

Ethics and the Investigations Process

Intake to Outcome

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About the Presenter:

- Senior Manager, Lockheed Martin Corporate Ethics
- Former law enforcement (state/federal)
- Security Manager at LM; joined Ethics in 2010
- ACFE Regent Emeritus; CCEP with SCCE
- Obtained MBA with focus on International Business



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Agenda

- Identify techniques for effective intake.
- Recognize the importance of investigative planning.
- Recall effective interview techniques.
- Apply tips on how to best prepare investigative documentation.
- Recall the concept of bias and ways to avoid investigator bias.
- Employ useful tips when presenting to a discipline committee.

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Why Investigate?



- Respond to workplace concerns or whistleblower complaints.
- Resolve incidental or systemic issues in the work environment.
- Allow the organization to address problems (RCA, remediation).
- Remain compliant with laws, regulations, and organizational policies.
- Present facts internally and assist when disclosures are required.
- Mitigate risk: civil litigation, criminal charges, or regulatory actions.
- Avoid or mitigate reputational harm to the organization.
- Maintain employee trust through a speak up culture of integrity.

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Investigative Process



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Contact Methods:

- Email or Letter
- Helpline (allowing anonymity)
- Website
- Digital (or HC) posters/signage
- FAQs site for common questions
- Internal Directories mapping to E&C



Contact Methods

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Investigative Process

- Intake
- Investigative Plan
- Subject Matter Expert consults
- Interviews
- Evidence Gathering
- Bias check/Peer Reviews
- Investigative Report
- Feedback to Reporters/Subjects
- Presentation of Findings
- Post-Investigative Actions

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Intake Tips:

- Instant contacts vs. Scheduled Interviews
- Introductions/Brief rapport-building
- Active listening (story time)
- Clarifying questions
- Summarize allegations with the reporter
- Obtain Witness and Subject information
- Explain investigative process (brochures help)
- Discuss contact during/feedback after investigation



Intake

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Investigative Plan:

- Template, Excel Spreadsheet, Paper
- Worksheet concept
- Capture: who, what, when, where, how, why
- Allegations and relevant policies
- Witness names/contact information
- Subject's Leader and HRBP Information
- Subject Matter Expertise needed
 - Leader, HR, Legal, Security, IT, D&I, ESH



Investigative Plan

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Subject Matter Experts:

- Human Resources (Subject)
- Leadership (Subject/work group)
- Legal Counsel
- Internal Audit
- Computer/IT Analysts
- Financial/Audit Analysts
- Security Officers
- Diversity and Inclusion Office (EEO)



Subject Matter Expert Consultation

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Tips for Scheduling Interviews:

- Consider introductory email:
 - Dear Jared, my name is XX and I am an Ethics Officer with our organization. A concern was raised to our office and I hoped to gain your insights and perspectives. It appears you have time Wednesday at 1:00 pm. I will follow this email with a meeting notice. Let me know if we need to adjust the appointment, mindful this is a time-sensitive matter. Please do not forward or discuss this email or meeting notice.
- In the meeting notice itself, set some expectations:
 - Dear Jared—this follows my email requesting time for a private discussion. I will be on video and prefer that you are calling from a video/audio capable device. Please ensure a private, quiet area for our meeting. If we should lose connection during our call, please call me within five minutes at this number: XXX-XXX-XXXX.



Scheduling

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Interview Tips:

- Introduction/rapport-building
- Explanation
 - Clarify their role in the investigation
 - Ensure they realize you are conducting a confidential investigation
- Expectations/Process Overview (brief)
- Question/Answer Phase
 - Actively listen
 - Did they already answer your next question?
 - Interrupt only if they are far afield from topic at hand
 - Allow witness/subject to tell their story
 - Don't be afraid to ask the tough questions
 - Share evidence, as needed; ask for their perspective
- Elaborate on process and answer any questions
- Remind of confidentiality, policy on retaliation, investigations

Interviews

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Gathering Evidence:

- Documentary Evidence
 - Evidence that builds documentation of events related to the investigation, including contracts, ingress/egress data, manufacturing or production information.
- Testimonial Evidence
 - Interviews of the reporter, witnesses, SMEs, and Subject
- Demonstrative Evidence
 - Maps, diagrams, flow charts, analysis
- Digital Evidence
 - Evidence from any sort of digital file or electronic source (text messages, email, phone calls, data from hard drives, etc.)



Evidence Gathering

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We all have bias:

- Investigators have bias, just as anyone else
 - Confirmation Bias
 - Affinity Bias
 - Priming Bias
- Discuss potential bias with objective party such as trusted peer or leader (peer reviews)
- Review your records and reports for any bias you may not have initially recognized



Bias Check/Peer Review

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Executive Summaries or Full Reports:

- Succinct, high-level summary of facts gathered:
 - How did the report come to you?
 - What was alleged?
 - What investigative steps did you take?
 - What did witnesses say?
 - What did the Subject say in response to the allegations and evidence?
- Review your report with trusted E&C, Legal, or HR Peer
- Check for legally conclusive or medical/other sensitive information
- Apply spelling and grammar check features
- Eliminate unnecessary adjectives, biased descriptions, words, or phrases
- Use quotes where relevant and useful
- Include policy citations
- Substantiate or Unsubstantiate Allegations




Investigative Report

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Provide closure feedback:

- High level summary of findings and next steps:
 - **Reporter:** *Hi Jared. I have concluded my investigation and have substantiated your concerns about the integrity of Joe's expense reports. I can't provide further details, but be assured this matter will be appropriately addressed. Thank you.*
 - **Subject:** *Hi Joe. I've concluded my investigation and while this may be tough to hear, I have substantiated the concerns raised about your expense reports. As for next steps, this matter will go before HR/Discipline committee and they will decide on appropriate corrective action. Thank you for your cooperation and if you have additional questions about the discipline process, contact your HRBP.*
- Remind of confidentiality and policies on retaliation



Feedback

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Presentation to HR or Management:

- Prepare – review your case record and report ahead of presentation
- BLUF (Bottom Line Up Front); Be Concise
- Answer Questions – the HRBP, discipline committee or manager may have questions
- Stick to facts (however, as investigator your opinion as a professional may be sought about Subject's demeanor, level of cooperation)
- Allow HR and/or committee to determine discipline and provide discipline information to the Subject
- Provide report copies only to need-to-know participants part of the discipline process



Presentation

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After the investigation:

- Document report and disciplinary decision (if substantiated) in the case record
- Follow-through with any disclosures as required by law or regulation and document in case record
- Conduct possible root cause analysis for systemic or serious incidental issues found during investigation
- Initiate retaliation monitoring, if applicable



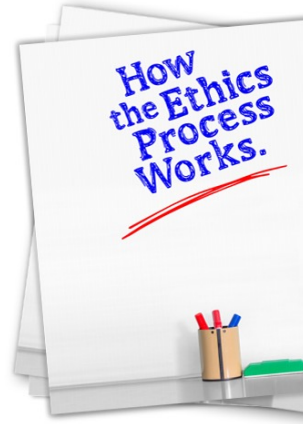
Post-Investigation

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Helpful Tools and Resources

- Brochure for reporters and witnesses
- Brochure designed specifically for Subjects
- Offer Employee Assistance Program if needed
- Review company policies often; be familiar with laws
- Utilize feedback surveys about E&C Process
- Monitor for Retaliation



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What do we investigate?



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Thank you

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