

# HRinsight

Proven strategies for the human resources professional



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## Start Policing Your Workforce: the Good, the Bad, and the Downright Ugly

By Jay M. Rector

The analogies between good HR work and good police work probably are more on point than you might initially surmise. Both involve prevention, investigation, correction, the consistent exercise of discretion and good judgment, and ultimately, in some cases, defending one's actions to an administrative agency, court, jury, or other third party. Given those similarities, what are the lessons an HR professional can learn from the "good cop"?

### Prevention Is the First Line of Defense

A modern police force focuses a great deal of effort on crime prevention. A good HR professional should operate no differently. One of the best ways to minimize the risk of excessive turnover is to make good, fully informed hiring decisions. Review applications to make sure they're complete and signed. Consider preemployment drug tests and criminal background checks. And finally, actually check references. Traditional wisdom might suggest that a prospective employee would list only references with positive things to say — there are, however, always surprises!

Another key element of prevention is to make sure employees understand the rules of the road in advance along with the potential penalties for not following those rules. Here are a few of the most critical:

**Employment at Will.** If the jurisdiction allows (as most do), employees and applicants should be advised that they are employed at the will of the employer.

**Prohibition of Discrimination and Unlawful Harassment.** Certain defenses to discrimination will require that the employer have a written and well-publicized policy prohibiting such conduct and establishing an appropriate and effective channel for complaint. A good policy, at a minimum, also will provide that all complaints will be investigated, require that employees cooperate in any investigation conducted, and prohibit retaliation against any witness or employee making a good-faith complaint.

**Zero Tolerance for Threats/Violence.** One need look no further than the front page of almost any large newspaper for evidence of the growing problem of workplace violence. A prudent employer will have in place a zero-tolerance

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## Now Introducing . . .

You may have noticed new features sneaking in to the tried-and-true *HR Insight* format lately. In September, "DC Insight" and "Check This Out" appeared for the first time. "DC Insight" will cover new laws, legislation, and regulations coming from our nation's capital that will affect how you do business. "Check This Out" will feature quick references and tidbits of information that might not fall into a specific category but that will be relevant to your HR practice.

This month, "The Balancing Act" and "Writing Workshop" debut. Sarah McAdams, author of the "The Balancing Act," says this about her new feature: "Each month, 'The Balancing Act' will help you help employees achieve a better balance between their work and the rest of their lives."

I (Celeste Blackburn) also dive into the column-writing deep end of the pool this month with "Writing Workshop." I hope to help you improve your writing and communication skills because mastering them will give you a great professional advantage.

In November, Carol Hacker's new series "The Talent Manager" will start. The column will help you learn how to make sound and defensible hiring decisions and get lots of tips for keeping the people who keep you in business. There will be plenty of information that can be shared with others throughout your organization.

I hope you enjoy and learn a lot from these new features. I welcome any feedback or suggestions. You can reach me at [cblackburn@mleesmith.com](mailto:cblackburn@mleesmith.com) or (615) 661-0249 ext. 8098.

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◀ *continued from page 1*

policy for violence or threats of violence of any type.

**Discipline.** All employers should provide a clearly stated and explained disciplinary policy. If the policy incorporates a “hard and fast” progressive disciplinary procedure, it should state so clearly. If there are exceptions to the progressive disciplinary procedure, the policy also should explain what those exceptions are.

## Good Cops Know the Law

A good cop can't write a ticket for jaywalking if she doesn't know what it is. Likewise, an HR professional can't effectively police a workforce if she doesn't have a firm understanding of the applicable law. Whether it's a traffic violation or bank robbery, a good cop knows what law is being violated and, if so, what citation to issue. So should a good HR professional.

## Good Cops Do Good Investigations

Sometimes there isn't a clear “whodunit” or even “what they did.” Good cops do good (and thorough) investigations. It takes training and practice to be a good investigator. But it's a skill that good cops work on and develop, as should the good HR professionals. A good investigation will include at least the following elements:

**Formulation of an Investigation Plan** — Who will be interviewed? What will they be asked? When will it happen?

**Promptness** — You should conduct it within a day or two, and in special circumstances, even sooner.

**Unbiased** — Is, or even can, the assigned investigator be unbiased? Maybe equally important, will the assigned investigator be perceived as being unbiased?

**Thorough** — the always delicate balancing act of when enough is enough.

**Closing the Case** — including taking appropriate action, documenting it, following up with the complainant, and protecting against retaliation.

## Good Cops Make Good Arrests

No good cop wants to see the “perp” walk. That's why a good cop makes good arrests. Could the good cop make an arrest without going through the steps? Probably. Would the arrest hold up? Probably not.

Like the good cop, maybe it's time for us to start thinking about what we “should” do as opposed to what we “can” do. Over the years, a body of learning has developed in unionized settings defining what constitutes “just cause” for employee discipline. It may well provide a litmus test to be exam-

ined by a good HR professional in determining the strength of a disciplinary decision, including dismissal. In essence, the learning from unionized settings requires affirmative answers to the following seven questions for a disciplinary action to be considered “just”:

- Did the employer give the employee forewarning or foreknowledge of the consequences of his conduct?
- Was the employer's rule or managerial order reasonably related to the (1) orderly, efficient, and safe operation of its business and (2) performance that it might properly expect of the employee?
- Did the employer, before administering the discipline to an employee, make an effort to discover whether he did, in fact, violate a rule or management order?
- Was the employer's investigation conducted fairly and objectively?
- At the investigation, did the employer “judge” obtain substantial evidence or proof that the employee was guilty as charged?
- Has the employer applied its rules, orders, and penalties evenhandedly and without discrimination to all employees?
- Was the degree of discipline administered in a particular case reasonably related to (1) the seriousness of the employee's offense and (2) the record of his service with the employer?

While outside the unionized setting a negative answer to any of the above questions may not prevent the disciplinary action from being taken, it certainly can provide a good HR professional with at least a benchmark in determining the appropriateness of such action.

## Bottom Line

Good cops and good HR professionals will never bat a thousand. “Crimes” still happen. No one can assure an employer that it will never be sued or won't receive demands based on frivolous (and occasionally outright ridiculous) claims. If you follow the lessons of the good cop, we can assure you, however, that not only will most of your “arrests” stick, but that in almost every such case, you will get out earlier, cheaper, and with less disruption to ongoing business operations.



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## Written Employment Agreements

By Stephen Zweig

The common wisdom is to “get it in writing” when it comes to executive employment agreements. But is that always the best policy?

### The Problem

Generally speaking, companies write employment agreements to accomplish the four “Rs” — recruit, reward, retain, and restrain executives. In particular, with regard to restraining employees — *i.e.*, with noncompete, nonsolicitation, no-hire, nondisclosure of confidential information, and nondisparagement covenants — it’s much easier for you to enforce an agreement signed by both parties than to rely on common-law principles.

But incomplete, unclear, or ambiguous written agreements can be of less value to a company than even an agreement based solely on a handshake. Even at-will employment relationships (in which either party can end the relationship at any time for any or no reason) can be jeopardized by a poorly written agreement. Should a company and its executives have written employment agreements?

### The Company’s Solution

From a company’s perspective, you should have written employment agreements when:

1. industry custom or market demand for the executive requires an agreement;
2. the employment terms, especially with regard to compensation, are complicated or subject to such potential misinterpretation that writing them down would benefit the company;
3. the company wants contractual non-compete and nonsolicitation protection, enforceable by an injunction, or ownership over intellectual property (those protections also can be obtained in standalone agreements);
4. the company wants to convince present or potential investors that its executives are “locked up” and part of a stable management team; or

5. in jurisdictions in which at-will employment isn’t the law, the company wants to limit its exposure after a termination.

### The Executive’s Solution

From the executives’ perspective, there should be written employment agreements if they want to guard against the company taking undue advantage when business needs change. Among the provisions an executive might seek are:

1. the nonforfeiture of incentive and deferred compensation provisions;
2. limited and well-defined reasons for the early termination of the employment agreement;
3. a “good reason” resignation provision;
4. severance pay for a firing without cause or a resignation for good reason;
5. fair posttermination obligations; and
6. a favorable definition of change of control with severance pay if the executive chooses to leave the company.

To negotiate those protections successfully, an executive must learn what limiting language is customary or at least acceptable, particularly with regard to terms and conditions outside the executive’s control and benefit and compensation plan forfeitures and clawbacks. Whether the agreement is at will or for a set term, the consequences of a breakup of the employment relationship shouldn’t be left for negotiations after the employment ends.



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## Pull Back the Curtain

On August 15, 2006, the U.S. Census Bureau released the first wave of information from the 2006 American Community Survey (ACS), a new nationwide survey designed to provide communities with a fresh look at how they are changing. It’s a critical element in the bureau’s reengineered 2101 census plan. The ACS collects information like age, race, income, work-commute time, home value, veteran status, and other important data from U.S. households.

ACS is an annual 60-question poll of roughly 2.5 percent of Americans — three million households. It replaces the old “long-form” questionnaire that every six Americans filled out every 10 years. The Census Bureau plans to continue counting all Americans every 10 years, as it has since 1790, by means of the “short form,” which contains about seven questions. It has been testing the ACS method since 1996 but with much smaller samples. The current sample produced a statistically significant picture of places with 65,000 or more residents.

Local leaders, decisionmakers, and the business community now have a way of documenting the change in their communities with up-to-date statistics. The data from the survey describe the characteristics of a community — for example, how many people are employed, how much local housing costs, what proportion of the families speaks a language other than English at home, how much time commuters spend on the road, and how many residents have college degrees.

For more information or to search for survey results about your area, visit [www.census.gov/acs/www/](http://www.census.gov/acs/www/).



# It's Back to School: Writing Well Begins Here

By Celeste Blackburn, managing editor, *HR Insight*

It's finally time to introduce myself formally. My name is Celeste Blackburn, and I have been the managing editor of *HR Insight* for a little more than a year. Before I came to M. Lee Smith Publishers LLC, I was a reporter with a local newspaper. Before that, I was an English instructor at a local university. The common thread throughout my scholastic and work experiences always has been the written word.

When I was teaching, one of my freshmen inevitably would raise his hand on the first day of class and ask (as if he were posing the Sphinx's own riddle): "But I'm a nursing/engineering/math/music major. Why do I need to know how to write?" My stock answer: "Because no matter what profession you enter, you'll have to write. Not being able to write well will put you at a great disadvantage."

Now that I've been outside the academic world for a while, I'm afraid to say that I may have slightly misled my young charges because it has become obvious to me that you don't have to write well to advance in the business world. Now, I would simply tell my students, "Stop asking irrelevant questions. You need to write well because that's how I'm grading you."

I think that response actually carries relevance in the business world as well as a classroom. Academically or professionally, you are "graded" by how you write. It's essential human nature; we judge. If the representation of yourself that is put in front of me is some type of written document, I will judge you on it. Unfortunately for those in the professional world, that's where the classroom grading likeness ends. In my class, students had until the end of the semester to rework and rewrite their essays to improve their grades. You've got only one shot.

To add more pressure, there's a good chance that writing (letters, memos, policies) for the "bosses" is included in your HR duties. Are you expected to produce written documents for your

department or bosses to circulate within the company or for your company to send to the outside world? If so, that's a huge deal. What you produce will directly affect how you, your bosses, and your company are viewed.

The ability to master the written word is essential. In future columns, I will discuss the following topics because as an HR professional, you'll have to deal with them (and probably teach others how to as well):

- documenting employee behavior and discipline;
- taking notes in interviews that will form the basis of hiring decisions;
- sending out department or companywide memos, letters, and e-mails;
- taking notes (that you'll use later when making hiring, firing, or purchasing decisions) at meetings, during phone calls, or when reading work-related materials;
- crafting employee policies and handbooks; and
- recording the steps taken in a workplace investigation.

The main impression I want to leave with you from this inaugural column is that *the written word is permanent*. Therefore, it carries both great weight and responsibility. A well-written document can make you look intelligent, thoughtful, and tuned-in. A poorly written document can make you look uninformed and not so smart. Either way, that document can be filed and referenced time and time again — repeatedly making you look good or reminding the recipient that you aren't a good communicator.



My hope is that through these columns, you'll be able to better harness the power of the written word.

Have a topic you want me to write about? E-mail me at [cblackburn@mleesmith.com](mailto:cblackburn@mleesmith.com). ❖



## What Do I Do?

### The "Fat" of the Matter

An Arizona HR professional recently posed this dilemma:

"Lately, I've heard several 'fat jokes' in our office. We have a fairly congenial group of employees, and they all seem to enjoy the jokes, including John, one of our employees who's overweight. I'm concerned because I hear about so many hostile work environment claims these days. Should I do something about this situation before it comes to that?"

Justin Pierce, an employment law attorney with Lewis and Roca, LLP, in Phoenix, Arizona, gives this advice:

"You probably aren't legally liable for anything right now, but you should probably put the kibosh on it now, though, before it gets out of hand.

I haven't seen too many hostile work environment claims based on someone's disability. That's probably because the employee

would first have to show that he's disabled under the Americans with Disabilities Act (or that he was regarded as disabled).

Even if John is obese (and it sounds like he isn't), he would have to show that his obesity places a substantial limitation on his major life activities, and courts haven't been too willing to recognize that limitation. Moreover, it doesn't sound like the joking has been 'severe or pervasive.' So you're probably in the clear for the time being.

Nevertheless, jokes that ridicule your employees' characteristics are never good for morale, whether they're legally allowed or not. Simply put, jokes that start off as innocent fun generally lead to jokes that offend — and you can almost take it to the bank that someone will be offended at some point. Once that happens, you become more susceptible to a hostile work environment charge. And even if the charge is ultimately tossed out, you still have to deal with the hassle of defending against it. The easy solution is just to nip it in the bud now!"

## Social Security Numbers

By Leigh Polk Cole

The rules relating to social security numbers (SSNs) are a source of questions and concerns for employers of non-U.S. citizens. Employers that understand these rules and the application process can facilitate the arrival and integration of a new employee without delay in the employment process.

### 1: How They Relate to Immigration

Most U.S. citizens are born in the United States and obtain an SSN at birth. Applications for SSNs generally are processed for babies at U.S. hospitals along with applications for birth certificates. Even if a U.S. citizen didn't obtain an SSN at birth, it's likely she'll obtain one while still young. So most U.S. citizens already have an SSN by the time they enter the workforce.

In contrast, non-U.S. citizens who are working in the United States for the first time generally don't have an SSN unless they lived here as a child and their parents obtained one for them. Employers are often the first to discover that a new employee doesn't have an SSN. They have the opportunity to explain the rules to the newcomer and either assist with an application for an SSN or direct the employee to the Social Security Administration (SSA).

### 2: Obtaining One for New Employee

If a new employee doesn't have an SSN, she needs to file an SS-5 application for one. The application should be submitted to the SSA by mail or personally delivered to the local SSA office. The SS-5 includes detailed instructions.

The application process is simple but can be intimidating for someone who has just arrived in the United States and isn't familiar with our government processes or perhaps even their local surroundings. To expedite the application process, you can assist the employee by downloading the SS-5, helping her complete the application, and locating the mailing or physical address of the local SSA office for filing.

### 3: Who's Eligible

Any person who's authorized to work in the United States may obtain an SSN and

card by filing an SS-5 application, including citizens and permanent residents of the United States and temporary workers in nonimmigrant status, such as TN, H-1B, L, E, O, and so forth.

Individuals who aren't authorized for employment, such as spouses and children of workers in TN or H-1B status, don't need an SSN and aren't authorized to obtain one. Individuals who need a taxpayer identification number to report taxes or to open a bank account but aren't eligible for an SSN should apply for an individual taxpayer identification number (ITIN). Application is made to the IRS on form W-7. The ITIN can be used in place of an SSN for all purposes except reporting wage and salary income.

### 4: SSN or Card Isn't Needed for I-9 Compliance

The I-9 employment verification process can be completed before a new employee has obtained an SSN. A social security card is only one of several forms of "List C" documentation that may be accepted by employers for I-9 compliance.

### 5: You Can Employ, Pay Worker Before SSN Is Obtained

If a new employee doesn't have an SSN, you should process his I-9 and payroll information as usual and, if necessary, assign a "dummy" SSN to him in the payroll system. You also should verify that he applies for an SSN within seven days after starting work. He may be paid using the "dummy" number until an SSN is issued, at which time the "dummy" number should be replaced with the new number. At year-end, all W-2 income for the year will be reported to the IRS using the new SSN.

While the application for an SSN is pending, any government or employer forms that require the employee's SSN can be completed by inserting the words "Application Pending" (or something similar) in place of the SSN.

Further information is available at the SSA's website, [www.socialsecurity.gov](http://www.socialsecurity.gov) (follow links to "Your Social Security Number and Card").



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## None of Their Business

An HR director in Illinois recently pondered the age-old HR question of how much information to give employees about a coworker who is out.

"If you have employees that have a death in the family or are in the hospital, do you think it is right to share the information you have been given? One of the owners of the company feels that I am holding back information. I feel that it is not my place to share any information. It feels like gossip to me. Am I overreacting?"

Pame Smythe of Dowling Park, Florida, responded with insight gained from her own experiences in HR.

"First, check your company's policy on releasing personal information — which should include all forms of personal information as a result of all forms of requests. If you have no policy, now might be a good time to pen one.

Our policy is to not release any info from the HR office.

Occasionally, references are shared on an informal basis, but there are no blatant breaches.

For concerned coworkers who make formal inquiries, I'll offer to forward cards and advise them to seek out the information through different means. We've followed that practice for at least the last four years, and I have seen no major negative backlash because of it."



# Fun Business: Employees Who Play Are More Productive

By Sarah McAdams

Last year, Chase's Calendar of Events officially recognized the third Thursday of June as Recess Day at Work — and it's not because today's workers are getting younger. If anything, today's employees are aging faster: They spend more time working than ever before, and ball-and-chain technology like Blackberries, instant messaging, and cell phones haven't helped.

"Being totally 'connected' all the time is a huge stressor — people never escape work," says Ann Fry, psychotherapist and author of *Laughing Matters: The Value of Humor in the Workplace*. "They are always reachable. They take work home, they take home to work. There is never any time that is their 'own' — they're always having to do for others. Stress is at an all-time high."

### Stress: Bad for the Bottom Line

As we all know, stressed out employees can do a number on a company's productivity and retention. The solution? Make the workplace more fun, say experts.

"There's an 'old-school' leadership belief that there can't be any significant productivity going on if employees are having fun — but research has shown that attitude is counterproductive in the long run today," says Kevin Carroll, author of *Rules of the Red Rubber Ball: Find and Sustain Your Life's Work*. "Workers will be productive at first, but that constant pressure to produce will ultimately wear down a team's ability to perform at a sustainable high performance level."

Recent research found that students scored better on tests, concentrated longer and performed better on standardized tests if they were provided opportunities to participate in some form of recess during the day. Adults see similar results.

"Research and surveys have shown that employees feel more excited and invested in their work when the environment that they are coming to each day has a culture that is playful," says Carroll, who's helped companies like Nike, Starbucks, and Capital One incorporate fun into their workplaces.

Leslie Yerkes, president of Catalyst Consulting Group, has done some of that research herself. In the process of writing the second edition of *301 Ways to Have Fun at Work and Fun Works: Creating Places Where People Love to Work*, the organizational

behavior consultant has revisited with the 11 organizations she originally profiled.

When Yerkes wrote the first edition, each had a reputation for a fun work culture and was out-performing in its industry. "I am finding that six years later — despite national tragedy, natural disaster, dot-bust, changing economic times and global competition — each of the 11 companies is alive, well and still out performing." A lot of that success can be attributed to their playful cultures, Yerkes says.

### More than a Trip to Six Flags

We're not talking about frivolous play — or just the annual holiday party or summer picnic. "Play activities need to be workplace-appropriate and designed to enhance, not distract from, the work," Carroll says.

And while many work tasks will never be fun no matter what you do (that's why you have to pay people to do them), you still can incorporate playful ideas, he says — like giveaways, silly contests, team-building exercises, brainstorming sessions, fitness programs, spontaneous 10-minute play, mental health breaks, or after-work social activities.

It's important, Carroll adds, that "fun" be added in a meaningful and strategic way and not in a cursory and frivolous way. "If employees think that management is simply pandering to them with a half-hearted effort to 'lighten up the place,' they will be even more cynical and resentful," he says. "If the business culture doesn't support fun and play that is purposeful, then the effort won't be sustainable and can feel forced: it will look like a scene from the TV show 'The Office' — an awkward, forced, and unwanted effort."

And if employees aren't happy in their jobs, they'll leave. "The days of someone having a job with a company for 40 years and then retiring with a gold watch are over," Fry says. "Think of what it costs a company every time someone leaves — it's much better to create the environment where employees want to stay."



Sarah McAdams has reported on HR for a variety of publications, including the *Journal of Employee Communication Management*, *Corporate Legal Times*, and *The Ragan Report*.



## Pop Quiz

### What Not to Ask

While you want to get as clear a picture of every potential employee that you can, there are some questions you just can't ask during an interview. Try deciding if the following questions and topics are appropriate:

- (1) You may ask, "Why did you leave your previous employment?" **T or F**
- (2) You may ask about disability, marital status, or dependents when the information is needed for employee benefits or tax purposes. **T or F**

- (3) You may ask, "Are you a U.S. citizen, or do you have the legal right to remain and work in the United States?" **T or F**
- (4) You may ask, "Have you ever been arrested?" and if the answer is yes, you may ask for an explanation of any charges. **T or F**
- (5) You may ask if he's subject to garnishment of his wages for child support payments. **T or F**

Now, turn to page 8 for the answers.

## Who's on the Tube — You?

By David Micah Kaufman

**S**mile, you're on candid camera.

No, not Allen Funt's long-running television program. Today's "candid camera" is playing on any computer with an Internet connection. The world has fallen in love with on-demand, shared video content, some of it truly amateur video.

While actually making visual content has been technically possible since Edison invented the movie camera in 1891, the simplicity of video creation enabled by digital cameras and the ease of distributing them through the Internet has made them prolific and accessible. Industry leader YouTube.com has over 6.1 million videos in its searchable database, and that figure is growing at 20 percent *per month*.

Imagine anyone downloading your company's office party. How about a humorous video about your VP of sales' ill-fitting hairpiece? It isn't just potential company embarrassment that's an issue. Consider the availability of videos of confidential sales meetings — even videos of HR interventions like reviews or sexual harassment investigations. Anything can and is being recorded, and once digitized, that video can be uploaded onto a site that will allow anyone from anywhere to view it.

Digital video cameras continue to drop in price and, importantly, size. Remarkably good cameras that take reasonably clear videos are available for under \$100. New HP Pavillion laptops are available with a built-in video camera, an option that likely will be available on more models in the future. Plus, most high-end mobile phones have video technology incorporated in their camera functions. So you no longer need to carry around a clunky camera and worry about tape, film, or battery life.

Critically, the video images that are created by these new devices are all digital — that is, they are bits of information that can be read and deciphered by almost any computer. That adaptability allows users to simply upload the videos to sites like YouTube and people like you and me to download it while sitting at home in our fuzzy flannel jammies. Who's doing it? Apparently, a lot of people. YouTube has over 500,000 registered members. While

you don't need a membership to watch videos, you need to sign up to upload your own content. One user has uploaded over 2,000 videos.

### People Are Tuning In

YouTube has racked up 1.73 billion views since it was founded in February 2005. The site is entirely searchable using "tags" (brief descriptions) that the person that uploaded the video creates. There are 1,300 videos with "employee" in its tag.

Much of the content actually isn't uploaded by the person who made the video. YouTube is filled with captures from television programs and movies, other commercial videos, and personal videos made by other people for their own use that somehow found their way online. In today's digital video age, you must be conscious of the risks that these videos pose.

**Have a Policy.** Every company needs a policy banning unauthorized video recording of corporate events and on company property.

**Look Around.** If you see an employee using technology strangely — investigate. *Why is your webcam always facing the hallway when it isn't in use?*

**Think Twice About Videoring Anything.** Chances are that any official on-the-job videos that you make actually could find their way online. Therefore, think about if you really need to video something, and if you do, make sure the video file is secure in storage and transmission.

**Post at Your Peril.** Never post any video online, even on an intranet, that you wouldn't want to be seen by the whole world.

Of course, digital video isn't all bad. For all the budding directors and actors, digital video offers the opportunity to be stars. Just hope they don't want to turn your workplace into a new version of *The Office*.

*David Micah Kaufman is the founder of BIGGER PIES! — a boutique professional services consulting firm in San Francisco — and a regular contributor to HR Insight and HRiT. You can reach him at david@biggerpies.com or (415) 272-8115.*



## Internet Gold

Do you want to gain a fresh perspective on workers' compensation issues, check your state's laws, or see what colleagues are doing at other companies? There is a whole world of information out there, much of it available at no cost. Here are some of the most basic:

**The website for your state workers' comp agency.** The Occupation Safety and Health Administration, [www.osha.gov](http://www.osha.gov), and its state counterparts provide much helpful information on their websites. The U.S. Department of Labor's Bureau of Labor Statistics, [www.bls.gov](http://www.bls.gov), gathers and analyzes data on workplace safety and accidents. [www.cdc.gov/niosh/homepage.htm](http://www.cdc.gov/niosh/homepage.htm) offers industry-specific safety information and research.

**www.ncci.com.** The website for the National Council on Compensation Insurance, which manages a database on the topic, analyzes industry trends, prepares rate recommendations, and determines the cost of proposed legislation.

**www.wcrinet.org.** The website for the Workers Compensation Research Institute, an independent not-for-profit group that collects data and analyzes workers' comp policy issues.

**www.nasi.org.** Another non-profit, the National Academy of Social Insurance, examines workers' comp along with other social insurance programs.

**www.iaiaabc.org.** The International Association of Industrial Accident Boards and Commissions offers information as well as education programs and conferences.

**www.acoem.org.** The American College of Occupational and Environmental Medicine aims to promote workers' health.

## “” Last Word on HR

# Lies and the Liars Who Tell Them

By Boyd Byers

**W**hat do Elvis and Jesse James have in common? Both of them, according to various conspiracy theorists and crackpots, faked their deaths.

Many less-well-known people have in fact played dead to collect on insurance claims, avoid debts, or escape the law. But would anyone stoop so low as to lie about the death of her child just to get out of work for a few days? If you've been in HR for a long time, you can probably guess the answer.

A couple who worked for Tyson Foods in Waterloo, Iowa, recently were foiled in their plot to cover their absences with a fake obituary. James Snyder and Mary Jo Jensen, who are boyfriend and girlfriend, falsely reported the death of Jensen's 17-year-old son, police said.

Snyder and Jensen started taking time off work, according to court records, saying the teenager was sick and in the hospital. As time passed, the scam escalated — as scams tend to do — and they told their employer the boy was on life support and, later, had died. When Snyder and Jensen took several days off work for funeral leave, company officials asked them to verify their absences. So Snyder went to the local paper and placed a false obituary to try to satisfy their employer, court records say. The obituary said the teen had died at the Mayo Clinic in Minnesota after a lengthy illness.

News of the boy's death came as quite a shock to those who knew him — particularly when friends saw him eating at a local restaurant a week later. Police arrested Snyder and Jensen in connection with the bogus obituary. Court records show both Snyder and Jensen now work for different employers.

### Numbers Don't Lie (but People Do)

Dishonesty about absenteeism is more common than you might think. Forty-three percent of American workers admitted to calling in sick with a bogus excuse within the past year, according to a 2005 survey by CareerBuilder.com. Interestingly, 41 percent of employees who faked being sick think their bosses knew they were faking it. Dishonest employees, it seems,

aren't necessarily naive employees. The good news? More than three-fourths of the workers who fake being sick do it only on rare occasions (or so they say).

So why the deceit? Half of the fakers played hooky because they needed a break or rest or mental health day. Nearly a quarter who pretended they were ill skipped work to care for a family member who really was sick.

What can you do to deter employees from lying to skip work? There are several ways to deal with the problem. Which one or combination works best for your company depends on your workforce and culture.

- **Law and Order.** Implement, communicate, and enforce attendance and disciplinary policies. Make sure your discipline policy includes “lying or providing false information to company officials” or something to that effect in the list of offenses. Require employees to provide a note from a health care provider to justify medical-related absences (but be sure to coordinate and comply with the Family and Medical Leave Act if you have 50 or more employees).
- **Kinder and Gentler.** Take away the need or incentive to lie. Do this by combining vacation and sick leave as paid time off (PTO). PTO policies are popular because they require only one bank of paid leave to track and because employees are less likely to take unplanned “sick” days if they know it will cut into their “vacation” days. Or if you want to keep sick days and vacation separate, expand sick leave to include absences to care for sick family members. Or give everyone a couple of free personal days every year to use when they need a mental break.
- **What, Me Worry?** If unexcused absences aren't a major problem for your company, accept the fact that some employees, even good and usually honest ones, will tell little white lies once in a while. Don't worry about infrequent offenders, but be prepared to crack down if things get out of hand.



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## Quiz Answers

Here are the answers for the quiz on page 6.

- (1) **True.**
- (2) **False.** That information may be obtained *after* the individual has been hired.
- (3) **True.**
- (4) **False.** Questions regarding convictions, however, may be asked, provided any refusal to hire the applicant because of the conviction is consistent with the actual criminal conduct involved and the nature of the job sought.
- (5) **False.**

## Coming Next

Selecting and keeping an all-star team is part of every HR professional's job. In “The Talent Manager” debut column, Carol Hacker will tell you how to use telephone interviews to screen out misfits. A tremendous amount of information can be obtained by asking just a few questions and listening to the candidate's answers and how they are articulated. Hacker provides 12 tips to guide you through the telephone-interview process and follows up with five questions you should be able to answer after the telephone interview.