CONDUCTING A THOROUGH ICF/ID INVESTIGATION
How does an ICF/ID surveyor know if a facility has done a thorough investigation? For most situations a facility must at least consider these components when doing an investigation. Not all facility investigations will be the same depending on the type of incident to be investigated. The facility's policies and procedures should give direction on how the investigator is to determine what is done during an investigation of which types of incidents.
What to Investigate...

- Abuse
- Neglect
- Mistreatment
- Injuries of Unknown Source
A key change was made in the definition of abuse. The former definition of abuse was as follows, “‘Abuse’ refers to the ill-treatment, violation, revilement, malignment, exploitation and/or otherwise disregard of an individual, whether purposeful, or due to carelessness, inattentiveness, or omission of the perpetrator.” The updated definition eliminates accidental incidents and focuses on the “willful infliction” of abuse.
Injury of Unknown Source Defined

☐ An injury should be reported as an “injury of unknown source” when:

- The source of the injury was not witnessed by any person and the source of the injury could not be explained by the client; and
- The injury raises suspicions of possible abuse or neglect because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) or the number of injuries observed at one particular point in time or the incidence of injuries over time.  

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Number/Incidence of Injuries

- What number of injuries observed at one point in time would be significant? What would constitute a pattern (“...incidence of injuries over time”)?

- These questions must be addressed in facility policies and procedures. Policies and procedures must also specify the following information related to injuries:
  - What and when to document
  - How incidents will be tracked (e.g. I/As, QIDP notes, etc.)
  - Who is responsible for monitoring the tracking
  - At what point incidents warrant investigation related to number, or incidence, of injuries

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As with all policy oversight, ultimate responsibility lies with the governing body. A lack of consistent monitoring and implementation could result in a citation at W104 (governing body in addition to any citations related to identified concerns (e.g. lack of documentation, monitoring, investigation, etc.).
The facility is responsible for investigating all injuries of unknown source and allegations of mistreatment, neglect or abuse. The particular mechanisms developed by a facility for investigation are at its discretion.

For injuries that do not rise to the level of reportable “injuries of unknown source”, the facility should follow its policies and procedures for incident recording, investigation, and tracking.
What is an Investigation?

- An effective investigation...
  - Is implemented by a plan (facility policies/procedures)
  - Must be objective
  - Collects evidence
  - Analyzes all evidence
  - Reaches a conclusion
  - Makes a recommendation for corrective action

- Drawing a reasonable inference or an assumption about what happened does not negate the requirements for a thorough investigation and reporting of the incident.²

Does the facility have policies & procedures for investigations? Do they address immediacy? Objectivity? Protocols to be used to help in the investigation? Personnel/Positions allowed to conduct investigations?

A delay in the start of an investigation can result in unanswerable questions about the event (e.g. loss or alteration of physical evidence, deficits in memory, provide an opportunity to create previously non-existent documents or alter existing documents, etc.)
When an Allegation is Reported...

- Some accounts of individuals with disabilities who report abuse are dismissed because the individual is not seen as a credible reporter. Keep in mind that an assault may have occurred, even if other things the person says are not likely or possible. Perpetrators often target victims they know will not be good reporters and will not be believed.\textsuperscript{4}

- Ask the person making the report to provide all the information they can to help you understand what has allegedly happened.\textsuperscript{1}
Allegation and Beginning Steps

- If the allegation identifies a suspected perpetrator(s), ensure that all individuals are protected from them. Begin to interview staff and individuals residing in the facility based on the timeline of the allegation.
  - If information related to an alleged perpetrator is not identified (e.g. an injury of unknown source is reported), interview staff in generalities, attempting to gather as much data as possible within a reasonable suspected timeline of the event.
  - Ensure the required reporting is completed. This may include adult/child protection, outside services (e.g. if an individual alleges abuse by a teacher), guardian(s), etc.

***See the BFS website for flow sheets***
W153 INTERPRETIVE GUIDANCE:
The facility must immediately report any suspicious injuries of unknown source and all allegations of mistreatment, neglect or abuse to a client residing in the facility regardless of who is the alleged perpetrator (e.g., facility staff, parents, legal guardians, volunteer staff from outside agencies serving the client, neighbors, or other individuals, etc.).

W155 INTERPRETIVE GUIDANCE:
The facility must take all measures necessary to protect the client, including removal of the staff from working with the client if indicated.
Police Involvement

- In some cases, it will be necessary to work with the police. They will:

  - Ensure possible evidence of a crime (especially in serious physical and sexual abuse cases) is collected in the proper manner. Do not attempt to collect evidence yourself.

  - Ensure any witnesses to a possible crime are properly questioned.
What to Gather

- Allegations of abuse, neglect or mistreatment vary in specificity. The level of detail provided at the time of the initial report will determine how the investigation proceeds.

- When investigating, one could keep in mind the 5 ‘W’ questions and “How?”:
  - Who?
  - What?
  - When?
  - Where?
  - Why?
  - How?
Who Should Be Interviewed?

- The alleged perpetrator
- Any potential witnesses. This will vary based on the allegation. Witnesses can include:
  - Staff from a specified shift or from other shifts of the date in question.
  - Staff who have worked during the time period in question.
  - Staff who have worked with a particular person.
  - An individual’s contacts (doctors, school staff, vocational staff, family, etc.)
  - The individual involved in the alleged incident
  - Other individuals
- No one knows what goes on in a facility better than the individuals residing there. It is important to ensure each person that could be a witness is interviewed or there is documentation as to why not (e.g., the individual does not have expressive communication skills).
Who Did It?

- If a specific perpetrator is unknown (e.g. “The staff call me names.”), gather as much information as possible from investigative sources.

- Keep in mind, if the investigation begins revealing a perpetrator(s) – steps to protect individuals from the perpetrator(s) for the remainder of the investigation must be taken.
What Happened?

- The what, to a degree, will always be known in order to identify the issue as something warranting investigation.

- For injuries of unknown source, ensure that details related to the size, location, color, pattern and number of injuries are gathered.
When?

- Details related to the date and time of the incident have a direct effect on interviews.

- If an allegation is general (e.g. “Mrs. Doe yells at me.”), the number of potential witnesses could be larger. Also, general terms could mean that the situation has been going on for an extended period of time.
Regardless of the allegation type (a specific incident or potential ongoing issues), it is important to interview as far back as necessary to gather information.

For example, if an individual points to a bleeding scratch and states a staff caused it, interviews with those in contact with the individual 2 weeks prior would not be necessary. The opposite is also true, if a physician finds an “old break” on an x-ray of an individual that has been in the ICF/ID since age 5, interviews with those in the individual’s life for a significant amount of time would be most helpful.
Where?

- Depending on the facility, the setting may make a difference in evidence collected. For example, if the alleged incident occurred in the living room of a facility with recording video cameras, the footage can be referenced as another source of data.

- If the alleged incident took place at an outside service, it is still the responsibility of the facility to protect the individual and thoroughly investigate as best possible.
Why?

☐ In most cases, the “why” is irrelevant. As included above, the definition of abuse states an act can be abuse “…whether purposeful, or due to carelessness…”

☐ However, the “why” can sometimes make a difference. For example, say Staff A alleges Staff B neglected Individual #1 by failing to check on Individual #1 every 30 minutes during a graveyard shift. If there was no outcome (Individual #1 is high-functioning and slept through the night without issue) and Staff B failed to do 30-minute checks as indicated in company policy due to being a new hire, it may be appropriate to re-train Staff B on company expectations.
Additional Sources of Information

- For injuries of unknown source, check the individual's record for similar injuries. Also, identify any diagnoses or medications that have the potential to place the individual at risk for injury.

- For incidents of alleged abuse, examine the individual for injuries and provide medical care as needed.
Other sources can be reviewed depending on the incident type and facility. This can include:

- Observations
- Staff schedules
- Incident and Accident Reports
- Personnel files
- Behavior data
- Nursing notes
- Environmental review (e.g. the condition or placement of furniture related to injuries of unknown source)
- Any other documentation as company policy dictates
How?

- Once sufficient information is gathered, the investigator should know, or have a good idea of, how the incident took place.

- Knowing how an incident took place is important to understand and address the root cause of the problem.
Corrective action is key in resolving the incident being investigated as well as preventing incident recurrence. A lack of corrective action in itself can be neglect.
Correction

- For example, an individual has a bruise of unknown source discovered to be from walking into a dresser.

- Corrective action may be to re-train all direct care staff who were on shift at the time the individual walked into the dresser. This may result in better supervision levels and may prevent future occurrences.

- However, corrective action aimed at the root cause might be to move the dresser, pad the edges of the dresser or add a training program for the individual to be more aware of his or her surroundings.
Correction

- The time after the implementation of corrective action should be used to monitor the changes, re-assess effectiveness and adjust as needed.

- If the investigator is uncertain of the root cause, post-implementation is a good time to ensure the corrective action was a successful solution.
As an investigator, give yourself credit for what you do. Document each step of the investigative process.

Signed statements are great documentation of witness interviews. **Be aware that additional allegations requiring investigation can surface in written statements.**

Documentation can include, but is not limited to, reporting dates and times, the allegation itself, interviews conducted with names, dates and times, medical care given, protection information and corrective action taken.

***See the BFS website for Abuse Prevention and Investigative Tools***

There is no federally mandated format for the investigative report. An analysis of all the evidence collected, specifically pertinent facts uncovered in the investigation, will lead the investigator to a conclusion that determines what corrective action is needed. Remember that the results of the investigation must be reported to the Administrator within 5 working days.
If possible, review the investigation with a co-worker or administrative team. A second set of eyes can be helpful in reviewing investigations for comprehensiveness. Things to consider:

- Was all relevant evidence gathered?
- Was all evidence reviewed?
- Were there any discrepancies/conflicts between the evidence gathered?
- Were the discrepancies resolved/explained?
Questions/Comments

☐ Please send your comments or questions to:

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References


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