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## Attacks on Employee Interviews

### Part III: Ethics and Standards of Practice

In the last two columns we addressed false confessions, attacks on the interviewing method, and other areas of potential concern for interviewers and supervisors. The three types of false confessions previously discussed were voluntary, coerced compliant, and internalized. While each has more application to the public sector, because of the length of the interview we should anticipate some crossover into civil cases.

Probably the most difficult area for interviewers in the private sector is the development of the admission because of the amount of time over which the theft activity took place. While there may be some documentation available to support an admission, many confessions often rely on estimates of frequency and amounts taken. This gives the individual's best estimate of the loss, which may or may not reflect the actual truth. An interviewer who calculates theft activity using the upper range of the admission gets a larger admission, but then may have difficulty in substantiating the amount.

#### Voluntariness of the Confession

For a confession to be admissible in a criminal court, it generally must be knowingly and voluntarily given by the suspect. The court will usually consider the "totality of circumstances" to determine whether the confession was freely given. This means that the court will look at the preponderance of evidence to arrive at its conclusion. The court will take into consideration the age of the individual, his intelligence, the length of the conversation, his experience with police or loss prevention, and whether threats or promises were used to obtain the statement.

If there was coercive conduct on the part of the interviewer who obtained the admission using promises of leniency or threats, the statement will be considered involuntary and suppressed. While its use in court will be limited, it might still have an application to making a termination decision by human resources or management. If an involuntary statement is obtained, it will likely be subject to challenge at subsequent hearings by the employee's representative.

Certainly the threat of violence against the associate would taint the admission, as would the threat of bringing charges against family members if the employee did not confess. Promises, either

explicit or implied, may render the confession unusable as well. The interviewer may, however, describe or point out the benefits that flow from making a confession. Promising that there will be no prosecution if the employee confesses would likely taint the confession, but offering to tell the decision maker of the subject's cooperation does not make a promise to the individual.

Our detractors claim that the purpose of an accusatory interview is only to obtain a confession, when in reality it is a search for the truth. However, that truth can be an elusive companion, because of the resistance of the subject and perhaps his very real uncertainty of the full extent of his theft activity.

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The rigors of our task has professionalized our profession and encouraged standards be developed. The advisory board of the Center for Interviewer Standards and Assessment (CISA) developed and approved a code of ethics and standards of practice for interviewers obtaining the certified forensic interviewer (CFI) designation. Regardless of whether an interviewer has obtained the CFI designation, these ethical considerations and standards of practice make sense in today's work place.

#### Code of Ethics

The code of ethical conduct sets forth a series of expectations for the interviewer in the performance of his or her duties. Clearly the following guidelines articulate the personal and performance goals of a professional interviewer and mirror the expectations of organizations across the country who demand that their employees be treated in an ethical and professional manner.

*A certified forensic interviewer shall...*

- Strive for excellence and professionalism in the performance of his or her duties,

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- Not engage in unethical or illegal conduct, abiding by the law at all times,
- Exhibit the highest level of professionalism while interviewing sources, victims, witnesses, and suspects,
- Follow the rules of law and general practice in the jurisdiction of the inquiry,
- Accurately document and testify to the content of the interview, revealing all information without bias,
- Comply with all lawful orders of courts and administrative bodies,
- Not engage in unethical, physically abusive, or coercive activities during an interview or investigation,
- Respect the dignity of all people, being fair and just in dealing with an individual,
- Conduct himself or herself in a manner that serves the cause of truth and justice, and
- Separate himself or herself from influences that might bias their judgments while conducting the inquiry.

Can there be any argument that these ethical codes of conduct are what we all strive to abide by each and every day? Like an organization's mission statement, the code of ethics suggests being fair-minded, acting within the law, while reporting everything accurately and without bias. This is something we should all do without question.

## Standards and Principles of Practice

In addition to the code of ethical conduct listed above, the following standards and principles of practice have also been established.

*A certified forensic interviewer shall...*

- Not reveal confidential information obtained from an interview or investigation without proper authorization,
- Compare information received during the interview against that discovered during the investigation to evaluate the individual's truthfulness and accuracy,
- Accurately document the information obtained during an interview without bias or prejudice,
- Cooperate and share information with other investigators unless doing so would be unethical, compromise an investigation, or be illegal,
- Continually strive to increase competence and his or her knowledge of the profession,
- Not provide a report or opinion on the medical or psychological condition of an interviewee unless the interviewer is qualified to make such a report,
- Not participate in any interview or investigation designed to circumvent the law or impede justice,
- Not accept or solicit benefits designed to influence his or her opinions or report,
- Not knowingly submit, or permit to be submitted, information that is misleading or false in a report; each report shall be an objective factual account of the information provided in the interview,

- Not inquire about religion, politics, and union activities or race unless it is relevant to a specific investigation, and
- Cooperate in the investigation of any alleged violations of the certified forensic interviewer code of ethics or standards of practice.

Investigation of alleged violations of the certified forensic interviewer code of ethics and standards of practice are carried out by the grievance board of CISA. A CFI designee or applicant who makes false or misleading statements to CISA violates the CFI code of ethics.

The code of ethics and standards of practice establishes the minimal standard for interviewing and interrogation, however, any conduct or omission that discredits the CFI designation will not be condoned. Violations may result in censure, suspension, or the removal of the CFI designation.

Whether an individual obtains the CFI designation or not, adhering to these or similar codes of ethics and standards of practice make sense in today litigious environment. Many organizations in their policies and procedures touch on at least some of these standards as a matter of company policy and procedure. If your organization does not explicitly require these ethical codes or standards of practice, they may still form the basis of good decision making during an investigation and interviews. ■

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