

SCCE Internal Investigations Workshop  
January 7-9, 2019  
San Diego, CA  
Day 3 – Post Workshop



Documentation Issues

Al Gagne, MBA, CCEP

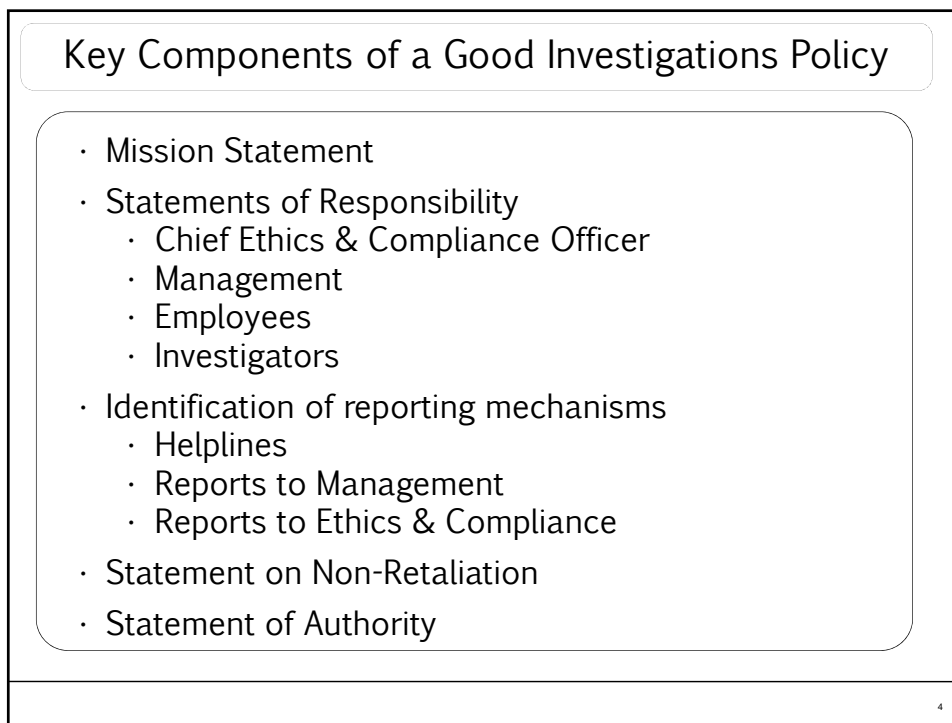
Society of Corporate Compliance and Ethics  
6500 Barrie Road, Suite 250, Minneapolis, MN 55435, United States  
www.corporatecompliance.org | +1 952 933 4977 or 888 277 4977



Agenda



- Developing Policy & Procedures to help manage the Investigation Program
- Utilizing internal investigation templates and checklists
- Advantages of using standard forms and reports
- Document retention and destruction guidelines



### Investigations Policy Mission Statement

It is the policy of (*Your Organization Name*) to review and, if necessary, investigate allegations of suspected or known employee misconduct and violations of company policy and procedures.

5

### Statement of Responsibility - CECCO

Allegations of misconduct will be reviewed promptly and, if necessary, investigated in a timely manner at the direction of the Chief Ethics & Compliance Officer to determine the relevant facts, circumstances, and root cause of the alleged violation or misconduct.

Investigation reports will be submitted to applicable Management personnel upon completion of an investigation.

6

### Statements of Responsibility - Management

Management personnel are responsible for determining the appropriate corrective and disciplinary actions to be taken to mitigate further misconduct.

Management personnel are responsible for promptly notifying Ethics & Compliance, Legal, or Human Resources upon the receipt of a report of alleged misconduct.

7

### Statements of Responsibility - Employees

Every employee has a duty to report, in good faith, known or suspected misconduct or violations of company policy, even when personally involved in the violation.

Reports of known or alleged misconduct should be reported to your immediate supervisor or others in Management.

8

### Statement for Anonymous Helpline Reporting

A Helpline exists to provide for anonymous reporting of known or suspected violations of the organization's policy and procedures.

*(List your Organization's Help Line number and Web address of any On-Line reporting tools)*

9

### Confidentiality Statement

Every reasonable effort will be made to maintain the confidentiality of the source of the report. Additionally, reports can be made on an anonymous basis.

10

## Statement of Cooperation with an Investigation

Employees are expected to cooperate with investigations by providing truthful accounts and relevant documentation in response to investigator questions and related information requests.

Employees who fail to cooperate, or otherwise impede an internal investigation may be subject to disciplinary action in accordance with the organization's disciplinary action policy.

11

## Non-Retaliation Statement

There will be no reprisals or retaliation taken against any employee who reports, **in good faith**, a suspected or known violation.

Any employee who engages in retaliatory behavior towards a real or suspected reporter will be subject to disciplinary action up to and including immediate termination.

12

**Statement of CECO Authority  
for Investigation Program**

**The Chief Ethics and Compliance Officer is  
responsible for the interpretation and  
administration of this policy.**

13

**Intake Report – Sample Template**

Matter # \_\_\_\_\_ Date: \_\_\_\_\_  
Received by: \_\_\_\_\_ Time: \_\_\_\_\_  
Business Name /Location: \_\_\_\_\_  
Reporter's Name (or Nickname): \_\_\_\_\_

Document in as much detail as possible the Allegation or Concern raised by the reporter. (Specifically obtain information as to what occurred, who was involved, who else has knowledge of the situation, when did it occur and how often, was the situation or concern reported to anyone prior to calling the helpline)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does the situation reported present any health or safety risks to persons or risk of damage to property?

\_\_\_\_\_  
\_\_\_\_\_

What outcome does the reporter expect in response to the report made?

\_\_\_\_\_  
\_\_\_\_\_

Is there a number the reporter can be reached at if additional information is required?

\_\_\_\_\_

(If reporter does not wish to provide a number, ask the reporter to call back in one week and reference the following Matter # \_\_\_\_\_.

Matter Assigned to: \_\_\_\_\_  
Date Assigned: \_\_\_\_\_

14

## Sample: Investigation Planning Checklist

### Checklist / Action Plan for Conducting an Internal Investigation

Control # \_\_\_\_\_ Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_

Source: (Help Line, Report to Mgmt., Other) \_\_\_\_\_

List all the allegations of misconduct or concerns reported.

Segregate facts from opinions, feelings and hearsay.

Determine if an investigation will be necessary.

Identify who will manage the investigation. (Ethics & Compliance, Human Resources, Internal Audit, In-house Legal, or outside professional support).

Identify who will conduct the investigation. (E&C, HR, Internal Audit, Legal, External Source)

Identify who may be required to support the investigation (Finance, IT, HR, Mgmt., etc.)

15

## Sample: Investigation Planning Checklist

### Checklist / Action Plan for Conducting an Internal Investigation (cont)

Identify any documentation needed to support the investigation (Policies & Procedures, work instructions, business records, security video, gate logs, communications, previous allegations or concerns, etc.)

Identify the individuals to be interviewed (consider order in which you plan to interview).

Prepare standard questions in advance of the interviews.

- Develop open ended question that will allow interviewees to expand on the information in their own words.

Schedule interviews in a location that offers privacy and confidentiality.

Explain to interviewee the purpose of the interview, need for confidentiality, any related company policy, and if necessary, attorney-client privilege.

Include names of investigator(s), reporter, interviewees, date, time of contact.

16



## Sample: Investigation Planning Checklist

### Checklist / Action Plan for Conducting an Internal Investigation (cont)

Keep notes clear, concise and objective (to the extent practical, document exactly what the interviewee states).

Identify and obtain additional documentation or the names of others who could corroborate the information obtained from the reporter or other interviewees.

Document observed behaviors, body language, lack of cooperation, nervousness, fear, etc. Note how clearly the interviewee recalled events or behaviors along with any biases in the interviewee comments.

Review all documents and interview notes to your investigation plan.

Prepare report based on facts and supporting documentation.

If possible, obtain objective and independent review from an E&C colleague or staff attorney.

17

## Sample: Investigation Planning Checklist

### Checklist / Action Plan for Conducting an Internal Investigation (cont)

Issue report to Management based on "need to know".

Follow-up with Human Resources and others to assure corrective or disciplinary actions were taken, if applicable.

Determine with Legal if external reporting (mandatory or voluntary) to customer of Government Agencies will be made.

Maintain investigation file in accordance with your company's record retention policy. (10 Years recommended for routine Helpline Matters and over 10 years for reports in response to allegations of fraud.)

Summarize investigations at a high level for periodic reports to Management.

Follow up with reporter, if possible, to close the loop.

Note: You do not need to provide any details of the investigation or corrective actions. A brief call or note to the reporter stating that the matter was investigated and the appropriate corrective actions were taken will suffice.

18

## Sample Investigation Report Template

**Draft or Final Report** **Date:** \_\_\_\_\_

**Matter #** \_\_\_\_\_ **Category:** \_\_\_\_\_

**Business Unit/Location:** \_\_\_\_\_

**Investigator(s):**

**Attorney(s):**

**Was the allegation or concern Substantiated? Y/N**  
**Significant: (If yes, have the following been notified?)**  
 Chief Legal Officer     Chief Financial Officer     CECO  
 Audit Committee     Board of Directors     Others

**Describe any disciplinary actions taken:**  
 None     Verbal Warning  
 Written Warning (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>)     Demotion  
 Suspension without pay     Deduction of Bonus  
 Termination     Other (describe)

19

## Sample Investigation Report Template

**Describe any corrective actions taken:**  
 None  
 Policy/Procedure Revision  
 Education /Training  
 Other (Briefly Describe)

**Other Actions Taken by Reporter or Complainant:**  
 Lawsuit  
 Union Action (Briefly Explain)  
 Other (Briefly Describe)  
 Government Agency Notice (e.g. EEOC, Dept of Labor, State HR Commissions, Call to a Government Hot Line)

**Investigation Summary:**  
*(Briefly describe the actions taking in conducting the investigation.)*  
*(Please list the name(s) of the individual(s) who were involved in the investigation.*  
*If an outside source was involved, please note. List all the relevant documents*  
*acquired to support the investigation findings)*

**Conclusion:**

20

## Internal Investigations Summary Report- Template

Incident Report Control # Date Reported-	Location	Category	Brief Description of Allegation or Concern Raised by the Reporter	Investigator	Status	Disposition
HL-01-02-2018-001	Dallas	COI	Allegation of Improper use of company property by an employee	A. George	Investigation completed 2-15-2018 – Matter substantiated	Employee counseled and eliminated COI with Mgmt
HL-01-05-2018-002	Chicago	Time theft	Allegation that an employee falsified timecard	J. Caruso	Investigation completed 1-10-2018 – Matter substantiated.	Employee terminated.
MR-01-07-2018-003	San Diego	Harassment	Allegation of harassment by employee to a supervisor in another department	E. Murphy	Investigation completed by HR 2-1-2018 – Matter substantiated.	Employee counseled by HR and given Harassment Training.
OL-01-15-2018-004	Dallas	Quality Fraud	Allegation of falsification of quality test procedures by an employee line inspector	A. George	Investigation in process – additional training provided in meantime related to systemic issues – lack of clear procedures	Training of quality personnel ongoing.
HL-01-16-2018-005	Dallas	Theft of Personal Property	Allegation of theft of employee's personal items from office	A. George	Investigation completed 2-10-2018– reporter called back to say items returned with a note apologizing for borrowing items without permission.	Matter closed at request of reporter.
OL-2-15-2018-006	Boston	Fraud	Allegation of padding expense reports by employee who travels frequently	S. Holmes	Investigation in progress – Internal Audit providing support	Matter open

## Some Final Thoughts

- Document your Investigation Program from beginning to end.
- Communicate and educate all employees on the program.
  - Specifically educate management and employees on their responsibilities for reporting misconduct and cooperating with an internal investigation.
- Engage others, as needed, in support of your program
- Apprise management of progress on a need to know basis.
- Do no harm to others, the organization, and yourself.

Questions?