

Dealing with a Government Investigation



HCCA Research Compliance Conference

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What we will cover in several contexts

- Government expectations
- Common challenges
- Practical approaches

Dealing with Agencies

- Who are they?
- Specific role of AUSA
- Who is the government client?
- Do they have differing agendas?
- Bring them to the table or wait?

Attorney-Client Privilege and Work Product Protection

- What they are
- How to establish them
- How to maintain (and lose) them
- Government efforts to seek waiver
- Alternatives to waiver?

Common Scenarios

- Anonymous letters/tips
- Breach of confidentiality
- Whistleblower in our midst

Witnesses

- Government contacts
- Representation by corporate counsel or group counsel
- Obstruction issues

Agent Techniques

- Paper review before interviews
- Filling in the blanks
- Surprise
- Explaining potential outcomes
- Pride in case/selling to AUSA

Government Resources

- NIH
- Other witnesses
- Physicians and other professionals
- Third-party consultants

What aggravates the government

- Witnesses don't know their lawyer as identified by organization
- Attorney says he/she represents everyone
- Organization pays for individuals' counsel
- Cover-up
- Evidence destruction/alteration
- Not telling the truth
- Not telling the whole truth

Questions. . . .

