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## Questions from the Email Bag

### Part 2

In our last column we began a discussion of several questions posed by a reader. While we did not specifically address the substance of the questions, we did talk about the idea of cause and effect. In an interview, as in many things, there are cause-and-effect relationships at play that allow one to predict a likely outcome when a particular action is taken.

If an interviewer continuously faces the same daunting problem with a variety of people, it is likely he, his actions, or strategy are the actual cause of the problem. Unfortunately, the interviewer's action(s) might significantly precede the subject's response, making it difficult to identify the cause-and-effect relationship. Still, if one knows where to look there will be clues to the problem's origin.

Let's take a closer look at the questions posed by the reader.

*The topics we find that are troublesome are as follows:*

1. *The interview begins with a racial allegation. They claim the only reason they are being interviewed is because they are (black, white, Hispanic, etc.). It is very difficult to move away from this because in the back of your mind you are thinking about lawsuits. The other issue is that they tend to not let you move away from the topic.*

There are a number of issues raised by this question.

### Personality

Often problems such as these will be revealed during the investigation of the subject. A careful analysis of the individual's personality, demeanor, and interests will often give an indication of how he will respond to the interview. Many people who employ this tactic tend to have more aggressive personalities and are willing to engage in confrontational exchanges on a variety of topics.

The first question an interviewer should ask prior to any conversation with an investigative target is, "If this person has ever been interviewed or disciplined, how did he react to the encounter?"

People tend to be creatures of habit returning to the same patterns of behavior they have used before. It is likely the individual would have asserted discrimination in other situations, alerting the interviewer to this possible ploy. There

also might be examples of how the subject handles conflict in general that would be instructive for the interviewer.

If the subject has used discrimination or a similar tactic, it will be useful to examine how the subject introduced the allegation and what he said after doing so. The interviewer may also learn what responses seemed to control the subject's outburst. This analysis may help the interviewer preplan to handle the challenge.

### Interviewer Selection

Sometimes the choice of the interviewer may make the difference in how the encounter plays out. The investigator may find it useful to select an interviewer of the same gender or racial makeup to avoid the playing of the gender or race card. It is difficult to make the accusation of discrimination when your accuser has the same background.

Another consideration is choosing an interviewer who is familiar or unfamiliar with the subject. If the interviewer knows the subject and has had a good relationship with him, it makes the use of the discrimination card more difficult to carry off because of the past encounters. However, this familiarity may work against the interviewer if the relationship has been contentious or if the subject has been able to manipulate the interviewer during previous encounters.

If the interviewer has interviewed the subject previously without success, it will likely be a more difficult interview that could logically lead to a claim of harassment by the subject. Selecting a new interviewer will give the process a fresh start, rather than allowing the subject to begin knowing he has beaten the interviewer previously. There will also be a lack of credibility for the first interviewer since he was unable to successfully conclude the encounter the last time he and the subject met.

### Witness Selection

If the preliminary examination of the subject's background indicates he might employ the discrimination challenge, the interviewer should also consider selecting a witness whose mere presence might dissuade the subject from using the tactic.

Witness selection can be a useful avenue to control the more aggressive resistant subject. Control can be obtained through status. The interviewer may choose a witness who is in a senior

position and unknown to the subject. While the subject might act out with a lower level manager whom he knows, he is less likely to do so with a witness he does not know.

The subject will want to protect his job and livelihood, so he must be somewhat cautious how he behaves around someone with an important job who could potentially terminate him for inappropriate behavior. The subject now must listen carefully so the interviewer's words may actually have more impact than they would because of the status of the witness. The witness also can, if necessary, refute the assertion of discrimination by having personally reviewed the evidence in the case.

### Case Closure

Finally, the interviewer should consider the case development and evidence available. Whenever the interviewer believes he will be handling a more difficult individual, he would be wise to be conservative in making the decision to confront the guilty subject. Carefully considering the evidence will be important in making the decision whether or not the time is right to close the case.

The most important reason offered by those who confessed was their belief the investigation had revealed their dishonesty. Does the evidence support this conclusion, enabling a decision to terminate the individual without a statement? What does the decision maker need to be comfortable terminating the associate? If the evidence is not sufficient and the subject is likely to be difficult, then if possible, the interview should be delayed.

Another strategy is to catch the subject "with his hand in the cookie jar," which will eliminate much of the early resistance as the shock of being caught sets in. Even the seasoned criminal will be rocked by his apprehension and possibly open lines of communication with the interviewer.

The fear of lawsuits should be on our mind as we develop the investigation and close the case. However, we should not let that fear rule the rational and careful development of a case. When a carefully prepared investigation, its evidence, and the subsequent interview are independently examined, it should support the termination and prosecution of the associate. If we prepare a case for criminal court, the level of proof is "beyond a reasonable doubt" to justify a conviction; while to carry a judgment in a civil action it is the "preponderance" or 51 percent.

Taking the time to review your case with superiors, acting within policy, knowing the needs of the decision makers will diminish the interviewer's anxiety of a lawsuit. However, if it does not, then express your concerns to superiors before you do anything; at least then your actions and fears will have been blessed.

In our next column we will address what to say and do if all these preventive measures do not prevent this allegation. In addition, we will answer the rest of the questions posed by the reader in the first part of our response. ■

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