



Conducting Investigations

Kaiser Permanente, National Compliance, Ethics & Integrity Office (NCO)

kp.org

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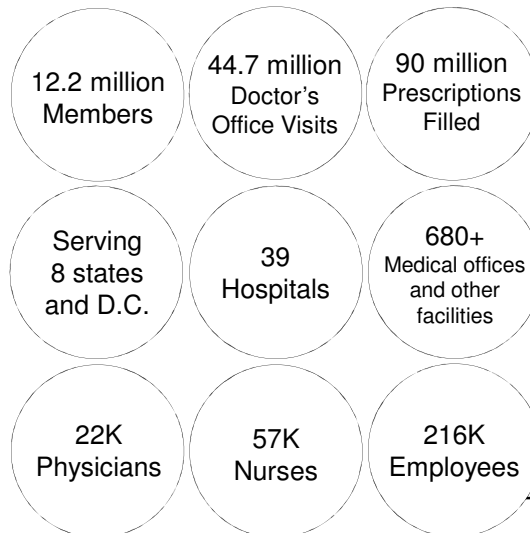
Conducting Investigations

Objectives

- Planning and Working an Investigation.
- Interviewing Protocol and Techniques.
- Closing an Investigation and Report Writing.
- Corrective Actions to Consider.
- Referring a case to Law Enforcement.
- Case Study



Kaiser Permanente Across the Nation



Issues Investigated

- ☐ Fraud, waste, and abuse allegations.
- ☐ Pharmacy theft and drug diversion.
- ☐ Member fraud.
- ☐ Identity theft.
- ☐ Health care and claims fraud.
- ☐ Privacy and computer fraud.
- ☐ Cash and check fraud.
- ☐ Embezzlement.
- ☐ Vendor fraud.
- ☐ Kickbacks.
- ☐ Major crimes.

Planning and Working an Investigation

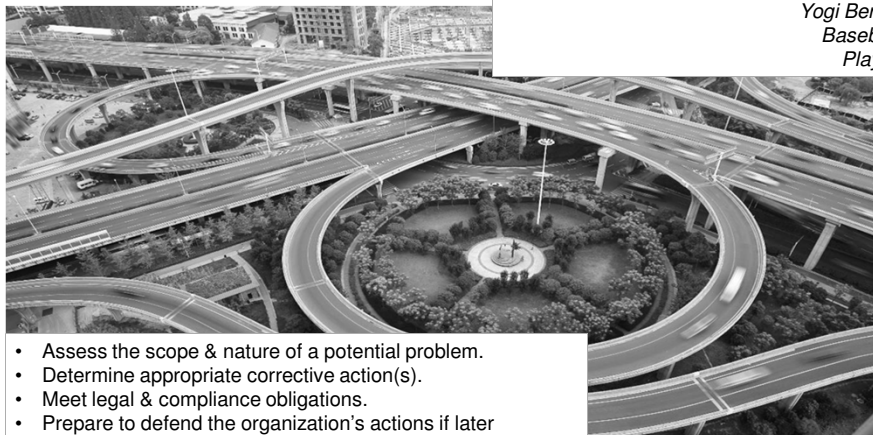


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Planning and Working an Investigation

Investigative **Objectives**



"If you don't know where you are going, you might wind up someplace else."

*Yogi Berra,
Baseball
Player*

- Assess the scope & nature of a potential problem.
- Determine appropriate corrective action(s).
- Meet legal & compliance obligations.
- Prepare to defend the organization's actions if later challenged.
- The purpose, scope, and context of investigations may vary, but all investigations require a similar skill set.

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Investigative **Objectives**



“Fairness is not an attitude. It’s a professional skill that must be developed and exercised.”

*Brit Hume,
Journalist*

- Thorough, timely and objective, full & fair; no rush to judgment.
- Maintain confidentiality.
- If litigation and/or government action follows:
 - Witnesses, documents, and physical evidence will objectively support action(s) taken.
- Provide findings/facts to the decision makers

Full and Fair **Investigations**

- Declare any conflict which might be raised.
- Ask yourself whether or not you are the right person to investigate.
- Maintain an open mind and professional demeanor during the entire investigation.



Who? What? When? Why? Where? How?

Who?

- Who is the subject?
- Who are the witnesses?
- Who else should be involved?
 - HR?
 - Legal?

Why?

- Why did incident occur?
- Why was this reported?

What?

- What is the allegation or allegations?
- What policy, procedure or law was violated?
- What happened?

Where?

- Where did allegation occur?
- Where is subject or witnesses located?
- Where were interviews held?

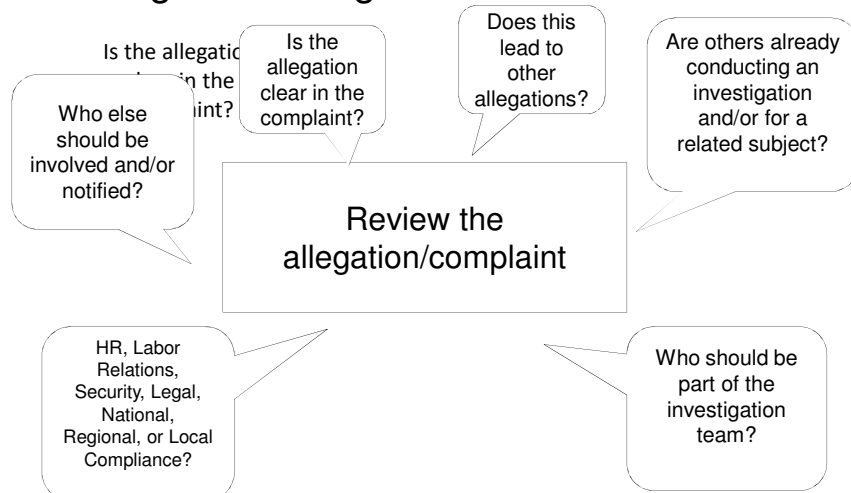
When?

- When did this allegation occur?
- When were interviews conducted and/or documents obtained?




How?

- How did violation and/or incident occur?
- How did the activity occur?

Initiating an Investigation Plan



Things to **Consider**




	<ul style="list-style-type: none">▪ The <u>role of management</u> in the investigation and/or interviews.
	<ul style="list-style-type: none">▪ The <u>elements needed</u> to prove the alleged offense and/or performance issue.▪ <u>Reporting requirement</u>: Privacy & Security, Medicare, Medicaid/Medi-Cal, Federal Employee Health Benefits Program.
	<ul style="list-style-type: none">▪ Criminal implications that may require law enforcement referral.

Things to Consider **Prior to an Interview**

- Potential relevant witnesses:
 - Employees.
 - Physicians.
 - Patients.
 - Vendors or other third parties.
- Interview(s):
 - Interview order.
 - Who should conduct interview?
 - Who should be present during interview?



Evidence **Collection and Review**

	<ul style="list-style-type: none">▪ Policies & Procedures▪ Conduct Rules (POR)▪ Performance Evaluations<ul style="list-style-type: none">▪ Attendance Records
	<ul style="list-style-type: none">▪ Prior Discipline and/or Investigations▪ Medical Records<ul style="list-style-type: none">▪ Ensure in compliance with Health Insurance Portability and Accountability Act (HIPAA)
	<ul style="list-style-type: none">▪ Email<ul style="list-style-type: none">▪ Other electronic records including internet, iPhone, iPad etc.▪ Invoices, Receipts, Expense claims

Additional **Considerations**

Relevant Documents

- Include electronic records and data.

Surveillance

- Are there cameras in the area?

Photos

- Should photographs be taken and/or diagrams created.

Protected Health Information and Disclosure

- HIPAA* and state laws require protected health information (PHI), electronic health records (EHRs), personally identifiable information (PII) to be maintained confidentially.
- PHI, EHRs, PII disclosed to a third party must be logged and tracked
- Comply with minimum necessary requirements handle documents in a confidential manner

**Health Insurance Portability and Accountability Act*

Protected Health Information and Disclosure

There are limited exceptions for disclosure:

- Union grievances
- Law enforcement
- Seek guidance before disclosing PHI, EHRs, PII
- Confidential information should be removed whenever possible



CONFIDENTIALITY

Let's Review

- Initiating an investigative plan
- Things to consider prior to an interview
- Evidence collection and review
- Practice confidentiality

Interviewing Protocol & Techniques





The purpose of an interview is to question an individual who is believed to have information of interest concerning a particular matter.

Interview vs. **Interrogation**

The purpose of an interrogation is to question an individual, that for a variety of reasons, may be either withholding information or being untruthful concerning a particular matter.



Interview vs. Interrogation **Activity**

Which is which? Interview vs. interrogation.

- Non-confrontational
- Confrontational
- One-way conversation
- Two-way conversation
- Low stress
- Admissions & confessions are the goal
- Generally used for witness & victim
- High level of planning
- Generally used for non-cooperative subjects

The characteristics of an interview.

- Non-confrontational
- Two-way conversation
- Low stress
- Generally used for witness & victim

The characteristics of an interrogation.

- Confrontational
- One-way conversation
- High level of planning
- Admissions & confessions are the goal
- Generally used for non-cooperative subjects

Interview **Protocol**

The goal is to conduct a neutral, fair, and thorough investigation...of all subjects, witnesses, and victims, to obtain factual information.

Subject interviews should be:

- Structured
- Private



Witness & victim interviews should be:

- Used for information gathering
- Non-accusatory

Uncooperative subjects:

- May require use of some interrogation techniques

Interview **Planning**

Who will be in the interview?

- Limit the number of people in the room.
- Include Human Resources.
- Represented employees must be advised that they're allowed representation.
- Include the Legal Department.
- The employee's immediate supervisor should not be present.

Prepare the best interview environment:

- Ensure privacy.
- Avoid distractions.
- Allow enough time.



During the **Interview**

Don't jump to conclusions!

Be a good listener:

- Pay close attention
 - Make eye contact
- Don't interrupt
 - Let the subject finish his/her thoughts

Build a rapport with subject

- Show compassion
- Do not reveal signs of your own personal beliefs
- Do not yell, curse at, or alienate subject

Put the subject at ease

- Display pleasant emotional responses

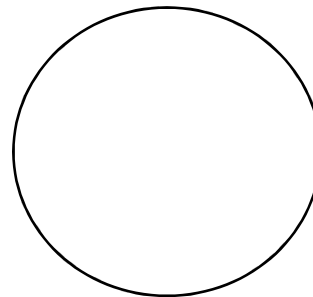


Let the subject know you're paying attention: Interject comments; "Really", "I see", "I'd like to hear more about..."

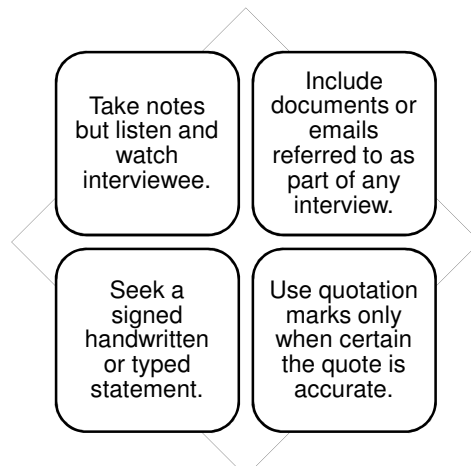
Note Taking

Generally it is best to listen with minimal note taking, but good interview notes are important.

- Recommend co-interview.
- HR or compliance contact takes notes.
- Prepare your interview report immediately after conclusion.



Preserving a Witness and/or Subject Statement



Follow Up **Interviews**



- Re-interview witnesses, as necessary
- Conduct new or additional interviews
- Follow up with any witnesses that were named by the subject

Let's Review

- Interview protocol
- Interview planning
- Conducting the interview
- Preserving a witness and/or subject statement
- Follow up interviews

Closing Investigations & Writing Reports

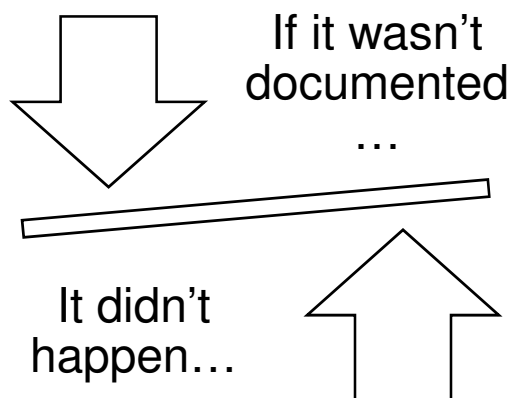


Tell the **Story**

- Get all the facts
- Keep it simple
- Explain acronyms
- Cite the information source
- List facts in chronological order



Process...



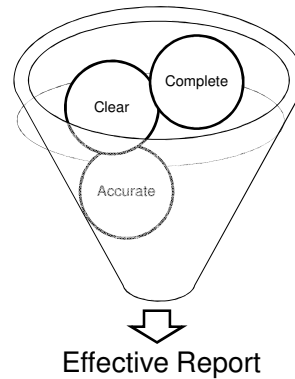
Quality Reports

- The Best Investigation:

- Is only as “good” as the written report.

- A Quality Report:

- Is an effective report, which must be:
 - Complete.
 - Clear.
 - Concise.
 - Accurate.



Report Facts, Not Opinions

- Facts vs Opinions

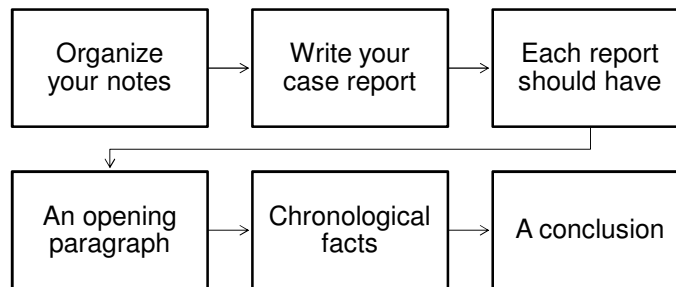
- Opinion: Jack Sparrow is a crook and a thief.
 - Fact: Jack Sparrow perpetrated a vendor invoice fraud scam that resulted in an \$8.2M loss to the company.

- Make Sure

- To cite the source of your information.
 - The suspect entered the hospital storeroom at 2311 hours.
 - How do you know? Where you there?
 - The suspect **said** she entered the hospital storeroom at **approximately** 2311 hours.



Writing a Case Report



Finalizing the Report

- Don't cut corners!
 - Did you include all the pertinent case information?
 - Have you forgotten anything?
- Include referenced documents as attachments.
- Consider templates for consistent report formats.
- Prior to submitting your report:
 - Check for clarity and accuracy.
 - Ask a colleague to review and provide feedback.
 - Proofread for punctuation and correct sentence structure.
 - Use online spell and grammar check software.
- If there are questions, consult with your legal team or other experienced investigators.



Case Documentation – Rationale

General

Cases may undergo

- Civil or criminal litigation.
- Regulatory auditing.

Grammar & Syntax

Case files should be free of:

- Fragmented sentences.
- Tense errors.
- Plurality errors.
- Possessive errors.

Details, Details, Details

- Critical for proof of evidence acquired.
- Actions taken.

Case Documentation

- Concise and comprehensive.
- Free of unnecessary words.
- Objective, clear, and factual.
- Organized and structured.



Let's Review

- Tell the story
- Quality reports
- Writing a case report
- Finalizing the report



Corrective Actions



Corrective Actions

Things to Consider



- If the allegation is substantiated, disseminate report, as appropriate, for implementation of corrective actions.
- If the investigation was worked under attorney privilege, summary forwarded to legal.
- If allegation involves an employee, provide investigative summary to Human Resources.

Things to Consider

Initial Triage and Outside Regulatory Reporting: Ensure adequate initial triage on subject information to applicable outside regulatory reporting.

Public Data Base Work-Up: Conduct public database searches to confirm identity.

Forensic Work-Up: Conduct internal forensic review to identify like commonalities.

Pharmacy Alerts: Upon satisfactory identification of all known or possible Medical Record Numbers used, initiate Pharmacy Information Management Systems alerts for Drug Seeking Behavior.

Things to Consider

Internal Patient Health System Fraud Alerts.

Patient Financial Services: Coordinate identified outstanding debt with Patient Financial Services and applicable outside collection agencies.

Medical Record Number Merge and Chart Accuracy Notifications.

Drug Caution List Notifications: Review with Pharmacy & Therapeutics Committee Chief for Drug Caution List consideration.

Fraud Alert Flyer Dissemination and Emergency Medical treatment and Labor Act.

Member Services for membership termination for Cause Review.

Law Enforcement Referrals



Law Enforcement Referrals

When to Make a Law Enforcement Referral

- Violation of criminal statute.
- Clear evidence to support criminal violation.
- Prosecutive interest (egregiousness of violation).
- Internal leadership support.
- Mandatory referral considerations.




Which Law Enforcement Agency Should You Contact

- Statute violated (state or federal).
- Location of criminal act(s).
- Relationships.
- Geographic considerations.



Law Enforcement Referral Template


NATIONAL SPECIAL INVESTIGATIONS UNIT
CRIMINAL INVESTIGATION REPORT

Ⓢ CASE NUMBER: _____
OFFENSE (s): _____
DATE OF OFFENSE: _____
VICTIM: Kaiser Foundation Health Plan, Inc.
LOSS: 1
RECOVERED: 1
INVESTIGATOR: _____
DATE OF REPORT: _____

SUSPECT INFORMATION

NAME: _____
DATE OF BIRTH: _____
ADDRESS: _____
TELEPHONE NUMBER: _____
PHYSICAL DESCRIPTION: _____
SOCIAL SECURITY NUMBER: _____
DRIVER'S LICENSE NUMBER: _____
EMPLOYMENT: _____
ARREST HISTORY: _____
OTHER: _____

WITNESS LIST

Name Title and Contact Information:	Summary of role or evidence provided:

SYNOPSIS

INVESTIGATION SUMMARY

CONCLUSION

RECOMMENDATION

EVIDENCE EXHIBITS

Case Study: Identity Fraud

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Questions?



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