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# CONDUCTING INTERNAL INVESTIGATIONS

Presented by:

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# PRESENTATION OBJECTIVE

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Introduction to the basics of planning, conducting, and reporting results of investigations

# TOPICS TO BE COVERED

- Defining internal investigations
- Reasons for conducting internal investigations
- Those who conduct internal investigations
- Planning the investigation
- Selecting the investigator
- Conducting investigative interviews
- Interview reports
- Writing the investigative report

# WHAT IS AN INVESTIGATION?

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- Detailed systematic search to uncover facts and determine the truth of a situation (who, what, when, where, why and how)
- An integral part of the internal control systems and processes for self-assessment
- Involves expertise capabilities from compliance office, internal audit, HRM, legal counsel, security, etc.

# INVESTIGATION RELATED POLICIES

- Duty to Report
- Hotline
- Investigation Procedures
- Records Management
- Anonymity/Confidentiality
- Disclosure of Misconduct
- Non-Retaliation/Retribution
- Disclosure to Third Parties
- Discipline/Penalties

<https://www.complianceresource.com/products/policy-resource-center/>

# WHY CONDUCT INTERNAL INVESTIGATIONS?

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- Must act upon any alleged violation of policies, Code of Conduct, laws or regulations to ensure compliance
- Establish fact/evidence for making right decisions
- Prevent or limit potential liability
- Self-disclosures
- Sound business practice

# WHY CONDUCT INTERNAL INVESTIGATIONS?

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- Provides factual basis for:
  - Changes in policies and procedures
  - Needed corrective action measures:
    - Improved training
    - Management controls
    - Administrative/disciplinary action
  - Responding to regulatory/enforcement agencies

# WHO CONDUCTS INTERNAL INVESTIGATIONS?

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- Compliance Officers
- Human Resource Management
- HIPAA Privacy and Security Officers
- Legal Counsel
- CFO/Internal Audit
- Risk Management
- Safety Officers



# PLANNING/SCOPE

## PROPER PLANNING SAVES TIME, DISRUPTION, COSTS

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- Set investigative priorities/objectives
- Determine the deciding authority
- Identify investigator(s)
- Hold briefing session
- Review what is known
- Identify persons to be interviewed
- Obtain relevant documents
- Set timeline needed to complete investigation
- Discuss report guidelines

# EXECUTING INVESTIGATIVE PLANS

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- TIMELY
- EFFICIENTLY
- THOROUGHLY
- OBJECTIVELY
- LAWFULLY

# INFORMATION CONTROL

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Information and evidence gathered must be managed to ensure access only by those who are authorized and have a “need to know”

Work with copies, not original documents

Maintain “chain of custody” for all evidence

# SELECTING INVESTIGATORS

## Knowledge, Skills, and Abilities

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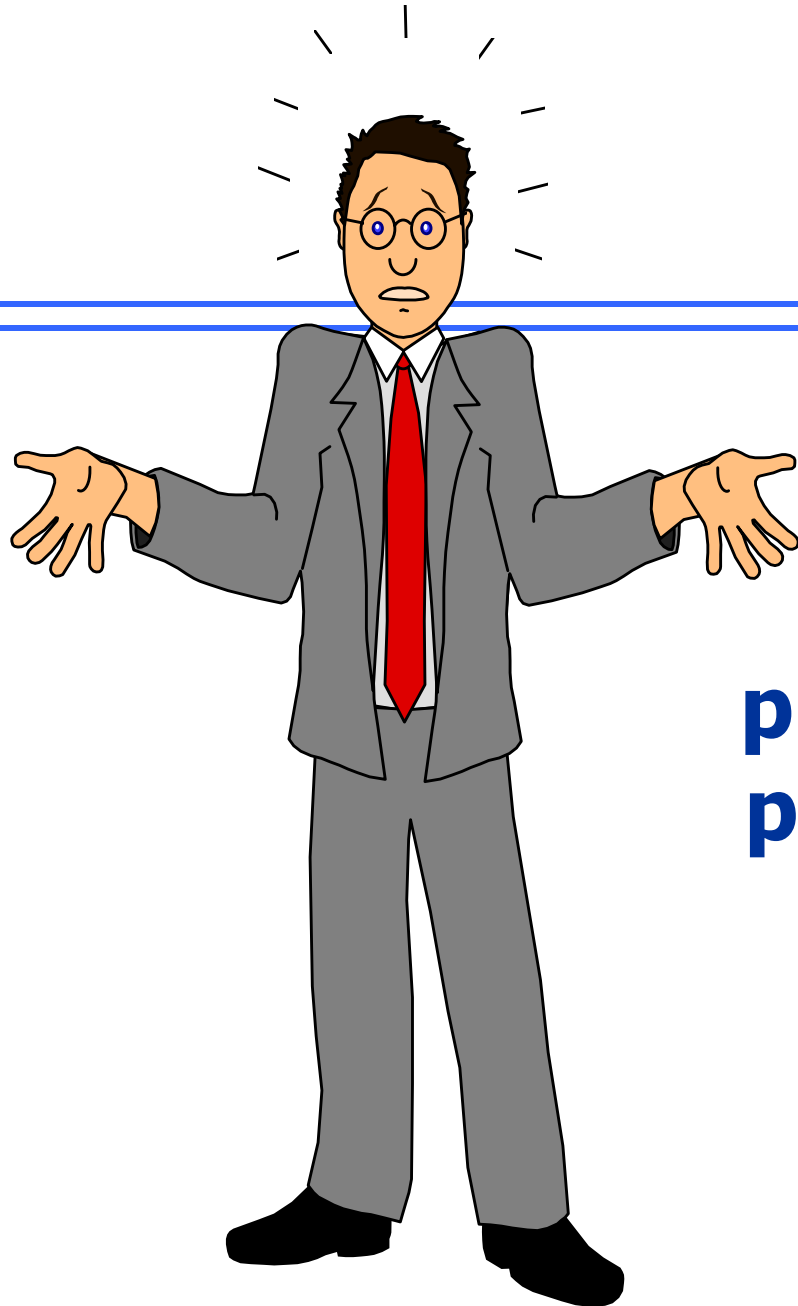
- Know investigative principles, practices, techniques
- Have training, ability, and experience necessary for tasks assigned
- Understand organization, programs, activities, and functions
- Know applicable, laws, rules, policies, regulations, and practices
- Have analytical skills to evaluate facts, draw sound conclusions, and make constructive recommendations
- Have interpersonal skills to relate with and obtain information from people
- Have skills to deliver concise, factual summaries of the results of the inquiry orally and in writing

# PROFESSIONAL GUIDELINES

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- **Thorough:** Follow all leads
- **Compliant:** Follow applicable laws, rules, and regulations
- **Respectful:** Show due respect for rights/privacy of everyone
- **Impartial:** Focus on facts not opinion — yours or anyone else's.
- **Objective:** Obtain information/evidence without bias
- **Reports:** Must be supported by facts to either prove or disprove
- **Timely:** Promptly conducted/reported — delays may aggravate
- **Appropriate:** Follow procedures & applicable laws/regulations
- **Independent:** Free of impairments to impartiality



**An interview is a conversation with a purpose to learn about a person or what a person may know.**

# TYPES OF INTERVIEWS

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- Victims/Complainant Debriefings
- Witness Interviews
  - People who saw what happened.
  - No direct knowledge but provide collateral information
  - Expert witnesses
- Suspect/Subject Interviews

# GOOD INTERVIEWERS

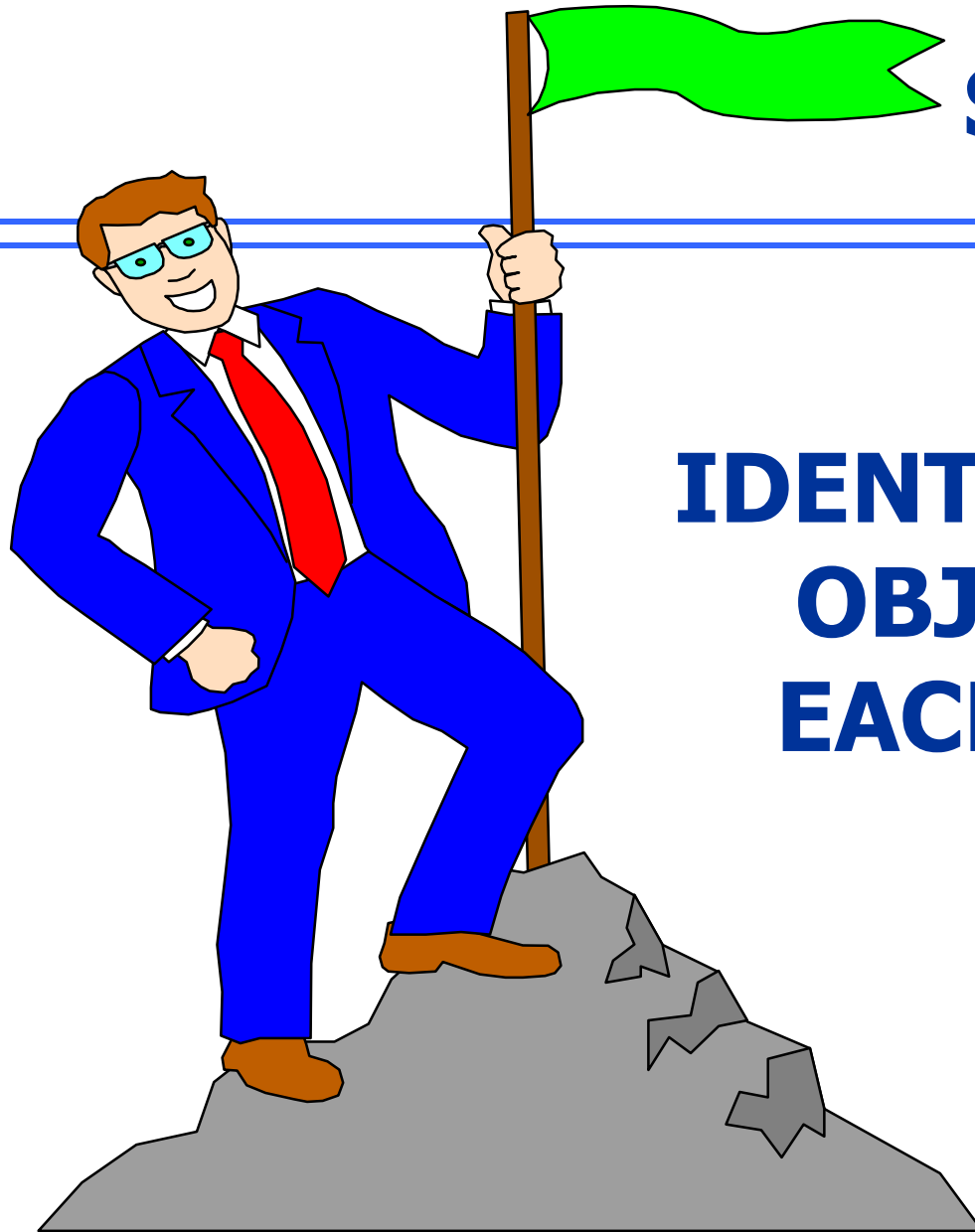
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- Listen/concentrate on what is being said
- Polite
- Good physical appearance
- Maintain eye contact
- Control emotions (don't get angry)
- Flexible and persistent
- Express verbal/non-verbal concern



# Step 1:



## **IDENTIFY GOALS AND OBJECTIVES FOR EACH INTERVIEW**

# Step 2: REVIEW AVAILABLE INFORMATION/RESOURCES

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- Allegations predicating investigation
- Results of prior inquiries on related subjects/parties
- Appropriate laws, regulations, policy, code, & union contracts
- Records/documents — ensure necessary copies are available for use during interview
- Other available evidence

# Step 3: EMPLOYEE RIGHTS

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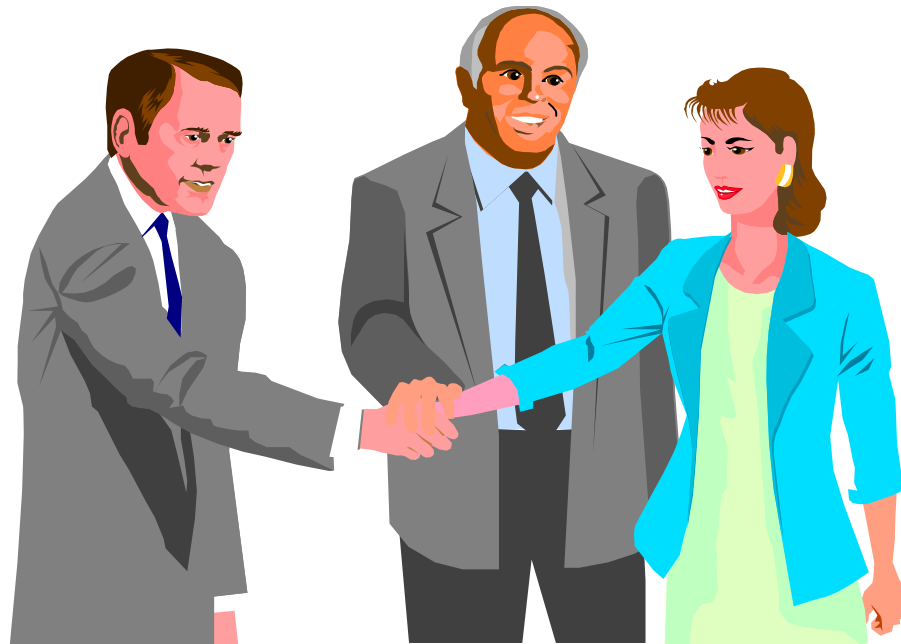
- Review policy regarding rights of employees during internal inquiry
- Determine with HRM if those declining to cooperate could/would be considered insubordinate
- Substantive interviews of members of unions may result in union representation present at the meeting
- Union representative may have the right to take independent notes and/or record the meeting

# Step 4: ANTICIPATE PROBLEMS

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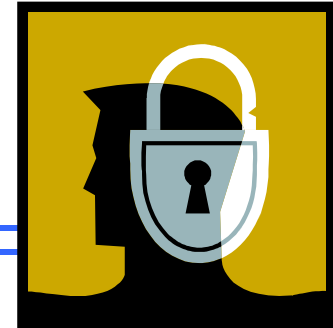
May need to involve legal counsel, security, translators, union representation, experts, etc.



# Step 5: CONFIDENTIALITY

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- Protect identity of those who request confidentiality
- Protect individuals/management from improper dissemination of unsubstantiated information
- Protect privacy of employees and members of the public

# Step 6: OUTLINE INTERVIEW

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- Review background of persons to be interviewed
- Make sufficiently detailed to obtain the desired information
- Be flexible and permit development of leads that may arise
- Rigid adherence to an outline will seriously limit flexibility
- An aid only — not a substitute for original questioning
- Recognize rights of interviewee
- Recognize possibility of re-interview at later date
- Know what information is being sought from person
- Know what documents/evidence are needed for the interview

# Step 7: LOCATION/ENVIRONMENT

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- Choose surroundings to facilitate the interview process
- Conduct interviews in person and in private, one at a time
- Avoid interference with work
- Setting should be non-threatening and not too confined
- Sensitive interviews — have two people, one to witness
- Don't encroach on personal space unless it's an interrogation
- Avoid barriers between yourself and interviewee (e.g., desk)
- Any second investigator should sit away to avoid distraction

# Step 8: SCHEDULING INTERVIEWS

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- Schedule interviews as soon as possible
- Logically order interviews to build case
- Essential to obtain needed information before memory fails or is influenced
- Allow sufficient time to complete interview without interruption
- Best to interview away from work space



# INITIATING INTERVIEWS

Most will be nervous, guilty or not

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- Identify those participating in the interview.
  - Explain your authority to conduct inquiry.
  - Note purpose of interview is to gather facts.
  - Treat interviewees with respect and dignity.
  - Begin by establishing rapport.
  - Note interview is confidential/privileged.
  - Make no threats and offer no opinions.
  - If person's attorney is present, have your own present

# CONDUCT DURING INTERVIEW

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- Demeanor is important to outcome of interview
- Appearing competent/professional encourages confidence in the individual being interviewed
- Professionalism reduces nervousness in innocent parties, increases nervousness in guilty ones
- Avoid mirroring person being interviewed (human tendency), as it will mask behavior of person being interviewed
- Be adaptable to avoid wasting time with unnecessary questions of little or no value

# CONDUCT DURING INTERVIEW

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- Keep open mind at all times and be prepared to develop responses
  - Ask who, what, where, when, how, and why
  - Follow through on questions asked
  - Avoid charged terms like “investigation”
  - Be discrete in questioning to avoid unnecessary embarrassment to the person
  - Routine investigative inquiries often can be made with minimum disclosure of information

# ESTABLISH RAPPORT

It establishes a baseline of behavior.

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- Establish non-threatening common ground
- Personalize the interview
  - Use person's name
  - Share something about yourself
- Communicate empathy
- Reduce anxiety
  - Smile
  - Use humor
- Stroke the person's ego

# INITIATING INTERVIEW PROCESS

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- Begin with simple questions such as name, job, supervisor, length of time on the job, their experience, etc.
- Permits an assessment of person's behavior
- Then work to more substantive questioning

# INVESTIGATOR DEMEANOR

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- Act openly and in friendly manner
- Maintain eye contact
- Lean forward periodically to demonstrate listening
- Nod head from time to time
- Smile
- Keep arms unfolded

# QUESTIONING PROCESS

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1. Questioning: A four-step process
  - Ask question
  - Receive response
  - Evaluate response
  - Record response
2. Allowing people to narrate the story is often a good way to begin

# QUESTIONING PROCESS

(cont'd)

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## 3. Basics of interviewing process

- Remain neutral – avoid preconceived notions
- Allow person to fully answer questions in his/her own way
- Ask questions as needed to clarify – take time, an interview is not a race
- Concentrate on speaker, ideas, and words being used
- Paraphrase response and repeat to interviewee to ensure clarity and demonstrate understanding



# QUESTIONING PROCESS

(cont'd)

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## 4. Types of questions to avoid

- Leading questions that suggest the desired answer
- Negatively phrased questions
- Compound or complex questions

# QUESTIONING PROCESS

(cont'd)

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## 5. Types of questions to use

- Open-ended questions: “who, what, when, where, why and how”, as well as “tell me” questions that encourage the interviewee to speak
- Closed-ended questions: narrowly focused to clarify
- Opinion: for example, how something may have occurred or who may have done it

# RECOGNIZING AND DEALING WITH DECEPTIONS

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- Recognize/analyze non-verbal communication
- Watch what person does
- Both vocal (pitch, stress, tone, pauses) and facial expressions and gestures
- More spontaneous = more reliability



# DECEPTION: NONVERBAL BEHAVIOR

(Body Language)

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- Little or no eye contact; Too direct eye contact
- Looking up and down; Looking up and to the left
- Rigid posture
- Closed posture (arms closed)
- Grooming gestures
- Rubbing nose, Covering parts of face
- No frontal alignment of body
- Blushing, Excessive Yawning
- Women putting objects in front of themselves

# VERBAL BEHAVIOR: UNTRUTHFUL PERSON

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- Asks to repeat questions — even simple ones
- Provides “non-answers” or overly specific answers
- Selective memory
- Overly polite
- "I did not do it" instead of "I didn't do it."
- Use a longer answer than necessary
- Speak in a monotone voice or garbles words
- Give an answer not directly related to the question
- Changes subject
- Women more verbal when lying, men the opposite

# BODY LANGUAGE

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# BODY LANGUAGE

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# WHAT TO DO WHEN YOU THINK PERSON IS LYING

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- Ask the individual to go over the story again.
- Identify points that can be independently verified/challenged.
- Don't let person wander away from subject.
- Ask questions regarding details or discrepancies.
- Point out discrepancies.
- Look for changes in tone and demeanor.



# CLOSING

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1. Deliberate effort to maintain rapport, including specific agreement about how to re-contact interviewee or how interviewee can contact interviewer
2. Obtain any additional data that will be necessary to re-contact the witness

# VERIFICATION AND SUMMARY

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1. Mentally rearrange information obtained in logical order
2. Summarize important details in proper sequence
3. Verify or correct
4. Develop other sources of information (people, records, etc.)
5. Use of signed statements (coordinate use/format with LC)
6. Ask “catch-all” questions to draw out interviewee

# CRITICAL TO TAKE NOTES

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- Casually open notebook during initial stage of interview — don't draw attention to the note taking process
- Maintain eye contact as much as possible
- Be organized to avoid shuffling papers to find things
- Take enough notes to ensure to prepare a proper, accurate report later
- Immediately after interview transcribe into fuller notes

# INVESTIGATIVE REPORT

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Must include all relevant aspects of the inquiry and must be presented in a thorough, accurate, objective, timely, understandable, and logically organized manner.



# EFFECTIVE INVESTIGATIVE REPORTING

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- Agree on methodology of reporting prior to investigation
- Provide a verbal briefing before writing report
- Present evidence in a neat, concise, logical, and easily retrievable manner
- Write under assumption it may go to an outside party
- Mark it “Confidential,” only for authorized parties
- Write it to be user-friendly
- Include exculpatory evidence and mitigating information

# GENERAL GUIDELINES FOR REPORT

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1. Report facts fairly, objectively, and with impartiality
2. Evidence/interviews should speak for themselves
3. Write objectively and factually without commentary
4. Avoid personal pronouns — I, we, he, she, they, them, and us — as they undercut appearance of objectivity
5. Report what people stated or provided
6. Don't refer to self in third person

# GENERAL GUIDELINES FOR REPORT

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7. Significance/credibility of report may be diminished by opinion
8. Use quotes carefully in the report. Must correspond exactly to the interview reports and in the proper context
9. Reports should reflect an impersonal attitude and should contain no offensive remarks regarding the subject
10. Don't attempt to conceal or omit facts tending to favor the subject

# ACCURACY OF REPORTS

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- Reports are the basis for administrative and legal actions
- Accuracy critical; inaccuracies devastating to report value
- Don't allow conclusions to surpass the evidence
- Conservative statements consistent with facts are stronger than exaggeration
- Careless details and incorrect dates materially affect report
- Poor grammar has unfavorable effect upon on the reader
- Avoid using slang/technical terms (e.g., law enforcement)



# ENSURE REPORT IS COMPLETE

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1. Should be clearly understood by a reader who has no knowledge of the facts surrounding the investigation
2. All statements of material facts should be supported by evidence that will establish the truth and accuracy of the statement and should be documented
3. All defenses/representations raised by the subject must be addressed, along with any mitigating circumstances
4. Speculation concerning potential defenses or explanations that have not been raised by the subject and/or their representative should not be included in the report
5. Explain why any key witness could not be interviewed
6. Have report proofread before submitting it.

# REPORT QUALITY STANDARDS

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- **Complete.** Must address all relevant issues, including any unsubstantiated elements of the allegation
- **Accurate.** Must correctly/succinctly describe facts uncovered and evidence obtained with the source of the information
- **Objective.** Free of personal, external, or organization bias
- **Timely.** To enable appropriate action
- **Understandable/logically organized.** To quickly identify the issues and evidence

# REPORT WRITING TIPS

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- Use active voice
- Avoid “It is/There are” constructions
- Use verbs instead of nouns for action
- Organize related ideas together
- Separate thoughts, separate paragraphs
- Write shorter sentences
- Avoid jargon
- Limit acronyms and abbreviations

# WRITE SHORTER, DECLARATIVE SENTENCES

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- Limit sentences to 20-25 words
- Limit each sentence to one main idea
- Avoid long, compound sentences
- Two short sentences, better than one long one
- Use numbers or bullets to separate thoughts

# AVOID WORDY PHRASES

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- Deemed it necessary to...
- It has been shown that...
- It has been found that...
- It is recognized that...
- It is worth noting that...
- It must be remembered that...

# USE SHORTER PARAGRAPHS

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- Limit paragraphs to 2-4 sentences
- Use two paragraphs instead of one, each with a separate idea
- Use other techniques to convey ideas more clearly, e.g., bullets, active voice, fewer prepositions, shorter words

# PROOFREAD BEFORE SUBMITTING IT

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- Use “Spell Check”
- Use a cold reader
- Set the draft aside and then re-read
- Read aloud, slowly, one word at a time
- Use a cover page
- Outline the draft
- Look carefully for your usual errors
- Pay special attention to “small” mistakes

# REPORT ORGANIZATION

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1. Table of Contents
2. Identify/position of the investigators
3. Basis or predication for investigation
4. Rules, regulations, policy, law implicated
5. Identification of subject(s) (e.g., position, work site)
6. Identity/position of others cited in report
7. Synopsis or summary
8. Details of investigation



# REPORT ORGANIZATION

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9. Chronology of events related to investigation
10. List of individuals interviewed
11. Investigator's findings and conclusions
12. Defense offered by subject
13. Recommendations (if requested)
14. Appendices and attachments (interviews, evidence)

# FOR MORE INFORMATION

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<http://aishealth.com/marketplace/conducting-internal-investigations-health-care-organizations>

# QUESTIONS?

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