



The Do's and Don'ts of Employee Misconduct

Presented by:

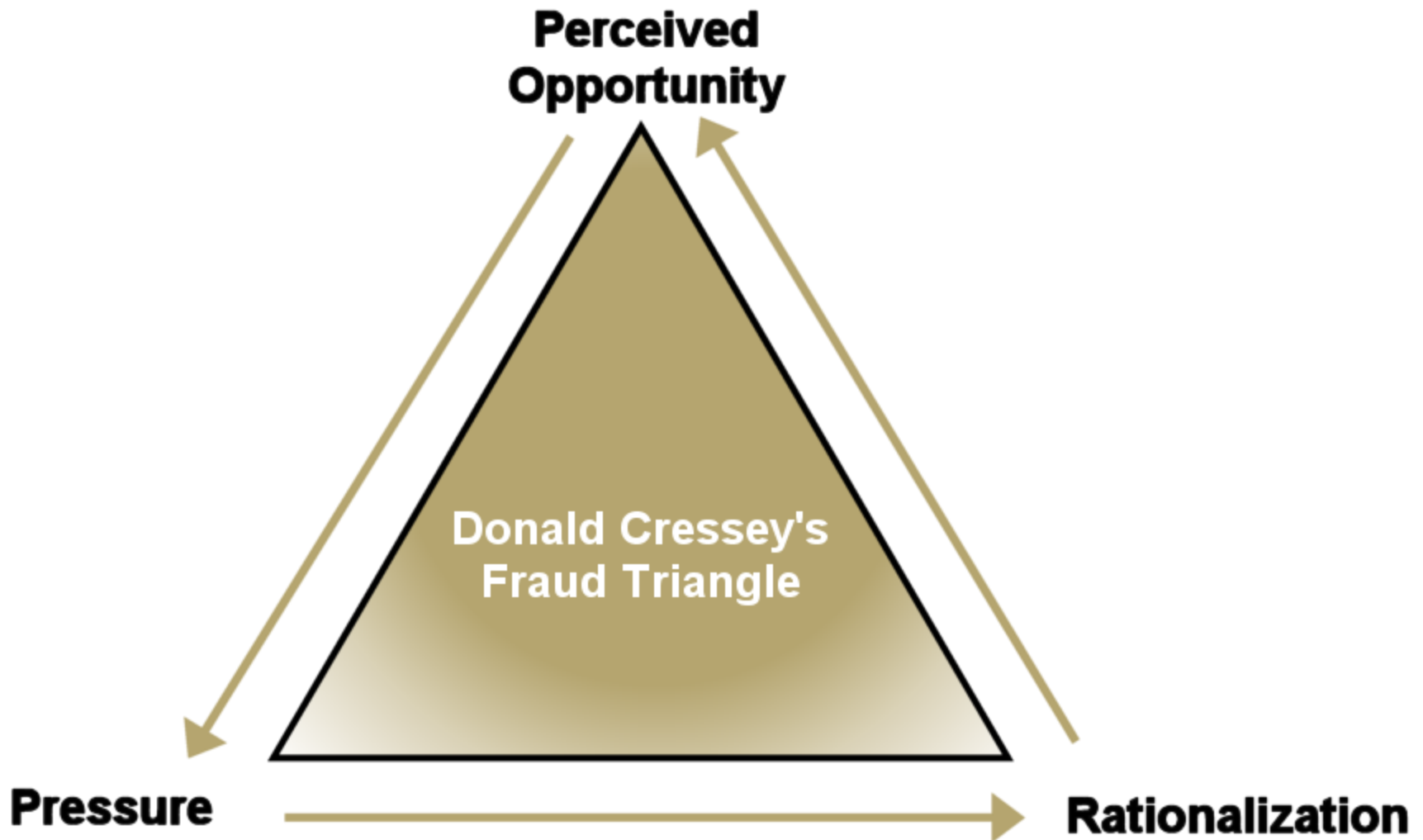
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Risk assessment

Lets play a game:

1. How many of you understand how to read financial statements?
2. How many of you review the bank statements monthly?
3. How many of you have less than 4 people of staff?
4. How many of you have documented code of conduct policies? Employee discipline? Whistleblower? Harassment?
5. Our employees demonstrate high ethical standards?
6. I am confident that I understand the types of fraud that could arise within the Municipality?
7. We have done a fraud risk assessment (health check) of our Municipality?
8. We have the right mechanisms in place to discover theft and/or fraud?
9. Councillors have established processes to deter and detect misuse or loss of funds or assets?
10. We monitor Municipality credit card use? We don't allow personal purchases?
11. We sign blank cheques?
12. We sign cheques without the receipt (not the cheque requisition)?
13. We monitor or review payroll on a monthly basis?
14. We have sign off on our code of conduct, acceptable use of computer, harassment and discipline policies?

Donald Cressey's Fraud Triangle



Petitions

There has been an increase in civic awareness and lobbying regarding contentious issues; water treatment, land use, revenue and tax base and conduct of Councillors, Mayors and CAOs.

There have been petitions issued by concerned citizens regarding financial management of the Municipality.

An increase of complaints to the Manitoba Ombudsman's office regarding financial stewardship and Councillor conduct.

MNP has responded to 6 municipalities in the past 6 months regarding CAO mismanagement, fraud, theft, improper conduct of Councillors.

Examples

2013 – former Town employee in Leaf Rapids, was charged with fraud, forgery and theft – Town cheques were stolen

2017 -Port Coquitlam city employee charged with fraud and theft - \$175,000 of purchase of tools with public funds and reselling for cash

2016 - CAO in Saskatchewan was fired for improper bookkeeping – she threatened to sue the RM – discovered that she had paid an employee who was on maternity leave under the table and disguised payments as petty cash.

2016 - CAO of Town of Craik charged with fraud of payroll for \$41,000 from 2010 - 2014

2013 – CAO of Town of Lamont was arrested and charged with fraud

Fast facts

Employee misconduct is more pervasive than you think.

The Financial Post reported that 42% of employees have seen ethical breaches in the workplace (2013) and only 48% reported.

When it happens, it happens without warning

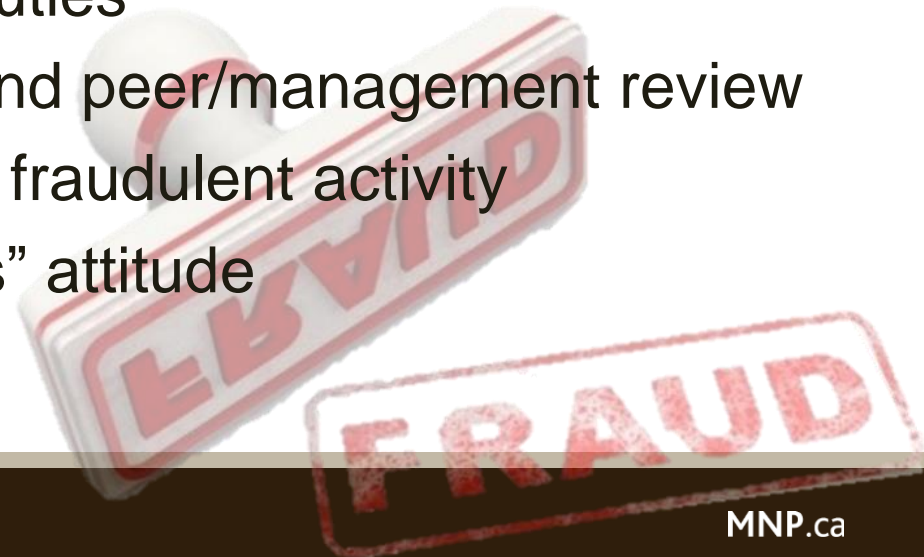


Even more fun facts

- Median duration for detecting frauds is 18-24 months
- Median loss for local government was \$80,000
- The average organization loses 5% of its revenue to fraud
- Small organizations are disproportionately victimized
- Fraudsters typically display warning signs that they are engaging in illicit activity
- The most common sign is living beyond your means
- Organizations tend to over-rely on audits

Why are Municipalities defrauded

- Municipalities are trusting and ethical, and assume their staff are too
- You spend much less time managing the business than you do helping the community and relying on your professionals
- Lack of documented procedures and processes
- Lack of the segregation of duties
- Lack of anti-fraud controls and peer/management review
- Failure to notice red flags of fraudulent activity
- “it would never happen to us” attitude



Sex, Drugs, and Gambling

- Addictions are a factor in nearly half of the investigations undertaken in past three years.
- Gambling in particular is a powerful addiction that has led to many large frauds.
- Desperate people take desperate actions.
- Economic woes have predicated the upswing in addictive behaviours.
- Mainstream cultural acceptance or flaunting of addictions make them alright.



Employee Misconduct

- It can reach all levels of the organization
- Not necessarily the rank and file employees
- Senior management
- Could be more than one employee
- Could be with an outsider to the organization

MISCONDUCT

How defrauded?

Where are your 5 greatest vulnerabilities:

- Inventory and procurement
 - Billing schemes (corruption)
 - Payroll/credit card
 - Expense reimbursements
 - Kickback schemes
-
- Employment credentials



Policies and Procedures

- Code of conduct or code of ethics
- Investigation policy
- Response policy
- Harassment policy and bullying policy
- Whistleblower policy
- Social media policy

Code of conduct/code of ethics

These are critically important to an organization:

- ❖ Sets the tone at the top
- ❖ Sets out the expectations for the organization
- ❖ Allows for progressive discipline
- ❖ Protects the organization from misconduct



The Plan

Organizations are very good at fire prevention planning or disaster planning – but what can be more disastrous to your company than the reputational risk that comes with employee misconduct;

- Have a plan for what to do – ensure it follows policy, provincial legislation and collective agreements;
- Have a media plan; and
- Have a checklist of Municipal property.

Investigation plan

The organization should implement a crisis investigation and response which are critical to safeguarding the reputation of your Municipality. On site personnel can provide investigation or strategic response to avoid or remediate litigation concerns.

Investigation plans address:

- Securing evidence
- Debriefing staff
- Interviewing witnesses
- Coordinating recommendations and response



Organizational property

Do you know what the employees have in their possession when there is an unwanted unexpected event?

- Keys and door swipes
- Passwords and remote access
- Laptops and cell phones
- Alarm codes



Whistleblower hotlines

- Almost three times as many frauds were uncovered by tip than by any other method, including management review and audit
- The ability to report fraud anonymously is key as employees fear reprisals
- In organizations that had fraud hotlines, 42% of frauds were detected by tip whereas where there was no hotline only 34% of frauds were detected by tip
- Employees were the most common source of tips (50%)

Keep in mind...

Employees who:

- Never take holidays or only take a few days at a time.
- **Complain of personal financial difficulties**
- **Appear to have a close relationship with the company's supplier or customer**
- Seem disgruntled or resentful
- **Appear to be living beyond their means**

According to the ACFE Report to Nations 2014



Also keep in mind...

Employees who (cont'd):

- Come in early and/or work late
- Operate a business in addition to their employment with the company
- Do not allow others to assist them with their work load
- Appear to have a lot of control over operations



The knee jerk reaction

- Call the police
- Call the insurance
- Fire them on the spot



What Should Employer do once an Employee is Suspected of Misconduct?

- Legal counsel
- Human resources
- Determine if investigation is required
- Who should conduct the investigation
- Results of the investigation
- Insurance claim, civil remedy, criminal complaint with police
- Impact on internal controls, company policies and procedures



Options Available

- Status Quo
- Terminate employee with no investigation – cause or no cause
- Suspend employee - with or without pay
- Internal investigation or external investigation

Do Nothing?

- Perception that misconduct is condoned
- Could result in costly litigation
- If it happens again, insurance may not cover loss



Termination with No Investigation

- Allegations may be false
- Result in costly litigation
- Other employees may be involved
- Cannot determine the cause of the misconduct
- Need to prevent further occurrences
- Losses may be higher than expected



Why Investigate?

- Stop the misconduct
- Determine who is responsible
- Determine how it occurred
- Determine the value of the loss
- Implement procedures that will limit or prevent future similar incidents
- Protect yourself civilly

Investigations

- Full of surprises
- Unpredictable conclusions
- Employer should be cautious when investigating allegations of employee misconduct or making an allegation without proper investigation.
- Vested interest



Internal Investigations

- Possibility that staff performing investigation may commit criminal act
- Adequacy of tools
- Success in criminal and civil cases
- Can be expensive and disruptive to day to day operations



External Investigator

- Limits the number of employees who know
- Maintain strict confidentiality
- Generally engaged by legal counsel
- Privileged communications
- Finders of fact
- The external investigator has nothing to gain or lose based on the results

Conducting an Investigation

- Computer/Electronic Evidence
- Issues to Consider



Electronic Evidence

- More than information technology
- Process used by investigators to image computer hard drive(s), servers, PDA's, etc then review e-mails, documents, web usage
- Recover
 - Deleted files
 - Printed items
 - Web Site

Employee Computer

- **DO NOT** touch
- **DO NOT** turn it on or off
- **DO NOT** begin search through computer files
 - Alters files
 - Date and time stamps
 - Evidence that employee was the last person to use file



Issues to Consider when Conducting Employee Investigations

- Timing of Termination
- Former employee does not have to cooperate
- Searches and/or surveillance
- Personal information about employees

Solutions

- Software which will detect where clients records have not been reconciled for each day;
- Software that will determine how your employees are spending their time;
- Software should have restricted levels, administrator accesses and security features (log-in features);
- Audit function in software;
- Let people know you are watching;
- Have bank statements and notices sent to a different address;
- Alarm code accesses for each staff member;
- Due diligence on potential employees



Thank you!



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Questions?



Thank you for your time

