

EVALUATING THE QUALITY OF INVESTIGATIONS

Fourth Edition

Prepared by:
Lana Norwood, MSSW

Copyright, 2008, Labor Relations Alternatives, Inc.

This material was developed in close consultation with staff of the Kentucky Department of Mental Health and Mental Retardation. The Department is free to use this material in perpetuity for the evaluation of investigations of incidents that occur in facilities operated by the Department.

Evaluating the Quality of Incident Investigations

Purpose

This evaluation process is designed to provide objective, ongoing information about the quality of investigations. The standards and instructions assume that a quality improvement process is critical to enhancing and maintaining consistent performance in a state-wide investigatory system with numerous providers.

A process for assessing the quality of investigations serves three purposes. First, these standards and the operational definitions provided for each afford individual investigators clear guidelines regarding the elements of a quality investigation. Investigators should be able to employ these standards and evaluation tools to conduct a self-assessment of their performance using the results to improve their investigative skills.

Secondly, this evaluation process occurs at the facility level to assist administrators in determining the quality of the investigations and therefore the quality of the information upon which they may be basing critical decisions related to creating a caring and hospitable environment. Administrators will be able to ascertain whether the investigative findings are ones on which s/he can base sound decisions and take actions appropriate to those findings.

Finally, at the facility and Department levels, this evaluation process provides effective oversight of the investigative function as it is implemented throughout the state. As an oversight mechanism, it will assist the Department in monitoring the quality of individual investigations as well as in identifying and correcting any systemic problems in the investigation of incidents.

Development of Standards and Evaluation Tools

In measuring the quality of investigations, these standards apply only to those incidents requiring an investigation as defined by the Department's Incident Management Protocol. This evaluation process is designed to provide comprehensive information about the quality of investigations through a series of assessment activities organized as follows:

- ❑ Section I: Speed and timeliness in the collection of evidence
- ❑ Section II: Thoroughness in the collection of evidence
- ❑ Section III: Summary and analysis of evidence
- ❑ Section IV: Objectivity
- ❑ Section V: Appropriateness of Investigations

The methodology includes several evaluation **tools** for the purposes of: (1 comparing information about how the investigation was conducted as documented in the investigative file against standards of quality and 2) reviewing incidents to determine whether those requiring an investigation were actually investigated.

- **Review of Incident Investigations** [Checklist #1]: The investigator or reviewer will use this checklist to record the findings for all standards related to conducting investigations in Sections I-IV. The following evaluation tools are used to complete this checklist:

Collecting Physical and Demonstrative Evidence [Worksheet I] will be used to complete Section IIA.

Collecting Testimonial Evidence and Witness Statements [Worksheet II] will be used to complete Section IIB.

Completeness of Witness Statements [Checklist #2]: This checklist is a set of standards which measure the quality of the written witness statements as described in Section IIC.

Collecting Other Documentary Evidence [Worksheet III] will be used to complete Section IID.

- **Appropriateness of Investigations** [Worksheet IV]: The data collected using this worksheet can help determine whether all incidents requiring an investigation are actually investigated.

The investigatory file which should include the investigator's final report and all attachments is the primary source of information about how the investigation was conducted. One of the assumptions in the development of this methodology is that facilities will use a comprehensive investigatory report form which will include the information required to fully document an investigator's activities and the investigatory procedures used. This report format will also assist the organization in performing a thorough review of the investigations.

The evaluation tools and instructions for their use are described below in Sections I - V following the procedures for conducting quality improvement reviews of incident investigations.

Procedures for Self-Assessment and Peer Review

The individual investigator is one of the primary users of these standards and evaluation tools which are designed to provide specific expectations for conducting a quality investigation. To guide and improve performance, individual investigators should use the checklists and worksheets while conducting their investigations.

The following review procedures will be used to evaluate incident investigations conducted at facilities operated by or contracted with the Department. This review will be conducted at both the Department and facility levels:

A. Oversight and Evaluation of Investigations at the Department Level

The Department will be responsible for the oversight of the investigative process. This responsibility will include:

- ❑ Monitoring and providing guidance to facilities in conducting investigations;
- ❑ Evaluating the quality of those investigations; and,
- ❑ Identifying both systemic, facility and individual investigator problems and using this information to improve the quality of the investigative process through evaluation and oversight.

The Department Incident Management Coordinator and the Department Incident Management Administrator will review investigations at each facility on an annual basis. They will review a sample of at least 2 cases from each investigator who conducted an investigation during the year will be reviewed.

During this site visit, the Coordinator and Administrator will also conduct an assessment to determine whether incidents which require an investigation are actually investigated (see Section V below). To perform this assessment, a valid random sample of 5% of all incidents which occurred during the year, with a minimum of 75 and a maximum of 150 incident reports, will be pulled and reviewed.

B. Internal Facility Incident Investigation Review

Frequency of the review: The review of investigations at the facility shall occur no less than quarterly. Reviews done any less frequently will not provide investigators with sufficient on-going feedback to assist them in improving their skills.

Who will conduct the reviews: Peer review at the facility level can be implemented using an existing or new committee. If a new committee is established, it should have at least three members. In either case, the review committee should consist primarily of investigators or who have at least attended the *Conducting Serious Incident Investigations* course. If the facility has several persons who assist in the investigatory function, membership should be rotated to allow others an opportunity to enhance their knowledge of investigative procedures as they conduct reviews.

For small facilities or those with less than 3 investigators, a peer review committee may not be possible. In such cases, the review process may consist of the investigators

reviewing each other's cases. For a more objective assessment, a joint review process could be developed between two facilities in the same geographic area, keeping in mind regulations and policies regarding individual privacy and confidentiality.

Sample size: At the facility level, a 20% random sample of all investigations completed during the review period will be drawn for review, with a minimum of 5 cases. This sample of investigations should include only those conducted for *incidents requiring investigation* as defined by policy. The sample should include at least one randomly drawn case for each investigator who completed a case within the review period.

How the reviews will be conducted: For facilities that conduct their reviews by committee, the review itself may be done in two ways: 1) the cases drawn in the sample may be divided among the members for review, or 2) every case may be reviewed by every member. However, for the first two peer reviews conducted, it may be helpful to have the committee members review the same cases to establish inter-rater reliability. During this process, the committee members would discuss the case and resolve any variations that emerge in the individual scoring.

After the members feel that they are consistent in their use of the standards, the committee would then choose one of the procedures above. In either case, it is recommended that the reviewers complete the evaluation tools on the investigations for which they are responsible prior to the peer review committee meeting to expedite the process. After a discussion of the findings on each case, consensus among the members should be reached on any problems identified in the review. Any member who has a case drawn in the sample will not participate in the evaluation of his or her case, nor should a case be evaluated by an investigator's immediate supervisor.

Use of the evaluation findings: A copy of the checklists and worksheets should be provided to the investigator for feedback purposes. For large facilities, an aggregate report may also be compiled of the findings for all the cases reviewed so that systemic problems can be identified and remedied through training and other forms of guidance.

Section I: Speed and Timeliness in the Collection of Evidence

One of the three most critical values associated with conducting an investigation is speed. This is an important characteristic because evidence may be lost or will decay if there is a delay in its collection.

- 1. Did the supervisor verbally report the incident immediately to the director after being notified of the incident?**

Compare the date and time that the supervisor was notified of the incident with the date and time that the supervisor made a verbal report of the incident to the director or designee.

- a. Mark this item Yes if the supervisor made a verbal report to the director or designee within 1 hour of notification of the incident or there was a compelling reason for its delay.
- b. Code this item No if the director was notified more than one hour after the supervisor learned of the incident.

2. Was a written report of the incident initiated before the end of the shift of discovery?

Compare the date and time that the incident was discovered with the date and time that a written report of the incident was initiated.

- a. Mark this item Yes if the written report of the incident was initiated before the end of the shift during when the incident, *or* there was a compelling reason for its delay.
- b. Code this item No if a written incident report was not initiated by the end of the shift.

3. Did the director or designee assign the incident to an investigator as soon as possible but no later than 2 hours after receiving notification of the incident?

Any incident which requires investigation should begin immediately; if the assignment is delayed, the investigator has less opportunity to collect evidence before possible contamination.

Compare the date and time that the director or designee received **verbal** notification of the incident [item 1] with the date and time that the investigator was assigned the investigation. This information should be found in the written investigatory report.

- a. Code this item Yes if the assignment was made within 2 hours or less or there was a compelling reason for the delay noted in the investigatory report.
- b. Code this item No if the investigator was assigned more than 2 hours after the director or designee received notification of the incident.

4. Did the investigator take the first witness statement no later than 2 hours from the time s/he received the assignment?

In deciding what data will be the best measure of the initiation of the investigation, it is important to have a characteristic that will be common among virtually all investigations. For example, the collection of physical evidence does not occur in every case; therefore, it would not be the best piece of data to use to describe the entire universe of investigations or to

compare investigatory practices over time. A better measure is the date and time the investigator takes the first witness statement. Given that the most common form of evidence is testimonial, it is the best source of data to use as a proxy for the “beginning” of the investigator’s activities. Investigators should note that their first interview, when possible, should be with the reporter of the incident.

Compare the date/time that the investigator received the assignment [item 3] with the date and time the investigator collected the first witness statement.

- a. Code this item Yes if the result is 2 hours or less, or the investigative report provides compelling justification for a delay.
- b. Code this item No if the first statement was taken more than 2 hours after assignment.

5. Did the investigator take the last witness statement no later than 5 calendar days from the time s/he received the assignment?

Compare the date/time that the investigator received the assignment [item 3] with the date and time the investigator collected the last witness statement.

- a. Code this item Yes if the result is 5 calendar days or less, or the investigative report provides compelling justification for a delay.
- b. Code this item No if the last statement was taken more than 5 calendar days after assignment.

6. For ICF/MR facilities and nursing facilities only: Did the investigator complete the written investigative report within 5 working days from the date the incident was discovered?

In many cases, the investigator may be awaiting additional information that was not available during the 5-day time frame (e.g., autopsy results, a witness who was out of town, etc.). In such cases, this standard will be met if an investigative report with preliminary findings and recommendations is submitted within 5 days but prior to collecting all remaining evidence.

Compare the date the incident was discovered [item 2] with the date of the investigative report.

- a. Code this item Yes if an investigative report was *submitted* within 5 working days of the incident’s discovery, excluding holidays and weekends.
- b. Code this item No if an investigative report was submitted more than 5 working days after the discovery of the incident.

7. For psychiatric facilities: Did the investigator complete the final written investigative report within 14 calendar days from the date the incident was discovered?

Compare the date the incident was discovered [item 2] with the date of the final written investigative report.

- a. Code this item Yes if an investigative report was *submitted* within 14 calendar days of the incident's discovery, including holidays and weekends.
- b. Code this item No if an investigative report was submitted more than 14 calendar days after the discovery of the incident.

Section II: Thoroughness in the Collection of Evidence

At the onset of an investigation there is no way to know which information will be important in finally determining what happened. An investigator should collect all of the relevant information available so that no decision will be made without as much evidence as possible at the investigator's disposal. To assess the thoroughness of the investigation, this phase will examine whether all available relevant evidence has been collected.

Part A: Collection of Physical and Demonstrative Evidence

Worksheet 1: Collecting Physical and Demonstrative Evidence is used to assist the investigator and reviewers in assessing the thoroughness of the collection of physical and demonstrative evidence. The worksheet should be completed using the instructions on the bottom of the worksheet before coding items 8-10 below.

8. Did the investigator collect all available physical evidence?

In determining whether the investigator collected all of the physical evidence available, it is important to make a distinction between the physical evidence that may have existed and those pieces of evidence actually *available* to the investigator during the investigation [e.g., evidence may not be available because it was destroyed or lost prior to the investigator's assignment]. This standard relates only to those pieces of physical evidence which may actually be taken from the scene such as blood stained clothing, any object used as a weapon, bodily fluids, etc. Those pieces of physical evidence which are preserved through the creation of demonstrative evidence [e.g., the victim's injury is preserved by taking a photograph which then becomes demonstrative evidence] will be addressed in standard #10 below.

Compare the list of physical evidence that should have been collected and was listed on *Worksheet 1: Collecting Physical and Demonstrative Evidence*

with the section in the investigatory report which lists the physical evidence actually collected.

- a. If every piece of physical evidence listed on the worksheet was actually collected by the investigator as noted in the investigatory report, mark Yes.
- b. If one or more items is missing but there is a compelling reason justifying the investigator's inability to collect the item [e.g., the evidence was destroyed, lost or no longer available in a state which would provide information about what actually happened], mark Yes.
- c. If one or more items which was appropriate for collection and listed on the worksheet was not collected by the investigator and compelling justification was not provided by the investigator, mark No.
- d. If there was no physical evidence that should have been collected or if any physical evidence would more appropriately be preserved through the creation of demonstrative evidence, mark NA.

9. Did the investigator collect and preserve all physical evidence consistent with the need to establish a "chain of custody"?

Merely collecting all relevant physical evidence does not speak to all issues associated with thoroughness. It is possible that some of the collection techniques would nonetheless render the physical evidence useless as evidence if not collected and preserved appropriately. In evaluating this standard, the evaluator should consider the following:

- Did the investigator make a documentary record of every item removed, including the date and time collected, where collected and by whom ?
- Did the investigator place the items in a truly secure location?
- Did the investigator create a record documenting the removal of any item from the secure location, including the reason for the removal, the date and time removed and the person, if any, to whom the material was delivered?
- If someone received the evidence from the investigator, did he or she maintain a documentary record that would similarly account for the security of the evidence while in his or her possession?
- When returned to the investigator, did the investigator place the items in a secure location and update his or her documentary record (see bullets 1 and 3 above)?

Review the investigatory report to determine how physical evidence was collected and preserved.

- a. If every item collected by the investigator was collected and preserved consistent with the requirements associated with the establishment of the chain of custody, mark Yes.
- b. If one or more items was not collected and preserved consistent with the requirements of the chain of custody, **but** there is a compelling reason for the investigator's inability to use appropriate procedures, mark Yes.
- c. If one or more items was not collected and preserved consistent with the requirements of the chain of custody and there is no compelling justification for the omission, mark No.
- d. If there was no physical evidence that should have been collected, mark NA.

10. Did the investigator collect all available demonstrative evidence?

Demonstrative evidence is the manner in which an investigator preserves physical evidence. Examples of demonstrative evidence are photographs, diagrams, x-rays and maps of house and building layouts.

Compare the list of demonstrative evidence that needed to be created [listed on *Worksheet 1: Collecting Physical and Demonstrative Evidence*] with the section in the investigatory report which describes the demonstrative evidence actually created.

- a. If every piece of physical evidence listed on the worksheet which required that demonstrative evidence be created was actually created by the investigator as noted in the investigatory report [or was not relevant for collection], mark Yes. [If the demonstrative evidence was of poor quality, i.e., an unintelligible diagram or blurry photograph, the review should note such problems in the comments section.]
- b. If one or more items is missing but there is a compelling reason justifying the investigator's inability to preserve the evidence by creating demonstrative evidence [e.g., the evidence was destroyed, lost or no longer available in a state which would provide information about what actually happened], mark Yes.
- c. If the investigator failed to preserve as demonstrative evidence one or more items listed on the worksheet and compelling justification was not provided by the investigator, mark No.
- d. If there was no demonstrative evidence that should have been created, mark NA.

Part B: Collection of Testimonial Evidence and Witness Statements

Worksheet II: Collecting Testimonial Evidence and Witness Statements is used to assist the investigator and reviewers in assessing the thoroughness of the collection of testimonial evidence and witness statements. The worksheet should be completed using the instructions on the bottom of the worksheet before coding items 11 and 12 below.

11. Did the investigator conduct in-person interviews with all potential witnesses, including the alleged victim?

The most common form of evidence collected by investigators in the course of serious incident investigations is testimonial evidence. Witnesses may include those at or about the scene of the incident -- including alleged victims -- as well as those providing background information.

Use the worksheet to list the witnesses that should have been interviewed. Then compare the list of witnesses on the worksheet with that section of the investigatory report which lists the witnesses actually interviewed.

- a. If every person listed on the worksheet was interviewed by the investigator, mark Yes.
- b. If one or more persons was not interviewed but there is compelling reason justifying the investigator's inability to conduct the interview [e.g., the witness was an individual receiving services who lacked communication skills or refused to cooperate] or to conduct an ***in-person*** interview [e.g., travel distance for the investigator would have significantly impeded the speed of the investigation], mark Yes.
- c. If one or more persons on the worksheet was not interviewed by the investigator and there is no compelling reason justifying the omission, mark No.

12. Did the investigator take a witness statement or its equivalent from each witness actually interviewed?

Using *Worksheet II: Collecting Testimonial Evidence and Witness Statements* make a list of all persons who were actually interviewed and from whom witness statements should have been obtained. Compare the list of witnesses on the worksheet with that section of the investigatory report which lists the witnesses from whom statements were actually taken. In those cases where there are compelling reasons not to take a written statement [i.e., the witness was not capable of participating in the statement taking process or the witness refused to participate], then the investigator must preserve the testimonial evidence in an equivalent manner such as an interview summary or notes or tape recording. A statement or its equivalent

must be taken for every witness who was in a position to have relevant information [i.e., was at or near the scene of the incident], even those who say they did not see or hear anything. The fact that they did not see or hear anything is evidence and should be documented in a written statement. For those employees who are found during the interview process to not have been at the scene [e.g., had been reassigned to another unit the day the incident occurred], this information must also be documented in a statement unless facility documentation exists to verify this [e.g., assignment sheet or unit log].

- a. If there is a written statement for every witness identified on the worksheet, mark Yes.
- b. If there is an equivalent form of preserving the testimonial evidence and there was a compelling reason to use this method, mark Yes.
- c. If there is not a written statement or its equivalent for one or more of witnesses, mark No.
- d. If the potential witness was not at the scene at the time of the incident and this is verified by facility documentation, mark NA.

Part C: Completeness of Witness Statements

The criteria contained in *Checklist #2: Completeness of the Witness Statements* are ones which fully document the person's testimony in order to commit the witness to the information s/he has regarding the incident and, if needed, to assist in refreshing their memory or impeaching their testimony if different from that provided in the statement.

Before coding standards 13 and 14 below, review the witness statements [a maximum of 7 statements] against the criteria in *Checklist #2: Completeness of the Witness Statement*. With the exception of criteria 5 and 6, the criteria are self-explanatory.

Criterion #5: Mark this criterion Yes only if there is evidence that the interviewer made an attempt to obtain the information in an ordered manner such that the reviewer is able to understand what happened when. Also mark this criterion Yes for the following two exceptions: 1] an explanation is provided in the investigatory report for not being able to do so [e.g., witness was unable to provide information in a sequential manner or was uncooperative] and, 2] information is added to the end of a statement to clarify the witness' knowledge of what happened, but which does not confuse the reader as to the overall knowledge of the witness.

Criterion #6: Mark this criterion Yes only if there is evidence that the interviewer made an attempt to include the following elements in the statements unless an explanation is provided in the investigatory report for not being able to do so [e.g., witness was unable to provide the level of detail needed or was uncooperative].

1. The statement provides the witness' knowledge of the incident including who, what, when, where, why and how.
2. The statement includes information regarding the witness' involvement and the basis of his or her knowledge of the incident.
3. The statement identifies all other persons referred to in the statement at least by name, if not by title.
4. The statement includes sufficient detail such that it is clear that follow-up questions have been asked.

The results from Checklist #2 will be used to code standards 13 and 14 below. Only criteria 5 and 6 from Checklist #2 will be coded on Checklist #1 since they are the principle measures of quality of a witness statement.

13. Did the events described in the statements flow sequentially?

Use the results of Checklist #2 from criterion #5 to reach a single result for standard 13.

- a. If every statement received a Yes for criterion #5 in Checklist #2, code this item Yes.
- b. If there was an exception for one or more of the statements [e.g., explanation given as to why information could not be given sequentially or the clarity of the statement was not effected] and the other statements had this item marked Yes, then code this item Yes.
- c. If any single statement was marked No on criterion #5, code this item No.

14. Did the statements contain appropriate detail?

Use the results of Checklist #2 from criterion #6 to reach a single result for standard 14.

- a. If every statement received a Yes for criterion #6 in Checklist #2, code this item Yes.
- b. If there was an exception for one or more of the statements [e.g., the investigative report indicates the witness was uncooperative in giving the statement] and the other statements have this item marked Yes, then code this item Yes.
- c. If any single statement was marked No on criterion #6, code this item No.

Part D: Collection of Other Documentary Evidence

Worksheet III: Collecting Other Documentary Evidence is used to assist the investigator and reviewers in assessing the thoroughness of the collection of documentary evidence. The worksheet should be completed using the instructions on the bottom of the tool before coding item 15 below.

15. Did the investigator collect all other available relevant documentary evidence?

Another large source of data during a serious incident investigation is documentary evidence. Relevant information may include assignment sheets, work schedules, home logs, treatment plans, behavior programs [if applicable], and medical records.

Compare the list of available relevant documentary evidence on the worksheet with the section of the investigatory report which lists the documentary evidence actually collected.

- a. If every piece of documentary evidence which the reviewer listed on the worksheet was collected by the investigator, mark Yes.
- b. If one or more pieces of documentary evidence was not collected but there is compelling reason justifying the investigator's inability to collect the evidence, mark Yes.
- c. If any single piece of documentary evidence listed on the worksheet was not collected by the investigator and there is no compelling reason justifying the omission, mark No.

Section III: Summary and Analysis of Evidence

Having collected all the relevant evidence, generally organizations expect an investigator to use the investigatory report as a vehicle to draw conclusions about what actually occurred. The investigator's ability to provide conclusions based on the evidence is enhanced when the person adheres to standards #16-20.

16. Was the investigatory question appropriately written based on the nature of the incident?

A properly framed investigatory question is essential to the clear identification of information relevant to explaining and describing the incident. While the investigator will need to collect information to answer a number of questions, the investigatory question represents the fundamental purpose that drives the investigator's activities. In evaluating this standard, the evaluator should consider the following elements:

- Where possible, was the investigatory question written as an open-ended question (e.g., “How did Fred receive the injury...?”, rather than, “Did Jim hit Fred causing the injury...”)?
- Did the investigatory question contain the time and location of the incident, if known (e.g., “Did staff member John call Joe “a crazy loon” in the living room at approximately 2:00 p.m. on April 23, 2007?”)?
- If the time and location of the incident was not known, did the investigatory question contain a reference to when and where the incident was discovered?
- Did it describe the incident using concrete terms (e.g., avoid such questions as “Did staff member John respond appropriately to Joe’s behavior?”
- Does the investigatory question avoid characterizing whether the findings of fact represent a violation of policy or law such as “Did John’s failure to follow Joe’s behavior plan constitute neglect?”
- Did the investigatory question avoid suggesting certain pieces of information were true which reasonably could be in dispute (e.g., “How did Mary fall to the floor...”, rather than “Who pushed Mary to the floor” when the reports alleges that Mary fell as a consequence of a “push”)?
- Did the investigatory question represent the reason the investigation was initiated rather than a sub-question (or questions) the investigator would ask during the investigative process? (e.g., “What was the cause of Joe’s broken leg...?” rather than “Had John been trained on Joe’s behavior plan?”)?
- Does the question reflect not just the initial report but, where additional information was found, did the investigator more clearly state the question to reflect that information (e.g., investigator obtained information which identified the location and time of the incident not contained in the initial report)?

Review the investigatory question to determine whether it adheres to the criteria noted.

- a. If question did not violate any of the elements above or where a deviation from one of these **criteria** was minor, mark this item **Yes**.
- b. Code all others **No**.

17. Was the evidence accurately summarized in the “Summary of Evidence” section of the investigatory report?

Based on all the evidence provided in the investigatory file [including attachments], the reviewer must determine whether the “Summary of Evidence” provides an accurate account of all relevant and available evidence. It is particularly important to avoid characterization of the facts.

Compare the investigator’s summary of the evidence against the information collected in the course of the investigation including witness statements and other documentary evidence.

- a. Mark this item Yes if the summary of evidence is an accurate account of all relevant and available evidence.
- b. Mark this item No if the report fails to include relevant information found in the supporting documentation or the information is mischaracterized.
- c. Mark this item NA if the investigator includes information in the “Summary of Evidence” for which there are no supporting documents found in the file to make this comparison.

18. Was the evidence concisely summarized in the “Summary of Evidence” section of the investigatory report?

The investigator must provide a concise account of the evidence. A summary will not be considered concise where the investigator includes the entire content of witnesses’ statements in the Summary of Evidence.

Compare the investigator’s summary of the evidence against the information collected in the course of the investigation including witness statements and other documentary evidence.

- a. Mark this item Yes if the summary of evidence is a concise account of all relevant and available evidence.
- b. Mark this item No if the summary is not concise.

19. Was the available evidence analyzed and weighed in drawing conclusions in the “Analysis” section of the investigatory report?

It would not be sufficient for someone who writes an investigatory report to merely summarize the evidence and state his or her findings. In drawing a conclusion, the investigator should refer to specific evidence, how it was weighed and, where appropriate, the credibility of witnesses. In reviewing this aspect of the investigator’s work it is important that the reviewer not assess the investigator’s work negatively merely because s/he does not agree with the analysis. However, the reviewer should make comments regarding any problems noted with the process of the analysis or its plausibility.

Review the section of the investigatory report which contains the investigator's analysis and findings.

- a. Mark this item Yes if the investigator provides information about how s/he weighed evidence in reaching a finding.
- b. Mark this item No if there is no analysis or weighing of the evidence.

20. Were the conclusions supported by the summary and analysis of evidence?

In evaluating an investigator's conclusions, we again have to be careful not to assess the person's work solely based on whether we agree with their conclusions. The critical issue, however, is whether there is evidence on which a reasonable person can draw a conclusion. However, in evaluating this standard, the evaluator need not accept any conclusion as supported by facts where it clearly violates the nature of the evidence presented in the report's summary and analysis of evidence.

Compare the findings the investigator reached with the summary of the evidence and its analysis. Mark this item Yes if the investigator's findings are supported by the summary of evidence and analysis. Mark this item No if the investigator's findings are not supported by the summary of evidence and analysis. Mark NA if either standard 17 is marked No or NA or 19 is marked No.

Section IV: Objectivity

21. Based on the nature of the evidence collected and the manner in which it was collected, did the investigator maintain his or her objectivity when conducting this investigation?

In addition to speed, timeliness and thoroughness, objectivity is another key principle of conducting investigations of incidents. In evaluating this standard, the evaluator should look for evidence of the following:

- Does the investigator characterize any witness or facts in either disparaging or superlative terms or provide commentary beyond that which merely describes or analyzes the person's conduct?
- Does the investigator reveal any possible personal biases or values which would interfere with his or her objectivity with regard to the persons involved or the circumstances surrounding the incident?

Review the information in the investigatory report including attachments to determine whether there is any evidence that the investigator lacked objectivity based on the possible sources of bias noted above. Mark this

item Yes If there is no evidence of bias in the report. If there is any single instance of bias, mark this item No.

Section V: Appropriateness of Investigations

The purpose of this phase of the review process is to determine that all incidents that require investigation according to policy are being investigated. Each facility shall draw a random sample of 10% of all incidents occurring during each quarter. Worksheet IV shall be used to list each incident drawn for the sample and determine whether an investigation was actually conducted for those that require one according to policy.

- a. Enter the incident report number, date of incident and type of incident for each incident reviewed.
- b. In the column titled "Investigation Required" enter Yes if the incident should have been investigated according to facility policy and No if it did not require an investigation.
- c. ***For only those that required an investigation***, in the column titled "Investigation Conducted", enter Yes if an investigation was conducted and No if one was not. This information should be available in the facility's investigative log.
- d. To obtain the percent of incidents appropriately classified for investigation, divide the number of incidents that required an investigation and were actually investigated by the total number of incidents which required one (i.e., all those marked Yes in the column, "Investigation Required).

Note: To determine if a facility is investigating incidents not required by policy (i.e., over-investigating), those incidents coded NO under the column, "Investigation Required" could also be checked against the investigative log. If an incident is coded No for "Investigation Required", but the log indicates that the incident was investigated, this incongruence will indicate that this was an unnecessary investigation. The same computation described in item (d) above could be obtained to determine the extent that incidents are being inappropriately classified as requiring an investigation.

Checklist #1: Review of Incident Investigations

Case _____ Investigator _____ Facility _____ Reviewer _____

Description of the incident:

Y = Yes

N = No

NA = Not applicable (NA can not be used as a code for those items where the NA column is shaded)

***These standards are ones which are *not* the responsibility of the investigator.**

Standard	Y	N	NA	Comments
Section I. Speed and Timeliness in the Collection of Evidence				
1. Did the supervisor verbally report the incident immediately to the director or designee after being notified of the incident?* Date/time supervised notified: _____ Date/time facility director notified: _____				
2. Was a written report of the incident initiated before the end of the shift of discovery?* Date/time of discovery: _____ Date/time of written report: _____				
3. Did the director or designee assign the incident to an investigator as soon as possible but no later than 2 hours after receiving notification of the incident?* Date/time investigator assigned: _____				
4. Did the investigator take the first witness statement no later than 2 hours from the time s/he received the assignment? Date/time of first witness statement: _____				
5. Did the investigator take the last witness statement no later than 5 calendar days from the time s/he received the assignment? Date/time of last witness statement: _____				

Standard	Y	N	NA	Comments
6. For ICF/MR and nursing facilities only: Did the investigator complete the written investigative report within 5 working days from the date the incident was discovered? Date of final report: _____				
7. For psychiatric facilities: Did the investigator complete the final investigative report within 14 calendar days from the date the incident was discovered? Date of final report: _____				
Section II A. Thoroughness Collection of Physical and Demonstrative Evidence (Worksheet I)				
8. Did the investigator collect all available physical evidence?				
9. Did the investigator collect and preserve all physical evidence consistent with the need to establish a "chain of custody"?				
10. Did the investigator collect all available demonstrative evidence?				
Section IIB. Thoroughness Collection of Testimonial Evidence and Witness Statements (Worksheet II)				
11. Did the investigator conduct in-person interviews with all potential witnesses, including the alleged victim?				
12. Did the investigator take a witness statement or its equivalent from each witness actually interviewed?				
Section IIC. Completeness of Witness Statements (Checklist #2)				
13. Did the events described in the statements flow sequentially?				
14. Did the statements contain appropriate detail?				
Section IID. Thoroughness Collection of Other Documentary Evidence (Worksheet III)				

Standard	Y	N	NA	Comments
15. Did the investigator collect all other available relevant documentary evidence?				
Section III. Summary and Analysis of Evidence				
16. Was the investigatory question appropriately written based on the nature of the incident?				
17. Was the evidence accurately summarized in the "Summary of the Evidence" section of the investigatory report?				
18. Was the evidence concisely summarized in the "Summary of the Evidence" section of the investigatory report?				
19. Was the available evidence analyzed and weighed in drawing conclusions in the "Analysis" section of the investigatory report?				
20. Were the conclusions supported by the summary and analysis of evidence?				
Section IV. Objectivity				
21. Based on the nature of the evidence collected and the manner in which it was collected, did the investigator maintain his or her objectivity when conducting the investigation?				

Collecting Physical and Demonstrative Evidence

Case _____ Investigator _____ Facility _____ Reviewer _____

List of Relevant Physical Evidence*	Collected?			List of Relevant Demonstrative Evidence**	Created?			Comments
	Yes	No	N/A		Yes	No	N/A	

* After reviewing the entire investigative file including attachments, make a list of all relevant physical evidence available to the investigator at the time of the incident. Remember, relevant physical evidence may also be a room layout where the position of persons involved in the incident makes a difference in their ability to see or hear the events in question. Compare this list of items which should have been collected with those the investigator actually collected as noted in the investigative report. If it would be impossible to actually collect the evidence [e.g. the scene of the incident; an injury], mark "n/a." In those cases we would expect the investigator to create demonstrative evidence [e.g. a diagram; a photograph].

** In most cases where there is physical evidence, an investigator is more likely to create demonstrative evidence to actually preserve that evidence. Make a list of all demonstrative evidence which the investigator, under the circumstances of this case, should have created. If the investigator had actually collected a piece of physical evidence, it is most likely that you would mark "n/a" for the column asking whether demonstrative had been created.

Collecting Testimonial Evidence and Witness Statements

Case _____ Investigator _____ Facility _____ Reviewer _____

List of Potential Witnesses	Person Interviewed?			Statement Taken?			Comments
	Yes	No	N/A	Yes	No	N/A	

- In making the list of potential witnesses, the reviewer should read the entire investigative report, including attachments. At each point where the reviewer identifies someone who might have relevant testimonial evidence, the reviewer should place the person’s name on this worksheet.

The common sources of this information, in addition to the investigative report itself, would be the work assignment sheets, work schedules, unit logs, progress notes and the original Incident Report Form. However, other attachments can also yield possible witnesses such as witness statements where reference is made to other persons at or about the scene at the time of the incident.

After compiling this list, the reviewer should compare it with those potential witnesses the investigator actually interviewed and from whom a statement or its equivalent was obtained. Use the “n/a” column to indicate those persons who were found during the interview not to have been present at the time of the incident.

Checklist #2: Completeness of Witness Statements

Case _____ Investigator _____ Facility _____ Reviewer _____

Use Y to indicate Yes and N to indicate No for each assessment criterion below. Use N/A to indicate that the question is not relevant in this particular statement (e.g., #7 – nothing is out of order).

Evaluation Question	Initials of Witnesses							Comments
1. Does the statement identify the case for which this activity took place?								
2. Is the time and place of the interview recorded on the statement?								
3. Is the name of the interviewer recorded on the statement?								
4. If the witness is an employee, does the statement include his/her title and work location? If the witness is not an employee, does the statement contain identifying information about that person? Address; affiliation; relationship to principals, etc.?								
5. Do the events described in the statement flow sequentially? If not, give an example.								
6. Does the statement contain appropriate detail? If not, give an example.								
7. If any part of the text is out of order -- e.g. margin notes, cross outs -- did the witness initial and date each such change?								
8. Were all parts of the statement, including any changes, written in ink?								
9. If the final statement was typed, was the original draft, including the witness's signature, attached?								
10. Did the witness sign and date the statement?								

