Investigative Interviewing
4 Interviewing the reporter

What questions should I ask the reporter?

Your interview goal with the reporter is a full debriefing on the concerns raised. You want to exhaust the reporter's knowledge on the matter, understand the basis of his knowledge, identify additional information sources, and help your effort to determine the next steps.

Some of the basic intake questions to ask the reporter include:

- What happened that led you to make the report?
- Why are you making the report at this time?
- What happened, where and when?
- How did this affect you personally?
- Has it affected others and, if so, how?
- How have you responded to the matter?
- Has it ever happened before, if you know?
- Have you discussed your concerns with others? If so, with whom and when did you discuss them? Was any action taken?
- Who else knows about this?
- Have you discussed this with anyone outside of the company? If so, with whom and when?
- Why do you think this occurred?
- What documents do you think would help in our inquiries?
- Who else might we speak with to learn more about the matter?
- What do you believe should be done to resolve this?

If the report was not made through the hotline, should I ask why it wasn't used?

Regardless of how your company positions your hotline—"tell us your workplace concerns" or "call us only if you are sure the CFO is a crook"—it remains a significant source of reports for possible investigation. Your professional effectiveness depends on a robust use of the hotline.

When interviewing a reporter who contacted you through the hotline, the reporter's reasons for using it may be apparent. Maybe he saw the posters, or remembered the number from the code of conduct, or someone in Human Resources gave it to him. But when the reporter comes to you from a different source, do you ask why they didn’t call the hotline? Don’t you want to know why?

Reporters who didn’t use the hotline may offer a variety of reasons, all helpful to understanding some practical dynamics in your company. Do these people know the phone number and your company leadership’s expectations for its use? If your company has a mandatory reporting policy, do the employees know about it? Do people doubt either that their anonymity will be protected or that the company will meaningfully respond to the report?

Knowing how your employees view the hotline in this real-world setting—instead of the numbers of posters and slices of “Compliance Day” cake distributed—will help you take the needed steps to ensure the hotline remains valuable and relevant to the business.

Aren’t anonymous reports inherently unreliable?

Anonymous reporters are neither unethical nor character assassins. Choosing to remain anonymous does not mean that the initial report is made in bad faith. (The converse is equally true. Identified reporters are not always paragons of good-faith corporate citizenship.) It seems ridiculous, therefore, that executives in some companies piously state that a reporter must have the courage to identify himself before the company should consider the report seriously.

Reporters choose to remain anonymous because they fear retaliation for making the report or they are skeptical that anything will change if they make the report. In a sense, these reporters blame those pious executives for not practicing what they preach to others.

Companies should encourage people to identify themselves and report their concerns. However, it is not unethical to make a report anonymously and, under some conditions, it might even be reasonable. Anonymity is not a significant problem for you if a reporter wants to remain that way. (Incidentally, many anonymous reporters self-identify once your professionalism and commitment to confidentiality become apparent, and the reporter no longer fears retaliation.) What you care about is the information and the basis for that person’s knowledge. If you get information from a credible interviewee, the person’s identity is not crucial.

If I think I know who made the anonymous report, should I try to identify that person? Won’t that make my inquiries easier?

An identified reporter makes your investigation easier. But don’t actively try to identify anonymous reporters. If you compose a good interviewee list, the anonymous reporter will likely be one of your interviewees. Don’t undermine the promised anonymity of your hotline by doing anything to make people fear they will be identified.

So if the reporter is anonymous and cannot be interviewed, do what you can in other ways to learn about the report’s substance. If the report specifies a branch office, speak to its manager. If a co-worker is named in the report, check with that person’s supervisor or Human Resources manager. The reporter is only one source of information even when identified. There may still be other sources of information for you to check if you need them.

Reporters frequently ask for things I cannot give them. How do I manage their expectations?

Manage the reporter’s expectations carefully. Ask the reporter how the issue should be resolved. Asking the question gives you an opportunity to explain to the reporter whether his expectation of what you can or will do is realistic.

A reporter may not make a report immediately after misconduct has occurred. The more-likely scenario you will encounter is a litany of events which allowed the reporter's feelings to fester. By the time you learn about it, the reporter may feel aggrieved. The passage of time probably reinforced the reporter's desire for some specific redress. He may want the bonus or promotion he feels he has been denied, he may want to see someone fired, or he may want a nice cash payment by your company to compensate for the injustice he claims to have suffered.

But you are a management representative, not an ombudsman. Your obligation is to identify misconduct so that it can be addressed. You do not conduct investigations to redress the grievances of a company employee. The investigation protects the company by identifying areas of unacceptable business risk. The investigation is not a dispute-resolution process.

You properly manage expectations when you explain your role in the process and what the reporter should expect as a result of your efforts. Whatever you choose to say, don't leave the reporter speculating about what you might be able to do for him. You may expose yourself and the company to further problems if the reporter eventually believes, because you were not clear enough earlier, that you didn't do what he thought you would because, in his view, you chose instead to whitewash the misconduct he alleged and you investigated.

The reporter is entitled to have you accept the report, consider whether a workplace investigation is warranted, and resolve the report as appropriate. Any other reporter benefit is simply a collateral result of your efforts.

If the reporter tells you he only wants to share his concerns but does not want an investigation conducted, advise the reporter that, depending on the information, you may have a legal obligation to investigate. His preferences are immaterial.

Can a reporter withdraw a report and stop further inquiries?

Recanting reporters don't stop investigations. Sometimes a reporter is angry, upset, or otherwise passionate about making a report. During the intake process, the reporter finds his concerns validated by a compliance professional—validating, however, does not necessarily mean agreeing with them—and this reduces the reporter's passion about the matter. The reporter now starts becoming concerned that, despite your company's non-retaliation policy, his identity will be learned, and he will be a future victim of retaliation. The reporter's information has clearly established a reasonable basis to justify an investigation, but now he essentially has buyer's remorse. The reporter wants to withdraw the report and forget the whole thing.

The simple answer is that you can't forget it. You are a management representative. Someone with personal knowledge (the reporter) has made a credible report to you of possible misconduct. The company, therefore, is on notice of possible employee wrongdoing. Your investigation is based on that information, not the reporter's willingness to cooperate or earlier desire for some resolution. The investigation must continue. You cannot un-ring the bell.

How do I learn the reporter's motives for making the report?

A report is rarely made out of good corporate citizenship. People report misconduct for a variety of reasons. A reporter may be a resigning employee who wants either to take a parting shot at someone or share information that he now feels liberated to disclose. A reporter may be someone who feels aggrieved by a lost promotion or bonus. A reporter may be someone who believes that throwing someone else under the bus is a good way to advance his career. A reporter may also be someone who, having participated in wrongdoing, reports others in order to distance himself from it. Remember that a report is rarely made simply to protect the company's interests.

Here are some simple questions to ask to identify the reporter's motive:

- What is the personal and professional history between the reporter and the subject?
- Does the reporter consider the subject a friend or someone to whom he is hostile?
- Has the reporter been personally affected by the conduct described in the report?
- Have any of the reporter's friends (or someone else the reporter has some personal connection to) been personally affected by the conduct described in the report?
- Why is the reporter raising this concern now?

In some cases, the reporter should be considered like an informer to law enforcement: someone who gives information because of a definite personal gain or motive. The motivations may be varied. Generally, motivations fall into these categories: revenge, reward, repentance, and ego. Whatever the motives, be sure to learn which ones motivated your reporter.

How do I wrap up the reporter interview?

You want the reporter to feel he has received a reasonable opportunity to be heard and understood. You also need the reporter to remain available to you as the investigation proceeds.

As you complete the debriefing of the reporter, take the following steps:

- Summarize the reporter's statements to be sure you understood them correctly.
- Verify your contact information for the reporter, and make sure the reporter has your information as well.
- Confirm that the reporter understands your role in the investigation process so you can align his expectations accordingly.
- Thank the reporter for giving you the opportunity to learn more about his concerns. (Note that you are not thanking the reporter for making the report but simply for his time. Doing otherwise may lead the reporter to think that you agree with the substance of his report.)
- Explain the next steps in the process so the reporter will know that the information provided is important and being taken seriously.
- Remind the reporter of the non-retaliation policy in your company. Instruct the reporter to contact you immediately if he believes he is being treated improperly as a result of making the report.
- Tell the reporter that you may need to conduct a follow-up interview as additional information is learned.

Do I make an investigation decision after reading the initial report?

Don't take the reporter's information at face value. Further inquiries should be made.

In most investigations, the reporter is as much a stranger to you as are the people about whom he is reporting. You probably know little more than the facts of the report. You do not know if his characterizations are even remotely accurate. Reporters usually offer conclusions about the behavior they report, such as "my boss discriminates against me." Few reporters offer the facts without also adding their own interpretation of what the facts mean.

So what do you do? Just focus on the facts of the report, and ignore the conclusions, editorializing and commentary. Look for complete answers and full descriptions. Identify participants and possible interviewees. You can quite easily accept the facts without the spin.

A reporter interview, unlike other interviews, also seeks to establish a reasonable basis to warrant the investigation. This means you also need to know of any facts which may show misconduct didn't occur. Probe for weaknesses by asking reporters what they expect the subject to say in defense of his actions, and why such a response is not sufficient to dispose of the matter. Questions like these might show that a reasonable basis does not exist or, to the contrary, it might help identify why the complained-about conduct might have no legitimate business justification.

Your job is neither to vouch for the reporter nor accept his information at face value and run with it. The reporter is simply an important information source who should be debriefed thoroughly.