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Report Writing

Part I: Basic Elements

While the glow of a job well done still lingers for the investigator, it is ruined by the realization that a report must be written. This looms like a threatening thunderhead on the horizon. For most, the written report is like the term paper put off in school. It was only at the last minute we hurled ourselves into the task, hoping to turn out something Mark Twain would have been proud of. Since Mark Twain wrote mostly fiction and our research was lacking, that would have to do.

The written report, after the subject's statement, is probably the area of most concern to senior loss prevention managers. Some companies have taken to using templates and dropdown menus to make the reports more comprehensive. As good a job as the investigator may have done, it is still the written report that reflects the investigation's quality.

The report summarizing the investigation must be more than a hastily thrown together product of our imagination. It must be a well-researched, concise description of the events that led to the interview and statements.

There are five basic components to a successfully concluded case, of which the written report is but one:

- Thorough unbiased investigation,
- Understanding of the elements of the crime and procedures of administrative, criminal, or civil hearings,
- Careful, accurate report writing,
- Knowing how the investigation, interview, statements, and report might be attacked by opposing counsel, and
- Concise testimony.

Defense Strategies

Defense attorneys, according to their code of ethics, must "zealously represent his client" to the best of his ability. There are only so many ways that an attorney can do this, so he targets a few simple concepts.

First, he plans to use whatever favorable evidence there is to attack the credibility of the opposition's case. Often there will be a serious lack of evidence favorable to his client.

The alternative is to look for things the investigator did not do during the investigation that he could have or should have done, for example that "rush to judgment" made famous in the O.J. Simpson case. And, as we all know, there was almost always

something else that could have been checked, no matter how unlikely. Unfortunately, the end result is for the attorney to make the investigator look inept, biased or sloppy in his work.

Finally, there is the impeachment of the investigator's testimony that is inconsistent with his report or includes information that was not in the report. The purpose is to make the investigator look like a liar or an incompetent, whose testimony should not be trusted.

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Protecting yourself from these types of attacks begins with the preparation of a carefully written report. Write the report poorly and you can plan on a withering cross examination that will leave you considering the wisdom of another line of work.

Fact versus Opinion

First, consider that the report is generally discoverable in both criminal and civil courts unless it is protected as a work product by attorney/client privilege. While a privilege for counsel may protect a report's disclosure, it is not an absolute rule, and it may be challenged by opposing attorneys. Therefore, it is better to prepare a report from factual information than to rely on opinion-based speculative narratives.

The factual elements need to be cleansed of bias or assumptions. Consider the statement: "He left the house and went to school." Does the investigation confirm that he actually went to school or is that an assumption by the investigator? It would be better to write, "As he left the house, he said he was going to school."

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His arrival may be confirmed by another source later in the report or left as an unsubstantiated statement that the subject made as he was leaving. The reader may draw his own conclusions from the facts, but the writer should not offer opinions or speculate on the meaning of the findings.

The report should disclose all the information revealed during the investigation. Withholding information from opposing counsel, especially if favorable to his client, could result in penalties for the investigator and problems for the case, including the possible exclusion of important evidence.

It is also the duty of the investigator to update his report as new information becomes available. Supreme Court Rule 415 states:

Continuing Duty to Disclose. If subsequent to compliance with these rules or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, he shall promptly notify the other party or his counsel of the existence of such additional material, and if the additional material or information is discovered during trial, the court shall also be notified.

Characteristics of the Report

Reports can come in a variety of formats based on the practices of the organization or the complexity of the case. While the format may change, the content of the report will still establish the events, evidence, and circumstances surrounding the incident.

The document should tie events to the evidence and this to the statements from witnesses and suspects.

Finally, the report should be written in such a way that the progress of the investigation can be reconstructed even over a prolonged period of time.

Chronological. The investigative report is a detailed explanation of what was done and the order that it was completed. The report is a record of the investigative process and its scope. The reader is able to clearly reconstruct when, where, and from whom information was gathered.

First-Person Narrative. The report is written as a first-person narrative of the investigator's experiences as he moves through the investigation. It is generally easier to write in this fashion and makes the end report more readable. Some investigators use "reporting officer," "R/O," "this agent," or some other third-person word to replace the first person use of "I." There is no unilateral convention here, but rather a conformity to organization practices. The use of the personal pronoun "I" makes the reading easier and clearly identifies who is making the observation.

Factual. As emphasized above, the report should contain facts relating to who, what, where, when, how, and why. The investigator should carefully check that no assumptions are made in conjunction with their presentation.

Objective Reporting. The report should not contain speculation, opinions, or the hypothesis of the writer. The writer should allow the reader to draw his own conclusions based on the facts alone, uninfluenced by the writer.

Thoroughly Report All Facts. The report should contain all the facts revealed by the investigation. Include those facts that benefit the suspect as well as those that do not. Each piece of evidence or statement should be attributed to a source, noting when and where it was discovered.

Simple, Clear Terminology. It is much better to write the report in simple clear terms that are easily understood than to use words the reader may be unfamiliar with. If there are specific words or terms necessary to the topic, the writer may have to provide the reader definitions so there is no confusion over their meaning.

For example, it is not sufficient for an investigator to write, "The preliminary investigation of the allegation raised a number of red flags that indicated further inquiry would be required. I contacted Central Audit Special Services to assist me in gathering additional documents."

In this paragraph the investigator refers to "red flags" discovered in the preliminary investigation, yet there is no description of them. The entire basis for continuing the investigation has been omitted.

Signed Statements. The investigator may also want to use quotes whenever possible to capture the exact language of a witness or suspect. In particularly important cases, a written or recorded statement should be obtained from the witness or suspect. These can be summarized in the case report with the complete statement contained in the Appendix of the report.

Format of the Report

The report should have a natural flow that follows the development of the case. Some case-management software assist in the formatting and linking of more detailed information or evidence, but in general the following format will apply to most cases.

Table of Contents. In larger investigations the writer may want to provide the reader with a table of contents so specific information can be located easily.

Executive Summary. This provides for a quick review of the investigation. It may be written as a series of factual bullet points that summarize the high points of the investigation and its conclusion.

Premise of the Investigation. The writer details the preliminary information that triggered the investigation, as in the following example. "After hours on June 1, 2006, an anonymous call was received by the Ethics Hotline alleging that John Doe, a senior hard goods buyer, was taking cash kickbacks from ABC Company."

If the call was extensive, the writer would go on to describe the content of the call noting the location of the complete transcription of the recordings in the Appendix of the document. The reader now has a link to the original recording or its transcription if he wants to review it.

Preliminary Investigation. The investigator describes the preliminary inquiry that confirmed the basic information of the call and any efforts made to substantiate the allegation. If "red flags" were discovered, they are described in detail along with

CALENDAR

Industry Conferences & Events

July 9 – 14, 2006

Association of Certified Fraud Examiners
Annual Fraud Conference & Exhibition
The Venetian, Las Vegas, NV
www.cfenet.com

July 16 – 19, 2006

National Food Service Security Council
27th Annual Seminar and Exposition
Gaylord Opryland Resort, Nashville, TN
www.nfssconline.org

August 6 – 10, 2006

International Association of Property Crimes Investigators
Annual Conference
Gold Coast Hotel, Las Vegas, NV
www.napri.org

August 28 – September 1, 2006

International Association of Financial Crimes Investigators
Annual Conference
The Westin Seattle, WA
www.iafci.org

September 19, 2006

Retail Council of Canada
Retail Loss Prevention Conference
Toronto Congress Centre, Ontario
www.retailcouncil.org

September 21, 2006

Retail Alliance
5th Annual Loss Prevention Conference
Williamsburg Marriott, VA
www.retail-alliance.com

September 25 – 28, 2006

ASIS International
52nd Annual Seminar and Exhibits
San Diego, CA
www.asisonline.org

October 3 – 4, 2006

EyeforRetail
Retail Loss Prevention Europe 2006 Conference
The Royal Garden Hotel, London
www.eyeforretail.com/lp06

October 24 – 25, 2006

Loss Prevention Research Team
Impact 2006 Workshop
Day 1—Designing Stores to Boost Sales while Reducing Loss
Day 2—Offender Interview Data Sharing
University of Florida, Gainesville, FL
rrhayes@ufl.edu

October 24 – 25, 2006

International Security Conference and Expo ISC East
Jacob Javits Convention Center
New York, NY
www.isceast.com

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On the Vendor Side

March Networks Acquires Trax Retail Solutions

March Networks, a leading provider of Internet protocol (IP)-based digital video surveillance solutions, has entered into a definitive agreement to acquire the assets of Trax Retail Solutions. The Scottsdale, Arizona, based Trax is a provider of enterprise software for loss prevention, store operations control, and profit optimization solutions within the retail sector.

March Networks plans on maintaining a presence in Scottsdale and retaining many of the approximately fifty Trax employees.

"Through the integration of March Networks' visual intelligence solutions and Trax SmartStore retail business intelligence platform, we will be offering customers a new paradigm in intelligent management of retail operations to support loss prevention activities, enhanced operational decision making, and greater profitability," said Tony Jenkins, vice president of global marketing for March Networks.

An overview presentation of the joint March Networks and Trax solution is available at www.marchnetworks.com/news/marchnetworkstrax.pdf.

LP Innovations Sold by Casual Male Retail Group

LP Innovations, the outsourced loss prevention solutions provider, announced the completion of its acquisition by Wells Fargo Retail Finance (WFRF), a syndicate of venture capital groups, and members of LP Innovation's existing management team. The company has been purchased from Casual Male Retail Group, who established LP Innovations in 1997 to deliver LP services and strategies to specialty retail stores.

"Our relationship with Casual Male allowed us to evolve to a stage where we can thrive independently of a parent company," said Steven May, president and CEO of LP Innovations. "With the support and financial backing of Wells Fargo Retail Finance and our venture capital partners, LP Innovations is now ideally placed to take advantage of opportunities for more aggressive growth."

While LP Innovations was not central to the Casual Male business strategy, the company will continue to provide outsourced LP services to what is North America's largest specialty retailer of big and tall men's apparel.

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their relevance. The investigator should also indicate with whom the information was reviewed and the person responsible for making the decision to continue the inquiry.

Body of the Report. The investigator writes a chronological narrative of the investigation's development. This often begins with a biographical summary of the individuals suspected of being involved and references to the Appendix for specific detailed information that would make the report less readable. Any evidence or statements can be summarized, and the reader can be referred to their location in the Appendix if they want to review it.

Final Interviews. Generally, the final task in the investigation is to interview the suspects. The investigator writes what transpired during these interviews, noting

the location of any statements in the Appendix.

Conclusion. This section ties up the final disposition of the case. It may reference with whom the findings were reviewed and those who were party in the decision making process to determine the case's final disposition. For example, "Corporation General Counsel Robert Lee and I reviewed the investigation findings with the full Board of Directors and received their approval to present the case to the U.S. Attorney. They also recommended John Doe's employment be terminated."

A carefully written report will stand the test of time. Read in a year, it will remain as clear and comprehensive as the day it was written. In the next column we will continue to outline what will make for a better written report. ■