

## Investigative Interviewing

### 3 The interview process

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#### **What are some good tips about leading the interview?**

You should be in good shape if you keep the following pointers in mind:

- Greet the interviewee in a professional, collegial way.
- Establish rapport.
- Explain the purpose of the interview to the interviewee.
- Ask one question at a time.
- Remember that you are looking for evidence, and consider your burden of proof on each element of the allegation.
- Keep an open mind.
- Allow the interviewee to speak. Keep your statements to a minimum. His statements are evidence, not yours.
- Stay non-judgmental. It's business, not personal to you.
- Minimize barriers (both physical and communications) between you and the interviewee.
- Listen before acting or responding. No one is timing the interviewee.
- Accept the interviewee's feelings. They are real to him even if they aren't to you.
- Remember that silence is an effective technique to encourage more information.
- Ask questions in a logical, usually chronological, progression.
- Take frequent breaks, for the benefit of you and your interviewee.
- Stay professional. You represent both the investigation and the process.
- Don't jump to conclusions. Ask a few more questions instead.

#### **Should I record my interview?**

Police detectives rely heavily on recording or videotaping interviews. This is not recommended for workplace investigations. Recordings need to be transcribed, and this is a labor-intensive and possibly costly step. If you record an interview, regardless of your local laws regarding recording, procedural fairness requires you to obtain the permission of the interviewee.

The advantage of taping is that, of course, you have a verbatim recording. But this comes at a price. You and the

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interviewee may become self-conscious of the tape recorder. The interviewee may be reluctant to relax and give information, and you may be more concerned with sounding smart and asking good questions. You will also have to transcribe the recording and give a copy to the interviewee.

Excellent note-taking is usually a better, easier and more-efficient choice.

### **Should I take notes or try to capture the interview content on my laptop?**

You take notes during the interviews because the information you gather is essentially evidence. The process of taking notes during the interview, however, can also be a distraction. It affects your rapport with nervous or innocent interviewees. Consider taking notes using your own shorthand methods instead of trying to take the information verbatim but be sure that you take enough notes to ensure the interview can be reported accurately.

Taking notes on your laptop can be even more distracting. Maintaining eye contact diverts attention from your typing and affects rapport. Consider taking brief notes which you can then use to prepare a proper interview memo.

Typing into a laptop may be part of a strategy to save time in preparing memos and an investigation report of the evidence you gathered. But it shouldn't be at the expense of the quality of the information that might be available from the interviewee.

### **What is an “anchor witness” and why do I want to find one?**

When you can, put your “anchor witness” at the top of your interview list. This person has no—or at most minimal—connections to the underlying facts. An anchor witness gives you the fullest picture of the investigation facts. This witness may know specific details about the subject matter or, alternatively, just the broader details of the department, its operations and dynamics. You can then use this information as the framework for other witnesses. The others will fill in the facts and bolster the ones you know.

### **What is the most effective way to begin an interview?**

Most of the employees you interview will be nervous and understandably apprehensive. You should briefly explain at the start of the interview what is going on and what is expected of the interviewee.

The introduction to the interview is the hardest part because you have to create the proper impression, enlist the interviewee's cooperation and explain the nature of your inquiry, all at once.

Read a standard set of instructions to the interviewee. These should be your standard ground rules for the interview. The instructions establish the conventions and assumptions between the parties. Be prepared, as a preliminary matter, to answer any questions the interviewee may have about the interview.

Giving clear interview instructions not only lays the ground rules. It also conveys to the interviewee that you are in control of the interview process and they are not.

The interviewee should receive a brief explanation of the matter under investigation. Explain why the interviewee has been included in the investigation (e.g., that they made a report, are the subject of the investigation, or have been identified as someone who may have information relevant to the investigation).

### **Why should I clue the interviewee in on the purpose of the interview?**

When you look at the interview from the interviewee's perspective, you will see that much of the stress of the

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interview comes from the unknown. Other interviewees will come to your office never having met you, and never having been interviewed before. Interviewees don't know what to expect from you or what you expect from them. They may have preconceptions about investigators that make them wary.

Let them know who you are, why you are speaking to them, and your role in the investigation process. Tell the interviewee that learning the truth is the purpose of the investigation and not "nailing" someone. Tell him that all you ask is that he is truthful and complete in his answers. By clueing the interviewee in, you will be giving them the courtesy of an explanation and letting them know that you do not seek anything they cannot give you.

## **What instructions do I give at the beginning of the interview?**

Most of the employees you interview will be nervous and understandably apprehensive. Each has probably never been interviewed before. This gives you an opportunity to control the interview at the outset and set it on a productive path. The introduction to the interview may be challenging because you have to create the proper impression and enlist the interviewee's cooperation to learn the relevant facts.

Interviewees are generally strangers who don't know what to expect. If they have made any assumptions, they probably aren't positive ones. All the more reason to give a standard set of instructions at the beginning to establish ground rules for the interview. The instructions should include each of the following:

- It is believed that the interviewee has relevant information.
- A quick explanation of the steps in the investigation process.
- The interviewee is expected to cooperate fully.
- If the interviewee does not understand the question, he should seek a clarification before answering.
- Responses should be based on personal knowledge.
- No presumptions of wrongdoing have been made.
- The company does not tolerate retaliation against those who participate in the investigation.
- Any relevant documents should be retained.
- The interviewee may contact you later on if he wishes to supplement or correct any information he gave you in the interview.
- Once your questions have been asked, the interviewee may give any information he thinks should be added.
- Obtain the interviewees contact information in case you have additional questions.

Giving clear interview instructions conveys to the interviewee that you are in control of the interview and they are not. Standard instructions demonstrate that this is a regular business practice. If an interviewee later denies you gave them instructions or disputes what instructions you gave, you can defend your position by pointing to this regular business practice. (Once again, this protects an investigator's downside risks by anticipating and possibly preempting a problem.)

Standard instructions help both the investigation and the investigator. They should be the beginning of every interview.

## **What introductory questions should I ask at the beginning?**

Introductory questions should be routine and easy for the interviewee to answer. Questions like these should settle the interviewee into a routine of the format of the interview. They will also allow the interviewee to expend some nervous energy and acclimate themselves.

Common introductory questions include:

- How long have you worked at the company?
- What are your regular job duties and responsibilities?
- What did you do before you joined the company?
- Who are your supervisor and co-workers?

Asking questions at this point will also allow you to “norm” the interviewee, including his level of cooperation. You can observe the interviewee’s normal behavior, mannerisms, level of eye contact, nervous tension, speech patterns, quality of communications skills, and reliance on gestures. Use introductory questions to segue the discussion to the subject-matter of your inquiries.

## **How do I decide which types of questioning to use?**

Evaluate the interviewee to determine which interviewing techniques to employ. The more familiar you are with the details of the case and the people involved, the better you will be able to tailor your interview techniques. If you know, for example, that the interviewee will be reluctant or hostile, prepare accordingly.

## **Are there any specific questions to ask an interviewee in order to get to the bottom of things?**

There are no “magic questions” to ask when interviewing someone. But framing good interview questions becomes easier when you conceptualize the interview rather than just list relevant topics to cover. For example, if you view the aggregate information of the investigation as painting a landscape, which part of the landscape does the interviewee fill? Or see it as a jigsaw puzzle. Which piece is this interviewee? The goal of any interview is to place the interviewee within the operative fact scenarios you are investigating. Once you see it this way, each interview will be more effective than just gathering individual answers to discrete questions.

As a practical matter, you will generally be on the safe side if you ask “who, what, where, when, why and how” questions. But don’t ask “why” questions until the end. These questions generally seem antagonistic because they sound moralistic. These questions may appear as finger-pointing to discourage the now-defensive interviewee from giving full information.

The most-effective question you can ask, however, is usually “so then what happened?” This question encourages a narrative answer, which will point you towards follow-up and more specific answers to key details. It also allows you to proceed chronologically, which helps you keep the facts straight and follows the way people normally remember events.

## **How much information should I give an interviewee as the interview proceeds?**

You are the one asking questions and looking for answers. You are not generally a giver of information. Be careful about discussing the status of the investigation, your views on the merits of the allegation, what you have found

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so far, or what other interviewees have said. The purpose of the interview is to establish facts to be used as evidence.

Give the interviewee only the information you think is necessary to facilitate the discussion. This includes the matter under investigation, the interviewee's role in the investigation, and what you seek to learn from the interview. A typical interviewee, for example, is neither the reporter nor the subject and is only a source of information.

A reporter or interviewee may ask if they will be notified of the investigation findings. The simple answer is no. The company has no obligation to provide information to reporters and interviewees, and there are both privacy and confidentiality concerns if it does. (The subject is entitled to learn of the findings but not entitled to receive a copy of the investigation report.) Explain that the findings are part of a report that will be shared only with those directly involved in making decisions based on the investigation results. No other information is shared, including information about interviews.

### **Should I ask for a written statement from people I interview?**

Many investigators welcome a personal statement, especially in theft investigations where the subject wants to unburden himself by telling all the facts. (Any interviewee, in fact, may ask to give you a written statement.) For most investigations, however, a personal statement is not needed.

If you ask probing, detailed questions, take detailed notes, and then prepare a memo with direct quotes, you create a reliable business record documenting the interviewee's admissions of misconduct. A handwritten confession makes for good theater, but it is equivalent proof to your well-written interview memo. In some cases, it may be more difficult to get again in writing from an interviewee what he has already told you verbally.

Approach the issue of written statements as one of process fairness. There is no reason not to allow an interviewee to submit his own statement. Sometimes interviewees seek the perceived security of describing events and issues in their own words. This reinforces process fairness (think about how it would look if you refused the request.)

A written statement might also give you the opportunity to learn more about what happened. You may also spot contradictions (between his statements and his interview) and unknown motives which will spur further inquiries.

The personal statement may turn out to be of little practical value to your findings. If the statement is little more than self-serving statements, you can simply disregard it as immaterial to the investigation. An interviewee often uses the opportunity to provide the statement as a way either to repeat what you already learned in the interview or to offer written rhetorical flourishes such as how he always tried to be the epitome of ethical behavior.

### **How should I end an interview?**

End each interview on a positive note. Sometimes interviews go easily. You get a helpful and articulate interviewee who doesn't fear where you are going. Other times, an interviewee just gives you—or fails to undermine—the proof needed to substantiate misconduct. Whatever the result, an interview should be closed on a positive note. Even if disturbing information was elicited, take an “at least we now know what happened” approach.

Consider using the following statements:

- “Is there anything else I should ask you that I haven’t?”
- “Anything else I should know?”
- “If you have any doubts, is there anything else you think you should tell me?”
- Remind the interviewee: “it’s for the record.”
- “Certainly you appreciate that this matter may get escalated depending on the facts we learn. Is there anything you would like to amend or supplement?”
- Give the interviewee the opportunity to contact you if additional information is later recalled or comes to his attention.

You may not get a second chance, and you need to be sure your information is valid. Use your closing remarks to review key information learned during the interview to be certain these points were correctly understood. In a contentious interview, you might even note you are recapping in case of a later recantation by the interviewee.

At the end of the interview, thank the interviewee for the information furnished. Give the interviewee your telephone number—better yet, leave your business card—if more information becomes available or is remembered. Keep the door open for future contact if he would like to add or change anything. The goal is to obtain the most accurate information possible. An interview is not intended to be a memory test.

Interviews are generally the most important part of the fact-finding process. Never close the door to additional information or a chance to ask some supplemental questions.

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