

Investigating interview techniques



**ASSIGN
BUSTER**

Investigative interviewing is an essential aspect of the investigative process for law enforcement officers, private investigators or security personnel. As most information comes from people-suspects, witnesses or even management- it is necessary to have the knowledge and proficiency in interviewing. Legal considerations for employee interviews Before security personnel begins the interviewing process, they must know the legal structure and considerations that are part of every interview. Law enforcement personnel have undergone training in the academy and learned about Miranda rights but interviews in a non-law enforcement capacity require more knowledge. Since Miranda doesn't apply in private sector investigations, it's imperative that investigators get the training and knowledge they need prior to conducting even one interview. They also should have classes yearly that reinforce and go over any changes in the law. One case that every company with union employees need to understand is the landmark case of NLRB v. J. Weingarten, Inc. (CASE INFO) During the course of an investigatory interview, the employee asked for and was denied the presence of her union representative. The National Labor Review Board (NLRB) held that the employer had committed an unfair labor practice. The NLRB appealed to the Court of Appeals in their jurisdiction which held that no union presence was necessary. The NLRB appealed to the US Supreme Court. In 1975, the US Supreme Court reversed the Court of Appeals decision and stated that the employer violated SS 8(a)(1) of the National Labor Relations Act because it interfered with, restrained, and coerced the individuals right of an employee, protected by SS 7, when it denied the employee's request for the presence of her union representative at the investigatory interview. From the US Supreme COurt decision came the <https://assignbuster.com/investigating-interview-techniques/>

Weingarten Rules which apply to any questioning of a union employee that could result in disciplinary action. Employees may exercise the following rights: they may request a union representative at any time; after the request has been made, the employers must choose to either grant the request and delay the questioning until a representative arrives and consults the employee; they can deny the request and terminate the interview or they can give the employee the option of talking without a representative. Under no circumstances can an investigator deny the request and continue to ask questions. As of 2007, the NLRB decided that “ employer’s rights to conduct prompt, efficient, thorough and confidential workplace investigations” outweigh the employee’s rights to representation during those investigations and withdraw the right from nonunion workplaces (Wiki) Ethical Standards For the interviewer, there is a fine line between permissible interview techniques and coercion. Deceptions are powerful tools available to the investigator. Using them incorrectly will result in confessions that the courts consider coercive. Common types of deception used in interviews include: telling a subject that he or she is free to leave, thus making the interview non-custodial and removing the need to obtain a waiver of Miranda rights; Exaggerating or downplaying the seriousness of the offense; the use of vague or indefinite promises to encourage confessions; pretending to be someone other than an investigator and fabricating evidence (LEO & SKOLNIC, 1992). Eight Phases of the Investigative Interview Many law enforcement agencies are adapting to an eight phase structured interviewing process that would be beneficial to private sector investigators. A structured investigative interview is a dynamic, conversational interaction between the interview parties. Not standardized, so this process can be

<https://assignbuster.com/investigating-interview-techniques/>

adhered to various situations, this makes it an ideal interviewing technique for private companies to employ. Phase One: Preparation Phase The investigator needs to know what the ultimate goal of the interview should be, what is it they are trying to achieve? This incorporates several different categories, including strategic, tactical, operational and legal considerations. Any interviewer should not forget the legal preparations. The investigator, regardless of private or government, needs to know the statutory elements of what they can ask and if there is a crime involved, what are the appropriate areas to explore when questioning a suspect. Without this, an interviewer might fail to cover issues such as intent or malice. Doing a thorough background check on the individual when you have the chance prior to the interview will usually provide a slew of information and insight you can use to assist with establishing rapport. The process does not take into consideration location, which is a decidedly important part of the preparation phase. Interviews should be on the investigators grounds if possible. For the private sector, the investigator should make the interviewee aware in advance that the interview will be occurring. Another point that was not addressed is the determination on whether an interview can be and should be audio or visually recorded. This is beneficial for the investigator, the employer and the prosecutor should it ever come to that stage. It protects all the parties from false accusations or misinterpretations. If using electronic devices is not an option, always have someone else in the room to take notes, to listen, and to ask additional questions the investigator may have skipped. Phase Two: Introduction The interviewer should properly identify themselves and explain to the interviewee the nature and purpose of the interview. Phase Three: Rapport Highly overlooked, the rapport phase is <https://assignbuster.com/investigating-interview-techniques/>

critical in establishing a sense of connectivity. A strong rapport can promote the free flow of information and dialogue. Interviews too often skip over this critical phase of the investigative interview process. Improvement needs to be made in this area because an interviewer will get more information out of an interview when the interviewee is relaxed and has a sense of trust in the interviewer. The person being interviewed needs to feel as if he or she is in a nonthreatening setting, which then allows the interviewer to establish a baseline of normative behaviors for comparison with subsequent ones that may indicate deceptive answers when the interviewee becomes stressed (FIBXXxXX). It is also in this phase that the interviewer can begin to collect intelligence on the interviewee's likes, opinions, and beliefs, which may become useful for subsequent interrogative development if the interviewee becomes resistant to providing truthful information (CITEEE). To improve investigative interviews and criminal interrogations, investigators have to establish and build rapport with the people they talk with, and to do that, they have to have done their background and learn to speak in a way that the person being interviewed can relate to. The investigator must speak in a manner that is relatable to the interviewee. Without rapport, and the trust that comes with it, the effectiveness with obtaining information from people in the field will be greatly diminished.

Phase Four: Questioning

The heart of the structured interview process, the interviewer should have questions specifically formatted to get the most information out of the interviewee. Questions should not lead or coerce the interviewee to give certain answers that may be desired by law enforcement or the organization. There are specific types of questions law enforcement or security personnel can ask. One is the open-ended questions, which is how most interviews start. Nearly

<https://assignbuster.com/investigating-interview-techniques/>

every investigative interviewing questioning phase should begin with an open-ended question that prompts the interviewee to produce a narrative response rather than a short answer (FBICITE). This is the time the person conducting the interview should let the person talk and tell their story, uninterrupted. Another approach is the accusatory interview technique. An accusatory interview will put the person being interviewed under more pressure than will an information-gathering interview style. As a result, the interviewee may also experience more discomfort when an accusatory style of interview is adopted. One of the benefits to this type of interview is that it allows the investigator to evaluate the subject's behavior before making any accusations and committing oneself to an interrogation (CITE TRAINING). After which, the interviewing parties follow up with close-ended questions. These questions are needed to clarify information only. Too often interviewers avoid asking questions that are point blank, "did you do it" type of questions. These type of questions should be asked but rarely are by law enforcement and probably also security personnel because they fear it comes off as coercive or perhaps they will be giving away information by stating questions in an investigation. Another reason interviewers may be fearful of that line of questioning is that if phased wrong, can lead to being counterproductive and contaminate the interview. This line of questioning works well if the evidence is strong. According to Detectives interviewed for this paper, it works particularly well with inexperienced suspects or witnesses.

Phase Five and Phase Six: Verification and Universal Inquiry The objectives of the verification and universal inquiry phases exemplify the fluid nature of the structured interview. Each phase is designed to solicit additional information from the witnesses. If the verification phase prompts

<https://assignbuster.com/investigating-interview-techniques/>

further recollections by the witnesses, the officer should fall back to phase four to collect the most accurate information provided. The verification phase has two purposes: to ensure the accuracy of the interviewee's statement and to prompt further recall (FBI CITE). This is the time the investigator conducting the interview should go over the statement in its entirety and have the interviewee clarify anything as a whole. Interviewers sometimes have the tendency to rehash the whole interview line by line and this is counterproductive and can lead to confusion on part of interviewee. At the end of the interview, the investigator should make sure one last time that there are no other pieces of information lacking. The person being interviewed is usually asked the all important open-ended question, " is there anything else we should know? " This usually is done more than one time and in more than one way. Phase Seven: Departure This is when the interview wraps. One commonplace occurrence is the exchanging of business cards and the quintessential, " if you think of anything else" line that is heard on every episode of Law & Order. Although it is important that the interviewee receives the card, it is also cold and the likelihood of someone calling doesn't really increase. Although effective in some cases, for instance on Detective says it works because people like to play Detective, a better approach would be for the investigator to state that they would like to call the interviewee within a specific number of days to follow up. This way, by using the " playing Detective" theory, someone will feel like they have an assignment and think the interviewee will be calling for more information and would want to produce additional facts. Phase Eight: Critique This is the time to evaluate the effectiveness of the interview and ask what improvements can be made. What was missed and what is the next step in

<https://assignbuster.com/investigating-interview-techniques/>

the investigation process. The investigator should consider the credibility of the victim, perpetrator and witnesses. The Detection of Deception Deception is the “ intentional use do non-truth” (GALAINSKL, 2000). There is no guranted way to determine if a subject is lying. There are no typical nonverbal behaviors that are associated with deception. Not all liars display the same behavior in the similar situation. People learn how to deceive before we learn how to detect deception. An investigator needs to have the instinct and understand the nature of deception in order to do the job well. The problem with deception is that the research on how to improve detecting deception often overlooks the contaminating role of the investigate in provoking responses. Research does not adequately capture a baseline of information to compare against relevant non-verbal and verbal responses. The goal in improving the detection of deception is the distinguish between the real and the fabricated memories using probablistic guides which direct the investigator’s focus. An investigator needs to take verbal and non-verbal cues and apply them differently to different people. Look for verbal cues, the statement that is different from others in detail and expectations tends to be an untruthful statement. Vague answers may also be a cue to the deception. The non-verbal cues vary so much among individuals they are of little or no use as broad generalizations. If the person being interviewed experiences no guilt, there will be no cues from guilt. One way to work on and improve this type of interview would be to include a beginning non-threatening phase to establish a baseline. Investigative interviews are the most critical element of any inquiry and it is among the most challenging. Often the outcome of an investigation is determined by the success or failure of the interviewer. That

is why is it essential that investigators seek training and observe experienced investigators whenever possible.