

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

Presented By

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Agenda

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



Context

Background

- 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.

An “Effective” Ethics & Compliance Program is...

... 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

Our Goal: A “Speaking Up” Culture

- 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

Definitions are Important

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

Regulatory Environment

- 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***

Why Anonymous Reports are Important

- 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

Challenges of Anonymous Reporting

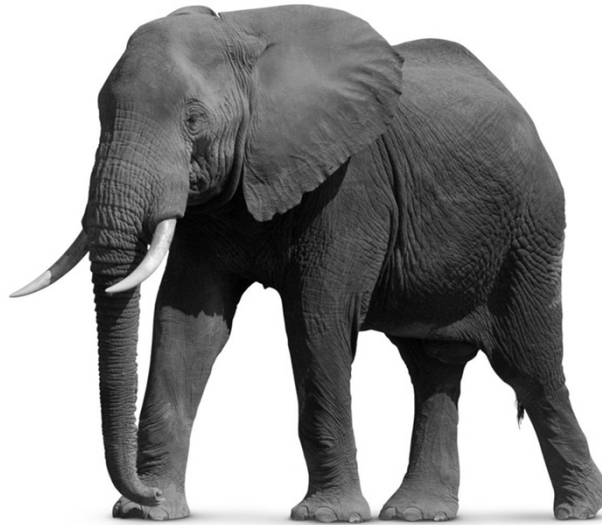
- Perception that these reports are less credible
- Inability to communicate “real-time” with the reporter
- Potentially extended case closure times impacting reports to leadership
- Rewards/incentives concern
- Perception that that these reports are “disrespectful”
 - “Washing the dirty laundry” outside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



Perception About Anonymous Reporting

Anonymous Reporting: How Do *We* Really Feel?

The elephant in the room...



Some Questions for Discussion

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?

Management Perceptions and Fears

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?

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



Why Employees Don't Report – What Has Changed?

Retaliation: The Realities of Internal & External Reporting

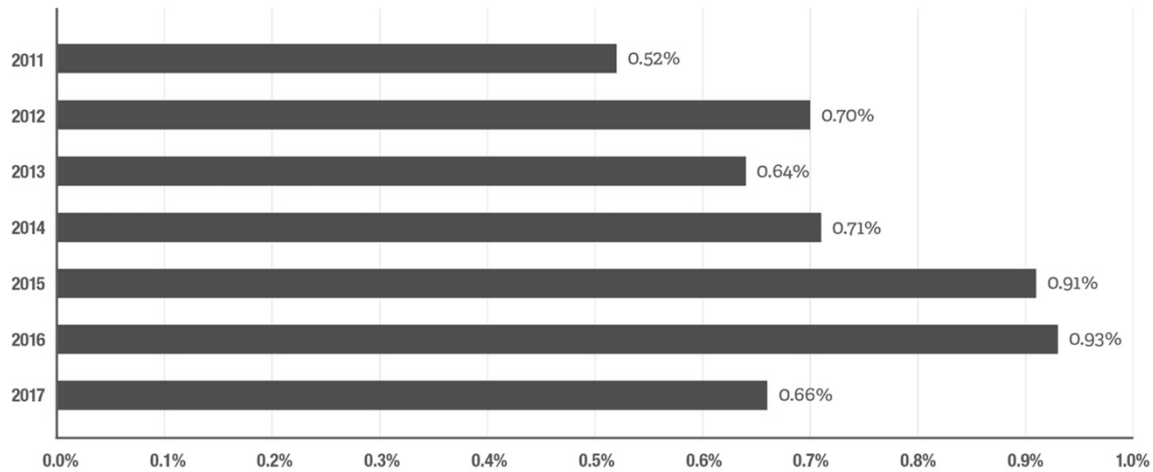
- Lack of focus on proactive efforts to prevent or address retaliation
- Internal complaints remain below 1 percent of all reports received
 - External agencies continue to receive a high rate of complaints of retaliation.
- 60 percent of compliance officers surveyed said that preventing retaliation 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.



* 2018 Ethics & Compliance Hotline & Incident Management Benchmark Report | Retaliation rate = 0.66%

The Low Rate of Retaliation Reports Drops Even More

Percentage of Retaliation Reports



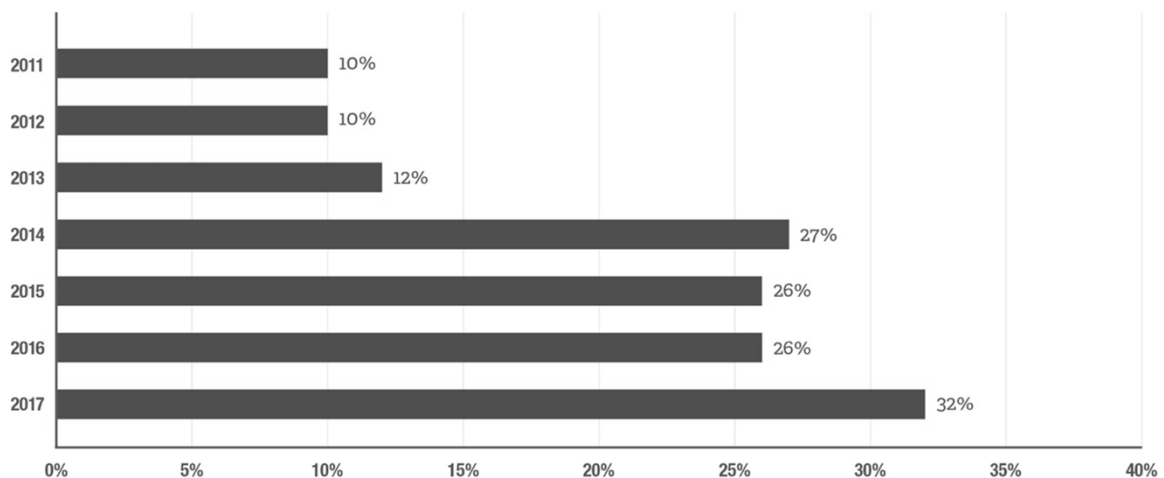
Source: NAVEX Global's 2018 Ethics and Compliance Hotline Benchmark Report

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Retaliation Substantiation Rates Increase

Substantiation Rate of Retaliation Reports



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

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The “Other” Reason Why Employees Don’t Report

Belief that nothing will happen as a result of their report...



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?



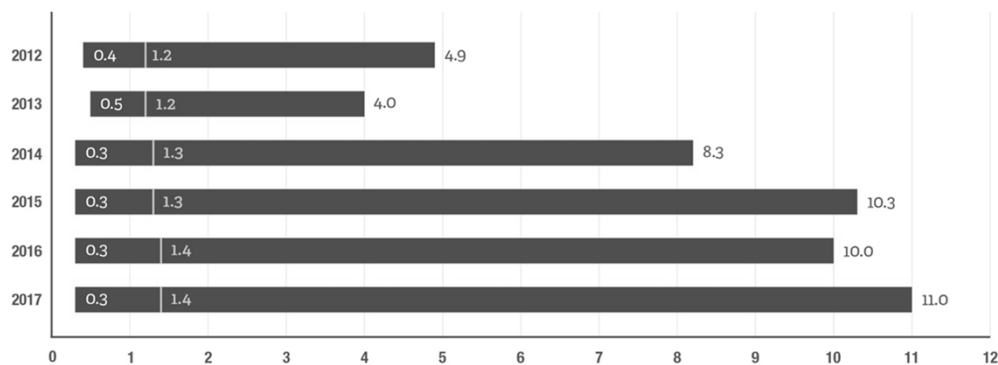


Latest Data on Anonymous Reporting

FROM 2018 NAVEX GLOBAL HOTLINE BENCHMARK REPORT

Median Report Volume Increases to an All-Time High

How Does Your Report Volume Compare to Others

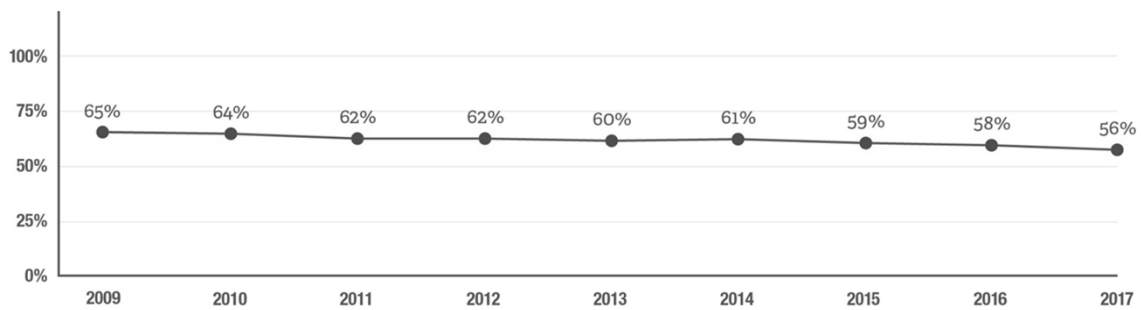


Source: NAVEX Global's 2018 Ethics and Compliance Hotline Benchmark Report

Range (reports per 100 employees) Median (reports per 100 employees)

Anonymous Reporting Continues to Decrease Overall

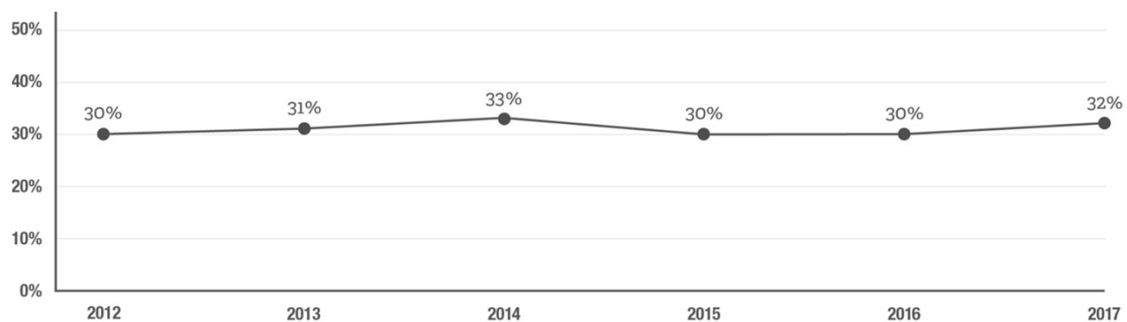
Median Anonymous Reporting Rate



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

Unfortunately, No Change In Follow-Ups to Anonymous Reports

Median Follow-Up Rate of Anonymous Reports



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

Education Leads Anonymous Reporting by Industry

Highest Rate

Overall Median Rate:
56%

Lowest Rate

- 1) Educational Services
- 2) Waste Management and Remediation Services
- 3) Transportation Equipment Manufacturing - Aerospace and Defense
- 4) Beverage and Tobacco Product Manufacturing
- 5) Accommodation
- 6) Electrical Equipment, Appliance, and Component Manufacturing
- 7) Wholesale Trade
- 8) Public Administration
- 9) Mining, Quarrying, and Oil and Gas Extraction
- 10) Fabricated Metal Product Manufacturing
- 11) Management of Companies and Enterprises
- 12) Information
- 13) Plastics and Rubber Products Manufacturing
- 14) Computer and Electronic Product Manufacturing
- 15) Agriculture, Forestry, Fishing and Hunting
- 16) Transportation and Warehousing
- 17) Machinery Manufacturing
- 18) Religious, Grant making, Civic, Professional, and Similar Organizations
- 19) Retail Trade
- 20) Miscellaneous Manufacturing
- 21) Finance and Insurance
- 22) Utilities
- 23) Construction
- 24) Arts, Entertainment, and Recreation
- 25) Food Manufacturing
- 26) Health Care and Social Assistance
- 27) Real Estate and Rental and Leasing
- 28) Chemical Manufacturing - Pharmaceuticals
- 29) Administrative and Support Services
- 30) Professional, Scientific, and Technical Services
- 31) Food Services and Drinking Places

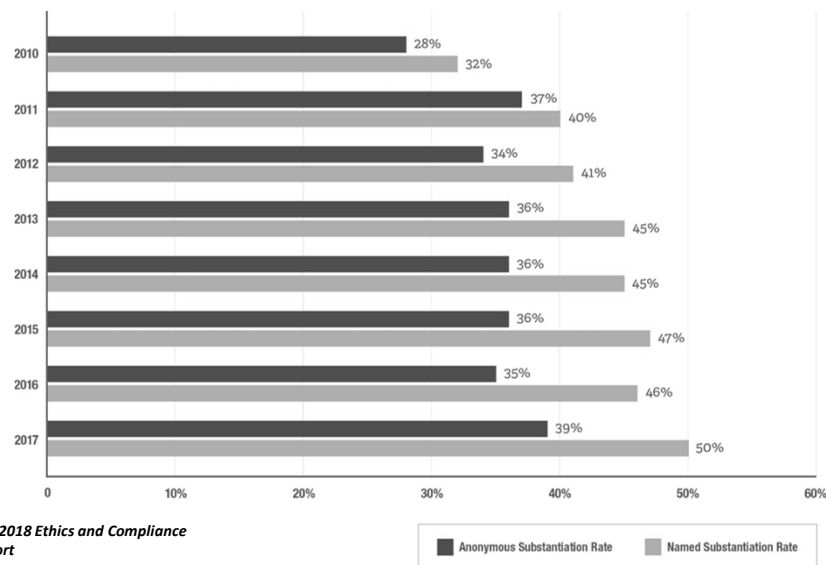
Source: NAVEX Global's 2018 Ethics and Compliance Hotline Benchmark Report

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Substantiated Anonymous vs. Named reports

Comparison of Substantiation Rates between Anonymous and Named Reporters

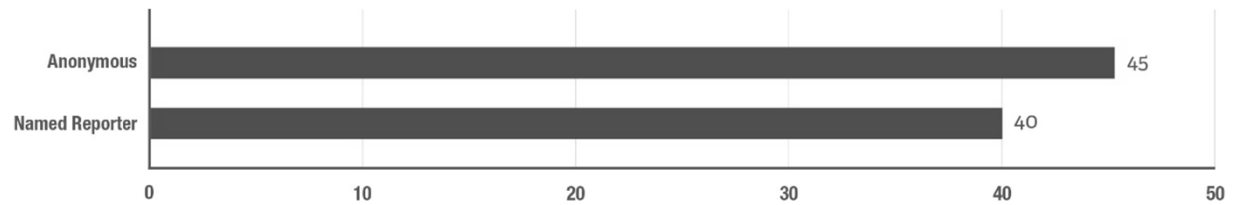


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Case Closure Time – A One Week Difference

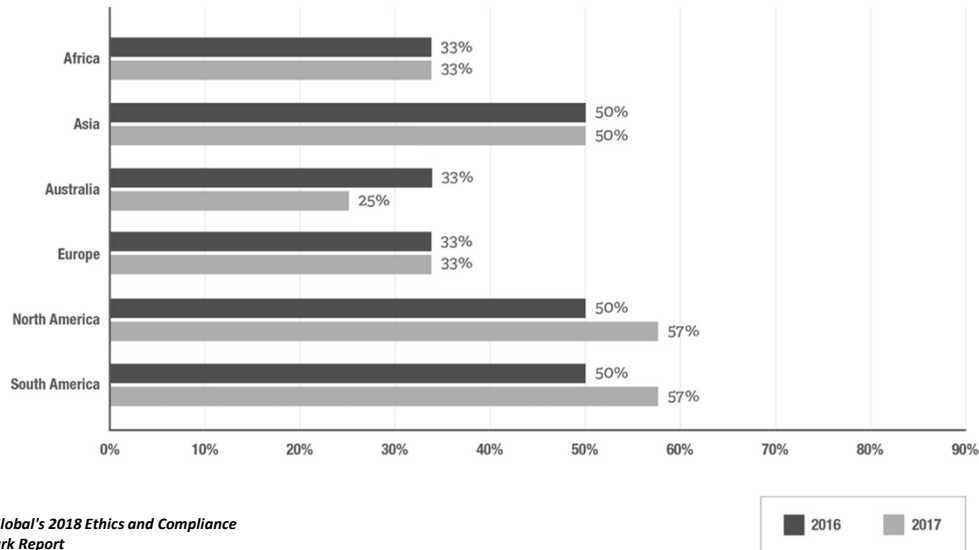


Data: Geography Impact

FROM 2018 NAVEX GLOBAL HOTLINE BENCHMARK REPORT

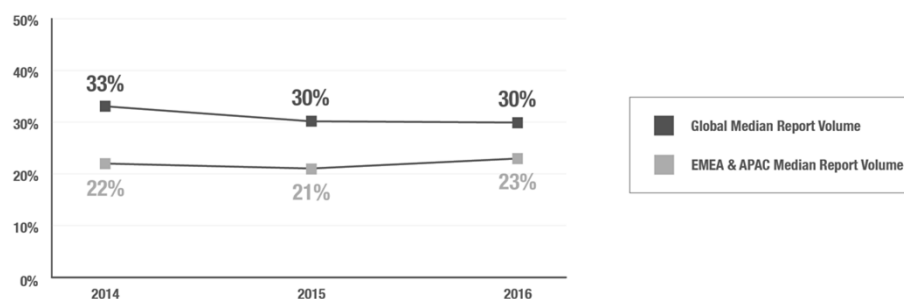
Geographic Reporting

Anonymous Reports by Geography



Anonymous Reporter Follow-Up Rate Lower in EMEA & APAC

Median Follow-up Rate of Anonymous Reports





Key Takeaways

Getting the Most From Your Anonymous Reports

- 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...)

“Help” from Managers and Leaders

- 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

Conclusions

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

Questions?

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Thank You

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