



Internal Investigations: The Basics

Gathering Documentary Evidence

Effective Internal Investigations for
Compliance Professionals

Presented by Meric Craig Bloch
Vice President – Compliance and Special Investigations
Adecco Group North America

Internal Investigations – The Basics

- Part One: Interviewing the Reporter
- Part Two: Planning the Investigation
- Part Three: How to Take Effective Workplace Interviews
- Part Four: Documents in Investigations
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It's Not What You Know. . . .

- Investigations are not based on what you believe happened.
- Your gut feelings are not a substitute for proof.
- The burden of proof is a “preponderance of evidence.”
- The criminal justice burden of proof does not apply to workplace investigations.

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The rules of evidence

- There are multiple types of evidence.
- Evidence must be relevant.
- Evidence must be material.
- Evidence must be competent.
- Evidence must be authentic.
- Remember the differences between direct and circumstantial evidence, as well as fact vs. opinion evidence.

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The hearsay rule

- The rule exists to protect the quality of the proof.
- Hearsay is essentially a statement of fact made by someone other than the witness, which is then repeated by the witness in court, in order to prove the truth of those facts.
- There are multiple exceptions because those hearsay statements are unlikely to be false.

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Additional evidence concepts

- There is a difference in the value of primary vs. secondary evidence.
- Material facts need to be corroborated.
- The attorney-client privilege rarely attaches to workplace investigations.

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The role of documents

- You don't need every shred of paper. It's quality, not quantity.
- Some documents are better than others. Know which ones are the best for your investigation.
- Documents can do more than establish new facts. Documents can support the ones you already know.
- You can't always get what you want. But you might get what you need.

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Knowing when you are done

- You must know when to start and when to stop.
- You have to decide what happened.
- At the end of the investigation, there are only three outcomes.

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Contact information

Meric Craig Bloch
Vice President – Compliance and Special
Investigations
Adecco Group North America

meric.bloch@adeccona.com

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