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Corporate Internal Investigations Best Practices, Pitfalls to Avoid

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CORPORATE INTERNAL INVESTIGATIONS

BEST PRACTICES, PITFALLS TO AVOID



INTRODUCTION: THE BENEFITS OF AN EFFECTIVE CORPORATE INTERNAL INVESTIGATION

Corporations are being scrutinized today as never before. Public and private companies alike are examined and investigated not only by the U.S. government, but by increasing numbers of local, state, and foreign government agencies. Private plaintiffs are also filing more and more cases with significant allegations that attempt to call a corporation's conduct into question. Frequently, corporate scrutiny focuses on compliance issues: that is, whether companies comply with the legal obligations to run the business ethically around the world. Corporations are clearly facing significant challenges.

There is a path, though, for corporations to best protect themselves in the harsh glare of the spotlight on compliance issues. That is: When a company is confronted with evidence or allegations of potential wrongdoing, the company is well served to respond deliberately and thoughtfully by making sure that it understands all the facts. If the facts evidence a violation of policy—or worse, of law—the company should respond promptly with appropriate discipline, remediation, and (in certain cases) perhaps even discussions with the government.

Under the right circumstances, conducting an effective corporate internal investigation protected by the attorney-client privilege can benefit the company in a number of ways:

- Revealing all of the relevant facts so that management and/or the board can make a fully informed decision as to how best to proceed;
- Stopping the conduct to prevent further violations;
- Memorializing the company's good-faith response to the facts as they become known;
- Insulating management and/or the board against allegations of complicity; and
- Promoting a culture of transparency and compliance throughout the organization.

Each of these benefits can be achieved if the investigation is well designed with a specific work plan that addresses document collection and review, witness interviews, careful analysis, and periodic reporting in the format that best serves the client's interests.

Jones Day has developed one of the deepest benches in the world of former prosecutors and regulators and of lead trial lawyers, all of whom guide and defend companies every day through their most sensitive and urgent issues. The materials in this collection, written by the partners and associates within the Firm's Corporate Criminal Investigations Practice, describe different aspects of our practice as related to corporate internal investigations. The materials cover best practices in witness interviews, reflections on the corporate attorney-client privilege, representation issues in internal investigations, joint defense agreements, the effective use of experts, the growing prevalence of global corporate investigations, and protecting a company's interests after self-disclosure.

We hope that you find these materials instructive and helpful.

Charles Carberry and Richard Deane

Practice Leaders

Corporate Criminal Investigations

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Also available as part of the eCourse

[Government Investigations and the Corporate Board](#)

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"The Corporate Board and Its Role in Government Investigations"