



Best Practices in carrying out Investigations and Forensics

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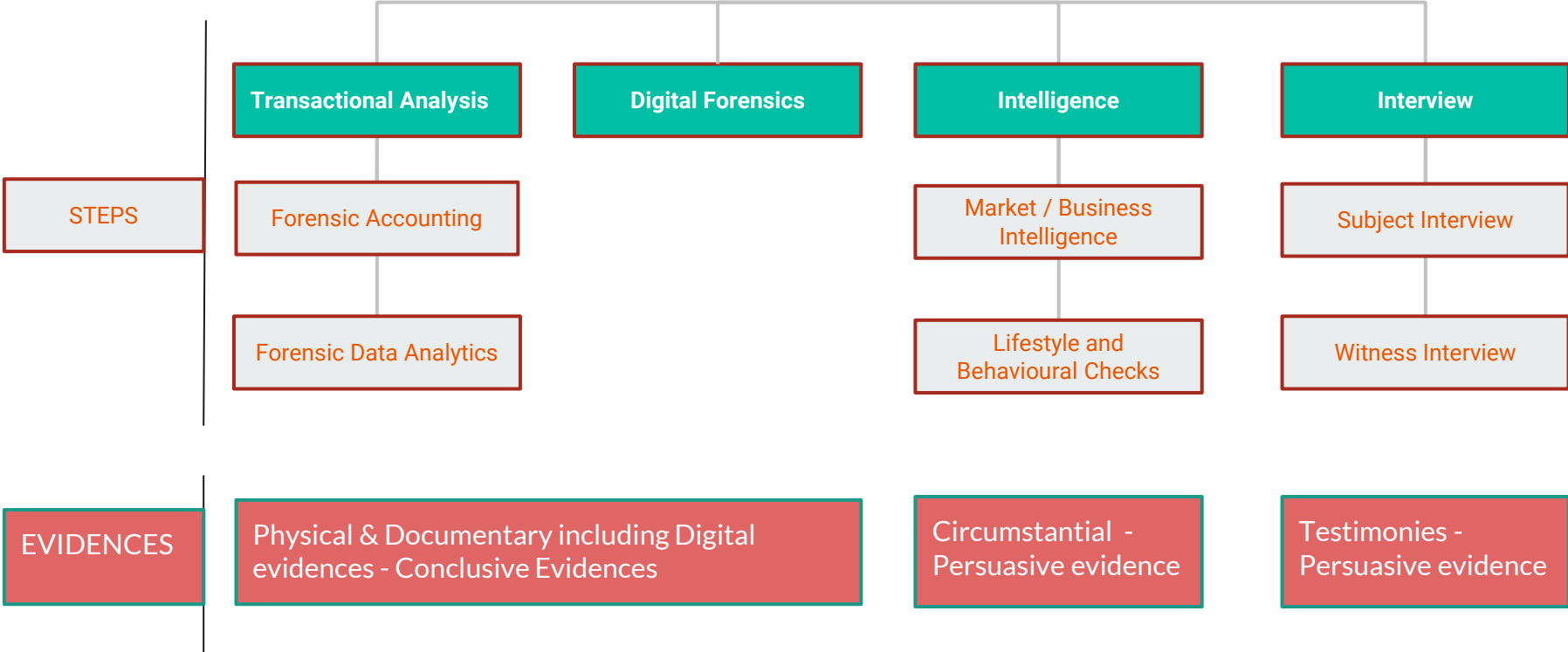
5. Fundamentals

2. The Initiation of an Investigation

Key trigger events:

- Employee or whistleblower complaints
- Complaint or viable threat of litigation by third party
- Internal/external auditor findings
- Regulatory enforcement
- Allegations of financial misconduct
- Government subpoena or search warrant
- Workplace accident or safety issue
- Misconduct by employees
- Ethical issues
- Legal duty - Including compliance failure
- Media attention

3. Investigation Methodologies - Key Aspects



3.1 Forensic Accounting

- Speak to the whistle blower - to understand and validate his/her concerns. Validate and confirm the hypothesis based on test check / samples
 - Assess pervasiveness based on time, areas of coverage / implication etc.
 - Review multiple evidences - Personnel files, journals, ledgers, policies, forms, returns, minutes, absence of counterfoils, confirmations etc.
 - Rely upon only factual information - Authenticity of evidences
- Inappropriate supportings - Overwritten documents, use of photocopies and scanned supportings rather than originals
 - Absence of supporting documents - A significant red flag
 - Assess instances of unauthorised retrievals / loss of supporting documents
 - Style of maintenance of documents - to make the audit and assessment complex
 - Vouch critical data points such as - Address, email ID, telephone number, PAN, GST & other registration number, unauthorised use of stamps etc.

3.2 Forensic Data Analytics

- Investigator to extract data dump
- Do a basic hygiene check - data universe, data collection, data validation
- Apply the concept of fraud triangle to data analytics
- Assess - Unreconciled balances, contra entries, incomplete entries, related party transactions, donations, personal transactions etc.
- Establish data interrelationships - compare and evaluate two independent sets of data and logically deduce the sequence of events; e.g. data from manufacturing/operations and data from finance
- Time chart analysis - Plotting the date and time of the event relating to irregularities

3.3.1 Digital Forensics

Sources

- Computing systems/servers
- Mobile phones
- Hard drives and other memory devices
- CCTV Footages
- Smart watches

Evidences

- Access and windows Logs
- Emails
- Draft templates
- Reports and documents
- Internet activities and downloads
- Specialised Software - E.g. to erase information
- Chat Logs

1. Assets subject to forensic process should be owned by the Company and the asset usage policy should be adequately documented
2. Document the condition - Either by Photograph / sketching the computer and surrounding areas
3. Document the connected external components
4. Check for encryptions prior to imaging
5. Seek the permission of the appointing authority prior to removing the Hard Disks etc. - especially if the device is covered under warranty period
6. Document clear chain of custody

3.3.2 Digital Forensics

- Fix hierarchy - Assess the access controls, logs, search, document, results of searches etc.
- Prepare a list of Key-words - Use Fraud Triangle to develop keywords
- Evaluate the number of search hits and the document forms
- Verify alteration logs in the Systems
- Review deleted files, folders and emails
- Assessment of BCCed emails
- Review Information shared with private email address and outside domain address
- Report on unauthorised copying of sensitive files and pattern analysis
- Report on printing of documents and pattern analysis
- Check for saved templates - PO, quotations Invoices etc.
- Understand document properties -Look for Created by and Modified By etc.
- Evaluate backup patterns and restoration email IDs

3.4 Intelligence gathering

Market / Business Intelligence / Lifestyle Checks and Behavioural assessment

- Conducting Field Visits
- Evaluate inconsistencies between actual lifestyle with reported / known sources of income
- Undertaking background checks
- Gathering intelligence about competitors and or associates
- Conducting social media scanning
- Patterns of voluntarily taking up multiple tasks
- In and Out time at place of work (Early comers and late sitters)
- Avoidance of job rotation and internal job postings
- Utilisation pattern of mandatory leaves

3.5.1 Interview - Preparing and planning

1. Interviewer should have good interpersonal skills
2. Consider the circumstances and sensitivity of the allegation
3. In person interviews are preferred
4. Schedule in advance (don't ambush) - location, people, timing, single vs. group interview etc.
5. Never conduct interviews alone; However no more than 3 people in general
6. Avoid disruption to the extent possible
7. Gather and review key documents to show and discuss with interviewee
8. Anticipate questions and prepare responses -
E.g. "Do I need a lawyer?" "Do I have to cooperate?" "Who will you tell?" "Am I in trouble?" "Will I be fired?" "Can I read your notes?"
8. Have a mock trial, if needed

3.5.2 Interview - Conducting

1. **Getting engaged** - Develop rapport before diving in - Explain purpose in general
2. **Seeking explanations** - Ask who, what, when, where, how and why questions
3. Use the funnel approach - Generic questions to specific questions, Let the complainant tell his/her story – ask open ended questions, Save the tough questions for the end (otherwise the witness may become too defensive)
4. Avoid the “good cop, bad cop” routine
5. **Keeping an Account;** Do not - use offensive language / behaviour, interrupt unless contrary, mislead, offer opinions or conclusions yourself, offer inducement, threaten,
6. **Evaluation;** In case of established misconduct - Confront with contrary evidence, cut-off false denial promptly, break the counter version, pin the admission with physical evidence and documents

3.5.3 Interview - Essentials

Techniques

- Active listening and response style
- Proper environment
- One person to interact at a time
- Stay unbiased regardless of the outcome
- Record facts - not opinions
- Read non-verbal communications
- Detect deceptions
- It is more of establishing the truth through an effective communication

Conclusion

- Summarise the Interview process in writing:
- Prepare immediately, mention the Date, time, location, duration, participants, Information conveyed, Documents shown to and provided by witness
- Formally sign off
- Confession statement - Check with Counsel

4.1 Investigation / Forensic Report - Structure

- Cover Sheet
- Table of Contents
- Glossary
- List of documents considered/relied upon
- List of annexures – prepared by you
- List of exhibits – shared by client or in public domain
- Introduction or Background, scope and approach
- Limitations, constraints and indemnities
- Executive Summary
- Other sections – one section for each key finding
- Disclaimers – critical to have this in each report; Use standard language and terms

4.2 Investigation / Forensic Report - Traits



- Consider using ICAI and ACFE reporting standards
- **Draw conclusions:** However, separate facts from opinion; Ensure that your opinion and facts are supported with evidence that was properly collected and reviewed
- Do not expect a well-written report if the investigation is poorly or inadequately performed
- Take extra precautions while sharing 'draft' or 'interim' reports
- Reports should be accurate; in content, spelling, grammar, and basic data such as dates, names, events, cross references (annexures and exhibits)

4.2 Investigation / Forensic Report - Traits

- To be brief, concise and relevant - Use clear and simple language to eliminate any possible doubt or ambiguity about what you are intending to convey
- Do not include items that were not part of the agreed scope or procedures - Specify limitations and disclaimers too
- Do not criticize or comment (positive or negative) on people, process, systems
- Be careful while using absolutes – 'never', 'always', 'worst ever', 'best ever' etc.
- Use a neutral and balanced tone; Avoid any bias or judgment
- Address people respectfully and consistently; use titles, if needed.
- Undertake an independent quality review



Getting the fundamentals right

5. Fundamentals - Top 10

- 01 | Investigation is not Internal audit / External audit; so are the Investigators
- 02 | Methodologies used for investigations cannot be fraudulent
- 03 | In case of incapacity - engage a competent third party (E.g. imaging, market intelligence)
- 04 | Be objective - Investigation is to establish fact
- 05 | Know your legal limits - Private investigators Vs. Govt. investigators
- 06 | Uphold principles of - Integrity, confidentiality and independence
- 07 | Maintain thorough documentation - Including engagement letters, NDAs etc.
- 08 | Remember your report - should stand the test of law
- 09 | Establishing “Intention” is the Key
- 10 | Link methodology and conclusion to the Fraud Triangle



Thank you.

