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**Regulatory Environment** resiliti | NAVEX GLOBAL

- Two schools of thought on anonymous reporting
  - Those that **require you to have it**
  - Those that **regulate against it**
- Ensure you are mindful of the **distinctions among country requirements** regarding anonymous reporting options
  - Reflect these distinctions in your Code, policies and procedures
  - Adapt/customize your training and communications (including posters and brochures)
- Ensure that you handle the information/data you collect through the reporting process meets **local privacy and protection requirements**

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Why Anonymous Reports are Important resiliti | NAVEX GLOBAL

- Data and research: anonymous reporting encourages reporters who would not otherwise raise concerns or report violations
- Government “whistleblower” protections / awards – the “debate”
  - Do they create incentives for “bad faith” reporting?
  - Do they motivate organizations to refresh / reinforce their helpline procedures, training and communications?
- “Good faith” reporters could choose to take their concerns outside the organization if internal reporting is not a viable option

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Challenges of Anonymous Reporting resiliti | NAVEX GLOBAL

- Perception that these reports are less credible
- Inability to communicate “real-time” with the reporter
- Potentially extended case closure times impacting reports to leadership
- Rewards/incentives concern
- Perception that that these reports are “disrespectful”
  - “Washing the dirty laundry” outside of the team or department
  - Reporting to the government is selfish, done just for the “bounty”

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Perception About Anonymous Reporting resiliti | NAVEX GLOBAL

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**Anonymous Reporting: How Do We Really Feel?** resiliti | NAVEX GLOBAL

*The elephant in the room...*



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**Some Questions for Discussion** resiliti | NAVEX GLOBAL

*Leadership and CCO Perspectives*

- Words matter: How do your leaders “refer” to those who raise concerns?
  - Employees?
  - Reporters?
  - Whistleblowers?
  - Snitches?
- Do you think that anonymous reports are treated with the same level of respect as named reporters in your organization? Why or why not?
- Why does it matter to leadership whether the reporter has given their name?
- Do compliance/ethics officers have a bias with respect to anonymous reporting?

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**Management Perceptions and Fears** resiliti | NAVEX GLOBAL

*To have an effective process, these should be addressed head-on:*

- Credibility and reliability – perception that anonymous reports can’t be substantiated or disputed
- Reporters with personal agendas
  - Gossip
  - Vindictive callers
  - “Answer shopping”
  - Bypassing the management chain
  - Turf battles
- Bad news... now what?

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### Obstacles to Coming Forward

*If we focus on what drives anonymous reporting, can we impact it?*

- Fear of retaliation / job impact
- Belief that nothing will be done
- Lack of willingness to get involved
- Someone else will report it
- Not wanting to report on peers / friends

**NOTES:**

1. This is true at **all levels** of the organization; and
2. Fear of retaliation can be even higher at the more senior levels of the organization
3. This includes CECOs and in-house counsel

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### Why Employees Don't Report – What Has Changed?

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Resilience: The Realities of Internal & External Reporting resiliti | NAVEX GLOBAL

- Lack of focus on proactive efforts to prevent or address retaliation
- Internal complaints remain below 1 percent of all reports received
  - External agencies continue to receive a high rate of complaints of retaliation.
- 60 percent of compliance officers surveyed said that preventing retaliation was not a priority in 2018
- Reducing fear of retaliation is one of the most important ways to improve a “speak-up” culture, yet it is not a priority.

<1%

Percentage of  
retaliation  
reports

\*2018 Ethics & Compliance Review & Incident Management Benchmark Report | Retaliation slide - 12/18

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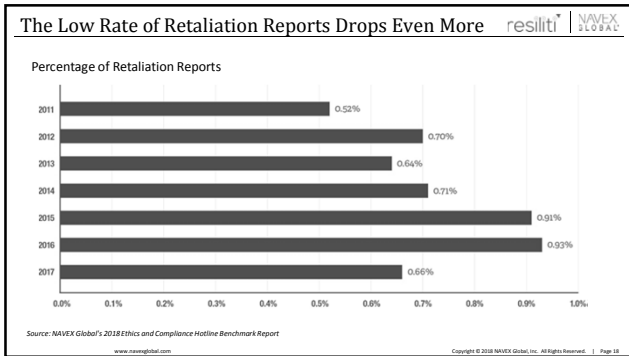
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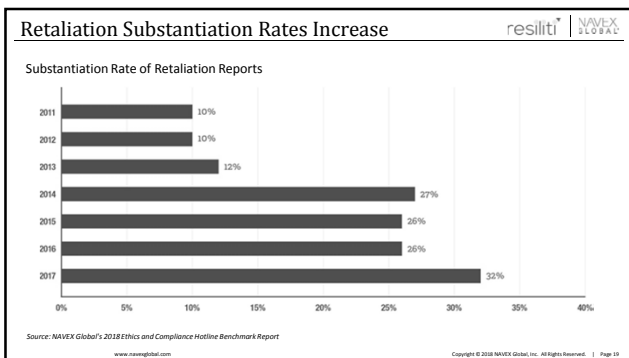
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### These Have Been the Same Two Reasons for Our 25 Years

What can we do differently to build confidence and reduce the need for anonymous reporting?

- Talk more about the types of reports we are receiving?
- Talk more about how we address the reports we receive?
- Talk more about the outcome of investigations?
- Be more transparent?



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### Latest Data on Anonymous Reporting

FROM 2018 NAVEX GLOBAL HOTLINE BENCHMARK REPORT

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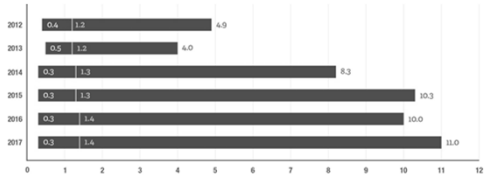
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### Median Report Volume Increases to an All-Time High

How Does Your Report Volume Compare to Others



Year	Range (reports per 100 employees)	Median (reports per 100 employees)
2012	4.9	0.4
2013	6.0	0.5
2014	8.3	0.3
2015	10.3	0.3
2016	10.0	0.3
2017	11.0	0.3

Source: NAVEX Global's 2018 Ethics and Compliance Hotline Benchmark Report

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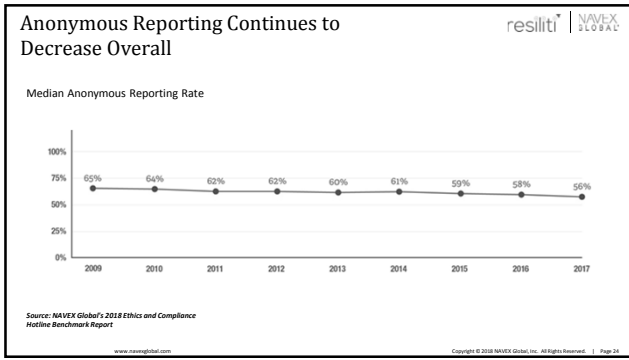
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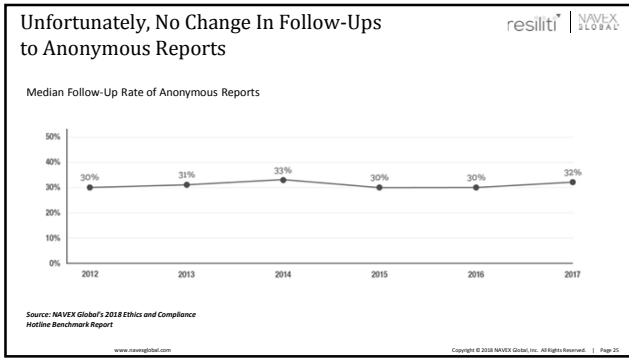
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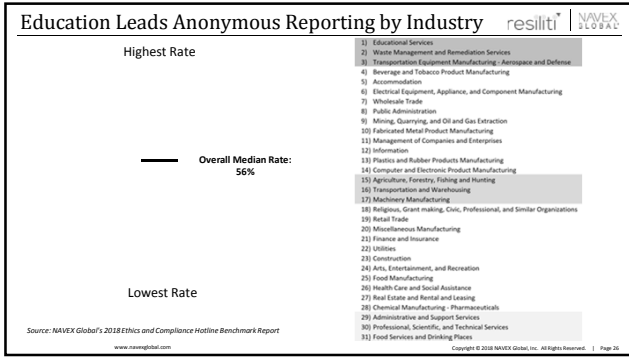
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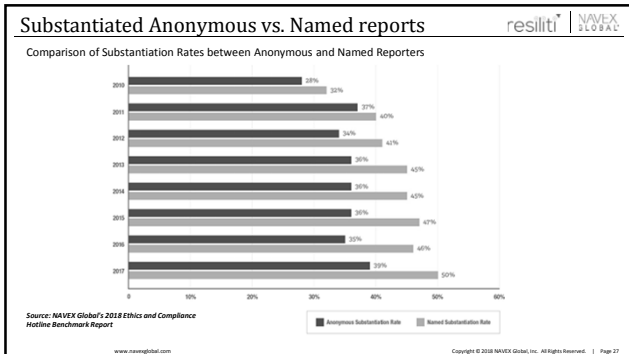
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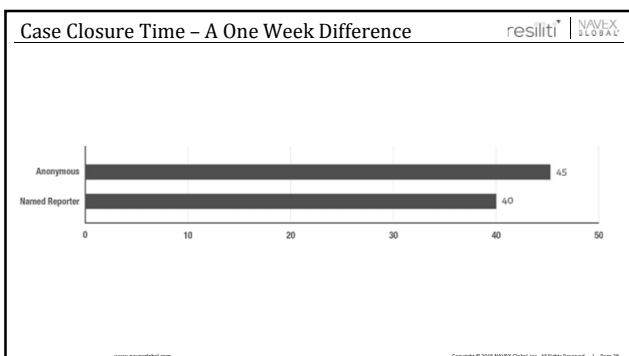
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### Data: Geography Impact

FROM 2018 NAVEX GLOBAL HOTLINE BENCHMARK REPORT

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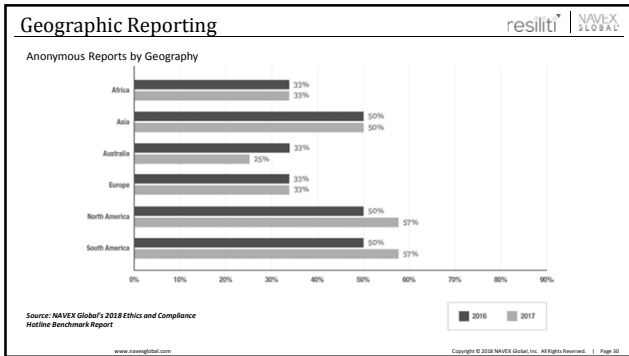
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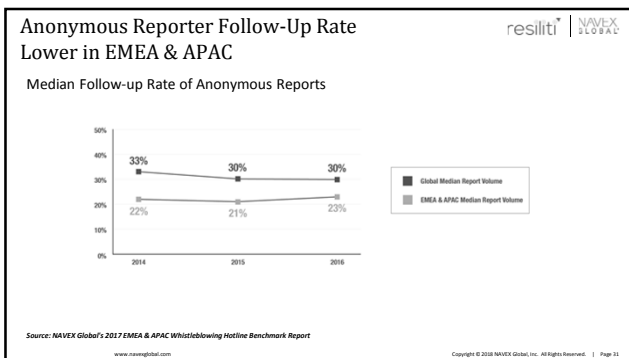
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### Key Takeaways

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**Getting the Most From Your Anonymous Reports** resiliti | NAVEX GLOBAL

- Have a strong retaliation prevention and monitoring program
  - Code, policy, procedures, awareness
  - Special responsibilities for managers and leaders
  - Reminders during the investigative process
  - Culture Survey: perceptions about speaking up and anonymous reporting
- Reach out to reporters through messaging
  - Practice empathy
  - Remind reporters to keep their anonymity
- Train, train, train on how the process works (...refresh, repeat...)

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**“Help” from Managers and Leaders** resiliti | NAVEX GLOBAL

- Focus on organizational culture and ethical leadership
  - Special responsibilities for managers and leaders
  - Respecting the process
  - Modeling ethical behavior and prohibition on retaliation
- Regulatory / litigation environment
  - Undermining the process and credibility
  - Being a “witness”
- Shift the focus from “who” is reporting to “what” is being reported
- Use data

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**Conclusions** resiliti | NAVEX GLOBAL

*A “Speaking Up” Culture and an Effective Compliance & Ethics Program require:*

- Proactively raising issues and concerns to drive early identification / mitigation of risks
- Creating an environment in which we can prevent / detect / correct issues and concerns
  - Make it easy for employees to report
  - Address perceptions and fears head-on
- Driving continual improvement of your Program with preventive and corrective action
  - Share lessons learned with leaders, including Board
  - Communicate “sanitized” cases, including cases where retaliators have been disciplined
  - “Closure” includes ensuring that any “scar tissue” is addressed appropriately
  - Update policies, procedures, training and communications
- Credibility of the process comes from earning trust

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Questions? resiliti |

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Thank You resiliti | NAVEX GLOBAL

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