

Department of Human Services
Office of Program Integrity and Accountability
Office of Investigations



DMHAS PROVIDER TRAINING

INVESTIGATIONS

AND

INTERVIEWING

2023



Training Objectives

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- Basics of every investigation
- Reviewing the Incident Report and developing Investigation Plan
- Preparing for the interview
- Interview techniques

Office of Investigations (OI) Role

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- Per the coding grid, only the most serious incident codes are routed to OI for investigation
- Provider agency should still conduct their own internal investigation, even if OI is investigating
- Per the regulations, the Provider agency needs to provide any information requested by OI (including HIPAA protected information about consumers)
- The information provided is kept confidential as part of OI's investigation
- At the end of the OI investigation, the Provider agency will receive a findings letter

Why Do We Investigate?

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- To ensure the health, safety and well-being of individuals served by DMHAS and to protect individuals from abuse, neglect and exploitation
- Individuals served by DMHAS are vulnerable to mistreatment
- To establish a finding based upon preponderance of evidence
- To identify systemic concerns and mitigate risk

The Basics of Every Investigation

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- Gathering basic information through interviews, physical & documentary evidence to answer the questions of:
 - ✓ *Who*
 - ✓ *What*
 - ✓ *Where*
 - ✓ *When*
 - ✓ *Why*
 - ✓ *How*
- Ongoing & thorough analysis of information/ evidence/facts gathered
- Identifying/summarizing & final analysis of information/evidence/facts to render an investigative finding (substantiated or unsubstantiated)
- Summarizing information/evidence/facts into a concise report, rooted in fact & evidence

Investigative Findings

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- Based on a preponderance of evidence standard
- Preponderance of evidence means there is evidence sufficient to generate a belief that the conclusion is likely and more probable than not
- Greater weight of credible evidence (at least 51%); tipping of scales
- Does not necessarily mean the largest amount of data or the largest number of witnesses. Focus is on quality of evidence. Is there evidence to corroborate the allegation?

Review the Incident Report

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- Are there any immediate safety concerns? If so, address immediately. Agency is responsible for providing protective actions to ensure individual's safety
- Is there evidence that must be immediately secured (photographs, documents, videotape)?
- Were photographs taken? If not, should they be? (physical injury)

Review the Incident Report (cont.)

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- Who are the alleged victims, alleged perpetrators, identified eye-witnesses, collateral contacts
- Identify the location of the incident/allegation
- When did the alleged incident/allegation(s) reportedly occur
- How is the incident coded; what exactly are all the allegations - based on the identified codes/narrative

Review the Incident Report (cont.)

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- Does the individual have a guardian (verify)? If so, were all identified guardians notified of incident
- Was law enforcement notified? If not, should they be?
- If law enforcement is involved/investigating, is agency clear to investigate?
- Criminal investigation takes precedence over civil investigation

Review the Incident Report (cont.)

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- If law enforcement is investigating, ask if the agency can proceed with portions of the investigation, for example, gathering documentation, but not interviewing
- The agency will need to continue to follow up with law enforcement to obtain updates on the criminal investigation and see when the agency can proceed with portions of their investigation
- Do not wait for law enforcement to contact you, the agency needs to be proactive and contact them

Develop an Investigation Plan

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- Identify all allegations. List them out
- Ensure you understand each allegation
- List all individuals who need to be interviewed. Remember that everyone who may have information may not be listed on the incident report
- Schedule interviews as soon as possible

Develop an Investigation Plan (cont.)

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- Prepare for each interview by determining initial questions, group questions by topics
- Identify documentation & evidence that needs to be collected
- Obtain most recent documentation and/or documentation related to the time of incident

Visit Incident Scene

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- Visit the scene as applicable as soon as possible
- For many investigations, viewing the scene of the incident/allegation can aid in understanding what occurred & may provide important evidence.
- Drawing diagrams of scene can also be helpful
- Actually seeing a physical location can assist in determining whether an explanation is or isn't plausible.

Visit Incident Scene (cont.)

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- Safety factors contributing to the incident/allegation can also be identified. Viewing the scene can be used to test witness accounts
- For some investigations, taking measurements or photographs at the scene to determine proximity or distance may provide critical piece of evidence
- Viewing precisely where an individual purportedly hurt himself/herself can help determine whether the explanation for the injury is plausible

Ruling Out Neglect

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- During the course of the investigation, determine whether neglect was a factor in the incident or rule out neglect
- When reviewing what happened in an incident, was the AV neglected? Should the AP have done something differently?
- Did the AV receive the care they needed? If not, why? Who is responsible?

Ruling Out Neglect (cont.)

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- Suicidal ideations/attempts-Was the AV expressing suicidal ideations leading up to the suicide attempt? Was care sought for the AV in response to the ideations? If not, why?
- If AV had relevant treatment plans, were they followed? Why not?
- Was the AV seen as often as they were supposed to be? Why not?

Preparing for Interviews

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- If an alleged perpetrator is going to be suspended or terminated from employment, it is best practice to interview them and obtain their written statement prior to the employment action
- Ensure you understand each allegation
- Determine questions that need to be asked and answered
- Group questions by topic. Address one allegation at a time
- Have documentary and video evidence available

Preparing for Interviews (cont.)

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- If an interviewee is being untruthful, you may want to present the evidence and ask them to explain why what they are saying does not match the evidence
- It may be helpful to interview the reporter and alleged victim first
- Reporter and alleged victim can describe what happened, then you can utilize that information when interviewing other witnesses and the alleged perpetrator

Set the Room

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- Ensure the interview room is private and you will not be interrupted
- Set up the chairs facing each other, with no barrier between them
- For safety purposes, always position yourself closest to the exit
- Interviewer controls the interview room, direct interviewee where to sit

Being Aware of Your Body Language

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- In addition to observing the interviewee's body language, it is very important to be aware of your own body language
- Your body language can influence the interview
- Sit with open posture, facing interviewee, with no barriers in between
- Maintain eye contact, don't get buried in taking notes
- If you react strongly or shocked when someone is describing what they did to an individual, this can make the interviewee shut down

Conducting Interviews

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- Purpose for interviewing may be different (alleged perpetrator vs. identified witness vs. individuals receiving services)
- When interviewing individuals receiving services, take into consideration their level of communication, allay any fears they may have in speaking with you and approach the interview with sensitivity and empathy
- Investigative interviews assist in obtaining & validating key details/information/facts

Conducting Interviews (cont.)

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- People can explain why things occur - documents may not
- When interviewing the alleged victim, ensure the individual feels comfortable, safe and supported during the interview
- Determine the best time to interview: Medications may affect orientation. Someone may experience less symptoms at a certain time of day or in a certain environment due to external stimuli

Conducting Interviews (cont.)

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- The person's diagnosis may determine interviewing techniques: Personality Disorders (Borderline PD, Narcissistic PD, etc.), baseline of always experiencing auditory hallucinations, responding to internal stimuli, experiencing withdrawal, etc.
- Ensure individual knows that they are not in any trouble. Be mindful that an individual with a legal status may be hesitant to speak to an investigator
- Explain that you are not with law enforcement and this is not a criminal investigation

Conducting Interviews (cont.)

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- If the individual does not want to talk with you when you first attempt to interview them, ask if you could come back tomorrow and speak with them
- Make multiple attempts to interview the individual
- Document your attempts to interview in the Investigation Report interview
- If the individual has difficulty recalling information, use alternate approaches to identify the alleged perpetrator and possible witnesses

Conducting Interviews (cont.)

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- Testimonial evidence may be the only way to establish a preponderance of evidence and determine a finding
- Begin each interview with an open mind
- Explain your role & responsibilities
- Inform interviewee that everything discussed in the interview must remain confidential
- Advise the individual why he/she is being interviewed

Conducting Interviews (cont.)

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- Identify ground rules/procedure/expectations
- Initiate conversation/small talk to establish rapport
- Move on to baseline questions –explain you want his/her full account, in his/her own words
- Begin with simple, easy to answer questions & address one fact at a time
- Avoid using internal jargon. Avoid leading questions

Conducting Interviews (cont.)

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- Encourage attempts to remember
- Not bound to accept the first answer provided
- Limit closed-ended questions that can be answered with only a yes/no
- Ask open- ended questions. (i.e. “Tell me what happened”)
- Ask questions several times in a variety of ways

Conducting Interviews (cont.)

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- Categorize questions into groups about one particular issue or topic, then move on to the next issue/topic
- Ask the individual to provide information via a timeline- starting from the beginning/hours prior to incident. Ask what happened before, during and after the incident
- Ask them to point out the details of who, what, where, when, why & how
- If applicable, have them demonstrate/show you their actions, actions of others

Conducting Interviews (cont.)

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- Ask the individual for details- sometimes it's details that help determine true facts
 - Describe in detail when they heard/saw. Determine degree of force: On a scale of 1 to 5 how hard was the alleged victim struck?
 - Was the alleged victim struck with open hand, closed fist, kicked, struck with object
 - Where was individual struck? Upper right inner arm, lower left outer leg, etc.
 - Describe in detail what injury looked like (size, shape, redness, bruising, bleeding, etc.)

Conducting Interviews

Alleged Perpetrator

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- Ask questions aimed at answering *why* something happened, why something was said, why he/she did/did not do something, etc.
- Ask for and consider alternative explanations
- Ensure that you follow-up on any alternate explanations that were given
- Ensure that you ask how else this could have happened
- Ask the alleged perpetrator why people would say that he/she abused/neglected/exploited the individual

Conducting Interviews

Alleged Perpetrator (cont.)

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- Ask AP if it's possible he/she hurt, didn't do something, exploited, etc., the person or if he/she *accidentally/unintentionally* did something to hurt the person, etc.
- Ask how it's possible others say they saw or heard something (if applicable)
- If there is video evidence, towards the end of the interview, review the video and ask the AP to explain their actions in the video

Conducting Interviews

Alleged Perpetrator (cont.)

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- If there are photographs of an injury, show the photographs and ask the AP how the person ended up with that injury
- Specifically confront the AP with the allegation (i.e. Did you hit Mr. Jones?)
- Allow the individual time to answer
- Use silence to promote a reaction or additional information. Interviewer should strive to not break silence, wait for interviewee to answer

Conducting Interviews (cont.)

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- Listen for inaccuracies and inconsistencies in information being provided- if detected, explain that a previously given answer contradicts what is now being said. Ask the individual to clarify and/or explain why
- Inconsistencies may warrant need for follow-up interviews. Conduct second interviews to clarify inconsistencies
- Keep in mind individual & cultural differences
- Words may not mean same thing to everyone

Conducting Interviews (cont.)

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- Practice active listening
 - Nod to show you are listening
 - Reflect back what interviewee states (i.e. what I'm hearing you say is...)
 - Saying okay or yes to encourage interviewee to keep talking
- Before concluding the interview make sure that you understand everything the interviewee stated
- Ask about others who may have information/knowledge relevant to the investigation and why they would have information/knowledge

Conducting Interviews (cont.)

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- At the end of the interview, ask if there are any text messages/posts about the incident
- At the end of the interview, ask individual if there is anything else they want you to know, want to disclose, if they have questions, etc. Ask several times during the interview
- When possible, write up interview summaries soon after conducting your interviews

Written Statement

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- At the end of the interview, ask the alleged perpetrator to write a written statement that covers everything discussed during the interview
- Encourage interviewee to write a thorough statement by saying it is their opportunity to put everything in their own words
- Read the written statement prior to letting the interviewee leave the interview room
- If there are inconsistencies between what they said in their interview and the written statement, ask them to explain the inconsistencies

Detecting Deception

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- Observe non-verbal body language
- **Possible** indications of deception (none of these are definite, but they are clues for the interviewer to pay attention to)
 - Body language changes from what was observed when asking the easy questions
 - Displays blocking behavior
 - Crossing arms in front of body
 - Turning body away from interviewer
 - Placing hand over mouth
 - Increased sweating
 - Increased rate of speech
 - Fidgeting in chair
 - Touching head/hair/face
 - Answering no, but shaking head yes

Detecting Deception (cont.)

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- **Possible** indications of deception (cont.)
 - Answering a question with a question (Q-Did you strike Mr. Jones? A-Did I strike him?)
 - Answering with, “yup” or “nope,” rather than yes/no
 - Hostile/defensive when speaking
- Is the interviewee being deceptive due to fear?
 - Did anyone tell you not to talk to me?
 - Did anyone tell you what you should/shouldn't say to me?
 - Did anyone threaten something bad will happen to you if you talk to me?
 - Are you fearful of the alleged perpetrator?

Analysis

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- It is important to analyze each piece of evidence throughout the course of the investigation
- How does the information support or not support the allegation/event?
- Tie the facts of the case to the elements of the allegation/event
- Ensure the information is clear

Analysis (cont.)

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- Identify conflicting or missing information. Ensure all discrepancies are addressed
- The analysis of information should occur throughout the investigation to determine what evidence supports or does not support the allegation
- The analysis determines if there is enough evidence to substantiate the allegation or if the evidence supports an unsubstantiated finding

Findings

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- The findings state whether each allegation is substantiated or unsubstantiated
- List the evidence (testimonial, physical, documentary) that supports the finding
- The reader needs to be able to understand what evidence was gathered to meet the preponderance of evidence standard

Questions?

OI Contacts

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