

SCCE Internal Investigations Workshop San Francisco, CA



Interviewing the Subject

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Interviewing the Subject

- There is a difference between an interview and an interrogation. The Subject is interrogated.
- You seek information but mostly admissions of key details.
- The Subject should be confronted with the information and given an opportunity to respond.
- The Subject is entitled to offer exculpatory information and mitigating circumstances.
- Remind the Subject that you are a fact-finder, and the investigation should not be deprived of the Subject's facts.
- You seek to explain the "why" more than the "what."

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A Hostile Interview?

- There is a potential for strong interviewee emotional reactions
- People become hostile for one of two reasons:
 - They feel personally threatened
 - They have emotional ties to someone who has a reason to feel threatened
- Personality characteristics of the hostile interviewee
 - Resentful of authority
 - Someone to protect
 - Personal involvement
- Hostile interviews are charged with emotion. The interviewee reacts rather than thinks.
- Protect your professional and personal safety.

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Interviewing the Subject

- Do not anticipate the outcome of the investigation or speculate about what is likely to happen after the investigation is complete.
- Don't argue with the Subject.
- Ask the Subject open-ended questions and then follow with more-specific questions intended to solicit admissions.
- If the Subject attempts to undermine other witnesses, explore the basis of the attempt.
- Allow the Subject to suggest other witnesses who might corroborate his defenses.

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Overcoming Objections

- “I don’t want to get involved.”
- “Why should I talk to you?”
- “You can’t prove that.”
- “You can’t make me talk.”
- “I wish to remain silent.”

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Interrogation Do’s and Don’ts

- Use silence as a weapon.
- Keep questions short.
- Ask one question at a time.
- Question the answers you get.
- Don’t make promises or threats.
- Don’t show surprise at any answer you get.
- Don’t use profanity even if they do.
- Don’t lie or bluff.

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The Decision to Confess

- Confessing is counterintuitive.
- A witness can get away with lying.
- There are five reasons why people don't confess.
- There are reasons why people, in fact, choose to confess.
- The importance of rationalizations.

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Methods of Interrogation

- The factual interrogation
- The classic emotional interrogation
- The "theme development" interrogation
 - It's non-confrontational
 - Convince the witness you know he committed the misconduct
 - Use factual information and offer rationalization
 - Build from a small admission

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The Psychology of Deception

- Telling the truth is easy.
- Lying and deception are different but the same to the interviewer.
- All behavior is goal-oriented, so deception is their goal.
- Decision results from a series of decisions:
 - Do I tell the truth and, if so, what will be the consequences.
 - Do I not tell the truth and, if not, what strategy do I use?
- Lying is difficult and intentional.
- Lying is complicated.
- Lying is stressful.

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Closing Thoughts

- Interview the Subject at the end of your fact-finding.
- Consider exculpatory and mitigating information.
- Think procedural fairness.
- Look for admissions rather than confessions.
- Remember your personal and professional safety.

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