

The Investigations Institute: Investigations Demystified



Best Practices - Phase Two (The Fun Part): How-To Conduct an Effective Investigation

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Agenda

Best Practices for Investigations: How-To Conduct an Effective Investigation

1

How to Start

2

Questions to Ask Every Time

3

Tricks For Special Occasions

4

How to Judge Credibility

5

How to Document

6

How to End

7

Avoiding “Mission Creep”

8

Unconscious Bias
(and the Millennial Gen.)

9

Questions?

How to Start a Witness Interview (by Marge Gunderson)

Company Name: _____ Mailing: _____
Shipping Address: _____ State: _____ Zip: _____
City: _____ Phone (required): _____
Dealers Resale: (We must have on file in order to give HQ prices)
Quantity: Number Description/Color Unit Price Total

Quantity	Number	Description/Color	Unit Price	Total
1	63CX52K754311120			
1	63HN52K754815548			
1	63WH52M15D337725			
1	63A355M2S6344360			
1	63A355M2S6349218			
1	63A385M8S6314135			
1	636M11Y9JP317684			
1	63CW5130H432800			

Great Questions to Ask

Every Time!

Who else should I talk with?

What documents do you have?
(Don't forget texts!)

Start broad and then get narrow

Have you felt yourself the victim
of retaliation?

No question at all (the power of
silence!)

What do you want (asked of the
complaining person)?

Tricks – For Special Occasions

“Cross examine” key witnesses.

Ask about motive

Allow people to bring lawyers and other support animals to your interview

What we can all learn from Governor Cuomo (Part 1)

How to Judge (and write about) Credibility

- “contemporaneously memorialized”
- “reported the interactions to the Governor’s Chief of Staff”
- Pictures!
- “[Governor Cuomo] variously described those conversations as not having happened or having been misinterpreted” – Well Governor, which is it!??!!
 - *“I feel confident saying I’ve never kissed [Exec. Asst. #1] on the lips.”*
- “The Governor’s blanket denials and lack of recollection as to specific incidents stood in stark contrast to the strength, specificity, and corroboration of the complainant’s recollections, as well as the reports of many other individuals.”
- Don’t bury contradictory evidence in the footnotes (as the Cuomo investigators did) ... deal with it honestly.
- Specific allegations versus generalized statements and blanket denials.
- Motivation: “Importantly, Trooper #1 had no desire to make her allegations public.”

What we can all learn from Governor Cuomo (Part 1, Cont.)

Compare:

- “We found Exec. Asst. #1 to be credible both in demeanor and in the substance of her allegations. The experiences she had with the Governor were difficult for her to recount, but she did so with care and seriousness. She testified about what she could recall with specificity and she credibly noted things that she did not recall. She did not overstate or seek to exaggerate the allegations.”
- “Gov. Cuomo denied a number of Exec. Asst. #1’s allegations, but we found that his denials lacked persuasiveness, were devoid of detail, and were inconsistent with many witnesses’ observations.”

What we can all learn from Governor Cuomo (Part 2)

How to Document Your Investigation

- Discuss the scope of the investigation – that you set at the outset – and use that as a touchstone throughout the report.
- Clear conclusions: “[W]e found [Governor Cuomo’s] denials to lack credibility and to be inconsistent with the weight of the evidence.”
- 164 pages and 1371 footnotes!!!

How to End a Witness Interview (by Marge Gunderson – *again!*)



A Word on “Mission Creep”

Investigations – particularly comprehensive ones that involve many witness interviews – can grow and grow in scope. What do you do?

- Certain new allegations must be dealt with immediately – violence, *ongoing* harassment/discrimination, retaliation.
- Certain allegations can be deferred if they will unduly slow you down and/or are tangential to the “scope” you defined at the outset.
- Certain allegations are sufficiently close that you may choose to address them now.

Unconscious Bias and the Millennial Generation

- Care must be taken to not let unconscious bias influence an investigation.
 - “Like me” – affinity bias
- Gather evidence which supports and contradicts conclusions.
 - All needles will not point in the same direction
- Cuomo: “In my mind, I’ve never crossed the line with anyone, but I didn’t realize the extent to which the line has been redrawn.” “There are generational and cultural shifts that I didn’t fully appreciate.”

Questions????

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