Reporting and Investigating Improper
Governmental Activities

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Agenda/Topics to Be Covered

• Who Investigates What?
• UC Whistleblower Policies
• Do’s and Don’ts
• Exercising Judgment
• Signs of Fraud
ASSOCIATION OF FRAUD EXAMINERS’ CONCLUSION ON DETECTING FRAUD

“Relatively few fraud and abuse offenses are discovered through routine audits. Most fraud is uncovered as a result of tips and complaints from other employees.”

Source: Association of Certified Fraud Examiners, 1996

The charts below display the sources and complaint methods of the 148 new investigations opened in FY06.

The investigations performed by Internal Audit came from a variety of sources as depicted in Chart 10. In FY06, the hotline service received 575 calls. This was comprised of 182 new reports, 126 follow-up calls and 267 calls of a miscellaneous nature that did not constitute a report of impropriety. Many of the 182 reports involved information that was referred to University management for appropriate review and disposition, referred into another process, (e.g., human resources grievance process) or contained insufficient information on which to proceed. Internal Audit initiated 32 investigations based upon a report received from the hotline service. The information for these reports came from 15 anonymous callers and 17 who identified themselves and provided contact information.

Reporting parties identified themselves in 75% of the complaints received, and just over half of those who used the hotline chose to identify themselves.
The charts below display the types of allegations related to the 148 investigations opened in FY06, and the outcome of investigation allegations that closed in FY06.

Each investigation in the IN Database reports on one primary allegation and up to 9 secondary allegations (allegation categories depicted in Chart 13). The closed investigations in FY06 identified 283 primary and secondary allegations which were determined to be either substantiated, not substantiated or inconclusive. Chart 12 demonstrates that information from anonymous sources cannot be substantiated or is inconclusive in 79% of the matters reported. Additionally, when the complaining party is identified, the complaint is almost twice as likely to be substantiated.

The five allegation categories of Improper Use of UC Resources, Fraud, Theft/Embezzlement, Payroll/Time Charge Abuse and Misfeasance/Waste account for 81% of the Internal Audit Investigations. This is similar to the distribution of matters investigated in FY05 which totaled 76% in these same categories for 188 investigations.

Who Performs Investigations at UC?

- Academic Personnel
- Animal Research Office
- Disability Coordinator
- Environmental Health & Safety
- Health Sciences Compliance Officer
- Human Resources-
  - EEOC
  - Labor Relations
  - HR
- Risk Management
- Student Judicial Affairs
- Institutional Review Board
- Internal Audit
- Management Overseeing Ad Hoc external process
- Medical Staff
- NCAA Compliance Officer
- Office of the General Counsel
- Privilege & Tenure Committee
- Research Administration
- Retaliation Complaint Officer
- Title IX Officer
- University Police
Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities

See Accompanying Overview of Policies
Policy Objective:

To adhere to the spirit of the state whistleblower statutes by creating 1) an environment in which suspected improprieties are brought forward without fear of retaliation and 2) a mechanism that ensures an appropriate institutional response to all suspected improprieties (not just whistleblower reports).

Investigations Policy Overview

- Reporting Process=Funnel to LDO
  - Triage Process by LDO and I-Group
    - Investigation by appropriate jurisdictions
    OR
    - Referral to Management*
  - Communications, Coordination & Monitoring by LDO
- Report to management, IGA source and others as appropriate

* If Investigation criteria not met—“if true” & probable cause.
Definitions:

Protected disclosure* – any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper act or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

* Not just whistleblowers

Key Concepts & Guidance

- Can be oral
- Can be made to line management OR University official with implied authority to act
- If not recognized as such when made, danger of re-characterization as such when retaliation complaint is made
- “for the purpose of remedying that condition” should normally be assumed
- Malicious intent does not nullify potential validity of allegations.
- Frivolous complaints may themselves be IGA’s
WHAT TO DO WHEN CONFRONTED WITH WHISTLEBLOWER ALLEGATIONS?

DO’s

- Learn UC Policy and reporting channels
- Recognize and be alert to informal communications of allegations (protected disclosures)
- Notify as appropriate:
  - Locally Designated Official
  - Internal Audit
  - Human Resources
  - Campus police in cases of theft or breach of physical security
- Notify senior management as appropriate
- Contact Internal Audit and Human Resources before taking any personnel action
- *Think about* but don’t act on first steps
- Act with speed
- Hold the matter confidential
WHAT TO DO WHEN CONFRONTED WITH WHISTLEBLOWER ALLEGATIONS?

DON'T's

• Dismiss the matter out of hand
• Launch your own investigation
• Confront the accused or otherwise tip them off

• Disclose the matter to any unnecessary parties
• Try to settle or resolve the matter yourself

What is “appropriate judgment”?

• Managers have to be allowed to manage—to do their jobs
• Guidance can’t be absolute—there is no way to remove judgment from the equation
• However, caution is urged to error on the side of disclosure—the manager needs to be held accountable for failing to report matters that later surface as surprises.
• A decision not to report is not a decision not to act, but a decision that the matter can be resolved under the person’s own authority.
• If “dealing with the matter” requires activities outside the scope of normal supervision this is probably something for investigators to do.
The University has a responsibility to conduct its affairs ethically and in compliance with the law. If you suspect that a UC employee is engaged in improper governmental activities, you should know that UC has policies that can show you how to "blow the whistle" and can protect you from retaliation if the need arises.

This website provides important information for employees and supervisors about the whistleblower policies. Select one of the choices in the left-hand column to find the information you want.

Universitywide Whistleblower Hotline: (800) 403-4744
(The hotline is independently operated to help ensure confidentiality)

Whistleblower Poster (pdf)
Avoiding Becoming the Subject of a Financial Investigation

- Document, Document, Document
- Disclose, Disclose, Disclose (*fiat lux*)
- Manage the *Business* Not Just the Program
- Don’t Falsify the Books and Records

Personal Tests

Wall Street Journal Test
Personal Tests

Mom Test

Personal Tests

CAN YOU DO IT WITH SOMEONE WATCHING?
Personal Tests

Make It Policy Test

Office of the President
President  The Regents  Academic Senate  Campuses/Labs
Systemwide Policies and Guidelines

RECENT MAJOR INVESTIGATIONS
Common Investigation Issues

• Virtually all involve fraudulent expenditures/procurements
• Two involve fraudulent vendors (non-existent/DBA)
• Several involve research funds & question the PI as a control point
• Several raise questions about the role of MSO in the control process
• Most had gone on for some time (over a year—up to four years)
• All had significant red flags-funny documentation, factors that should have raised suspicions (e.g. high end personal electronics, personal spending anomalies)
• Several had been previously reported but suspicion was not elevated to the right place (LDO) or adequately addressed
• Most were ultimately reported by employees doing their jobs

Characteristics

• Ability to establish vendors without sufficient checking
• Role of procurement when sole sourcing?
• Procurements with no contract or PO?
• Split invoices on low value purchases—lack of detection
• Inadequate review of ledgers
• Inadequate review of charges to sponsored projects
• PAN process adequate basis for approval?
• Management override
• Failure of supervision-by PI’s
• Compromised or lack of separation of duties
### Control Issues—Separation of Duties

<table>
<thead>
<tr>
<th>Theoretical Separation</th>
<th>Typical Procurement</th>
<th>Low Value Purchase</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Authorize</td>
<td>• Chair, PI, MSO etc.</td>
<td>• Chair, PI, MSO etc.</td>
</tr>
<tr>
<td>• Execute</td>
<td>• MSO/Procurement</td>
<td>• MSO</td>
</tr>
<tr>
<td>• Approve for Payment</td>
<td>• Chair, PI, MSO, etc.</td>
<td>• Chair, PI, MSO (post)</td>
</tr>
<tr>
<td>• Payment Process</td>
<td>• Accounts Payable</td>
<td>• N/A</td>
</tr>
<tr>
<td>• Recording</td>
<td>• MSO</td>
<td>• MSO</td>
</tr>
<tr>
<td>• Reconciliation / Review of Ledgers</td>
<td>• MSO</td>
<td>• MSO, Chair, PI</td>
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People controls are still the key until we can invest in more systematic controls.
Signs of Fraud

CHARACTERISTICS OF CLASSIC EMBEZZLERS

• Usually work their crimes alone.
• Tend to be compulsive (gambling, abusing alcohol/drugs).
• Spend money freely (their own and/or the University’s).
CHARACTERISTICS OF CLASSIC EMBEZZLERS

• Work themselves into favor by utilizing their compulsiveness on-the-job.
• Rationalize their thefts by thinking they are merely “borrowing.”

CHARACTERISTICS OF CLASSIC EMBEZZLERS

• Tend to repeat and escalate their crime.
• Exploit weaknesses in internal controls to cover up their crimes.
• Have ready access on-the-job to cash or its equivalent.
ASSOCIATION OF CERTIFIED FRAUD EXAMINERS
CONCLUSIONS
(Perpetrators of Fraud)

“There is a direct correlation between the employee’s age, education, position and the median loss due to fraud and abuse.” These factors often reflect the perpetrator’s position in the organization.

Source: Association of Certified Fraud Examiners, 2004

1996 CFE FRAUD STUDY
GENDER DEMOGRAPHICS

Who Steals?
Men - 75% Women - 25%

How Much?

Source: Association of Certified Fraud Examiners, 1996
2004 CFE FRAUD STUDY
GENDER DEMOGRAPHICS

Who Steals?
Men - 53% Women - 47%

How Much?

Source: Association of Certified Fraud Examiners, 2004

DEMOGRAPHICS POSITION IN THE ORGANIZATION

Who Steals?
Executives - 12% Managers - 34% Employee - 67%

How Much?

Source: Association of Certified Fraud Examiners, 2004
DETECTING FRAUD RED FLAGS

• Lifestyle and Personality
• Organizational
• Financial Documents
• Accountability and Control

LIFESTYLE AND PERSONALITY RED FLAGS

• Wheeler/Dealer
• Dominating Personality
• Living Beyond Means
• Poor Money Management
• Dissatisfied Worker
• Unable to Relax
• No Vacations or Sick Time
• Close Customer/ Vendor Relationships
• Unusual or Change in Personality (alcohol, drugs, sleep, irritable, defensive, argumentative)
• Too Good to Be True Performance
• Excessive Overtime
ORGANIZATIONAL RED FLAGS

- No Communication of Expectations
- Too Much Trust in Key Employees
- Lack of Proper Authorization Procedures
- Lack of Attention to Detail
- Changes in Organizational Structure
- Tendency Toward Crisis Management

FINANCIAL DOCUMENT RED FLAGS

- Missing Documents
- Alteration of Documents
- Excessive Number of Voided Documents
- Documents Not Numerically Controlled
- Questionable Handwriting or Authorization
- Duplicate Payments
- Inordinate Use of Form 5’s
- Unusual Billing Addresses or Arrangements
- Address of Employee Same as Vendor
- Duplicate or “Home Made” Photocopied Invoices

From Harvard Internal Audit Home Page
ACCOUNTABILITY AND CONTROL
RED FLAGS

- Lack of Separation of Duties
- Lack of Physical Security and/or Key Control
- Weak Links in Chain of Controls and Accountability
- Missing Independent Checks on Performance
- Lax Management Style
- Poor System Design
- Inadequate Training

From Harvard Internal Audit Home Page

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