

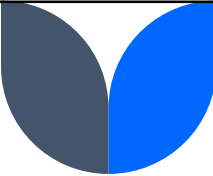
**Don't Trust Your Gut:
Evaluating Credibility
in Internal
Investigations**

Central Maine Human Resources Association
Mandy Levine
March 18, 2025



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Please share in Chat
Your organization, role, and location



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What we're exploring today



- Moving away from gut-based credibility assessments
- And toward evidence-based indicators & techniques to support fair and objective investigative outcomes

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Logistics

- No breaks but please take care of yourself
- Use of Chat
- Captioning available
- Please ask questions anytime

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What is witness credibility?



<https://www.deviantart.com/williamcreator57/art/Pinocchio-929872330>

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Credibility = believability

You are assessing the witness' trustworthiness

Distinguishable from reliability

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Credibility assessments are crucial for reaching an informed conclusion

4/29/2024 EEOC final guidance on harassment in the workplace, [Enforcement Guidance on Harassment in the Workplace](#):

"If there are conflicting versions of relevant events, it may be necessary for the investigator to make credibility assessments to determine whether the alleged harassment in fact occurred. Accordingly, whoever conducts the investigation should be well-trained in the skills required for interviewing witnesses and evaluating credibility."



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We are terrible lie detectors!

A meta-analysis of about 25,000 test subjects found that they guessed what was a lie correctly in only 54% of cases - just barely better than chance.

About as accurate as flipping a coin!

See Bond & DePaulo's Accuracy of Deception Judgments (2006) and <https://pmc.ncbi.nlm.nih.gov/articles/PMC6357939/>



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Don't trust




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Expressions to strike from your vocabulary

“I could just tell.”
 “My gut told me that...”
 “I just had a Spidey sense that...”
 Your gut instinct *might* be right but use that simply as a prompt to dive deeper.

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Different memories don't necessarily mean someone is lying

The Rashomon Effect
 The impact of trauma



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Remember your standard of evidence: typically, preponderance of the evidence



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Factors to consider when determining credibility (EEOC)


- Inherent plausibility:** Is the testimony believable on its face? Does it make sense? (Be aware of your expectations of how people "should" behave.)
- Demeanor:** Did the person seem to be telling the truth or lying? ***Caution!***
- Motive to falsify:** Did the person have a reason to lie? What's at stake if the allegations are true?
- Corroboration:** Is there **witness testimony** (such as testimony by eyewitnesses, people who saw the person soon after the alleged incidents, or people who discussed the incidents with him or her at around the time that they occurred) or **physical evidence** (such as written documentation) that corroborates the party's testimony?
- Past record:** Does the respondent have a history of similar behavior in the past? Don't **rely** on this factor alone!

No one of these factors is determinative.
<https://www.eeoc.gov/laws/guidance/enforcement-guidance-vicarious-liability-unlawful-harassment-supervisors>

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The dangers of relying on demeanor



What behaviors might we associate with **honesty**?
 With **dishonesty**?

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Why should we *not* rely on demeanor evidence?

What could be alternative explanations for some of these behaviors that are *not* indicative of honesty?

Evaluate their demeanor, but **don't rely on it exclusively**. You can always ask a follow-up question.

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Material omissions can be significant

Have you ever figured out later that a witness omitted something significant from their testimony, that you learned from another source?

For example:

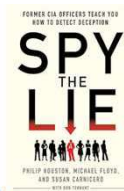
- Had a past relationship with a party
- Had applied for someone's job
- Had discussed the investigation with a party

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Other indicators of potential dishonesty

- **Inconsistent statements** in their own testimony
- **Failing to answer a question** (but remember some people are long-winded)
- **Failure to give you an explicit denial**
 - **Question:** did you use the X word when speaking to your classmate?
 - **Answer:**
 - That's not the sort of language I would use.
 - I would never say something like that.
 - I didn't do anything.



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Other indicators of potential dishonesty

- **Repeating a question or biding time**
 - "That's a good question."
 - "I'm glad you asked that."
 - "I knew you were going to ask me that."
- **Attacking the investigator**
 - "How long have you been doing this?"
 - "Why are you wasting my time?"
- **Seemingly failing to understand a simple question.**

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A recent real example: what do you notice?

Mandy: Is it your understanding that Joe did in fact play some sort of role in [the investigation]?

Witness: All I remember was hearing grumblings around the office, but I have no details to my knowledge that I recall.

Mandy: Okay. Is it your understanding that Susan blames Joe for [the] investigation?

Witness: Could you repeat the question?

Mandy: Is it your understanding that Susan blamed Joe for [the] investigation?

Witness: I don't remember.

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Other indicators of *potential* dishonesty: selective memory

- "I don't remember" or "I don't recall" is a legitimate answer to the question, "What did you have for dinner on Tuesday two months ago?"
- Consider factors like the passage of time; the stress of an interview; and cognitive or medical issues
- But be on the **lookout** for a party/witness that:
 - Remembers details that support their position but forgets other key moments that might be damaging (convenient selective recall)
 - Doesn't recall something significant that they would reasonably be expected to remember
- Look for patterns of when they don't recall information and any evidence that challenges the lack of memory. Could alternative explanations explain the inconsistent memories?

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Other indicators of *potential* dishonesty

- **Exclusion qualifiers:** allows the witness to withhold certain information & answer the question truthfully
 - "Not really"
 - "Fundamentally"
 - "Basically"
 - "For the most part"
 - "Probably"
 - "Usually"
 - "Possibly"

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Convincing statements

- Witnesses may use them when the facts are not helpful to them; convincing statements (compellingly) convince the interviewer of something without conveying truthful information
- "Did you copy the answers from your classmate's exam?"
 - An honest person would likely answer with *what*?
 - Compare to:
 - "I would never do that."
 - "That would be dishonest and I'm not dishonest."
 - "I'm about to graduate. Why would I put that at risk?"
 - "I've been a straight A student here for 4 years."

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The role of bias

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Bias =

- Bias is **universal**.
- Bias is a disproportionate weight in favor of or against an idea or thing.
- Can interfere with impartial judgment.

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Implicit Bias

- Pervasive and universal
- Generally, favors our own ingroup
- Thoughts about people you didn't know you had!

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Examples of implicit bias

- ❑ Assuming someone is being honest because they are attractive (the halo effect).
- ❑ Assuming someone is unprofessional because they have visible tattoos(the horn effect).
- ❑ Assuming someone older will have faultier memories.

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What biases might interfere with your investigation?



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Similarity or Affinity Bias

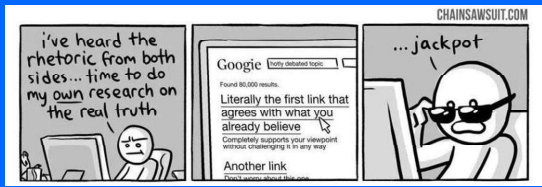
We show preference to people who are similar to us.
How could this manifest?



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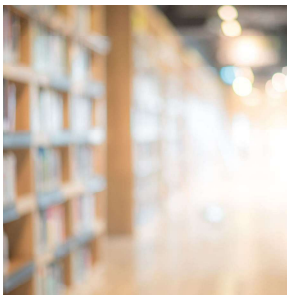
The Confirmation Bias



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Be aware of our propensity to judge a book by its cover




It takes just a 10th of a second to form an impression of a stranger's attractiveness, likeability, trustworthiness, competence, trustworthiness, and aggressiveness based solely on brief exposure to the stranger's face. (<https://journals.sagepub.com/doi/abs/10.1111/j.1467-9280.2006.01750.x?rss=1&source=c>, 2006).

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The power of first impressions



What are aspects of someone's appearance that might trigger first impression biases?

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A few additional tips



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Observe and practice, practice, practice



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Resist making judgments of the usefulness of a witness' testimony too quickly – verify and question!



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Bounce ideas off your colleagues and peers



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What questions do you have?




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One thing

What is one thing you will either **do** or **view** differently moving forward?

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Thank you and stay in touch!

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