Conducting Effective Internal Investigations

Module Three: Reaching a Conclusion and Credibility Determinations

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Module Overview

Corroborating evidence
Direct and Circumstantial evidence
Other Types of Evidence
Weight of Evidence
Credibility determinations
- Inconsistencies
- Plausibility
- Motives
- Demeanor of parties and witnesses
- Effects of Trauma
Corroborating Evidence

- Definition: Evidence that supports other evidence (Documents that support oral reports)

- What is it?
- How do you get it?
- What weight is accorded?

Circumstantial Evidence

- Definition: Evidence that can be used to infer but not prove a conclusion. Contrast: direct evidence.

- Example: pattern evidence. Should be VERY similar in nature. NOT – general character/bad actor evidence
- Ask: Does our process allow circumstantial evidence?
- What weight is it accorded?
Other Types of Evidence

• Character evidence
• Recordings
• Polygraph/lie detector tests

Case Study Review

• What corroborating evidence do we have?
• What circumstantial evidence do we have?
• What else do we need?
Weight of Evidence

- Is all evidence created equal? No.
- Eyewitness vs second-hand/hearsay
- Corroborating evidence
- Direct evidence
- Circumstantial evidence
- Other evidence

Case Study Review

- Weighing the evidence
- What evidence is strong?
- What evidence is weak?
Credibility Determinations

Factors to consider:
- Inconsistencies
- Plausibility
- Motive
- Demeanor
- Effects of Trauma

Credibility Determinations: Inconsistencies

- Individual is inconsistent in own report.
  - Trauma or fear?
  - Lying?
  - ASK!
  - Individual is inconsistent with others.
    - Anomaly?
    - Coached testimony?
    - ASK!
Credibility Determinations: Plausibility

• What is reasonable?
• Level of detail?
• Apply the appropriate standard of proof.
  • Preponderance of the evidence (maybe this)
  • Clear and convincing (maybe this)
  • Beyond a reasonable doubt (rare)
• You will very likely feel uncomfortable. It’s okay.

Credibility Determinations: Motive

• What is the relationship?
• Classify the witness:
  • Witness with an axe to grind?
  • Witness who wants to protect?
  • Witness who loves the limelight?
  • Witness who doesn’t want to be involved?
Credibility Determinations: Demeanor

• Controversial
• Need a baseline for comparison
• Don’t usually know how the person “normally” behaves
• Cultural/regional/religious expectations may cloud assessment

Eyewitness Testimony

• Reliability
• Selective Attention
• TIP: Seek corroborating evidence
Case Study Review

• Assessing credibility
  • Inconsistencies?
  • Corroborating evidence?

Credibility Determination: Impact of Trauma (Fear-based Response)

• Impacts ability to retell and recall info
• Likely gaps in memory
• Memories are not encoded chronologically
• Shame, blame and fear
• Reluctance
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