



IT Uncovered a Fraud: Now What?

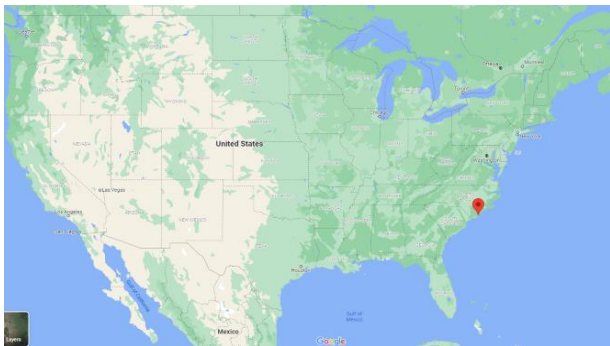
**Why Internal Auditors Should
Think Like a Prosecutor**

**District Attorney Ben David
Wilmington, North Carolina**

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\$78 Billion in Accounting Fraud



STEINHOFF \$7.4 Billion in Overstated Profits
INTERNATIONAL HOLDINGS N.V.

\$6.1 Billion in Document Manipulations



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The Bigger Problem: Globally in 2020

- Most businesses lose 5% of annual revenue to employee fraud.
- Only 56% of businesses investigated their worst fraud incident.
- It is estimated that nearly 90% of fraud is not reported.

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Have you uncovered employee fraud?

- a. Yes
- b. No

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Did any of the fraud you uncovered result in financial losses in excess of \$100,000?

- a. Yes
- b. No
- c. I have not uncovered employee fraud

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Were any of the employees prosecuted?

- a. Yes
- b. No
- c. I have not uncovered employee fraud

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Poll Responses of Hundreds of Auditors

- Have you uncovered employee fraud?
 - Yes 65%
 - No 35%
- Did any of the fraud you uncovered result in financial losses in excess of \$100,000?
 - Yes 40%
 - No 60%
- Were any of the employees prosecuted?
 - Yes 33%
 - No 67%

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What was the dominant reason the case never reached a courtroom?

- A. Shame and embarrassment
- B. Unlikely to get restitution
- C. Worried about countersuit from the accused
- D. Concern that customer confidence would be lost
- E. There has not been a case of employee fraud

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What was the dominant reason the case never reached a courtroom?

- A. Shame and embarrassment 14%
- B. Unlikely to get restitution 49%
- C. Worried about countersuit from the accused 8%
- D. Concern that customer confidence would be lost 29%

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Involving a Prosecutor Covers These Concerns

1. Only prosecutors send people to prison.
(Your clients are more likely to get restitution in a criminal case.)
2. Defendants cannot sue prosecutors.
(Litigants in civil court can be countersued; they have no immunity.)

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Why Prosecutors Do Not Always Take a Case

1. Defendants leave town: Extradition is more expensive than the amount of restitution owed.
2. Complexity of cases: Voluminous files with lots of math involved – “This is a civil matter.”
3. Prosecutors’ priorities: We put emphasis on violent crime.

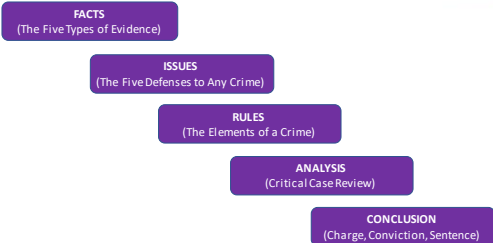
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Speaking the Same Language



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FIRAC



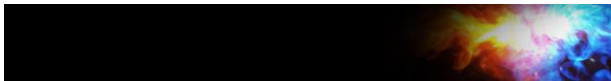
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Five Types of Evidence

- 1. Direct
- 2. Circumstantial
- 3. Testimonial
- 4. Physical
- 5. Other Crimes

FACTS

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How Can You Prove it is Raining Right Now?

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Expert Witness

HOUR-BY-HOUR FORECAST
RALEIGH

70	69	67	66	66	66	66	66	65
4 PM	5 PM	6 PM	7 PM	8 PM	9 PM	10 PM	11 PM	

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You are in a Rainforest!

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Five Defenses

1. Some Other Dude Did It (SODDI)
2. The Devil Made Me Do It
3. I Didn't Do it
4. Of Course I Did It
5. Maybe You Did It

ISSUES

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Five Defenses You Might Hear

1. Some Other Employee Did It: "SOEDI"
2. The Devil Made Me Do It: I am a functional alcoholic/addict.
3. I Didn't Do It: This is all a big misunderstanding. We can fix this.
4. Of Course I Did It: Everybody in the office does it. I am worth it.
5. Maybe You Did It: You planted evidence. I am a whistleblower.

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Labeling Conduct Matters

- High-Level Felony (prison)
- Low-Level Felony (probation)
- Misdemeanor
- Civil Case
- Acceptable Conduct (apology)

RULES

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External and Internal Threats

A recent survey found an even split between frauds committed by internal and external scammers at almost 40% each. The rest resulted from collusion between the two.



Data breaches, phishing scams, hardening the target



Do you know who is sitting next to you?

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White-Collar Crimes You Might See

- Payroll Fraud
- Asset Misappropriation – Forged Checks
- Skimming – Transactions Not Recorded
- Online Banking – Transfers Funds to an Erroneous Account
- Falsifying Invoices – False Suppliers
- Financial Statement Fraud
- Intellectual Property Theft
- Tax Fraud
- Data Theft



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More White-Collar Crimes You Might See

- Conflict of Interest
- Asset Theft
- Hiring
- Bribery
- Embezzlement
- Contract Schemes
- Falsified Financial Documents



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The Prosecutor's Shark Tank



Analysis

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Investigative Journalists

Board chair responds to story about alleged mismanagement, retaliation at CFCC



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Corporate Malfeasance (SODDI)



Oliver Wells



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Banking Fraud and Embezzlement (SOEDI)



Michael Scott Keeter



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Fake Corporate Invoices & Bonding Company



Habitual Felon: Criminal Record Admissible to Overcome SOEDI

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Public Corruption (Maybe You Did It)



Billy Williams: State Prosecution



Lee Cowper: Federal Prosecution

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Acting in Concert



To be guilty of a crime, it is not necessary that the defendant do all of the acts necessary to constitute the crime. If two or more persons join in a common purpose to commit an offense, each of them is equally guilty of that crime and any foreseeable crimes arising from the conduct.

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Hearsay?

- Statements of Defendants
- Statements of Co-Conspirators
- Business Records

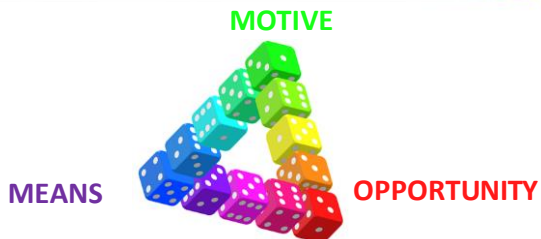
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When Good People Go Bad: Rationalize = "Rational Lies"



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The Triangle of Truth



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What Is Your Greatest Vulnerability?

Answer: Your Employees!

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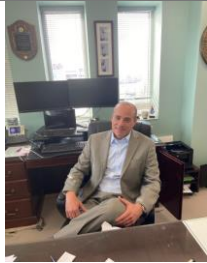
Hiring Trusted Workers Means...

- Providing a copy of hiring practices and policies to employees
- Checking past clients
- Bonding and licensing
- Establishing social media policies for employees
- Vetting service companies (janitors, security guards, landscapers)



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White Male Privilege?



The typical white-collar criminal is a 46-year-old white male in a position of misplaced trust.

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Polling Question



Has your employer ever allowed an employee suspected of committing a crime to resign and/or pay restitution rather than call law enforcement?

- a. Yes
- b. No

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Of Course I Did It: Embezzlement



Guy Williams



Wilmington Plastic Surgery

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The Devil Made Me Do it: Embezzlement



Beverly Brown, CPA



Elijah's Restaurant

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Behavioral Signs of an Employee Gone Rogue

- Unexpectedly fails background screening
- Brags to co-workers about hacking skills
- Change in behavior
- Switches computer screens quickly when approached
- Past employers didn't trust them
- Works late and on the weekends, yet refuses to take vacations
- Living beyond means
- Leaves the company disgruntled
- Knows information they shouldn't

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Internal Controls

Divide Responsibilities to Manage Cash Transactions

- Cash, check receipts recorded by 1st employee
- Deposit slip by 2nd employee
- Actual deposit by 3rd employee



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Create a Crime Watch Neighborhood

1. Cross-training
2. Mandatory vacations
3. Mandatory background checks
4. Periodic credit checks
5. Closed-circuit TV in key locations
6. Periodic outside audits



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Establish an Ethics Committee



- Draft and Approve Policies
- Implement Rewards and Sanctions
- Training and Education Programs
- Establish a Reporting System and Anonymous Tip Line

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Polling Question

You suspect that an employee may be committing criminal activity and contact the police. Can investigators look through documents the employee has stored on a network drive without first obtaining a search warrant?

- a. Yes
- b. No

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Polling Question



You suspect that an employee may be committing criminal activity and contact the police. Can investigators search the employee's cell phone without first obtaining a search warrant?

- a. Yes
- b. No

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Polling Question



You suspect that an employee may be committing criminal activity. Can you talk to them without first advising them of their right to remain silent and the right to an attorney?

- a. Yes
- b. No

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- b. No

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Search Warrants and Miranda Warnings



- Fourth Amendment and the expectation of privacy
- Fifth Amendment and the right to remain silent
- Government action and making pretext calls

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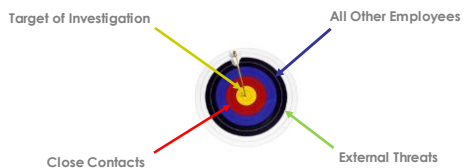
When You Detect It



- Determine reach: Lone wolf or vast conspiracy
- Digital footprint: Download thirty days of activity
- Do not confront the target: Element of surprise

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Rogue Employee or Vast Conspiracy?



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The Past has Great Power

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Other Crimes: Identity



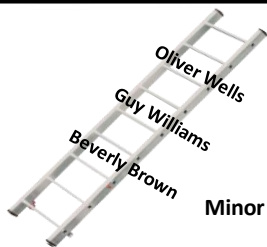
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Other Crimes: Mens Rea and Actus Reus



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I Did Not Do It



Serious Felony: Prison

Minor Felony: Probation

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Follow the Money



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*** Effective for Offenses Committed on or after 10/1/13 ***

OFFENSE CLASS	PRIOR RECORD LEVEL						DISPOSITION
	Months in Prison Without Parole, or Without Probation						
	I	II	III	IV	V	VI	
A	0-12	0-12	0-12	0-12	0-12	0-12	A
	13-18	13-18	13-18	13-18	13-18	13-18	
B1	19-24	19-24	19-24	19-24	19-24	19-24	B1
	25-30	25-30	25-30	25-30	25-30	25-30	
B2	31-36	31-36	31-36	31-36	31-36	31-36	B2
	37-42	37-42	37-42	37-42	37-42	37-42	
C	43-48	43-48	43-48	43-48	43-48	43-48	C
	49-54	49-54	49-54	49-54	49-54	49-54	
D	55-60	55-60	55-60	55-60	55-60	55-60	D
	61-66	61-66	61-66	61-66	61-66	61-66	
E	67-72	67-72	67-72	67-72	67-72	67-72	E
	73-78	73-78	73-78	73-78	73-78	73-78	
F	79-84	79-84	79-84	79-84	79-84	79-84	F
	85-90	85-90	85-90	85-90	85-90	85-90	
G	91-96	91-96	91-96	91-96	91-96	91-96	G
	97-102	97-102	97-102	97-102	97-102	97-102	
H	103-108	103-108	103-108	103-108	103-108	103-108	H
	109-114	109-114	109-114	109-114	109-114	109-114	
I	115-120	115-120	115-120	115-120	115-120	115-120	I
	121-126	121-126	121-126	121-126	121-126	121-126	
J	127-132	127-132	127-132	127-132	127-132	127-132	J
	133-138	133-138	133-138	133-138	133-138	133-138	
K	139-144	139-144	139-144	139-144	139-144	139-144	K
	145-150	145-150	145-150	145-150	145-150	145-150	
L	151-156	151-156	151-156	151-156	151-156	151-156	L
	157-162	157-162	157-162	157-162	157-162	157-162	
M	163-168	163-168	163-168	163-168	163-168	163-168	M
	169-174	169-174	169-174	169-174	169-174	169-174	
N	175-180	175-180	175-180	175-180	175-180	175-180	N
	181-186	181-186	181-186	181-186	181-186	181-186	
O	187-192	187-192	187-192	187-192	187-192	187-192	O
	193-198	193-198	193-198	193-198	193-198	193-198	
P	199-204	199-204	199-204	199-204	199-204	199-204	P
	205-210	205-210	205-210	205-210	205-210	205-210	
Q	211-216	211-216	211-216	211-216	211-216	211-216	Q
	217-222	217-222	217-222	217-222	217-222	217-222	
R	223-228	223-228	223-228	223-228	223-228	223-228	R
	229-234	229-234	229-234	229-234	229-234	229-234	
S	235-240	235-240	235-240	235-240	235-240	235-240	S
	241-246	241-246	241-246	241-246	241-246	241-246	
T	247-252	247-252	247-252	247-252	247-252	247-252	T
	253-258	253-258	253-258	253-258	253-258	253-258	
U	259-264	259-264	259-264	259-264	259-264	259-264	U
	265-270	265-270	265-270	265-270	265-270	265-270	
V	271-276	271-276	271-276	271-276	271-276	271-276	V
	277-282	277-282	277-282	277-282	277-282	277-282	
W	283-288	283-288	283-288	283-288	283-288	283-288	W
	289-294	289-294	289-294	289-294	289-294	289-294	
X	295-300	295-300	295-300	295-300	295-300	295-300	X
	301-306	301-306	301-306	301-306	301-306	301-306	
Y	307-312	307-312	307-312	307-312	307-312	307-312	Y
	313-318	313-318	313-318	313-318	313-318	313-318	
Z	319-324	319-324	319-324	319-324	319-324	319-324	Z
	325-330	325-330	325-330	325-330	325-330	325-330	

A. Adult Punishment B. Intermediate Punishment C. Community Punishment
 Punishment shown in 90 months represents the range of minimum sentences.

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Session Takeaways

- Establish policies that prevent and detect fraud in the workplace.
- Start on outside of circle and work in to maintain element of surprise.
- Remember MOM and confirm alibi: Check for lone wolf v. conspiracy.
- Collect and secure the five types of evidence.
- Try to prove innocence by considering all five defenses.

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