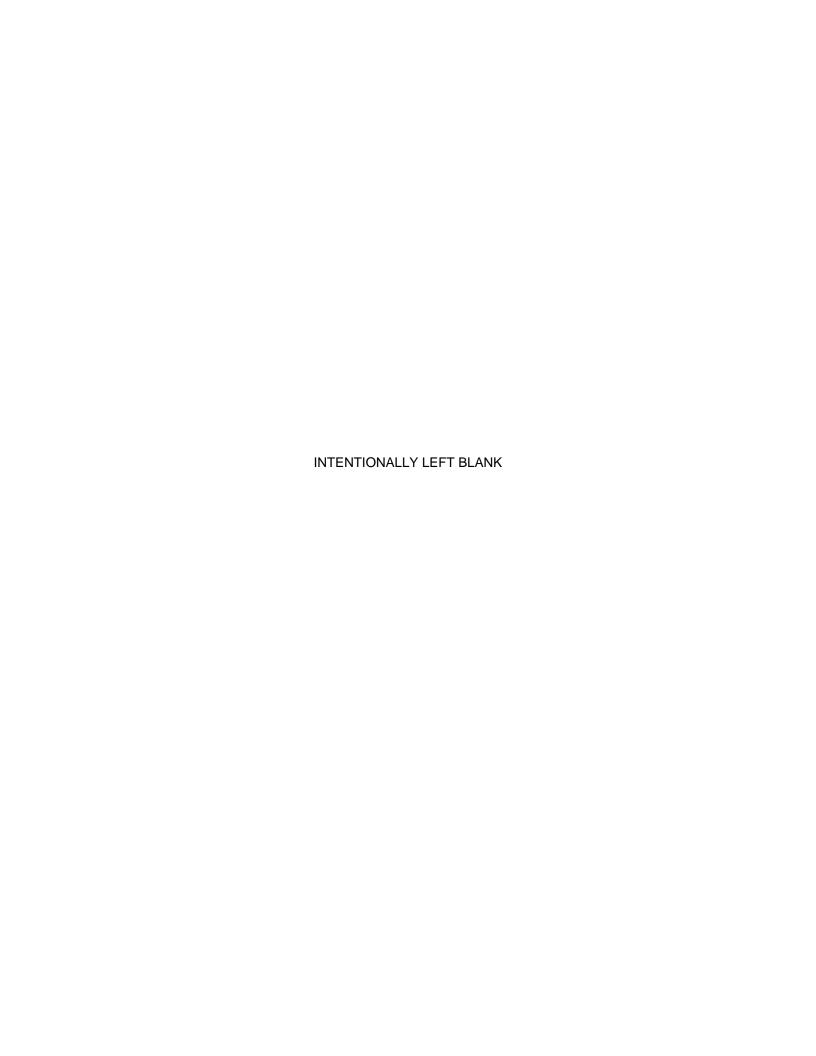
CHAPTER 5

INTERVIEWING

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INTERVIEWING OVERVIEW

This chapter examines the attributes of a good interviewer, discusses how to prepare for an interview and the elements of an Interview Plan. This chapter also explains the five phases of an interview, provides interviewing techniques, and sample documents to include a Privacy Act Statement, Declaration, Sworn Statement, and Results of Interview. Additionally, this chapter defines the types of questions used during an interview, the sequencing of questions from more general to specific, and basic interview guidelines. It includes a discussion of telephone interviews and how to conclude an interview. See Appendix D for sample documents.

INTRODUCTION

The spoken word is usually the greatest source of investigative evidence and often the best evidence. The primary goal of an interview is to elicit and record information from the complainant, subject, and every important witness. Your investigation is not complete until you have accomplished this goal.

Effective interviewing is a skill that must be learned by specialized training and/or experience. Most people learn to interview by watching others or constant practicing. Learning the basic concepts of the proper way to conduct an interview and practicing these methods is critical to your success as an interviewer.

INTERVIEWING GOALS

Obtain information from the complainant, the subject, and witnesses during telephone interviews or in person (preferably in person). Some rules to follow when conducting an interview are:

- **Establish rapport** with the interviewee to make her/him feel comfortable and at ease.
- Emphasize that you seek only the truth.
- **Listen** attentively, evaluate the interviewee's responses to your questions carefully, take good notes.
- Remain objective and unemotional throughout the interview, although it can be difficult if the witness is uncooperative or reluctant.

PREPARING AN INTERVIEW SEQUENCE PLAN

Preparation is the **key** to a successful interview. Before you conduct any interviews, create an Interview Sequence Plan for each witness to establish:

- Who you will interview
- The order of the interviews
- The category of interviewees (complainant, witness, subject)
- The allegations that pertain to each interviewee
- The questions you intend to ask

The Interview Sequence Plan is an Interview Plan that includes the order you intend to conduct the interview. The two terms "Interview Sequence Plan" and "Interview Plan" are sometimes used interchangeably. We use the term Interview Plan in this training when discussing planning for an interview.

The Interview Plan for each witness should address:

- 1. Type of Interview
- 2. Physical and Psychological Factors
- 3. Questioning Techniques
- 4. Topic Outline
- 5. Number of Interviewers
- 6. Recording
- 7. Rights and Responsibilities

INTERVIEW PLAN

1. Type of Interview

Your approach will differ depending on the category of interviewee (subject, witness, complainant, subject matter expert) and the degree of interviewee cooperation.

Some interviewees require a slightly different approach, so you may need to employ specialized interview techniques, depending on the type of interviewee. Plan your approach and make a note in your Interview Plan.

2. Physical Factors and Psychological Factors

a. Physical Factors

The physical environment can have a tremendous impact on your ability to conduct a successful interview. Keep the following in mind when conducting an interview:

- Choose an appropriate location to minimize noise, movement, interruptions, and witness anxiety. When possible, choose a room located away from the subject's work area.
- Choose an appropriate office to conduct the interviews. You can enhance the interviewee's focus with a well-lighted, moderately sized, private room in comfortable settings.
- Minimize noise and interruptions. Do not accept phone calls or visitors during the interview.
- Choose the room furnishings and the position of the furniture based on the type of interviewee (friendly, hostile). Eliminate communication barriers such as desks, tables, and personal items.

b. Psychological Factors

You have an influence on psychological factors (e.g., fear, excitement, intimidation) that impact the success of the interview. Be aware of this influence and try to eliminate negative factors and foster positive interview conditions. If you encounter an angry witness, keep your anger in check and make every attempt to suppress the witness' anger.

2. Physical Factors and Psychological Factors (Continued)

You want to eliminate psychological factors which may affect the reliability of the information you obtain. When you begin an interview, allay witnesses' fears, anger and excitement by telling them:

- You are interviewing them because they may have information pertinent to the matter under investigation; and,
- They are not the target or subject of the inquiry (if applicable).

3. QUESTIONING TECHNIQUES

Evaluate the interviewee to determine which interviewing techniques to employ. The more familiar you are with the details of the case and the personalities involved, the better you will be able to tailor your interview techniques. Document the types of questions you plan to ask in the Interview Plan. Generally, you use interviewing techniques vice interrogation (typically reserved for criminal cases) when conducting IG investigations. However, if you know in advance that the witness is reluctant or hostile, prepare accordingly.

Use different types of questions to obtain information, clarify issues, and identify additional witnesses. The types of questions are:

- Free narrative or open-ended questions, i.e., "Tell me about...".
- Direct examination questions that elicit specific and detailed informationm i.e., "What did he say?" "What did he do?"
- Cross-examination questions, which are rarely used, to test the accuracy and veracity of the interviewee's responses.

More about questioning techniques in Phase 3, Questioning.

4. TOPIC OUTLINE

An outline of topics provides clear-cut goals and objectives for the interview. You do not include the actual questions you intend to ask, only a description of each topic you want to discuss with each interviewee. An outline helps you to:

- Avoid reading the questions during the interview;
- Focus your attention on the answers to ensure they are responsive; and,
- Ask appropriate follow-up questions.

The outline includes the topics, documents, and questions you want to discuss and their order. It is particularly useful when you are discussing technical issues.

5. Number of Interviewers

Make a note in your Interview Plan whether a second investigator will be present during the interview and the role that investigator will play. If a second investigator is not available, another trustworthy person may be used as a standin. When you must travel to conduct interviews, consider using local command IG personnel or command evaluators as stand-ins.

When two investigators are available, the lead investigator:

- Introduces the interviewers
- States the purpose of the interview
- Asks the first series of questions
- Sets the tone and the parameter of the interview

The other investigator:

- Takes notes
- Observes the interviewees' body language
- Ensures the investigator covers all of the topics in the outline
- May ask follow-up questions

As a rule, the interviewers do not interrupt each other, but may switch roles as topics change.

6. RECORDING THE INTERVIEW

Document the method you used to record information using one of these methods:

- Note taking
- Sworn Statements
- Results of Interview
- Tape recording
- Videotapes

NOTE: Do not permit interviewees to use tape recorders during an interview, nor provide them a copy of their statement until the investigation is closed.

7. INTERVIEWEE'S RIGHTS AND RESPONSIBILITIES

Be prepared for the interview. Determine in advance the rights and responsibilities of each interviewee. Include this information in the Interview Sequence Plan. If you know in advance you may use rights warnings during an interview, consult with an attorney about the proper procedures.

There are two types of rights warnings:

- Article 31(b), UCMJ, warnings for **military subjects** in **custodial** and **non-custodial settings** (Article 32(b) warnings are frequently used in Naval Inspector General cases). The IG Investigations Manual goes into more detail about the use of these warnings.
- Miranda rights for civilian subjects, if you interview them in a custodial setting (Miranda rights are almost never used in Naval Inspector General cases).

Both Article 31(b) and Miranda warn interviewees that they have the right to:

- Retain counsel (or have appointed counsel, if military)
- Remain silent
- Consult with counsel before an interview
- Refuse to answer questions if the answers may be used against them.

Note: See Chapter 4 for more information.

Interviewees' Right Against Self Incrimination

An interviewee has the right to refuse to answer a question if he/she has committed a crime and believes the answer may be incriminating. An interviewee may not invoke the right simply to avoid giving a statement.

Responsibilities

DON personnel must cooperate with IG investigators. If they refuse to answer questions, they could face disciplinary action.

GENERAL CONSIDERATIONS

SENSITIVITY AND PRIVACY CONSIDERATIONS

Once you have completed the Investigative Plan and an Interview Plan for each interviewee, you are ready to begin your investigation.

Keep in mind that the mere fact you are conducting an investigation brings the subject's reputation into question, even if you do not substantiate the allegation(s). Protect the privacy of subjects, to the extent possible, using one or all of these techniques:

- Make your inquiries in a discreet manner.
- Gather documents from the complainant or subject before going to others if the records will prove/disprove the allegation without conducting additional interviews.
- Gather documents pertaining to various command personnel instead of focusing entirely on the subject to make it appear you are randomly checking records.
- Explain to the interviewee(s) the importance of not discussing the case with anyone but you (the investigator) as these actions may constitute a violation of someone's Privacy Act rights or obstruction of justice.

Phases of an Interview

The interview may be divided into five phases or segments, each with its own purpose. The phases are:

Phase 1: Introduction

Phase 2: Building Rapport

Phase 3: Questioning

Phase 4: Summarization

Phase 5: Closing

PHASE 1: INTRODUCTION

The Introduction Phase sets the tone of the interview. Follow these procedures:

- Introduce yourself and identify the office you represent.
- Produce your credentials or a tasking/appointing letter to the interviewee to establish your authority to conduct the interview.
- Ask the interviewee for his/her name, command, and phone number to confirm he/she is the right person and to obtain or verify contact information.
- Explain the purpose of the interview to allay the interviewee's fears and apprehension.
- Provide an overview of what to expect during the interview, but do not divulge unnecessary details of the investigation.
- Explain and execute a Privacy Act statement.

SAMPLE Interviewee In-Briefing and a Privacy Act Statement in Appendix D, pages D-13 and D-15.

PHASE 2: BUILDING RAPPORT

Before you ask the first question, build rapport with the interviewees. Establish a sincere and trusting relationship from the beginning and a method of non-verbal communication to enlist their full support and cooperation.

Each investigator develops a style unique to him/her, but generally rely on these methods to build rapport:

- Greet the interviewee with a firm, friendly handshake.
- Set the tone with your voice inflection, gestures, and facial expressions.
- Treat everyone with dignity and respect.
- Use neutral terms and non-threatening mannerisms and body language.
- Express empathy or sympathy, when appropriate.
- Avoid making editorial comments.

Phase 3: Questioning

Communication, both verbal (language, speech, words) and non-verbal (conduct, expression, attitude), is the key to a successful interview. The ability to question effectively is central to eliciting verbal responses from interviewees. Good questioning is a four step process that involves:

Step 1: Ask a question.

Step 2: Receive the answer.

Step 3: Evaluate the answer.

Step 4: Record the response.

Phase 3: Questioning, Step 1: Ask a Question

Use three types of questions during an interview.

- Free-narrative or open-ended questions
- Direct examination or direct questions
- Cross-examination questions
- Free narrative (or open-ended questions) elicit an open-ended response.

Ask free narrative questions to elicit an open-ended response.

Free narrative questions are used to elicit a general summary of the interviewee's knowledge of the events. Generally, you will want to start with open-ended questions.

Ask the interviewee to talk about what he/she knows regarding the particular incident or matter (e.g., "Tell me what you know about Ms. Johnson missing work."

Ask the interviewee to "tell the whole story" rather than an edited version of the events. Also, have the interviewee describe what he/she feels is important rather than what he/she thinks you want to hear.

- **Direct examination or direct questions** elcit specific detailed information.

Direct questions usually follow free narrative questions. They are straightforward and frank and are commonly used to fill the gaps in an interviewee's story. They ask for specific information and elicit specific facts.

Examples: How many people did you see sitting at the table with Ms. Chase? Who remained at the restaurant after you left?

Phase 3: Questioning, Step 1: Ask a Question (continued)

Cross-examination (leading questions) are usually associated with hostile witnesses in a courtroom. However, you may use them to test the accuracy, completeness, and veracity of the interviewee's responses by phrasing your questions so that they suggest the answer you expect, which is usually "yes" or "no."

Example: Isn't it true there were two people sitting with Ms. Chase?

Keep the following in mind when asking a question:

- Ask one question at a time.
- Use Who, What, When, Where, Why, and How questions.
- Ask questions that develop or explain facts.
- Ask questions in a conversational manner.
- Use terms that are familiar to the interviewee, and avoid using acronyms.
- Sequence the questions from general to more specific.

General questions require a narrative response; specific questions require a yes or no answer.

Example of question sequencing from general to more specific:

Tell me about

Describe the events...

When did you...

Who was there...

Where was the...

What time did...

Why were you...

Phase 3: Questioning, Step 2: Receive the Answer

When receiving answers to your questions:

- Listen carefully.
- Keep an open mind.
- Paraphrase responses to show the interviewee you are listening before moving on to another question. Concentrate on what the interviewee is saying.
- Maintain control of the interview at all times. Control, but do not dominate, the discussion.
- Summarize the key points.
- Let each person tell his/her story with minimal interruptions.
- Use silence to force a response. Keep your talking to a minimum and encourage responses by using gestures and eye contact.
- React to disclosures appropriately.

Phase 3: Questioning, Step 3: Evaluate the Answer

- Compare the accuracy of responses to previous witness testimony.
- Keep the interviewee focused on the issue.
- Use direct questions to fill in missing details and to test the interviewee's previous testimony for accuracy.
- Use cross-examination questions to:
 - Determine completeness of testimony.
 - Resolve vague or conflicting information or facts.
 - Assist in your evaluation of the interviewee's perception and judgment.
 - Reinterview the subject
 - Test the accuracy of information or if you think a witness is lying.

PHASE 3: QUESTIONING, STEP 4: RECORD THE ANSWER

Accurate note taking is critical to the success of an interview. You should take notes even when taping an interview in the event an interviewee challenges the accuracy of the interview. Keep the following in mind when taking notes:

- Always indicate the method of interview (in person, by phone, tape recording), purpose, place, date and time, and attendees and their phone numbers.
- Your notes should be factual, objective, concise, clear, and complete. Avoid including doodles or editorial comments.
- A tape-recorded interview must include both your questions and the interviewee's answers.
- If an interviewee makes a statement that is material to a case, write it down! Your notes serve an important function as a memory resource to create witness statements. They also serve an important function when the interviewer and interviewee disagree as to what was said during the interview. Under these circumstances, notes may be used to impeach the interviewer or the interviewee.
- Review your notes several times during the course of the interview.
- Retain your notes and tapes until the case is closed.
- Use quotation marks when you record an interviewee's quote in our notes. Ask the interviewee to initial the quote when you conclude the interview.

Phase 3: Questioning, Step 4: Record the Answer (continued)

Use one of these three methods to document an interview:

- a. **Sworn Statement or Declaration** under 28 U.S.C.§ 1746 Use if the witness is cooperative and the information is critical to proving or disproving the allegation.
- Verbatim (taped and/or transcribed) Use whenever possible, as it is the
 most reliable and accurate method of preserving testimony, keeping in
 mind it is more costly than other methods.
- c. **Results of Interview (Record of Interview)** Use to document minor, factual information.
- d. Video Teleconference Interviews

a. Sworn Statement and Declarations

You should place an interviewee under oath before you begin an interview. SECNAVINST 5430.57f authorizes DoD personnel to take sworn testimony and administer oaths pursuant to 5 U.S.C. 303(b). Commands have the authority to issue credentials or letters of authorization to IG personnel or other personnel assigned to conduct investigations.

Before you interview, administer this oath:

"Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief?"

Record sworn testimony using a Sworn Statement or a Declaration. Write the statement yourself and ask the interviewee to review, annotate and approve any changes, and initial or sign each page before finalizing the document.

Use a **Sworn Statement** under the following circumstances:

- The interviewee is cooperative but you believe he/she may later change his/her testimony and/or.
- The interviewee provides information that is critical to proving (or disproving) an allegation.
- The interviewee provides information pertaining to serious misconduct, which may lead to disciplinary action.

Phase 3: Questioning, Step 4: Record the Answer (continued)

When preparing a Sworn Statement, follow these guidelines:

- You and the interviewee **must** sign the Sworn Statement;
- Ask the interviewee to initial changes and initial or sign each page.

Use a **Declaration** under the following circumstances:

- The same as described above for the Sworn Statement.
- The interviewee provided you a statement over the telephone.

Ask the interviewee to approve the content, sign it, and return it to you by regular mail or by facsimile. Only the interviewee signs a Declaration under 28 U.S.C § 1746.

NOTE: The Sworn Statement and the Declaration carry the same weight when considered as evidence. **SAMPLE** Sworn Statement and Declaration in Appendix D, pages D-16 and D-17.

b. Verbatim Interview

Use a verbatim interview (tape and/or transcript) whenever possible. Verbatim interviews are made using voice or videotape recordings and then transcribed word for word. They are most effective and helpful when:

- The subject areas are very broad, complex, or technically oriented.
- The allegation is serious in nature.
- You anticipate the witness will be uncooperative.
- The information is critical to the case.

Phase 3: Questioning, Step 4: Record the Response (continued)

c. Results of Interview (Record of Interview)

Results of an interview may take several forms:

- Narrative written by the investigator.
- Written interview questions followed by interviewee's written responses.

Follow these guidelines when preparing a Results of Interview:

- Summarize your notes (or the tape recording) in a typed statement.
- Help the interviewee express him/herself accurately and effectively. However, the summarized statement must reflect the interviewee's thoughts and beliefs, not yours.
- Ask the interviewee to read and comment on draft Results of Interview, particularly in more complex technical cases.
- Obtain the interviewee's signature on the draft Results of Interview or statement if you believe he/she may later change his/her testimony.

SAMPLE Results of Interview in Appendix D.

d. Video Teleconference Interviews

Video teleconference equipment is now available at some commands and is being used to conduct interviews. Conducting an interview by video teleconference is not as desirable as an in-person interview; however, it is much better than a telephone interview.

Video teleconference interviews can also reduce the expenses related to travel and time away from the office.

Use the same methods discussed above for in-person interviews when conducting a video-teleconference interview.

Before the interviewee signs his/her Sworn Statement, administer this oath:

"Do you swear or affirm that the information you have provided is true and complete?"

Phase 3, Questioning: Telephone Interviews

In some instances, an in-person interview may not be possible or practical (e.g., if the witness is stationed overseas). Telephone interviews have inherent limitations. Obtaining information over the telephone is not the optimal method of interviewing, but it is sometimes necessary. Limit telephone interviews to witnesses who only provide background information, as a follow-up technique after a primary interview has been conducted in-person, and to use a preliminary inquiry technique to determine the extent of someone's knowledge or to develop leads.

Consider the following when conducting a telephone interview:

- Get call back numbers very early in the event the interviewee is disconnected or hangs up.
- Note the time-zone difference before contacting the interviewee.
- Ask a second investigator to listen and take notes.
- Although it may be difficult on the telephone, try to establish rapport with the interviewee.
- Never hurry and summarize frequently.
- Avoid putting pressure on the interviewee, as she/he may become hostile and hang up.
- Make an appointment to finish the interview at another time in the event you are unable to complete the interview.
- Take notes more carefully.
- Use televideo conferencing, if available, in order to obtain more nonverbal communications.
- Summarize the inteview when you are finished and use a Declaration or a Results of Interview to document the interview.

Sample Declaration and Results of Interview in Appendix D.

TELEPHONE INTERVIEWS (CONTINUED)

Keep in mind with a telephone interview:

- You cannot interpret the interviewee's facial and non-verbal expressions during a phone interview.
- You are never sure with whom you are speaking.

TELEPHONE QUESTIONING TECHNIQUES

The telephone interviewer uses many of the same techniques as when conducting a face-to-face interview with a few additions and a slightly different emphasis on others.

- Use probing questions to get the interviewee to focus on certain topics.
- Use direct questions to narrow the range of answers and to gather specific information. For example, "I was wondering...." or "Would you happen to know...?" Avoid asking open-ended questions that allow for a long narrative response as you may encounter interruptions that may destroy continuity.
- Use leading questions to focus the interviewee when he/she is vague or speaking in generalities.

PHASE 4: SUMMARIZATION

During this phase, the investigator summarizes the salient parts of the interview to ensure continuity and accuracy. This phase is even more important in the one-interviewer interview. Review your notes with the interviewee to:

- Clarify or add to the information provided in the interview. Use this
 opportunity to prompt further recall, ask additional questions and verify
 critical information.
- Provide an opportunity for the other investigator to comment or ask questions.
- Ensure you have recorded all important information accurately, especially when you are the sole interviewer.

Phase 5: Closing the interview

At the conclusion of the interview:

- Provide the interviewee an opportunity to discuss information not covered during the interview.
- Reassure the interviewee about any concerns raised during the interview;
- Ask the complainant (not the witnesses or subject) if there is anything more to present or discuss. You may want to ask:

Is there anything else I should be aware of?

Is there anything else the Inspector General would be interested in?

Is there anyone else that you feel I should talk to?

Do you know of any other information or evidence I should know of or look at?

- Ask the interviewee how you may contact him/her in the event you need additional information.
- Thank the interviewee for cooperating and remind him/her not to discuss the case with anyone.

Phase 5: Closing the Interview (Continued)

At the conclusion of the interview:

- Ask the complainant (not the witness or subject) what results he/she expects from the investigation.
- Ask the complainant, witnesses, and subject if there is anyone else you should interview, and why.
- Thank the complainant, witnesses, and subject for cooperating.
- Advise the interviewee regarding whistleblower protection.
- Give the interviewee your name, phone number and address so he/she can contact you to add information.
- Explain to the interviewee that participants in an IG investigation have no inherent right to know the outcome of an investigation nor to obtain a copy of the IR. Advice interviewee's that once the investigation has been completed and accepted by the tasking authority, a copy of the IR may be requested under the Freedom of Information Act. (See Chapter 7.)

SAMPLE Interviewee Out-Briefing in Appendix D.

INTERVIEW GUIDELINES

- Greet the interviewee in an appropriate manner.
- Establish rapport.
- Define or state the purpose of the interview.
- Maintain control; don't let the interviewee interview you.
- Ask one question at a time.
- Evaluate each piece of information or allegation on its own merit.
- Maintain strict impartiality and keep an open mind.
- Keep your talking to a minimum.
- Keep the interviewee at ease.
- React to disclosures appropriately.
- Be non-judgmental.
- Limit barriers between you and the interviewee.
- Don't let the interviewee interview you.
- Avoid arguing with the interviewee.
- Listen before taking action.
- Take your time. Don't hurry.
- Be a good listener.
- Accept the interviewee's feelings.
- Use appropriate questioning techniques, as described in this chapter.
- Use silence, when appropriate to force a response.

INTERVIEW GUIDELINES (CONTINUED)

- Make no promises.
- Ask questions that develop or explain facts, such as questions that begin with Who, What, When, Where, Why, and How. Ask questions in a conversational manner.
- Use transitions to connect thoughts, starting with known information and working toward areas of undisclosed information. Use leading questions as a technique for making transitions from one topic to another.
- Use terms that are familiar to the interviewee and avoid using acronyms.
- Ask a general opening question.
- Match the interviewee's verbal pace.
- Ask questions in a logical progression based on the sequence of events.
- Follow open-ended questions with specific questions.
- Ask what the complainant/interviewee expects or wants to happen as a result of the information he/she provides.
- Take breaks often.
- Don't argue.
- Ask if there is any other issue or information the IG should know or anything else the interviewee would like to add.
- Set up a time for continuation, if necessary.
- Extend your appreciation.
- Close the interview appropriately.

To elicit information from reluctant interviewees:

- Tell interviewees the information will be used "For Official Use Only".
- Avoid the word confidential.
- Explain the Freedom of Information Act (FOIA) and the Privacy Act.

INTERVIEW CAUTIONS

When conducting interviews, avoid:

- Revealing personal prejudices destroys your objectivity and credibility.
- Hurrying encourages mistakes and omissions.
- Making Assumptions/jumping to conclusions you may fail to obtain important information and allow false or unverifiable information to be introduced into the investigation.
- Making promises you can't keep destroys your credibility and reputation.
- Degrading the interviewee or talking down to him/her encourages unnecessary emotional barriers and antagonizes the interviewee.
- Placing too much attention on minor or irrelevant issues impedes the progress of the interview; and,
- Allowing the interviewee to control the interview or become angry distracts from the information gathering process.

COMMON PROBLEMS

- Admonition of silence
- Dissemination of results of interview
- Presence of attorney and/or union representative
- Use of recorders
- Interviewee demand for information
- Emotional outbursts
- Interruptions

Remember: Rehearse your questions when preparing for an interview.

IN SUMMARY . . .

- Planning is the key to successful interviewing.
- Follow the five phases of interviewing:
 - Introduction
 - Establishing Rapport
 - Questioning
 - Summarization
 - Closing
- You will normally place interviewees under oath before conducting an interviewee.
- Ask questions that elicit general responses and then get increasingly specific as the need for details becomes greater.
- Have interviewees who provide important information sign Sworn Statements or Declarations under 28 U.S.C. 1746.