Computer Forensics Practices and Principles

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(Excerpt, pages 455-457 of original, 1st edition textbook):

IN PRACTICE: By Any True Accounting, the Deed was Fraud (Excerpts)

Jim Wanserski, FEI Atlanta Chapter member and former financial services manager at MCI, recounts what happened in a well-publicized case and offers his firsthand account of the discovery of fraud and his testimony.

One of MCI’s (lines of) business was carriers, who were wholesale customers that bought telecommunication capacity from MCI and resold it to their own customers. In April 1996, I took over the management of carrier billing and collections and was tasked to clean up this portfolio. From April 1996 until his separation, senior manager Walter Pavlo reported to me.

My primary emphasis was enforcing MCI’s customer contracts, including carrier contracts. Ultimately, I uncovered carrier fraud being committed by Pavlo and others, dealt with it internally, and worked actively with white-collar crime resources. We communicated regularly with law enforcement. I also prepared for and testified in subsequent litigation, totaling 40 hours under oath.

Internal Fraud Discovered

“Proof-positive” of the fraud was uncovered in February 1997. I confronted the internal perpetrators with their inappropriate transactions. However, finding the hard evidence was only the “smoking gun.” Pavlo resigned--the first time. I was convinced of fraud, but needed to get him back into the office to collect more evidence. I convinced Pavlo to return under the pretense that he was needed in a “transition period to make organizational changes.” More fraudulent transactions were discovered and with this hard evidence in hand, I confronted the fraudsters. In a phone conversation with Pavlo, he asked, “Well, Jim, so how much do you know?” He quickly resigned a second time and hired legal counsel, first civil, then criminal.

Both internal and external perpetrators manipulated accounting records to hide illicit activities. I uncovered illegal dealings with outsiders during the internal investigation. Two things I did not anticipate: the reactions of certain executives and the unsubstantiated accounts of this fraud that appeared in the press.

Speak from Fact during Testimony

A key reflection on testifying: speak from fact. Presenting the truth is the best offense, and the only defense. To insure that others understood the facts, I explained them in detail, but in simplest terms.
Defense attorneys continually tried to “put words in my mouth” from their clients. Developing a working knowledge of the facts required much time, study and attention. You must develop a mastery of the data by wading painstakingly through the details.

Overall, testifying skills are similar to those developed for negotiating, except you’re on the receiving end.

- You wait for each question to be presented, state what you know, directly responding to each specific question.
- You must also admit when you don’t know, and that is sometimes difficult.
- Your inclination is to educate the questioner on the topic, which is not your role.
- Wait for the question to be asked and then answer it specifically; fuller explanation can be given during cross-examination.
- Get prepared by learning all of the facts, a requirement for success.
- Document as if you are going to court. Early on in detection efforts, document everything; you will likely need all that material.

**Q & A about Testimony**

**Q:** Describe some comical events.

**A:** You’ve heard that rule, “never ask a question you don’t know the answer to?” One attorney interrogated me on a topic where he believed he had all the answers. When I replied far differently than he expected, he tortuously skipped over five pages of further questions! By reputation, he was a tough guy. I enjoyed that one very much.

I recall testifying on a particular event where my account totally conflicted with a defendant’s. His attorney quizzed me about how I could so confidently know the defendant was wrong. I simply said, “Because I asked the person the defendant said he had gotten approval from, and that person told me neither had he given (the perpetrator) approval, nor had he ever seen the document in question.” I liked that one, too—that’s called a “gotcha” in legal terminology.

**Q:** Was testifying intimidating?

**A:** Anticipation was the worst part. I had been deposed in prior civil proceedings; this was much different. At times, I felt my own integrity was being questioned. Counsel’s recommendation was simply to “own the facts.” I would rate my performances on the stand as a bit stiff to very good. The ultimate compliment, however, was the “high fives” I received from FBI and Treasury agents.


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