Investigation

Sources of Information
Internal vs. External

- **Internal sources**—may be all that’s available (accounting and business tax records, copies of canceled checks, employee personnel files)

- **External sources**—crucial for locating assets; locating people; determining ownership of assets and businesses
Public vs. Nonpublic

- *Public records* can be accessed by the public. They are documents a governmental agency is required to keep by law.

- *Nonpublic records* include information about a person or business considered to be private and confidential. Must obtain by:
  - Consent
  - Legal process
  - Search warrant
Freedom of Information Act (FOIA)

- The FOIA is the primary Act that governs the availability of governmental records to the general public.
- The FOIA provides for public access to the following information:
  - Tax rolls
  - Voter registration (with some restrictions)
  - Assumed names
  - Real property records
  - Divorce/probate suits
Fair Credit Reporting Act (FCRA)

- Regulates dissemination of consumer information to third parties by consumer reporting agencies
- An employer who uses a third party to conduct a workplace investigation no longer has to obtain the prior consent of an employee if the investigation involves suspected:
  - Misconduct
  - Violation of law or regulations
  - Violation of any preexisting policy of the employer
Other Laws

- **Gramm-Leach-Bliley Act**
  - Criminalizes pretexting to obtain financial information

- **Privacy Act of 1974**
  - Regulates information maintained by federal agencies

- **Right to Financial Privacy Act**
  - Prohibits financial institutions from disclosing financial information about individual customers to government agencies without consent or legal order

- **HIPAA**
  - Protects health information
Local Records

- Building Inspector Records
- Building Permits
- Health and Fire Department
- Voter Registration
- Utility Records
Court Records

- State, local, federal
- Criminal conviction records are generally available to the public
- Court clerks maintain files
Court Records

- Civil court records
  - Personal injury suits
  - Financial suits
  - Divorce records
- Criminal court records
- Probate court records (debts, dispersal of assets)
- Federal court records
  - Civil and criminal
  - Bankruptcy
Property Records

- Real property records
  - Sale price(s)
  - Residences and addresses of the buyer and seller
  - Party financing the property (if applicable)

- Property tax records

- Tax assessor/collector records
  - Estimated value
  - Names of former owners
Corporate Records

- **Articles of Incorporation**
  - Corporate name
  - Ownership information
  - Nominal stock value
  - Names of initial shareholders
  - Directors and officers
  - Registered agent
  - Principal office location
  - Date of incorporation
  - Standing/status
Corporate Records

- Foreign corporations
- Fictitious Business Names
- DBA (Doing Business As)
- Uniform Commercial Code (UCC)
  - Debtor name/address
  - Financial lender
  - Collateral pledged
Federal (National-Level) Records

- Inspectors General
- National Futures Association
- Securities and Exchange Commission (SEC)
  - Financial statements
  - Identification of officers and directors
  - Identification of owners of more than 10% of stock
  - Annual Report (Form 10-K)
Nonpublic Records

- Types of records:
  - Banking records
  - Tax records
  - Credit records
  - Phone records
  - Credit card account records
  - Personal health care records
Nonpublic Records

- Request the records
  - Vendors
  - Customers
  - Subject

- Subpoena or legal process
  - Typically available only if civil or criminal action has been filed
  - Only available to government in criminal case

- Condition of business
- Right to audit clause
Search Engines

- Boolean operators are symbols that help the search engine understand what the user is looking for.

- Google operators
  - AND between two words returns pages containing both terms: check AND fraud
  - Placing quotes around a word or set of words will return pages containing the exact word or words: “insider trading”
  - Using intitle:\textit{term(s)}: [intitle:mortgage fraud] will return documents with only \textit{mortgage} and \textit{fraud} in the title

- Use more than one
- Use unique, specific keywords; no articles
- Use filters to focus searches
Limitations of Public Database Searches

- Information must be checked for accuracy
- Varies widely from jurisdiction to jurisdiction
- Searches are limited in the area they cover
- Brief abstracts of original record
- Information compiled in a vendor’s database must be reliable
Other Web Tools

- **Deep Web**: aka *Invisible Web*
  - Content not indexed by standard search engines

- Internet archives
  - Archived versions of pages no longer online

- Social media
  - Be aware of privacy concerns
  - Must be authenticated so it is usable in court
Locating People

- Three principles to adhere to when locating people using online records:
  1. Obtain a past address of the suspect.
  2. Keep in mind the cost effectiveness of the search activity.
  3. Know the most powerful and useful types of searches.
Common Types of Searches

- Credit bureau header searches (Note: These are among the most powerful people-locator tools, if available)
- Current occupant/new address
- Last name
- Bankruptcy, tax liens, and judgments
- Voter registration
- Business filings
Sample Prep Question

1. Under the U.S. Fair Credit Reporting Act, consumer reports cannot be obtained on anyone under any circumstances without their consent.

A. True
B. False
Correct Answer: B

- The Fair and Accurate Credit Transactions Act of 2003 amended the Fair Credit Reporting Act (FCRA) to exempt certain reports involving employee misconduct investigations. As a result of these amendments, an employer who uses a third party to conduct a workplace investigation no longer has to obtain the prior consent of an employee if the investigation involves suspected:
  - Misconduct
  - Violation of law or regulations
  - Violation of any preexisting policy of the employer
Sample Prep Question

2. If a fraud examiner was gathering information about a fraud suspect, which of the following types of information would likely require access to nonpublic sources of information to obtain?

   A. The subject’s habits and lifestyle
   B. Where the subject currently resides
   C. The subject’s home phone records
   D. All of the above
Correct Answer: C

- Nonpublic records include information about a person or business considered to be private and confidential. Unlike public records, nonpublic records are not available to the public. Thus, obtaining access to them might be difficult or impossible. Some of the most valuable types of nonpublic records include:
  - Banking records
  - Tax records
  - Credit records of individuals
  - Phone records
  - Credit card account records
  - Personal health care records
Sample Prep Question

3. Which of the following pieces of information about financed personal property can be obtained through a Uniform Commercial Code (UCC) filings search?

A. The name of the debtor or joint debtors
B. The name of the financial lender
C. The type of collateral pledged as security
D. All of the above
Correct Answer: D

- A search of Uniform Commercial Code (UCC) filings can help fraud examiners identify personal property that an individual or business has financed. These filings identify:
  - Name of the debtor or joint debtors
  - Current address of the debtor
  - Name of the financial lender
  - Type of collateral pledged as security
  - Date of filing and continuations
Sample Prep Question

4. Freddie calls Alex’s bank, claiming to be Alex. Freddie tells the bank representative that he needs to make sure the bank has the correct government identification number on his account because he had noticed an error on his statement. The bank representative refuses to give the number, and Freddie hangs up. Assuming Freddie resides in the United States, which of the following crimes did he commit?

A. False statements to a phone operator
B. Pretexting with a financial institution
C. Defalcation
D. Fraud in the inducement
Correct Answer: B

- Broadly defined, *pretexting* is the act of impersonating someone else or making false or misleading statements to obtain, sell, or buy information about a person or organization. Under the broad definition, pretexting for nonfraudulent purposes is not always illegal, but it should be used with caution. However, in the United States, the Gramm-Leach-Bliley Act made it a criminal offense to engage in pretexting with financial institutions. In this context, pretexting is the act of obtaining customer information from financial institutions through the use of deceptive tactics.
Investigation

Covert Examinations
Covert Examinations

- A covert examination or operation is designed to obtain evidence by use of agents whose true role is undisclosed to the target.

- Two forms:
  1. Undercover
  2. Surveillance

- Basis for the operation should be in writing:
  - Information upon which the operation is based
  - Information that is expected to be gained
  - Identities of suspects, if known
  - Operatives under the fraud examiner’s care, custody, or control
Problems

- Costly and risky
- Laws govern recording of conversations – “reasonable expectation of privacy”
- Generally not a crime to record video in a public place
- Entrapment occurs when law enforcement officers or government agents induce a person to commit a crime that he is not previously disposed to commit
- Must be properly predicated; must not be used for “fishing expeditions”
Legal Considerations

- If you pay an informant or source, must get a receipt
- Reporting contacts (code name or number only)
- Promises of confidentiality (qualified or conditional only), no guarantees
Sample Prep Question

1. In preparing a memorandum of information furnished by a confidential source, how should the source usually be identified on paper?

A. By name
B. By a code name or symbol
C. Confidential source information should never be included in a report
D. None of the above
Correct Answer: B

- In preparing a memorandum of information furnished by a confidential source, it is necessary to use a code name, number, or symbol when referring to the source in order to protect the source’s identity.
2. Chris, a private investigator in the United States, is conducting a covert investigation and wants to secretly record a suspect’s activities on a particular street corner. Which of the following would most likely be an improper method of doing so?
Sample Prep Question

A. Taking photographs of the suspect’s activities from a vehicle parked across from the corner

B. Placing a hidden microphone to record the suspect’s conversations

C. Hiding a camera that records video of the suspect but not his conversations

D. Using a camera phone to take pictures of the suspect’s activities while walking by
Correct Answer: B

- In most U.S. states, making an audio recording of private conversations to which one is not a party is illegal unless the recording party has obtained the consent of those involved in the conversation. Whether a conversation is private depends on whether the parties have a “reasonable expectation of privacy” in the given circumstances.

- Photographing or recording video of someone in a public place is legal, provided that the person being photographed or recorded does not have a reasonable expectation of privacy in such a place. However, such a recording is subject to all of the laws and rules regarding recording audio conversations if the video records any part of a conversation.
Investigation

Analyzing Documents
Analyzing Documents

- Obtain original documents where feasible. Make working copies for review, and keep the originals segregated.
- Do not touch originals any more than necessary; they might later have to undergo forensic analysis.
- Maintain a dependable filing system for the documents.
Obtaining Documentary Evidence

- Consent
- Subpoena or court order
- Bank records require written consent or subpoena

Organization
  - Segregate
  - Key document file
  - Establish a database
Chain of Custody

- What items were received
- When they were received
- From whom they were received
- Where they are maintained
Handling Documents as Physical Evidence

- Be alert for anachronisms.
- Preserve for fingerprint examinations.
- Never attempt to develop indented writings by shading or scratching on the surface of the sheet of paper with a pencil.
- View indented writings using oblique-lighting method.
Sample Prep Question

1. Which of the following is NOT recommended when collecting physical documents?

A. Take the original document if it is available.
B. Try to handle the original as little as possible.
C. Maintain a dependable filing system for the documents.
D. Sign your name at the bottom of each page.
Correct Answer: D

The following are general rules regarding the collection of documents:

• Obtain original documents where feasible.
• Do not touch originals any more than necessary.
• Maintain a dependable filing system for the documents.
Sample Prep Question

2. An indented writing can best be developed by shading or scratching with a pencil.

A. True
B. False
Correct Answer: B

- Fraud examiners should never attempt to develop indented writings by shading or scratching on the surface of a sheet of paper with a pencil. Although this method will reveal deep indentations, it will not reveal faint indentations and will prevent expert examinations from analyzing them. Moreover, shading or scratching with a pencil might prevent other types of technical examinations.
3. Black, a Certified Fraud Examiner, has obtained an oral confession from Green, a fraud suspect. Black wants to examine Green’s bank accounts. Which of the following would be the LEAST effective way to obtain permission to examine Green’s bank records?
Sample Prep Question

A. Obtain a subpoena.
B. Obtain Green’s written consent.
C. Obtain Green’s oral consent.
D. Obtain a court order.
Correct Answer: C

- Certain types of records can be obtained by consent only if the subject of the records consents in writing. Accessing a subject’s bank records from financial institutions, for instance, generally requires written consent. If no consent is given and evidence is held by other parties or in uncontrolled locations, specific legal action might be required. Most often, the legal process used takes the form of a subpoena or other court order to produce the documents and records (including electronic records).