



Voluntary Disclosures: Root Cause Analysis Techniques

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Getting to Root Cause

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ROOT CAUSE

The cause of a problem that, if eliminated, would prevent its recurrence.



TWO PRIMARY CHALLENGES

- 1. Getting the facts**
- 2. “Calibrating” root cause**



**“IF YOUR MOTHER TELLS YOU SHE LOVES YOU,
CHECK IT OUT.”**



SIA Proprietary

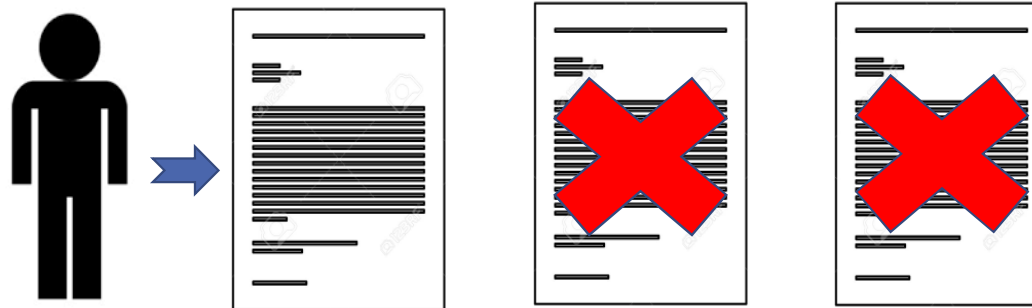


THE HEARSAY PROBLEM





THE BIAS PROBLEM





THE “DATA YOU DID NOT KNOW EXISTED” PROBLEM





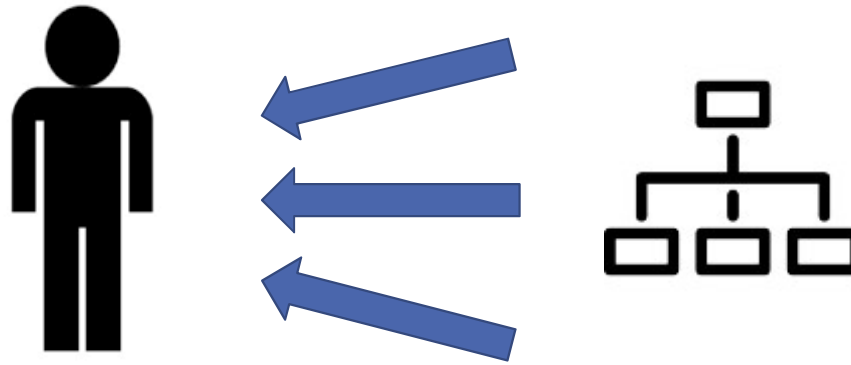
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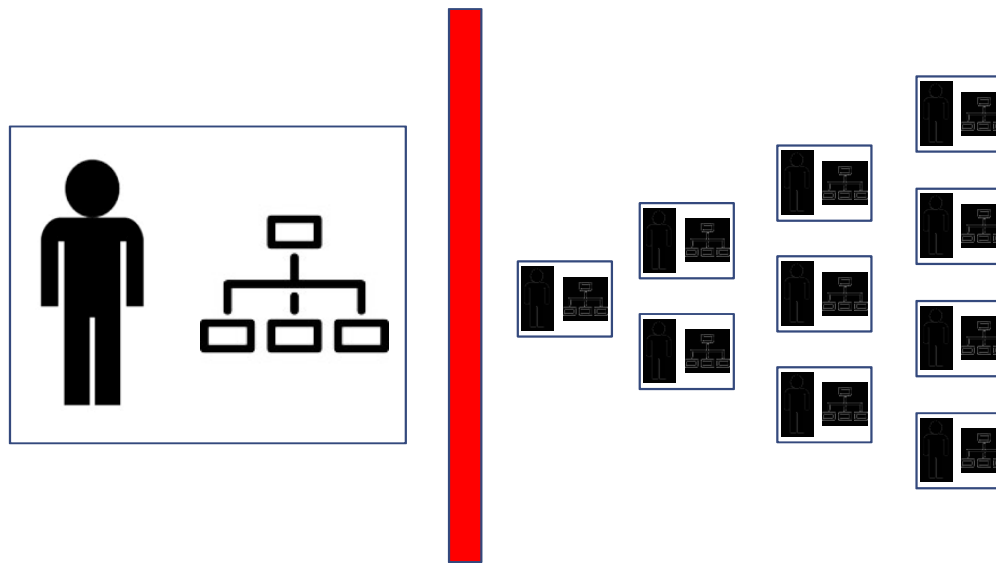


BLAMING PEOPLE NOT PROCESS





SCOPE: HOW BROADLY DOES ROOT CAUSE APPLY?





ADDITIONAL RESOURCES

- “Root Cause Investigation Best Practices Guide,” prepared for the National Reconnaissance Office, Aerospace Report No. TOR-2014-02202.
- Root Cause Analysis For Beginners, by James J. Rooney and Lee N. Vanden Heuvel.
- Society for International Affairs Voluntary Disclosure Handbook, revised edition coming soon.



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Voluntary Disclosure: Root Cause Analysis

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THE TEAM

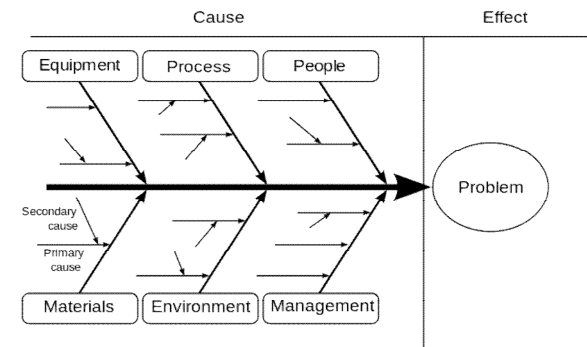
- **Make up of team**
 - Regulatory “experts”
 - Process “experts”
 - Systems “experts”
 - Human Resources
- **Considerations in assigning the team**
 - Internal vs External / Attorney Client Privilege
 - Conflict of Interest
 - Data Privacy
 - Government Classified





DATA AND INFORMATION COLLECTION TOOLS

- **Standard tools**
 - Six Sigma / LEAN tools - 5 Whys, Fishbone
- **“Home-Grown” tools**
 - Built to ensure adequate analysis is done
 - Can be built checklists / guidelines for specific scenarios
 - Technology Release – Export / Deemed Exports
 - Classification
 - Are there other regulations that need to be reviewed





DATA AND INFORMATION COLLECTION TOOLS

- **Train teams to utilize the tools developed by your company**





RESOURCES

- **DDTC**
 - ITAR § 127.12 Voluntary disclosures
 - Temporary Import Violation Guidance
 - http://www.pmdrtc.state.gov/licensing/documents/WebNotice_TemporaryImportViolations.pdf
 - Compliance Program Guidelines
 - http://pmdrtc.state.gov/compliance/documents/compliance_programs.pdf
- **SIA Voluntary Disclosure Handbook (under revision)**
 - Provides samples of checklists, disclosure templates



RESOURCES

- **Customs**

- <https://www.cbp.gov/trade/programs-administration/audits>
- <https://www.cbp.gov/document/publications/abcs-prior-disclosure>

- **BIS:**

- <https://www.bis.doc.gov/index.php/enforcement/oev/voluntary-self-disclosure>
- <https://www.bis.doc.gov/index.php/compliance-a-training/export-management-a-compliance>



RESOURCES

- **Census (Foreign Trade Regulations) – includes sample VSD**
 - <https://www.census.gov/foreign-trade/regulations/vsd.html>
 - <https://www.census.gov/foreign-trade/regulations/index.html>



WHERE DO WE GO FROM HERE?





Voluntary Disclosures & Root Cause Analysis

David Greenlees
Office of Defense Trade Controls Compliance



The “Ideal” Voluntary Disclosure



- ITAR § 127.12 is your roadmap – follow it!
- Provide a clearly articulated summary
 - Who is involved?
 - What happened, when and why?
 - How was the violation discovered?
 - Remedial measures - do they resolve the violation and prevent future violations?
 - Indicia of the strength and maturity of your compliance program



What DTCC Looks For



- Summary with a timeline of events
- Precise description of the nature and extent of the violation(s)
- Exact circumstances of the violation(s)
- Root cause
- Description of defense article, tech data, or defense service involved
- Relevant authorizations
- Identities and addresses of individuals involved
- Related disclosures
- Appropriate remedial and corrective actions
- Conclusion, certification, and point of contact



Mitigating Circumstances



- Voluntary
- Demonstrates cooperation
- Lack of willfulness
- Transaction would likely have been authorized
- Improved Compliance Program



Aggravating Circumstances



- Harm to U.S. Foreign Policy or National Security
- Management promotes or ignores wrongdoing
- Extended period of violations
- Delay in reporting violation
- Repeated violations
- Number of locations, programs, and business units involved (systematic problem)
- Untrue statements



Root Cause Analysis



- Identify, correct, and audit
- Is your root cause analysis sufficient?
- Is it a symptom of a bigger problem?
- What else don't you know?
- If you don't understand how or why the violation occurred, how can you prevent it from happening again?



Root Cause Analysis



**“Doubt is not a pleasant condition,
but certainty is absurd.”**

Voltaire



Compliance is the Goal



- Protect National Security
- Safeguard technology
- Operate more efficiently (avoid supply chain delays)
- Protect exporter's/recipient's reputation and opportunities
- Avoid unnecessary costs
- Compliance provides a competitive advantage



Corrective Actions / Sustainment Activities



- Corrective actions and sustainment activities are important to the government, industry, and your company
- Describe corrective actions taken; explain how corrective actions resolve the violation and prevent future violations
- Sustainment Activities
 - People (roles & responsibilities, training, company culture)
 - Process (monitor, analyze, act)
 - Technology (develop and leverage analytical tools)



Next Steps



You have disclosed violations, determined the root cause, implemented remedial measures, and received a closeout letter from DTCC...now what?

Maintain an effective and sustainable compliance program to identify, prevent, detect, correct, and report violations.