ODP Certified Investigator’s Manual
Pennsylvania Department of Human Services,
Office of Developmental Programs

This manual provides guidance on conducting certified incident investigations through the Certified Investigator’s Program managed by the Bureau of Supports for People with Intellectual Disabilities, Office of Developmental Programs

Institute on Protective Services at Temple University Harrisburg through contract with the PA Department of Human Services, Office of Developmental Programs
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INTRODUCTION

The Commonwealth of Pennsylvania serves individuals who have intellectual and/or other developmental disabilities. These individuals receive services from a vast network of over 800 private and public service and support providers throughout the state.

In accordance with the Mental Retardation Bulletin on Incident Management, #6000-04-01 issued by the Pennsylvania Department of Human Services, Office Developmental Programs (ODP), this manual was developed to provide continuing guidance to Certified Investigators, agency Administrators and Managers, and others on how to properly conduct certified investigations.

The mission of the Office of Developmental Programs (ODP) is to support Pennsylvanians with developmental disabilities to achieve greater independence, choice and opportunity in their lives. As part of this mission, ODP is committed to providing the necessary tools and resources to conduct quality investigations into incidents of abuse, neglect and other significant events that occur in the lives of individuals with developmental disabilities.

Underlying the principles outlined in the Bulletin, it is the expectation and responsibility that individuals supported through the ODP system deserve not only quality services and programs, but are to be “protected from harm,” particularly from incidents involving abuse, neglect, exploitation, and rights violations. In order to accomplish this principle, the Incident Management Bulletin outlines key roles and responsibilities service providers are to have in place to more effectively manage incidents involving harm, or the potential for harm, involving individuals receiving services.

The Incident Management Bulletin also requires that investigations will be conducted by investigators who become certified based on the content of this manual. These investigations are known as Certified Investigations. An important part of the Incident Management system is ensuring that trained and certified investigators are available who possess technical competencies in conducting investigations, but who also understand the core principles and values outlined in the prerequisite course, Protecting People from Harm: Incident Management and the Investigation Process.
In order to develop skills in conducting competent, quality, investigations, it is not only important to know the definitions of key concepts and vocabulary commonly used, but also to properly apply these terms when conducting investigations.

First and foremost, an **incident** is an event with potential to adversely impact an individual’s health, safety, or rights. **Incident Management** is the response to an event, intended to ensure the adequate, appropriate, and effective protection of the health, safety, and rights of the individual.

The incident management process involves **classifying incidents**. Incidents are generally classified based on two criteria:

1. Type of incident (e.g. injury, medication error, abuse, neglect, restraints, death, etc.); and
2. Severity of harm (or potential harm) experienced by the individual(s).

Classifying incidents not only by type of incident, but also by severity of harm allows us to better define incident management responsibilities including how, when, and to whom to report incidents, and outline requirements service providers must satisfy to ensure the health, safety, and welfare of individuals receiving services. Well-written regulations and policy must clearly define the types of incidents that need to be, at minimum, identified and reported via an incident management system. Incident definitions should be written using measurable, observable language easily understood by a number of individuals throughout our human service and healthcare systems, especially individuals receiving services and direct support staff.
Certified Investigations are one part of the comprehensive quality management process that organizations providing services in Pennsylvania’s intellectual disability and autism systems are required to have in place. The purpose of quality management in Pennsylvania’s intellectual disability system is to advance the quality of life of individuals served and supported. One part of doing this involves minimizing risk to individuals, employees, and the community through efforts in the areas of reduction in the number of employee injuries, complaints, satisfaction surveys, hiring practices, etc. Part of risk management is to assure that through the application of standardized incident management processes, systematic safeguards are in place to protect individuals receiving services from events that place them at risk. The incident management processes include the expectation that investigations at the provider, Administrative Entity, and State levels be conducted by certified investigators. This will ensure that all incidents that require investigation receive a systematic investigation that meets established standards. The illustration below shows the relationship between certified investigations, incident management, risk management, and quality management.
Critical incidents require an investigation to occur. An investigation is defined as the process of identifying, collecting, and assessing facts (evidence) in a systematic manner. The purpose of an investigation is to objectively describe and explain what did (or did not) occur at a given place and time. The ODP Incident Management Bulletin identifies the types of incidents requiring investigations:

Chart 1: Reportable Incidents Requiring Investigation

<table>
<thead>
<tr>
<th>Primary Category</th>
<th>Secondary Category</th>
<th>Entity Responsible for Investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abuse</td>
<td>All</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Improper or Unauthorized Use of Restraint</td>
<td>Provider and AE</td>
</tr>
<tr>
<td>Neglect</td>
<td>All</td>
<td>Provider</td>
</tr>
<tr>
<td>Rights Violation</td>
<td>All</td>
<td>Provider</td>
</tr>
<tr>
<td>Misuse of Funds</td>
<td>All</td>
<td>Provider</td>
</tr>
<tr>
<td>Death</td>
<td>When an individual is receiving services from a provider/entity</td>
<td>Provider and ODP and/or DOH (AE Participation as Requested by ODP)</td>
</tr>
<tr>
<td>Hospitalization</td>
<td>Accidental Injury</td>
<td>Provider</td>
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<tr>
<td></td>
<td>Unexplained Injury</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Staff to Individual Injury</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Injury Resulting from Individual to Individual Abuse</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Injury Resulting from Restraint</td>
<td>Provider and AE</td>
</tr>
<tr>
<td>Emergency Room Treatment</td>
<td>Unexplained Injury</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Staff to Individual Injury</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Injury Resulting from Individual to Individual Abuse</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Injury Resulting from Restraint</td>
<td>Provider and AE</td>
</tr>
<tr>
<td>Injury Requiring Treatment beyond First Aid</td>
<td>Staff to Individual Injury</td>
<td>Provider</td>
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<tr>
<td></td>
<td>Injury Resulting from Individual to Individual Abuse</td>
<td>Provider</td>
</tr>
<tr>
<td></td>
<td>Injury Resulting from Restraint</td>
<td>Provider and AE</td>
</tr>
<tr>
<td>Individual to Individual Abuse</td>
<td>Sexual Abuse</td>
<td>Provider</td>
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</tbody>
</table>
Identifying, Sorting, and Classifying Evidence

One of the primary roles of an investigator is to identify, sort, and classify available evidence.

**Facts** are defined as *pieces of information (evidence) available to the investigator*. During evidence collection, the certified investigator collects all facts available in the investigation. The process of sorting facts occurs when the certified investigator reviews and reconciles all of their facts. The first level of sorting relates to identifying what evidence is **relevant** to the investigation. **Relevant evidence** is a fact that potentially describes or explains an event. Facts that do not have this potential are considered **irrelevant**.

Once evidence is identified as being **relevant**, the second level of classifying evidence is to decide the **TYPE** and **FORM** the evidence takes. There are two **types of evidence** that emerge in any investigation:

**DIRECT EVIDENCE**
Evidence in the form of testimony from a witness who was present for the incident and experienced the fact in question through sight, hearing, touch, taste, or smell (i.e. testimony of a witness that they saw the target having sexual intercourse with the individual).

**CIRCUMSTANTIAL EVIDENCE**
Evidence which is not directly from an eyewitness or participant, and as a result requires some reasoning to prove the fact in question (i.e. testimony of a witness who did not see the actual sexual intercourse taking place but saw the target pulling up his pants when they walked into the room).
Evidence is also classified by the form it takes. The four forms of evidence are:

**Testimonial Evidence**
- A witness’ communication to an investigator, in verbal form or the equivalent (sign language, gestures, behaviors, etc.), of their memories of their experiences or observations related to the time and place of the incident under investigation - a story.

**Documentary Evidence**
- Anything written down, on paper or electronically.
- One important form of documentary evidence produced during an investigation includes written statements prepared by witnesses preserving testimony provided to the investigator.
- Other examples of relevant documentary evidence to be identified and collected during an investigation are the business records of an organization and the investigator’s notes.

**Physical Evidence**
- Objects or things such as an injury, weapon, fluids, environmental factors (such as noise levels, temperature, lighting), etc. relevant to the time/place of an incident allegedly occurring.
- Also represents the absence of things that otherwise should reasonably be present or available based on the testimony of witnesses, e.g. the absence of injury that should be present if testimony is accurate.
- Spatial relationships among things are another important aspect of physical evidence available for assessment in an investigation (location of people in a room, the placement of furniture, distance of witnesses to the incident itself, etc.). However, since missing items and spatial relationships among items rarely can be collected, the next form of evidence is used to create and preserve a record of physical evidence.

**Demonstrative Evidence**
- Evidence that represents or preserves a piece of physical evidence.
- The way in which physical evidence identified in an investigation is preserved.
- Examples of demonstrative evidence include photographs, diagrams, x-rays, CAT scans, etc.

**Digital Evidence**
- Information from an electronic source that is stored or transmitted in digital form.
- Examples of digital evidence include emails, text messages, social media posts, blogs, information stored on smart phones, etc.

Sometimes even when a Certified Investigator has a good understanding of the types and forms of evidence, they will encounter a piece of evidence that they are unsure how to correctly classify. In these instances, it is important for the Certified Investigator to remember the purpose of an investigation: to objectively describe and explain what did (or did not) occur at a given place and time. Classification of the piece of evidence as to its precise type or form is secondary in importance to the Certified Investigator collecting and/or preserving the piece of evidence for use in gaining a full understanding of the incident under investigation.
Legal Standards of Burden of Proof

Legal standards of burden of proof define the level of evidence necessary to prove an assertion, or in the case of a Certified Investigation, an allegation. Certified Investigators utilize the Preponderance of Evidence standard when conducting investigations. This standard of evidence generally applies to civil or administrative proceedings requiring that conclusions of fact be based on the weight of the evidence. Other definitions characterize the preponderance test as the fact finder being convinced that the conclusion of fact chosen is “more likely than not,” or that 51% or more of the evidence supports one conclusion of fact over another.

This standard of evidence is utilized in two ways during the Certified Investigation process:

• First the CI will utilize the Preponderance of the Evidence standard to evaluate which of two seemingly contradictory facts, gathered in the investigation, is most likely to be a reflection of what occurred during the incident. This will be further discussed in the section on Reconciling Evidence.

• The second way is by those conducting the Administrative Review to determine the weightiness of the overall evidence in order to make a final determination regarding the incident.

A second legal standard of burden of proof to understand is the Beyond a Reasonable Doubt standard. This is the burden of proof needed to be satisfied in criminal proceedings in order to determine a defendant guilty. It is generally defined to mean no "reasonable doubt" can exist in the mind of a reasonable person that the defendant is guilty. Doubt can still exist, but only to the extent that it does not affect a reasonable person’s belief that the defendant is guilty.

The certified investigation process does NOT utilize a Beyond a Reasonable Doubt standard. It is important, though, to understand this standard for cases that involve law enforcement. The CI should be careful about making any determinations based on law enforcement’s findings or determination to investigate. It is critical to remember that the criminal justice system utilizes a Beyond a Reasonable Doubt standard of evidence which is far higher than the Preponderance of Evidence standard in Certified Investigations. It may occur that law enforcement determines that they have insufficient evidence to pursue a case further or even refuses to investigate a case that could be confirmed to a Preponderance of the Evidence standard through a Certified Investigation.
MODULE 2: THE RULES OF SPEED, THOROUGHNESS, AND OBJECTIVITY

The rules of evidence followed by investigators when conducting investigations generally relate to one of three critical elements: **OBJECTIVITY, SPEED, and THOROUGHNESS**.

All three of these elements must be adhered to throughout the entire investigation process. If they are not, the quality of the Certified Investigation suffers, which can lead to a myriad of issues, including:

- The final determination made by the Administrative Review team may not be based on complete, objective, or accurate information.
- Follow-up actions may not be made with all the information necessary to ensure that the actions will have the best chance of mitigating future risk.
- The quality and validity of the investigation and the resulting follow-up actions could be called into question in grievances of employment actions or even in legal proceedings.

**1. OBJECTIVITY**

A key element of quality investigations are the rules associated with objectivity. Objectivity in the broadest sense is the ability to describe or perceive something without being influenced by personal emotions and experiences, bias or opinion. Fact-finding investigations must be conducted from what will be viewed by others as an objective, unbiased, “third-party” or “arms-length” approach.

The rules associated with objectivity in an investigation will be applied in a number of ways throughout the investigation process including:

- Choosing and assigning the investigator to conduct the investigation (part of Stage 1 of the Certified Investigation process)
- Reconciling evidence, e.g. objectivity of witnesses, including the nature of relationships between witnesses, motives a witness may have to influence the outcome of an investigation (part of Stage 3 of the Certified Investigation process)
- Arriving at the final determination of the investigation, based on objective assessment of where the preponderance of evidence lays (part of Stage 4 of the Certified Investigation process)
- Determining and implementing decisions regarding the outcomes and recommendations of investigations (part of Stage 4 of the Certified Investigation process)

The investigator (as well as people managing the investigation process in an organization) must be aware of the potential for bias that may emerge in a number of different ways during the investigation. Efforts should be made to minimize this issue as effectively as possible. If the investigator becomes aware that there is a potential risk to their ability to be objective, they should immediately notify their organization’s management. Their organization’s management will be able to determine the best course of action. The same action should be taken by the investigator if they think others may perceive them as not being able to be objective.

When the rules of objectivity in an investigation are not applied properly, the investigation (and
subsequent decisions made as a result of that process) will be seen by others as questionable. This in turn opens the door for grievances and legal challenges involving the appropriateness of the conclusions reached.

An objective investigation identifies and collects all potentially relevant facts or evidence. Conflicting evidence must be followed-up and reconciled. The vast majority of investigations involve significant circumstantial evidence from which inferences are drawn. The use of unproven suspicions (the “gut feeling”) and assumptions must be set aside. For example, even when an employee has received counseling or discipline in the past about similar work behaviors, in the current instance or incident under investigation, “guilt” must not be automatically assumed. In this context, each incident is unique, and should be treated as such. This is what helps to maintain the foundation of objectivity during the investigation process.

2. **SPEED**

Another critical value associated with rules of evidence that quality investigations are judged by is speed. The rules of evidence related to speed exist because of what is considered the “half-life” of evidence. All evidence changes character over time. The properties, characteristic, condition, etc. that a piece of evidence has today will evolve and become different tomorrow.

One example related to the rules of speed in an investigation is initiating and completing investigations in a timely manner. Incident management regulations define the number of days in which investigations must be completed. PA Title 55, Subchapter Q, §6000.961. related to Incident Management requires that the final section is to be submitted through the Enterprise Incident Management system (EIM) within 30 days of the incident being recognized or discovered.

In regard to the rule of speed, regulatory timeframes should be viewed only as the outer limits to conducting the investigation. Investigations should be done as efficiently as possible.

It is important to note that for some types of investigations, obtaining and analyzing health-related documents or other evidence may take several weeks to complete, e.g. hospital discharge summaries, autopsies or coroner reports, and in some cases where witnesses are not immediately available, actual witness statements. If an organization determines they will not be able to meet the 30-day reporting timeframes for completion of the final section, notification of an extension is to be made to the Administrative Entity and the regional office of ODP by means of EIM prior to the expiration of the 30-day period.

Management of physical evidence is another critical component of speed in an investigation. Delaying the collection of physical evidence, such as a liquid on the floor, may result in it not only changing “shape,” e.g. someone comes along and starts to clean it up, but ultimately the liquid disappears through evaporation.

Sometimes physical evidence is altered unintentionally due to a person’s actions, often because of prior training that conflicts with rules for preserving evidence in an investigation. Cleaning the site prior
to the investigator arriving at the scene to identify and collect evidence not only alters, but also possibly destroys, potential evidence that may be crucial to the investigation.

Another example pertaining to physical evidence and speed of an investigation is the potential that individuals may deliberately alter or destroy physical evidence in order to redirect blame or to protect another person(s). When an investigation is delayed, more opportunity arises for this type of behavior to occur.

Witness testimony may also be altered or lost when investigations are delayed. Witness memories change or fade over time. As humans we have the ability to replay memories in our minds. As a result, those memories can inadvertently be altered over time, causing the original experiences/observations to be changed. “Rehashing” the incident with others can also inadvertently cause memories to change, as well as intentionally “colluding” with another person to “get the stories straight.” Collusion is the secret agreement between two or more people for a fraudulent, illegal or deceitful purpose. Because of these factors, it is critical to initiate witness interviews as close to the time of assignment as possible, e.g. the first witness interview should occur no more than 24 hours after assigning the CI the investigation. The CI must complete all initial witness interviews within ten days of assignment. As noted previously, regulatory timeframes should be viewed only as the outer limits to conducting the investigation. Interviews should be done as efficiently as possible.

Some incident investigations identify problems related to clinical or direct support staff failure to communicate and document information such as progress notes, shift logs, behavioral data, etc. The failure of staff or a consultant to perform their jobs correctly directly contributes to (or may actually cause) the occurrence of the incident under investigation. Delays in an investigation give people the opportunity to “cover their tracks” and get the necessary paperwork in place that otherwise would not have been there if the investigation began sooner. Delaying an investigation also provides opportunity for documents to disappear or be altered.

In an investigation, one cannot predict with certainty that any of the above will occur, yet the consequences are great when delays happen and the opportunity for evidence to be altered or tampered with is presented. Even allowing the question to be raised, that evidence may have been altered or changed because of delays in the investigation, creates greater uncertainty than an investigation initiated and completed within reasonable time frames.

At times, an investigation will be conducted when there is also a law enforcement investigation being conducted. The fact that there is a law enforcement investigation being conducted in no way affects an investigator’s obligation to conduct an investigation utilizing the principle of speed. The only time that an investigator should deviate from the investigative timeline is when law enforcement specifically requests for the investigator to delay an investigative step in order not to interfere with the criminal investigation. If asked to do so, documentation must exist as to why the investigator is not conducting the investigative step in accordance with the rules of evidence collection provided in this manual. Additionally, the investigator should keep in regular contact with law enforcement in order to know when they can complete their investigation, as the fact that law enforcement is involved does not eliminate the need for all investigative steps to be conducted by the CI.
3. THOROUGHNESS

Thoroughness of an investigation relates to the level of detail generated by the investigator throughout the entire process of identifying, collecting, preserving, and analyzing evidence. All potentially relevant evidence should be identified by the CI, collected and/or preserved, and considered in the evidence analysis process. Producing an investigation considered “thorough” can be measured in a number of different ways. These are addressed throughout this manual. Some examples of how thoroughness is judged in an investigation include:

**Preserving Evidence**

a. Was the scene secured after the incident was reported so the investigator had the opportunity to properly identify and collect potentially relevant physical evidence that might be present? If the scene was not secured, why?

b. Were photos of injuries (or potential injuries, e.g. bruising that might appear hours later) taken properly, including photos taken over a period of several days showing the condition of the site allegedly injured over time? Or, was there only one photo taken showing only the bicep of someone’s arm with a small bruise on it?

c. Were witnesses separated after the incident was reported in order to minimize their ability to talk about the event with one another? Or instead, were staff given a “Witness Statement” form to complete and sat together in the staff lounge completing their reports?

**Collecting Evidence**

a. Regardless of whether the scene was secured, did the investigator assess the location where the incident occurred for physical evidence? Were photos taken and diagrams prepared of the environment to create demonstrative evidence?

b. Were all witnesses with potentially relevant evidence identified and interviewed?

c. Did the investigator personally review documents (such as the individual’s record, personnel file of the alleged target, etc.) for relevant pieces of documentary evidence? Or instead, did the investigator call the Program Manager of the location where the incident occurred and ask them to fax a pre-determined set of documents?

d. At times, investigations will be conducted when there is also a law enforcement investigation being conducted. The fact that there is a law enforcement investigation being conducted in no way affects an investigator’s obligation to conduct a thorough investigation. When evidence is not available to the investigator due to law enforcement’s involvement, the investigator should document this and refer to the police report as documentary evidence. If the police report does not acknowledge evidence that was collected, the investigator must follow up with law enforcement to inquire about any evidence that was collected. It cannot be assumed that law enforcement has thoroughly examined the scene for physical evidence, collected the appropriate testimonial evidence, utilized demonstrative evidence, or obtained relevant documentary evidence. The CI is responsible for utilizing thorough evidence collection techniques.
Analyzing Evidence

a. The CI must consider all relevant evidence in the analysis process that is done in Stage 3 of the investigation.

b. The CI must thoroughly examine conflicting evidence in an effort to resolve contradictions using the rules for reconciling evidence described in Module 8 of this manual.

Certified Investigation Report

a. Was a summary of evidence prepared correlating the direct and circumstantial evidence available to answer the question(s) of the investigation, or was there simply a line-by-line reiteration of witness testimony used for the summary?

b. When providing information regarding the investigation protocols used to identify, collect, and preserve evidence, were statements included referencing issues such as the scene not being secured properly so people reviewing the investigation in the future clearly understand potential problems with evidence?

c. Was the overall report prepared in a clear, concise, logical manner with appropriate detail, or was the report presented in a disorganized manner?

During the course of conducting certified investigations, the CI may come across situations in which they are unable to collect a specific piece of potentially relevant evidence. For example, the victim, target or other witness may refuse to provide testimony. If this type of situation arises, even if the CI is unable to collect the evidence after multiple attempts, they should continue their investigation and should be as thorough as possible in identifying, preserving, and collecting all other potentially relevant evidence. This way, they will likely still be able to develop a good understanding of the incident even in the absence of that one piece of evidence. The absence of specific evidence does not negate the CI’s responsibility to conduct an investigation that is as thorough as possible. The CI’s attempts to collect the evidence should be described in the Certified Investigation Report (CIR).
MODULE 3: STRUCTURING THE COMPETENT INVESTIGATION

Standard protocols are used to identify, collect and analyze evidence available to an investigation. There are generally four stages of activities occurring in any investigation: **intake and preservation** of evidence, **identification and collection** of evidence, the **analysis and presentation** of the evidence collected, and **quality review including implementation of recommendations and corrective actions**. The following chart represents a consolidated view of these stages. Included in the chart are the activities associated with each stage (which are discussed in detail in subsequent modules), along with the responsible party.

<table>
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<tr>
<th>STAGE OF INVESTIGATION</th>
<th>RESPONSIBILITY</th>
<th>KEY TASKS AND ACTIVITIES</th>
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<tr>
<td><strong>Stage 1</strong></td>
<td></td>
<td></td>
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<tr>
<td><strong>INTAKE</strong></td>
<td>Agency Point Person</td>
<td>1. Assure safety and well-being of people; provide medical treatment as necessary.</td>
</tr>
<tr>
<td><strong>PRESERVE EVIDENCE</strong></td>
<td>Site Supervisors</td>
<td>2. Secure the scene.</td>
</tr>
<tr>
<td>(Incident Identified)</td>
<td>Agency Management</td>
<td>3. Identify, keep, separate witnesses.</td>
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<tr>
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<td></td>
<td>4. Remove alleged target(s) from contact with individuals receiving services</td>
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<td>5. Secure documentary evidence.</td>
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<td>6. Assign Certified Investigator</td>
</tr>
<tr>
<td><strong>Stage 2</strong></td>
<td>Certified Investigator</td>
<td>1. Check on the safety and well-being of the alleged victim.</td>
</tr>
<tr>
<td><strong>IDENTIFY</strong></td>
<td></td>
<td>2. Review activities of intake and preservation with management.</td>
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<tr>
<td><strong>COLLECT</strong></td>
<td></td>
<td>3. Review incident with Reporter.</td>
</tr>
<tr>
<td>(At Scene)</td>
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<td>4. Identify and collect physical and demonstrative evidence.</td>
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<td>5. Sort, classify, and interview witnesses.</td>
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<td>6. Obtain written statements.</td>
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<td>7. Identify &amp; collect other documentary evidence.</td>
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<tr>
<td><strong>Stage 3</strong></td>
<td>Certified Investigator</td>
<td>1. Review and assess evidence collected.</td>
</tr>
<tr>
<td><strong>ANALYSIS</strong></td>
<td></td>
<td>2. Conduct background interviews.</td>
</tr>
<tr>
<td><strong>PRESENTATION</strong></td>
<td></td>
<td>3. Conduct follow-up interviews.</td>
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<tr>
<td>(Review and Reconcile)</td>
<td></td>
<td>4. Conduct final reconciliation of evidence.</td>
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<td>5. Prepare Certified Investigation Report, Sections I-IV.</td>
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<tr>
<td><strong>Stage 4</strong></td>
<td>Agency Management</td>
<td>1. Review competency and quality of investigation.</td>
</tr>
<tr>
<td><strong>ADMINISTRATIVE REVIEW</strong></td>
<td></td>
<td>2. Complete Section V of the CIR including:</td>
</tr>
<tr>
<td>(Conclusion of the Investigation)</td>
<td>Incident and/or Risk Management Committee</td>
<td>a. Determine finding: confirmed, not confirmed, or inconclusive.</td>
</tr>
<tr>
<td></td>
<td>Human Rights Committee</td>
<td>b. Determine recommendations and action plans.</td>
</tr>
<tr>
<td></td>
<td>Agency Board of Directors</td>
<td>c. Implement recommendations and action plans.</td>
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<td>Note: CI should be involved in Stage 4 to provide technical guidance regarding the evidence.</td>
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Based on the previous chart, there are a number of critical steps organizations must have in place to support and conduct a competent investigation process. Three areas of preparation, identifying skills of a quality certified investigator, preparing for the investigation, and writing the investigatory question, are detailed below.

1. **Qualities of Certified Investigators**

   The Certified Investigator (or investigators) is of critical importance in any organization. The investigator must have a reputation for honesty and credibility, and have the ability to provide reassurance to individuals involved in the incident. The investigator must possess critical thinking skills and think like a historian in creating an investigation that is thorough, organized, and competently conducted because any evidence generated through the investigation may become evidence in a government inquiry or future grievance or lawsuit. The organization should anticipate that at some future time the investigator may have to appear before a hearing officer, arbitrator, administrative law judge, or even a jury if litigation results. In this context, the investigator must be able to present him or herself as an authoritative and credible witness.

   The *Incident Management Bulletin* requires agencies to use only Certified Investigators. How do you determine who becomes a Certified Investigator in the organization while at the same time balancing the need for objectivity? Options may include:

   a. Agency Incident or Risk Manager  
   b. Agency Point Person  
   c. Member(s) of direct care staff management  
   d. Human Resource staff member(s)  
   e. In-house legal counsel  
   f. Independent, certified investigator from outside the organization, especially if:  
      - Circumstances warrant the use of an investigator independent from the organization  
      - In-house resources of the organization are limited (e.g. size of organization, geographic considerations) that makes it difficult to assign staff the responsibility of becoming certified investigators or conducting certified investigations

   Based on resources and structure of the organization, it is generally a good idea to have at least two or three people in the organization trained to conduct investigations. Based on The *National Center on Outcome Resources – Community and Quality: A Guide to Incident Management and Quality Life Outcomes*, there are eight characteristics for a good investigator:

   a. High ethical standards  
   b. Comprehensive knowledge of DD/ID system  
   c. Excellent communication skills  
   d. Versatile interviewing techniques  
   e. Good judgment about when to call for the assistance of experts  
   f. Understanding external reporting responsibilities and due process  
   g. Curiosity  
   h. A personality that does not suffer too enormously from not being the most popular member of the organization
Candidates to become CIs should self-evaluate to determine their own strengths related to this list and communicate their needs related to professional growth in these areas. Management should also use the above list of characteristics when considering which staff are best qualified to become CIs.

Any internal investigation must have the support of senior management. In essence, the investigator functions directly under the authority of the Chief Executive Officer of the organization. Service providers should carefully address policies and procedures relating to the types of information shared on a regular basis with members of the Board of Directors regarding incident management and investigations. Employees also need to understand their role and responsibilities relating to participation in the investigation process.

The investigator must have the authority to manage the investigation process including deciding when and where to conduct the investigation, what issues to pursue, and which individuals to interview. Depending on the complexity of an organization, different departments and individuals may be involved in the investigation, which can sometimes result in more than one person attempting to direct the investigation.

At the same time, however, the CI should never feel that they are alone in the investigation process. The organization’s management must be willing to provide support as needed in cases where the CI encounters unique or difficult situations. For example, if the CI finds that they are unable to collect testimonial evidence from the target, victim, or other witness for whatever reason, the CI may need their management’s support in explaining to the witness the importance of cooperating with the investigation and/or in deciding when to move on with the remainder of the investigation without the that specific piece of evidence.

On a very practical level, the assigned CI must have and be provided the time to conduct a quality investigation. All principles of an investigation including objectivity, speed and thoroughness can be compromised when the CI has overwhelming competing requirements on their time. Additionally, a CI should not be assigned who is expected to have an upcoming leave request which will interfere with the timeliness of their investigation.

When there are multiple investigators, either internal or external to the organization involved with a specific incident investigation, it is critical to identify the person functioning as the “lead investigator” and communicate that to the other parties involved in the investigation.

2. PREPARING FOR THE INVESTIGATION

Once an incident is reported, the determination is made that the incident requires an investigation (per the Incident Management Bulletin), and the investigator is assigned, it is helpful for the investigator to prepare a strategy for the investigation. Some basic strategies to consider include:

a. Establish timelines for the process; include the steps to be taken and a projected completion date.

b. Determine the question(s) the investigation needs to answer based on the description of the incident contained in the initial incident report.
c. Identify the required tasks (e.g. identify and collect physical and demonstrative evidence, interview witnesses, etc.) that need to be completed, generally in a sequential manner, for the investigation. Be aware of how each phase of the investigation leads to or supports the next step in the process.

d. Remain flexible. Sometimes one part of the process takes longer to complete than expected or there may be additional issues may arise that need to be incorporated and addressed by the investigation.

e. Plan the chronology of witness interviews; identify potential witnesses and classify them according to their relationship to the incident. A CI should conduct witness interviews as follows:
   - Victim(s)
   - Witnesses with direct evidence
   - Witnesses with circumstantial evidence
   - Target(s)

You may also choose to intentionally change the recommended order and interview one witness over another because, for example, the first witness is not immediately available or you want to limit opportunities to influence witness testimony. Numerous variations on this scenario exist, so think carefully about the nature of relationships between witnesses. When varying from the recommended order, the CI must document the investigative reason for the variance.

f. Put together an investigative toolkit before starting the investigation. Items for the tool kit include but are not limited to: tape measure, digital camera, notebooks, medical ruler, paper bags, tape, pens/Sharpies, non-rewritable CDs, caution tape, body chart forms, rubber gloves, alcohol wipes, hand sanitizer, blank graph paper, inter-office envelopes, and zip-lock baggies.

g. The need to modify the investigation plan may occur based on the progress and feedback received during the investigation. Modifications may include:
   - Attending to the timing of the investigation; be cognizant of delays that could lead to the destruction of evidence or loss of key witnesses.
   - Determining whether new leads must be investigated.
   - Filling gaps and oversights in your plan.
   - Uncovering evidence of other incidents or misconduct requires the CI to report an incident that has not been previously reported. Separate incidents cannot be “rolled” into the same investigation unless they are directly related to the incident allegation being investigated.

h. Anticipate parts of the investigation that could cause further trauma or discomfort to the alleged victim and develop a plan to address how evidence can be collected with minimal disruption to the life of the alleged victim.

i. Determine what will be said to employees and individuals outside of the organization (e.g. family members, media, etc.) inquiring whether an investigation is taking place. Laws and regulations involving privacy (for individuals receiving services and employees), as well as the need to manage “public relations” may impact how this is handled. Because of the potential unique implications related to each incident under investigation, it is recommended that a policy is created and implemented regarding inquiries about incidents. The policy should include who handles communications, what will be communicated, and the appropriate audience for the communication.

j. Organizational policies should be developed addressing how the documents collected and
k. Establish who is responsible for the administrative review process of the Final Certified Investigation Report, including authority for reaching the final conclusions and determining outcomes based on that conclusion.
l. Determine who is responsible for making decisions about what follow-up actions will be taken, monitoring the implementation, and assessing the impact of those corrective actions. This involves coordinating post-investigation reports, assigning responsibility for any follow-up corrective action (including interventions involving the individual receiving services and employee discipline), and any required training based upon what is learned during the investigation.

3. WRITING THE INVESTIGATORY QUESTION

The investigatory question serves two purposes for the investigation: 1) provide a general guide to the parameters of the investigation and 2) assist the CI in avoiding tunnel vision. The allegation, not the question, is what gets confirmed or unconfirmed in the final determination. The investigatory question is simply an investigative guidance tool.

While there may be circumstances where there is the need for multiple investigatory questions, most investigations require only one properly written investigatory question. When a CI believes there is a need for multiple investigatory questions, they should review the incident allegations to make sure that they are not actually attempting to investigate multiple incidents which require separate investigations.

The investigatory question should be generic as to the actions being investigated. If possible, it is:

- Anchored to time
- Linked to the alleged victim
- Linked to the general location of the incident

Investigatory questions should NOT include the name of the target(s), the specifics of the allegation, reported motive, or the specifics of place.

Incorrect question: Did Chris poke Mary’s arm with a fork at the table in the kitchen because he was frustrated that she would not leave the table on March 1, 2015?

Correct question: What happened to Mary at XYZ home on March 1, 2015?

The correct question anchors the investigation to the alleged victim, as well as the specific date of the incident and general location without creating the tunnel vision. Tunnel vision is a natural human tendency that leads CIs to focus on specific theories and then select and filter evidence only through those preconceived theories. This includes ignoring or suppressing evidence that doesn’t fit with the preconceived ideas. For example in the incorrect question, the CI may only select and filter evidence on what did or did not occur in the kitchen and ignore or suppress evidence that may indicate that the event happened in a bedroom instead.
MODULE 4: IDENTIFYING AND COLLECTING PHYSICAL AND DEMONSTRATIVE EVIDENCE

1. PHYSICAL EVIDENCE

Physical evidence is defined as things themselves (e.g. an injury, weapon, a piece of furniture, etc.) or the absence of things, as well as the spatial relationship among things that have the potential to describe or explain an incident under investigation.

As previously stated, all physical evidence should be identified, collected, and/or preserved as quickly as possible during an investigation.

When initiating investigations, a preliminary assessment about potential physical evidence should be made as soon as the incident is reported. If potential physical evidence exists, as appropriate, the following procedures should be implemented:

a. Injuries

Whether or not an individual has sustained injury is very relevant in the ODP incident management system. If an injury exists, the investigator will need to try to determine how the injury was sustained and whether or not it is related to the incident under investigation. For example:

- The type of injury sustained could help determine how an incident occurred.
- The pattern and size of an injury can be critical to assessing how the injury occurred. The opinion of a medical professional can be helpful in this assessment.
- The presence (or sometime more importantly, the absence) of an injury could help determine whether an incident occurred as described.

b. Medical Intervention

Once an incident has been identified, individuals who are injured should receive medical attention immediately from a physician or other healthcare professional. Even those without apparent injury should be assessed immediately in order to rule out potential injury and to document the condition of the individual at a specific point in time.

Physicians, other healthcare professionals, or other people (e.g. direct support staff) authorized to provide initial medical assessment and interventions (e.g. providing first aid) in response to an incident should complete a report documenting the assessment and treatment provided. The report should include the nature and estimated age of the injury, and, if appropriate, a note about the possible cause of the incident.

If an individual needs treatment in a hospital or emergency room, the staff should follow their agency policy and procedures.

Because of the special responsibilities ODP-funded organizations have regarding incident
reporting and documentation, it is generally recommended that representatives meet with the local hospital and/or emergency room personnel to explain the type of reports and information that would be beneficial to the incident management and investigative process. This helps to alleviate potential problems in the future.

c. Investigator’s Role Related to Injuries

The investigator should attempt to see the injury (either before or after treatment), make notes about their observations, and when possible, take photographs. Even if no immediate injury is identified, it is recommended this procedure be followed. If the injury is on a private area of the body or if, for any reason, showing it to the CI could be traumatic to the victim, the CI can rely on the evaluation of a physician and other medical records to describe the injury.

When conducting witness interviews, it is also appropriate to focus questions on observations made by the witness regarding the victim’s physical condition prior to, during, and post-incident, prior to any medical interventions and/or physical examination.

Another technique that may provide useful evidence in an investigation is observing the physical characteristics of individuals allegedly involved in an incident. For example, are the fingers and/or hand of the person identified as the alleged target of the investigation similar in size and/or shape to the bruises found on the victim’s arm?

d. The Physical Environment

The environment where incidents occur, including the location, physical lay-out, properties (e.g. temperature, visibility, noise, weather conditions, etc.), and spatial relationship among things (e.g. furniture, other items in the environment, even people) may provide crucial evidence in an investigation. As soon as an incident has been reported and the scene is identified, steps should be taken to immediately secure the scene to the best degree possible.

By properly securing incident locations, objects and substances are protected from changes associated with activities that might have occurred post-incident had others been free to enter and use the location. Failing to secure the scene not only compromises the quality of the evidence available, it may ultimately compromise the conclusions and outcomes drawn from the investigation.

e. Securing the Scene

Identifying the exact location where an incident occurred is a critical step in answering the investigatory question. A scene is secured when the integrity of the items within it are not moved, handled or disturbed in any way by any person at any time following the occurrence of an incident.
When initiating steps to preserve, identify, and collect objects and substances for possible future use in hearings, evidentiary rules require that a clear "chain of custody" be created and maintained. The chain of custody begins as soon as the environment where the incident occurred is secured. The investigator is responsible for showing exactly where the evidence has been from the moment it was collected, until the time it might be used during a hearing. If the chain of custody is broken, the certainty of the evidence is undermined and questions can be raised about its validity.

Many of the protocols used to identify, collect, and preserve physical evidence are similar regardless of whether it is a criminal, civil, and/or administrative investigation being conducted. Even when a criminal investigation occurs (and takes precedence over any other investigation involving the same incident), the service provider or entity responsible for the location where an incident allegedly occurred is generally in the best position to initiate steps to secure the scene until law enforcement arrives.

In order to secure the environment or scene where an incident occurred, the following steps should be followed to the best degree possible:

i. Station a person at the entrance of a room in order to prevent others from entering.

ii. If a room has more than one entrance and there are insufficient people to station at each entrance as in “a” above, then the person assigned should remain in view of the other entrances to the room when possible.

iii. If there are multiple entrances with only one individual available to station at an entrance and the other entrances are not clearly visible, those entrances could be locked. There are regulatory violations, though, to locking doors and prohibiting egress to the outside in a licensed facility.

iv. Anyone needing to enter the room once it has been secured should do so only if necessary; care should be taken to avoid disrupting the condition of the room. The person responsible for securing the room should take notes of anyone entering the room, the reason for entering, the time they entered and left the room, and what they did while in the room.

v. When an incident occurs in a public place, e.g. a hallway, securing the scene becomes more challenging. It may not be possible to cordon off (rope off) a room from use as was described above. In the example of a hallway, what may need to suffice is having the immediate vicinity cleared by moving people or activities from one side of the hallway to the other. In this case, a person should stay at the incident scene until the investigator arrives, take detailed notes about the scene being altered in any way, and communicate this information to the investigator upon their arrival.

vi. If traffic cannot be rerouted, someone should remain at the incident site until the investigator arrives.

2. COLLECTING PHYSICAL AND DEMONSTRATIVE EVIDENCE

In an investigation, physical evidence is preserved by creating demonstrative evidence, e.g.
photographs, videotapes, diagrams, x-rays, etc. The following protocols outline the steps used by an investigator to identify and collect physical and demonstrative evidence in an investigation:

a. Upon arriving at the scene of an incident, the investigator’s role is to assume control of the scene and its evidence. The investigator should first speak with the person stationed at the scene to understand the exact procedures used to secure the environment prior to the investigator’s arrival. The investigator should also ask that individual for any notes and/or logs they maintained, and as necessary, conduct a formal interview and prepare a statement.

b. Before entering the room or environment where the incident occurred, the investigator should make initial observations about the layout and make decisions about how to enter and walk around the room so as to not disturb any of the evidence. If there are objects or substances on the floor, the investigator must move cautiously to avoid tracking substances around the room.

Creating Demonstrative Evidence: Photographs

The next steps involve taking photographs and/or video of the physical evidence. Preserving the condition of physical evidence by creating demonstrative evidence through photographs is an important aspect of the investigation process. While the use of digital equipment to create evidence has raised evidentiary concerns in the past because of the user’s ability to easily alter the evidence, advances in technology and investigation protocols currently make them a viable option. One advantage to the use of a digital camera is that it negates the possible breach of confidentiality associated with sending film to an external lab for development. When using digital equipment, investigators should make use of the date and time stamp feature and should make sure the date and time is correctly set before taking any photographs.

Note: While most of the procedures outlined below reference photographing of injuries, follow the same procedures when creating photographs of the environment where an incident allegedly occurred, or when documenting the absence of physical evidence (e.g. an injury that otherwise should be present if testimony is accurate but is not).

When photographing the alleged victim, it is important to always ask their permission to take pictures of their body and their residence. If they refuse to allow you to photograph, the CI should consult their supervisor. If evidence is available in an individual’s genital region or requires the individual to partially undress for the picture to be taken, the CI is strongly urged to use documentation of an examination by a certified medical professional instead of taking photographs. If the documentation is not sufficient, the medical professional who conducted the examination should be interviewed. If photographs were taken by someone other than the CI, i.e. a medical photographer or law enforcement officer, these pictures can be used as evidence for the investigation.

1. The first step in photographing the individual is to take photos that show the entire body of the individual. Typically, this can be done with a full body photograph with the individual facing toward you. Depending on the nature of the allegations, you should also consider taking full body photographs of the left and right side profile of the individual as well as a photo of them turned away from you.

2. After taking full body photo(s), begin taking mid-distance photos of the injured area. The mid-distance photo is approximately 50% closer to the individual versus the overall “bookend” photos
identified in #1 above. The mid-distance photo(s) continues to identify obvious physical landmarks while still showing the injured area in the center of the picture. When there are multiple injuries that do not show up in the full body shot taken for #1, take pictures that will allow you to create an overlapping series of photographs showing the sequence of injuries to the individual.

3. After taking the mid-distance photo(s) take close-up photos of the injured area(s) next using the following steps:
   a. Photograph the injured area from the front (or straight on) with a measuring device. Do not place anything that is not sanitized on the skin or close to an open wound (i.e. a coin).
   b. Take a follow-up close-up photograph without the measuring device.

4. Once close-up photos are finished, take extreme close-up photo(s) so the injury fills the entire viewfinder.
   a. Photograph the injured area from the front (or straight on).
   b. If injuries are too large for a single extreme close-up photo, then take overlapping photos to capture the entire injury for the extreme close-up photos.

5. Using the initial incident report for reference, the investigator should take photos of any location and/or objects identified in the report. For example, if the report indicated the individual tripped and fell on a piece of rug that wasn’t tacked down properly, the investigator should observe the flooring material at the location and take photos regardless of whether it has wall-to-wall carpeting, a throw rug, or a wood floor with no rugs over it. When photographing the environment where the incident occurred, the first photographs would be taken from the entrance of the room looking in. After taking a series of progressively closer photographs culminating with the object identified in the report, the investigator should then walk to a different entrance or the opposite side of the room and take a series of photos beginning from that vantage point.

6. As photos are taken, the investigator should keep a photo log identifying each photo, adding notes including the date, time, and any other relevant information.

7. Any substance or object that is removed from the environment by the investigator should always have photos taken prior to its removal. Until this step is completed, nothing should be removed from a secured location.

Maintaining and Securing Digital Photographs for the Investigation

The vast majority of cameras used to take evidence photos today use digital technology. Because of the shift from film to digital technology, the rules used to create and maintain the “chain of custody” for photographs have changed. It is important to work with Information Technology (IT) staff in organizations to identify and create standard operating policy and procedures to properly manage all evidence created and maintained digitally or electronically for investigation purposes. Modify information outlined below (like naming folders and files) based on advice from the IT professionals.

Adhere to the following protocols when maintaining digital photos as demonstrative evidence:

a. Digital photos or videos should be copied immediately to a CD-R disc (or its equivalent) as CD-R format does not allow the information on the disc to be modified.
   b. Identifying information should be included on the disc, just as you would do if writing on a Polaroid or the back of a 35mm photo. Information to be documented includes:
      • The name of photographer
• Date, time and place it was taken
• Subject of the photo
• Case name and number
• A unique number assigned to each piece of evidence in the order collected. This number is used to identify the object or substance in evidence logs, on diagrams, etc.

1. After taking the digital pictures, but before transferring pictures to a secure disk, rename each photo. The file name might include using the case number, organization name, date, and sequential picture order (e.g. 001, 002, etc.). The file extension, e.g. “.jpg”, etc. remains the same. An example of the above is “12345ODP030112 001.jpg; 12345ODP030112 002.jpg, etc.” The image should always be saved in the same format in which it was originally taken. Saving the photo in a different format from the original can change details (including color) in a way that would make it inconsistent with the original.

2. Create a primary folder for the investigation on the “secure disk” that is used to transfer and maintain all related evidence files, including photos from the memory card or device. Use a basic file name such as the one created above for this folder by using the case number, organization name, and date (e.g. “12345ODP030112”).

3. Create a sub-folder where the digital photos are transferred and stored related to the individual. Include the following in the folder name: case number, individual’s name, organization, and date (e.g. “12345SmithODP030112”). If there are photos taken of multiple individuals, other physical evidence, or environments, create separate sub-folders for each series taken.

4. After creating the primary folder and sub-folders on the secure disk, transfer the photos from the memory card or device to the appropriate sub-folder on the secure disk.

5. Crosscheck that all photos copied correctly between the memory card and the secure disk by doing a picture count of the files and a visual comparison.

6. After transferring photos to the secure disk, delete photos from the memory card or device.

7. All pictures should be developed utilizing an in-house color printer.

8. The disc and/or photos should be secured following the same protocols used to create the chain-of-custody.

Creating Demonstrative Evidence: Diagrams

a. After completing the taking of photos, a diagram of the environment where the incident occurred should be created. Diagrams are helpful in demonstrating spatial relationships and movement, and are an important tool to be used when interviewing witnesses.

b. Diagrams do not need to be to scale, yet at the same time the diagram that’s created should be clear. To improve accuracy, measure distance (e.g. the length of a wall or the distance between two pieces of furniture) with a measuring tape and note the information on the diagram.

c. When measuring moveable objects included on the diagram, the measurement should be taken from at least two permanent features of the environment (a door jam, window frame, etc.) to the same spot on the object.

d. Diagrams need to be signed and dated by the person who created the diagram (CI or witness). Each diagram needs to be listed as a piece of demonstrative evidence in the final report.

There will be times when recreating a scene is valuable for purposes of more accurately diagraming or
photographing the spatial relationships between persons involved in the incident. The investigator may use stand-ins for this purpose. Stand-ins can be people involved in the investigation (i.e. target or direct witnesses) or can be other staff available to assist. The investigator should not use the victim to stand in for this purpose due to risk of further traumatizing that individual.

Collecting Physical Evidence

a. After the investigator has taken photographs and created diagrams, the objects and substances that might be relevant to an investigation should be clearly marked. Tags can be secured to large objects; labels can be attached to smaller objects. Regardless of whether tags or labels are used, the following information should be included:
   - A description of the object
   - The date, time, and place it was collected
   - The name of the investigator collecting it
   - Case name and identification number of the case
   - A unique number assigned to each piece of evidence in the order collected. This number is used to identify the object or substance in evidence logs, on diagrams, etc.

b. For small objects, plastic baggies will generally suffice. After the object is placed in the baggie, the opening would be sealed with masking tape. The tape should be placed in such a way that it would be torn if the object was removed. This is a technique used to help detect any tampering of the evidence. Identifying information would be written in pen on the masking tape.

c. Objects containing organic material (e.g. clothing with body fluids or blood) are never placed in plastic. Instead, the objects would be placed in a clean paper bag, sealing the bag with tape and marking the bag as described in “r” and “s” above. This is generally due to the fact that moisture can collect within the plastic bag, altering the composition of organic substances.

d. If liquids need to be collected, the investigator would use a sterile urine specimen cup or something similar to pour a sample of the liquid into. If the liquid substance is on the floor or other surface making it difficult to pour, a sterile gauze pad could be used to soak up a sample of the liquid. Either way, after placing the liquid sample in the sterile cup, close the cap tightly, place the cup in a plastic baggie, sealing and marking the evidence as described in “r” and “s” above.

e. As each piece of evidence is collected, the evidence should be documented on the physical evidence log maintained by the investigator (See Appendix II for log sheet).

f. The physical evidence collected is then placed in a secure location, e.g. locker, file cabinet, closet, etc. which should be locked at all times. The number of people having access to this location should also be minimized, with preferably only the investigator having the key.

g. Evidence secured in this manner should only be removed from the evidence locker for official purposes. Evidence log sheets should be used with notations made to the log whenever a piece of physical evidence is taken from this storage area. The notation should identify who removed the evidence, the date and time the evidence was removed, the reason it was removed, and the date and time evidence was returned. Whenever evidence is removed, the individual taking custody of the evidence is responsible for accounting for the material at all times.
MODULE 5: IDENTIFYING AND COLLECTING TESTIMONIAL EVIDENCE

1. SETTING THE STAGE: A MODEL OF COMMUNICATION

Interviewing witnesses including alleged victims, individuals, targets, staff, physicians, family members, etc., at its simplest level, is the process of two people communicating and sharing information with one another. In order to develop strong interviewing skills, it is important to understand the basis of how people communicate, which is based on the following four-stage model:

1. Investigator sends relevant information to witness.
2. Witness must process and understand information.
3. Witness must send-back relevant information to investigator.
4. Investigator must process and understand information.

This process is cyclical and continues until either 1) the interview is successfully completed, or 2) a negative dynamic emerges during the course of the interview that impedes or breaks down the interview.

2. WITNESS INTERVIEWS: THE PROCESS OF PROVIDING TESTIMONY

The ability of a witness to provide testimony on the topic of an investigation is based on three functions:

1. Witness' capacity to make observations.
2. Witness' ability to create memories of their experiences or observations.
3. Witness' ability to communicate the memories of their experiences/observations.

Regarding the witness’ capacity to make observations, it is important to remember that the ability to observe (as well as to experience events) is based on our senses: sight, hearing, taste, touch, and smell. A witness can have one or more senses impaired (e.g. be blind, but still have the ability to hear, taste, touch/feel, and smell) and be seen as a competent witness for the purpose of an investigation. The challenge for the investigator in these situations is to ask questions that focus on the sense(s) used by the witness in their experience or observation of the event.

Witnesses must also have the capacity to create memories of their experiences or observations; this is a basic rule associated with collecting testimonial evidence from witnesses.

The investigator is responsible for assuring the witness is allowed opportunity to effectively communicate memories of their experiences/observations during the investigation. In order to do this, investigators may need to provide accommodations to meet the communication needs of the witness by providing sign or spoken language interpreters, use of communication boards, etc. The witness is thereby given the opportunity to communicate in the most effective manner possible. Not only will this help improve the overall quality of their testimony, it also minimizes the risk that testimony is seen as tainted or compromised. In order to best provide these accommodations, it is necessary to research their communication needs prior to the interview.
In addition to the accommodations, the investigator must research prior to and assess during the interview other communication preferences of the witness. For example:

- The alleged victim may have certain times of the day that they are better able to communicate than others.
- The individual may have non-verbal gestures that have specific meanings.
- All witnesses will use a certain set of vocabulary. Definitions and meaning of words are not necessarily consistent and can vary based on local colloquialisms, cultural diversity, educational level, professional lingo, etc.

3. **SETTING THE STAGE: CULTURAL AWARENESS**

Every person communicates differently based on their personal communication history and their cultural communication patterns. In the course of communication, cultural differences can arise in definitions of words, body language, amount of detail in answers, views of authority, and perspectives on caregiving. All of these differences can result in the inaccurate recording and analysis of testimony.

A CI needs to be aware of communication differences that may be occurring due to cultural differences. When the CI believes that there is a cultural difference in the communication patterns during an interview, the CI should practice cultural inquisitiveness and ask the subject of the interview about their unique patterns of communication. For example if the CI notices that the person is not maintaining the eye contact that is typically expected, the CI should not assume that the person is lying. The CI should ask the person a question like “I notice you are not looking at me when you answer my questions. Is there a reason for that?”

It is also appropriate for the CI to ask questions that address potential cultural differences as part of their investigation. For example, the CI can say “Please tell me your definition of ‘bad care’.” or “The term that you used is generally considered offensive. What was your intention by using the term?”

It is very important that the CI avoid overgeneralizing cultural differences and assuming cultural communication “rules” apply to everyone from that particular culture. Many people teach that individuals from an Asian culture do not utilize the same level of eye contact that is used in the United States, especially to someone in “authority.” This idea is highly dependent on what part of Asia an individual is from, i.e. Hong Kong, rural China, Vietnam, etc. It is also very dependent on the acculturation level of the subject of the interview, i.e. first generation vs. third generation.

In other words, cultural patterns of communication are very individualized. Just because someone appears to have a certain cultural background, the CI should not assume how they will communicate. As noted, the CI needs to be able to identify when there may be cultural differences in the interview and then address them through questions that help to clarify whether cultural differences are affecting the interview. This can be done in the initial interview, but will often occur in the follow-up interview after the CI has had a chance to review the evidence from the initial interviews.

4. **TYPES OF INVESTIGATION INTERVIEWS**

As defined in Module 1, testimony is defined as information a witness shares with the investigator,
according to his or her capacity to observe a specific environment over a period of time. The capacity to experience events and to make observations derives from the senses: what the witness saw, heard, tasted, felt, or smelled.

In any investigation, there are generally three types of interviews that are used to collect testimony from potential witnesses. The three types to be explored in this module are:

- Initial Incident interviews conducted with identified witnesses to the incident
- Background interviews
- Follow-up interviews

5. BASIC RULES FOR STRUCTURING THE INTERVIEW PROCESS

The purpose of the incident interview is to allow a witness to communicate memories of their experiences or the observations they had the capacity to make, relating to a specific environment over an identified period of time.

Creating testimonial evidence that is thorough and can withstand possible evidentiary challenges is a critical skill any investigator must develop.

Even before meeting with a witness to conduct the interview, there are a number of “rules” or guidelines investigators should follow to prepare for the interview, including:

a. Conduct interviews individually with witnesses, not in groups. The general rule is witness interviews are conducted on a 1:1 basis, although exceptions to this rule will emerge that are addressed in other sections of this manual. Not only can group dynamics or peer pressure discourage or even suppress responses. More importantly, the investigator runs the risk that witness testimony will be seen as tainted.

b. Collect information regarding the communication needs of the witnesses. Provide proper accommodation of communication needs, e.g. professional interpreters, and communication devices such as picture books and other technology used to facilitate communication.

c. Does the witness (individual[s] receiving services and/or employee[s]) require a third-party to be present? If so, make arrangements to accommodate needs. Some examples of third-party representation may include:
   - A person the individual receiving services is familiar with (e.g. staff person, family member, etc.). Care must also be taken to assure this person is not a potential witness for the investigation.
   - A union representative for employees with the right to representation.

d. Where applicable, consider union issues and the protocols (typically outlined in the collective bargaining agreement) that must be followed.

e. Environment: Conduct interview in private place if at all possible.

f. Arrange for water and/or coffee to be available. Tissues may also come in handy.

g. Prepare diagrams and introduce into each witness interview to help document movement, spatial relationships, etc. being described.

h. If you are planning to interview several witnesses in one day, schedule sufficient time to complete each interview.
i. Maintain the appearance of objectivity and neutrality. It is important to convey to all witnesses that the organization takes the allegation seriously. Be factual, minimize small talk and do not attempt to play the role of "one of the guys." It may only call into question the credibility of the investigation as well as your credibility as an investigator.

j. Do not promise confidentiality, but try to maintain it; you can tell the witness that you will attempt to only share information with management or others who have a need to know. But if a lawsuit or grievance is filed, you generally will not be able to keep that promise because you will be compelled to disclose information.

k. Generally, do not tell the witness being interviewed what was said by other witnesses. Exceptions to this rule might involve follow-up interviews where there is a need to reconcile conflicting testimonial evidence, or when interviewing the alleged target.

l. Do not discuss your own opinions or conclusions.

m. Do not make promises to witnesses, such as offering a bargain or favor in exchange for testimony, e.g. change of shift, or immunity; avoid at all costs any oral agreements.

n. Focus on using nonverbal communication in assisting your interview process. For example, the SOLER method is an effective nonverbal communication structure to use in interviewing:
   - S-Sit squarely
   - O-Open posture
   - L-Lean forward
   - E-Eye contact
   - R-Relax

o. Use disability etiquette when interviewing individuals who receive services
   - Assume nothing. If you have a question about what to do, how to do it, what language or terminology to use, what assistance to offer, ask the individual with the disability.
   - Do not overgeneralize. Just because an individual has a particular form of disability, does not mean they share the exact same needs as someone else with that disability.
   - Use a normal tone voice. Avoid altering your volume unless asked to do so.
   - Never lean on or touch an individual’s assistive device (i.e. wheelchair, walker, etc.).
   - Even when the individual has a support companion or interpreter, talk directly to the individual.
   - Offer assistance but do not insist on assisting.
   - When speaking with someone who uses a wheelchair, sit down or kneel in order to maintain eye level contact with them.
   - When someone may be lip-reading, look directly at the person, speak normally, avoid talking with your hands, and grant permission for them to let you know if they can’t understand you.
   - When speaking with individuals with an intellectual disability, use simple and straightforward but NOT childish language.
   - When someone has difficulty communicating, be very patient, give undivided attention, ask shorter questions that require shorter answers, offer alternative communication methods, and ask for clarification when you don’t understand. Do not finish their sentences or assume you know what they meant.

When investigators spend time up front addressing potential issues like those identified above, the opportunity has been created for a smoother interview process to unfold.
6. THE INITIAL WITNESS INTERVIEW

Initial interviews are generally conducted with people identified as potential witnesses who were at (or around) the scene of where an incident allegedly occurred. Testimony provided by witnesses during the initial Interview may be considered direct or circumstantial depending on the question(s) of the investigation needing to be answered and the witness’ relationship to the incident. The investigator’s goal during the initial Interview is to help the witness elicit relevant, detailed information regarding their memory of their experience or observations made relevant to the incident under investigation.

Structuring the Initial Witness Interview

The following provides a framework by which to structure the Initial Incident Interview:

a. Introduce yourself and generally describe the purpose of your interview.

When initially meeting with the witness, the investigator needs to introduce him or herself and the investigative role, even though they may already personally know the witness. The investigator should also provide a brief description of the purpose of the interview; this is done to establish a clear understanding, especially from the witness’ perspective, about the seriousness of the process they’re about to undertake and to minimize potential misrepresentation of the interaction and roles between investigator and witness.

One way to present this introduction is as follows:

“Good afternoon, Jane. My name is Max Jones. You may know me in my role as Program Manager for Day Programs at Agency XYZ, but today I’m here in a different role. I’ve been asked to investigate an incident that occurred earlier today in our Residential Program at one of our apartments. The incident involved John Smith, one of our residents, who sustained an injury. I understand you may have some information that may help me better understand this incident.”

b. The witness speaks.

After the introduction and a brief description of why you need to speak with the witness, ask a general question, otherwise known as the “venting question”:

“What can you tell me about this incident?”

The purpose of asking the venting question is to provide the investigator an opportunity to:

1. Assess the level of knowledge the witness may have about the incident.
2. Decide where to begin the interview process.
3. Allow the witness the opportunity to become comfortable with the process.

c. Begin to structure and organize the interview.

After listening to the witness’ response to the venting question, the investigator’s goal is to
begin guiding the witness through the interview to help them organize the memories being communicated and generate detail. To do this effectively, the investigator needs to focus on using **open-ended questions** starting with **who, what, when, where, or how**. This technique not only generates more complete information, but it also allows the witness to answer questions with more than a “yes” or “no” answer.

By asking open-ended questions, the investigator also minimizes the risk of asking **leading questions** which imply answers the investigator is willing to get. (example: “How angry did that make you feel?”)

Other types of questions to avoid using include:

- **Compound questions**, e.g. combining multiple issues into one question (examples: “What time did you arrive and who was present when you go there?” “Did you read and understand the manual?”)
- **Accusatory questions**, e.g. questions containing accusations or referencing incriminating facts (example: “Why did you hit her?”)
- **Loaded questions**, e.g. questions that do not have a “right” answer and that generally ask a witness to choose between two evils (example: “Are you still engaging in criminal behavior?”)
- **Supposition questions**, e.g. questions that ask someone to guess about someone else’s motives (example: “Why do you think Jim hit Bob?”)

d. **Elicit relevant chronological detail from the witness**

"Tommy fell." (Signed) Karen Smith, Aide

Karen is a woman of few words, apparently. As witness statements go, the above two-word gem has the advantage of brevity. Yet it does not tell us nearly enough about the circumstances of the incident it so succinctly describes. Our job as investigators is to help the witness tell us every relevant fact she experienced or observed so that a complete and detailed account of all the facts and circumstances known to her is preserved in a record.

"Well I was planning to leave early because I had to pick up my son from day care and if you aren’t there by 6 they charge you by the minute so I was looking for my keys or else I would not have been there when I heard a noise and I saw Allan give Tommy a big shove right by that ugly couch I wish they would get rid of."

(Signed) Pete Drake, Psychologist

Pete, on the other hand, is a fountain of information, only some of which has anything to do with the cut on Tommy's head. Our job as investigators is to help the witness focus on relevant information.

"I was holding a pillow to Tommy's head to stop the bleeding — see, Tommy had thrown the pillow at Allan. When I came into the room Tommy was on the floor. The pillow
throwing was earlier. Then I helped pick everything off the floor. I mean after the pillow fight. Then I came back in the room when I heard the commotion."

(Signed) Eve Cook, Nurse

Eve may have many of the relevant facts, but they are in such a jumble that they are of little use to anyone who wants to know how Tommy came to be injured. Another of our jobs as investigators is to help the witness tell the story of what he or she experienced or observed in chronological order.

Witnesses often do not think in detail; they may be focused on irrelevancies; they may tell the story in any sequence that comes to mind. One of the primary goals of an investigator when interviewing witnesses is to ensure you have conducted the most detailed, comprehensive interview possible of a witness.

In order to do that effectively, the structure of the interview becomes important in helping to organize and elicit that detail. Once the venting question has been asked of a witness, and an answer has been received, an opportunity is created to help a witness:

1. Remember more detail
2. Focus on what is relevant
3. Organize his or her memories chronologically

Develop the Facts

To do this successfully, the interview should be structured using chronological “building blocks” (or slices) of time. Begin by determining the time and place prior to the incident where you believe the witness’ testimony becomes relevant to the investigation.

“X” represents the point in time the incident occurred.

Since the functional aspects of testimony are based on the witness’s experiences or observations stemming from their senses (e.g. the ability to see, hear, taste, touch/feel and/or smell), the questions asked of the witness for each “block” should initially contain the following:

1. What did you see?
2. Who did you see?
3. What did you hear?

Based on the witness’ response to these questions, it is important to ask follow-up questions as
they become relevant; do not wait. In essence, the witness’ answer determines the next question. Types of follow-up questions to be considered relevant to each block of time may include:

1. What time was this?
2. Where did this happen?
3. Who else was there?
4. What is your relationship with that person?
5. Who else may know relevant information?
6. What occurred?
7. How did it happen?
8. Who did (or said) what? In what order?

Do not leave the chronological block until all of the details necessary to recreate the incident are established.

Other interviewing techniques to consider include:

1. Give the witness time to think before responding; do not rush them.
2. Do not interrupt and cut off the witness when they’re providing an answer.
3. Use silence – people are generally uncomfortable with silence, and it may encourage a witness to provide you with additional information. This can be a useful technique if the investigator feels a witness is avoiding a question, or is being vague.
4. Restate what the witness has said by periodically summarizing and reviewing. This is useful to determine whether you’ve heard the witness correctly and assure the witness they’re being understood.
5. Remember to introduce and use diagrams of the environments witnesses describe during the interview. This helps to clarify issues such as spatial relations and movement being discussed.
6. Before concluding the interview, give the witness the opportunity to disclose anything else she or he wants the investigator to know. Inform them of the goal of conducting a thorough, complete investigation that tells the most accurate story. Ask each witness whether she or he knows of additional evidence or relevant situations that were not discussed during the interview.

**Interviewing Family Members**

As part of an investigation, it may necessary to interview family members of the individual either as witnesses with direct evidence, witnesses with circumstantial evidence, or for background information. The interviewing techniques described above can be utilized for family members as well other witnesses.

While many family members will be eager to participate in your investigation, family members, unlike staff, do not have to agree to being interviewed or cooperate during the interview. Investigators should use effective interviewing techniques, such as building rapport and trust, in
order to mitigate the family’s concerns about participating in an investigation.

If a family member is willing to speak with you but not willing to complete a witness statement, you cannot force them to do it. At that point, you should, at the first opportunity, provide a summary of the interview in your case documentation.

7. OTHER TYPES OF INTERVIEWS USED IN INVESTIGATIONS

a. The Background Interview

Background Interviews are used to generate evidence considered relevant, but not specifically originating from the incident itself. Background Interviews can be conducted with witnesses identified as being present at the scene when the incident occurred, or with other individuals who weren’t present when the incident occurred, but have the potential of providing relevant “background” information. Examples of issues addressed during a Background Interview include:

1. Review and/or discussion about policies and procedures used by the organization in relation to issues of actual “practice” that emerged related to the incident, e.g. implementation of a person’s behavior support plan versus what was actually written in the plan. The psychologist who developed the plan might be interviewed to discuss how and/or why the plan was developed, what training was provided to staff regarding the plan and its implementation, and what observations the psychologist made of staff and the individual since the plan was implemented, even though the psychologist was not present when the incident under investigation occurred.
2. Collecting information about medical issues that the investigator uses to support or dispute other evidence in the investigation, e.g. standards of care or “best practice” considerations.
3. Collecting information about relevant performance issues involving the alleged target(s) or other employees.
4. Collecting and assessing information about relationships among individuals considered principal to the incident (e.g. alleged victim(s), target(s), or other key witnesses).

The structure of a background interview generally consists of focused questions. As a result, care must be taken so the questions don’t become leading. Otherwise, the evidence generated from this type of interview may be viewed as biased or prejudicial. Use of this evidence should be carefully weighed in relation to other key pieces of direct and circumstantial evidence identified in the investigation.

b. The Follow-up Interview

Follow-up Interviews are generally conducted with identified witnesses and used primarily to reconcile conflicting evidence, ask about new evidence emerging in the investigation, or ask questions the investigator failed to ask during earlier interviews with a witness. Examples of issues addressed during a Follow-up Interview include:
1. Asking witnesses to clarify any visual or hearing impairments they may have that affects their ability to see and/or hear, especially when their testimony is inconsistent with other evidence collected.

2. Generating additional detail related to a witness’ testimony because the investigator failed to do this during earlier interviews.

3. Asking specific questions related to newly identified and/or conflicting evidence emerging in the investigation in an attempt to better reconcile these conflicts.

The structure of a follow-up interview generally consists of focused questions. As a result, care must be taken so the questions don’t become leading. Otherwise, the evidence generated from this type of interview may be viewed as biased or prejudicial. Use of this evidence should be carefully weighed in relation to other key pieces of direct and circumstantial evidence identified in the investigation.

8. PERSONAL SAFETY

While safety issues can occur in a number of areas, the most significant risk posed to CIs is during the interview process. The following guidelines are meant to help you begin thinking about safety during interviews.

1. The first and most important guideline is “When in doubt, get out.” Whenever you sense that an interview could get dangerous, you should end the interview immediately.

2. Never assume someone doesn’t have the ability to be a risk to your personal safety.

3. Subjects of your interviews will get frustrated and angry at times but the CI does not need to tolerate prolonged screaming, yelling or personal attacks.

4. Position yourself to provide a line of escape if you need to exit the interview.

5. When traveling to a site to do an interview, park where your car can have a clear pathway to escape.

6. Have an emergency # preset on your phone that requires only one button to initiate.

7. When traveling outside your agency, report to a supervisor where you are going and establish a check-in system with a supervisor.

8. Do interviews where privacy of the conversation can be assured but support and assistance are nearby.

9. When someone threatens you with physical violence, stop the interview immediately. The highest predictor of imminent violence is the verbal threat of physical violence.

10. Consider your cyber-security. Think about what identifying information exists in the public space and consider ways to reduce that risk (i.e. privacy settings on social media sites).

11. Be mindful of the clothing you wear. For example, high heels can encumber a quick getaway; neck ties can be used to choke.

12. When going into the community, be aware of safety risks such as weapons, pets, etc. Do not conduct investigations when weapons are present and in easy access of people in the house.
MODULE 6: IDENTIFYING AND COLLECTING DOCUMENTARY EVIDENCE –
PREPARING WITNESS STATEMENTS

As defined previously, documentary evidence is defined as evidence that is in written form, whether on paper or electronic. This category includes written statements – the way in which the investigator attempts to preserve testimonial evidence created during an investigation interview. The business records of an organization, including the records of individuals receiving services, personnel records, policies and procedures, training records, time and attendance records, financial documents, meeting minutes, records of the governing board, etc. are also examples of documentary evidence.

1. PREPARING WRITTEN STATEMENTS

The function of preparing witness statements is to preserve intact the witness' communication of their memory of experiences they had or observations they made. The primary purpose of preparing written statements is to:

a. Refresh the memory of the witness at a later time.

b. Impeach the accuracy of contradictory later testimony by the same witness.

There are two different ways of preparing witness statements: narrative and deposition-style formats.

The preferred method of taking a statement is the narrative format. In the narrative format, the witness him or herself does the actual writing of the document. The witness would write in the first-person format and produce his or her "story" of what is recollected of the event.

A deposition-style format is writing and showing the question asked and the answer given, one question at a time. The deposition-style format is utilized on a limited basis and is used when the witness requires this level of prompting to provide a detailed statement.

Regardless of what format is used, it is important when preparing written statements reflecting the investigation interview with a witness that their statements are produced verbatim; and there is no altering or editing of the actual language used by the witness. As examples, the CI may NOT insert employee numbers in the statement, change wording or spelling, or take out the full names used by the witness.

Statements can be taken in one of two ways:

a. **Narrative Format**

   1. The investigator should use the witness statement format provided in this manual.

   2. Investigator would review the witness’ testimony with him or her, asking similar questions as they did during the first level of the interview. In essence, the investigator recreates the chronological sequencing of the witness’ movement through time.
3. As a question is re-asked, the witness would restate their answer and write their answer on the witness statement form, using complete sentences when possible. Example:

   “I arrived for work at about 8:30 a.m. today, July 7th. I knew that it was 8:30 a.m. because I punched in at the time clock and saw it was 8:30.”

4. The investigator would continue in this manner (investigator asks the question, witness restates their answer, witness writes down their answer) until the investigator is satisfied sufficient detail has been created and the interview can be concluded.

5. Prior to concluding the interview completely, the investigator asks the witness to re-read their entire statement, preferably out loud. The investigator should also direct them to consider any other changes they’d like to make before signing the statement.

6. The investigator should review the statement for any parts that appear illegible and ask the witness to rewrite if necessary.

7. The witness should always initial and date any changes made to the statement to show it was the witness who actually made the changes and no one else.

8. At the completion of this process, the witness should sign and date the statement, along with the investigator and any other 3rd party that may have been present during the interview process. If a 3rd party is present, a note should also be added to the statement referencing the role and function played by that 3rd party. Ensure that all other identifying details (e.g. time and place of interview, etc.) is filled in on the witness statement form.

b. Deposition-style Format

   Statements would be produced in a manner similar to “a” above and should be used if the investigator is going to control the writing and documentation process. As each question is restated, the investigator should write the question verbatim. As the answer is then given, the investigator would write the answer verbatim. This process would continue until the statement has been reproduced to the piece of paper. Example:

   Q: “What were you doing about 8:30 a.m. today, July 7th?”
   A: “I had just arrived for work at that time.”
   Q: “How did you know that it was 8:30 a.m.?”
   A: “I had just punched in at the time clock and saw it was 8:30.”

   This type of format would be used when the witness is unable to write the statement themselves and the investigator controls creating documentation of the witness’ testimony. The CI must document in the final report the reason for utilizing this method and any evidence that supports this decision.
2. OTHER RULES TO APPLY WHEN PREPARING WRITTEN STATEMENTS

a. The investigator must be present when the written statement is created. This is to ensure the validity of the conditions of how the document itself was prepared. The investigator later may be called upon to testify at a deposition or evidentiary hearing as to the conditions under which the statement was produced.
b. Written statements should not be taken unless witnesses have first been interviewed.
c. Statements should never be edited for incorrect grammar, spelling, syntax, etc.
d. Handwritten statements, are the preferred method of collection of witness statements.
e. The statement, if typed, should be typed immediately. If the typing of statements needs to occur, always maintain the original document with the typed version. The witness must reread and sign off on the typed and hand-written statements. The person who typed the statement must be noted on the witness statement. The typist must also sign the statement.
f. Generally, interviews should not be tape-recorded or videotaped, although there are exceptions to that rule. People are uncomfortable and tend to be less forthcoming when being taped, impacting the overall quality of the interview.
g. If the interview is recorded (for whatever reason), the following steps should be followed:
   i. Check state laws for any restrictions or procedural requirements.
   ii. The tape recorder or video camera should always be placed in plain view.
   iii. Obtain any required consents from the witness prior to starting the recording.
   iv. When the recording begins, state the date, time, and place of the interview, names of the individuals present, and have the witness confirm on tape his or her knowledge of, and consent to, the recording.
   v. Once the interview is concluded, identify and mark the tape as a piece of evidence. Follow protocols relevant to creating and maintaining the “chain of custody” for evidence as previously outlined in this manual.
   vi. As appropriate, the communication preserved on the tape should be transcribed as soon as possible after the interview in completed. The witness should then review the transcription for accuracy, and sign-off on the written statement. This document would be entered as a written statement in the investigation files.
MODULE 7: DOCUMENTARY EVIDENCE – IDENTIFYING AND COLLECTING RELEVANT BUSINESS RECORDS OF THE ORGANIZATION

1. Overview

One of the biggest challenges when conducting incident investigations is identifying documentary evidence typically available in human service and healthcare organizations that is truly relevant.

When conducting investigations, the CI must collect all documentary evidence that may be relevant to the incident. While it is usually not necessary to collect all progress notes ever written on an individual, the CI should always err, during the investigation, on the side of collecting too much rather than too little. During the Reconciliation of Evidence stage, the CI will determine what is relevant and what is not.

All investigators need to have a good understanding of the mechanics involved in organizational process. Policies, procedures, forms used in the organization, ways people communicate and share information all produce potential pieces of evidence that may “make or break” a case.

2. Types of Business Records Produced by Organizations

To help improve this knowledge, following are lists identifying the types of documentary evidence often produced by human service and healthcare organizations. The lists are broken into the core management process areas of an organization: Program (records of individuals receiving services and program operations), Personnel, Fiscal, and Administrative.

1. MEDICAL AND PROGRAM RECORDS OF INDIVIDUALS RECEIVING SERVICES

Medical and program records maintained by service providers generally include the following types of information:

1. Intake Forms
   a. Face Sheets
   b. Identifying Information
   c. Conditions of Admission, Consents

2. Assessments & Evaluations
   a. Psychiatric
   b. History & Physical
   c. Pharmacology
   d. Social Service
   e. Nutrition
   f. Nursing
   g. Education
   h. Occupational Therapy (OT), Physical Therapy (PT), Speech, Psychology, Behavior Support

3. Consultations
4. Physician Orders
5. Medication Administration Records (MARs)
6. Plan of Care (POC) or Individual Support Plan (ISP)
a. Support Needs
b. History
c. Outcomes
d. Services and Supports
7. Support Team Reviews and Meetings
8. Physician Notes
9. Interdisciplinary Notes
   a. Nursing Notes
   b. Non-licensed Staff Notes
   c. Ancillary Staff Notes – Social Work, Recreational Therapy (RT), Nutrition, etc.
10. Human Rights Committee (HRC) Approved Restrictive Procedure Plans and Related Forms
11. Restrictive Procedure Review Committee (RPR) including Behavior Support Plans (BSPs) and Related Forms
12. Labs & Radiology
13. Charts and Graphs
   a. Vital signs
   b. Height & weight
   c. Sleep
   d. Dietary Intake including Liquids, Solids, etc.
   e. Toileting and Bathing
14. Legal Documents
   a. Informed Consent
   b. Guardianship and Conservator Papers
   c. Involuntary Commitment
15. Discharge Summaries
16. Death Documentation
17. Old Medical Records

II. PERSONNEL RECORDS

Another potential source of relevant evidence for an investigation is the personnel files of employees involved in the incident. The most relevant evidence in these files include:

1. Job Application(s)
2. Training Records (i.e. training on medical procedures, medication administration, behavior plans, CPR/First aide, safety policies, incident management, etc.)
3. Time and Attendance Records
4. Signed Personnel Policies and Procedures

Although employee disciplinary/commendation histories are also part of personnel records, the CI must exercise caution in the use of these records, as a person’s past actions do not necessarily reflect their role, if any, in the incident under investigation. Reliance on these records could create bias either for or against a person.

III. FISCAL RECORDS

With increased concerns regarding incidents such as financial exploitation, the fiscal records of the organization can become increasingly more significant as evidence. Fiscal records typically maintained
by service providers include the following:

1. Accounts Payable and Receivable
2. Cash Accounts
3. Finances of Individuals Receiving Services
   a. Personal accounts
   b. Pay records
   c. 3rd party rep, Guardians, or Conservators
4. Balance Sheets (monthly, year-to-date)
5. Agency Budgets (approved, monthly, year-to-date)
6. Bank Statements
7. Agency Audits and Management Letters
8. Fiscal Policies and Procedures

IV. OTHER ADMINISTRATIVE RECORDS

Other records maintained by organizations that could become relevant evidence in an investigation include:

1. Email communications
2. Meeting Minutes
3. Incident Report forms
4. Investigation Files
5. Telephone logs and/or records
6. Visitor logs and/or records
7. Shift Reports
8. Strategic Plans
9. Quality Improvement Plans and related documents
10. Policies and Procedures
11. Training Curricula
12. Self-Assessment completed by providers prior to Licensing inspections
13. Licensing Inspection Summary or Licensing Surveys for ICF/IDs (including relevant correspondence and documentation)
14. Any other miscellaneous records produced by an organization

V. INVESTIGATIVE RECORDS

All notes that are taken by the CI during the course of the investigation are considered documentary evidence. These notes should be signed and dated at the time of the notation. It is recommended that agency establish an Investigative Notes Form for use by the CI. The CI’s notes should be listed as documentary evidence in the final report.
MODULE 8: IDENTIFYING AND COLLECTING DIGITAL EVIDENCE

Digital evidence provides an increasingly valuable source of evidence to the CI. Digital evidence includes social media posts, blog entries, electronic communications such as text and instant messages and emails, digital photos stored on a smart phone or tablet, etc. Currently there are over one-billion users of social networking worldwide. Social media and networking became the primary form of electronic communication, surpassing email, in 2009. Best practice standards and case law are still being developed on the collection and use of digital evidence. CIs should consider evidence gathered from email, text messaging and social media sites to be part of conducting a thorough investigation. In collecting evidence, it is important that the evidence collected is relevant and authenticated.

a. Electronic communication is typically defined as text messaging or email communication.

b. Social media has an evolving definition. Several types of social media exist such as Social Networks (Facebook, LinkedIn), Media Sharing (Youtube, Instagram, Snapchat), Activity Training (FourSquare), Blogs and Microblogs (Twitter), Social News (Digg and Reddit), Discussion Forums, and Review Sites (TripAdvisor, Yelp).

c. Agencies should have strong “Acceptable Use Policies” that include wording that explicitly states that a user’s activity on computer information systems may be used for the purposes of administrative action. Such language then permits investigators to collect pieces of evidence such as email communications, web browsing history, text messaging, etc. from any agency-owned device.

d. Agency policies should also consider directly prohibiting communication about agency business and/or individuals receiving services via personal communication or social media sites. This should be done by carefully considering applicable privacy laws and freedom of speech protections.

e. Under such policies, the CI can actively seek out evidence as defined by agency policy. In the absence of such policy, the CI may still receive electronic communication or social media evidence offered to them by the individual, target, or any other person who brings such evidence to the CI. It is important that regardless of how the evidence is discovered, that proper collection techniques be followed.

f. For text messaging, the CI should ask the person holding the evidence on their phone to take progressive screen shots of their text conversation chain from the start of the discussion of the incident through the current date. This must be done progressively in order to show the entirety of the messaging. Each screenshot should then be forwarded via email to the CI.

g. For social media sites, the CI should sit down at an agency computer with the person stating they are aware of evidence. The CI should have the witness log into their account. The CI should have the person identify any relevant entries on their wall and through messaging that potentially apply to the incident. The witness should then be instructed to take a screen shot (including the taskbar with the date and time showing) of the page containing relevant content. Each screenshot should then be forwarded via email to the CI.

h. On sites that allow comments, the field should be expanded to include all comments. In cases where the comments expand beyond a single screen view, multiple screen captures with overlap should be taken.

i. It is generally considered allowable and ethical for the evidence collection of publically
available data. While most social media networks allow the user to determine their own privacy setting, users often choose to make a lot of information available to the public. The CI should utilize the same evidence capturing techniques as described above for information they find in the public domain.

\textit{j.} It is not advised to attempt to gain access to non-public information through the CI attempting to gain direct access to that information during the course of the investigation, i.e. sending a “friend request” during the course of the investigation. Additionally, CIs should not use the method of pretexting in the gathering of evidence. Pretexting is when the investigator misrepresents his/her identity for the purpose of obtaining information, i.e. using a false identity to send a “friend request”.

\textit{k.} Evidence obtained through electronic communication or social media must be authenticated. Authentication is essentially how we identify that the evidence is what it claims to be. There are several methods that can be used to achieve authentication. The original author of a communication or posting can authenticate that a communication, post, or comment was indeed made by them. If there was a witness who directly observed another individual send or submit the communication, that witness may also be able to authenticate the evidence. Lastly, a witness may testify to how they discovered the evidence and why they believe the evidence was can be attributed to the alleged author. This is the least weighty of methods of authentication as it cannot be established that someone else did not send the messages, “hack” the alleged author’s social media site, set up a fictitious account, or access an account that was left unattended by the owner.

\textit{l.} The CI should maintain a thorough record of all actions taken by them or others with regard to the acquisition, transfer, printing, authentication, etc. of digital evidence.
MODULE 9: RECONCILING EVIDENCE

No two witnesses tell exactly the same story. Inevitably one witness will say there was oatmeal in the bowl, and another will swear it was Cream of Wheat. Contradictions in testimony and other evidence need to be resolved or "reconciled." This means we must choose which version of a fact at issue is more likely than not to be true, although there may be times when neither version is “true.” What the CI learned through reconciliation of evidence is captured in Section IV of the Certified Investigation Report, the Certified Investigator’s Initial Analysis of Evidence. The following guidelines will help you sift out the more reliable pieces of testimony and other evidence from the less reliable in situations where discrepancies exist.

Rules Used to Reconcile (or Weigh) the Evidence

1. Is the witness' story consistent over time? Generally, a witness whose story is consistent over time will be viewed as more credible than a witness who alters or changes significant facts of his or her story over time.

2. Establishing independent corroboration of a principal's version of the event enhances that principal's credibility. (A principal is someone who is a key to the incident, e.g. the alleged victim(s), target(s), etc.)

3. Is the physical evidence available in the investigation consistent or inconsistent with testimony given by witnesses? Where physical evidence is consistent with witness testimony, more value or weight is given to that version of the event.

4. Based upon the witness' location with respect to the incident itself (physical proximity and obstacles in the environment), how will his or her capacity to make observations (see, hear, taste, touch, smell) be affected?

5. What are the witness' capacities to see and hear? Are there impairments to either the sense of seeing or hearing? If so, was use of the impaired sense critical to the observation made by the witness? If the impairment to the critical sense was corrected at the time of the observation, such as through use of eye glasses or a hearing aid, the reliability of the observation may not have been compromised.

6. What was the witness' level of focus and attention during the course of the incident?

7. What is the witness' relationship to other people involved in the incident (was the witness biased or objective)?
MODULE 10: PREPARING THE CERTIFIED INVESTIGATION REPORT

The Certified Investigation Report (CIR) is an important tool used to organize and present investigation protocols related to identifying, collecting, preserving, and analyzing evidence. Using a written report is the most effective way to organize the CI’s conclusions and allow for a determination of appropriate corrective actions. It provides the reader a roadmap leading to the findings of fact, and documents decisions made regarding corrective actions to be implemented related to the findings.

Good documentation takes time. It is critical that the CI have uninterrupted time to complete the necessary documentation. An investigation cannot be considered of high quality without proper and thorough documentation that provides a road map for the reviewer explaining why the CI did what they did during the investigation.

Quality documentation serves four main purposes:
1. Quality assurance – assures that the investigation was done to the highest of quality standards
2. Compliance – assures that the investigation meets the minimum standards of investigations
3. Justification – provides reasoning behind what actions were taken, in what order and why
4. Memory – supports the CI’s memory about what actions were taken, what witnesses said, what other evidence was observed, etc.

The CIR is maintained in the investigation file along with the other evidence collected related to the incident. A portion of the information in the CIR is also included as part of the final section of the incident report.

Structuring the Certified Investigation Report

(Note: please refer to Appendix II for the complete Certified Investigation Report format, along with Appendix III for a sample written Certified Investigation Report)

A thorough, organized Certified Investigation Report includes the following, documented by the CI:
1. A description of the alleged incident
2. A description of the investigation protocols used to identify, collect, preserve and analyze the physical, demonstrative, testimonial, and documentary evidence
3. A summary of the evidence collected
4. Analysis of the evidence, including determinations as to credibility when conflicts in evidence arise
5. Findings of fact based on the totality of credible evidence - the reconciliation of the evidence utilizing the “preponderance of evidence” standard for civil or administrative investigations

A thorough, organized Certified Investigation Report includes the following, documented by the organization’s management:
1. Documentation of the administrative review and findings of the investigation, including:
   a. Determination of final outcomes
   b. Recommendations for corrective action (affecting not only the individual(s) receiving services, but also impacting personnel, policy and procedures, and/or any other administrative, program or fiscal issues of the organization) as a result of those decisions
2. Implementation of those recommendations

The Certified Investigation Report should:

1. Be chronological in order
2. Utilize a logical and ordered structure
3. Be thorough in discussing the evidence gathered
4. Include a reason for why there was a diversion when things were done outside the norms provided in the manual
5. Cite the diagrams and pictures used to demonstratively capture those relationships when discussing spatial relationships
6. Use first person language
7. Use the exact words of a person when quoting them
8. Be organized so that the evidence is easy to review (Lists and bullet points are useful to keep track of the presentation of the evidence)

The Certified Investigation Report should NOT contain:

1. Generalized conclusions that cannot be backed up
2. Needless facts (By documenting these, the impression is created that the investigation was not carefully conducted, and may result in needless disclosure of facts unrelated to the investigation)
3. Non-fact-based statements
4. Evidence that is confusing, irrelevant, immaterial, or prejudicial (Identify evidence that’s relevant to the investigation. Including irrelevant evidence can suggest the investigation is skewed and not objective)
5. Generic descriptors, such as they, he, she, etc.
6. Labeling and using diagnostic language (The CI in their role as an investigator is not qualified to make diagnoses. So calling someone “bipolar” or an “alcoholic” is not something that the investigator can diagnose. Diagnoses can be listed but only when there is documentation to support those diagnoses)
7. Unanswered questions (If something is not known, the documentation should acknowledge it)
8. Acronyms or abbreviations unless on a standardized and agency approved list
9. Sanitizing the language used by a witness (If a witness uses profane words, derogatory expressions, homophobic, racist, or sexist comments, or wording that is not grammatically correct, the CI should quote them as they said it. It is not the role of the CI to correct language that they believe to be professionally or personally inappropriate.)

Once the Certified Investigation Report has been written, the investigation is ready for the Administrative Review, and a decision or recommendation can be made regarding final conclusions and outcomes. **Management of an organization is responsible for validating the investigation, and for determining the final conclusions, outcomes, and recommendations for corrective action.** If the final conclusions and recommendations for corrective action are to be made in conjunction with others, the management should meet with those individuals and make these decisions jointly.
APPENDIX I: GLOSSARY

**Beyond a Reasonable Doubt:** The burden of proof needing to be satisfied in criminal proceedings in order to determine a defendant guilty. Generally defined to mean no "reasonable doubt" can exist in the mind of a reasonable person that the defendant is guilty. Doubt can still exist, but only to the extent that it does not affect a reasonable person's belief that the defendant is guilty.

**Chain of Custody:** The investigation protocols used to assure the integrity of evidence over time in an investigation. The chain of custody begins as soon as the environment where the incident occurred is secured. The investigator is responsible for showing exactly where the evidence has been from the moment it was collected until the time it might be used during a hearing. If the chain of custody is broken, the certainty of the evidence is undermined and questions can be raised about its validity.

**Circumstantial Evidence:** Evidence which is not directly from an eyewitness or participant and requires some reasoning to prove the fact in question.

**Collusion:** A secret agreement between two or more parties for a fraudulent, illegal, or deceitful purpose. *(The American Heritage Dictionary of the English Language, Fourth Edition)*

**Demonstrative Evidence:** Evidence that represent a piece of physical evidence. The way in which physical evidence identified in an investigation is preserved. Demonstrative evidence includes photographs, diagrams, x-rays, CAT scans, etc.)*

**Direct evidence:** Evidence in the form of testimony from a witness who was present for the incident and experienced the fact in question through sight, hearing, touch, taste, or smell.

**Documentary Evidence:** Anything written down, on paper or electronically. This category includes written statements – the way in which the investigator attempts to preserve testimonial evidence – created during an investigatory interview. The business records of an organization, including service recipient and personnel records, policies and procedures, training records, time and attendance records, financial documents, meeting minutes, records of the governing board, etc. are all examples of documentary evidence as well.

**Facts:** Pieces of information (evidence) available to the investigator.

**Inconclusive:** Not conclusive; not leading to a definite decision or result, e.g. *inconclusive evidence*.

**Incident:** An event with potential to adversely impact an individual's health, safety, or rights.

**Incident Management:** The response to an event, intended to ensure the adequate, appropriate, and effective protection of the health, safety, and rights of the individual.

**Investigation:** The process of identifying, collecting, and assessing facts (evidence) in a systematic manner. The purpose of an investigation is to objectively describe and explain what did (or did not) occur at a given place and time.
Irrelevant Evidence: Facts that do not have the potential to describe or explain an incident under investigation.

Objectivity: The ability to describe or perceive something based on facts without influence by personal emotions, experiences, bias, or opinion.

Physical Evidence: Objects or things such as an injury, weapon, fluids, etc., as well as the absence of things that otherwise would be available based on the testimony of witnesses. Spatial relationships are another aspect of physical evidence available for assessment in an investigation (location of people in a room, the placement of furniture, distance of witnesses to the incident itself occurring).

Preponderance of the Evidence: The standard of evidence generally applied to civil or administrative proceedings requiring that conclusions of fact be based on the weight of the evidence. Other definitions characterize the preponderance test as the fact finder being convinced that the conclusion of fact chosen is “more likely than not,” or that 51% or more of the evidence is supports one conclusion of fact over another.

Relevant Evidence: Facts that potentially describe or explain an event or incident under investigation.

Rules of Evidence: Laws governing the admissibility of proof at a hearing. They include the codified rules of the jurisdiction (e.g. a State’s Administrative Procedures Act) as well as constitutionally mandated requirements.

Standard of Proof: The level of evidence necessary for a party to prevail in a given case. Standards of evidence applied include “preponderance,” and “beyond a reasonable doubt.”

Testimonial Evidence: Information a witness shares with the investigator in verbal form or the equivalent (sign language, gestures, behaviors, etc.), according to his or her experiences or capacity to observe a specific environment over a period of time. Experiences and the capacity to make observations derive from the senses: what the witness saw, heard, tasted, touched/felt, or smelled.
CERTIFIED INVESTIGATION
PHYSICAL EVIDENCE LOG SHEET

CASE NAME: _____________________________  CASE NUMBER: _____________________________

<table>
<thead>
<tr>
<th>Physical Evidence Identified</th>
<th>Collected?</th>
<th>Date/Time Collected</th>
<th>Chain of Custody Notes</th>
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CERTIFIED INVESTIGATION
DEMONSTRATIVE EVIDENCE LOG SHEET

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<tr>
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# CERTIFIED INVESTIGATION
## TESTIMONIAL EVIDENCE LOG SHEET

**CASE NAME:** ____________________________  **CASE NUMBER:** ____________________________

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<thead>
<tr>
<th>Witness Name</th>
<th>Title/Relationship</th>
<th>Date of Interview</th>
<th>Time of Interview</th>
<th>Written Statement (Y/N?)</th>
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**CERTIFIED INVESTIGATION**

**DOCUMENTARY EVIDENCE LOG SHEET**

CASE NAME: ___________________________ CASE NUMBER: ___________________________

<table>
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<tr>
<th>Description of Documentary Evidence</th>
<th>Date/Time Collected</th>
<th>Chain of Custody Notes</th>
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CERTIFIED INVESTIGATION
DIGITAL EVIDENCE LOG SHEET

CASE NAME: ____________________________  CASE NUMBER: ____________________________

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<thead>
<tr>
<th>Description of Digital Evidence</th>
<th>Date/Time Collected</th>
<th>Authentication and Chain of Custody Notes</th>
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Sample Witness Statement Form

Case Name__________________________________________Case Number________________________________________
Witness Name__________________________________________Phone________________________________________
Title (relationship)__________________________________________Phone________________________________________
Work Location__________________________________________Home Address________________________________________
Date of Interview_________________Time_________Location of Interview: ____________________________________________
Reason for Interview__________________________________________Investigator________________________________________

Witness Signature__________________________________________Date________________________
Interviewer Signature__________________________________________Date________________________

Page 1 of ____
Sample Witness Statement Form (continuation page)

Case Name_________________________ Case Number_________________________
Witness Name______________________ Date of Interview_____________________
Location of Interview________________ Time______________________________

Witness Signature____________________ Date______________________________
Interviewer Signature________________ Date______________________________

Continuation Page____ of _____
STRUCTURING THE INITIAL WITNESS INTERVIEW

Structure the initial witness interview as follows:

I. Introduction
II. Reason for interview
III. Opening (or venting) question:

What do you know about this incident?

Yes... I know everything...

No... I do not know anything...

Further orient witness...
“Sometimes we can be in the vicinity and not be aware of an incident...”

Organize interview:
- Chronologically sequence witness’ movement through time/place
- Generate detail – ask follow-up questions as relevant, do not wait to go back and ask later. Remember: last answer given generates next question.
- Use “who, what, where, why, how” (open-ended) questions
- Do not ask leading questions, multiple questions

Final Question:
- “What else can you tell me about...?”
- “What else do you think I should know about...?”
RULES USED TO RECONCILE (WEIGH) EVIDENCE

Witness Testimony

Focus

Physical evidence consistent with testimony

Independent corroboration of Principle's version of event

Objectivity (relationships, motives)

Consistency of story over time

Capacity to see and hear

Physical proximity and environmental factors affecting ability to see/hear
**CHECKLIST – PREPARING THE INVESTIGATION**

After being assigned the task of conducting a certified investigation, the CI can use the following checklist to begin organizing the investigation:

<table>
<thead>
<tr>
<th>TASK</th>
<th>COMPLETED (Yes or No)</th>
<th>NOTES</th>
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<tbody>
<tr>
<td>1. Establish timelines for the process</td>
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<td>2. Determine the investigatory question(s)</td>
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<td>3. Identify required tasks (e.g. identify and collect physical and demonstrative evidence, interview witnesses, etc.) needing to be completed. Remain flexible.</td>
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<td>4. Did modification of the processes identified in #3 above occur because of other issues emerging in the investigation?</td>
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<td>5. Identify and classify potential witnesses:</td>
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<td>a. Alleged Victim(s).</td>
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<td>b. Witnesses with direct evidence.</td>
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<td>c. Witnesses with circumstantial evidence.</td>
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<tr>
<td>d. Alleged Target(s).</td>
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<td>6. Plan the chronology and schedule witness interviews. Accommodate needs for interpreters or other 3rd party representation.</td>
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<td>7. Was there a need to modify the investigation plan due to:</td>
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<td>a. Timing concerns (e.g. delays leading to destruction of evidence or loss of key witnesses).</td>
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<td>c. The need to fill gaps and oversights in the plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Evidence of other incidents or misconduct requiring an expanded or separate investigation, or the need to report an incident not previously reported.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Determine if any special communication and/or public relations needs exist involving the incident under investigation. If so, develop plan on handling special communications and communicate that information to all parties needing to know.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### CHECKLIST – PRESERVING EVIDENCE – GENERAL STEPS

The following checklist can be used to assure initial steps are taken to begin preserving evidence after an incident requiring a certified investigation is reported:

<table>
<thead>
<tr>
<th>TASK</th>
<th>COMPLETED (Yes or No)</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Was the scene secured after the incident was reported? (If yes, explain how it was secured; if no, explain why not).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Were initial photos of injuries (or potential injuries) taken properly?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Were photos taken over a period of several days showing the condition of the site allegedly injured over time?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Did any individual involved need medical treatment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. If yes, was it provided promptly?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Date and time treatment provided:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Were victim(s) provided any protections? If yes, identify in the “notes” column.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Was there an alleged target(s) identified? If yes, indicate what was done to remove them from contact with individuals receiving services, including date and time this action occurred.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Were witnesses separated after the incident? Explain.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**CHECKLIST – PHYSICAL EVIDENCE**

The following checklist can be used to assure initial steps are taken to begin preserving physical evidence after an incident requiring a certified investigation is reported:

<table>
<thead>
<tr>
<th>TASK</th>
<th>COMPLETED (Yes or No)</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Was a person stationed at the entrance of the room or environment where the incident occurred in order to prevent others from entering?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. If a room has more than one entrance and there are insufficient people to station at each entrance as in “1” above, did the person assigned remain in view of the other entrances to the room when possible. a. Were the other entrances locked if only 1 individual was available to station at an entrance and the other entrances are not clearly visible?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Did anyone enter the room once after it was secured? Was the condition of the room disrupted because of this? Did the monitor take notes of anyone entering the room, the reason for entering, the time they entered and left the room, and what they did while in the room?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Upon arriving at the scene, did the CI speak with the person stationed at the scene to assess information regarding procedures used to secure the scene prior to the CI’s arrival? a. Were logs maintained, and if so, did the CI collect them? b. If necessary, did the CI conduct a formal interview and prepare a statement with the monitor?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Regardless of whether the scene was secured, did the CI assess the location where the incident occurred for physical evidence?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TASK</td>
<td>COMPLETED (Yes or No)</td>
<td>NOTES</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-----------------------</td>
<td>-------</td>
</tr>
<tr>
<td>6. Were diagrams prepared showing the environment where the incident occurred?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. As appropriate, were distances measured and clearly marked on the diagram?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Was other identifying information clearly marked?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Were sufficient photos taken to create demonstrative evidence?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Photos of injuries and/or absence of injuries.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Photos of the environment where the incident allegedly occurred.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Photos of individual objects referenced in the incident report.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Were photos and/or videos marked with proper identifying information?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. The name of photographer.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Date, time and place it was taken.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Subject of the photo.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Case name and number.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. A unique number assigned to each piece of evidence in the order collected. This number is used to identify the object or substance in evidence logs, on diagrams, etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Was a Photo and/or Video Evidence Log created?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Were images saved in the same format they were originally taken in?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Were digital photos and/or videos copied to CD-R format?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Were any substance or object removed from the environment photographed, and identified and placed on diagrams?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Were all objects and substances removed from the environment clearly marked with the following information:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. A description of the object.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. The date, time, and place it was collected.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. The name of the CI collecting it.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Case name and identification number of the case.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TASK</td>
<td>COMPLETED (Yes or No)</td>
<td>NOTES</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------</td>
<td>-------</td>
</tr>
<tr>
<td>e. A unique number assigned to each piece of evidence in the order collected. This number is used to identify the object or substance in evidence logs, on diagrams, etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. Were all objects or substances collected included on the Physical Evidence Log?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15. Was the evidence maintained over time in a secure, controlled location?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. Was a “chain of custody” log maintained showing:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Who removed the evidence?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Date and time the evidence was removed.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Reason it was removed.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Date and time the evidence was returned.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
I. INTRODUCTORY STATEMENTS

(Note: this section of the report is used to introduce basic information associated with how the incident was identified and reported, a brief description of the initial allegation, and to document initial decisions made regarding the need to conduct an investigation including assignment of the investigator.)

The following information should be documented in this section:
1. If known, the date and time incident allegedly occurred.
2. The date and time incident was reported to agency personnel.
3. The name(s) of the person(s) reporting the incident and their role or relationship to the principals involved in the incident.
4. The date and time the investigator was assigned the case (note any possible conflicts of interest identified when assigning the investigation).
5. A description of the allegation (or reason for the investigation) and information provided to the CI at the time of assignment.

II. INVESTIGATION PROTOCOLS

(Note: the following section is used to document the investigative protocols utilized to identify, collect, preserve, and analyze evidence available to the investigation. When possible, simply use lists to present the information rather than longer, narrative formats of writing.)

A. General Introduction

The following information should be documented in this section:
1. The date(s) and time(s) investigator visited the site of the incident.
2. The person(s), (by name and title), the investigator spoke with at the site, e.g. reporter of the incident and site supervisors or management of the organization where the incident occurred, etc. (the purpose of these discussions is to assess initial responses to preserving evidence, as well as issues and needs of the investigation).

B. Collecting Physical, Demonstrative, and Digital Evidence

The following information should be documented in this section:
1. Identify how the incident scene was secured (if it wasn’t secured explain why).
2. Identify and list physical evidence identified and logged.
3. Identify and list each piece of physical evidence collected.
4. Identify and chronologically list (by date, time, and name of person taking photo) any photographs or video taken.
5. Identify and list (by date and time) all diagrams, maps, floor plans, x-rays, etc. available to the investigation, e.g.,
6. Identify and list (by date and time) all digital evidence identified and collected.
7. Identify how the physical, demonstrative, and digital evidence was preserved after collection in order to maintain the chain of custody.)
C. Collecting Testimonial Evidence

The following information should be documented in this section:

1. Briefly describe how potential witnesses were identified.
2. Chronologically list all witnesses interviewed. Include title, date, and time of each interview.
3. Identify the person(s), if any, as the alleged target(s) of the investigation.
4. Note the date and time alleged target(s) was removed from contact with individuals and placed on administrative leave or reassignment to other duties. If administrative leave or reassignment did not occur, note why.
5. If the right to representation exists by law, regulation, or labor contract, describe how the alleged target(s) or other witnesses were afforded this right.

D. Collecting Documentary Evidence

The following information should be documented in this section:

1. List written statements taken from individuals interviewed during the investigation. If identical to II.C.2. above, simply reference here; if not, create a chronological list noting name, date, and time statement was prepared for all documents considered “witness statements.”
2. Identify and list all other documents collected in the case (business records of the organization, etc.).
3. Identify how business records collected as evidence were secured prior to, and after, collection.

III. EVIDENCE SUMMARY

(Note: this section is used to document the primary question[s] needing to be answered as a result of the investigation and to classify the direct and circumstantial evidence available to answer that question[s]).

The following information should be documented in this section:

1. Identify and list the investigatory question(s) needing to be answered by the investigation (if multiple questions must be answered, list each one separately).
2. Describe/discuss all relevant evidence (evidence available to answer each investigatory question).

IV. CERTIFIED INVESTIGATOR’S ANALYSIS OF EVIDENCE PRESENTED IN SECTION III

(Note: this section is used to document the analysis of evidence presented in the Section III: Evidence Summary above.)

1. For each investigatory question identified in Evidence Summary above, prepare a narrative analysis of the initial reconciliation of evidence and the reasons for the conclusions being drawn.

Analysis of the evidence and reasons for the conclusions of evidence presented:
Certified Investigation Report

Case: Tim Smith  
CI: Jack Brewster

I. Introduction

1. Indicate the date and time the incident allegedly occurred, if known.

The incident allegedly occurred on February 21, 2017 around 7:35 a.m. at the 2nd Street home.

2. Indicate time the incident was reported to facility personnel.

Incident was reported to Janis Bonnet, Incident Management Point Person, on February 21, 2017 at approximately 9:30 a.m. Marc Charton, Residential Director, had contacted Ms. Bonnet to alert her of an alleged critical incident discussed by Tim Smith, service recipient, after a bump was observed on his head by Denise Williams, Day Program Supervisor.

3. List name(s) of the person(s) reporting the incident.

Marc Charton, Director of Residential Services.

4. Indicate date and time the investigator was assigned the case.

Jack Brewster, agency Certified Investigator, was assigned the case on February 21, 2017 at 3:30 p.m. by Janis Bonnet.

5. State the nature of the allegation (or reason for the investigation), and information provided to the investigator at the time of assignment.

Tim Smith, an adult individual receiving services living at the 2nd Street home, was allegedly slapped in the head by an employee, Zack Myers.

II. Investigative Methodology

A. General Information

1. List the date(s) and time(s) the investigator visited the site of the incident.
The incident was initially discovered and reported by Day Program staff. The alleged site of the incident was the 2nd Street Residence. I visited the 2nd Street residence on February 22, 2017 at 9:00 a.m.

2. List the person(s) with whom the CI spoke with at that site to assess initial responses to preserving evidence as well as issues and needs of the investigation.

I spoke with Marc Charton, initial reporter of the incident and Director of Residential Services.

B. Collecting Physical, Demonstrative, and Digital Evidence

1. Describe how the incident scene was secured (if it wasn’t secured explain why).

Scene of alleged incident was not secured. Alleged incident occurred about 7:35 a.m. on February 21, 2017 at Tim Smith’s residence. Mr. Smith reported the incident to Day Program staff (different location) about 2 hours later; staff had already cleaned-up the kitchen prior to leaving to take individuals to their work/day program sites.

2. List each piece of physical evidence identified and logged.

a. Bump to Tim Smith’s head.
b. General environment where incident allegedly occurred (spatial relationships correlated to witness testimony)
c. Absence of any blood in the kitchen area

3. List each piece of physical evidence collected.

No physical evidence was specifically collected for this investigation; photographs of injury and the environment are noted below under #4 - photographs taken; diagrams created listed under #5.

4. Chronologically list (by date, time, description and name of person taking photo) any photographs or videos taken.

a. Series of photographs taken of Tim Smith’s injury to his head (#1-5) taken on February 22, 2017, 9:10 am.
b. Series of photographs taken at the 2nd Street residence showing the environment and layout of the house (#6-15) taken on February 22, 2017, 9:15 am.
5. List (by date and time) all other diagrams, maps, floor plans, x-rays, etc. available to the investigation.

   a. Diagram added to by Joe Jones, Residential Counselor, of the 2nd Street residence, 2/22/17, 11:30 a.m.
   b. Diagram added to by Zack Myers, Residential Counselor, 2/23/17, 12:15 p.m.
   c. Diagrams were not added to by the two other direct witnesses; due to the severity of their communication and cognitive disabilities (as described in their ISPs), they were unable to identify spatial relationships when presented with the blank diagrams.

6. Identify and list (by date and time) all digital evidence available to the investigation.

   No digital evidence was identified or collected for this investigation.

7. Describe how the physical, demonstrative, and digital evidence was kept after collection in order to maintain the chain of custody.

   a. There was no specific physical or digital evidence collected for this investigation
   b. Photographs were taken of the bump on Mr. Smith’s head and of the 2nd Street residence. All photographs taken are maintained on a CD-R which is kept in my locked filing cabinet. Photographs are also printed and kept in my case file in the locked filing cabinet.
   c. Diagrams are signed and dated by the person who added to the diagram and kept in my case file.

C. Collecting Testimonial Evidence

1. Briefly describe how potential witnesses were identified.

   Initial call from Marc Charton alerted me to contact and meet with Felicia Valdez, Program Manager for 2nd Street. She presented me with an incident report filed by Zack Myers concerning the above referenced alleged incident along with separate incident reports involving Tim Smith from other staff members for that week. Felicia Valdez indicated that Joe Jones was on duty at 2nd Street residence providing a 1:1 with another individual, Sam Slade, at the time of the alleged incident.

   In discussing the alleged incident with Zack Myers, Zack indicated that Bill Tedesco, Behavior Specialist, was alerted to the alleged incident when Zack dropped Tim off at the MLK Avenue Adult Day Program site. The initial observation of the bump on Tim’s head was made by Denise Williams, Day Program Supervisor, and treated by Otesia Barr, physician. I formally interviewed Zack Myers, Joe Jones, Tim Smith, Bill Tedesco, Denise Williams, and Otesia Barr.
Due to the scene not being properly secured, Jane Mark who was the kitchen staff responsible for cleaning that day was interviewed.

I interviewed Sam Slade and Chris Malerno, individuals who reside in the home. Due to severe cognitive and communication disabilities (as described in his ISP), Chris Malerno was unable to provide any testimony. Sam Slade was unable to communicate orally but through the use of a letter board was able to provide testimony.

2. Chronologically list all witnesses interviewed. Include title, date and time of each interview.

<table>
<thead>
<tr>
<th>Witness</th>
<th>Title</th>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jane Mark*</td>
<td>Kitchen Staff</td>
<td>2/22/17</td>
<td>9:30 a.m.</td>
</tr>
<tr>
<td>Tim Smith</td>
<td>Alleged Victim</td>
<td>2/22/17</td>
<td>10:00 a.m.</td>
</tr>
<tr>
<td>Joe Jones</td>
<td>Res. Counselor</td>
<td>2/22/17</td>
<td>11:30 a.m.</td>
</tr>
<tr>
<td>Sam Slade</td>
<td>Individual at Home</td>
<td>2/22/17</td>
<td>12:45 p.m.</td>
</tr>
<tr>
<td>Chris Malerno</td>
<td>Individual at Home</td>
<td>2/22/17</td>
<td>1:45 p.m.</td>
</tr>
<tr>
<td>Felicia Valdez</td>
<td>Program Manager</td>
<td>2/22/17</td>
<td>2:30 p.m.</td>
</tr>
<tr>
<td>Bill Tedesco</td>
<td>Behavioral Specialist</td>
<td>2/22/17</td>
<td>3:30 p.m.</td>
</tr>
<tr>
<td>Otesia Barr</td>
<td>Medical Director</td>
<td>2/23/17</td>
<td>8:15 a.m.</td>
</tr>
<tr>
<td>Denise Williams</td>
<td>Day Program Sup.</td>
<td>2/23/17</td>
<td>10:00 a.m.</td>
</tr>
</tbody>
</table>

*While the alleged victim is normally interviewed first, Jane Mark was interviewed first as this was her break and waiting might impede her ability to prepare lunch for the participants in the program.

3. Name the person(s), if any, as the target(s) of the investigation.

Zack Myers, Residential Counselor, is identified as the alleged target.

4. If the right to representation exists by law, regulation or labor contract, describe how the alleged target(s) or other witnesses were afforded this right.

No right to representation exists for the witnesses from this agency and none of the witnesses requested the right to representation.

D. Collecting Documentary Evidence

1. List written statements taken from individuals interviewed during the investigation. If
identical to II.C.2. above, simply reference that here. If not create a chronological list noting name, date, and time statement was prepared for all documents considered “witness statements.”

Witness statements were prepared for all witnesses identified in II.C.2. above except for Chris Malerno, who did not provide any testimony.

2. List all other documents collected in the case (business records of the organization, etc.).

   a. Doc. #1 - Status sheet completed by Otesia Barr
   b. Doc. #2 - Status sheet completed by Denise Williams
   c. Doc. #3 - Behavior Report form completed by Zack Myers
   d. Doc. #4 through #8 - Behavior Report forms completed by various Residential Program staff
   e. Doc. #9 - 12 - Behavior Report forms completed by Day Program staff.
   f. Doc. #13-18 – Staff timesheets
   g. Doc. #19 – Behavior Plan for Tim Smith
   h. Doc. #20 – ISP for Tim Smith
   i. Doc. #21-24 – Staff Training Records
   j. Doc. #25 – CI notes from interview with Chris Malerno

3. Describe how business records collected as evidence were secured prior to, and after, collection.

   Business records were not secured prior to collection. Documentary evidence collected for the investigation is kept in the investigation file in a locked filing cabinet in administrative records room of the organization. There is limited, controlled access to this room and files.

III. Evidence Summary

1. List the investigatory question(s) needing to be answered by the investigation (if multiple questions must be answered, list each one separately).

   What happened to Tim Smith on February 21, 2017 at the 2nd Street Home?

2. Describe/discuss all relevant evidence (evidence available to answer each investigatory question).

   a. The only other identified witnesses to the morning breakfast incident other than Zack Myers and Tim Smith were Joe Jones, Sam Slade and Chris Malerno.
b. Mr. Jones and Mr. Slade testify that they did not see Zack Myers slapping Tim Smith in the head. Due to severe cognitive and communication disabilities, Chris Malerno was unable to provide any testimony.

c. Joe Jones testifies that Zack Myers handling of the incident was consistent with Mr. Smith’s Behavior Support Plan.

d. Tim Smith did not indicate to the investigator that Zack Myers slapped him on the head.

e. A bump on Tim Smith’s head was observed by Denise Williams and Otesia Barr on February 21, 2017. Mr. Smith appeared calm and relaxed during the investigator’s interview with him. He smiled, laughed, and nodded when staff names were mentioned, including Zack Myers. His ISP notes that these are indications of him liking something or someone.

f. Tim Smith showed no signs of fear or of being intimidated by Zack Myers. Mr. Smith also indicated he likes his home.


g. Zack Myers and Tim Smith were involved in a behavioral incident at breakfast on the morning that the bump was discovered. The incident involved Mr. Smith attempting to throw his plate at another individual after indicating that he didn’t want to take his medication. As noted, the employee witness does not corroborate any unusual physical response from Zack Myers.

h. Jane Mark cleaned up the kitchen after breakfast on February 21. She testified that there was nothing out of the ordinary in the appearance or condition of the kitchen before she cleaned it.

i. Denise Williams testifies that she immediately recognized that Tim Smith was upset that morning by looking at the frown on his face and observing him trying to run away from Zack Myers as Mr. Myers was escorting him down the hall. Once Denise Williams addressed Mr. Smith, Mr. Smith began to cry and eventually alerted her to the bump on his head, indicating by making slapping motions toward his head and pointing to where Mr. Myers had been standing that Mr. Myers had slapped him, causing the bump on his head. The Status Sheet completed by Ms. Williams is consistent with her testimony.

j. The Status Sheet completed by Otesia Barr reports that Mr. Smith appeared upset (frowning and crying) upon arrival at the day program. Upon inspection of his head, she found that he had a bump on his head that was approximately one inch in diameter. Photographs of the bump that I took were consistent with this assessment.

k. Ten (10) behavioral reports were filed that week surrounding Tim Smith. These reports from both Residential Services and Adult Day Program accounted for a variety of physical and aggressive interactions between Mr. Smith, other service recipients, a kitten and staff. Several of the reports mention that Mr. Smith reported feeling anxious about an upcoming family wedding that he would be attending. None of the reports, though, directly correlated to the bump on Tim Smith’s head.

l. Review of Mr. Smith’s Behavior Support Plan and interview with Behavior Specialist Bill Tedesco both reveal that Mr. Smith often becomes anxious or excited when he knows of upcoming events that he is looking forward to, such as visits to his family members. When anxious, he sometimes attempts to throw things. The Behavior Plan
outlines steps to help Mr. Smith calm down in these situations, including talking to him calmly about the aspects of his daily routine that are in his immediate future.

m. Training records show that Mr. Myers and Mr. Jones were both trained on Mr. Smith’s Behavior Plan by Bill Tedesco. The most recent training took place on January 4, 2017. Mr. Tedesco confirmed the date of the training and the people who attended.

n. Residential and Day Program staff provided testimony to the effect that Mr. Smith had stated on numerous occasions during the week of February 21 that he was anxious about the upcoming family wedding.

o. Mr. Smith’s ISP describes him as an individual who enjoys being physically active.

p. Staff timesheets show that the only two Direct Support Professionals on site the morning of the alleged incident were Mr. Myers and Mr. Jones. Time sheets also verified that kitchen staff Jane Mark was also on site.

IV. Certified Investigator’s Initial Analysis of Evidence

For each investigatory question identified in the Evidence Summary above, prepare a narrative analysis of the initial reconciliation of evidence and the reasons for the conclusions being drawn.

Analysis of the evidence and reasons for the conclusions of evidence presented:

What happened to Tim Smith on February 21, 2017 at the 2nd Street Home?

It was evident through my interviews and review of documentary evidence that numerous behavioral incidents involving Tim Smith had occurred during the week. Many of the reports indicated that Mr. Smith had been excited about attending a family party during the February 25th weekend. This excitement apparently led to heightened anxiety during the course of the week as the wedding drew nearer. Importantly, the employee witness, Joe Jones, corroborates with Zack Myers that Mr. Myers reacted responsibly and reliably when Mr. Smith was about to throw his breakfast plate at another individual. Mr. Myers also indicated that he was in full control of the incident and believed that he handled it professionally and appropriately in accordance with Mr. Smith’s Behavior Support Plan and organizational policies. Mr. Myers immediately filed a behavior report form that morning and submitted it to Bill Tedesco for his review and documentation.

No specific type of physical contact that may have caused the bump on Mr. Smith’s head could be identified by any witness. When meeting with Tim Smith, he indicated positive responses to Zack Myers and breakfast medications. Mr. Smith is a physically active individual who had numerous behavioral incidents leading up to the discovery of the bump on his head.
V. Administrative Review, Findings, Recommendations, and Implementation

1. Was the incident reported in a timely manner? Yes No (Circle One)

   If No, please explain here. (AND enter your corrective action plan in Implementation section below.)

   NA

2. What actions were taken immediately to protect the health and safety of the individual?

   List actions here. If none were taken, please explain here. (AND enter your corrective action plan in Implementation section below.)

   The individual was immediately taken for examination of the bump on his head by agency physician.

2a. Was victim assistance offered when appropriate? Yes No NA (Circle One)

   If yes, what assistance was offered? If no, please explain here. (AND enter your corrective action plan in Implementation section below.)

   The individual was offered counseling services to discuss the event.

3. If the incident involved a target, was the alleged target(s) removed from potential contact with all individuals receiving services until the incident investigation is completed?

   Yes No NA (Circle One)

   If yes, enter date and time personnel action occurred: 2/21/17 at 10AM

   If no, explain here. (AND enter your corrective action plan in Implementation section below.)

   NA

4. Were there injuries to the individual? Yes No (Circle One)

   Enter date and time injury discovered: 2/21/17 9:30A

4a. If yes, was prompt medical attention provided? Yes No NA (Circle One)

   *If no, a neglect incident may have to be filed and corrective action in response to the delay in treatment needs to be present in the report.*
If no, please explain. (And enter your corrective action plan in Implementation section below.)

| NA |

4b. Is follow up medical treatment recommended?  Yes  No  (Circle One)

| Follow up appointment 3/15/17 at 11:00AM with agency physician |

5. Did the investigation start in a timely manner?  Yes  No  (Circle One)

| NA |

6. Was the family notified of the incident within 24 hours?  Yes  No  (Circle One)

| NA |

6a. When appropriate were notification requirements relating to the Adult Protective Services Act, Older Adult Protective Services Act and Child Protective Services Law met?  Yes  No  (Circle One)

| NA |

7. Did the evidence collected and presented in the report by the investigator support their analysis?  Yes  No  (Circle One)

Please explain why you believe the evidence collected and presented did or did not support the investigator’s analysis.

The Administrative Review Team thoroughly examined the physical, testimonial, demonstrative and documentary evidence. The Team found that the Certified Investigator, Jack Brewster, was thorough in his identification and collection of evidence and used appropriate protocols for evidence collection. His examination/analysis of the facts was found to be objective and thorough. His report provided adequate information to guide the reviewers in understanding and reconciling the evidence.
8. Did the evidence support a determination that abuse or neglect occurred?

Yes  No  (Circle One)

If yes, explain. (AND enter your corrective action plan in Implementation section below.)

NA

9. Were there violations of agency or facility policy involved in this incident?

Yes  No  (Circle One)

If yes, explain. (AND enter your corrective action plan in Implementation section below.)

NA

10. Review Status:  To Be Continued  Closed  (Circle One)

If to be continued, due date: NA

11. Administrative Findings:  Confirmed  Not Confirmed  Inconclusive  (Circle One)

Please explain the basis/reasons for your Administrative Finding (confirmed, not confirmed, inconclusive).

Tim Smith was involved in numerous behavioral incidents leading to the discovery of the bump on his head. A review of the incidents reported prior to discovering the bump provided an explanation and shows consistency in Zack Myers’ testimony of what had occurred in the morning at the 2nd Street residence. It’s possible that one of these previous incidents might have caused the bump on Mr. Smith’s head. Joe Jones did not witness nor hear of a slap to Mr. Smith’s head. Mr. Jones claims to have witnessed an appropriate response by Mr. Myers to Mr. Smith’s attempting to throw a breakfast plate at another individual. He noted that Zack Myers was in control of the behavioral incident and easily guided Mr. Smith to the living room to be seated and calm down. Mr. Jones also noted that prior to departing from 2nd Street; Mr. Myers and Mr. Smith were calmly seated in the living room area while Mr. Myers completed a Behavior Report form.

Mr. Smith’s initial statements may have been the result of his upcoming attendance at a family party; the numerous behavioral incidents around this time period appear to reflect his increased anxiety. When interviewed by the investigator, Mr. Smith showed no signs of distress over what had allegedly occurred between himself and Mr. Myers. He also indicated a favorable response to his home and staff, including Mr. Myers.

Based on the evidence reviewed, the allegations that Zack Myers slapped Tim Smith and caused Mr. Smith to injure his head are not confirmed.
Implementation

12. Were there any issues or concerns identified in the investigation that would lead to changes in individual(s) care, modifications to the individual support plan personnel, or other administrative and systemic practices?

<table>
<thead>
<tr>
<th>Action</th>
<th>Functional Area (e.g. Fiscal, Program Services, Personnel, etc.)</th>
<th>Person(s) and Position(s) Responsible</th>
<th>Target Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Instruction to Zack Myers about resuming professional services for the individual.</td>
<td>Personnel</td>
<td>Janis Bonnet, Director of Human Services</td>
<td>March 2, 2015</td>
<td>Pending</td>
</tr>
<tr>
<td>2. A thorough review of individual’s medications and behavioral support plan to more effectively address anxiety levels.</td>
<td>Program Services</td>
<td>Marc Charton, Residential Director and Dr. Otesia Brown</td>
<td>February 28, 2015</td>
<td>Completed and medication change recommended to family</td>
</tr>
<tr>
<td>3. Staffing should be assessed for possible increased staffing to best assure smoother morning functions.</td>
<td>Program Services</td>
<td>Marc Charton, Residential Director</td>
<td>March 2, 2015</td>
<td>Pending</td>
</tr>
</tbody>
</table>

Reviewer Name and Title

Charles Weigles – Executive Director

Signature

Charles Weigles