

Fraud Exercise Questionnaire – Answer Key

Scenario 1:

A man in a suit knocked at Alice Wade's door. Alice was a 64-year-old widower. The man introduced himself as Mark Campbell from Pest Control Associates. He told the woman he was offering a special deal for pest inspection and treatment. She invited him in. He had a briefcase full of literature and convinced Alice to purchase an \$800 complete home inspection and pest treatment package which was normally priced at \$1300. Alice wrote a check on the spot. The man scheduled the inspection and treatment for the next afternoon.

The next morning, no one showed up for the appointment. By late afternoon, Alice called the company number listed in the literature. She got the recording that there was no such number. She tried to call "Mark's" cell phone number. Again, no such number. Alice suspected that she had been scammed. She checked the Internet and could not find any company named "Pest Control Associates." Alice called the bank and discovered that her \$800 check had been cashed that morning. Alice called 911. The police investigated and discovered that there was no record of a person named "Mark Campbell" and no record of a company by that name.

Q: Was any crime committed? If so, what crime(s)?

A: Criminal Impersonation 1st Degree (RCW 9A.60.040) & Theft 2nd Degree (RCW 9A.56.040)

Q: What are the elements of Criminal Impersonation 1st Degree?

A: 1) Assumes a false identity or pretends to be a representative of an organization, 2) acts in that assumed character, 3) with intent to defraud another or for any other unlawful purpose

Q: Do you get Criminal Impersonation whenever a bad guy pretends to be something he's not?

A: No. A suspect must act in his fake capacity to trick the victim into thinking he really is the person he is impersonating. It's not enough to simply pretend. In order to satisfy this crime, the suspect must pretend AND do some action on top of the pretending in order to victimize another person.

Q: Articulate how this suspect satisfied the elements of Criminal Impersonation 1st Degree.

A: 1) He assumed the false identity of "Mark Campbell" and pretended to represent a company named "Pest Control Associates;" 2) He acted in that pretense by contacting the victim, making a "sale," and convincing her to give him a check; 3) And he did this for the unlawful purpose of stealing money from the victim (Theft).

Q: How is Criminal Impersonation 1st Degree different from Identity Theft (RCW 9.35.020)?

A: Identity Theft is the appropriate charge when a suspect steals the identity of a real person for the purpose of committing some other crime (with intent to injure or defraud).

Criminal Impersonation is the appropriate charge when the suspect pretends to be something he's not, but is intentionally using the real identity of another, for the purpose of defrauding someone.

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Q: What are the elements of Theft 2nd Degree, as they relate to this case?

A: 1) Commits theft of (wrongfully obtains control over) property/services of another person valued between \$250 and \$1500, 2) with intent to deprive

Q: Articulate how the suspect satisfied the elements of Theft 2nd Degree.

A: 1) He wrongfully obtained control over \$800 from the victim, 2) He did it on purpose and without planning on giving it back (with intent to deprive)

Q: Why was Criminal Impersonation 2nd Degree not the correct crime?

A: Because Criminal Impersonation 2nd Degree is specifically about pretending to be a law enforcement officer. That does not apply to this scenario.

Q: Can you think of a time when someone might pretend to be a police officer, but it's not the crime of Criminal Impersonation 2nd Degree?

A: - Halloween
- At a bar telling people you're a cop to impress them
(Note: Remember that for Criminal Impersonation 1st and 2nd Degree, the bad guy must do more than simply pretend. They must also ACT in that pretended capacity.)

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Scenario 2:

Charles was a 72 year-old man who lived alone. His daughter Cheryl occasionally came over to the house to check up on Charles. Cheryl was having money troubles and having problems paying her bills. She knew that her father had a very large-value retirement account with a mutual fund company called Forester Whitney. Cheryl knew that Charles did not pay close attention to his finances because he had a monthly retirement check sent to him and everything was already set-up for him.

The last time Cheryl was over at Charles' house, she sneaked into his den. She found his retirement account paperwork and made notes about his account information and password. She also took a First Alliance Bank check from his checkbook. She went on-line, using her dad's computer and one of the passwords she found to log into the system. She went to the Forester Whitney Web site. She entered Charles' log-in information and used his account password. She was able to transfer \$15,000 from his retirement account into his checking account at First Alliance Bank. Cheryl wrote the First Alliance Bank check to herself for \$15,000 and signed Charles' name to it mimicking his signature and handwriting as best as she could. Cheryl went to her bank and had the check deposited into her personal checking account.

Q: Was any crime committed? If so, what crime(s)?

A: Identity Theft (RCW 9.35.020), Forgery (RCW 9A.60.020), Theft 1st Degree (RCW 9A.56.030), Computer Trespass 1st Degree

Q: Can Cheryl be charged with both Identity Theft and Theft for the same case?

A: Yes. The Identity Theft occurred when Cheryl stole the personal Information (his identity). The thefts were separate acts and occurred when 1) she stole his check, and 2) she unlawfully took possession of his money.

Q: Which part of this story is Forgery?

A: When Cheryl signed Charles' name to the check, she falsely completed a *written instrument* (the check), *with intent to injury or defraud* (to steal his money).

Q: If she had only stolen his check, but hadn't used it yet, what degree of Theft would that be?

A: Theft 2nd Degree. The check is an "access device" as defined in RCW 9A.56.010.

Q: If she had only stolen \$15,000, and nothing else, which degree of Theft would it be?

A: Theft 1st Degree. The dollar value is more than \$1500.

Q: Why, in this case, was Cheryl charged with Theft 1st Degree, but not also Theft 2nd Degree?

A: "Theory of Aggregation" from RCW 9A.56.010. This legal mechanism allows for police & prosecutors to lump the dollar values of related crimes together in order to use a higher-classification crime. In this case, the Theft 2nd Degree and the Theft 1st Degree are part of a common scheme / common episode. The separate thefts can be lumped together into one big Theft 1st Degree for simplicity's sake.

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Scenario 3:

Maude Smythe is in her early 80's. Since her husband's death 3 years ago, she has been very lonely and has searched for an active group of seniors with whom she could socialize. One day, Maude meets Carol Jenkins. Carol strikes up a conversation with Maude. Carol tells Maude that she has recently been hired by Kitsap County to run a day center for seniors in the community. Carol says this is a new program designed for people like Maude.

Carol invites Maude to join her group, and Maude agrees. Maude spends three days a week at Carol's home with several other regulars. While the older people play cards, watch movies or cook together, Carol offers to help them out with household management activities. Over time, Carol tells them that she once worked for Bank of America as an investment/portfolio manager. She offers to take over their banking and investment needs.

Six months later, Maude, who has just returned from a two-week trip to visit her daughter, is told by the others that Carol has not answered her door in a week and her phone has been disconnected. Maude goes through her stack of mail and discovers several documents from her bank and her investment broker notifying her that several accounts had been closed and over \$50,000 in total funds had been withdrawn. She called 911. The officer investigating her case advised that Bank of America had an ex-employee named Carol Jenkins who was a teller and got fired two years ago for stealing from her cash drawer.

Q: Was any crime committed? If so what crime(s)?

A: Theft 1st Degree – RCW 9A.56.030 (All the values from each individual fund can be “lumped” into to one massive count of Theft 1st Degree. Or the case can be handled as several separate counts of Theft 1st Degree; one for each victim. It's up to the prosecutor.)

And Criminal Impersonation 1st Degree – RCW 9A.60.040 (Carol was not a former investment banker. Carol pretended to be something she was not in order to commit some other fraudulent act (the thefts).

Q: What are the elements of the crimes?

A: Theft 1st Degree – RCW 9A.56.030

- Mental State: Intent,
- Wrongfully obtaining control over property of another,
- Value greater than \$1500.00.

Criminal Impersonation 1st Degree – RCW 9A.60.040

- Mental State: Intent to defraud (specific intent),
- Assumes false identity (of a non-real person),
- Acts in that pretend capacity to commit some other unlawful act (theft).

Q: For Criminal Impersonation 1st Degree, is it enough that Carol pretends to be something she isn't?

A: No. In addition to pretending, the suspect must do some other fraudulent or criminal act based on that pretense.

Q: Articulate how Carol's behavior satisfied the elements of Criminal Impersonation 1st Degree?

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- A:** Criminal Impersonation 1st Degree – RCW 9A.60.040
- Mental State: Intent to defraud (specific intent)
 - Carol purposely attracted elderly people and groomed them to be her victims. She took her time and gained their trust.
 - Assumes false identity (of a non-real person)
 - Carol pretended to be an investment banker – something she was not.
 - Acts in that pretend capacity to commit some other unlawful act (theft)
 - Carol used that fake background to make the elderly people feel safe, and to trick them into letting her control their finances. And she ultimately stole from all of them.

Q: **How is Criminal Impersonation 1st Degree different from Identity Theft?**

- A:** Identity Theft is a crime in which the suspect takes on the identity of a real human being – a real person that is victimized. Criminal Impersonation 1st Degree only requires that suspect pretend to be someone or something they are not.

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Scenario 4:

Minnie is 70-years-old and was widowed three years ago. Recently, she has become lonely. One morning at Starbuck's, she meets Gloria. Gloria says that she is 40-years-old. Minnie tells Gloria about how lonely she has been. She says that she isn't interested in marriage, but would like someone with whom to travel and go do things.

Gloria tells her of a man that has apparently seen Minnie around town and has told Gloria that he is very interested in Minnie. Minnie is flattered. Gary is nearly 15 years younger than Minnie. Minnie cannot believe that this younger man is interested in her. Although Minnie isn't rich, Stan her beloved husband has left her comfortable and able to travel around the world.

Minnie and Gary discuss taking a romantic trip to Paris. Over the next two weeks, the couple pours over travel books and websites as they begin to plan their special vacation. Minnie decides to pay for the trip. After much cajoling, Gary agrees, but asks if he might be the one to make some of the arrangements on their behalf as a surprise for Minnie. Minnie writes Gary a check for the anticipated amount of hotel, airfare and tour costs. Minnie has estimated that the 3 week trip will cost roughly \$50,000. Gary leaves for a business trip promising to meet Minnie at the airport. When Minnie arrives at the airport, Gary is nowhere to be found. In a panic, she contacts the airlines. They confirm that they do not have any tickets or reservations under Gary's name or Minnie's. Minnie goes to her local police department to file a report.

Q: Was any crime committed? Is what crime(s)?

A: Theft 1st Degree – RCW 9A.56.030

Q: What are the elements of Theft 1st Degree?

A: Theft 1st Degree – RCW 9A.56.030

- Mental State: Intent,
- Wrongfully obtaining control over property of another,
- Value greater than \$1500.00.

Q: Since Gary pretends to be in love with her, can we charge him with Criminal Impersonation 1st Degree as well? Or must he have gone further?

A: No. He only has committed Theft.

Q: Articulate how Gary's behavior satisfied the elements of (insert crime(s) here)?

A: Theft 1st Degree – RCW 9A.56.030

- Mental State: Intent
 - Garry obviously took her money on purpose.
- Wrongfully obtaining control over property of another
 - Garry took money from Minnie and did not use it as Minnie intended. He never bought the tickets or booked the trip.
- Value greater than \$1500.00.

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Scenario 5:

While on patrol, you stop a motorist who was driving on the shoulder. You contact the driver, Alan Emmons. You notice that as he reaches into his wallet to get his driver's license, there is another driver's license. You can see the picture on the other license, and it does not look like Alan. You ask to see that other license, and he nervously shows it to you. The other license is for a Stephen S Brewer with an address of 3291 Ash Street, Bellevue, WA.

You ask Alan why he has another person's license. He tells you that he "found it on the street near his house about a month ago." But Alan cannot explain why he is carrying that license around with him. Alan also admits that he never attempted to return the license to Stephen, or to notify law enforcement.

Q: Was any crime committed? If so, what crime(s)?

A: Possession of Another's Identification

Q: What are the elements of the crime(s)?

A: Key Words: "But Alan cannot explain why he is carrying that license around with him."

Q: What class of crime is this?

A: Gross Misdemeanor

Q: Were there any parties to the offense?

A: None

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Scenario 6:

Donald Brophy attends a party at a friend's house. While at the party, Donald walks into the den when no one is paying attention. He starts snooping around the desk and finds bank statements and other financial documents for the homeowner, Wendell Earley. Donald finds an on-line ID and password written down for Wendell's Bank. He makes notes on a loose piece of paper and leaves the den with that piece of paper.

The next day, Donald goes on-line and logs into the bank Web site as Wendell. Donald transfers money into another on-line account he had set up. Donald is able to transfer \$12,400 into his account from Wendell's.

Q: Was any crime committed? If so, what crime(s)?

A: Identity Theft; Theft 1st Degree

Q: What are the elements of the crime(s)?

A: Key Words: "snooping around" and "makes notes on a loose piece of paper" and "goes on-line and logs into the bank Web site as Wendell" (Identity Theft); "transfer \$12,400 into his account from Wendell's" is taking the property of another (Theft)

Q: What class of crime is this?

A: ID Theft = B Felony (*Note: charged as Class B Felony because more than \$1500 was taken by way of this identity theft*); Theft 1 = B Felony

Q: Were there any parties to the offense?

A: None

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Scenario 7:

Justin and Kimberly Worrell are married. They just opened up a new checking account with First Star Bank. They deposit \$1700 into the account. Justin and Kimberly decide to purchase a new HDTV from Costco for \$3500, paying with a check from the new account. They write the check for \$3500 and take the TV home. They know that there is not enough money in the account, but they really want that TV.

Q: Was any crime committed? If so, what crime(s)?

A: Unlawful Issuance of Check or Draft

Q: What are the elements of the crime(s)?

A: Key Words: “They know that there is not enough money in the account” when they write the check

Q: What class of crime is this?

A: Class C Felony (based on value more than \$250)

Q: Were there any parties to the offense?

A: Both planned/committed the crime together, so both get charged.

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Scenario 8:

Patricia Phan is stopped for speeding. She doesn't want this ticket to show up on her driving record, so she lies to the officer. Patricia tells the officer that she forgot her license at home. Patricia gives the officer the name and date of birth of a former roommate instead of her true name. The former roommate, Connie Yamoto, has a similar build to Patricia. So when the officer runs the name over radio, the physical descriptors appear to be correct. The officer writes the ticket for the name "Connie Yamoto" for the infractions of Speeding and No License on Person.

Q: Was any crime committed? If so, what crime(s)?

A: Identity Theft; Refusal to Give Information/Cooperate with Officer (traffic crime)

Q: What are the elements of the crime(s)?

A: Key Words: "Patricia gives the officer the name and date of birth of a former roommate instead of her true name"

Q: What class of crime is this?

A: ID Theft = C Felony (*Note: charged as Class C Felony because this was not about money – less than \$1500 was taken by way of this identity theft*); Refuse to Cooperate = Misdemeanor

Q: Were there any parties to the offense?

A: None

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Scenario 9:

You are doing a patrol walk-through of a local bar at 10:45 p.m. You notice a young-looking female sitting at a table with friends. You walk over, identify yourself as a police officer, and ask for her ID. She hands you an ID card with the name Carolyn Mickels. This ID shows “Carolyn” as 22 years old. You look closely and notice that the ID card picture does not match the girl you are speaking with. The eye color is different, and there are other inconsistencies. Also, this girl just looks substantially younger than 22 years old.

You start to question her more about it, and she then admits to using her older sister’s ID to get into the bar. Her real name is Dorothy Mickels, and she’s 18 years old. Dorothy tells you that she took her sister’s ID from the house.

Dorothy has a glass of beer in front of her. She also has the odor of alcoholic beverages on her breath, and she admits to drinking two glasses of beer in the last hour.

Q: Was any crime committed? If so, what crime(s)?

A: Unlawful Acts Relating to Identification or Certification Card; Minor in Possession

Q: What are the elements of the crime(s)?

A: Key Words: “she then admits to using her older sister’s ID to get into the bar” (*Note: This is NOT identity theft. Identity Theft specifically states that use of another person’s ID or identity simply to obtain alcohol or get into an off-limits area for alcohol is to be charged under a different crime.*)

Q: What class of crime is this?

A: Unlawful Act w/ ID Card is a Misdemeanor; MIP is a Gross Misdemeanor

Q: Were there any parties to the offense?

A: None