

HAMLET'S MIND

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Recently, many people have asked me, "How did you know Brian Williams was lying?"

"It was easy", I told them, "His pants were on fire".

A selection of upcoming courses with open enrollments:

ACFE, Advanced Interviewing. Austin, TX: March 2 – 5;

The Concept of Persuasion. Stanly County Community College, Albemarle, NC: March 16 – 17

The Concept of Persuasion. The NC Justice Academy, Edneyville: March 31 – April 1;

Investigative Discourse Analysis. The NC Justice Academy, Edneyville: April 20 – 24;

ACFE Dallas, TX Chapter, May 15;

Investigative Discourse Analysis. Stanly County Community College, Albemarle, NC: May 18 – 22;

Should you need any interviewing related training for 2015, please contact:

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Scheduling for January – June 2016

If you would like to have a customized interviewing-related course brought to your organization, association or area during the above listed time frame, please contact me. A list of courses can be found at www.hamletsmind.com Want something basic, intermediate or advanced? It can happen. Together, we can structure the session to meet your specific needs and wishes.

Private Sector Interviewing: What You Don't Know Can Hurt You

Greg Rodgers, JD and Don Rabon, CFE

Note: Keep a lookout for an announcement on the new two-day course with the same title as this article.

When early cartographers arrived at the point where they had no new information with which to continue drawing a map, they would write in the unknown portions, "Here be dragons." For professionals interviewing in the private sector, no forewarning was ever more appropriate – *Here be dragons.*

Recently, and at a dramatically increasing rate, the scope, importance and emergence of "dragons" within this arena have manifested themselves. Professionals from the private sector tasked with conducting interviews of a very significant nature, are encountering a variety of treacherous waters and rocky shoals because they are figuratively, "off the map." These unmarked hazards have consequences effecting not only the organization, but also, just as importantly, the interviewers themselves. That being the case, it brings up the questions:

- Why?
- Why now?
- Why to this degree?
- What are the dangers?
- What might be the consequences of those dangers?

Obviously, within the confines of a bi-monthly newsletter it is not possible to address each of these questions completely. However, we can set out a couple of channel markers and raise awareness of the potential for troubled waters.

This newsletter has often advocated on behalf of the need for organizational guidelines that address the conduct of the interview. Toward that end, an interviewing policy development template has been shared in a previous issue of the newsletter. As a result, there are indications that the idea is starting to set sail.

Recently, a document from a private sector entity entitled, “Interview Policy Draft” arrived with the request:

“Would you please take a look at the attached and let us know what you think?”

Any thoughts/criticisms would be very helpful.”

To gain a clearer perspective of the scope of the circumstance, an inquiry was made via LinkedIn to a small sampling from those conducting interviews within the private sector. They were asked to share incidences of adverse consequences as a result of their interview. The responses were notable as far as the degree and frequency of adversity. The source of the angst for the interviewer could be internal as well as external. For example:

HR: “Did you accuse him of theft?”

*Me: “Yes, indirectly I made a **soft accusation**.”*

*HR: “**You can’t do that**. You don’t have any proof.”*

*Me: “Actually, you can make accusations. This is part of **the interrogation process** to learn the truth.”*

*HR: “That’s **not my understanding**. You could cause us some serious liability.”*

Me: “I don’t think we have anything to worry about. I don’t haphazardly throw accusations around. What’s more important is how the person responded. By the way, this person’s response during the interview/interrogation is consistent with deception.”

Note the words and phrases highlighted above in bold print. The interviewer is functioning with no map. Finding out what someone’s understanding may be **after** the fact, in the heat of the moment, does no one any good. Telling the interviewer what he can and can’t do **before** the fact makes for much smoother sailing.

The private sector, interviewing process is filled with “dragons” ready to swoop down upon the unwary interviewer. Many of the actions taken during the course of an inquiry could lead to civil and in some extreme cases, criminal liability.

A private sector interviewer who doesn’t have a basic understanding of the applicable law is, in effect, sailing without a map when conducting an inquiry. He literally doesn’t know where the “dragons” are, and is therefore that much more likely to run afoul of them.

Many of the things that an interviewer might do, intentionally or inadvertently, during the course of an interview, might run afoul of these “dragons.” This breach might include techniques that you, as an interviewer, consider completely innocuous. For example, something as simple as

merely placing your hand on an interviewee's shoulder during an interview, or blocking an interviewee's exit during an interview could, in some circumstances, lead to civil liability.

For the interviewer, adverse consequences do not always end up in court. The situation is very often resolved internally, with the interviewer walking the plank.

Once, at an interviewing class being conducted for about one hundred and fifty private sector professionals, a participant shared privately that his company had informed him that he would be well advised to carry his own error and omission insurance. Continuing, he was informed that if a civil or criminal action were to arise as a result of his interview, he was on his own. They would not "back" him.

It is essential that private sector investigators operate with a map of where the "dragons" are.

Compliance – Gaining within the Interviewing Process

As I have written previously, I am endeavoring to place an increased examination into and emphasis upon the compliance-gaining element of the interviewing process. Toward that end, the second edition of the text, *Persuasive Interviewing* is now with the publisher and in the process of being formatted for final review before printing. Additionally, I am scheduling so as to be able to offer the persuasion-related programs more often. This increase in offerings is not just in response to the need – and it is there, indeed, but moreover, because each time I conduct the course, I learn more about:

- The related problems that are occurring in the field;
- The parameters within which the process is taking place;
- What approaches seem to be effective or not within the changing paradigms of societal age, attitudes and expectations.

Recently, as a part of the delivery of the class: The Concept of Persuasion – I asked the participants to consider:

- 01. What are the dynamics unique to the compliance-gaining component of the interviewing process?**
- 02. What are the attributes that an interviewer – as a persuader – should possess?**
- 03. What are the skills that an interviewer – as a persuader – should possess?**

While the space in the newsletter will not allow for us to address all of the responses to each question, I will identify and amplify one salient point, per element, brought forth by the participants.

With regard to the **first question: *What are the dynamics unique to the compliance-gaining component of the interviewing process?*** – the participants identified:

The requisite transitioning from information gathering, (confirming and/or refuting previously known information) and developing a base line assessment of the interviewee's verbal, vocal and non-verbal communication to the compliance-gaining phase. When does the interviewer make the transition?

Herein we will focus on the transitory point. There are a number of options for the interviewer. These examples below are not all-inclusive but can serve to illustrate the concept:

- Is there anything I should know about this situation that I don't know?
- Is there a question that I have neglected to ask you?
- What else about this circumstance can you tell me?

The interviewee's response will determine if the interviewer proceeds forward or doubles back to "walk the ground" once more to find that which has been missed.

Now as to the "when" to make that transition, there are a number of variables that come into play. The variables include, but are not limited to:

- the amount of verifiable information the interviewer possesses;
- the interviewer's assessment of the interviewee;
- the application of a logical framed or emotional framed, compliance-gaining theme or a combination thereof.

Attempting to make the transition too soon in the process can diminish the effectiveness of the compliance-gaining frame. Waiting too long can also result in a negative outcome – the moment has passed. The interviewer must apply the *Goldilocks' principle*: not too soon, not too late – just right. That being said, one additional, inescapable factor in making a determination as to when to make the transition is **the judgment that comes from experience**. There is no way around it – the interviewer can only become good, can only become better and can only continue to improve throughout their career by doing it. The interviewer must be willing to critically, self-evaluate and incorporate the lessons learned from each experience – positive and negative – most especially, the negative. This assessment can be a most effective, learning vehicle, as long as there is no shifting of the blame for the outcome onto the interviewee, rationalizing the impact of some external force and most of all, no whining.

The **second question: *What are the attributes that an interviewer – as a persuader – should possess?*** As we addressed crucial, interviewer attributes, a most interesting term popped up: *compassionate salesperson*. While this was the first time I had heard the term, it immediately

struck a resonate chord within me (see, I learn something new everyday). While processing this assessment, I remembered that origin of the word “sale” originally meant *to give or to serve*.

Keep in mind that not all of the interviewees that may require the interviewer to transition into a compliance-gaining mode are the doers of the wrongful deed. Neutral, third parties as well as victims can choose to be less than forthcoming for a myriad of reasons. No matter the status of the resistant interviewee, the task is still the same: identify the barrier to cooperation and remove it.

Studies show that having identified the barrier, the interviewer via positive rather than negative frames stands a better chance of success. Additionally, the word *compassionate*, at least in my mind, serves as the antidote to confirmation bias – judgment prior to inquiry. The interviewer possessing this attribute understands that the compliance-gaining phase of the interview process is not one wherein judgment is to be passed but rather, to learn all.

Question three: *What are the skills that an interviewer – as a persuader – should possess?*

Our focus on necessary persuasion-related skills, produced a dynamic that received affirmation from all of the participants: *the ability to attend*. They are spot on. Having the ability to pay attention for a protracted period of time is not optional or of minimal significance.

Unfortunately, the ability to stay in the moment, by the general populace, is rapidly diminishing. The average adult attention span is twelve minutes and in a state of temporal free-fall. I see this reality in my classes, in the conduct of the interview, as regarding the interviewer as well as the interviewee and in the diminishing **willingness to** or **capability of** taking the time to plan for a scheduled interview.

Paying attention **IS** a skill set involving focusing on the other communicant’s verbal, vocal and non-verbal behavior. Fewer and fewer numbers of us are capable of staying in the moment for prolonged periods of time. It is growing equally more difficult for many to retain what has occurred previously within the interview and subsequently, to apply that element at the appropriate point. Now, it is down to only you and me. And I’m not so sure of you.

Let’s See What You’ve Got

Give yourself a “go” at the following foundational, interviewing-related questions:

- One: Questions that will obtain a response but limit further discussion.
- Two: Questions that encourage interviewee cognition and encourage discussion.
- Three: Question formulation that encourages agreement and identifies barriers to cooperation.
- Four: Write an example of the standard form addressed in question three.
- Five: Write an example of an inverted form addressed in question three.

- Six: Questioning sequence that goes from general to specific.
Seven: Questioning sequence that goes from specific to general.
Eight: A question that embodies an assumption within the question.
Nine: Questions that evaluate the interviewee's responses to assess veracity.
Ten: An interviewer – interviewee mutual assessment is formed in the first ____ of the opening.

My texts (and no one should ever be without them): The texts I have currently in publication are: *Interviewing and Interrogation*, 2nd edition. *Fraud Related Interviewing, Persuasive Interviewing* and *Investigative Discourse Analysis 2nd Edition*. They can be ordered directly from Carolina Academic Press. (919) 489-7486 or online at <http://www.cap-press.com> or www.amazon.com

Well now, this is the first issue of the newsletter wherein I have used my MacBook Air exclusively for writing and publication. As I have advised you previously, “Never get comfortable. Always be willing to push down the confines of your comfort zones”. I am endeavoring to practice what I preach.

Until the April issue, keep asking, keep listening and keep looking. The answer is there.

Don Rabon, CFE