PacificCPE

COURSE
11603A

Interviewing and Interrogation Skills for Investigators

Knowing how to ask the right questions can make or break a fraud investigation. This chapter covers proven techniques for conducting effective interviews and interrogations, from building rapport with cooperative witnesses to navigating conversations with individuals who may be deceptive. You will learn how to plan interview strategies, read behavioral cues, and document responses accurately. These practical communication skills are essential for any professional involved in fraud examination or internal investigations.

CREDIT HOURS 2 | FIELD OF STUDY AUDITING | EXAM QUESTIONS 10

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LEARNING ASSIGNMENTS AND OBJECTIVES

Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 10 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Identify the characteristics of an effective interview or interrogation.

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Chapter 1: EFFECTIVE INTERVIEWING AND INTERROGATION

Chapter Objective

After completing this chapter, you should be able to:

- Identify the characteristics of an effective interview or interrogation.

Reflections on a Career

By Paul Zikmund, CFE, CRMA, CBCP, CAMS, MBA, MAcc, MBEC

I began my career as a police officer. I spent 10 years serving in various aspects of law enforcement until I transitioned into a corporate investigations position for a large chemical company. In that role, I investigated incidents of fraud and misconduct. Until that time, I had never flown on an airplane. Within months, I was traveling the world conducting investigations of malfeasance, including interviewing. As time passed, I assumed additional responsibilities for managing corporate security and my corporate career was launched.

I immediately began studying for the CFE exam and passed it in 1998. I still remember studying in the HQ library during my lunch breaks to prepare for the exam. Then, my career transitioned again—I spent a brief period of time as a financial analyst and sales person after completing my MBA. Though I learned new skills, my heart remained in fraud examination and security risk management.

I quickly moved back into a Director of Security role for a large telecommunications company and assumed investigative, security, and asset protection responsibilities but also began managing people, which I loved! My responsibilities as Director of Security exposed me to a new industry and enabled me to begin building leadership skills.

I continued pursuing education and certificates, strongly believing in continuous investment in oneself. I now conduct training courses on the various aspects of fraud risk management. My observation: When you stop learning, you stop growing. I invested in learning more about the usefulness of including data analytics as part of my fraud detection tool kit. The use of data analytics enabled our teams to analyze large amounts of data in relatively short periods of time. We identified examples of anomalous behavior or patterns indicative of fraud. I've continued using these tools throughout my entire career.

I also invested additional time and effort to become a very effective interviewer. Through training, certifications, and hands on experience, I became very good at getting people to tell me the very things they did not want me to know.

Over time, my role continued to grow and eventually I was hired to develop a Forensic Audit Department at a global company that had just experienced a large compliance failure and was being investigated by the Department of Justice (DOJ) and Securities & Exchange Commission (SEC). This was an opportunity of a lifetime for someone as passionate about fraud risk management as I was.

Along with my leadership group, we built a Fraud Risk Management program and a global team to manage the workload. We conducted hundreds of investigations annually, often relying on interviewing and helped reshape the company culture. I was so proud of our accomplishments. I was recruited away from this role and hired to build a similar program at another large global agriculture company. When I started this new role, I noted that the company lacked a global security and an ethics and compliance program. My responsibilities grew quickly and I became the Deputy Chief of Compliance and VP for Corporate Security. I spent approximately eight years in this role and eventually made a transition into a consulting role.

My true passion continues to lie with building and managing internal programs. Therefore, I transitioned back to an in-house role and became the SVP Chief Risk, Compliance, and Information Security Officer with my current employer, which is a commercial real estate company. I now add value in multiple areas and am grateful for the ability to make such impactful contributions to corporate success.

I'm blessed to have worked in such great jobs with terrific people. Many of my former team members are now in leadership roles with other organizations and I'd like to think that some of their success was attributed to our time together. I know that much of my success is attributed to what I learned from them!

As I reflect back on a storied career with worldwide responsibilities, I trace my success back to my early days first as a member of law enforcement, then as a fraud examiner and learning to interview. As a CFE, I learned about people, culture, internal control, how to influence human behavior and how these attributes interact. The world of forensic accounting and fraud examination is ever-changing and I can't wait to see what's next!

The Interviews at WorldCom[1]

Cynthia Cooper was one of three women named Time Magazine's Persons of the Year 2002 for her role in uncovering the WorldCom fraud. In March of 2002, she and her key associates Glyn Smith and Gene Morse had completed, to the extent permitted by the evidence, their examination of the books and records of WorldCom. The team believed that the evidence indicated $2 billion spent on capital expenditures during the first three quarters of 2001 did not meet the definition of assets. Gene Morse had made another discovery: $500 million in undocumented computer expenses recorded as fixed assets.

On June 17, Cynthia Cooper and Glyn Smith began a series of informal verbal confrontations—information gathering and admission-seeking interviews. They started with Betty Vinson, director of management reporting. Vinson admitted to making the entries and stated that she did not have any support for them. Next, they approached Buddy Yates, who pleads ignorance and sends them to David Meyers, WorldCom Controller.

While Cooper and Smith were conducting the interview with Myers, he confesses: the accounting treatment was not in compliance with generally accepted accounting principles. He further admits that the accounting journal entries should not have been made, but that once it had started, it was hard to stop.

Ms. Cooper then prepared for meetings with the audit committee. On June 20, Scott Sullivan, WorldCom Chief Financial Officer, was scheduled to defend WorldCom's accounting. Mr. Sullivan tried to give an explanation for the accounting adjustments but asked for more time to support the accounting for line costs. He constructed a "white paper," attempting to make the case that the accounting treatments WorldCom used were proper. The audit committee did not agree; on June 24, the audit committee informed Mr. Sullivan and Mr. Myers they would be terminated if they didn't resign. Mr. Sullivan refused and was fired. Mr. Myers resigned.

This case highlights the importance of interviewing and interrogation skills in forensic accounting and fraud examination. Many individuals interview without realizing the wealth of information that can be gathered using proper interviewing tools and techniques, as discussed in this chapter.

This chapter and the following modules examine various tools and techniques for fraud detection and risk assessment. These modules, along with the learning objectives, include the following:

- Module 1 briefly introduces the concepts of the interview and the interrogation. In general, an interview is related to information gathering, while an interrogation is associated with seeking an admission of guilt from a suspected perpetrator. The objective of this module is for the reader to be able to compare and contrast an interview with an interrogation.
- Module 2 drills down into the details of the interview and the interrogation. The goal in this module is for readers to apply the tools and techniques associated with interviewing and interrogation to case scenarios.
- Module 3 closely examines the five types of questions used during interpersonal interactions: introductory, informational, closing, assessment, and admission-seeking. The last two are typically used during an admission-seeking interrogation. The objective is for readers to be able to identify appropriate questions and use the questions in the context of an interview or interrogation.

- Module 4 outlines the steps in the admission-seeking (interrogation) process. Interrogations have many more rigid protocols than information-seeking interviews. As such, it's important to embrace best practices during admission-seeking activities. The goal here is for the reader to be able to apply admission-seeking interview skills in case scenarios.
- Module 5 considers the tools and techniques used to judge truthful and untruthful responses and behavior during the interview process. The goal in this module is for readers to apply the needed skills to identify truthful versus deceptive behavior.

MODULE 1: INTRODUCTION TO INTERVIEWS AND INTERROGATIONS

In the fraud examination and forensic accounting professions, nothing is more important to the successful resolution of a case than the ability to conduct thorough interviews of witnesses and interrogations (also known as admission-seeking interviews) of subjects and targets. While accountants and auditors routinely ask questions, the queries rarely are for the purposes of confronting a subject with wrongdoing. Interviewing is the systematic questioning of a person who has knowledge of events, people, evidence, and other details surrounding a fraud or forensic accounting issue. In contrast, interrogation generally involves the questioning of a suspect, target, or uncooperative witness to obtain evidence, to obtain an admission of guilt or complicity in an act, or to give the interviewee an opportunity to volunteer facts and circumstances that may eliminate them as a suspect or target of the examination.

The terms "suspect," "subject," and "target" are used somewhat interchangeably, even by experienced interviewers, but they are not precisely the same. A *suspect* is just that—a person suspected of committing an offense. Once the examiner is fairly sure that the suspect has committed the fraud, the term changes to *subject* or *target*. However, *target* is more commonly used by prosecutors, who frequently send "target letters" to the subject of an investigation, putting the person(s) on notice that grand jury proceedings are likely imminent.

Interviews and interrogations have many similarities: both require planning, controlled surroundings, some level of privacy, rapport between the interviewer and the interviewee, and proper documentation upon completion. However, interviews contrast with interrogations in many ways. First, interrogations, are adversarial in nature, generally require more planning to be effective, as well as more control of the surrounding environment, and absolute privacy. In addition, whereas interviews are primarily an information-gathering exercise, interrogations act to test or confirm information already known or suspected by the examiner. Furthermore, in most situations during an interrogation, especially by law enforcement, the interviewer must be vigilant of the rights of the interviewee. Interrogations can often generate a hostile reaction from the subject or suspect, whereas most interviews are conducted in a spirit of cooperation. Finally, the subject of an interrogation is suspected at some level of culpability in the act under examination.

In civil litigation, interviews are critical. Generally, interviews are often conducted through deposition testimony, so the interview will not be conducted by an examiner, but by an attorney. However, even in those situations in which the fraud examiner or forensic accountant will not be asking the questions, he or she nonetheless may play a critical role. Attorneys often request that the fraud or forensic accounting professional provide an outline of topics that require inquiry. Furthermore, because many attorneys have no training in accounting and little experience with topics such as debits, credits, financial statements, revenues versus assets, and liabilities versus expenses, they may request that the forensic accounting expert develop a long series of questions in advance of the deposition. In those circumstances, the attorney will be burdened with asking appropriate follow-up questions, looking for signs of deception and making sure that the topical area is exhausted prior to moving on to other topics. In that regard, the attorney will often request that the fraud professional or forensic accountant attend the deposition of key witnesses who have knowledge of, or should have knowledge of, the financial transactions and how they are reflected in the books and records. In those circumstances, the expert will need to treat the deposition as if he or she was conducting the interview to ensure that the testimonial record is complete.

There are several rewards for effective interviewing and interrogation skills, including

- Reduced investigation time
- Increased probability of investigative success (consistent with the attributes of validity and reliability)
- Improved confidence in investigative conclusions (consistent with the attributes of validity and reliability)
- Direct evidence of culpability versus indirect evidence from examination of books, records, and other evidentiary forms
- The elimination of innocent subjects or targets

Interviews in Cases of Suspected Fraud or Corruption

In a fraud examination, evidence is usually gathered in a manner that moves from general to specific, as illustrated in Figure 3-1. That rule applies both to gathering documentary evidence and to taking witness statements. Therefore, a fraud examiner would most likely start by examining appropriate documents and records, and then interview neutral third-party witnesses—persons who may have some knowledge about the suspected fraud, but who are not involved in the offense. For example, the fraud examiner may start by interviewing former employees of the company, and then, corroborative witnesses—those people who are not directly involved in the offense, but who may be able to corroborate specific facts related to it.

FIGURE 3-1 EVIDENCE-GATHERING ORDER IN FRAUD EXAMINATIONS



Interviews in Fraudulent Financial Statement and Tax Return Examinations

Interestingly, with fraudulent representations, such as materially misstated financial statements and falsified tax returns, the examiner starts with the suspected perpetrator. The logic of this is simple; assuming the person knowingly created false financial statements or tax returns, the falsification is part of the concealment of the act. The perpetrator has made one of the following assumptions: (1) the auditor or fraud examiner won't find the issue; or (2) if red flags related to the issue are identified, the professionals won't be skilled enough to unravel the underlying evidence to determine what really happened. Essentially, the alleged perpetrator is pitting his or her intellect against that of the auditor or the examiner. Thus, by interviewing the suspected perpetrator at the

inception of the audit or examination, the professional is documenting the interviewee's claim(s) that the financial statements are not materially misstated, or that the tax return properly reflects all items of taxable income and taxes owed. Thus, if the professional subsequently finds fraudulent financial reporting, he or she has caught the perpetrator in a lie and has developed further evidence of concealment.

MODULE 2: DETAILS OF THE INTERVIEW AND INTERROGATION PROCESS

In a survey of research associated with eyewitness accounts, authors Gary Wells and Elizabeth Olson note, "The criminal justice system relies heavily on eyewitness identification for investigating and prosecuting crimes. Psychology has built the only scientific literature on eyewitness identification and has warned the justice system of problems with eyewitness identification evidence. Recent DNA exoneration cases have corroborated the warnings of eyewitness identification researchers by showing that mistaken eyewitness identification was the largest single factor contributing to the conviction of these innocent people."[2]

At the same time, Wells and Olson observe, "Eyewitnesses are critical in solving crimes, and sometimes eyewitness testimony is the only evidence available for determining the identity of the culprit." Given concerns about eyewitness accounts, for the remainder of this chapter, the authors consider tools and techniques for soliciting reliable and valid data developed from interviews and interrogations. Readers are also encouraged to corroborate the results of interviews and interrogations to other sources of evidence.

Preparation and Planning

Preparation and planning are critical to successful interviews, interrogations, and depositions. Preparation includes knowing as much as an interviewer can about the witness, the suspected crime (or forensic accounting issue), the victim or victim organization, and possible perpetrators, in advance of the interview. In this regard, the fraud examiner or forensic accountant must pore over all the available evidence to identify what areas need to be covered in an interview, detect clues to deception in the interviewee's statements and nonverbal body language, and recognize unreasonable and inappropriate explanations for behavior and interpretations of the evidence by the interviewee. Many antifraud professionals, forensic accountants, and attorneys will suggest that the outcome of an interview or interrogation may be determined before the first question is asked. Preparation is the primary key to success.

When planning an interview, the interviewer should have an understanding of the offense under examination:

- What are the legal elements (i.e., is it a fraud charge)?
- What are the details of the alleged issue under examination:
    - Who?