

Documenting and Reviewing the Investigation

PIB Investigator Training E-Learning Module 4

IAPro Case File Contents

Section 1

IAPro Case Files

- ▶ IAPro electronic case files shall include all of the following materials that are relevant to the investigation:
 - ▶ Records
 - ▶ Evidence
 - ▶ Investigative reports
 - ▶ Notes
- ▶ Investigators are required to document **ALL** case work in the IAPro case file.



What must be documented in IAPro?

- Communication attempts for complainants, accused, and witnesses.
- Reports, texts, photos, video, evidence.com links, emails, handwritten notes, and voicemails.
- Case discussions with PIB staff or supervisors.
- The date and time that the evidence, information, or statement was obtained.



IAPro: Investigative Reports and Tasks

Section 2

IAPro: Investigative Reports and Tasks

Investigative Reports

- Investigative Reports are a record of the substantive investigative steps taken and the information gathered.

Tasks

- Tasks are for investigative steps that are completed, but *do not* generate substantive information.

IAPro: Investigative Reports

- ▶ Reports must detail all persons spoken to and all information said or provided.
- ▶ Investigative reports shall be submitted to the investigator's supervisor within 48 hours of completing the related investigative step.

Examples of when an Investigative Report must be written include, but are not limited to:



After a complainant or witness interview

After reviewing BWC footage to document parts relevant to investigation

Documenting when the State's Attorney's Office reports to the investigator regarding their prosecutorial decision

After reviewing phone records and emails to document a timeline of events

Documenting relevant information gleaned from medical records

Documenting the suspension of an officer

IAPro: Tasks

- ▶ All tasks must be entered into IAPro by the end of the investigator's tour of duty on the day that the task occurred.
- ▶ Whenever Legal Affairs is consulted by the investigator, the investigator must document the fact that the investigator consulted Legal Affairs as a "Task" in IAPro.

Examples of when Tasks must be entered into IAPro include, but are not limited to:



Leaving a voicemail for a complainant requesting a return call

Visiting the home of a witness and leaving a business card when no one responds

Mailing a request for medical records

Conducting an area canvass, including pertinent details (where, when, what did you do)

Procedures for Review and Evaluation of Evidence

Section 3

Evaluating Statements

- ▶ Statements made by involved parties and witnesses must be carefully evaluated as to relevance and credibility.
- ▶ Only objective criteria relating directly to the truthfulness or credibility of the person should be used in deciding what weight is to be given to their testimony. Some examples include:
 - ▶ Statements that are not consistent with established facts or are consistent with established facts
 - ▶ A past history of untruthfulness
 - ▶ Statements that are not corroborated by other evidence



Existence of a criminal record or a witness's connection to a complainant or officer should NOT alone be determining factors in establishing credibility.

Evaluating Statements

- ▶ Care should be taken to mitigate the effects of bias (conscious or unconscious) on the part of the investigator.
- ▶ Investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.
- ▶ Investigators must recognize that even truthful, accurate narratives of events may contain some inconsistencies and contradictions.



Inconsistent Statements

- ▶ When inconsistencies occur, investigators and reviewing supervisors should not automatically disbelieve the person who made an inconsistent statement.
- ▶ The investigator should consider whether the inconsistencies relate to significant or insignificant matters and whether the inconsistency is reasonable in light of the circumstances.



A witness motorist may inconsistently state which lane their vehicle occupied but nonetheless provide details about the incident that correspond closely to video footage of the incident.

The inconsistencies may be the natural consequence of the witness's focus on the incident, rather than an indicator of untruthfulness or generally faulty memory.



Credibility Determinations

- ▶ Investigators shall make credibility assessments when reviewing the statements/allegations of complainants, accused employees, and witnesses based on the nature of the statements/allegations and the issues of the case.
 - ▶ Determinations must be based on independent, unbiased, and credible evidence.
 - ▶ Investigators shall use a *preponderance of the evidence* standard when making credibility determinations.
 - ▶ Investigators shall not give automatic preference to a BPD member's statement over a complainant's statement, or vice-versa.
 - ▶ When a member's disciplinary history includes Unfounded, Exonerated, or Not Sustained cases, these cases cannot be used in a credibility determination unless there is a clear pattern or relevancy to the subject case.

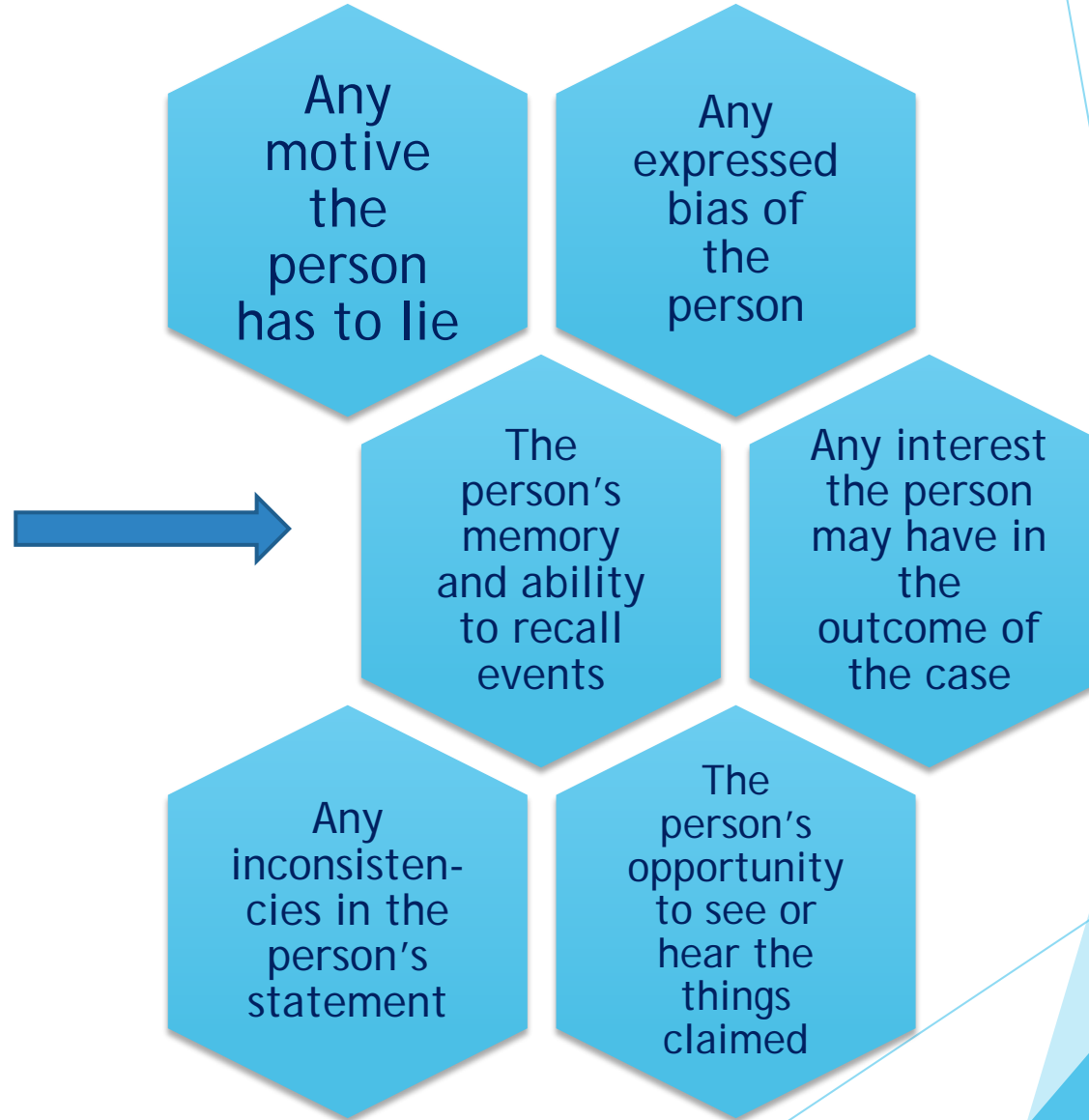
Preponderance of Evidence

Evidence that establishes it was more likely than not (51% / 49%) that the alleged misconduct did or did not occur.



Credibility Assessment Factors

Factors to consider
when making a
credibility assessment
include, but are not
limited to:



Assessing Documentary Evidence

- ▶ The investigator must make assessments as to the authenticity and probative value of documents offered as evidence.
- ▶ The investigator must determine...
 - ▶ If the given document is authentic
 - ▶ Whether or to what extent statements or information contained in an authentic document shed light on issues relevant to the investigation
- ▶ Apply the same standards to documents offered by external and internal sources.

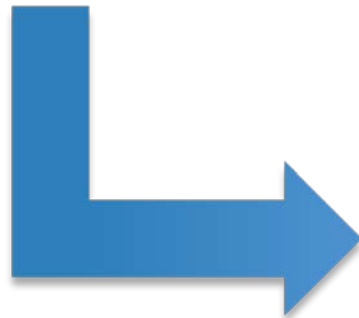


Completion of the Investigation

Section 4

Investigative Summary Procedure

- ▶ Investigator will adhere to the following procedure when summarizing an investigation:
 - ▶ Discuss the investigation and projected conclusion with their immediate supervisor.
 - ▶ Prepare an Investigative Summary Report



The investigator will make a recommendation regarding a disposition for each allegation but will not provide a finding; the Lieutenant is responsible for making the initial finding. The final determination of the case finding will be made by PIB Command.

Investigative Summary Report

- ▶ The Investigative Summary Report shall include the following:
 - ▶ Narrative description of the incident;
 - ▶ Documentation of all evidence gathered;
 - ▶ Documentation of whether officers or other BPD employees were interviewed (including audio and video and transcript of those interviews, if available);
 - ▶ The investigator's evaluation of the incident, including a determination of whether the officer's actions appear to be within BPD policy, procedure, regulations, orders, or other standards of conduct required of BPD members;
 - ▶ Explicit credibility findings, including supporting evidence that supports or detracts from a person's credibility;
 - ▶ Precise descriptions of material inconsistencies;
 - ▶ Documentation of officer's certification and training if a weapon was used;



Disposition Recommendation

Section 5

Disposition Recommendations

- ▶ For each allegation of misconduct, investigators shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:
 - ▶ **Unfounded** - where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the accused officer (*reminder that 'clear and convincing' is a higher standard than 'preponderance of evidence'*);
 - ▶ **Sustained** - where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur;
 - ▶ **Not Sustained** - where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;
 - ▶ **Exonerated** - where the evidence determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate BPD policies, procedures, or training;



ATTENTION!!!

The investigator shall not use the disposition “administratively closed” or “tracking only”. This disposition has been discontinued.

Module 4



Complete