



32nd Annual

**OUNCE OF
PREVENTION
SEMINAR**

May 25-26, 2016

Investigations – Part I: Figuring Out the Facts

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Scenario 1: Facts

- Two days before BAFOs are due, capture lead hears a rumor that the pricing team “knows” the pricing of the two other offerors in the competitive range
- Capture lead reports this rumor to legal



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Scenario 1: Considerations

- Sequencing of investigation
- Preservation issues
- Disclosures
- Corrective actions



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Scenario 2: Facts

- On a hardware development contract, prime contractor has outsourced the pre-delivery testing to a subcontractor
- The government has rejected several deliveries due to quality issues
- Prime contractor's program manager confronts the subcontractor's CEO, who
 - admits that testing was not being done regularly
 - says that he had previously told the prime's COO
- Prime contractor program manager seeks advice



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Scenario 2: Considerations

- Dealing with Subcontractors
 - Proactively
 - Reactively
- Yates Memo – handling potential individual liability
- Others?



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Scenario 3: Facts

- During a routine compliance review at a hospital system, a risky billing practice is discovered, *i.e.*, choosing claim codes when elements are missing without the necessary clinical expertise or knowledge of the medical record
- Compliance notifies Legal and performs a limited sample audit targeting the billing practice
- Due to billing and claims data storage and tension between billing and compliance, the results of the internal audit suggest overbilling, but is inconclusive as to overpayments



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Scenario 3: Considerations

- Investigational Interviews
 - Order
 - Upjohn Warning
- Dealing with Experts
 - Expert Selection
 - Defining Scope
 - Preserving privilege
- Corrective Action
 - System Modifications
 - Internal Controls
- Board Notification
 - Duty
 - Timing

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