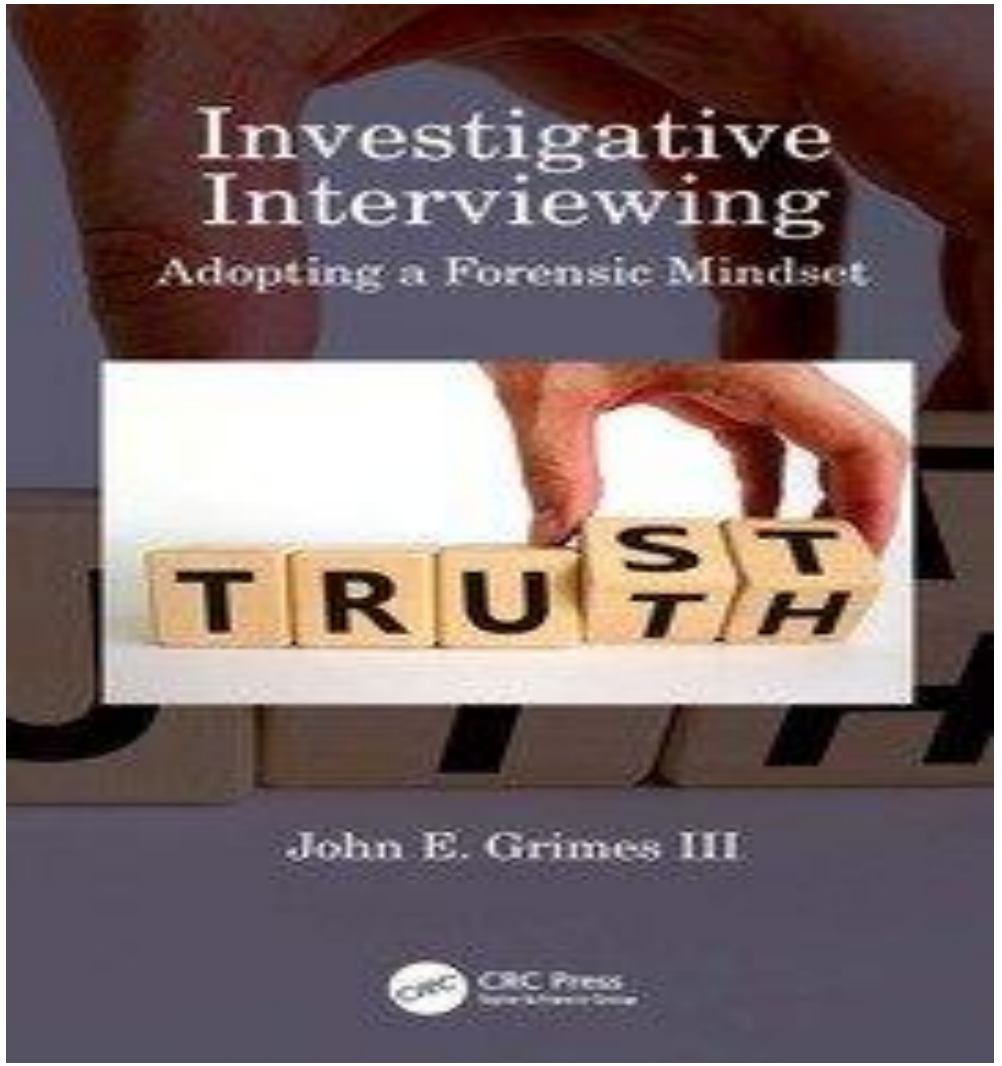

Investigative Interviewing
Adopting a Forensic Mindset
TRUST
TRUTH
John E. Grimes III
CRC Press

Forensics

Forensic Mindset

A Forensic Mindset indicates that one applies the highest standards and best practices in collecting, analyzing, preserving, and presenting evidence in a court of law or other tribunals.

Accordingly, possessing a forensic mindset should govern every aspect of an investigative interviewer's actions.

Due Process

The Foundation of Investigative Interviewing

Due Process

- Fifth: Right against Self incrimination
- Sixth: Right to Counsel
- Fourteenth: Applies Fifth and Sixth Amendments to the States and includes the Due Process Clause:

…nor, shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Due Process

- Miranda
- Escobedo
- Garrity
- Kalkines
- Weingarten

Private Sector Non-Union Employee Due Process

Compelled Cooperation

If an individual is governed by a company or agency policy that requires them to cooperate, their presence and answering questions is still voluntary.

An employee cannot be compelled to talk.

The employee is free to leave, if not the entity and interviewer could face false imprisonment charges.

Statements made could be invalidated due to coercion.

However, the employee could face discipline for failing to cooperate.

Compelled Cooperation

Not withstanding the company's policy that requires you to be here and participate, your participation is voluntary. I cannot force you stay. You can leave at any time. If you leave and do not participate, I merely report this to the appropriate management person, and you may face discipline for non-compliance of policy.

Confessions

Confessions Must be Voluntary

"To determine whether a statement was voluntary, we assess the totality of the circumstances, including both external and internal factors, such as: the details of the interrogation; duration of the interrogation; location of the interrogation; whether the interrogation was custodial; the recitation of Miranda warnings; the number of officers involved; the persistence of the officers; police trickery; threats, promises or inducements made to the defendant; and the defendant's age, physical and mental health, emotional stability, and conduct."

False Confessions

False Confession Hazards

- Not Having a Forensic Mindset
  - Bias
  - Relying on Instinct
  - External Pressure
  - Internal Pressure
  - Misclassification of Suspects
  - Not Recognizing Suggestible Interviewees
  - Stubbornness
  - Length of Interview

False Confession Solutions

Standardized Training

Record all Critical interviews

- Public and Private Sector

Peer, Supervisory, Legal Review of all Confessions

Investigate all Confession Recants

Investigative Interview instead of Interrogation

Investigative Interview

"The questioning of an individual to gather truthful information pursuant to a matter under investigation, including the individual's knowledge of or involvement in the matter, and to receive a truthful acknowledgement of responsibility if warranted."

Making an Accusation

Clear and Convincing Evidence

Evidence is substantially more likely to be true than untrue.

Interviewer Standard

- Minimum recommended standard when classifying an individual as a suspect and making an accusation.

The Interviewee

Interviewee Classifications

Victim

Accuser

Whistleblower

Witness

Possible Witness

Confidential Source

Confidential Informant

Resource Provider

Person of Interest

Possible/Probable Suspect

Suspect

Subject

Target

Co-Conspirator

Assess the Interviewee’s Attitude

Understanding Negative Attitudes

- Previous bad experience with you or your profession.
- General lack of trust for authority.
- Belief they are being singled out.
- Fear of being wrongly accused.

Understanding Negative Attitudes

- Fear of retaliation
- Does not want to be perceived as a snitch.
- Does not want to be inconvenienced.
- Feels they are above being interviewed.

Interviewee Attitudes

Reluctant	Hostile
Reticent	Wary
Indifferent	Evasive
Cagey	Superior
Resentful	Uncooperative

Interviewee Untruthfulness

- Seeking Revenge
- Seeking attention
- To conceal knowledge
- To conceal involvement
- To conceal an embarrassing situation
- Protecting another individual

Interviewee Untruthfulness

- Not wanting to be involved
- Fearful of retaliation
- Solidarity with the wrongdoer
- Protecting the organization’s reputation
- Does not trust the interviewer
- Prefers to handle the situation themself

Interviewee Truthfulness

- Some people are just honest
- A belief there is no alternative
- A belief the interviewer knows the answers, so why lie
- Wanting consideration for the truth
- Some guilty persons cannot bear the guilt
- They trust the interviewer

Understanding the Offender

The Fraud Triangle



The 10-10-80 Rule

- 10% of people will not commit a crime or violation no matter what their pressure or what opportunity presents itself.
- 10% of people are deviant offenders looking for or creating opportunities to commit offenses.
- 80% of people are on the fence and *might* commit an offense depending on the pressure and opportunity.

Breakdown In Internal Controls

Individuals often do not perform as required due to:

- Lack of procedural training
- Awkwardness
- Other pressing duties
- Circumventing controls “to get the job done.”
- Lack of internal control audits
- Contempt for employer
- Apathy
- Dishonesty (Collusion heightens the risk)

Breaking Down Barriers and Gaining Trust

Breaking Down Barriers and Gaining Trust

Earn a Good Reputation

Breaking Down Barriers and Gaining Trust

- Build Rapport
- Proxemics
- Kinesics: Use of Non-verbal Communication Techniques
- Use of Paralinguistic Communication Techniques
- Word Choices

Ask Open Questions

- Allows the interviewee to tell as much information as they want to offer.
- Provide the interviewee an opportunity to tell their story.
- Fosters an environment of trust where the interviewee has their voice.
- The interviewee believes the interviewer has not pre-determined their involvement.

Feel, Felt, and Found

These three words along with proxemics, and paralinguistic techniques can denote empathy:

“I understand how you feel. Others who have sat across from me have felt the same way. However, what they fond is that the best course of action was for them to resolve the matter and move forward.”

The Interview

The Interview

- Determine the Need for an Interview
- Identify and Classify the Interviewee
- Prepare for the Interview

Prepare for the Interview

Evaluate	Develop	Develop	Interview	Prepare	Organize
Evaluate Available Information	Develop a Case Strategy	Develop an Interview Strategy	Interviewee Background	Prepare a KTOT	Organize the Interview room

Prepare a KTOT



KNOWLEDGE



THEORY



OBJECTIVE



TOPICS

Arranging the Interview

01

Provide a Broad Reason

02

Do not use Emotive Words

03

Overcome Objections

Interview Steps

Interview Steps



Introduction and Preliminary Matters



Introductory Statement



Personal Information-Build Rapport



Purpose Statement



Questions

Introductory Statement

"Fred, thank you for coming in. I appreciate you meeting with me. Do you know why I need to speak with you today? We will be discussing a contract between XYZ and a contractor. I want you to know that not withstanding the company's policy that requires you to be here and participate, your participation is voluntary. I cannot force you stay. You can leave at any time. If you leave and do not participate, I merely report this to the appropriate management person, and you may face discipline for non-compliance to policy. However, I hope you realize that the resolution of this matter is important, and I would really appreciate your input. Before we get started. I would like to obtain some personal information. OK?"



Purpose Statement



Encourages truth telling



Reveals interviewer's objectivity



Reveals interviewer’s knowledge

Purpose Statement- Witness

"Fred, as you know, we are looking into construction contract awards. Specifically, we are looking into information that two contractors are paying certain employees kickbacks to ensure that they receive the awards. It is imperative that we get to the bottom of this. ***It is important that you tell us everything you know.*** *Do not leave anything out, even something that might not seem important to you, could be. Also, if you are not sure about something, that is okay, just let us know that you are not sure. Fred, I am not saying that you would, but please do not fabricate any information. Do you understand?"*

Purpose Statement- Possible Witness

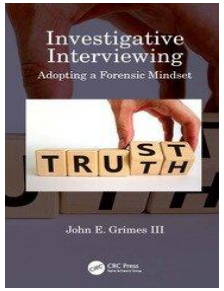
Jerry, as I told you, we are looking into construction contract awards. Specifically, we are looking into information we developed that two contractors are paying certain employees kickbacks to ensure that they receive the awards. It is imperative that we get to the bottom of this. ***We have reason to believe that you have information that could help resolve this matter.*** *It is important that you tell us everything you know. Do not leave anything out, even something that might not seem important to you, could be. Also, if you are not sure about something, that is okay, just let us know that you are not sure. Jerry, I am not saying that you would, but please do not fabricate any information. Do you understand?"*

Purpose Statement- Potential Suspect

"Peter, we will be specifically discussing information that some employees are receiving kickbacks or payments to ensure certain firms receive contracts. Peter, we have been looking into this matter so, it is important that you are straightforward with us. If you are involved, our investigation will clearly show that you are. If you are not involved, our investigation will show that you are not. Peter, are you involved?"

Purpose Statement- Suspect

“Fred, we have been looking into the circumstances surrounding John Simpson and Camden Contractors paying your daughter Anne's tuition at Granger University in return for you awarding a contract to Camden to build three stores. Our investigation shows without a doubt that this occurred. We would like you to explain the circumstances, okay?”



Evaluating and Handling Denials

Denials

A Strong Denial is a simple: “No,” or “I didn’t do it.”

Strong denials do not necessarily mean that it is true.

Weak denials include “word play,” qualifiers, modifiers, and evasive responses.

A weak denial does not necessarily mean it is not factual.

Weak Denials

Simple Evasive	***Present Verb Tense***	***Future Verb Tense***	***Reinforced Denial***
Pre and Post Denial Modifiers	***"Why Would I"***	***"I Deny"***	***"I Resent the Accusation"***

Other Denial Issues

Different Value System

Technically Correct Denial

Questions

Formulating Interview Questions

The way a question is phrased could cause the interviewee to:

- Respond deceptively with a low chance of detection.
- Respond deceptively with a high chance of detection.
- Respond truthfully.

Open Questions

- Explain,
- Tell
- Describe
- Relate

Clarifying Questions

Designed to elicit further explanation.

Designed to elicit further information.

Designed to elicit interviewee's thoughts or emotions.

Direct Questions



Designed to elicit a specific response.



Questions must be asked properly.

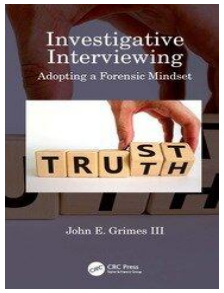


Commit an interviewee’s response for the record.

Direct Questions

Do not ask:

- Multipart Questions
- Negative Questions
- Memory Qualifier Questions
- Too Specific Questions



Evaluating Nonverbal Response Behavior

Kinesics Anxiety Indicators

- Breathing gets heavier
- Touching face
- Face turns red/flushed
- Covering mouth and eyes
- Grooming gestures
- Changing posture

Kinesics Anxiety Indicators

- Fidgeting
- Folding arms across chest
- Shuffling feet
- Sweating
- Breaking eye contact

Paralinguistic Anxiety Indicators

- Change in pitch
- Stuttering
- Mumbling
- Rambling
- Delayed responses
- Quick responses
- Repeating the question
- Cancelling behavior (cough, laugh, clearing throat)

Show Woody Allen Clip

Evaluating Responses to Direct Questions

Evaluating Responses to Direct Questions

- Simple Evasive
- Incomplete Evasive
- Memory Qualified
- Vague Evasive

Simple Evasive

“As a rule…”

“Typically…”

“I like to…”

“Generally…”

“As a matter of habit…”

“The policy states…”

Memory Qualified Evasive

“To the best of my knowledge”

“As far as I recall”

“As far as I know”

“At this point in time”

“If my memory is correct”

Vague Evasive

- *“Not Really”*
- *“Rarely”*
- *“Pretty Much”*
- *“Not Often”*
- *“Mostly”*

Follow-up Test Questions

- Q: *“Ken, did you take the money from the safe?”*
- A: *“No.”*
- Q: *“Have you ever been in the safe?”*
- A: *“No.”*
- Follow-Up Test Question”
- Q: *“Would there be any reason our hidden surveillance camera would have recorded you entering the safe?”*
- A: *“Well maybe the one time the manager gave me the combination to get some change.”*

Attitude Assessment Questions

Attitude Assessment Questions provide insight into the interviewee's frame of mind concerning the matter under investigation. Negative responses should not be considered clear and convincing evidence.

Attitude Assessment Questions and the Fraud Triangle

Attitude Assessment Questions can be used to find the Pressure, Opportunity, and Rationalization factors, which can be used later to leads the interviewee to the truth.

Attitude Assessment Questions and the Fraud Triangle

Q: *"Why do you think an employee would accept a bribe?"*

Pressure: *"Maybe they have personal financial problems."*

Opportunity: *"It's the way business is done here."*

Rationalization: *"The company doesn't pay that well?"*

Leading the Interviewee to the Truth

Non-Confrontational Manner

“Listen, I know you are not telling me the truth”

“I know you are not being totally honest with me”

“It is obvious you are holding back information”

“What you are saying does not make sense”

“What you are saying does not add up.”

Leading the Interviewee to the Truth

Follow-Up Question (Open or Direct)

"Please tell me why you are holding back."

"Is there a reason you are not being honest with me?"

"Why are you not being forthcoming?"

Leading the Interviewee to the Truth

Follow-Up Direct Question

“Are you reluctant to get someone in trouble?”

“Are you involved in the activity?”

“Are you involved in some other activity you are reluctant to talk about?”

“Are you concerned about possibly needing to testify?”

Feel, Felt, Found

Interviewee

“I don’t want to say anything that might get someone in trouble without proof.”

Feel, Felt, Found

Response

“I understand how you feel, Others sitting across from me have felt the same way. However, they found that I am fair, and the best course of action was to tell us what they knew, so we can look into it and find the proof if it is there. That is what our office does. Do you understand?”

Persuading the Suspect to tell the Truth

01

Reveal Evidence

02

Appeal to Common Sense

03

Offer a Reason for the Offense

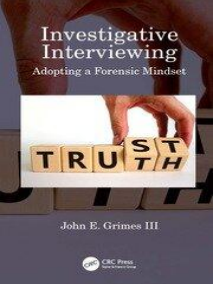
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Offer Related Behavior

Retreat from the Accusation

If a suspect offers a strong denial, then an interviewer must be prepared to reveal some evidence.

If the suspect offers an alternate explanation to the evidence, the interviewer should retreat from the accusation and ask key questions.



End, Evaluate, and Follow-Up

01

Review the results with the Interviewee

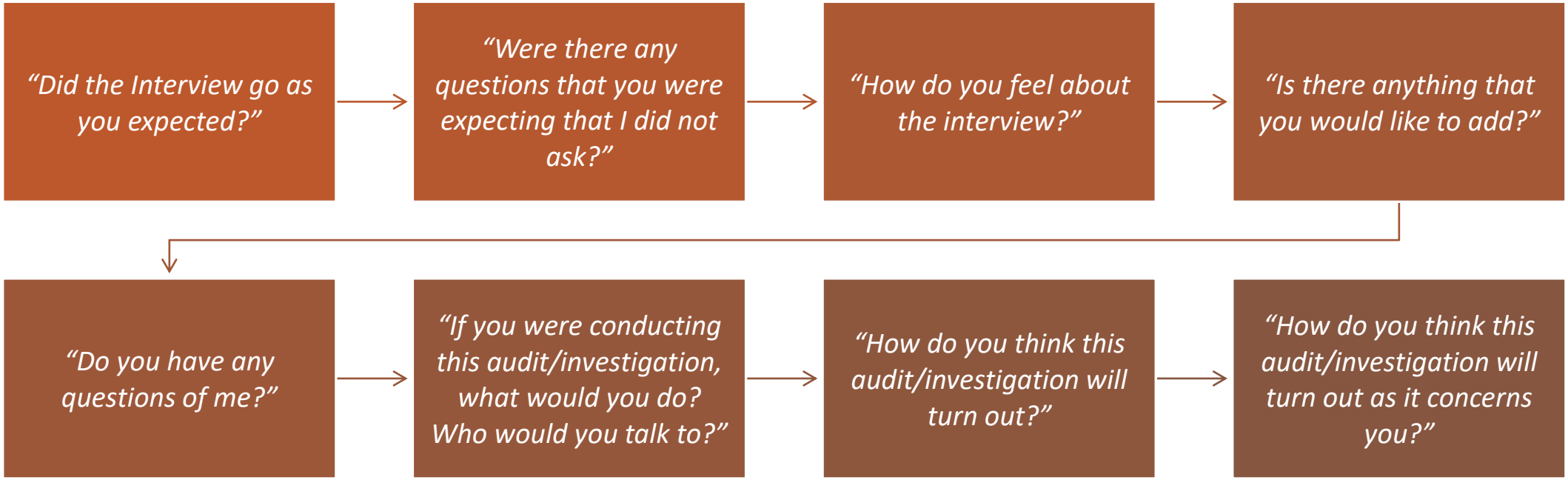
02

Clarify Responses

03

Review Topic List

Ask These Questions



Gary Shelton Interview

The following conversation took place prior to the interview commencing and was not recorded.

JG: “Thank you for Coming in. You can call me Jack, and this is Mary Duncan, you can call her Mary. May I call you Gary?”

GS: “That’s fine.”

JG: “Great. Gary, we are going to video and audio record this meeting to make sure that everything that is said is captured accurately. Are you okay with that?”

GS: “I guess so. Will I be able to obtain a copy of the recording?”

JG: “There may come a time that you will be able to receive a copy; however, right now we would be unable to provide one to you. We will be preparing a report of our conversation today and if you feel the need, we can allow you to see the report after it is completed.”

GS: “Okay.”

JG: “Would you like something to drink or use the restroom before we get started?”

GS: “No.”

Gary Shelton Interview Transcript

JG: “Okay, it is Tuesday, May 7, the time is 9:37 am. I am Investigator Jack Grant from Nationwide Office of Investigations. Also present is Investigator Mary Duncan from Nationwide Office of Investigations and Nationwide Procurement Officer Gary Shelton. We have agreed to use first names. We are in interview room # 2 at the Nationwide Office of Investigations Chicago office. Mr. Shelton has agreed to allow the interview to be video and audio recorded. Is that correct Gary?”

GS: “Yes”

JG: “Gary, thank you for agreeing to meet with us today. Do you know why we need to speak with you?”

GS: “I have no idea.”

JG: “As I mentioned on the phone, we are looking into procedures involving awarding construction contracts and would like your input.”

GS: “Okay.”

JG: “Gary, I need to tell you that notwithstanding Nationwide’s policy that employees must cooperate with inquiries by our office, your presence here today is voluntary. You are free to leave at any time. If you do leave, I merely report that fact to the appropriate management official. You could face discipline for noncooperation. However, I would appreciate you staying to talk to me. Do you understand?”

GS: “Yeah.”

JG: “Gary, are you aware of what our office does?”

GS: “Not really.”

JG: “We look into internal matters that affect the efficiency of Nationwide’s business operations. This includes waste of resources, mismanagement, and fraudulent activity, including theft and embezzlement and misappropriation of assets. Before we get started, I would like to ask you a few questions. Okay”

GS: “Okay.”

JG: “Please tell me about your employment here at Nationwide.”

GS: “Okay. I have worked here for about 25 years.”

JG: “I’m relatively new here. It seems that everybody I talk to at Nationwide has twenty plus years on the job.”

GS: “Yeah.”

JG: “How long have you been the Procurement Officer?”

GS: “About thirteen years.”

JG: “Who do you report to?”

GS: “John Nelson.”

JG: “He’s the AVP for Procurement, correct?”

GS: “Yes.”

JG: “How do you like it here at Nationwide?”

GS: “It’s Okay, it puts food on my table.”

JG: “Please tell me a little bit about your family?”

GS: “Am I here to talk about my family?”

JG: “No, I just like to know a little about the employees. You are not required to talk about your family.”

GS: “Okay. I just want to know what this all about.”

JG “I will tell you. Gary, we will be discussing information we received that a couple of construction contractors are paying kickbacks to employees in return for receiving contracts. We will be discussing your role in this situation. We have been looking into this, so it is imperative that you are truthful with us today. If you are involved in this matter, our investigation will clearly indicate that you are. If you are not involved, our investigation will clearly indicate that you are not. So, Gary, if you are involved, it would be in your best interest to let us know now. Gary, are you involved?”

GS: “I resent this accusation.”

JG: “Gary, I am not accusing you, I am merely asking you. Are you involved?”

GS: “I don’t know anything about any kickbacks.”

JG: “So let me ask you some questions. Let’s start by telling me your duties as the Procurement Officer.”

GS: “Okay. I receive Statements of Work from Operations or requests for supplies and materials. I then solicit bids from qualified vendors or contractors. I review the bids and determine who can best deliver on the request and award a contract.”

JG: “Please tell us how you go about awarding prime contracts to construction firms.”

GS: “Operations sends a Statement of Work for a proposed construction project. I send out a Request for Proposal to qualified contractors seeking bids for the job…..”

JG: “Go on.”

GS: “I pick the best bid and award the contract. What’s this all about?”

JG: “Gary, as I said, we received information that some construction firms are paying kickbacks to employees in return for receiving contracts. And we need to ask you some questions concerning this. Do you understand?”

GS: “I feel like I am being singled out.”

JG: “Gary, I understand how you feel; however, let me assure you we are not singling you out. We have been conducting the inquiry and it is a normal step to talk with the Procurement Officer. You can understand that, right?

GS: “I guess.”

JG “How do you deliver the Request for Proposals?”

GS: “I send them out by FedEx.”

JG: “How are the bids returned to you?”

GS: “They are usually returned by FedEx.”

JG: “Usually?”

GS: “Sometimes by mail.”

JG: “Okay, Gary, let me ask you this. How many contractors do you solicit for a typical construction project?”

GS: “The policy is four.”

JG: “So, you always solicit four?”

GS: “Well, most of the time”

JG: “Why not all of the time?”

GS: “Sometimes contractors have made it known that they are not interested in a project, so I might only solicit two or three in the geographic area.”

JG: “How many times does that occur?”

GS: “I don’t know, maybe 50% of the time.”

JG: “How do you reconcile that with the policy of soliciting four contractors?”

GS: “What do you mean?”

JG: “What I mean is, is there some process or approval needed from your boss, Mr. Nelson, or somebody else before you solicit less than four contractors for a project?”

GS: “No.”

JG: “So, you are able to decide if less than four contractors will be solicited?”

GS: “It is just the way it is done.”

JG: “Gary, when we review the procurement files, are we going to see a notation or justification statement as to why less than four contractors were solicited?”

GS: “Uh No.”

JG: “What will we find?” …… “Gary, what will we find?”

GS: “They will show that I solicited four contractors.”

JG: “Even though you did not?”

GS: “Yes, it’s the way it’s done, to get the job done. Even if I do solicit four, some do not bid.”

JG: “Do you solicit contractors that you know will not bid?”

GS: “Yeah, sometimes.”

JG: “Okay. Just to be clear, sometimes you solicit contractors that you know will not bid, correct?

GS: “Yeah.”

JG: “And sometimes you add the names of contractors to the file that you did not solicit. Is that correct?”

GS: “Yes, but I know they wouldn’t submit a bid anyway.”

JG: “So, do you do this so the procurement file will appear to meet policy if reviewed?”

GS: “Well, I guess, but it’s the way it’s done, to make sure the project is contracted to meet the demands of the Operations Department.”

JG: “Has anyone, like Mr. Nelson, questioned you about this practice?”

GS: “No, he’s just happy that things run smooth out here.”

JG: “Does Mr. Nelson know that you don’t solicit four contractors?”

GS: “Uh, not specifically, he probably realizes it. I am sure the other Procurement people do…to get the job done and have things run smoothly.”

JG: “Are you sure, or are you just assuming?”

GS: “Assuming.”

JG: “Has anybody ever reviewed your files?”

GS: “Some auditor came out once, a few years ago.”

JG: “What did the auditor find?”

GS: “Nothing, he didn’t say anything.”

JG: “Do you know the name of the auditor?”

GS: “Andre…something.”

JG: “Okay. Let me ask you this. What contractors do you always solicit?”

GS: “Uh, I guess Premier Construction and ABC Construction.”

JG: “Do they always submit a bid?”

GS: “Yes, pretty much.”

JG: “Pretty much?

GS: “Okay, always”

JG: “Is either Premier or ABC always awarded the contract that they bid?”

GS: “Well, yes. One of them wins but it’s not fifty-fifty. Premier wins more than ABC. They are the best for the job and know how to work on Nationwide projects. They work well with the Project Manager. That’s important.”

JG: “Who is the Project Manager?”

GS: “Ray Burke.”

JG: “You say that it is not fifty-fifty between Premier and ABC. What is the breakdown?”

GS: “I am not sure, but Premier does more work. Maybe sixty-forty.”

JG: “Gary, I need to ask you this. Have you ever received anything from a contractor?”

GS: “No.”

JG: “Have you ever been treated to a meal by a contractor?”

GS: “No.”

JG: “Have you ever accepted money from a contractor?”

GS: “No Way!”

JG: “Have you ever borrowed any money from a contractor?”

GS: “No.”

JG: “Have you ever received anything from another employee?”

GS: “Uh, like what?”

JG: “Money?”

JG: “Gary, I see you hesitated before answering, are you sure?”

GS: “Well, I have borrowed money from time to time.”

JG: “Okay, who from?”

GS: “Well, my assistant, Maria, just when I’m short for lunch. I pay her back on payday.”

JG: “Who else?”

GS: “That’s it.”

JG: “Gary, I need you to think about this. Remember I said that we have been looking into this for a while. We know the answers to some of the questions we are asking, so it is imperative that you are truthful with us today.”

GS: “Oh, let me think.”

JG: “Gary, you certainly should be able to remember what other employees you have received money from.”

GS: “Oh Yeah, I have borrowed money from Ray Burke.”

JG: “Borrowed?”

GS: “Yeah”

JG: “Okay, how many times have you borrowed money from Mr. Burke?”

GS: “I don’t know. A few times.”

JG: “Gary, can you be more specific?”

GS: “I don’t know, maybe 10 or 15 times.”

JG: “Okay, when was the last time you borrowed money from Mr. Burke?”

GS: “I think last week. Why, what does this have to do with anything? Is it a crime to borrow money from an employee?”

JG: “Borrowed?”

GS: “Yeah”

JG: “Okay, how many times have you borrowed money from Mr. Burke?”

GS: “I don’t know. A few times.”

JG: “Gary, can you be more specific?”

GS: “I don’t know, maybe 10 or 15 times.”

JG: “Okay, when was the last time you borrowed money from Mr. Burke?”

GS: “I think last week. Why, what does this have to do with anything? Is it a crime to borrow money from an employee?”

JG: “Okay Gary, let’s continue. How long have you been borrowing money from Mr. Burke?”

GS: “I don’t know, maybe a few years.”

JG: “Can you be more specific?”

GS: “Geez, I don’t know, four or five years. So what?”

JG: “When was the last time you borrowed money from him?”

GS: “Maybe last week.”

JG: “How much did you borrow last week?”

GS: “I think it was a hundred dollars.”

JG: “Did you pay it back?”

GS: “No.”

JG: “When will you pay it back?”

GS: “Well, the thing is, Ray never asks to be paid back, I offered, but he says not to worry about it.”

JG: “Let me ask you this. How much money have you borrowed from Ray over the past few years?”

GS: “I don’t know, it could be a few hundred dollars or so.”

JG: “Gary, you said you borrowed a hundred dollars from Burke last week. So, since you have been borrowing money from him for the past few years, I have to believe it has been more than a few hundred dollars. So, how much could it be?”

GS: “It has to be a few thousand dollars or so.”

JG: “A few thousand dollars. Could it be as much as $20,000?”

GS: “No way, not that much.”

JG: “Could it be as much as $15,000?”

GS: “I don’t think it has been that much. I haven’t really thought about it.”

JG: “If we ask Mr. Burke, how much money will he say he has given you over the years?”

GS: “I don’t know what he will say.”

JG: “Will he say he has given you over $20,000?”

GS: “I don’t know. Maybe.”

JG: “How much over $20,000 will he say?”

GS: “I don’t know, I don’t know.”

JG: “Have you ever paid him back?”

GS: “I offered, but he said not to worry about it.”

JG: “Do you offer every time?”

GS: “No, it is understood that he doesn’t want to be paid back.”

JG: “Why does he not want to be paid back?”

GS: “I don’t know, he is a nice guy I guess, and he knows I struggle with two kids in college.”

JG: “Do you do anything for him because of this?”

GS: “Nothing, what could I do?”

JG: “How does this happen? Do you call Ray and say, ‘can I borrow a hundred dollars?’”

GS: “No, I have never asked him. He just drops by my office and says, ‘Can you use some cash?’ I say sure and he hands me some money.”

JG: “Has he asked you to do anything for him?”

GS: “No, nothing.”

JG: “Gary, do you find it strange that he has given you thousands of dollars over the past few years and wants nothing in return?”

GS: “No. He is just a nice guy and he likes me and knows it is hard with two kids in college.”

JG: “Do you socialize with Burke?”

GS: “Not really.”

JG: “Not Really? Tell me about meals he has treated you to.”

GS: “Okay, he has taken me to lunch on a few occasions. So what?”

JG: “Where does he take you to lunch?”

GS: “Sam’s Deli, uh, The Corner Bistro, and once in a while at Ruth Chris’ Steakhouse. Actually, he took me to dinner at Ruth’s Chris Steakhouse a couple of times.”

JG: “Does anybody else go with you?”

GS: “Well a couple of times Jeff went with us, along with the owner of Premier.”

JG: “Jeff?”

GS: “Jeffrey, Jeffrey Freeman. The Contract Administrator.”

JG: “Who is the owner of Premier?”

GS: “John Novak, but Ray pays, so it wasn’t like I was receiving anything from a contractor.”

GS: “We talk about the Cubs and the Bulls.”

JG: “Did you discuss any Nationwide construction projects?”

GS: “Well, yeah, we did talk about the Distribution Center. Is that a problem?”

JG: “What about the Distribution Center?”

GS: “Well it would be natural to talk about it. Just that it is going well and that some change orders have to be issued due to lack of availability of some electrical supplies and the new supplier’s costs are a little higher. That’s all. Jeff handles that.”

JG: Who is the Prime Contractor for the Distribution Center?

GS: “Premier.”

JG: “Have you ever socialized with Novak without Ray being present?”

GS: “No.”

JG: “Have you ever socialized with Jeff?”

GS: “He has taken me to lunch a few times.”

JG: “Where has he taken you?”

GS: “He likes Luigi’s.”

JG “So, is that where he takes you?”

GS: “Yes”

You: “How many times?”

GS: “I don’t know, a dozen?”

JG: “Does he always pay?”

GS: “Yeah.”

JG: “What do you talk about with Jeff?”

GS: “Just work issues, Nationwide, stuff like that.”

JG: “Who is the owner of ABC Construction?”

GS: “That would be Roger Billings.”

JG: “Have you ever socialized with Billings?”

GS: “Never.”

REDACTED

JG: “Okay Gary, please tell me about the trips Novak has provided.”

GS: “Trips?”

JG: “Yes, trips.”

GS: “Do you mean the golf retreat?”

JG: “Tell me about the golf retreat.”

GS: “Well, Novak flew us to Las Vegas for a golf retreat.”

JG: “Us?”

GS: “Us, me, Ray, Jeff, and a few others. It was all on the up and up

JG: “Who are the few others?”

GS: “Roger, and some guys that work at Premier.”

JG: “Roger?”

GS: “Roger Billings.

JG: “You said you never socialized with Billings.”

GS: “I forgot. Plus, I thought you meant if Roger paid.”

JG: “Who are the guys that work at Premier who went to Las Vegas?

GS: “It was two guys I never met them before. I can’t remember their names. Mike and uh, Louis, I think.”

JG: “Did your wife go?”

GS: “No. Nobody’s wives went”

JG: “Okay, nobody’s wives went. Did you take somebody else?”

GS: “Uh, No. Novak had some women there. I didn’t do anything though.”

JG: “You didn’t do anything with the women? Is that what you are saying?”

GS: “Yes, Ray and the others did though?”

JG: “But not you.”

GS: “No.”

JG: “Where did you stay?”

GS: “The MGM Grand.”

JG: “How long were you there?”

GS: “Four or five days. We mostly played golf.”

JG: “When was this?”

GS: “Three years ago.”

JG: “Did Novak pay for the entire trip?”

GS: “Yeah, but it was all on the up and up. It had nothing to do with Nationwide. I didn’t do anything for it. It just that Burke asked me if I wanted to go along. I’ve never been to Vegas.”

JG: “What other trips?

GS: “Huh? No, that’s it.”

JG: “What about Roger? Did he provide you with any trips?

GS: “Never.”

REDACTED

JG: “Gary, would there be any reason that during the course of our investigation someone would tell us that you have taken money to award a contract to a particular contractor?”

GS: “No, …..not unless someone would think that the money that Burke lent me was to award a contract. Did someone say that I have?”

JG: “Gary, just like we are not going to tell anybody what you have told us here today, we are not going to tell you what anybody else has said. Who would think that the money you have taken from Burke is to award particular contracts?

GS: “I don’t know. Nobody.”

JG: “Let me ask you this, and I want you to think carefully about your answer. “Is the money you received from Burke to ensure that either Premier or ABC are awarded contracts?”

GS: “I just send out the RFPs and they just submit the bid, whoever is lowest wins.”

JG: “And you said that Premier and ABC always win, correct?”

GS: “Yes, that’s the way it works out.”

JG: “Okay, let’s go over a few things that you told us that I want to be clear about. You said that you send RFPs to contractors that you know will not bid, correct?”

GS: “Yeah”

JG: “And sometimes you include names of contractors in your file that you do not solicit for a bid, correct?”

GS: “Yeah, but like I said, I know they wouldn’t bid anyway, and it is to make things run smoothly out here.”

JG: “And, you stated that Ray has given you money over a few years that might be over $20,000 and you have not paid him back, is that correct?

GS: “Yeah.”

JG: “Gary, you seem like a reasonable and an intelligent person. I find it hard to believe that you do not know what is going on. What do you think a judge would believe when they hear that you have been receiving money from Ray, falsifying the procurement files, have taken a trip to Vegas with Novak and Billings, paid for by Novak at the time you solicited bids for the Distribution Center. Plus, Novak and Billings win all of the bids?”

GS: “Judge?”

JG: “Yes, a Judge. This is serious business. Let me tell you what I think. I think that you are deeply involved in this and know exactly what is going on.”

GS: “All I know is that Ray gives me money, which is not a crime, and I do what is necessary to make things run smoothly out here. This is the way it works.”

JG: “Okay Gary. I want to clarify some things that we talked about. I need to ask you this and I want you think before answering. Have you received money from a contractor?”

GS: “Never.”

JG: “Let me ask you this. Have you ever been offered money from a contractor?”

GS: “No.”

JG: “Have you ever thought about taking money from a contractor?”

GS: “Well, it crosses my mind, because I know how much money they make. But I never would.”

JG: “Why wouldn’t you take money from a contractor?”

GS: “I would be too afraid of getting caught.”

JG: “Okay Gary, like I told you before, we have been conducting this investigation for a while and know what is going on. We wanted to talk to you today to give you an opportunity to be honest with us. Let me say this, you have not been totally honest with us. Our investigation shows without a doubt that Novak and Billings are paying Burke to ensure that they receive all the store construction contracts in the region, and to ensure Premier was awarded the contract for the Distribution Center. And Ray is giving you money to ensure you award Premier or ABC the contracts and not to ask questions. Gary, we know that you are not the main person involved here.

You have been a dedicated employee for many years and a good family man. It was just easier, and safer for you to go along and not ask questions. It's not like Burke gave you millions of dollars, he just gave you a small amount over the years compared to others. You know the money Burke gives you is not a loan. You are awarding the contracts to Premier and ABC and not questioning their bidding practices because it is easier to go along. Isn't that correct?

GS: "Things just run smoothly out here."

JG: "Gary, you know what I'm saying is true, right?"

GS: "Yes."

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