Chapter 1

The Successful Investigator

"Some investigators have 20 years of experience; others have one year of experience 20 times."

–Senior federal agent

War Story 1.1

During the later years of my federal law enforcement career (2006–2008), I was investigating several high-ranking U.S. military generals and other military officers for allegedly applying undue influence on lower-ranking government contracting officials to circumvent the contract award process. As a result of their influence, many government contracts worth several millions of dollars were awarded to favored contractors (including retired

military officers' companies) sometimes at highly inflated prices, and often they were awarded without required competition.

The assigned federal prosecutor was also an officer in the military reserves. During the investigation, the prosecutor surprisingly ordered me to stop conducting interviews, stop writing reports, and stop analyzing other improperly awarded government contracts. My own supervisor, who was also an officer in the military reserves, took things a step further and ordered me to completely close the investigation!

As implied in the preface of this book, I'm a bit of a maverick—especially when it allows for the opportunity for good to triumph over evil. So despite my instructions, I just kept right on investigating, conducting interviews, writing reports, and examining other government contracts. In the end, I obtained evidence indicating that some of the highest-ranking U.S. military generals and other high-profile officers should have been considered for courts martial (military criminal trials). My final draft investigative report, approximately 275 pages, provided clear and detailed descriptions of the investigative results including a required evidence section.

So what happened? My final draft report was altered. (Some might call it "edited," but there's a big difference.) Before my report was finalized, critical information was completely removed, including the entire evidence section. The final version of my report was reduced to approximately 250 pages and made to look as if the highest senior military officers (four-star generals) had done nothing that warranted consideration for criminal prosecution. That was in complete contrast to what the evidence indicated and in complete contrast to what I wrote in my draft report!

In addition, in my final draft report I stated that the investigation was not yet complete because more interviews and re-interviews needed to be conducted. That statement was completely removed before the report was finalized. Consequently, the final "approved" report gave the false impression that the investigation was 100 percent complete.

NOTE: Yes, I did notify senior government officials about what transpired, but they failed or refused to respond. As a result, I learned firsthand the meaning of the term "good ole boys' network."

The moral of the story is that even the best investigators in the world cannot control the outcome of every investigation. In all probability, most other investigators will never encounter the obstacles, hindrances, and roadblocks imposed on my efforts during and after that investigation. But if conducting investigations is your chosen profession, you'd better be prepared for some occasional shenanigans by others (including the "good guys") that you will not be able to control. What others do before, during, and after you complete your investigation may very well affect the outcome of the investigation.

The Basics

Before embarking on this unique voyage to learn how to become a more successful investigator, it is important to have a basic understanding of the meaning of those two words and how they relate to each other. Sounds pretty simple, right? I can just about guarantee you that many investigators who have received less-than-perfect scores on their annual job performance ratings would opine that their own definitions of the word "success" often differs greatly from their superiors' definitions. This chapter elaborates on the meanings of these words: investigator, investigation, and success.

Investigators

Investigators, like other professionals, must have certain characteristics, traits, and skills to be successful at their chosen profession. An investigator must:

- Possess integrity (be honest).
- Have certain job skills (acquired through training and/or experience).

- Have knowledge of many aspects of law (e.g., knowledge of others' right to privacy, the rules of evidence, and the elements of criminal offenses, etc.).
- Be dedicated to the job (willing to go beyond the call of duty).
- Be persistent (not willing to give up just because the going gets tough).
- Be self-motivated (don't need someone else telling them what to do or when to do it).
- Be resourceful (maximize the use of resources and be cost conscious where possible).

Investigators should also have other skills, including good planning, organizational, and communications skills (oral and written). It also helps to be creative and clever. Many of the skill sets needed to be an effective investigator are obtainable in a classroom or in the field; however, a few of these characteristics (e.g., integrity, dedication, and persistence) often are instilled in some people early in their lives; in others, never at all. I don't mind saying that the U.S. Army taught me the importance of persistence. The military teaches troops to never give up, no matter what. A persistent investigator is a very valuable commodity.

Having passion for your work is critical to enjoying the job. No matter what your profession, if you enjoy your work, the job really isn't about the paycheck; it's about the pursuit and accomplishment of the goal(s). Having passion for catching bad guys, righting wrongs, pursuing justice, and helping others can make it fun to go to work every day. That's why I say I've been lucky; I've always gotten to do what I wanted.

I once asked a professional baseball scout what he looked for when evaluating young prospects to be considered for baseball contracts. He replied, "What we look for is speed. We can teach players everything else, but we can't teach them speed."

If You Have the PIG, You Have It Made

Along the baseball scout's lines, in my opinion the three most important characteristics, skills, attributes, or traits that a good investigator (or any other professional) can have include: passion, integrity, and grit

(PIG). Grit might be described as the willingness to persevere while pursuing long-term goals despite unfavorable odds, despite the naysayers, and despite obstacles and hindrances. *"Passion, integrity, and grit—if you have the PIG, you have it made."*

Obviously a listing of useful characteristics, skills, or traits of a good investigator (especially a fraud investigator) could take several pages to complete. "Street smarts" are invaluable in the investigative field but not usually a requirement to become an investigator (sometimes I think they should be). A fraud investigator's skill sets should also include being computer literate, logical, and analytical. He or she also needs to be pretty good at math. Perhaps every investigator should possess a strong sense of curiosity. But an investigator does not necessarily have to be good at everything to be effective. Knowing your own limitations as well as having a willingness to learn and improve makes all the difference.

War Story 1.2

When I was a rookie federal agent, my agency required that a few other agents and I take aptitude tests to determine if we would be good candidates to become technical equipment agents for our offices. The tech equipment we'd use would include hidden electronic audio recorders and cameras and other covert and overt gadgets. One of the questions on the examination was: "Are you the type who likes to disassemble a watch to determine how it works?" I truthfully answered, "No!" because I knew I'd never get the watch put back together if I did take it apart. Most of the other questions on the test were similar in nature, and it became obvious to me that I had no business trying to become a tech agent.

I later learned that my answers to the exam questions were irrelevant because the federal investigative agency that I worked for was going to force me to attend the four-week tech training regardless of my final score.

During the first week of tech training at the Federal Academy in Brunswick, Georgia, the instructor explained to our class how electricity worked (think of a scientist wearing a long white coat.) Perhaps some of the other agents in the classroom actually

comprehended the material, but I sure didn't. Later the instructor brought us to a laboratory and instructed us to assemble our own tiny covert microphones using a solder gun and other tiny pieces of electronic stuff. All I made was a mess!

However, I later learned quite a bit in the field when we used brand-new already assembled equipment. As part of our training, we went into a hotel room, installed pinhole cameras, and wired up the room and then monitored everything from the adjacent room. (Yes, we rented the two rooms for training purposes, and no, there were no unsuspecting people in the room we wired up and monitored.) Understanding how the equipment worked or why it worked was beyond my comprehension. (The same is true with the remote control for my television.)

After completing the training and receiving my diploma, I returned to my home office in Memphis and practiced on the job with the available tech equipment. I continued my self-training and use of such equipment in my next office assignments in Orlando and later in Las Vegas. With the additional hands-on experience, I was able to utilize the tech equipment in the field during several undercover operations. That knowledge and expanded use assists me today as a private investigator.

In short, everyone can learn new skills. But there are some jobs that are better suited for others. Once you have a basic understanding of what other professionals in your field do and have done to accomplish their professional objectives, you can become more effective (assuming the others are willing to assist and share information).

I've worked with certified public accountants, auditors, and analysts who've provided invaluable assistance during fraud investigations. Forensic computer experts and fingerprint and handwriting experts have also made huge contributions in my investigations. Quite honestly, I could never do what those professionals do (and wouldn't want to if I could). To be a successful investigator, you often will need assistance and/or input from other professionals to help you do your job—or to do your job more efficiently.

Another characteristic needed to become an effective investigator is "concern." Investigators who have a genuine concern for the victims, complainants, harmed organizations, and their own employers' or clients' interests typically will be more motivated to accomplish their investigative objectives. Many of us have seen investigators who carry a case file in their hand but just don't seem to care whether they solve the case or not. Others seem to investigate with a sense of urgency like there is no tomorrow. The latter investigators normally have the respect of their peers and others and regularly accomplish more.

While conducting investigations, an investigator must also keep an open mind and remain objective. A tragic mistake is to have fixed or preconceived notions (which often results in faulty conclusions) about the results of the investigation before it's been completed. (It's okay to have hunches.) Over the years, I've seen some investigators set out to obtain only that information and evidence that fits their original hypotheses, objectives, or agenda. Some investigators go so far as to document only information that meets their objectives. Two causes of reaching faulty conclusions are confirmation biases and availability heuristics.

Confirmation Bias

Confirmation bias occurs when people assign more value to information that goes along with their own belief or hypotheses. When an investigator or fraud fighter consciously or subconsciously has this bias, the consequences can be many including: wrongly charged individuals, actual criminals not being charged, complaints being wrongly dismissed, and so on.

Availability Heuristic

An availability heuristic occurs when somone consciously or subconsciously overvalues information that is right in front of them. An example might be when an investigator makes a conclusion about a suspect based on information one person "reported," and the investigator assumes it "must" be true. Failing to thoroughly investigate based on this mental shortcut could cause the wrong conclusion to be made.

I have seen reputable investigators whose agencies are well known and well respected intentionally omit factual information from reports simply because the information did not fit what they wanted to prove. In my opinion, that's how innocent people end up in prison! Over the years, I came to my own conclusion that some of these one-sided investigators were trained to conduct investigations in that manner because that's what was/is expected of them. In the real world, some "professionals" are more concerned about putting points on their own personal scoreboard, getting notches on their belts, or getting promoted than pursuing justice and/or establishing the truth.

War Story 1.3

As a private investigator and consultant, I was once asked to review a police department's voluminous policies and procedures and then review the details of an incident that resulted in an arrest and a civilian's being injured. The injured party had a long history of previous arrests. My natural instinct was to lean toward taking the police officers' side, but I refrained from taking that position during my review. What I found were (in my opinion) clear violations of the police department's policies and procedures as well as critical omissions in official police reports. In short, from my viewpoint, it looked like a cover-up.

Next I reviewed the reported internal affairs inquiry into the complaint and found that all of the potential witnesses were not interviewed and that those interviews that were conducted were completed in such a way as to favor the police officers. Some of the questions asked actually included suggested answers; no logical follow-up questions were asked; and way too many closed-end (yes or no) questions were asked. In short, if you are going to conduct an investigation, it should be conducted objectively, thoroughly, and completely.

Many organizations and agencies have their own written codes of conduct, codes of ethics, and/or core values. The ones I have seen have always been well thought out and well written. Some are longer than the Ten Commandments, and some are as short as a campaign slogan.

The advantage of having lengthy codes is that they can cover just about everything. The disadvantage is nobody can remember them. The advantage of having a short code is that people will remember it; the disadvantage is that it probably won't cover everything. In my opinion, if investigators just try to do what honest people expect of them (or just do what's right), things will usually take care of themselves.

Investigation

Most of the sources I checked to obtain a definition for the word "investigation" utilize some of the same words or phrases, including: detailed, systematic examination; fact-finding; truth searching and/or carefully looking for something hidden or previously unknown.

All of the words combined would seem to adequately describe what an investigation means. However, it's probably worth noting that in addition to sometimes attempting to find evidence that supports the allegation/hypothesis that a wrong did occur or that a particular person(s) or suspect(s) committed the wrong, it just as important attempt to search for evidence that supports that perhaps the "wrong" never occurred or that a particular person (the suspect) did not commit the wrong.

An objective investigation should strive to learn all the facts, not just the ones that support a preconceived notion. An exception, of course, would be an investigation on behalf of a defendant where the sole purpose might be to disprove the prosecutor's or plaintiff's case. A thorough, complete, and well-documented investigation usually (maybe I should say often) will overwhelmingly prove if wrongdoing did or did not occur and who did it or who did not do it.

War Story 1.4

When I was a senior federal agent, a high-ranking federal prosecutor once told me, "The more you write in your reports, the more you have to defend in court." The prosecutor wanted me to write short and generic reports to describe my investigative activity. Another prosecutor once instructed me to stop taking notes during our meetings out of concern that the defense counsel

would be able to obtain my notes during discovery. For those attorneys (who coincidentally worked in the same office with each other), it was all about winning (or not losing) in court. Other attorneys, from that very same prosecutors' office, were later chastised by judges and the media for wrongfully withholding case information from defense attorneys on other cases.

TIP: Be careful you don't fall into ethical traps set by others that could cause you to swallow your integrity. You'll sleep better if you do the right thing.

Success

Everyone has their own definition of the word "success." Various sources might describe success as obtaining a favorable or desired outcome. Most would probably agree that the opposite of success means "failure."

Here are two questions to ponder:

1. Is a "successful" investigator one that does not fail?
2. If so, what does "failure" mean in an investigation?

Before reading further, I suggest that you take a few moments and consider how you think the words "success" and "failure" pertain to an investigator and to an investigation.

War Story 1.5

After serving seven years in the U.S. Army, I became a candidate to be hired as a police officer by a metropolitan police department. As part of the selection process, I was interviewed by a panel of senior police officers (sergeants and lieutenants). An older lieutenant asked me a question, but he spoke as if he had marbles in his mouth and I couldn't understand him. I asked the lieutenant to repeat himself three times before figuring out what he was asking. His question was "How does fear play a role in police work?"

Based on my prior military police experience, I provided a response with confidence and ensured I made eye contact with

all the members of the panel while speaking. I also ended my response with a half smile and added, "I'm not sure that completely answers your question, but I hope it does."

The lieutenant snarled, leaned forward, and stared at me in silence. Then he said something I wasn't expecting. He repeated the question, "How does fear play a role in police work?"

Because he repeated the same question, I assumed that he did not like my first answer. But since my initial response was what I believed, I just reiterated my earlier comments. (I later learned that part of the evaluators' critiques included determining whether the candidates stood by their responses when challenged.)

Later in my career, I realized that the lieutenant's question was probably the most important one that could ever be asked of a law enforcement officer. And the officer's response is even more important. If you can't overcome fear, you cannot become an effective law enforcement officer—period! The same is true of investigators or fraud fighters (even if they do not put their lives on the line).

An investigator's job is to learn the truth and report the truth. Sometimes the truth is not what some people want to hear. As far as I'm concerned, that's their problem. As an investigator, sometimes you will have to make moral decisions as to how you will conduct your investigation and how you will report facts. I mention this because it's better to think about what you would do *before* you are put into a potentially compromising situation.

By the way, I did get selected to be a police officer for that metropolitan police department. After graduating from the two-month police academy, I reported for my first midnight shift and saw that same snarling lieutenant standing in the front of the briefing room at the podium for roll call. One of the veteran patrol officers walked up behind me and whispered, "The lieutenant at the podium is our shift commander. Whatever you do, don't ask him to repeat himself; it really ticks him off." (Oops!) I later learned firsthand that particular lieutenant was one of the most effective patrol supervisors a city could ask for. He took crime fighting seriously and he made sure we did too.

After reading the preceding material, it should be obvious that much thought needs to be given to how an investigator (and an investigator's supervisor) determines if an investigator is successful. If investigators overlook some things that they should not have, that certainly would not be a good thing. If investigators unintentionally made vital reporting errors or forgot to interview key witnesses, those are indicators of poor-quality work. But investigators who do their jobs to the best of their ability, seek assistance when needed, report facts, and never omit critical information have generally done all that most can expect of them.

Often the outcome of an investigation depends on who receives the information (the decision maker). For example, an investigator can prove wrongdoing of an employee, but the business owner might give the employee a slap on the hand or a verbal warning. A prosecuting attorney might receive an airtight case and then blow it when presenting the facts at trial (that does not happen very often). Worse yet, the investigator might provide a solid case and the prosecutor, for one reason or another, may decline to accept the case for prosecution. A judge or jury might determine that the evidence presented does not prove the case. Those types of outcomes usually cannot be controlled by an investigator.

A few other things can affect the outcome of an investigation. Factually, sometimes victims, complainants, and witnesses lie or are mistaken. In those cases, the matters being investigated may not have ever happened or didn't happen as reported. Also, for some cases, there just isn't enough information to complete the investigation. With limited resources, investigators and their supervisors have to prioritize how investigators spend their time. Case overload sometimes causes investigators to almost work like a MASH unit and do the best they can as quickly as they can. Realistically, every single case cannot be solved. In short, when investigations do not result in convictions, that does not necessarily mean the investigators did not do their jobs as well as they could.

Based on this information, a successful investigator might be described as a well-trained, persistent, and ethical person who conducts honest, objective, detailed, systematic examinations, inquiries, and investigations (as permitted by law); obtains assistance where needed

while striving to identify and report facts and the truth. The investigator should perform those actions to the best of his or her ability while maximizing the use of available resources and minimizing time and other expenditures. At the same time, the investigator still should do his or her best to serve the overall objectives of the employer or client and/or the well-being of those sworn to protect.

So if proving that bad guys committed some violations is a good thing, wouldn't it be even better to identify what other violations those same individuals perpetrated? And wouldn't it be even better to identify others who completed similar acts of wrongdoing? Before I demonstrate how to do that, the next chapter touches on the case initiation decision process.