

Still more tricks of the trade



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Picking up where we left off in May, this is Part 4 of my ongoing series about tips for stewards when interviewing witnesses.

Conducting the interview—Give witnesses a chance to relax. As noted previously, a few minutes of small talk will help break the ice and build rapport. Listen effectively. Lean forward to emphasize interest in what they have to say. Maintain eye contact. Ask them some routine questions for basic information. Get the

correct spelling of a witness's name and then refer to the witness by name. You can get the answers to these simple questions elsewhere, but people enjoy talking about themselves and it shows that you want to get all the facts correct.

listener shows respect for what the witness is feeling and expressing. There is a basic but powerful need to be understood and the investigator who is also a good listener is filling that requirement in addition to gaining necessary information. Effective listening begins by keeping the mouth tightly closed. And above all, do not interrupt the witness. Your question or comment can wait. Let them finish.

Investigator bias—We are all biased. Everyone has preferences and beliefs. Investigator bias refers to the process by which the investigator influences the interview. If you allow your preferences and beliefs to intrude into the interview, they may produce erroneous information.

Your behavior when asking questions and recording answers can affect the flow of information. Something as simple as your act of jotting down an answer, or not jotting it down, may cause the witness to believe the subject is important or unimportant, triggering them to expand on or stop talking about the topic. If you communicate, either verbally or non-verbally, that some facts are unimportant or that you do not believe what the witness is telling you, that witness is likely to stop offering vital information. Studies show that even the particular words you use, the way you phrase a question, or the sequence in which you ask questions can alter the way in which a witness remembers an event.

For example, asking witnesses “How fast was the vehicle traveling?” nearly always results in them stating a higher speed than other witnesses who are asked, “How slow was the vehicle traveling?” Similar results occur when asking such things as “How tall?” “How far?” and “How long?” as opposed to “How short?” or “How close?” Most witnesses are not very accurate when making estimates of time, speed and distance. Try to keep your questioning neutral, using terms such as “Can you estimate the distance?” Or “About how much time did that take?”

Bias is also introduced by investigator reaction to witness testimony. What ends up in your memory may not be what they told you. You may simply not hear some things that the witness might say, especially if those things run counter to your own attitudes, opinions or preconceptions. You may edit an answer and store the characterization in your memory. Be sure to differentiate between what the witnesses say and how you hear and interpret their testimony. Any preconception about what actually happened makes an investigator highly susceptible to errors in gathering the evidence. You tend to find what you are looking for.

I'll have more interviewing tips in the next issue.

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If you conduct the interview at the home or workplace of the witness, survey the surroundings. People surround themselves with symbolic items of interest or importance in their lives. Look around to find some common ground or interesting hobby the witness has. Get them to like you. Show understanding and concern. Establish a bond of trust and become their friend. Sometimes, offering a sympathetic, nonjudgmental ear to someone who needs to be understood will trigger a flood of information. The interviewer should treat the witness as an individual and not as a statistic.

Witnesses are likely to be more open if only one steward investigator is present; however, it may be prudent to have a third person in the room if the steward and witness are of opposite sexes or if the witness is a child. All requests by the witness for a third party to be present during any interview should be honored.

Listen to the witness—There is a vast difference between hearing and listening. Most of us prefer to talk rather than listen and are able to listen about four times as fast as the other person talks. There is a danger that if you allow your thoughts to leap ahead and anticipate what will come next, you may miss something important.

Listening is more important than speaking. An active