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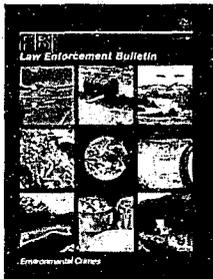
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Editor—Stephen D. Gladis, D.A.Ed.
Managing Editor—Kathryn E. Sulewski
Art Director—John E. Ott
Assistant Editors—Alice S. Cole
Karen F. McCarron
Production Manager—Andrew DiRosa
Staff Assistant—Carolyn F. Thompson

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Bank Employee Embezzlement

By
DENISE M. DUBÉ



In August 1988, representatives of a large regional bank contacted the Los Angeles County District Attorney to request assistance in prosecuting employee embezzlement cases. Apparently, employee embezzlement resulted in million-dollar losses each year, and the bank experienced only minor success in investigating and prosecuting these cases. After reviewing the bank's request, the district attorney realized the magnitude of the problem warranted im-

mediate attention. In September 1988, he directed the Major Fraud Section of the Los Angeles County District Attorney's Office to develop and implement a program that would facilitate processing bank employee embezzlement cases.

This article focuses on the extent of bank employee embezzlement, how a program to curtail this crime was developed, its implementation, and the problems encountered. It then details the

benefits that were realized once the program was put into effect.

The Problem

The bank estimated that it experienced approximately 30 employee embezzlement cases a month, with a resultant loss of \$2.5 million a year. No figure was projected for losses incurred due to undetected cases.

Of the embezzlement cases uncovered in 1989 by the bank's investigative auditors, a statistical

summary of the perpetrators shows that:

- 62% were female employees; 38% were male employees
- 66% had a high school education; 31% had some college; 3% other education
- 41% were between the ages of 20 and 25
- 25% were between the ages of 26 and 35
- 82% were working as tellers
- 47% took cash
- 71% had less than 1 year of service with the bank

The last statistic was by far the most important and the primary reason the bank pressed for a pilot program to investigate and prosecute employee embezzlements. The program not only would serve

as a deterrent to current employees but also would prevent offenders from finding employment in another bank before the embezzlement was discovered.

It is the transient nature of bank employees that compounds the embezzlement problem faced by banking establishments. Due to a proliferation of civil suits, banks usually do not warn other financial institutions of any problems encountered with an employee unless criminal charges have been filed. Therefore, it is important to uncover the crime and charge the person responsible before the embezzler moves on to work at another bank.

Developing the Program

The 200 investigators in the Los Angeles District Attorney's Office have full-time peace officer status under section 830.1 of the California Penal Code and are assigned to the Bureau of Investiga-

tion within the district attorney's office.¹ The duties of these investigators range from providing trial support to handling original jurisdiction cases, such as major fraud, consumer fraud, and environmental cases.

To begin, investigators met with bank representatives to evaluate the extent of employee embezzlement and to learn how county and city law enforcement agencies handled such crimes. They also wanted to determine what action the district attorney's office could take to improve the current situation.

From these meetings, investigators learned that the bank's main complaint was local law enforcement's inconsistency in handling embezzlement cases. Oftentimes, charges were not filed for many months after the initial complaint or an agency failed to keep the bank informed of the status of each case. The bank also found that in some instances, the law enforcement agency failed to file cases before the statute of limitations expired.

The investigators soon learned the reasons why banks encountered problems in getting their cases processed through the criminal justice system. In some instances, it became clear that officers in local agencies were too unfamiliar with the workings of embezzlement cases to complete a thorough investigation and the necessary followup for a successful prosecution. More often, an agency simply lacked the personnel needed to work the growing number of cases. Also, a prevailing belief



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Ms. Dubé is a supervisory investigator for the Los Angeles County, California, District Attorney's Office.

among officers was that embezzlement incidents were just "paper cases," and they placed these cases at the bottom of the priority scale. In fact, a U.S. Department of Justice report on the investigation of white-collar crime supported these findings.²

Implementing the Program

After meeting with bank representatives and identifying the problems that banks encountered with the criminal justice system, the district attorney's office then evaluated its resources to determine how it could effectively develop a program dedicated to employee embezzlement cases. For example, the Major Fraud Unit set specific criteria for the types of cases it works. Cases are accepted for investigation if they involve multiple victims and/or suspects, are multijurisdictional and complex in nature, and involve a considerable dollar loss. The types of cases for which the bank was requesting assistance could result in losses ranging from \$2,000 to \$100,000. Cases involving losses exceeding \$100,000 would be referred by the bank to the FBI for investigation.

It was impractical to think of dividing 30 cases a month among the Major Fraud Unit's 8 investigators. This would have a detrimental effect on the cases already under investigation. Therefore, another approach had to be taken.

Since one of the main complaints of the bank in dealing with local law enforcement agencies was inconsistency, the district attorney's office decided to relieve one investigator of his caseload and make him

the liaison investigator for the pilot program. This liaison investigator would serve as the contact person in the district attorney's office for the bank. In turn, the bank designated its own contact person to work with the liaison investigator.

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The next step was to determine how the district attorney's office could best use the bank's resources to process these cases expeditiously. Obviously, for the district attorney's office to handle the number of cases projected, it became imperative that the bank prepare its cases as thoroughly as possible before submitting them to the liaison investigator. To address this issue, the district attorney's office offered to instruct the bank's investigative auditors on how to prepare cases involving employee embezzlement.

The liaison investigator and a designated deputy district attorney began by conducting a class for the bank's investigative auditors on how to write reports of witness and suspect interviews and prosecutive summary reports. Then, each investigative auditor received a folder that contained samples of each type

of report required in embezzlement cases.

The deputy district attorney explained section 3361 of the California Financial Code, misapplication of bank assets, under which most of the cases would be filed.³ Discussion also centered around the exhibits needed to file a case successfully, such as checks and bank documents.

Both instructors of the class stressed that cooperation between the bank and the district attorney's office was crucial for this pilot program to work. The liaison investigator encouraged the auditors to call him anytime if they had questions or needed assistance in completing a case package before filing with the district attorney's office.

The instructors also took time to explain the filing process fully. The investigative auditors needed to understand why the district attorney's office was requesting they do such thorough work before taking action on an employee embezzlement case. The bottom line was if this pilot program was to work, the bank's investigative auditors had to be responsible for completing as much of the paper work as possible prior to submitting it to the liaison investigator.

Reviewing Cases

Upon receiving the bank's report, the liaison investigator reviewed the package to ensure it was completed properly. The investigator returned to the investigative auditor incomplete reports, those that lacked documentation, or if the elements of the crime were not established. The liaison investigator

would return the incomplete package to the bank with a letter explaining why it was not being accepted for processing at this time.

If the bank's package was complete, the liaison investigator forwarded the report to a pre-selected deputy district attorney for filing. From this point on, any additional investigative work would be the responsibility of the liaison investigator, to include tracking all filed cases through the court system and maintaining of the monthly case status file.

Success of the Program

From September 1988 through July 31, 1990, 51 bank employee embezzlement cases have been filed through the use of this program. Of these cases, 10 suspects have outstanding arrest warrants, 24 suspects have been convicted and sentenced, and 17 cases are pending in court. From these statistics, it is obvious that a substantial improvement has been realized in prosecuting bank embezzler cases.

This pilot program resulted in a faster turnaround time for cases reported which, in turn, led to charges being filed more expeditiously. Better followup and a uniformity in the handling of the cases were also realized. Now, the liaison investigator could check on the status of a case more readily because of the tracking system and statistical file that were implemented and maintained.

Another significant benefit is the realization by the district attorney's office that cooperation between the public and private sectors is crucial to combat this crime

effectively. The law enforcement community must recognize the need to work in conjunction with the private sector to prosecute bank embezzlement cases. On the other side, banks, title companies, and other financial establishments must assist the law enforcement community in investigating these complex cases.

For example, the bank involved in this pilot program offers classes in computer technology, bank terminology and procedures, and trends in bank fraud cases to Federal, State and local agencies in Southern California. This keeps the law enforcement agencies up to date on valuable information that leads to successful investigations, apprehensions, and convictions.

Conclusion

The development of a successful program to process bank employee embezzlement cases illustrates that law enforcement and private business establishments can work together toward a common goal. Only through these and other types of joint ventures will the public and private sectors be able to control and prosecute the growing number of fraud cases effectively.

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Footnotes

¹ California Penal Code, Section 830.1, p. 247.

² U.S. Department of Justice, *The Investigation of White-Collar Crime* (Washington, D.C.: U.S. Department of Justice, Law Enforcement Assistance Administration, Enforcement Program Division, Office of Regional Operations, 1977), p.2.

³ California Financial Code, Section 3361, p. 457.

Entrapment Defense Guidelines

The Institute for Law and Justice, in conjunction with the Bureau of Justice Assistance, published a monograph, *Entrapment Defense in Narcotics Cases: Guidelines for Law Enforcement*, to provide guidelines designed to minimize the likelihood of a successful entrapment defense, particularly in drug cases. The monograph contains four chapters, each addressing a specific area of the entrapment defense.

Chapter 1 defines the entrapment concept and briefly reviews pertinent U.S. Supreme Court decisions. Chapter 2 addresses the alternative standards governing the entrapment defense, while the next chapter provides specific guidelines for dealing with each of the prevailing entrapment standards. The final chapter covers the need for supervisory oversight to avoid the entrapment defense successfully.

To request a copy of the monograph, contact the Bureau of Justice Assistance, 633 Indiana Avenue, N.W., Washington, DC 20531, 1-202-514-6638.