



Signs You May Have a Problem

White-Collar Crash Course

October 31, 2017

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Overview



- **Assessing risk: Where to look and what to look for?**
- **Complaining Employee: Whiner or Whistleblower?**
- **Government Questions: What do they mean?**
- **How do you respond?**

Assessing Risk



- Know your industry's legal and compliance risk
 - Who are your regulators? What regulations are involved?
- Know your company's specific risks
 - Differences based upon whether local, national or international platform
 - Differences based upon business form, model, not-for-profit v. for-profit, etc.
- Monitor trends in enforcement and compliance
 - Health Care - OIG Work Plan
 - Following settlements in your industry and related enforcement actions
 - Review OIG Corporate Integrity Agreements or Corporate Monitor Agreements
- Harness the work being done by operations
 - Quality Improvement; Internal Audit; Outside consultants

Complaining Employee



- Evaluate the complaint not the complainer
 - Problems often sent to HR without adequate compliance review
 - Credit the allegations until you have established they are not credible
 - Avoid seeing complaints as employee “crying wolf” – remember that in the end there was a wolf
- Encourage employees to come forward
 - Thank the complainer
 - Ensure there is no retaliation
 - Your compliance efforts will only succeed in a “see something, say something” world
- Find a way to keep complaining employee informed about your efforts
 - Silence is seen as inaction

Government Questions



- Information request from an auditor – ZPIC, UPIC, OIG Officer of Audit Services, etc.
- News that a former employee has been contacted by a government agent
- Your company and/or its employees are contacted by government agents
- Information request from a regulator/enforcer:
 - OIG Request for Information or Assistance
 - OIG Subpoena
 - Civil Investigative Demand – Department of Justice
 - HIPAA Subpoena – Department of Justice
 - Grand Jury Subpoena
- Search Warrant

How to Respond



- The First Step is Knowing you have a Problem
 - Important to recognize the warning signs
 - Once you do, consider what help you need to respond
 - Ensure that you look for the right experience

- Remember the Hippocratic Oath – First Do No Harm
 - Given the signs you may have a problem be sure you don't make it worse
 - Protect information and documents
 - Be thoughtful about communications with all constituencies
 - Remember: Often the cover-up is the only crime.

Questions?



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Thank you.