

The Employee Protection Line®

Common Questions and Answers

1. *What types of calls are usually made on the Employee Protection Line®?*

- Ethics (23 percent of calls received)—theft, company policy or rule violations, criminal activities, workers' compensation fraud, and poor management practices.
- Equal employment opportunity (21 percent)—discrimination, harassment, retaliation and wrongful termination.
- Safety (11 percent)—drug and alcohol use, violence, carelessness and other violations.
- Other (46 percent)—poor customer service, verbal abuse, unfair treatment, wage/hour claims, slander, etc.

2. *Could an employee call anonymously and make false accusations about another employee?*

- Of course. But an employee can start a false rumor in other ways that can be even more damaging to another employee. After all, an allegation reported on the Employee Protection Line® is shrouded in confidentiality, conflict checks and other security procedures; but there is no process to manage rumors and other word-of-mouth types of false accusations.
- Plus, the Collective Risk Management Team™ is the buffer that prevents false accusations because it is known by all employees that every report will be managed. Management of a report calls for a reasonable response by the organization. This added mechanism can clear a person of a false accusation and is a deterrent against false allegations. With proper utilization of the Employee Protection Line®, there's a good chance that the rumor mongers would be reported and their activities disclosed, investigated and stopped.

3. *How can my organization be expected to investigate an anonymous call?*

- Most calls made on the Employee Protection Line® provide enough information for an investigation.
- If a caller does not disclose his or her name, he or she may disclose the names of witnesses, the time and location of the incident, and the name of the alleged wrongdoer—thereby giving the organization sufficient information to promptly and reasonably respond.
- If a caller makes a report such as “sexual harassment is rampant at ABC organization” and then hangs up, you can still respond reasonably. For example, employees and managers may be interviewed and a questionnaire may be distributed. In the event an investigation is inconclusive, you can conduct sexual harassment training, or at a minimum reiterate the organization's sexual harassment policy.

4. *A 1-800 telephone reporting line will just invent trouble.*

- A reporting mechanism doesn't invent trouble. It uncovers trouble. If a call is made, even a false accusation, a problem already existed. It means you may have a vindictive employee in your workforce. Wouldn't you rather know about this problem—especially when you have a legal obligation to seek it out—than to “stick your head in the sand?” Knowledge is power.
- The Employee Protection Line® acts much like a smoke detector. A smoke detector doesn't start a fire, but it warns you when one already exists or is getting started.

5. ***My managers will quit if you implement a reporting line. They don't need employees looking over their shoulders.***

- Managers are employees too. It is not uncommon for a manager to utilize the Employee Protection Line®.
- Moreover, managers can be damaged more by rumors than a report made on the Employee Protection Line®. With the Employee Protection Line®, they know that they will get fair treatment instead of having an unsubstantiated rumor damage their career. An employee who has a problem really doesn't have a leg to stand on if they are not willing to report it on the Employee Protection Line®. Without the Employee Protection Line® or the Collective Risk Management Team™, anyone can hurt a manager with innuendoes and rumors.
- Since the Employee Protection Line® functions as a deterrent against false reports (remember that rumor mongers frequently are identified by the line), current clients report to in2vate that their managers appreciate and value the Employee Protection Line®.

6. ***How does the Employee Protection Line® help with wrongful termination claims?***

- Deterrence—most wrongful termination claims stem from other types of wrongdoing. For example, a recently terminated employee claims: “I was fired because I am a female.” If the employee felt she was being discriminated against because she was female, she could have reported it on the Employee Protection Line® long before her termination.
- The Employee Protection Line® can provide an organization with a second chance. If a termination was improper and a call is made to the line, the Collective Risk Management Team™ can conduct an investigation and make a determination before attorneys and/or other third parties get involved. If the claim is false, the Employee Protection Line® and the protection it gives employees is a good tool to show the judge, jury, etc. that the employer is caring, concerned, and responsible.

7. ***How does the Employee Protection Line® help with claims of sexual harassment or discrimination?***

- Deterrence
- Legal defenses
- With hostile environment claims, including sexual harassment, the Employee Protection Line® solidifies the Burlington Industries and Faragher defenses which were set forth by the United States Supreme Court in 1998. The Supreme Court stated that if an employer promotes a system that allows employees to report harassment, and that system is a safe and good system, then the employer cannot be held liable when an employee fails to report the harassment but sues instead. Often plaintiffs will attempt to circumvent the Burlington Industries and Faragher defenses by arguing that their employers' system of reporting was unfriendly and unreasonable and therefore the defense did not apply to their situation. With the Employee Protection Line® and the safeguards anonymous calling and the Collective Risk Management Team™ provide, this argument is neutralized.

- The reasonable response defense allows an employer to escape liability if it knows of harassment or discrimination and it reasonably responds to remedy the problem. The Collective Risk Management Team™ and its training teaches an employer how to respond to sexual harassment and discrimination claims and respond to them quickly, reasonably and internally.
- See: *BURLINGTON INDUSTRIES, INC. v. ELLERTH* [97-569] and *FARAGHER v. CITY OF BOCA RATON* [97-282]

8. ***How does the Employee Protection Line® help with workplace violence?***

- Deterrence
- Other employees often know when a co-worker may become violent, but they rarely report the potential for violence. Personal fear is one reason they fail to report. Employees fear that if they report a fellow employee as being potentially violent, they, themselves, will become the target of the violence. The Employee Protection Line® allows any employee to report anonymously without placing himself/herself in danger.

9. ***How does the Employee Protection Line® help with workplace theft?***

- Deterrence
- As with violence, employees often look the other way when a fellow employee is stealing or breaking a law. They remain silent either out of fear or simply not wanting to *get involved*. The Employee Protection Line® allows them to report internal theft without fear—and with the knowledge that a group of neutral employees will reasonably respond to the allegation.

10. ***How will the Employee Protection Line® help with workers' compensation fraud?***

- Deterrence
- The Employee Protection Line® provides an employee the means to safely and confidentially report any workers' compensation fraud.

11. ***Aren't there other "1-800" reporting lines? And how is the Employee Protection Line® different?***

- **Other 1-800 reporting lines** are much different from the Employee Protection Line®. Most other lines:
 - A) are staffed.
 - B) are unfriendly.
 - C) are inconsistent.
 - D) are intimidating because they ask questions.
 - E) provide no confidentiality.
 - F) prevent the employee from telling his/her story in an unobstructed manner.
- **The Employee Protection Line® is:**
 - A) not staffed; your employees have 24-hours-a-day, seven-days-a-week access to leave a recorded report.

- B) user-friendly; enabling an employee to stop workplace wrongdoing safely and internally.
 - C) consistent; all callers receive the same treatment, regardless of circumstances.
 - D) a mechanism where the caller may remain anonymous.
 - E) not staffed; there's nobody at the other end of the line to interrupt or otherwise distract the caller or filter the report.
- **Other 1-800 reporting lines** provide no report management guidelines and procedures; therefore:
 - A) other lines usually fax reports made on their lines back to the employer, with no assurance that the report is being faxed to a secure location, and reports are usually sent to security or human resources personnel.
 - B) no conflict check is provided.
 - C) the organization could be left "out in the cold" with an allegation but no guidelines suggesting how to reasonably respond.
- **The Employee Protection Line®** provides report management guidelines in conjunction with each report. Plus, the Employee Protection Line® follows several checks including an emergency check and a unique conflict check, as well as several other safety measures to protect the integrity of the report and the confidentiality of the caller. These factors ensure that:
 - A) report management guidelines are provided to the report recipients within your organization, to ensure that all reports of risks and wrongdoing are reasonably managed.
 - B) confidential reports are accessed via a secured website by only those employees that your organization has designated to receive and manage such reports—ensuring that only those individuals who have been conflict checked will see reports.
 - C) extensive conflict checks are conducted by in2vate prior to sending reports to your designated report recipients. Plus, reports are accompanied by guidelines that recommend additional conflict checks and explain how to conduct them—to ensure that no conflict of interest exists among decision makers.
 - D) the organization and individual decision makers are managing reports from a fair and defensible position.
- **Other 1-800 reporting lines** provide no consistent mechanism to identify and react to situations that need immediate attention. This is very dangerous if the report involves the threat of immediate danger or bodily harm.

The Employee Protection Line® provides a 24-hours-a-day, seven-days-a-week system of immediate and multiple checks to ensure that any threats of bodily injury or harm are promptly reported to the proper authorities.

- **Other 1-800 reporting lines** don't include an Employee Awareness plan. As a result, they are:
 - A) often presented and/or perceived as "big brother" or "watchdog" lines.
 - B) not employee friendly, making it easy for a plaintiff's attorney to argue *why* an employee did not report.

- **The Employee Protection Line®** Employee Awareness plan provides several means for you to notify your employees of this benefit, including a positive video that promotes teamwork as well as the employer's efforts to provide the safest work environment possible. Since the Employee Protection Line® is visible, open and accessible, all employees should know about the line, and be aware of why and how they should access it. Hence, the Employee Protection Line® is:
 - A) structured to ensure employee recognition of management's effort to create a safe and healthy workplace.
 - B) ultimately user-friendly, making it very difficult for a plaintiff's attorney to explain why the plaintiff *did not* report.
- **Other 1-800 reporting lines** don't offer any of the comprehensive risk management elements needed to preserve legal defenses.
- **The Employee Protection Line®** is an integrated risk management system, and one part of a comprehensive system—THE WATCH®—which provides subscribers access to Smart Risk Management™ and the many legal defenses it may provide.

12. *Why are some other 1-800 reporting lines so inexpensive?*

- You get what you pay for. They simply are information services. They are not true "open reporting" systems because they do not provide all the safeguards such as emergency or conflict checks. These lines can be very dangerous.

13. *Isn't a 1-800 reporting line a "Big Brother" type of tool?*

- Other 1-800 reporting lines may be perceived as "snitch lines." The Employee Protection Line® is promoted as an employee benefit, a way they can protect themselves.

14. *Why does the Employee Protection Line® use electronic messaging?*

- Always friendly.
- Consistent—never makes a mistake.
- Allows the employee to tell his/her story without interruption.
- Very important in litigation because it shows what the employee was thinking and how he/she felt at or near the time of the alleged wrongdoing.
- Easy to use.
- Not seen by employees as a "venting" line because it is not answered by a live person—no feedback.
- Eliminates fear of voice recognition.
- Preserves legal defenses.
- Hard to argue that the line was intimidating, unfriendly or unavailable.
- Doesn't give advice or opinions.

15. *Why doesn't the Employee Protection Line® give an opinion to the person placing the call?*

- It is not uncommon for a caller to ask someone staffing a 1-800 reporting line for a legal opinion (Did my boss sexually harass me?).
- Giving an answer could be viewed as providing legal advice that can be detrimental to the organization, the caller and the person providing advice.
- To not give an opinion appears unfriendly to the employee making a report—it is human nature to ask for feedback when talking to another person.
- Electronic messaging takes requests for feedback out of the equation.
- If an employee wants feedback, internal reporting outlets are available through internal procedures already in place, or through Smart Risk Management™ and the Collective Risk Management Team™.

16. *I think my employees want to talk to a live person instead of an unfriendly messaging service.*

- Great. The Employee Protection Line® does not take away internal reporting mechanisms. In fact, it openly promotes internal reporting through its Employee Awareness video and Smart Risk Management™ training.
- Employees who call the Employee Protection Line® often want to talk to a live person because they fear voice recognition and/or questioning.

17. *We already have an internal reporting line. How will the Employee Protection Line® be any different?*

- The Employee Protection Line® can work with your internal line. The value of the Employee Protection Line® is that it is monitored by an independent, neutral third-party. Employees already have the option to report internally. By providing an in-house line, you may make it easier for them to report internally. But for those employees who want to go outside to a neutral third party, you need another means. By providing them the means to call a third party, you provide them with an alternative to calling a plaintiff's attorney or government agency.
- Employees fear voice recognition and call tracing. For many employees, the biggest stumbling block to making a call to an internal line is the fear or uncertainty over who will answer the phone.
- The safeguards in2vate provides as a third party—such as conflict and emergency response checks—help preserve confidentiality and protect your legal defenses.
- The Employee Protection Line® is monitored 24 hours-a-day and seven days a week. A good percentage of calls are made at night. With the Employee Protection Line®, you allow employees to report when they feel comfortable doing so—and this may not be during normal business hours.

18. *We had a 1-800 reporting line and dumped it because nobody called.*

- Internal lines will always get fewer calls because they are *internal* lines. No matter what an organization does to promote its line, employees will always prefer a third-party line.

19. *The US Army dropped its 1-800 reporting line because they were flooded with calls. We don't want that to happen here.*

- The Army installed their line *after* a sexual abuse charge had already been made and in the midst of a sexual abuse controversy. The public nature of the charges and the heightened media awareness regarding the entire situation created a unique experience for their line.
- The Employee Protection Line® is designed to *prevent* problems *before* they occur and allow you to discover and manage quickly and internally any problems that already exist. If the Army had implemented the Employee Protection Line® *before* the problem occurred, they might have been able to prevent the problem altogether—or at least manage it before it got out of hand and turned into a public relations nightmare.

20. *I am afraid my organization will get flooded with calls.*

- Most organizations average one (1) call per 150 employees, per year.
- Why so few reports? The calls are limited because the scope of the Employee Protection Line® is limited to *serious wrongdoing* such as harassment, etc.
- Employees that view the Employee Protection Line® as a benefit and therefore are less likely to make frivolous calls.
- Research shows that most workplace wrongdoing does not rise to a level causing an employee to act. A problem occurs when an employee uses an alleged wrongdoing that occurred in the past against the employer after a negative event happens to the employee—such as a termination, or demotion.
- The benefit of the Employee Protection Line® is not always the calls your organization will receive, but rather is the calls you won't receive. In other words, an employee will have a difficult time explaining why he/she didn't utilize the Employee Protection Line®.

21. *We have an “open door” policy. We don’t need this.*

- An “open door” policy is not enough. It is incumbent upon the employer to show more. Testimony that your door was always open provides little benefit during litigation.
- The term “open door” is often used but rarely the truth. Research shows that most employees, and jurors, do not believe that their employer's doors are really open.

22. *How much time does it take to manage a report made on the Employee Protection Line®?*

- The length of time required is determined on a case-by-case basis. in2vate's experience has been that most Collective Risk Management Team™ meetings take 15 to 30 minutes. More serious allegations may take additional time.

23. *The people in our organization are not trained to manage all of the types of reports that could possibly come in on the Employee Protection Line®. Would this lack of training actually increase our exposure to liability?*

- Employee Protection Line® reports come with report management guidelines and procedures that are easy to follow. Without the guidelines provided in conjunction with the reports, most organizations have no uniform risk management guidelines to follow.
- Smart Risk Management™ also provides a training course for the Collective Risk Management Team™.

24. *I don't know of any other employers who offer a service to their employees similar to the Employee Protection Line®. Why should we go "above and beyond" what other employers in our area/industry are doing?*

- During litigation, it is crucial to show that you are a "different kind of employer"—an employer who goes "above and beyond" what is necessary to protect your employees' rights. This extra effort may save you thousands of dollars in defending an employment lawsuit.

25. *Our organization's attorneys say we don't need the Employee Protection Line® and that our current procedures will suffice.*

- The Employee Protection Line® and its procedures decrease an organization's exposure and therefore decrease attorney fees.
- in2vate can provide you with a legal position paper generated by a nationally recognized employment law firm verifying the critical need for the Employee Protection Line®.
- The belief that a "hired gun" attorney and an employment handbook are enough to protect you is neither proactive nor correct. The status quo requires more from employers to prevent liability.

26. *in2vate records Employee Protection Line® calls. Whose property is the audiotape?*

- The audiotape is the property of in2vate.
- The audiotape can be subpoenaed in the event of litigation.

27. *Can I use the Employee Protection Line® to dismantle our union?*

- The Employee Protection Line® is not to be used for that purpose.
- If a union is not involved in the decision to use the line, then the Employee Protection Line® will most likely not receive a vote of confidence from union employees.

28. *What if my organization gets no calls?*

- You still receive the protection of offering a safe reporting system. If an employee sues without notifying you first, you can invoke certain legal defenses.
- You get the morale benefit of demonstrating to employees that you care about their safety and work environment.
- You receive the public relations benefits in a time of a crisis.