

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Chapter 31, Conducting and Documenting Interviews

1. **Purpose.** The contents of this chapter are intended to acquaint Investigators/Auditors with basic EBSA requirements for conducting and documenting interviews. In addition, overview information relating to various aspects of interviewing is provided to assist Investigators/Auditors in developing skill in performing interviews.

2. **Objectives.** The objectives of an interview are to develop credible information that is relevant and material to the investigation and to ascertain the interviewee's version of the facts. Particular objectives will vary with the nature of the case and the facts or circumstances, which are being investigated.

Some objectives of interviews are:

- a. To verify the accuracy of the plan's books, records, and reports filed with the Department.
- b. To obtain information not recorded in the plan's books, records, and reports.
- c. To secure explanations for recorded entries.
- d. To secure details and explanations for unrecorded transactions and events.
- e. To secure admissions regarding violations from potential defendants.
- f. To obtain evidentiary information regarding specific transactions and/or actions of individuals dealing with the plan(s).
- g. To assess the desirability of the interviewee being used as a witness at trial.

3. **Definition of Interview.** An interview is the questioning of a natural person who may or does possess information relevant to the matter under investigation. Under this definition subjects of interview may include, but are not limited to, individuals who have knowledge of a single document or transaction; custodians of systems of regularly kept records; fiduciaries of employee benefit plans; service providers to employee benefit plans; and subjects of criminal investigations. Often the interview of a subject of a criminal investigation, especially when such individual is in governmental custody, is referred to as an interrogation.

4. **Establish a Goal.** In preparation for an interview, the interviewer must necessarily prepare him/herself by thoroughly analyzing all available background information,

the available evidence, and any other material which will complete the questioner's knowledge with respect to the matter at hand. However, no amount of background knowledge can assist the interviewer in accomplishing his/her mission, unless and until he/she establishes a clear-cut goal or objective that can serve as a target toward which plans and efforts can be directed. In this regard, there are two main factors which must be considered in determining the objective of the interview:

- a. The requirements of the law or investigative assignment.
- b. The "unknown details" to be resolved. The interviewer must determine why he/she should question the individual concerned. The reasons may be many or few, but there should be a reason and the interviewer must know what it is.

After the probable relationship of the interviewee to the case is determined, the interviewer is in a position to determine what details the interviewee is likely or apt to know. Each "unknown factor" becomes a question, the answer to which should be obtained. "Unknown factor" questions should cover every topic the Investigator/Auditor wishes to discuss.

5. **Aids.** Aids are important in interviewing and may prove very helpful to the Investigator/Auditor during the questioning of an interviewee. Some typical aids are:

- a. Written or recorded statements of other interviewees.
- b. Reports filed with EBSA or other agencies.
- c. Background information such as credit reports, financial statements, etc.
- d. Information from other sources to be verified.
- e. Previous statement(s) of the same interviewee.
- f. Photocopies of checks, plan records, bank records, official records of ownership, hotel records, etc.

6. **How to Compose and Ask Questions.** Investigators/Auditors will conduct interviews in a courteous manner, free of personal prejudice or preconceived notions as to the culpability of the interviewee, and without making any threats or promises whatsoever to elicit any information. Since questions are the tools of the interviewer, it is essential that they be clear, communicative, and designed to elicit information. The interviewer should generally attempt to use language understandable by the person being interviewed.

7. **Selectivity.** Discerning questions are those designed to procure information having a direct bearing on the matter under discussion. Discerning questions are impossible to compose unless the questioner understands the nature of the investigation, the purpose of the interview, and the information desired. The interviewer must fully prepare for each interview by:

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- a. Thoroughly reviewing the case, including all evidence previously adduced.
 - b. Logically analyzing the evidence and its relationship or effect on the allegations.
 - c. Based upon a clear and understandable "theory of the case," outlining the interview so that the desired goal will be reached.

8. **Types of Questions.** In framing questions, the Investigator/Auditor may inadvertently restrict the responses or limit the accuracy of the responses of the interviewee by the types of questions asked.

- a. **Extended Answer Questions.** Questions are often more useful if framed to require a narrative answer. Questions that can be answered by a "yes" or a "no" limit the information that the interviewee may be inclined to give; answers to these questions often do not supply enough information relevant to the investigation which is the subject of the interview. Such questions are acceptable when summarizing or verifying.

- b. **Leading Questions.** Leading or suggestive questions are those which suggest the desired answer, assume something as fact which has not as yet been agreed to by the interviewee, or embody a fact and require a simple "yes" or "no" answer. When asking for original information, such leading questions should generally be avoided.

9. **Characteristics of Good Questions.** Some of the fundamental characteristics of good questions are:

- a. Brevity and confinement to one topic.
- b. Easily understandable.
- c. Avoidance of words tending to accuse or intimidate: e.g., "Are you aware that this may be a serious fiduciary breach?"

10. **The Six Questions.** Most questions can be composed based on the questions "what?" (what happened), "when?" (when did it happen), "where?" (where did it happen), "why?" (why did it happen), "how?" (how did it happen), and "who?" (who was involved). The questions "why?" and "why not?" are powerful and of great value in interviews.

11. **Question Development.** Plan administration, investment decisions, or prohibited transactions may be the issue of an investigation. To obtain an explanation and resolution of such issues usually requires a series of questions. Each question must be directed toward resolution of the issues and must focus the solution effort in a particular direction.

12. **General to Specific.** The most efficient strategy which can be employed to resolve an issue is to have the questions that are asked about the issue progress from general to specific ones. This is accomplished by asking general questions designed to develop information

on the setting of an event before exploring the details. Determine first what was done before exploring how or why it was done. Place a person at a scene before exploring his/her actions while there.

13. **Free Narrative.** One of the principal questioning techniques is "Free Narrative," which is an orderly, continuous account of an event given with or without prompting. It is used to get a quick summary of what the interviewee knows or is willing to tell about the matter. It may usually be initiated by requesting the interviewee to tell what he/she knows about the specific matter. When using this technique, never generalize about the subject matter to be discussed. Spell it out specifically.

14. **Initial Questioning.** Initial questioning, another questioning technique, is systematic questioning designed to bring out a connected story of an event or incident. Its purpose is to elicit new information or fill in details omitted during Free Narrative.

- a. Begin with questions not likely to cause hostility.
- b. Ask questions which will develop facts in the order of their occurrence or in some other systematic manner.
- c. Ask only one question at a time and compose it so that only one answer to the question is required.
- d. Ask straightforward and frank questions.
- e. Give the interviewee ample time to answer.
- f. Help him/her to remember, if possible, but do not suggest answers.
- g. Repeat or rephrase questions, if necessary, to get the desired facts.
- h. Be sure the answers are fully understood and, if not perfectly clear, request an explanation.
- i. Give the interviewee an opportunity to qualify his/her answers.
- j. Separate fact from inference.
- k. Get all the facts. Almost every subject/ interviewee possesses more information than he/she initially admits knowing.
- l. After receipt of a narrative account, ask questions of every item discussed. Ask questions about little things; the answers will frequently contain clues to previously unreported information of interest.

15. **Introduction by Investigator/Auditor and Initial Notifications/Warnings Preliminary to Interview.**

a. **Civil Program Cases** (Program 48 and Program 53).

Investigators/Auditors must clearly identify themselves to subjects of interviews (interviewees). Investigators/Auditors are required to carry credentials and have them available for inspection when conducting interviews. When introducing themselves, investigator/auditors should display their credential, or credentials and badges, as appropriate, but should always maintain adequate control of their credentials and badges. However, if the interviewee requests, the credentials must be shown. The interviewee must be informed that the interview being sought is pursuant to an official investigation of EBSA under the authority of the Employee Retirement Income Security Act of 1974, as amended, and that the interviewee's voluntary cooperation is being requested. The interviewee must also be informed that if the Investigator/Auditor discovers any information which may involve violations of other laws, EBSA will refer the matter to the U.S. Department of Justice or other appropriate agency (See Figure 1). See Tab [A] for EBSA Form 202.

b. **Criminal Program Cases** (Program 52). In criminal case interviews,

Investigators/Auditors must also clearly identify themselves. Investigators/Auditors are required to carry credentials and have them available for inspection when conducting interviews. When introducing themselves, investigator/auditors should display their credential, or credentials and badges, as appropriate, but should always maintain adequate control of their credentials and badges. However, if the interviewee requests, the credentials must be shown. The Investigator/Auditor should seek the voluntary cooperation of the interviewee. The investigator is to advise that he/she is conducting a criminal investigation pursuant to the Employee Retirement Income Security Act of 1974. The interviewee must also be informed that any information obtained may be referred to the U.S. Department of Justice or other appropriate agency (See Figure 2). See Tab [B] for EBSA Form 202A.

Investigators/Auditors are not required to advise interviewees of their rights in non-custodial situations unless requested to do so by the U.S. Attorney's Office. However, in those circumstances where a person is either in governmental custody or reasonably believes himself/herself to be in such custody, he/she must be advised of his/her rights. See Tab [C] for EBSA Form 202B.

1) **Advisement of Rights.** Custodial subjects of criminal investigations must be advised of their rights as follows:

* You must understand your rights before we ask you any questions.

* You do not have to make any statement or answer any questions.

* Any statement you make or any answers you give may be used against you in a court of law or other proceedings.

* You have the right to talk to a lawyer for advice before you answer any questions and you have the right to have a lawyer present during the interview.

* If you decide to answer questions now without a lawyer present, you still have the right to stop the interview at any time.

2) **Waiver of Rights.** In addition to giving the advisement of rights, the Investigator/Auditor should attempt to obtain a "waiver of rights" from the criminal subject immediately thereafter, if the subject indicates a willingness to allow the interview to continue. The "waiver of rights" language should be read to the custodial subject after which he/she should be asked to read and to sign the document. (Figure 3 is to be used for this purpose.) If the custodial subject agrees to be interviewed but does not agree to sign the "waiver of rights" form, the interview should continue. In the event that the custodial criminal subject indicates either before or during the interview that he/she wants a lawyer present, the interview must stop and not be resumed until the subject's lawyer is present.

Sometimes EBSA assists other law enforcement agencies in criminal investigations. In those circumstances, the Investigator/Auditor may follow the lead agency's interview procedures.

16. **Third Parties Present During An Interview.** The Investigator/Auditor should assure that only the interviewee and the interviewee's attorney are present during an interview. Third parties, other than attorneys who represent the witness, do not have the right to attend interviews conducted by an EBSA Investigator/Auditor during the course of an investigation. EBSA investigations are not public, and the only person(s) entitled to be present at interviews are the person(s) being interviewed and their representatives. If an Investigator/ Auditor asks a third party to leave the room at the beginning of the interview, and the third party refuses, the interview should be terminated and the witness subpoenaed for an administrative deposition.

17. **Summarize Interview.** After the various phases of the interview are completed, the Investigator/Auditor should summarize the interview by stating all important details in proper sequence. The Investigator/Auditor should stop after each part of the summary and ask the interviewee to verify his/her interpretations.

If the interviewee disagrees with any segment of the summary, the discrepancy should be corrected before proceeding with the remaining portions of the summary.

18. **Ending the Interview.** The Investigator/Auditor should leave the door open for subsequent interviews, if he/she believes them to be necessary or desirable. After completion of the interview, the Investigator/Auditor should politely end it and leave.

19. **EBSA Form 202, "Report of Interview".** Oral information obtained during the course of an interview will be recorded in detail on EBSA Form 202, "Report of Interview" (RI). In recording such information, language used will reflect, to the maximum extent possible, the actual language used by the interviewee.

The RI will reflect in its preface the notification described in paragraph 4 above and information identifying the interviewee. This information will include the full name, office and home addresses and telephone numbers (See Figures 1 and 2). Additionally, in those

instances where advice of rights was given, the RI's preface will reflect this fact as well as the subject's response to the request for a "waiver of rights" (See Figure 4).

The text of the RI should clearly identify any documents shown to the interviewee, or provided by the interviewee to the Investigator/Auditor, during the interview. The text should also include background information. Where appropriate, this information should include the interviewee's age, education, and employment history.

RIs will be prepared to record interviews of **all** individuals interviewed even when signed, written statements are obtained from them. If a signed, written statement has been obtained, the RI generally should reflect only the appropriate preface comments, the fact that a signed, written statement of the interviewee is attached, and the circumstances of the statement's execution as known to the Investigator/Auditor receiving it (See Figures 5, 6, and 7). RIs are not required when testimony is taken through the use of administrative depositions.

For RIs which cannot be fully recorded on the initial page of EBSA Form 202, plain bond paper will be used for any additional required page(s). Each interview performed must be reported separately using EBSA Form 202. To ensure accuracy and completeness, RIs will be written as soon after the interview as possible. The original RI will be signed above typewritten name(s) by the Investigator(s)/Auditor(s) who conducted or were present at the interview.

20. Maintenance of Report of Interview. The originals of RIs will be preserved as original evidence in the RO/DO case file in order to ensure their ready availability if production is required. Copies of RIs will be used as exhibits in ROIs.

The originals of RIs prepared by an auxiliary office will be forwarded to the primary office with a covering ROI and the auxiliary office will retain only a copy. Transmittal to the primary office should be made via certified mail, return receipt requested.

21. Investigator/Auditor Notes Taken During Interview.

a. **Civil Investigations.** Under normal circumstances, notes taken during interviews should be retained.

b. **Criminal Investigations.** Unless instructed otherwise by the U.S. Attorney's Office, interview notes should be retained in all criminal investigations. The Investigator/Auditor should consult with the U.S. Attorney early in the investigation concerning the retention of notes or, in the event that no notes were taken, concerning the retention of rough drafts of RIs. See Chapter 52.

c. **Disclosure of Notes.** Interview notes should not be shown to the interviewee. Such notes should be treated similarly to work papers, and should be secured whenever an Investigator/Auditor leaves his or her work area.

22. Signed Statements. As circumstances dictate, a signed, written statement may be obtained from an interviewee. The preface of such a statement will, like an RI, reflect

identifying information about the interviewee, will indicate that appropriate notifications or warnings have been given by EBSA personnel, and will indicate the voluntary nature of such statements. See Figure 8 for a sample signed statement.

The body of the signed statement need not follow a prescribed form. It should contain a complete account of all the pertinent information known to the maker relevant to the alleged violation. The maker of the statement may be permitted to write it or dictate it to a stenographer, or the Investigator/Auditor may write it for the maker, being careful to keep it in the maker's own words. After the complete statement has been prepared and is ready for signing, the maker will be given the opportunity to make corrections or deletions. When corrections or deletions are made, the maker will be requested to initial each such correction. In order to prevent subsequent insertions or deletions, each page will be numbered in sequence and initialed by the maker of the statement. When hand-written, no space should be left between paragraphs and the entire width of each page should be used.

The concluding paragraph of the signed statement should contain an attestation which declares that the person has read, or has had read to him/her, the statement which consists of a certain number of pages, that each page (which has been numbered) and each correction has been initialed by him/her and that the statement is complete and true to the best of his/her knowledge. The signature of the maker, placed after this paragraph, should be the same as the name identifying him/her in the heading of the statement. Each person witnessing the execution of the statement should sign as a witness. When available, fellow Investigators/Auditors will witness the statement. Both the maker of the statement and the witness to the execution of the statement should date their respective signatures.

No copy of the signed statement will be volunteered to the person furnishing the statement. However, if the person or his/her attorney requests a copy of the statement, a copy will be furnished. Signed statements will be maintained in the same manner as RIs.

23. **Personal Observations.** When an Investigator/Auditor determines that it is necessary to record observations of the credibility, dependability, or availability of potential witnesses for the assistance of SOL and others in evaluating the litigation potential of cases, these observations are to be set forth in a separate memorandum to the file entitled "Evaluation of Witnesses." Such comments will be kept to a minimum and expressed in the most objective manner possible; they must never appear in an RI or the body of an ROI.

During the course of an investigation, the Investigator/Auditor should be alert to observe and report any information material to the inquiry at hand, such as the disorder of records, books, the contents of a safe deposit box, and so on. Such evidence is direct testimony, relevant and material to the issue, and may therefore be testified to by the Investigator/Auditor. Accordingly, such information is to be reported by a separate memorandum to the file.

24. **Attorneys-at-Law.**

a. **Civil Program.** Investigators/Auditors should offer no objection to the presence of an attorney representing the interviewee during the interview of a civil case witness

or subject. He/she should keep in mind that in an interview of a person represented by counsel, the attorney may also represent a potential defendant. Under these circumstances, Investigators/Auditors will exercise caution to avoid disclosure of EBSA's case. Similarly, in interviews conducted in the presence of attorneys, Investigators/Auditors will not engage in arguments as to interpretations of the law, the facts of the case, or matters of procedure. If the attorney seeks to take charge and control the scope and progress of the investigation, the interview will be courteously discontinued. When an interview is discontinued under the above circumstances, the Investigator/Auditor will apprise his/her supervisor of the fact at the earliest opportunity. Attorneys may advise their clients, but may not reply for them. If, in isolated cases, an attorney does reply for his/her client, the interviewee should be asked for his/her own answer. If significant, the answer of the attorney should also be reflected in the report of interview.

b. **Criminal Program.** As noted above in paragraph 4, custodial subjects in criminal investigations have a right to have a lawyer present during an interview. Considerations similar to those in paragraph 11.a. still pertain in such interviews, particularly with respect to having the interviewee answer for him/herself. Witnesses and non-custodial subjects in criminal cases will be given the same consideration as are civil program witnesses/subjects, *i.e.*, no objection will be made to the presence of an attorney representing the interviewee during the interview.

25. **Recording, Transcribing, and Monitoring of Conversations and Statements.**

a. **Policy.** DOL policy is that all internal and external business be transacted in an atmosphere of complete candor. Accordingly, statements or conversations made in person or over the telephone must not be secretly recorded, transcribed, or monitored.

b. **Restrictions.** In accordance with the above policy, the following restrictions apply:

1) Unless otherwise authorized by a court, the use of electronic or mechanical recording and monitoring devices in conjunction with two-way telephone conversations is prohibited. Telephone recording devices may not be used except for purposes of receiving messages on automatic answering equipment or, where voice over Internet Protocol (IP) is used, for purposes of administering communications devices or filtering and logging certain types of traffic to mitigate potential security vulnerabilities.

2) The use of electronic or mechanical recording devices in conjunction with meetings, teleconferences, interviews, and conversations is prohibited unless notification has been given to all participants that such devices are being used, and all parties agree to such use, or unless authorized by a court order.

3) Monitoring of telephone conversations by secretaries or other personnel for purposes of confirming appointments, making arrangements, assisting with commitments, and assuring adequate follow-ups will be permitted only after notification to callers that such monitoring is taking place.

26. **Administrative Depositions.** Administrative depositions are recorded by court stenographers and are taken under oath; consequently, the use of RIs or signed statements is not required. In some instances, an administrative deposition may be taken by an Investigator/Auditor without a government attorney being present. Prior consultation with SOL is required in such instances. In these circumstances special care should be taken to employ good interviewing techniques to insure a sound product. (See Chapter 33 re: administrative depositions.)

OUTLINE FOR REPORT OF INTERVIEW

(See Tab A for EBSA 202 form)

Date of Interview

_____ was interviewed at _____ on the above date at _____ am/pm by Investigator/Auditor _____. (If applicable) Also present was _____. _____ was advised that the writer is conducting an official investigation for the Employee Benefits Security Administration, U.S. Department of Labor, pursuant to the authority granted under the Employee Retirement Income Security Act of 1974, as amended. _____ was further advised that the writer was requesting his/her voluntary cooperation, and that any information obtained during this official investigation which might involve violations of other laws, civil or criminal, would be referred to the U.S. Department of Justice or other appropriate agency.

In response to questioning, _____ provided the following information.

1. The first paragraph should contain background information regarding the interviewee, which bears upon his/her credibility, such as: address, social security number, title, duties and responsibilities, and length of service in the current position.
2. Subsequent paragraphs should be organized either chronologically or topically and must be written, as much as possible, in the words of the interviewee. Avoid words or terminology which are unfamiliar to the interviewee.
3. Sources of all information must be clearly identified. It should be clear whether or not the interviewee has first-hand knowledge of the information he/she is providing. If the information comes from another source, the other source should be identified.
4. Any document shown to, or provided by, the witness during the interview must be clearly identified. If there is any possibility of confusion, copies of the relevant documents should be attached to the RI.
5. If applicable, identify any other Investigator/Auditor or counsel present at the interview.

Outline for Program 52 RIs;
 Witness or Non-Custodial Subject
 (See Tab B for EBSA 202a form)

Date of Interview

_____ was interviewed at _____ on the above date at _____ am/pm by
 _____ Investigator/Auditor . (If applicable) Also present was _____ .
 was advised that the writer is conducting an official criminal investigation for the Employee
 Benefits Security Administration, U.S. Department of Labor, pursuant to the authority granted in
 the Employee Retirement Income Security Act of 1974, as amended.

_____ was further advised that the writer was requesting his/her
 voluntary cooperation, and that any information obtained during this official criminal
 investigation may be referred to the U.S. Department of Justice or other appropriate agency for
 consideration.

In response to questioning, _____ provided the following information.

1. The first paragraph should contain background information regarding the interviewee which bears upon his/her credibility, such as: address, social security number, title, duties and responsibilities, and length of service in the current position.
2. Subsequent paragraphs should be organized either chronologically or topically and must be written, as much as possible, in the words of the interviewee. Avoid words or terminology which are unfamiliar to the interviewee.
3. Sources of all information must be clearly identified. It should be clear whether or not the interviewee has first-hand knowledge of the information he/she is providing. If the information comes from another source, the other source should be identified.
4. Any document shown to, or provided by, the witness during the interview must be clearly identified. If there is any possibility of confusion, copies of the relevant documents should be attached to the RI.
5. If applicable, identify any other Investigator/Auditor or counsel present at the interview.

 ADVISEMENT OF RIGHTS

PLACE _____

DATE _____

TIME _____

You must understand your rights before we ask you any questions.

You do not have to make any statement or answer any questions.

Any statement you make or answers you give may be used against you in a court of law or other proceedings.

You have the right to talk to a lawyer for advice before you answer any questions and you have the right to have a lawyer present during the interview.

If you decide to answer questions now without a lawyer present, you still have the right to stop the interview at any time.

WAIVER OF RIGHTS

I have read this statement of my rights and it has been read to me, and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer present at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. I hereby voluntarily and intentionally waive my rights.

DATE _____

 SIGNATURE

TIME _____

CERTIFICATION

I hereby certify that the foregoing Warning and Waiver of Rights were read by me to the above signatory, and that he/she also read it and has affixed his/her signature hereto in my presence.

SIGNATURE

WITNESS

Outline for Program 52 RIs
 Custodial Subject
 (See Tab C for EBSA 202b form)

Date of Interview

_____ was interviewed at _____ on the above date at _____ am/pm by
 _____ Investigator/Auditor . (If applicable) Also present was _____ .
 was advised that the writer is conducting an official criminal investigation for the Employee
 Benefits Security Administration, U.S. Department of Labor, pursuant to the authority granted in
 the Employee Retirement Income Security Act of 1974, as amended.

_____ was further advised that the writer was requesting his/her voluntary
 cooperation. _____ was warned that he/she must understand his/her rights
 before any questions were asked. _____ was told that he/she does not have to
 make any statement or answer any questions; that any statement he/she makes or any answers
 he/she gives may be used against him/her in a court of law or other proceedings; that he/she has
 the right to talk to a lawyer for advice before he/she answers any questions and that he/she has
 the right to have a lawyer present during the interview; further, _____ was
 told that if he/she decides to answer questions without a lawyer present, that he/she still has the
 right to stop the interview at any time. After being warned _____ agreed to
 being interviewed. _____ signed the waiver of rights/refused to sign the
 waiver of rights (circle one).

In response to questioning, _____ provided the following
 information.

1. The first paragraph(s) should contain background information regarding the interviewee, which would tend to bear upon his/her credibility, such as: title, duties and responsibilities, and length of service in current position.
2. Subsequent paragraphs should be organized either chronologically or topically and must be written, as much as possible, in the words of the interviewee. Avoid words or terminology, which are unfamiliar to the witness.
3. Sources of all information must be clearly identified. It should be clear whether or not the witness has first-hand knowledge of the information he/she is providing. If the information comes from another source, that other source should be identified.
4. Any document shown to, or provided by, the witness during the interview must be clearly identified. If there is any possibility of confusion, copies of the relevant documents should be attached to the RI.
5. If applicable, identify any other Investigator/Auditor or counsel present at the interview.

(Figure 4)

Report of RI with Signed
Statement in Civil Case Programs

Date of Interview

_____ was interviewed at _____ on the above date at _____ am/pm by
Investigator/Auditor _____. _____ was advised that the writer is conducting an
official investigation for the Employee Benefits Security Administration, U.S. Department of
Labor, pursuant to the authority granted in the Employee Retirement Income Security Act of
1974, as amended.

_____ was further advised that the writer was requesting his/her voluntary
cooperation, and that any information obtained during this official investigation which might
involve violations of other laws, civil or criminal, would be referred to the U.S. Department of
Justice or other appropriate agency.

_____ agreed to cooperate and provide the attached signed statement.
[If information is obtained which is not in the signed statement, it should be included in the RI.
If the interviewee refuses to sign a prepared statement, ask him/her to read it orally, acknowledge
whether it is true or correct, and record his/her comments in the RI.]

Format for Program 52 RIs;
Witness or Non-Custodial Subject

Date of Interview

_____ was interviewed at _____ on the above date at _____ am/pm by
Investigator/Auditor _____ .

_____ was advised that the writer is conducting an official criminal investigation for the Employee Benefits Security Administration, U.S. Department of Labor, pursuant to the authority granted in the Employee Retirement Income Security Act of 1974, as amended.

_____ was further advised that the writer was requesting his/her voluntary cooperation, and that any information obtained during this official criminal investigation may be referred to the U.S. Department of Justice or other appropriate agency for consideration.

_____ agreed to cooperate and provided the attached signed statement.
[If information is obtained which is not in the signed statement, it should be included in the RI.
If the interviewee refuses to sign a prepared statement, ask him/her to read it orally, acknowledge whether it is true or correct, and record his/her comments in the RI.]

Format for Program 52 RIs;
Custodial Subject with Signed Statement

Date of Interview

_____ was interviewed at _____ on the above date at _____ am/pm by
Investigator/Auditor _____.

_____ was advised that the writer is conducting an official criminal investigation for the Employee Benefits Security Administration, U.S. Department of Labor, pursuant to the authority granted in the Employee Retirement Income Security Act of 1974, as amended.

_____ was further advised that the writer was requesting his/her voluntary cooperation. _____ was warned that he/she must understand his/her rights before any questions were asked. _____ was told that he/she does not have to make any statement or answer any questions; that any statement he/she makes or any answers he/she gives might be used against him/her in a court of law or other proceedings; that he/she has the right to talk to a lawyer for advice before he/she answers any questions and that he/she has the right to have a lawyer present during the interview; further, _____ was told that if he/she decides to answer questions without a lawyer present that he/she still has the right to stop the interview at any time. After be warned, _____ agreed to being interviewed.

_____ signed the waiver of rights/refused to sign the waiver of rights (circle one).

_____ agreed to cooperate and provide the attached signed statement. [If information is obtained which is not in the signed statement, it should be included in the RI. If the interviewee refuses to sign a prepared statement, ask him/her to read it orally, acknowledge whether it is true or correct, and record his/her comments in the RI.

FORMAT AND GUIDE FOR A SIGNED STATEMENT

(Preface for Civil Program Witness or Subject)

I, (full name of interviewee, home and work addresses and telephone numbers), make the following voluntary statement to Investigator/Auditor _____. I was advised that Investigator/Auditor _____ is conducting an official investigation for the Employee Benefits Security Administration, U.S. Department of Labor, pursuant to the Employee Retirement Income Security Act of 1974, as amended. I was further advised that Investigator/Auditor _____ was requesting my voluntary cooperation and that any information obtained during this official investigation which may involve violations of other laws may be referred to the U.S. Department of Justice or other appropriate agency for consideration.

(Preface for Program 52 Witness or Non-Custodial Subject)

I, (full name of interviewee, home and work addresses and telephone numbers), make the following voluntary statement to Investigator/Auditor _____. I was advised that Investigator/Auditor _____ is conducting an official criminal investigation for the Employee Benefits Security Administration, U.S. Department of Labor, pursuant to authority granted in the Employee Retirement Income Security Act of 1974, as amended. I was further advised that Investigator/Auditor _____ was requesting my voluntary cooperation and that information obtained during his/her official criminal investigation will be referred to the U.S. Department of Justice or other appropriate agency for consideration.

(Preface for Program 52 Custodial Subject)

I, (full name of interviewee, home and work addresses and telephone numbers), make the following voluntary statement to Investigator/Auditor _____. I was advised that Investigator/Auditor _____ is conducting an official criminal investigation for the Employee Benefits Security Administration, U.S. Department of Labor, pursuant to authority granted in the Employee Retirement Income Security Act of 1974, as amended. I was further advised that Investigator/Auditor _____ was requesting my voluntary cooperation. I was told that I do not have to make any statement or answer any question; that any statement I make or any answer I give may be used against me in a court of law or other proceedings; that I have the right to talk to a lawyer for advice before I answer any question and that I have the right to have a lawyer present during the interview; further, I was told that if I decide to answer questions without a lawyer present, that I still have the right to stop the interview at any time.

(Body of the Statement)

1. The first paragraph(s) should contain background information regarding the witness/subject which will tend to establish his/her credibility. This should include, under certain circumstances, the date and place of the witness's/subject's birth and highest educational level he/she attained.
2. Subsequent paragraphs should be organized either chronologically or topically and must be, as much as possible, in the words of the interviewee.
3. The sources of all information must be clearly identified. It should be clear from the signed statement whether or not the interviewee has first-hand knowledge of the information he/she is providing. If the information comes from a source other than what the interviewee saw and/or heard him/herself, that source must be identified.
4. All additions and deletions in the body of the report must be **made** and **initialed** by the interviewee.
5. All pages must be numbered. The interviewee must place his/her initials next to the last word in the last line of the last paragraph on each page.
6. Do not leave any space between paragraphs.

(Attestation)

I have read the above statement consisting of _____ pages. Each page has been numbered and I have initialed each correction. I declare (or certify, verify, or state) under penalty of perjury that the statement is true and correct.

/s/ _____ Date _____

Witnessed:

_____ Investigator/Auditor Date _____

_____ Investigator/Auditor Date _____

1. If possible, have the interviewee write out the attestation in his/her own hand.
2. The signature of the maker should be the same as the name identifying him/her in the heading of the statement.

(Figure 8)