

Interviewing witnesses, Part 5



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Picking up where we left off in July, this is Part 5 in my series of articles about tips for stewards when interviewing witnesses.

Challenging the witness—Occasionally, witnesses will make statements (or verify earlier ones) that you strongly believe are not true, and your natural instinct will be to confront them. Certainly there will be times when you should (carefully) challenge particular statements and other times when you will want to

leave them alone.

If you do have to confront witnesses about a previous statement, be tactful. Do it in a way that doesn't offend them or cause them to get defensive and clam up. Don't say something like "I don't believe you" or "That can't be true." Instead, play dumb and ask for their help. "I just have this one thing that I can't figure out, maybe you can help me" or "The inspectors who interviewed you before didn't take very good notes, so maybe I'm reading this wrong, but it appears that..." In general, people like to see themselves as helpful and they get good feelings about themselves when they help others. So playing uncertain and asking them to help you understand something that they said usually works much better than calling them a liar.

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Sometimes witnesses will say things that are untrue, but they don't know it. This often happens when asked questions about distance, height or speed, or it may be about how long something took or what time it was. When you see "facts" like this in a statement, verify them.

"I see you said the accident occurred at 10 a.m. How did you know it was that time?"

"You said you were about 50 feet from the front porch. Can you show me about how far that was?"

There may be situations where a witness's statement against your grievant is so obviously untruthful that it's best to not bring it up. If you can prove the statement is false using other evidence, then leave it alone. Trying to get a witness to admit he or she is wrong or lying serves no useful purpose at this point. Just be sure to note this in the grievance file to alert those who handle the case after you.

Reviewing previous statements—Usually, when witnesses are interviewed by a Postal Service investigator, there

will be two matters you will have to deal with. The investigator will ask them questions about what they saw, heard or experienced. If an investigator hears something that is helpful to the investigation, he or she will ask witnesses to write a statement. Sometimes investigators will even "help" witnesses write them. Additionally, an investigator may prepare a memorandum or summary of the interview stating, in the investigator's own words, what the witness said and other observations made in the investigation. "The witness appeared nervous." "The witness indicated agreement." It is important to go over both of these when you re-interview these witnesses. How you do this will vary depending on the circumstances of the case.

It may not be the best tactic to just show them the statements up front and ask them to verify whether or not they are true. A better approach is to first ask them to recount from their own recollection what they saw, heard and experienced without letting them see their earlier statement or what the investigator wrote down. It may have been several weeks or even months since they were first interviewed and their memories may be foggy, but it's not your job to help them out. If they forget something, do not be too quick to prompt them or help them refresh their memories by telling them what's in the file. Let them ponder a bit. Be sure to take notes as they talk and flag any inconsistencies between what they or the investigator said or wrote then and what they are telling you now. Then go back over the material with the witness to verify the accuracy of the report.

You also are going to want to find out from the witness what is *not* in management's report. As Sherlock Holmes might say, "The curious thing is the dog that didn't bark in the night." It may not surprise you to learn that management-initiated investigative reports sometimes leave out information or evidence that helps your case.

Ending the interview and follow-up—It's always a good idea to end an interview by asking witnesses if there's anything they can think of that you might have missed or if there is anything else they'd like to say, no matter how trivial it may seem. You may find the nugget you were looking for. Also, witnesses often remember important information after you leave, so provide them with a way to get in touch with you. You also want to leave the door slightly open in case you think of something you want to ask them later.

"Thank you so much for taking the time to speak with me; you've been very helpful. I'm going to give you my business card with my phone number, and if you think of anything that you may have forgotten, no matter how trivial it might seem, please call me. OK?"

If you don't hear anything from the witnesses, and if it seems appropriate, call them after a week or so to thank them again for their help and, while you are at it, ask them if they'd thought of anything else you might have missed.

I'll wrap this series up in the September issue.