



Bribery and Corruption: It CAN Happen in Your Organization

Dave Cotton, CPA, CFE, CGFM



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Bribery and Corruption

- ✓ Definitions and variations
- ✓ Examples and case studies
- ✓ Red flags
- ✓ Key safeguards

2

It Can't Happen Here(?)

3



It Can't Happen Here(?)

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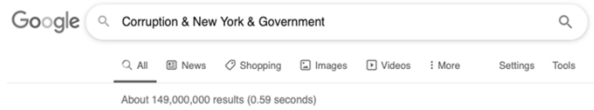
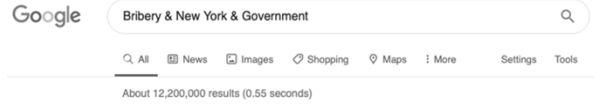
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6



It Can't Happen Here(?)

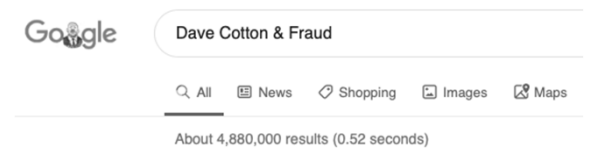


7

Google Results May Not Always Be Reliable

8

Google Results May Not Always Be Reliable



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Corruption

“Any scheme in which a person uses his or her influence in a business transaction to obtain an unauthorized benefit contrary to that person’s duty to his or her employer.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Corruption

“Dishonesty that involves the following schemes:

- (1) bribery;
- (2) conflicts of interest;
- (3) economic extortion; and
- (4) illegal gratuities.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Corruption

a: dishonest or illegal behavior especially by powerful people (such as government officials or police officers): depravity

B: inducement to wrong by improper or unlawful means (such as bribery) – the corruption of government officials

--Merriam Webster

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Public Corruption

“Public corruption involves a breach of public trust and/or abuse of position by federal, state, or local officials and their private sector accomplices. By broad definition, a government official, whether elected, appointed or hired, may violate federal law when he/she asks, demands, solicits, accepts, or agrees to receive anything of value in return for being influenced in the performance of their official duties.”

--http://topics.law.cornell.edu/wex/public_corruption

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Bribery

“The offering, giving, receiving, or soliciting of anything of value to influence and official act.”

-- [Fraud Examination](#), Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Bribery

“Schemes generally fall into two broad categories: kickbacks and bid rigging.”

-- [Fraud Examination](#), Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Bribery--Kickbacks

“Kickbacks are undisclosed payments made by vendors to employees of purchasing companies. The purpose ... is usually to enlist the corrupt employee in an overbilling scheme. ... *once* kickbacks are paid, the control of purchasing transactions usually transfers from the buyer to the vendor.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Bribery--Kickbacks

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Bribery—Bid Rigging

“... occurs when an employee fraudulently assists a vendor in winning a contract through the competitive bidding process.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Bribery—Bid Rigging

“... occurs when an employee fraudulently assists a vendor in winning a contract through the competitive bidding process.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

Note, however, that collusive bidding is another form of bid-rigging that does not necessarily require a corrupt employee-buyer.

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Economic Extortion

“Demanding payment from a vendor in order to make a decision in the vendor’s favor; opposite of bribery.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Illegal Gratuities

“Similar to bribery, except that there is no intent to influence a particular business transaction, but rather to reward someone for making a favorable decision.”

-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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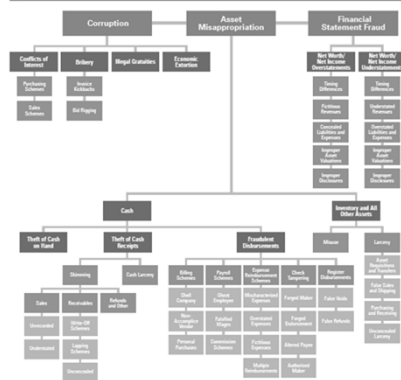
Conflict of Interest

“Fraud in which employees, managers, or executives put their personal interest above the company’s interest, usually resulting in an adverse effect on the company.”

-- **Fraud Examination**, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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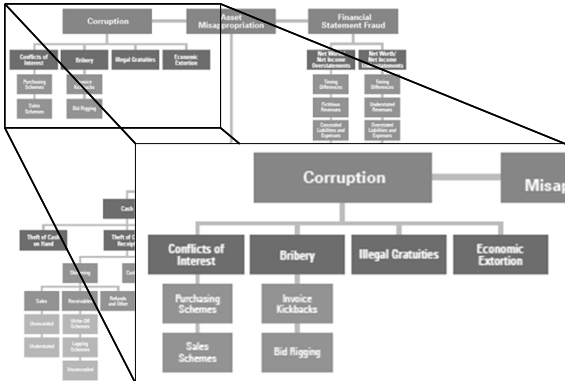
Figure 3: Occupational Fraud and Abuse Classification System (Fraud Tree)



Source: 2016 ACFE Report to the Nations.

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Figure 3: Occupational Fraud and Abuse Classification System (Fraud Tree)



Source: 2016 ACFE Report to the Nations.

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Let's Examine Three Recent Cases ...

- The Case of the Silver Lining (His Pockets)
- Dernoga Money: The Case of the Corrupt(?) Councilman
- The Fat Leonard Case—One of the Largest Bribery Scandals in U.S. History

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***The Case of the Silver Lining
(His Pockets)***

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Sheldon Silver exits federal court on May 3, 2016.
PHOTO: PETER FOLEY/BLOOMBERG NEWS

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The New York Times

By Benjamin Weiser and Susanne Craig

Nov. 30, 2015

Sheldon Silver, Ex-New York Assembly Speaker, Is Found Guilty on All Counts

The “Manhattan Democrat, was convicted on all seven counts against him. The charges of honest services fraud, extortion and money laundering stemmed from schemes by which he obtained nearly \$4 million in exchange for using his position to help benefit a cancer researcher and two real estate developers.”

... “the government presented evidence that prosecutors said showed he had orchestrated two schemes through which he obtained nearly \$4 million in illegal payments for taking official actions ...”

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The New York Times

By Benjamin Weiser and Susanne Craig

Nov. 30, 2015

Scheme One:

“Mr. Silver had arranged to have the State Health Department award two grants totaling \$500,000 to Dr. Taub, whose research focused on mesothelioma ...”

“In return, Dr. Taub sent mesothelioma patients with potentially lucrative legal claims to Weitz & Luxenberg, which then shared a portion of its fees with Mr. Silver.”

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The New York Times

By Benjamin Weiser and Susanne Craig

Nov. 30, 2015

Scheme Two:

“Mr. Silver had ... two developers, Glenwood Management and the Witkoff Group, move certain tax business to a law firm, Goldberg & Iryami, that secretly shared its fees with Mr. Silver.”

“In return, the speaker lent his support to critical rent legislation backed by Glenwood, in particular, and met with the company’s lobbyists.”

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The New York Times

By Benjamin Weiser and Vivian Yee

May 3, 2016

Sheldon Silver, Ex-New York Assembly Speaker, Gets 12-Year Prison Sentence

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THE WALL STREET JOURNAL.

By *Corinne Ramey*
Updated July 13, 2017 10:43 am ET

Appeals Court Overturns Ex-New York Assembly Speaker's Conviction

Judges cite U.S. Supreme Court's decision in former Virginia Gov. Bob McDonnell's case, which clarified the definition of official action

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THE WALL STREET JOURNAL.

By *Corinne Ramey*
Updated May 11, 2018 6:26 pm ET

Former New York Assembly Speaker Found Guilty on All Counts in Corruption Retrial

Sheldon Silver, once one of the state's most powerful lawmakers, was convicted after a nearly two-week trial

33



THE WALL STREET JOURNAL. *By Corinne Ramey*
Jan. 21, 2020 4:14 pm ET

Sheldon Silver’s Corruption Conviction Partially Overturned

Former New York Assembly speaker could still face prison time for parts of the 2018 conviction that an appellate court upheld

“In a unanimous opinion, the panel upheld the counts related to the alleged real-estate scheme and tossed those relating to the oncologist.”

34



By Ben Feuerherd August 26, 2020

Sheldon Silver finally going to prison after stunning fall from power

Manhattan federal Judge Valerie Caproni sentenced him to 6½ years in prison.

“The time ... has now come for Mr. Silver to pay the piper,” Caproni said.

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The New York Times

By Adam Liptak

Jan. 25, 2021

Supreme Court Won't Hear Appeal from Sheldon Silver, Former N.Y. Lawmaker

Mr. Silver, who once dominated state politics as the speaker of the New York Assembly, was convicted of taking illicit payments from real estate developers.

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Sheldon Silver, the former State Assembly speaker in New York, was sentenced to 12 years in prison. Gregg Vigliotti for The New York Times

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Silver Timeline

- 2015: Found guilty on all counts.
- 2016: Sentenced to 12 years in prison.
- 2017: Appeals court overturns and remands.
- 2018: Found guilty on all counts in retrial.
- 2020: Appeals court throws out oncologist-scheme conviction but sustains real estate scheme conviction.
- 2020: Sentenced to 6.5 years in prison.
- 2021: SCOTUS denied Cert.

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Sheldon Silver exits federal court on May 3, 2016.
PHOTO: PETER FOUZ/REUTERS/GETTY IMAGES

Former New York Assembly Speaker Sheldon Silver

2015

2020

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***Dernoga Money: The Case
of the Corrupt(?)
Councilman***

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***Dernoga Money:
The Case of the Corrupt(?) Councilman***

The Washington Post

**Ethics law addresses 'Dernoga money' in
Prince George's**

By Ovetta Wiggins, Thursday, April 21, 7:27 PM

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Dernoga Money

- Thomas E. Dernoga was a Prince George’s County Council member from 2001 to 2010



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The Washington Post

By Ovetta Wiggins
April 21, 2011

- Thomas E. Dernoga “jokingly referred to himself as Robin Hood.”
- “contributions to various groups — which totaled about \$1 million during his eight years in office — were Dernoga’s way of getting developers to help improve the communities where they did business, he said.”
- “He said the track at High Point High School was resurfaced with \$125,000 he got from a couple of developers, and the bookshelves at the Deerfield Elementary School library were restocked with \$20,000 he got from another.”

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The Washington Post

By Ovetta Wiggins
April 21, 2011

- Dernoga said he “*never held up a project because a developer had declined his requests for a donation.*”
- He said he “*never crossed any ethical or legal boundaries and never used the money for himself.*”
- “Dernoga regularly presented checks at back-to-school nights and other programs in his Laurel district. Community and school leaders have called the donations ‘Dernoga money.’”

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Dernoga Money



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The Washington Post

By Ovetta Wiggins
April 21, 2011

Dernoga Money From the "Donor's" Perspective

- "... representatives for developers ... said they think it is inappropriate to be asked for money while seeking approval on a project."
- "The solicitations came in private, and if the developers raised questions, their projects were delayed, they said."
- "'It seemed like by not playing the game, we were suffering,' said a representative for one developer."

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The Washington Post

By Ovetta Wiggins
April 21, 2011

Classic Rationalizations (The Saint's License)

- "If you don't want to contribute, I'm not going to hold it against your project," he said. "I'll treat your project fairly. But don't come look to me for favors."
- "Most of the people want a favor. They want more density. They want more parking. They all want something. They seem to think they are entitled. You say you want the county to do you a favor that might be good for the county, but it is also going to make you a lot of money. But are you willing to support local needs?"

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The Washington Post

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April 21, 2011

Classic Rationalizations (The Saint's License)

- *"You have these people making millions, and all this density and all the traffic [we'd] absorb on Route 1. You mean to tell me you have nothing to help out our schools?" Dernoga said. "I found it greedy on the part of the property owners."*
- *"Moments before the ... council was to vote in 2007 on a ... project, ... Dernoga pulled [the property owner] and three others into a hallway."*

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The Washington Post

By Ovetta Wiggins
April 21, 2011

Classic Rationalizations (The Saint's License)

- *"[The owner] said Dernoga told them that the measure wouldn't pass that day unless the group gave \$200,000 for county schools."*
- *"Dernoga said during an interview that he had asked for \$100,000 and that he wasn't holding the ... plan hostage."*
- *"Dernoga said that project would have cost the main developers \$120 million and that \$100,000 would have been a 'drop in the bucket,'"*

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Corruption?

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-- Fraud Examination, Fourth Edition, Albrecht, Albrecht, Albrecht, and Zimbelman, South-Western Cengage Learning, 2006

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Public Corruption?

“Public corruption involves a breach of public trust and/or abuse of position by federal, state, or local officials and their private sector accomplices. By broad definition, a government official, whether elected, appointed or hired, may violate federal law when he/she asks, demands, solicits, accepts, or agrees to receive anything of value in return for being influenced in the performance of their official duties.”

-- http://topics.law.cornell.edu/wex/public_corruption

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Did Dernoga “receive anything of value”?

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Dernoga Money



55

The Washington Post

By Ovetta Wiggins
April 21, 2011

- Dernoga's behavior "prompted Maryland legislators to pass an ethics bill that would ban ... council members from asking anyone who is seeking legislation or approvals to provide anything of value."

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You Can't Make Up Stuff Like This

- Term-limited off of the PG County Council, Dernoga ran for County Attorney General
- Washpost article titled "Crime looms as major issue in Prince George's state's attorney race"

"Crime is eating at the county," Dernoga said. "We have a hard time attracting business."



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Classic Rationalizations

The Saint's License

"This rationalization has probably caused more death and human suffering than any other. The words 'it's for a good cause' have been used to justify all sorts of lies, scams and mayhem."

Source: http://www.ethicsscoreboard.com/rb_fallacies.html

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Dernoga Money: The Case of the Corrupt(?) Councilman



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Tom Was Re-Elected to the County Council in 2018



Source: <https://pgccouncil.us/directory.aspx?eid=148>

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The Fat Leonard Case—One of the Largest Bribery Scandals in U.S. History

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The Fat Leonard Case—One of the Largest Bribery Scandals in U.S. History



Leonard Glenn Francis (aka Fat Leonard)

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The Washington Post

27 December 2016

- Fat Leonard “found it especially easy to outwit the Naval Criminal Investigative Service (NCIS)”
- “Starting in 2006 ... NCIS opened 27 separate investigations ... [but] in each ... Instance[], NCIS closed the case after failing to dig up sufficient evidence ...”

63



The Washington Post

27 December 2016

- “Francis held lucrative contracts to resupply U.S. warships and submarines in ports throughout Asia. He was also legendary within the Navy for throwing hedonistic parties, often with prostitutes, to entertain sailors.”

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The Washington Post

27 December 2016

- “... staffers at U.S. Pacific Fleet headquarters were so worried about [Fat Leonard] that they drafted a new ethics policy to discourage Navy personnel from accepting favors from Francis.”
- “But [the policy] was blocked ... By admirals who were friendly with [Francis]”
- “The Navy kept awarding contracts ... In 2011, Glenn Davis won deals valued at \$200 million ...”

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The Washington Post

27 December 2016

- “[The Navy] acknowledged that they were slow to recognize the scale of the fraud and the extent to which the Navy had been corrupted.”
- “the Navy moved more aggressively to investigate Glenn Defense starting in 2010 but ... it took three more years to arrest Francis because he had bought off so many Navy officials.”

66



The Washington Post

27 December 2016

- “In exchange for paid sex with prostitutes, cash and luxury vacations, Francis’s informants fed him a near-daily diet of classified material and inside information that enabled him to keep gouging the Navy and outfox his pursuers for years ...”
- “Francis’s most valuable mole was John Beliveau II, a turncoat NCIS supervisor ...”

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The Washington Post

27 December 2016

- ““We tried to come up with an example of . . . another instance in which a criminal enterprise so thoroughly penetrated a federal law enforcement agency,” [AUSA] Young said. “You would have to look back to the 1980s when Whitey Bulger’s Winter Hill Gang penetrated the Boston FBI ...”

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The Washington Post

27 December 2016

- “After NCIS recognized in 2012 that it had been compromised by a turncoat agent, the agency assigned a small number of personnel to effectively launch a new, clean investigation into Glenn Defense.”
- “The turning point came in the summer of 2013, when NCIS intentionally planted false information in its case files declaring that several investigations into Francis were being closed for lack of evidence.”

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The Washington Post

27 December 2016

- “The gambit was that one of Francis’s moles would see the information and pass it along to him, tricking him into lowering his guard, according to court records.”
- “It worked. ‘Good news,’ Francis texted one of his employees in July 2013. ‘Thailand n Korea cases all closed, only Japan pending, and shud close NCIS :)’”

70

The Washington Post

27 December 2016

- “Two months later, thinking he was in the clear, Francis traveled from Singapore to San Diego to meet with two Navy admirals in hopes of landing new contracts. Instead, he was arrested in his hotel suite.”

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The Washington Post

5 November 2017

SOME OF THE BRIBES NAVY PERSONNEL HAVE BEEN CONVICTED OF TAKING

- Prostitution Hotel rooms and meals
- Meals, alcohol, gifts and stays at luxury hotels, including one night with his family at the Marriott Waikiki in Hawaii
- One night with a prostitute at the Shangri-La hotel in Makati, Philippines
- One night at a Tokyo hotel Four nights at a Manila hotel, along with a prostitute
- Four nights at a Hong Kong hotel, along with a prostitute
- Failed to disclose during security clearance review that Francis had given him prostitutes and gifts.
- Free vacations for him and his extended family in Cambodia, Malaysia and Singapore
- The services of prostitutes in Manila and Japan
- Tickets to a Lady Gaga concert in Thailand Tickets to the “Lion King” musical in Japan

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VISION 20/20 21

The Washington Post

5 November 2017

Plead Guilty, Sentenced, or Awaiting Sentencing

Alex Wisidagama

Global manager for government contracts, Glenn Defense

PUNISHMENT
Sentenced in March 2016 to 63 months in federal prison.

Linda Raja, aka Raja Shamsa

General manager for Singapore, Australia and Pacific Isles for Glenn Defense

PUNISHMENT
Sentenced in August 2017 to 46 months in federal prison.

Neil Peterson

Vice president of global operations, Glenn Defense

PUNISHMENT
Sentenced in August 2017 to 70 months in federal prison.

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The Washington Post

5 November 2017

Plead Guilty, Sentenced, or Awaiting Sentencing



Rear Adm. Robert Gilbeau (retired)

Former special assistant to the chief of the Navy Supply Corps

PUNISHMENT
Sentenced in May 2017 to 18 months in prison, plus \$150,000 in fines and restitution.

Capt. Michael George Brooks (retired)

Former U.S. naval attache in the Philippines

PUNISHMENT
Sentenced in June 2017 to 41 months in prison, plus \$72,000 in fines and restitution.

TYPES OF BRIBES TAKEN
Prostitution
Travel



Capt. Jesus V. Cantu (retired)

Former assistant chief of staff for logistics, 7th Fleet

PUNISHMENT
Sentence pending.

TYPES OF BRIBES TAKEN
Prostitution
Travel



Capt. Daniel Dusek

Former deputy director of operations for the 7th Fleet; former commander of USS Borhomme Richard

PUNISHMENT
Sentenced in March 2018 to 46 months in federal prison, plus \$100,000 in fines and restitution.

TYPES OF BRIBES TAKEN
Travel
Prostitution

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The Washington Post

5 November 2017

Plead Guilty, Sentenced, or Awaiting Sentencing



Cmdr. David Kapaun (retired)

Former deputy chief of staff, Special Operations Command, Pacific

TYPES OF BRIBES TAKEN
Prostitution



Cmdr. Michael Misiewicz

Former deputy director of operations, 7th Fleet; commander of USS Mustin

TYPES OF BRIBES TAKEN
Travel
Prostitution

Cmdr. Bobby R. Pitts (retired)

Former supply and logistics officer for 7th Fleet

TYPES OF BRIBES ALLEGEDLY TAKEN
Prostitution



Cmdr. Jose Luis Sanchez

Former logistics officer, 7th Fleet

TYPES OF BRIBES TAKEN
Money Travel



Lt. Cmdr. Gentry Debord

Former logistical and supply officer

TYPES OF BRIBES TAKEN
Prostitution

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The Washington Post

5 November 2017

Plead Guilty, Sentenced, or Awaiting Sentencing

Lt. Cmdr. Todd Malaki

Former logistics planner and supply officer

TYPES OF BRIBES TAKEN

Money
Prostitution
Travel



Petty Officer 1st Class Dan Layug

Former logistics specialist, USS Blue Ridge and 7th Fleet

TYPES OF BRIBES TAKEN

Money Travel



John Beliveau II

Former special agent, Naval Criminal Investigative Service

TYPES OF BRIBES TAKEN

Money Travel
Prostitution



Sharon Kaur

Former Navy contracting official based in Singapore

TYPES OF BRIBES TAKEN

Money Travel



Paul Simpkins

Former Navy contracting supervisor based in Singapore

TYPES OF BRIBES TAKEN

Money Travel
Prostitution

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The Washington Post

5 November 2017

Plead Guilty, Sentenced, or Awaiting Sentencing

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TYPES OF BRIBES TAKEN

Money Travel
Prostitution

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The Washington Post

5 November 2017

10 Other Officers and Civilians are Awaiting Trial

Five Admirals Disciplined or Admonished

Court-Martial Proceedings Underway for Four Officers and One Chief Warrant Officer

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NavyTimes 9/1/2018

Navy's 'Fat Leonard' case implodes

By: Mark D. Faram September 1



Credit: David Morales and Leonard 'Fat Leonard' Francis at the 2011 Navy Ball in Singapore, where they met. (special to Navy Times)

85

NavyTimes 9/1/2018

- Morales was the first to go to trial rather than plead.
- Found guilty of just 2 of 5 charges: conduct unbecoming an officer and failing to report foreign contacts on his security clearance renewal.
- Instead of 17 years if he had been convicted on all 5 charges, he was sentenced to 165 days confinement, forfeiture of \$30,000 in pay and a fine of \$5,000.

86

NavyTimes 9/1/2018

- The trial judge, Capt. Charles Purnell, found Fat Leonard, testifying for the first time, not credible.
- But, Purnell said, "I find an egregious pattern of accepting gifts, almost as bad as as if I had found you guilty of conspiracy and bribery, that thoroughly compromised you as an officer. When you play with fire, you get burned."

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- <https://www.youtube.com/watch?v=kUuqx2m4N00>

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The Fat Leonard Case—One of the Largest Bribery Scandals in U.S. History



Leonard Glenn Francis (aka Fat Leonard)

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Bribery & Corruption Red Flags

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Bribery & Corruption Red Flags

- Unusual purchases
- Scrapped or obsolete items same as new purchases
- Aggressive selling techniques
- Multiple contracts at just below higher-approval-required threshold
- Requirements that only certain contractors can meet
- Complaints from other contractors
- Purchasing/procurement personnel living beyond their legitimate means

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Bribery & Corruption Red Flags

- Restrictive specifications
- Vague specifications
- Unusual number of change orders
- Change orders immediately following contract award
- Pattern of awards to one vendor
- Contracts just below an approval threshold
- Odd timing of bids/proposals due
- Complaints from other contractors
- Too few bidders

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Bribery & Corruption Red Flags

- Weak control over the source selection process
- Unbalanced bids
- Contract changes right after award
- Unbalanced evaluation scores
- Last minute bid due date extensions
- Poor controls over bid receipts
- "Mistakes" in bids

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Bribery & Corruption Safeguards

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Bribery & Corruption Safeguards

- ◆ Policy regarding acceptance of anything of value
- ◆ Strong procurement policies and procedures
- ◆ Independent procurement office/authority
- ◆ Duties segregation (ordering, approval, contract sign-off, receiving & acceptance, change order review/approval)
- ◆ Require supervisory/management sign-off on all procurement requests
- ◆ Insist on open competition
- ◆ Only do business with approved vendors; restrict access to the vendor file
- ◆ Compare employee and vendor databases

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Bribery & Corruption Safeguards

- ◆ Rotate procurement responsibilities
- ◆ Publicize your fraud hotline number
- ◆ Independent review of specifications
- ◆ Prohibit buyer-contractor contacts/fraternization
- ◆ Strict control of bids/proposals received
- ◆ Debrief/survey unsuccessful bidders
- ◆ Strong inspection/quality control processes
- ◆ Rotate inspectors/monitors
- ◆ Put an anti-fraud statement on all purchase orders and contracts

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Bribery & Corruption Safeguards

[ABC Corp/Agency] is committed to fair and open competition. If any employee or agent of [ABC Corp/Agency] asks for or solicits anything of value in connection with this purchase order/contract, or if you suspect any impropriety regarding this purchase order/contract, please report this immediately and confidentially to our Director of Compliance and Risk Management, Jane Honest, at 555-555-5555 or at J.Honest@abccorp.com.

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End Thoughts

- Bribery and corruption are risks in any organization that buys things
- Bribery and corruption can have significant and costly consequences
- Accountability professionals should
 - Remain alert for red flags
 - Assure that safeguards are established
 - Periodically test safeguards to assure that they are not being ignored or circumvented

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*Bribery and Corruption:
It CAN Happen in Your Organization*

Dave Cotton, CPA, CFE, CGFM

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