IGNORANCE IS NOT BLISS

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• **Part One: Recognizing a Complaint (15 minutes)**
  - Why investigate?
  - What is a complaint?

• **Part Two: Investigations 101 (20 minutes)**
  - What is “an investigation”?
  - Triage what you’ve got
  - Investigation Processes

• **Part Three: Stick the Landing (5-10 minutes)**
  - Knowing when you’re done
  - Documentation
  - Closure

• **Part Four: Moving Forward (5-10 minutes)**
  - Putting information to good use
  - Sustaining and re-building teams
  - Avoiding recurrence

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WHAT IS A “COMPLAINT” ANYWAY?

IT DOESN’T HAVE TO PUNCH YOU IN THE FACE.

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THE BERMUDA TRIANGLE....

WHY INVESTIGATE?

Law
Policy
Culture
Public relations & reputation

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RISK FACTORS

- Homogeneous workforce
- Workplaces where some employees do not conform to workplace norms
- Cultural and language differences in the workplace
- Coarsened Social Discourse Outside the Workplace
- Workplaces with “high value” employees
- Workplaces with significant power disparities
- Workplaces that rely on customer service or client satisfaction
  - Workplaces where work is monotonous or tasks are low-intensity
- Isolated workplaces
- Workplaces that tolerate or encourage alcohol consumption
  - Decentralized workplaces

- EEOC Select Task Force on the Study of Harassment in the Workplace

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YOU’VE DETERMINED
YOU NEED TO
INVESTIGATE A
COMPLAINT.
NOW WHAT?

WHAT CONSTITUTES AN
ADEQUATE INVESTIGATION?

An investigation should be “prompt, thorough and impartial.”

U.S. Equal Employment Opportunity Commission
“PROMPT” DOES NOT MEAN *INSTANTANEOUS.*

“Give me six hours to chop down a tree and I will spend the first four sharpening the axe.”

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TRIAGE

Nature and severity
• Interim measures?

How many likely witnesses?
• And who they are: Can it be investigated impartially?

Location

Forms of evidence

How long ago?
• Or ongoing? . . . Interim measures?

INVESTIGATION PROCESSES:
PEOPLE, PLACES, AND “THINGS”

(AND IN WHAT ORDER...)

Talking to PEOPLE – interviewing basics

Investigating PLACES – understanding the “where”

ELECTRONICALLY STORED INFORMATION – when email, text, IM, video or social media come in
TALKING TO PEOPLE WHO?

AND ONE MORE THING ...
LISTEN!

PROCEED WITH CAUTION!
A brief warning about the pitfalls of relying on observations of demeanor
WHERE IN THE WORLD? INVESTIGATING PLACE

• Does the location reveal anything?
  – Plausibility
  – Other witnesses
  – Physical evidence
  – Ability to perceive
  – Making the statements more concrete and understandable for the investigator

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ELECTRONICALLY STORED INFORMATION (ESI)

• Email
• Instant messages
• Pictures
• Social media (constantly evolving)
• Video
• Metadata
• Browsing history

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STICK THE LANDING

COMPLETING THE INVESTIGATION

IMPOSING CONSEQUENCES (WHEN APPROPRIATE)

ENSURING CLOSURE DOCUMENTATION

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KNOWING WHEN YOU’RE DONE

“The central findings of the investigation are that the man whose voice is heard on the recording and on a second recording from the same conversation that was released on Sunday is Mr. Sterling and that the hateful opinions voiced by that man are those of Mr. Sterling.”

NBA COMMISSIONER ADAM SILVER

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BE CLEAR AND TO THE POINT

If it can be done in the midst of World War II . . .
CLOSURE

• Being as transparent as possible
• Bringing things to a clean end
• Assessing where things stand

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MOVING FORWARD

PUTTING THE INFORMATION TO GOOD USE
SUSTAINING AND REBUILDING TEAMS
PREVENTING REOCCURRENCE

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PUTTING THE INFORMATION TO GOOD USE

Investigations often provide the foundation for improved processes, recommitment to culture, and a greater awareness of employee concerns.

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SUSTAINING AND REBUILDING TEAMS

BRINGING PEOPLE BACK TOGETHER AFTER A COMPLAINT AND INVESTIGATION AND MOVING FORWARD TOGETHER

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ONWARD

Adding to all of this a forward-looking, intentional, and persistent focus on culture in order to prevent reoccurrence.

QUESTIONS?

For a copy of this presentation and other helpful materials visit www.ilgdenver.com/cbc2019

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