Winning over law enforcement to your side

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Fraud examinations involve careful gathering and analysis of data and details. If this isn't difficult enough, we also face another daunting obstacle: turning the case over to law enforcement.

Turning your case over to law enforcement can be a difficult undertaking especially if you work in private industry and haven't served previously in a law enforcement capacity. There's nothing more frustrating than seeing law enforcement reject your case.

So why would this happen?

Is it because your case wasn't thoroughly prepared?
Is it because law enforcement doesn't understand what makes up a fraud case?
Is it because law enforcement doesn't have the manpower and/or budget to devote to fraud cases?
Is it because law enforcement is too busy with violent crimes?
Is it because the case doesn't meet the minimum thresholds for prosecution?
Is it because you don't know how the criminal justice system operates?
Is it because you aren't comfortable dealing with law enforcement?
Is it because you think that you're better than law enforcement officials?

The answers to any of these questions could be yes.

The following items are vital for a successful outcome: a good working relationship with law enforcement, a general knowledge of criminal law and a thoroughly prepared case — written and presented so that law enforcement personnel, grand jurors and trial jurors can understand it.

**BETTER RESULTS IN FOUR STEPS**

**Step 1 - Understanding**
Before you work with law enforcement, you must remember they have the same needs and desires in life as you do. They're proud professionals doing a sometimes thankless job. They have spouses and children. Not all of them eat donuts. They don't just concentrate on violent criminals. They're well educated and willing to learn new things. Day in and day out they deal with people who are at their worst.

Establish a good relationship with law enforcement. Call and introduce yourself to the person in charge of the investigations bureau. Arrange a meeting and discuss your company and the types of problems you face. If possible, invite him or her to your place of business and show them around.

Once you have your foot in the door, continue to cultivate your relationship by doing something nice, such as volunteering to make presentations on the types of frauds that you face. Introduce them to the ACFE and the great work it does in the fight against fraud. Share Fraud Magazine, FraudInfo, The Fraud Examiner and other publications such as the Report to the Nations of Occupational Fraud and Abuse and the Fraud Prevention Check-Up. Encourage them to join the ACFE and become a Certified Fraud Examiner.

Keep in mind that this relationship is a two-way street. Law enforcement is there to help you, and you're there to help them to bring a case to a successful conclusion.
Step 3 – Preparing a thorough case

It takes more than establishing a good working relationship with law enforcement to get your case accepted. I can't overemphasize the importance of doing a complete and thorough investigation. Without one, your case doesn't stand a chance.

Getting it right isn't that difficult. Here are five qualities to an effective investigation: **objective, timely, thorough, relevant and accurate.**

**Objective** – Be willing to accept any fact uncovered in the investigation even if it doesn’t agree with your original theory.

**Timely** – Conduct the examination as soon as reasonably possible after the crime. Physical evidence can be destroyed, moved or taken from the scene. Witnesses also have a tendency to forget or mix up information as time goes by. Don’t let criminals have time to cover their tracks and/or flee.

**Thorough** – Check out each lead or piece of information, no matter how small it may seem. Double check everything to ensure that the gathered facts are accurate, truthful and relevant to the case.

**Relevant** – Use only information uncovered in the investigation and evidence that tends to prove or disprove the matters under investigation.

**Accurate** – Produce evidence that’s free from mistakes and conforms to the truth. Again, double check all information.

THE INVESTIGATION

An investigation is a planned and organized determination of facts concerning specific events, occurrences or conditions for a particular purpose. When conducting an investigation:

- Assume nothing.
- Use common sense.
- Be impartial.
- Begin with the premise that, initially, everyone is a possible suspect.
- Don’t believe everything you’re told.
- Don’t leave any stone unturned.

In addition to the five qualities to an effective investigation (objectivity, timeliness, thoroughness, relevancy and accuracy), there are also four major elements to any complete investigation: **preliminary investigation, follow-up investigation, conclusion and the written report.**

**Preliminary investigation.** Establish that the crime or policy violation did, in fact, occur. Next, ascertain the exact manner in which the incident was carried out. This may reveal a motive. Leave no stone unturned because the information that could break the case might be found in the least-expected place. Always ask the basic investigative questions: who, what, where, when, how and why.

**Who**

- Who had the knowledge or access to commit the crime or incident?
- Who discovered the crime or incident?
- Who reported it?
- Who saw or heard anything of importance?
- Who committed the offense?
- Who helped the offender?
- With whom did the offender associate?
- With whom are the witnesses associated?

**What**

- What happened?
- What crime or incident occurred?
- What are the elements of the situation?
- What were the actions of the offender?
- What do the witnesses know about the case?
- What evidence was obtained?
- What was done with the evidence?
- What tools were employed?
- What weapons were utilized?
- What knowledge, skill or strength was necessary to commit the offense?
- What was the motive?

**Where**

- Where was the offense committed?
- Where were the suspects seen?
- What were the witnesses doing during the time of the incident?
- Where did the suspect live or where was his work area?
Where was the physical evidence found?

When
- When was the offense committed?
- When was it discovered?
- When was notification received?

How
- How was the offense committed?
- How did the suspect get to the scene?
- How did he get away?
- How did the suspect get the information necessary to commit the crime?
- How was the incident discovered?
- How much property or financial assets were stolen?
- How much physical damage was done?
- How much skill, knowledge and strength were necessary to commit the offense?

Why
- Why was the offense committed?
- Why was the particular method employed?

Locate any physical evidence at the scene. Obtain all documentation that's pertinent to the case. In serious criminal violations, the crime scene must be protected until the police forensic unit arrives. Keep people away from the scene, and don't touch or disturb anything, including any documents that were used in the crime or incident. Preserve for fingerprints. Be sure to preserve all computers and computerized records using up-to-date computer forensic standards.

Make detailed observations, especially of anything unusual. Carefully note what would be expected to be found at the scene if conditions were normal. Observation without investigation and deduction is of little or no value. Interview the victim and locate all witnesses, possible witnesses and suspects for subsequent interviews. Analyze the gathered information.

Follow-up investigation. Interview and obtain statements from all witnesses. Canvas the area to locate witnesses who didn't step forward during the preliminary investigation. Determine who would have had a motive to commit the crime and who would have benefited from it.

Continue to analyze all the information and start to put the pieces together. Sometimes you have to re-interview witnesses or victims in light of your deductions or new evidence. If you have a suspect, conduct an interview with admission-seeking questions.

Concluding the investigation. As the ACFE Fraud Examiners Manual says, conclusions are based upon observations whereas opinions call for an interpretation of the facts. In most situations, the conclusions from the fraud examination should be evident. Fraud examiners must be cautious about providing conclusions and stating their opinions. After you are done, it will be up to law enforcement or the prosecutor to go decide if they will take the case any further. Sometimes the case may remain open if the evidence doesn't lead to a definite conclusion. If so, make sure you still follow up on all leads. (See the 2012 Fraud Examiners Manual, 3.903.)

Submission of final report to law enforcement. The final written report details everything about the incident, everything that you did and discovered. Structure this report to include: the introduction (brief statement/summary of the case), the body of the report (relevant facts of the whole case) and the conclusion (concluding statements from the facts gathered).

The final written report should be neat, clear, accurate, concise, impartial, chronological, relevant, complete, thorough and in narrative form. When writing the report, remember that some readers may not be familiar with internal terminology, acronyms, operational processes or other knowledge related to the reported incident. Spell it out in layman's terms so that everyone will understand you. (See the Fraud Examiners Manual, 3.901 – 3.904 for a full discussion about report writing. Also see Appendix A, the "Fraud Examination Checklist" for more information on the steps involved during a fraud examination.)

Step 4 – Effectively working together

Here are a few things you can remember so you don't alienate yourself from law enforcement:
- Empathize but resist the urge to put yourself in their shoes (unless you've had law enforcement experience).
- Present your thoroughly prepared case to them in person if possible; the personal touch is always appreciated.
- Be patient and explain the case in terms that anyone can understand and guide them in the right direction if they start to stray.
- Finally, always be available to answer their questions.
If law enforcement doesn't accept your case, don't give up. Don't just take "no" for an answer. If necessary, you can always appeal to another agency for its help, such as various local, state and federal law enforcement and prosecutor offices and other relevant regulatory agencies.

The bottom line is quite simple. Working effectively with law enforcement will bring about dramatic results. The team approach is a win-win for both. Like a good marriage, if you do it right, it will last forever.

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Reviews

By CarolO

CFEs should know how to prepare a case; telling us to be accurate and available to answer questions is hardly unique to the law enforcement venue. This is a good start, but I'd rather see hard facts and real reasons a well-prepared case might get bounced. In my experience, the perception of winnability is a big issue. While officers are well educated professionals, it can be hard for them to contemplate putting a complex fraud case before a jury. The CFE who can explain it simply to them, giving them a preview of how it might be put to a jury of financial non-professionals, stands a good chance of getting the case taken. As always, it's important to stand back and consider the audience. They are coming into the case fresh and need it presented in a way that's immediately graspable.