

“CORPORATE INVESTIGATIONS: HOW TO AVOID MISTAKES”

**18 May 2016
AEB OFFICE**



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OPENING REMARKS

Open event organized by the AEB Health, Safety Environment and Security Committee, 18 May 2016, MOSCOW



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INTRODUCTION AND DEFINITIONS

Open event organized by the AEB Health, Safety Environment and Security Committee, 18 May 2016, MOSCOW

"Corporate Investigations: How to Avoid Mistakes"

18.05.2016

Tim Bobak
Senior Consultant

One problem on both sides of the market

- Fraud has one additional overriding issue:

Awareness

- Providers often do not explain the added-value provided by the security & anti-fraud industry
- Prevention is not integrated into business processes
- Industry responsibility – we have to explain what we do, how we do it and why.

Fraud is everyone's problem:

- 5% of global GDP lost to fraud.
- Fraud is ubiquitous – not a risk but a fact.
- Under reported issue
- Complex issues, simple problem.
- Majority of losses are internal and damaging to morale.
- Largest multinationals are still unable to solve this.
- In short – if you have a global operation, you have a problem with fraud – you just may not know it.

Perceptions of internal fraud:

- Your auditors, in all likelihood, have not found fraud.
 - Recently - see National Trust Bank.
 - HR guidelines and corporate values do not stop fraud.
 - Denial & shifted responsibility
 - Your organisational structure may promote fraud.
 - Various types & manifestations
-
- So if you have fraud - what can you actually do?

Try to shortcut the seven stages of grief:

- Denial
- Pain
- Anger and bargaining
- Successful Solutions:
 - 4) Reflection
 - 5) The upward turn
 - 6) Reconstruction
 - 7) Acceptance and hope

Aftermath:

- Probably not be able to recover money.
- Accept that the problem exists
- Add value by preventing or reducing future losses.
- A decent investigation will identify weaknesses.
- Implement anti-fraud systems.
- Increase communication and trust
- Utilise a range of compliance based solutions.
- Hotlines and company cultural changes.

Conclusions:

- Accept that this problem is huge.
- 50:50 issue between prevention and investigation.
- Impossible to totally avoid fraud, only reduce it.
- Two way street between provider & client.
- Focus on the boardroom.
- Increase communication and build trust.



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Sergey Urusov

**Regional Security Director,
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BUSINESS CASE ON CORPORATE INVESTIGATIONS

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Corporate Investigations: Non-complete Collected Edition of False Judgements

Sergey Urusov

Regional Corporate Security Director CIS+
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Association of European Business

Moscow, 18.05.2016

Appetite

“Until the fried cock pecks”

Significant Loss

I must to know who did it

Tough Dismissal

We need to get rid of him

“Compromat”

You never know when you need it

Message

“Fish rots from the top”

Global Standard

It's just to tick the box

Code of conduct

Well, you know – compliance and all this bla-bla-bla

External Threat

I trust my staff

Company Regulation

“You will be playing by my rules”

Whistleblowing procedure

I review all reports and then decide

Double reading

The policy has nothing about it

Investigation Standard

Who gave you the right?

Report writing standard

Your report should be of the top quality

Reporting Line

“Your place in the feed chain”

GM

My police stick

I pay you so I tell you what to do

Legal

Let us consider the case first

We let you know how to proceed

Investigators

“What’s most important he is a good man”

Local

I cannot investigate my colleagues

Global

Shooting birds with cannons

Professional

He used his police tricks against me!

Trained

Unprofessional approach!

Company Culture

“We are not like this, it's the life like this”

Result

Do what you want, but give me figures!

Traditions

This is East, my friend

Ownership

This is my company!

Reporting

“I don’t want to sign my own death sentence”

Underreporting

All is calm in Baghdad

Filtering

I tell you what and when to report

Window-dressing

We need to investigate it first

Whistleblower

“Can you keep secrets?”

Fear

*There's always a reason to dismiss
you*

Perception

Nothing will change

Doubt

I wanted to be sure first

Mistreat

Because I can

Misuse

You said you'd protect me

Investigation: Management

“Between the hummer and the hard place”

Need-to-know

Nobody should know

You are on my territory

Access rights

You cannot get this information

You have to demand for this

Investigation: Investigator

“Don’t worry, we are professionals”

Scope

It is not connected to my case

Subject interview

I've got enough evidence anyway

Evidencing

I hacked his mailbox

Armchair detective

I've seen such cases a lot

Legislation

“I am the law”

FCPA/ UK Bribery Act

Simply don't mention it

Labor Code

I don't care, - you should know how to dismiss him

Down Raid

I do not want maski-show here

Private Detectives

I want to know everything about him

Decision Making

“Mind your own business”

Influence

Who's your boss?

Resistance

This guy is our star

Tricks

I was not aware of this!

Scape goat

We will take proper action

Corrective Actions

“Giraffe is tall, he sees it better”

Necessity and sufficiency

It was for the benefits of the company

Litigation

We do not take garbage out of the house

Procedures

You step into it again and again

World of grey

In the world of grey he's black and white

Internal investigations & audit, Police...

“You are not alone”

GAP in	GAP out
Proficiency	Quality
Support	Capabilities
Image	Cooperation
Commitment	Effectiveness



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Security Sub-Committee Chairman; CEO, Elite Security Holding Company

CORPORATE INVESTIGATIONS: HOW TO AVOID MISTAKES

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Corporate Investigations: how to avoid mistakes?

Dmitry Budanov

Chairman of the AEB SHES Security Sub-Committee

May 18, 2016 Moscow

Classical Fraud Triangle

1800-2014



- Easy target
- Low risk of being caught
- Attractive reward
- Opportunity
- Self justification
- Pressure



3 main questions:

- What do we investigate?
- How do we investigate?
- Why do we investigate?

Public Security vs Corporate Security: What

Public security – all types of crimes irrelevant of their size, reasons & consequences, etc.

Corporate Security does not investigate crimes. We investigate internal incidents, wrongdoings, violations, situations related to possible -

- Fraud
- Kick backs
- Compliance/ Behaviors
- Thefts

Public Security vs Corporate Security: How

- Public Security: official investigations (ОРД), arrest, interrogation, access to any information, criminal liabilities, etc.
- Corporate Security: interviews, analysis of documents, gathering intelligence, forensics, internal investigations, etc.

What is ОРД?

Оперативно-розыскная деятельность:

- Опрос
- Наведение справок
- Сбор образцов для сравнительно исследования
- Проверочная закупка
- Исследование предметов и документов
- Наблюдение
- Отождествление личности
- Обследование помещений, зданий, сооружений, участков местности, транспортных средств
- Контроль почтовых отправлений, телеграфных и иных сообщений
- Прослушивание телефонных разговоров
- Снятие информации с технических каналов связи
- Оперативное внедрение
- Контролируемая поставка
- Оперативный эксперимент

Public Security vs. Corporate Security: Why

- Prove that an incident (crime) actually took place
- “Punish” the guilty of an offence
- Recover losses

Corporate Investigations – Modus Operandi

- Regardless how good are your internal controls over 50% of potential wrongdoings are discovered by accident
- Whistleblowing/ hotline supported by relevant policies & procedures help to identify wrongdoings/ fraud, etc. (it has downsides too...)
- Whistleblowing (WB) is also serious social responsibility & multi level tool – it does not work in fully automated mode (awareness & trainings) – N. sample cases
- Answer what, how, why questions before you start
- Expectations/ outcomes vs resources/ cost – OK. sample case

Corporate Investigations – Modus Operandi

- Investigations require professional skills, experience & tools – select qualified investigator
- WHY – prove, punish, recover – ave. in 10% of the cases: anything wrong with the goals?
- No, but (according to the ACFE*):
 - Impossible to collect legally evidence and successfully prosecute > 40%
 - Possible reputational damage > 50%
 - Low qualifications of the investigator, etc.

*Association of Certified Fraud Examiners

Corporate Investigations – Modus Operandi

- Stages of corporate investigations: plan of investigation, collect information, analysis, understanding versions, proving versions, reporting, decision, corrective measures, etc.
- Plan of investigation – who is doing what & time frames – absolute MUST have
- Every stage is crucial, but collecting information & intelligence and its analysis is key for success
- Sources of information: documents, interviews, social networks & online resources, external & internal databases, informants, third parties, professional networks, etc.

Corporate Investigations – Modus Operandi

- Do as much as possible in writing and keep all records, drawings, audio recordings, etc. – evidence for further activities
- Bring in experts to do the job – cross functional collaboration & mix of expertise
- The most effective approach in conducting investigations:
 - Analysis of documents & available information
 - Understanding the nature of the process which is the subject of investigation
 - Interviews – (there will be separate slides on this subject)
 - Listening & watching

Corporate Investigations – Modus Operandi

- Start investigation from the “white page” – avoid prejudice and judgements (“he is stealing, just need to drive him into corner”)
- Three main logic mistakes – induction, deduction, abduction
- Investigate every version – classical rule of 5-6 versions
- Paralysis by Analysis – too much info & analysis and too many versions – see rule above
- Collect and store all evidential materials

Corporate Investigations – Modus Operandi

- Interviews (corporate security) vs Interrogation (public sector):
 - Collection of information – conviction
 - No accusation – charging
 - 30-60 min – can last hours
 - Optional – obligatory
 - Lying is not punished – lie is a criminal act, etc.
- Controversy of using polygraph – it does not establish truth, etc .

Corporate Investigations – Modus Operandi

- Four channels of communication*:
 - 65% - body language
 - 6% - content of what is being said
 - 16% - intonations
 - 13% - other

- *According to ACFE

Corporate Investigations – Modus Operandi

- Prepare for interview:
 - Plan of interview
 - List of questions
 - Initial research on interviewee
 - Documents in the right order
 - Learn as much as possible about the interviewee during the interview
 - Do not interview two people at once
 - Interview should be conducted in isolated room (phones switched off)
 - Use audio recording + make notes
 - In many cases interview should not be “one to one”
 - No emotions, do not disclose info which you already know
 - Ask the same questions during the interview
 - Ask the same questions when interviewing several interviewees
 - Make positive emotional atmosphere – comfortable distance, body language, hand shakes, jokes (if appropriate)
 - Watch & Listen (you listen twice more than you talk yourself)

Corporate Investigations – Modus Operandi

- Use of audio recording:
 - Only in agreement with interviewee
 - Purpose of recording should be explained – the interviewer shall not be able to mispresent information later on
 - Can not be used in court as direct evidence
 - Can not be handed over to the third parties without written consent of interviewee
 - If refused – ask the interviewee to sign that he/she refused in the protocol

Corporate Investigations – Modus Operandi

While interviewing...

- Do not use negative words and expressions
 - Do not push for answers – give interviewee time to respond
 - Take pauses
 - Do not interrupt
 - Try to stay 60-70% of the time in eye contact with interviewee
 - Do not ask complex questions
 - Ask more direct questions which require the answer yes or no
-
- 15 magic questions by John Reid – accuracy of identifying true answers over 90%, lies –over 80%.
 - Purpose of each interview is not only about proving lies but also about getting more information

Corporate Investigations – Modus Operandi

- Try not to rush with confronting the suspects – I. sample case
- As previously mentioned – less than 10% of investigated cases end up in court and even less lead to conviction, punishment and recovery of losses
- Reputational damages – involving police authorities – N. sample case
- Understand what do you want to achieve upon completion of the investigation – it is not (just) about punishment, it is being able to take corrective measures and send the message to the organization
- Tough redundancies – violation of internal corporate policies & procedures not always means breach of laws – impossible or very hard to prosecute
- Redundancies must be well planned and orchestrated
- Protecting and paying to informants...

Thank you.

QUESTIONS?



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Q&A