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Top Ten Interview Dos and Don'ts

Over the years we have observed some consistent dos and don'ts in the interview process. What follows is our non-exhaustive list. Our special thanks to Brett Ward, CFI and instructor with Wicklander-Zulawski & Associates for his assistance in preparing this article.

Top Ten Don'ts

10. Don't go into a "cold interview" if at all feasible.

There is no substitute for a thorough investigation. Exhaust all potential investigative avenues to gather reliable information that could assist in making an employment decision.

9. Don't detain an employee without consent or legal justification. The interviewer should understand the elements of the crime to make the decision to arrest. Is the case provable? It is often useful to partner with others in the organization to make the decision to arrest and prosecute since they can look at the case and admission as a third party would.

8. Don't defame an employee's character with false verbal comments (slander) or written/printed information (libel). All information that is included in investigative reports or communicated to decision makers should be based on investigative findings and communicated in an unbiased manner. Speculation and opinions in investigative reports should be avoided.

7. Don't create liability for your organization by attempting to prosecute every employee regardless of the evidence. A careful evaluation of each case's evidence and statements should be conducted prior to contemplating prosecution. It may also be useful to present the evidence to prosecutors, allowing them to make the determination of whether to bring charges. By allowing the prosecutor to make this decision, the investigator has potentially insulated the company from some civil claims.

6. Don't touch the subject during the interview process. Other than shaking hands before and after the interview, any physical contact with the subject should be avoided. This would also include physically blocking the employee's exit of the interview room when there is no probable cause for an arrest or detention. In litigation even innocent touches or movements during the interview may be twisted to infer or support a claim of coercion or some other argument presented by the plaintiff's attorney. In one civil

case, the simple shift of the witness' feet toward the door was presented as evidence that the employee was not free to leave the room.

5. Don't leave the employee's written statement or important evidence unattended with the associate.

These critical pieces of the investigation should be protected and never left alone with the guilty associate no matter how cooperative he appears to be.

4. Don't start your interview without a coaching session with your witness. Let your witness know specifically what you will expect from him during the interview process.

Don't begin any interview with an employee without first going through the proper channels that have been established by your department.

Make sure the witness has a "need to know" and is a reliable, credible individual. Consider whether to also take a statement from the witness to confirm the employee's admission and treatment. This statement will reflect the witness' observations at the time of the interview, not a less favorable view should his loyalties change at some later point.

3. Don't ever use coercive tactics in order to obtain information from an employee. Actions such as yelling, screaming, making threats, or promises of leniency should not be used. Clearly the use of threats or promises to extract a confession from an employee removes the voluntary nature of the confession and could cause its suppression. Remember that the interview is really just a business meeting relating to policy violations and should be conducted in a professional manner.

Don't use extreme actions in order to obtain an admission from the employee. Extreme actions generally include any activity that would not be tolerated by society. Here consider the length of the interview and the circumstances surrounding the encounter. In the private sector the days of five- and six-hour interviews without an admission should be gone, replaced instead with clearly established guidelines of behavior for the interviewer. Withholding medical treatment or keeping

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the associate from picking up his child would also constitute actions not tolerated by society and certainly could affect the voluntariness of an individual's statement.

2. Don't have a closed mind about an individual's involvement in circumstantial cases. Keep in mind, circumstantial evidence is exactly that—circumstantial. If there is no direct evidence of an employee's involvement, a non-accusatory interview should generally take place prior to any confrontation. When the employee makes no admission, he should be asked to explain the circumstantial evidence and his explanation should be fully investigated to determine its truthfulness.

1. Don't begin any interview with an employee without first going through the proper channels that have been established by your department. Work through your case one last time with your supervisor. This will not only help prepare for the interview, but it may also point out shortcomings in the investigation. Examine each piece of evidence and consider alternative possible explanations for what has come to light.

Top Ten Dos

10. Do spend quality time during your preparation and preplanning stages to ensure the location, timing, and environment for the conversation is adequate. Select

a location that provides convenience and privacy while allowing enough time for the conversation with the employee.

9. Do anticipate responses to problems during the interview. Techniques are taught and structured to help avoid conflict during the conversation. However, if it does occur, a little preparation will help the interviewer work through this difficult time. Anticipate what type of denials (emphatic and explanatory) the subject is going to offer based on his background and the case facts. Ask the "what if" question and have your responses ready to go prior to walking into the interview. Know what is permitted by company policy and plan your responses accordingly.

8. Do spend time to develop the subject's behavioral norm prior to any interview. Keep in mind, innocent subjects often display behavior that appears abnormal or deceptive in nature because of nervousness. Recognizing their behavioral norm will allow the interviewer to make better judgments when attempting to determine the individual's truth or deception.

7. Do make sure your case file is complete with all the necessary documents and evidence. Include any required forms and writing instruments before initiating the interview. Be thorough in order to not have to break up the conversation unnecessarily in order to excuse yourself for something you should have brought into the room to begin with.

6. Do back out of the interview when necessary. Remember, "When in doubt, back out." Make good decisions when you recognize the conversation is not going in the direction you anticipated. Take no "parting shots" at the end. Always err on the side of safety by making good business decisions instead of emotional ones.

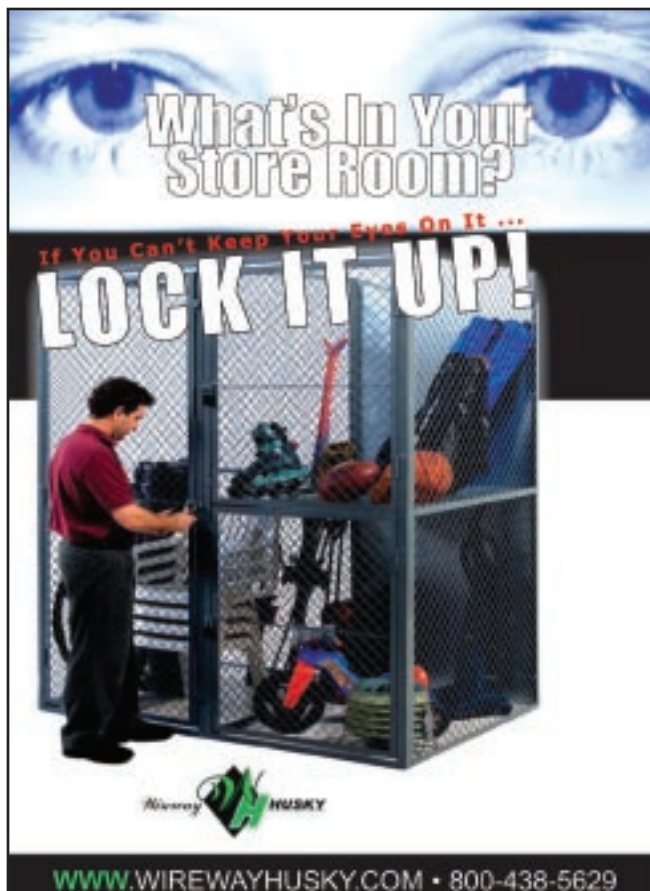
5. Do treat the individual with the same consideration and respect that you would like if the situation were reversed. This is one sign of a true professional.

4. Do take a thorough written statement at the conclusion of each interview that warrants one. The dishonest associate's statement needs to include intent, elements of the crime or policy violation, be thoroughly substantiated, and address the voluntariness of the statement among other things. Remember, a statement is the one thing you walk out with that you did not walk in with, and it must clearly detail the individual's admission and contain the elements of the crime or policy violation. This is probably one of the most common complaints of senior LP managers—poor statement taking by interviewers.

3. Do begin each interview with a plan of what you are going to say and the order in which you are going to say it. Anticipate problems and plan for alternative strategies should they be needed.

2. Do continue to learn and understand the different approaches to conducting an interview. There are resources, such as books, articles and classes, to help expand your knowledge of the field. Remember to use only those techniques and strategies permitted by the guidelines of your organization.

1. Do Practice, Practice, Practice. ■



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