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Cognitive Errors Hamper Internal Investigations; Demeanor Is Poor 'Predictor' of Lying

By Nina Youngstrom

When former Department of Justice attorney Michael Johnson performs workplace investigations, he steers clear of background information on the target of the investigation and the person who filed the complaint. It can cloud his judgment to hear comments like, "I've known Bob for 17 years, and he's a good family man; there's no way he could have said that or touched her," or to be informed the hotline caller has complained several times before.

Too much knowledge about the people embroiled in an investigation can lead to a cognitive error called fundamental attribution error, Johnson said at the virtual Compliance and Ethics Institute Sept. 14 sponsored by the Society of Corporate Compliance & Ethics.^[1] "A fundamental attribution error is where we tend to judge whether a person committed or didn't commit misconduct based on what we think the person's character is," said Johnson, CEO of Clear Law Institute. Another common error in workplace investigations is confirmation bias, where people have a working hypothesis and tend to focus on evidence that supports it and discard evidence of an alternate conclusion.

Cognitive errors like confirmation bias and unconscious bias can affect the role of compliance officers, he said. "We all think our brains are logical and make decisions by logic," such as during investigations of employees who may have violated a policy or have a conflict of interest. But research has shown that conventional ideas of when people are lying are wrong and that investigations are more effective if investigators focus on listening to the witness's narrative.

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