

WITNESS INTERVIEW GUIDE

Have ready: *Privacy Act Statement*
List of documents from interviewee (complaint letter, etc.)
Investigative Plan
List of allegations
List of questions
Copies of all documents you plan to show to the witness

Establish Rapport.

- Identify yourself and show ID or Appointing Letter.
- First, you are not suspected of any wrongdoing and are not the subject of the investigation.
- We were given your name as a witness since someone thought you might be able to help us.
- I/we are here as investigators on behalf of (command) to gather information concerning a hotline complaint. When our investigation is complete, we will file a report.
- We act as impartial fact finders. Our job is to collect and examine all pertinent information and then make an impartial presentation.
- This is an administrative proceeding. We have no authority to impose punishment or to direct any corrective action. Our goal is to establish the truth of allegations or establish that allegations are not true and therefore clear a person's good name.

General Brief.

- Access to the information we gather is restricted to persons with a need to know to perform their official duties; usually investigators, attorneys, etc.
- Management officials may also see the report, but only if corrective action is required. If a commander or management official elects to pursue disciplinary action, then the subject has the right to all evidence, including your statement. Accordingly, under such circumstances, your identity will be known by the subject. Therefore, we cannot guarantee absolute confidentiality. Other than those types of circumstances, we protect your privacy and identify.
- Also, under FOIA & the PA, individuals may request and may be given redacted copies of your statement. That is, they may be given your statement, but identifying information such as your name, address, title, etc., will be omitted.
- As a reminder, all military and federal employees are required to cooperate with official investigations and to answer questions truthfully. So I would like to remind you of the importance of presenting truthful and candid statements. And, I would like you to give me information I need to know, even if I don't ask a specific question.
- I can accept hearsay evidence and opinion from you, but please identify information of that nature when you relate it to me.

For the purpose of this interview, hearsay is information you give me that is based on what others have told you, rather than what you know personally.

Opinions are your thoughts and beliefs about facts you know personally or have heard from others. The conclusions you draw from facts are a form of opinion evidence.

- Please advise me if your statement contains classified information.

Privacy Act

- Before we begin, I want to discuss and have you sign a Privacy Act statement. Since I will be asking you to furnish personal information about yourself, the Privacy Act of 1974 requires that I inform you of the authority for this requirement (hand statement to interviewee, explain and have them read & sign).

Tape Recording

- Our interviews are tape recorded for accuracy. But before I turn on the recorder, I want to ask if you have any questions.

- I want to record some information that will aide me in preparing an accurate transcript.

Your name: _____ Title _____

Your command: _____ Rank/Grade _____

Your phone number: _____ Email _____

I will turn on the tape recorder, record some information and then place you under oath.

- The tape recorder is on. My name is _____, assigned as an investigator for _____. I am here with my colleague _____ . The date is ____ and time is _____. This is NAVIG case number ____ (and local number ____). I am interviewing (name, grade, command) _____.

- I will now administer the oath. Please raise your right hand. "Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief."

- Do you acknowledge that you are being tape-recorded?
- Please state your name and command.

Question the Witness

Note: If you show documents, number them and attach them to the ROI, Sworn Statement, etc.

Criminal Involvement and False Statements

- (Witness Criminal Involvement). If during this interview, the witness suggests personal criminal involvement, the witness must be advised of his/her rights. Unless rights are waived, the interview ceases. If during the interview you believe the witness has become a subject, advise the witness that he/she need not make any statement that may incriminate them.

- (Witness False Statement Warning). If during the interview it becomes necessary to advise a witness about making false statements or other false representations, read the following statement to the witness, as applicable:

Military Personnel subject to UCMJ. I consider it my duty to advise you that any person subject to the UCMJ who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing the same to be false, may be subject to action under the provisions of UCMJ, Art. 107. Additionally, under the provisions of the UCMJ, Art. 134, any person subject to the UCMJ who makes a false statement, oral or written, under oath, believing the statement to be untrue, may be punished as a court-martial may direct. Do you understand?

Military and civilian personnel not subject to UCMJ. I consider it my duty to advise you that under the provisions of section 1001, title 18, United States Code, whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by a trick, scheme, or device, a material fact, or makes any false, fictitious, or fraudulent statement or representation, shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both. Additionally, any person who willfully and contrary to his oath testifies falsely while under oath may be punished for perjury under the provisions of section 1621, title 18, United States Code. Do you understand?