

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

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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?

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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?

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Other Types of Evidence

- Character evidence
- Recordings
- Polygraph/lie detector tests



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Case Study Review

- What corroborating evidence do we have?
- What circumstantial evidence do we have?
- What else do we need?

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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



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Eyewitness Testimony

- Reliability
- Selective Attention
- **TIP:** Seek corroborating evidence



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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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