



# Spot and Stop Employee Theft

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Law firm owners can experience employee theft or fraud. Over the years common misconceptions about employee theft and fraud are revealed in statements from law firm owners:

*"It's rare for a law firm of my size."*

*"You only have to worry about the new employees. Once someone's been with you a few years, you can trust them."*

*"That's why I have someone in my family do the bookkeeping. She would never do that to me."*

*"It won't happen to my firm. We are like family here."*

*"I can tell when someone is lying to me."*

The truth is fraud and theft happen in small businesses like law firms all the time. Risk of fraud and theft doesn't decrease with employee tenure. And people who embezzle or steal from companies they work for are hard to spot.

In fact, most of the tells are also distinguishing factors of high performers. An employee who has set up a theft scam at work gets in early, leaves late, and never takes vacations. It may look like dedication, but this is all a cover-up to protect a scam from discovery. One can bet this security

chief of the Powerball Lottery who pled guilty to [scamming millions](#) appeared dedicated and loyal.

She may exert high proficiency and control, learning and taking on responsibility. A person who asks pertinent questions about how it works and takes on responsibilities of making things happen may be a fantastic employee or be exerting control in order to manipulate the system to her advantage. These characteristics, in turn, make the firm rely on and trust her more, thereby giving her more access and opportunity to steal. Just ask the ABA, who recently discovered an IT employee [stole \\$1.3 million worth of cell phones](#) over a 7-year period.

Some employees who begin stealing make lavish purchases that her normal income couldn't accommodate, and it will come with a fictitious excuse—maybe inheritance or married into wealth. Others experience life-changing circumstances—a death, illness, drug and alcohol abuse, or gambling addiction of the employee or a family member—which gives rise to financial need. She may believe she will pay it back some day.

The difficulty here is, these can easily describe normal people too. If someone works for a firm long enough, you will see them through life



changes. Wonderful employees can be bad about taking vacations, too. The difference is when a fraudster takes a vacation, [things can unravel](#).

What is more, these signs would reveal theft and fraud already underway. The average incident of [fraud cost a business \\$145,000](#). The longer the fraud persists and the higher the employee is ranked, the costlier it is. I remember one story a solo told me where his secretary did the books and stole from him for a year and a half. He would constantly tell her how hard he felt like he was working and worry about how he couldn't seem to get ahead. She would nod and make suggestions, all the while milking the firm of its profits. Most firms simply cannot afford to have this happen, so if any of these tells trigger concerns, address it immediately. And while a larger firm may seem like a better target, somehow [this family of fraudsters stole \\$5 million](#) and opened a thriving bakery while the owner attorney struggled to get by, and lost his home to foreclosure. No firm is immune.

But for all the rest of us, make prevention a priority. Fraud examiners believe in a [triangle of factors](#) that fosters the growth of theft and fraud. Perpetrators have motivation (debt or financial need), opportunity (they are trusted), and employ rationalization, ("I work so hard and he doesn't appreciate it.") Motivation is personal, so there is little one can do there besides paying a fair wage and good benefits. Some authorities suggest getting to know your employees and following who they are helps, but most with changed life experiences that create motivation, feel they cannot share their hardship.

Creating a fair, positive firm culture limits rational rationalizations. But this also does little to curb irrational ones, and there's nothing like a rationalization to take an employee off the rails. (Of course, address complaints and disgruntled behavior proactively, since it is just good management.)

The third of the trifecta that is completely under the firm's control though is opportunity. Put in place controls, policies, and procedures to deter theft and fraud and make firm's expectations abundantly clear.

Things that have worked at other firms are:

- Check references and do criminal background checks on new hires.
- Creating a clear written anti-theft and fraud policy for the employee handbook or policies and procedures manual. It should set out what theft and fraud is, what systems to follow to isolate error and wrongdoing, what penalties exist, and ask all employees to report suspicious things. It is crucial that someone feel protected if they report someone in an environment where anonymity isn't possible.
- Expense report protocols and procedures should be clear, written, discussed, and followed. For example, you should have an expense report that an employee fills out that requires receipts and/or mileage information accompany it, coding or descriptions that indicate the business use of the expense, and written rules for what can and cannot be expensed. Approvers should not rubber stamp purchases. They should review those purchases and inquiries to clarify any confusing purchases.
- Mail opening procedures should be put in place where two individuals always open the mail and record checks on a log or in accounting software.
- Cash received from clients should be logged by two individuals, locked in a safe, then taken to the bank for deposit frequently and regularly.
- Vendors should be approved by a process with more than one person involved. Invoiced expenses should be periodically checked against payments to confirm matches. (One scam is to write a check to a fake vendor. Another is to write it for more than it is for and pocket the excess by agreement with the vendor.)
- Require a physical signature on all checks. When the bookkeeper prepares a check for the partner to sign, he should also prepare the envelope to send it out. The attorney should sign the check, seal the envelope, and mail it herself. (Another scam is to change the amount and/or payee on a check after it is signed, then abscond with the funds.)



- The owners/partners should be the only ones to open bank statements. If the financial institution will send copies of checks or make them available for review, the managing partner should periodically review them.
- All signers on the trust account and operating account should be trained on the accounting software. All responsible partners should know what every account is, what each line item in the monthly reconciliations and financial statements are and be able to explain the reports passably. Ask questions whenever something is odd. Do not accept a shifty answer (e.g., “Oh, that account is just for making adjustments and making the books balance”). Accounting is relatively simple. If it doesn’t make sense to you, there may be something wrong with it.
- The firm’s accounting software should be understood by more than one person. Any tailor-made software should be fully understood. (One scam was through the manipulation of accounts through a tailor-made software program, so using reputable vendors with reputation is important.)
- Check periodically for quickly dwindling office supplies. Employees are known to purchase supplies the firm pays for, and then returns them to personally receive the refund. (That’s how the ABA employee stole all those cell phones.)
- Periodic random audits of different procedures by an outside authority is ideal. If it is too expensive to have an outside consultant come in, conduct random internal audits of processes. A random audit is probably how [this ex-managing partner’s misappropriation](#) of client trust funds was discovered. Discuss how to improve them regularly and show your deep understanding of financial workings of your firm. Remember that part of what you are doing is creating the absence of opportunity.
- Some lawyers have expressed a concern that their staff will not feel trusted, but having clear expectations is usually a relief to a loyal, honest employee. Systems should also help to isolate errors and find the mistakes faster and easier, as well as help identify training needs.

Theft by an employee really happens, even when least expected. I have met more than one small firm lawyer whose spouse (now ex-spouse, naturally) was doing the books and stealing from the firm. I have spoken with many that were bilked by long-time, trusted employees. Even big bar associations have fallen victim to embezzlement. Do not be paranoid or defeated, but do please be vigilant about this possibility. Nothing is fool proof, but these systems will at least get you on the right track.

Systems only go so far, but well devised and followed systems can deter a potential bad actor and protect good actors from unwanted suspicion. In addition, leadership that presents them as positive is showing business acumen and a concern for the financial health of the law firm.

Finally, take charge of the finances at your firm. Being inquisitive and careful with the finances of the firm is smart. It is common for bookkeepers and accountants who work with many firms to tell me that lawyers say, “Just take care of it. I don’t want to understand that.” It is this author’s view that the best accountants and bookkeepers will respond, “No sir, you need to get this. It’s your ethical duty that you understand what these numbers mean and it’s my ethical duty to explain it to you. We need to have this meeting of the minds every month/quarter.” Look for that in an employee, outsourced or staff.

## Resources

[5 Steps to Reduce Small Business Fraud](#), Association of Certified Fraud Examiners Video.

[AFCE Fraud Prevention Check Up](#), Association of Certified Fraud Examiners.

[Here’s Who’s Most Likely to Rip Off Their Employer](#), by Anne Fisher, Fortune, 2016.

[The Most Common Reason Employees Steal — And How You Can Lower Your Risk for Workplace Fraud](#), by Paul Jaeb, the Business Journal, 2014.

