

# From Fraud Investigation to Court

**Welcome!**

Please wait while the others arrive.

Webcams off and mics on mute....

Thank you!

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Director of Training, Bond Solon Training Ltd

# From Fraud Investigation to Court

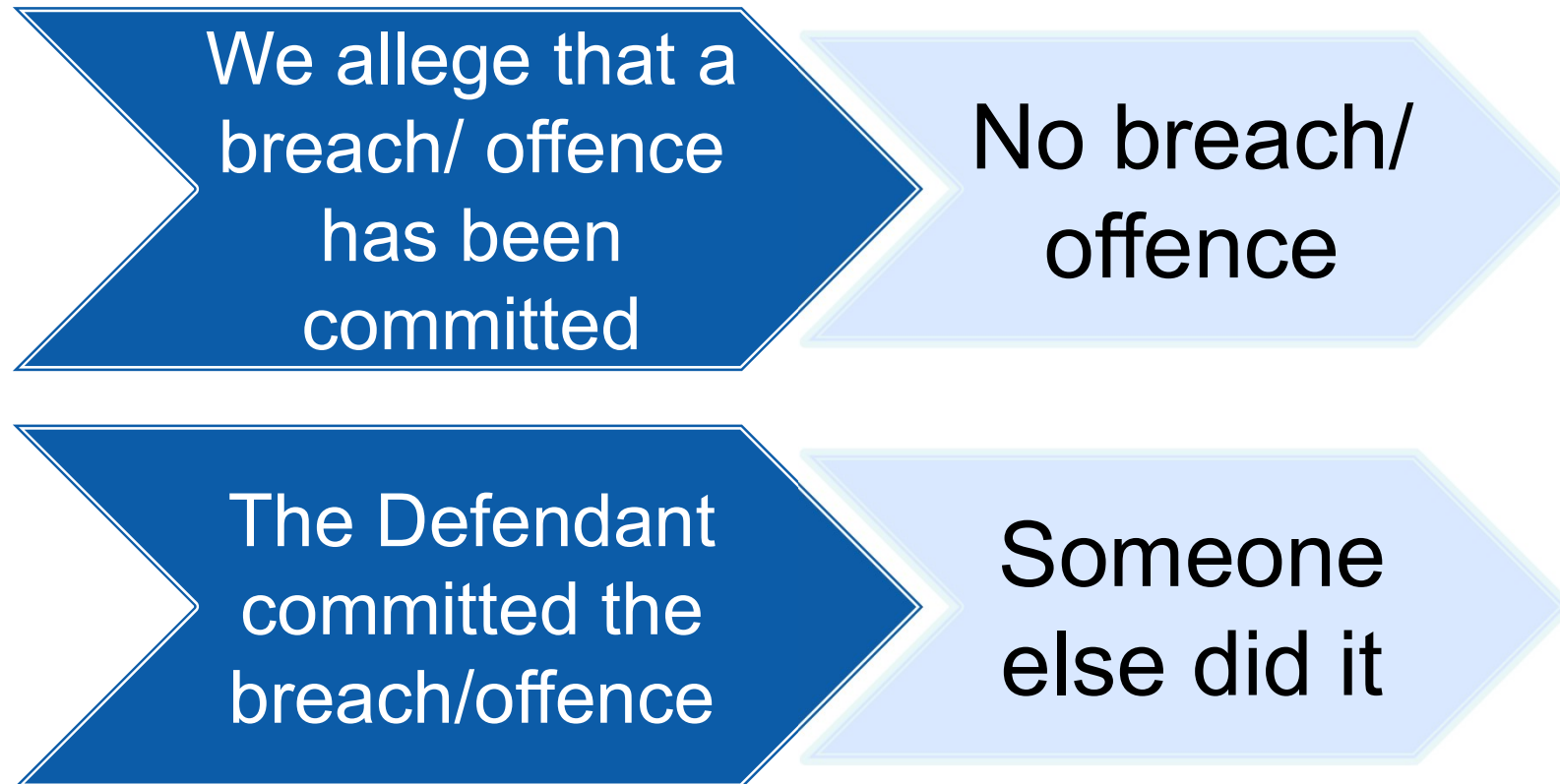
*“Fraud and falsehood only dread  
examination.....*

*Truth invites it.”*

Samuel Johnson.

# From Fraud Investigation to Court

## The Fundamentals:



# From Fraud Investigation to Court

## **Barristers don't care about the TRUTH**

- ❖ That is the 'ultimate issue'
- ❖ That is for the judge or jury to determine

## **We care about PROOF**

- ❖ Lawfully obtained...
- ❖ and therefore admissible...
- ❖ evidence...
- ❖ To prove the matter to be determined.

# From Fraud Investigation to Court

## How do the 'enemy lawyers' sleep at night?

- ❖ Really well!... thank you for asking
- ❖ We're only doing our job
- ❖ It's an 'adversarial' process.

# From Fraud Investigation to Court

**We are not enemy lawyers...**

**...we are AUDITORS!!!**

- ❖ We conduct a '100% audit' of the opposing party's case
- ❖ We check for gaps in the supporting evidence
- ❖ We check for non-compliance with 'the rules/process'
- ❖ If we identify non-compliance, we include it in our findings.

# From Fraud Investigation to Court

What is EVIDENCE?

Relevant FACTS to prove the offence



What is a FACT?

Well, let's see...

# From Fraud Investigation to Court

## Consider the following paragraph:

Jones, an investigator with Birmingham City Council, was scheduled for a meeting in Smith's office to discuss a large fraud file at 10:00 hrs. On the way to that office the investigator slipped on a freshly waxed floor and, as a result, received a badly bruised leg. By the time Smith was notified of the accident, Jones was on the way to hospital for x-rays. Smith called the hospital to enquire, but no one there seemed to know anything about Jones. It is possible that Smith called the wrong hospital

Having read the above paragraph, please classify each of the following statements as fact or inference by ticking the correct box alongside each statement.

		Fact	Inference
1	Mr Jones is an investigator		
2	Jones was supposed to meet with Smith		
3	Jones was scheduled for a 10 o'clock meeting		
4	The accident occurred in Birmingham Citrau Council		
5	Jones was taken to hospital for x-rays		
6	No one at the hospital that Smith called knew anything about Jones		
7	Smith called the wrong hospital		



# From Fraud Investigation to Court

## Case Study:

## The investigation of Mr Red

### Group 1

- Human Rights Considerations

### Group 2

- Physical and digital Monitoring and Surveillance

### Group 3

- Interviews with suspects and witnesses

### Group 4

- Proving the guilty mind.

# From Fraud Investigation to Court

## Dishonesty

~~R v Ghosh [1982]~~

~~Ivey v Genting Casinos [2018] (*obiter dicta*)~~

**R v Barton & Booth [2020]**  
(judgement delivered on 29<sup>th</sup> April).

# From Fraud Investigation to Court

Consider when, if at all, there has been theft in the following examples:

1. It is raining; D sees what he believes is his green umbrella in the office umbrella stand. He takes the umbrella, thinking it is his
2. D then realises it is not but decides to borrow it just for the lunch hour
3. When he returns, he likes the umbrella so much, he decides he will keep it.

	1	2	3
<b>Actus Reus</b>			
Property			
Belonging to another			
Appropriation			
<b>Mens Rea</b>			
Dishonesty			
Intention to permanently deprive			
Would they have a defence if charged?			

# From Fraud Investigation to Court

## Cross-examination Techniques

- ❖ The 'Brick wall'
- ❖ Fact or assumption
- ❖ Non-verbals through eye-contact
- ❖ "Just answer yes or no"
- ❖ The Scatter-gun approach
- ❖ Usurping the authority of the judge
  - 'take the place of someone in a position of power...'

# From Fraud Investigation to Court

I swear by Almighty God that the evidence I shall  
give...

...shall be the truth,...

...the whole truth,...

...and nothing but the truth.

# From Fraud Investigation to Court

- ❖ You are not there to prove the defendant committed the offence
- ❖ You are not there to prove the defendant did anything wrong
- ❖ You are not there to prove guilt

**The lawyers  
are there to  
prove or  
disprove the  
case.**

# From Fraud Investigation to Court

- ❖ Can your investigators demonstrate competency?
  
- ❖ Competency in what?
  - The investigation process itself?
  - The admissibility of the evidence obtained?
  - The clarity of their statement or report?
  - The investigator's ability to tell 'the whole truth' at trial?.

Questions?