

*Partnering with Human Resources
on Investigative Audits When There
is Suspicion of Fraud*

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In

2018

businesses around
the world lost more than

\$7 billion

in fraud and abuse

*according to the 2018 Report to the Nations on Occupational Fraud and Abuse by
the Association of certified Fraud Examiners

Forgery

Embezzlement

Identity Theft

Criminal Action Number

WARRANT FOR ARREST UPON AFFIDAVIT



FOR IMMEDIATE RELEASE, JULY 8, 2020

NEWS RELEASE

Theft

Arrest Warrant Issued for Misappropriation of Public Funds

Fraud: An **intentional** act or omission designed to deceive others resulting in the City's loss and the perpetrator achieving a gain. **Almost always a violation of law**

Waste: The **intentional or unintentional** thoughtless or careless expenditure, consumption, mismanagement, use or squandering of City resources. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls. **Typically not a violation of law**

Abuse: **Intentional** destruction, diversion, manipulation, misapplication, maltreatment, or misuse of City resources. Extravagant or excessive use as to abuse one's position or authority. Occurs in financial and non-financial settings. **May be a violation of law**

Why is Local Government a Target?

- Accessibility to public information
- Service Industry - payment transfers without exchange of goods

Lack of Funding =

lack of resources for evaluating internal controls
lack of ability to effectively respond to fraud
lack of separation of duties



What Constitutes Workplace Fraud?

- Falsifying payroll information/timesheets
- Accepting bribes or kickbacks
- Theft of money
- Theft of property
- Falsifying financial records to conceal theft of money or property
- Intentionally mis-representing the cost of goods or services
- Collusion between employees and contractors
- Forgery or other alteration of documents
- Creation of misinformation or irregularities in City records
- Intentional misrepresentation of results of operations or other information

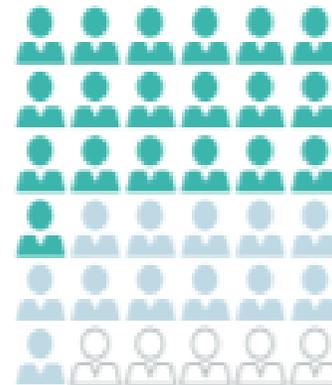


How Does Fraud Come to Light?

TIPS are by far the most common initial detection method



EMPLOYEES provide over half of tips, and nearly 1/3 come from **OUTSIDE PARTIES**



ORGANIZATIONS WITH HOTLINES detect fraud by tips more often



HOTLINES



NO HOTLINES

Polling Question

**Does your
City/Organization have
an anonymous fraud
reporting hotline?**

**If so, do you
recommend other
organizations also have
an anonymous fraud
reporting hotline?**



STEP 1: Assess the Situation

What's the First Step After Receiving a Tip?

Act swiftly, but don't rush

Factors to Consider

- Current factual data
- Who may be involved
- Potential policy/law violations



STEP 1: Assess the Situation

Review Policies

- Disciplinary Policy
- Purchasing Policy
- Conflicts of Interest
- Garrity Warning Policy

- Fraud, Misconduct and Dishonesty Policy
- Ethics/Standards of Conduct Policy
- Workplace Conduct Investigations Policy
- Complaint Process/Policy
- No Retaliation Policy

Don't jump to conclusions!

To Investigate or Not to Investigate? Weigh the Risks

Risks of Not Investigating

- Obvious - continued fraud
- Overall liability to the City
- Impact on culture/environment
- Personal liability?

Risks of Investigating

?

Wrongful Accusations

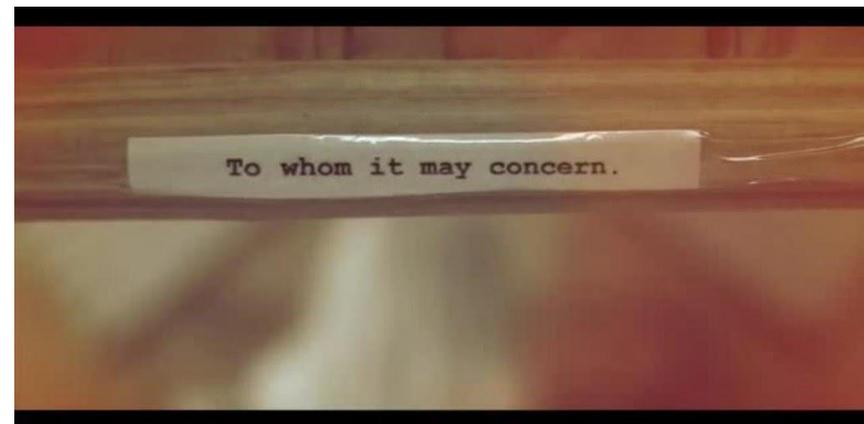


A Real Life Example

- Your City Manager receives a phone call from the City Manager of Every Town, another community in the region
- The City Manager of Every Town received a fax from your Accounting department, complaining about trash violations at properties on Elmsted Dr. in Every Town
- The fax was signed by Jane Doe
- You don't employ a Jane Doe



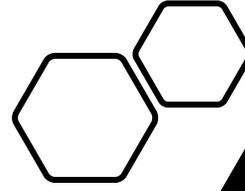
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STEP 1: Assess the Situation

STEP 2: Level of Investigation



*Deciding
Factors*

Is there a **Reasonable Factual Basis (RFB)** to believe the fraud occurred?

Are allegations a violation of law, regulation or City policy?

Credibility of the accusations

Determine the anticipated level of investigation



A Real Life Example

- A quick test fax from the machine in question to another in the building confirms the header matches
- Date and time stamp shows that the fax was sent at 7:10AM
- Fax is just a complaint – no laws have been broken. Investigation proceeds as a courtesy to Every Town City Manager to uncover who the complainant really is

Tip – When employees grow comfortable in a setting, they often forget about identifying security items such as keys, badge readers, cameras, etc.



STEP 3: PRELIMINARY DATA GATHERING

A Real Life Example

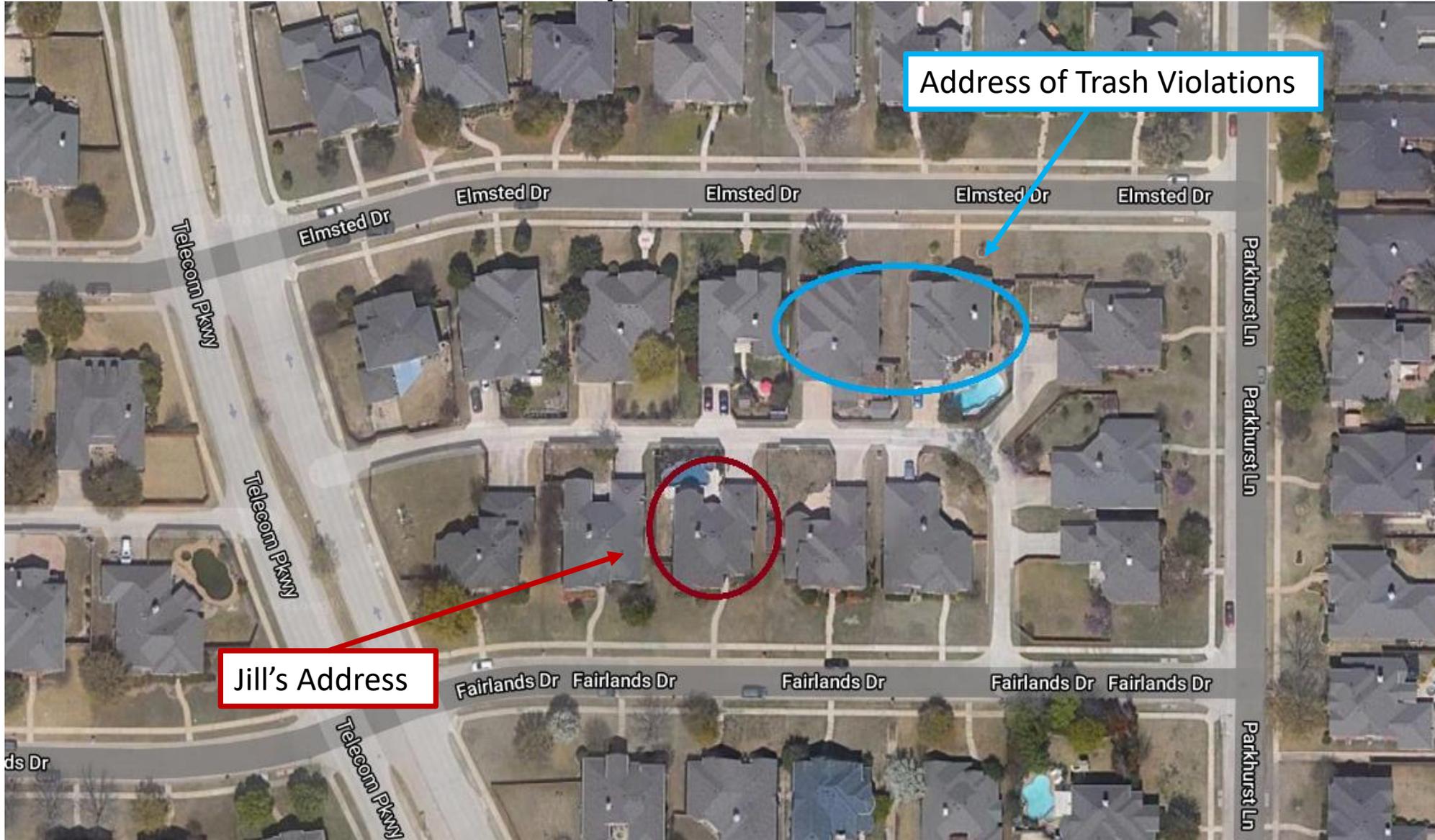
- Security cameras in the building were active, but recording had been malfunctioning for several months
- Only a handful of employees arrived at work prior to 8:00AM, including one in Accounting (Jill Smith)
- Jill lives in Every Town on Fairlands Dr.

Tip – When management relies on internal controls without testing them, they may get caught off guard if the controls aren't working

Tip – Fraud is more likely to occur when employees are working in settings or at times when others aren't around to see what they are doing

A Real Life Example

Tip – The internet is your friend



STEP 3: Preliminary Data
Gathering

Factors to Consider

- Limit who is involved
 - HR does not always need to know right away!
-
- Internal or external investigator?
 - City Auditor
 - HR Staff
 - Team Approach?
 - Attorney
 - Determine if police should be involved right away

Polling Question

When there is suspicion of fraud in your organization, who typically conducts the investigation?

- A. Human Resources
- B. Finance or City Auditor
- C. Human Resources and City Auditor
- D. None of the above



Credibility Factors

- Ability to investigate objectively without bias
- No stake in the outcome or personal relationship with involved parties
- Outcome should not impact investigator's position within the organization
- Investigative and employment law knowledge and experience
- Strong interpersonal skills and ability to be perceived as neutral/fair
- Attention to detail
- The right temperament to conduct interviews

A Real Life Example

Tip – When confronted with a potential situation, factor in what is the worst thing that could happen if an employee went rogue

- Jill is a key employee, responsible for AP check runs
- Quick discussion with HR determined that Finance staff would lead the investigation
 - Initial evidence indicates high likelihood that Jill sent the fax
 - Primary goal of investigation is to determine if Jill has done anything else...

Create an Investigation Plan

- Outline the issue
- Develop a witness list
- Develop a list of sources for information
- Develop interview questions targeted to elicit crucial information and details
- Develop a process for retention of documentation
- Develop an interview schedule- allow time in between for documentation
- Finalize documentation
- Make a decision
- Take action, if necessary

A Real Life Example

Tip – Take time to make sure that your investigation uncovers the full picture, not just the low-hanging fruit

- About thirty minutes of digging through network files finds three suspicious Word documents
 - Three letters addressed to the City Manager of Every Town, signed by three different individuals (Jane Doe, Janet Williams and James Burton)
- Interview Plan
 - Initial interview with Asst Director of Finance, Jill and her two immediate supervisors – Asst Director will take lead and question Jill about the letters

Goal

Determine if there is enough reasonable factual data to move forward.

- Ask for a written statement
- What to ask?
 - Who, What, When, Where and Why?
- Do you need to interview additional sources?

Ask for Confidentiality

Explain information remains confidential to the extent possible for a thorough investigation and to the extent the law allows.

Tell the accuser to let you know if they perceive retaliation has occurred.



Sample Questions

Who is accused?

What was the fraudulent action?

Ask for details, amounts, process, etc.

When and **how** did you become aware of this?

Who else knows?

Who else have you told?

Have you said anything to the person who committed the fraud?

Any idea **Why** this person would do this?

Do you have any physical evidence or other documentation?

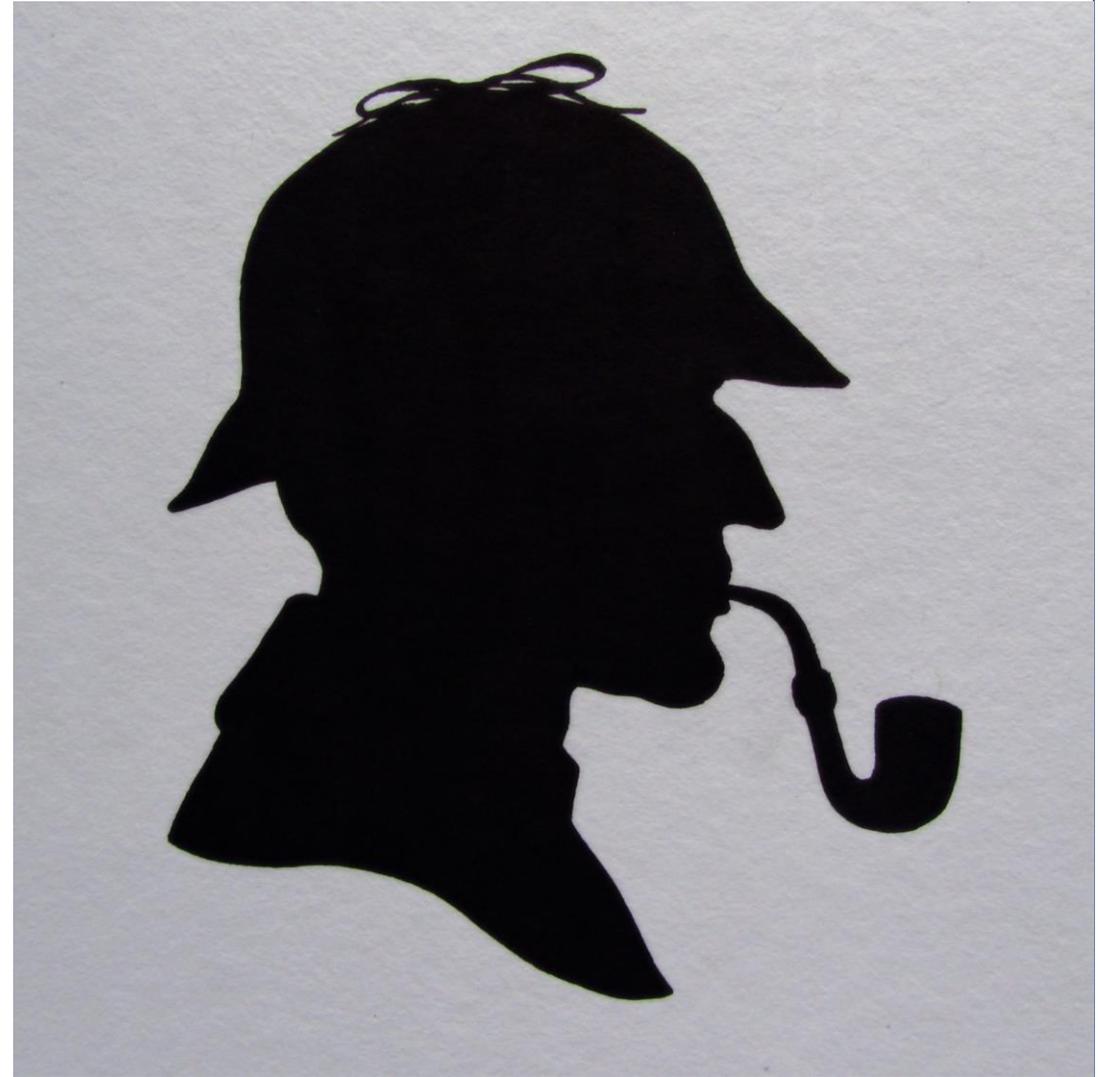
Who else may have information about this?

Does the person know you know about this?

If so, **how**?

A Real Life Example

Tip – Sometimes, there isn't an accuser (anonymous tip, etc.) If that's the case, the interviewer effectively takes that role – review the questions and try to understand why the person may have done what they're accused of. The more the interviewer knows going into the interview, the more likely they will be successful.



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STEP 6: Interview the Accuser

STEP 7: Take Interim Action

Change passwords and locks

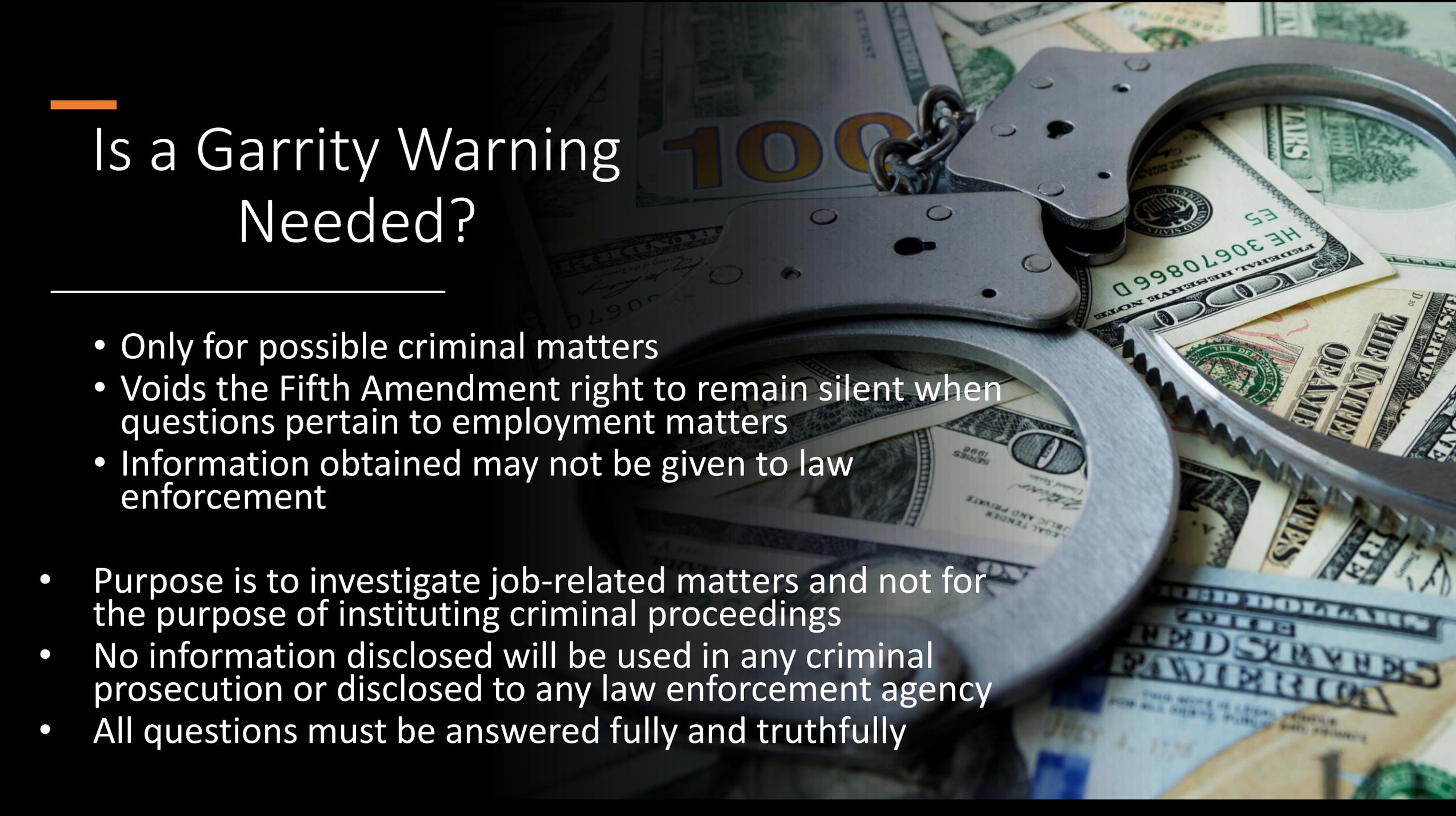
Suspend accounts

Reassign duties

Consider administrative leave with pay and Garrity warning

Do you need to interview additional sources?





Is a Garrity Warning Needed?

- Only for possible criminal matters
- Voids the Fifth Amendment right to remain silent when questions pertain to employment matters
- Information obtained may not be given to law enforcement
- Purpose is to investigate job-related matters and not for the purpose of instituting criminal proceedings
- No information disclosed will be used in any criminal prosecution or disclosed to any law enforcement agency
- All questions must be answered fully and truthfully

A Real Life Example

Tip – If the decision warrants changing employee access/authority or issuing a Garrity warning, this is an indicator that HR, law enforcement and/or outside experts should be consulted.



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STEP 7: Take Interim Action

Polling Question

**Have you ever had
to interview
someone accused
of fraud?**



Goal

Determine actions of the person accused, who else was involved and attempt to obtain additional information.

- Ask for a written statement or responses to written questions
- What to ask?
 - Who, What, When, Where and Why?
- Do you need to interview additional sources?

Ask for Confidentiality

Explain information remains confidential to the extent possible for a thorough investigation and to the extent the law allows.



Tell the accused not to engage in any activity which could be perceived as retaliation.

A Real Life Example

- AFD: Did you notice anything unusual this morning when you got to work?
- Jill: No, it was quiet – you know that I like to get here early so I can get some work done before others arrive.
- AFD: Was there anyone else here?
- Jill: No, I think that William got here about 7:30, because that's when I took the check run down to Information Technology for processing. Did something happen?

Tip – Keep an eye and ear out for non-verbal clues that might indicate you're on the right track

A Real Life Example

- AFD: Looks like someone used the Accounting fax machine to send a letter to Every Town.
- Jill (possibly nervous): Oh, I would have seen if somebody did that – the machine is just a few feet away from my desk.
- AFD: Take a look at this letter (the initial fax) and see if it looks familiar.
- Jill (slight sweat): No, I've never seen this before.

Tip – Most internal controls are set to stop a single bad actor, but collusion is harder to circumvent

A Real Life Example

- AFD: Would it surprise you if I told you that I found this letter in your network files?
- Jill (now defiant): Well I would never write a letter like that!
- AFD: How do you explain that it was sent at a time period when you were the only one here and was found in your files?
- Jill (more subdued): Well, a friend of mine wrote it but wasn't sure who to send it to, so I faxed it on their behalf

Tip – When confronted with evidence you didn't suspect, don't be afraid to stop the interview and regroup

A Real Life Example

- AFD: A friend? Who did you send it for?
- Jill: It was a friend from church.
- AFD: OK – let us get back to you in a bit after we've had a chance to talk this over.

Goal

Determine if accusations are confirmed or denied by others and gain more information.

Ask for a written statement

- What to ask?
 - Who, What, When, Where and Why?
- Do you need to interview additional sources?

Ask for Confidentiality

Explain information remains confidential to the extent possible for a thorough investigation and to the extent the law allows.

Tell witnesses to let you know if they perceive retaliation has occurred.



STEP 9: Interview Witnesses

Sample Questions

Option A: Witness has knowledge of situation

- Are you aware of **why** we would like to speak to you?
- Tell us **what** you know about the situation.
- **When** did you first know about the situation?
- **Who** has spoken to you about this and **when**?
- **Who** have you spoken with and **when**?
- **How** did you come to know about the situation?
- Do you have any physical evidence or other documentation?
- **Who** else may have information about this?

Sample Questions

Option B:

- Are you aware of actions of your co-workers which could be perceived as illegal or a policy violation?
- Are you aware of your co-worker doing X?
- Tell us **what** you know about the situation.
- **When** did you first know about the situation?
- **Who** has spoken to you about this and **when**?
- **Who** have you spoken with and **when**?
- **How** did you come to know about the situation?



Factors to
consider
during
interviews

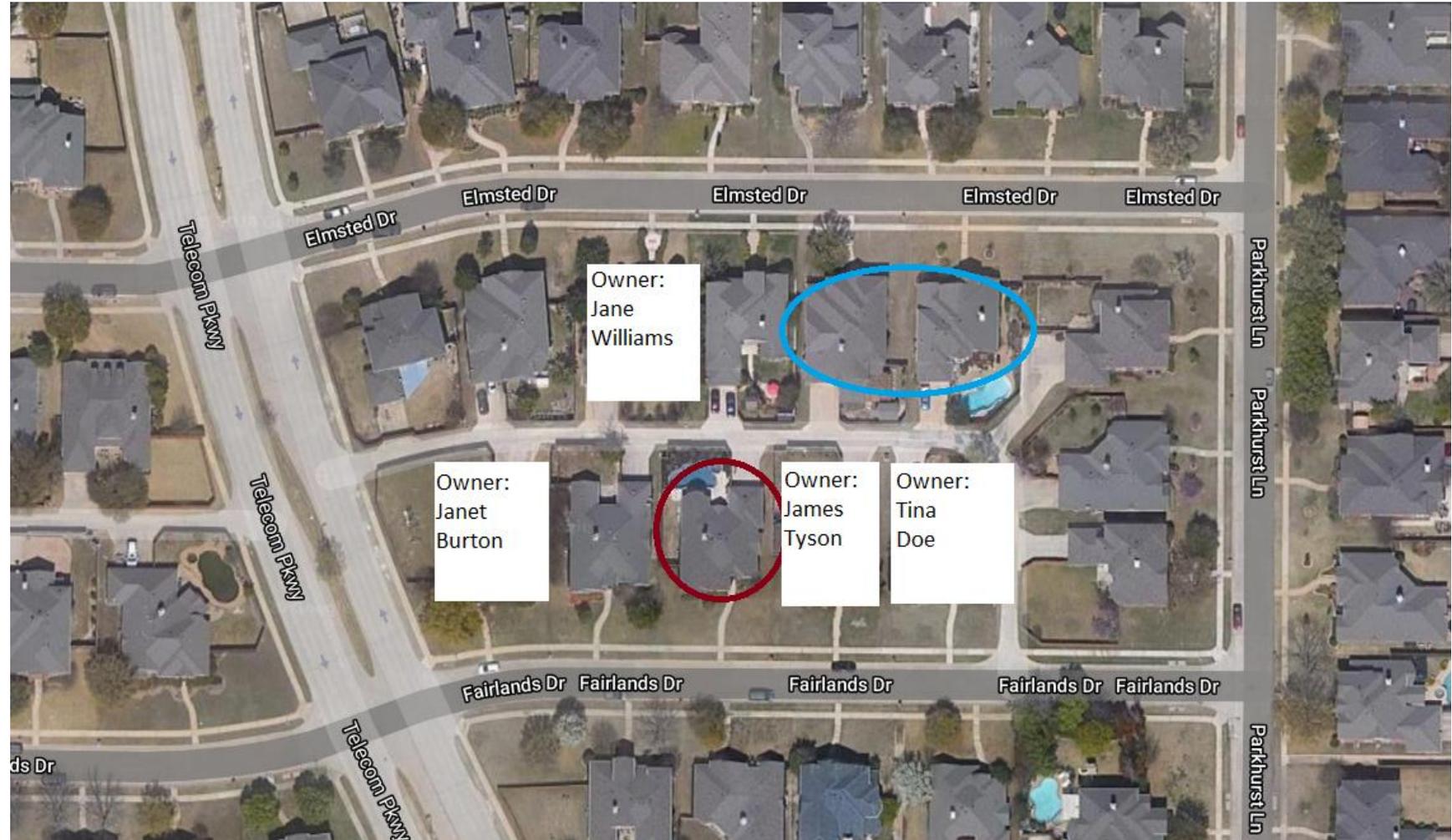
- Be impartial and objective
- Don't steer the investigation into a specific direction
- Look for inconsistencies
- Listen to details, including who else may be involved
- Be aware of clouded perceptions based on personal interests
- Consider credibility, demeanor, motive to falsify, corroboration, past behavior and past accusations
- Listen for what is not being said

A Real Life Example

Tip – When looking at the evidence, consider classic fraud patterns

- In this case – mixing up first and last names of neighbors

- The “players” from the letters found in Jill’s files
 - Jane Doe
 - Janet Williams
 - James Burton



A Real Life Example

- AFD: Jill – I'm struggling to understand why a friend from church would complain about properties behind your house?
- Jill: I don't know, maybe they saw the trash when they were leaving a party.
- AFD (now sharing the other letters): Are these friends of yours from church as well?
- Jill (somewhat defeated): Well, they're actually my neighbors – they knew I worked for a city so asked me to help them out

A Real Life Example

- AFD: Which neighbors? On your street?
- Jill: Yes, the ones whose houses back up to the shared alley on our street.
- AFD: Jill, these aren't your neighbors – we checked the appraisal records and it looks like you took actual neighbors and mixed up their names. I'm guessing that you did that because you were the one complaining and wanted to do it anonymously.

A Real Life Example

- Jill: You're right



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Polling Question

Based on the information provided in this presentation, how would you classify Keith's case study?

- A. Fraud
- B. Waste
- C. Abuse



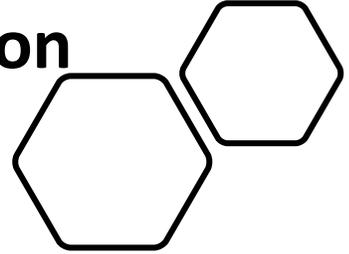
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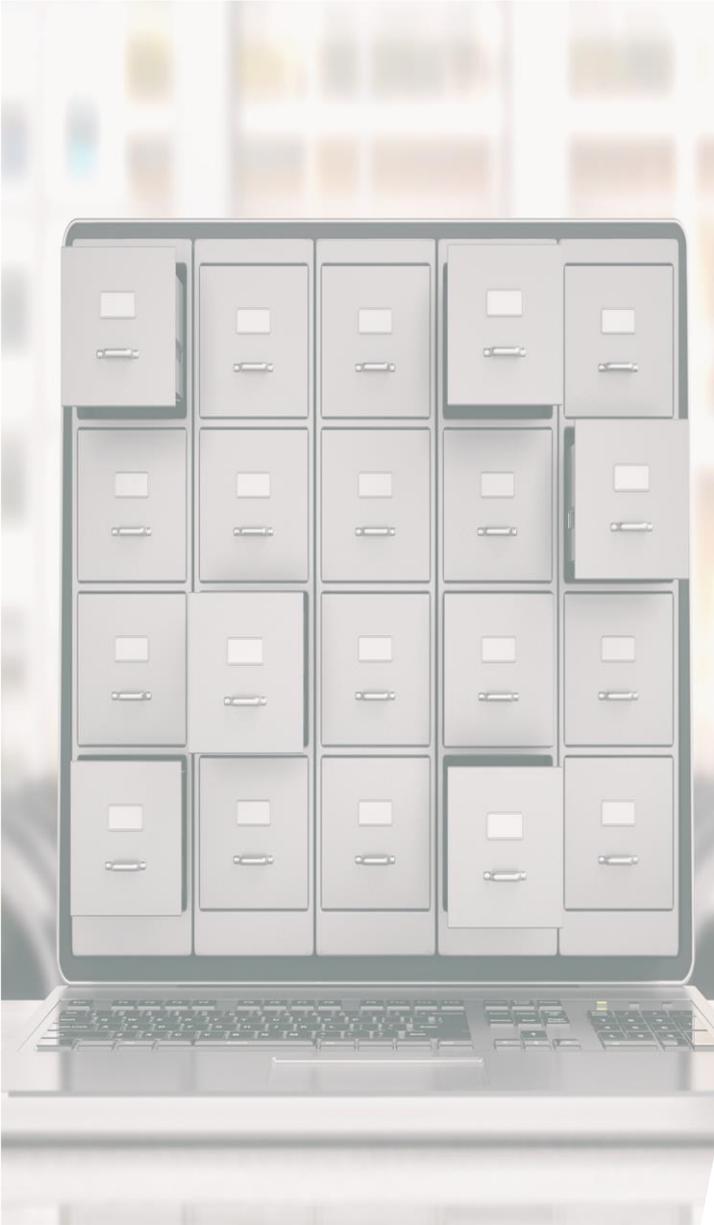
Create a Summary of the Investigation

- Situation investigated
- Dates
- Who was involved
- Key facts and resources
- Evidence and documentation obtained



Consider a Separate Summary with the following

- Findings of the investigation- Inconclusive, Founded, Unfounded
- Policies and laws and regulations considered
- Decisions regarding action taken and by whom

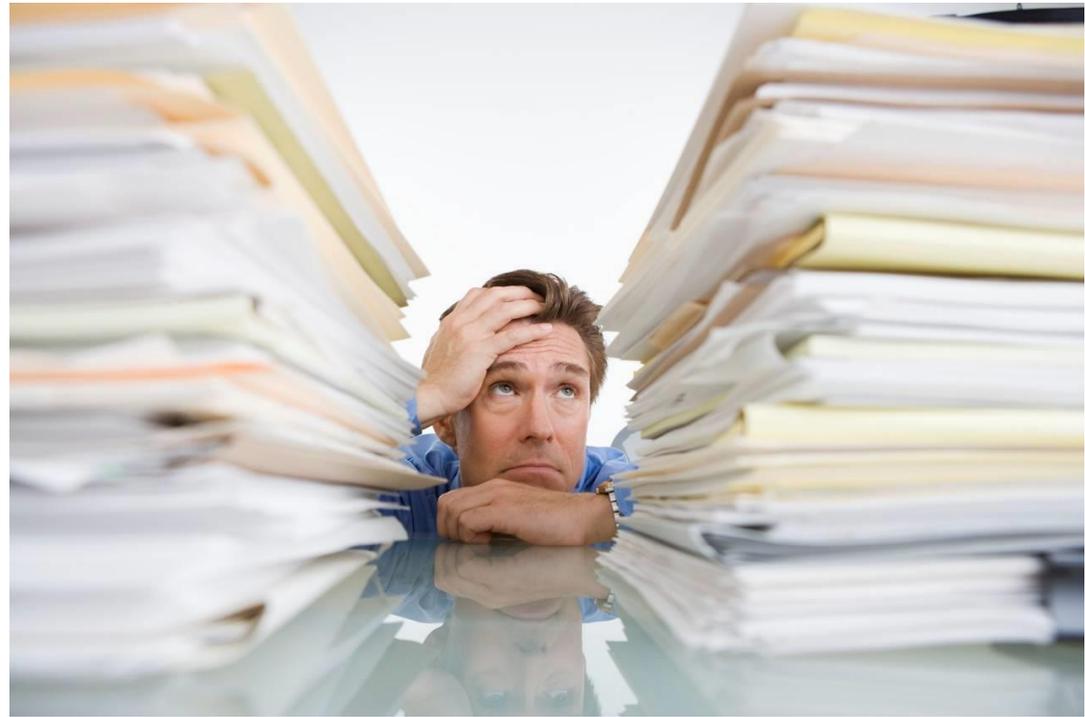


A Real Life Example

Why She Did It -

Jill had complained to Every Town's Code Enforcement department for weeks about her neighbors to no avail.

She thought that writing a letter to Every Town's City Manager would get the Code Enforcement Officer responsible in trouble, as well as get the properties cited for a violation.



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STEP 10: Finalize Documentation

Make a Decision & Close the Investigation

Factors to consider

Who should make the decision?

Should law enforcement be involved?

A Real Life Example

- Unfortunately – many investigations won't result in a confession
- Finance Officials must make the best decisions/recommendations based on the evidence at hand
- If you get pulled into an investigation, expect some sleepless nights.



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STEP 11: Make a Decision

Disciplinary Action

Factors to consider:

- Reasonableness of rules
- Communication and understanding of rules
- Length of service and past work record
- Consistency in applying discipline
- Proof of violation
- Due process is followed
- Appropriate discipline for the offense

Final Tip – Finance personnel must be held to the highest standards

A Real Life Example

- Jill had worked for the city from 1994 to 2012 and was retirement eligible
- She hadn't committed a financial crime, but was in a key position within Finance
- Her reluctance to acknowledge the truth when initially confronted, and continued attempts to mislead caused a lack of confidence
 - If she could forge a name on a fax, she could do it on an invoice
- Given her tenure, Jill was allowed to take vacation through the end of the month and then retire

Polling Question

When it comes to fraud prevention and investigations, what does your City/organization do best?

- A. Partners well with HR and other departments to prevent and investigate fraud**
- B. Provides solid fraud prevention training to employees and supervisors**
- C. Continually evaluates internal controls**



Other Factors

Keep Good Documentation

Prevention

- Training
- Solid Policies
- Continued Evaluation of Internal Controls
- Communication/rapport between leadership & employees

Training

Fraud in Local Government, Association of Certified Fraud Examiners-\$169

Topics Covered

Asset Misappropriation

Cooking the Books and Municipal Bond Fraud

Bribery, Illegal Gratuities, and Extortion

Making and Concealing Corrupt Payments

Lesson Collusion Among Contractors

Collusion Between Government Employees and Contractors

Performance Schemes

Grant Schemes

Anti-Fraud Education

Developing and Maintaining an Ethical Climate

Other Fraud Prevention and Detection Measures

<https://www.acfe.com/selfstudy.aspx?zid=2c92a0076a07e3be016a27279b61278c#:~:text=The%20most%20common%20frauds%20at,detecting%20fraud%20in%20local%20governments>

Sources:

Association of Certified Fraud Examiners 2018 Report to the nations:

<https://s3-us-west-2.amazonaws.com/acfepublic/2018-report-to-the-nations.pdf>

City of San Diego <https://www.sandiego.gov/auditor/resources/fraudhotline/what>