

## Employee Theft Investigation - Part 2

by J. Patrick Murphy

### Warning!

Whether a professional investigative department is involved, a private investigator, or simply management or a supervisor, investigating an employee for any cause is very serious business. Investigators who have experience in internal matters should be the first choice to conduct the investigation. There are companies available that specialize in the investigation of white-collar crime. Police departments are generally not equipped to properly investigate most internal thefts because they don't have the time to learn the inner workings of a company.

1. Conduct an immediate and thorough investigation if you learn of a theft. Document all investigative efforts.

2. Investigations are "sexy" to others. Remind everyone interviewed, even a suspect, that the matter is confidential. Create a confidentiality agreement for signature if possible.

3. Evidence is important. Company documents, witness statements, video or physical evidence must be preserved.

4. Thoroughly understand the laws regarding the use of polygraph and drug tests. The use of the polygraph is governed by the Employee Polygraph Protection Act and is still a viable tool when investigating a loss. If there is cause to use a polygraph, my recommendation is to ask the police to do that. The employee may refuse which is their right to do so. The results of the polygraph or the refusal to submit to a polygraph are not grounds to terminate an employee

### Interview

Interview and interrogation is an acquired skill that is a mix of recognizing body language, knowing that no one admits to wrongdoing initially, being patient and knowing how and when to ask questions. There are two prominent companies that offer instruction and training on conducting these types of interviews. Wicklander & Zuluwsky ([www.wz.com](http://www.wz.com)) and Reid ([www.reid.com](http://www.reid.com)). If the interviewer is not trained at the very least there should be procedures established for ground rules to guide non-investigative personnel.

Here are a few guidelines that should be considered:

1. Interviews can be conducted with or without a witness present. Female employees should always have a female witness present. A witness should sit out of the peripheral vision of the person being interviewed. The witness should not be an active part of the interview but should take notes.

2. Be prepared. Create an outline of how you wish to present your facts. Have your documentation and evidence prepared as well.

3. Props. Examples of props: Thick file folders with labels such as "Theft Investigation of John Doe" or videotapes with similar labels. A prop is intended to give the interviewee the impression of overwhelming evidence against them.

4. Document the start and stop time of the interview and document any offering of a break for use of a restroom or drink even if it is refused.

5. Provide the employee a document stating that they acknowledge that they can stop the interview at any time and are free to leave at any time. Have them sign that document for your file.

6. The hardest part of an interview can be simply getting started. What do I say? If needed, write out a script and keep it handy as if you were giving a speech.

7. Be very mindful of the duration of the interview. If an admission has not been made within an hour then it is unlikely that any further discussion will bring one. It is important to understand that this does not mean there is a standard to length of interviews nor does it suggest that haste is important

8. Audio or video recording an interview is dangerous territory. If done, it should be with the full acknowledgement and authorization of the interviewee.

9. NEVER offer to negotiate their termination or prosecution. Don't offer to not prosecute if they just "tell the truth" or if they just made payments for the loss "everything would be alright". Don't threaten to fire them if they refuse to take a polygraph.

10. Expand the interview to understand where they learned how or got the idea to do this

11. Obtain a written statement from the employee about the thefts they committed. Ask that they include implications of any other persons involved in theft. Have them be very specific about those allegations. Have them state dates, times, circumstances, and the property involved.

12. The conclusion of the interview should result in a voluntary written statement. It should be written in the person's own handwriting and signed by the witness as well.

Finally, they do not need to be read their Miranda rights unless they are being interviewed by law enforcement.

