

An Investigator's Tools

Note: Not all tools and forms are used in every investigation. That will be determined by the Investigation Plan.

Practice Forms

- Client intake form.
- Client agreement/retention letter/cover letter.
- Timeline of events
- Investigation checklists.
- Pre-investigation letter to complainant.
- Investigation notice to respondent.
- Admonition to witnesses.
- Witness agreement.
- Consent for recording.
- Complainant interview template.
- Respondent interview template.
- Witness interview template.
- Investigation report template.
- Post-investigation letter to complainant.
- Post-investigation letter to respondent.

Client Intake Procedure

1. Client intake form.
2. Client conflict check.
3. Initial consultation - is the potential client a good fit?
4. Identify the investigation process followed, potential fees and costs, and what happens next. If working through an attorney discuss your mutual plan.
5. Find out who is involved in company decision making.
6. Client retainer agreement and cover letter.
7. Thank the referral in a meaningful way.

The Investigation

1. Create a foundation/set the stage (do it quickly)
 - Review any complainant or witness statements.
 - Meet with the HR executives and other decision makers.
 - Find out what you can about the company and potential witnesses.
 - Do a web search, look at Glassdoor and social media sites.
 - Gather all relevant company policies and procedures and personnel files. See Document Checklist.
 - Set up an interview calendar, locations.
 - Send out acknowledgment of complaint and interview notices.
 - Create a preliminary calendar of events.
 - Create the Investigation Plan document.
2. The Interviews
 - Identify the main issues and prepare interview questions.
 - Begin with admonitions.
 - Record or not?
 - Permission to record - sign statement.
 - Complainant - go over written complaint if furnished.
 - Look for all facts, documents and witnesses.
 - Continue all interviews until all facts, documents and witnesses that can be obtained have been.
 - Conduct any follow-up interviews.

Investigator's Checklist

1. Be clear on the issue(s) being investigated.
2. Don't delay - time is of the essence.
3. Prepare a timeline of events in Excel.
4. Keep your confidences! Do not say more than you should.
5. Read your admonitions to complainant, respondent and witnesses. Give them a copy. Ask if any questions.
6. Don't leap to conclusions. Conduct a thorough investigation.
7. Think in terms of facts, documents and witnesses.
8. Take accurate notes. Record the interview if possible (permission given).
9. Remember to assess witnesses for credibility.
10. Don't cut off witnesses. Use silence.
11. Go back to earlier witnesses for clarification.
12. Do not allow yourself to be compromised, manipulated, threatened, intimidated or in any other way limited in your ability to access and report the truth.
13. Don't strong arm, threaten or otherwise intimidate witnesses.
14. Don't invade people's privacy rights.
15. Take your time to write an excellent, concise report.
16. Properly maintain copies of report, notes, etc.
17. Do not provide legal advice unless it is part of the retainer agreement.

Potential Documents

- | | | |
|--|--|--|
| <input type="checkbox"/> Attendance Records | <input type="checkbox"/> Emails | <input type="checkbox"/> Pictures |
| <input type="checkbox"/> Audits | <input type="checkbox"/> Employee handbook + acknowledgment | <input type="checkbox"/> Policies and procedures |
| <input type="checkbox"/> Background reports | <input type="checkbox"/> Expense Reports | <input type="checkbox"/> Postings |
| <input type="checkbox"/> Bank and other financial records | <input type="checkbox"/> Help wanted posts, ads | <input type="checkbox"/> Safety reports |
| <input type="checkbox"/> "Bottom drawer" files | <input type="checkbox"/> Immigration documents | <input type="checkbox"/> Schedules |
| <input type="checkbox"/> Calendars | <input type="checkbox"/> Inquiry reports | <input type="checkbox"/> Social Media posts |
| <input type="checkbox"/> Computer & cloud records | <input type="checkbox"/> Inventory records, equipment logs, check in/checkout sheets | <input type="checkbox"/> Software programs (HRIS, sales management, performance management, customer support, etc) |
| <input type="checkbox"/> Contracts and agreements | <input type="checkbox"/> Job application | <input type="checkbox"/> Texts |
| <input type="checkbox"/> Correspondence (notes, cards, letters, etc) | <input type="checkbox"/> Medical records (watch HIPAA concerns) | <input type="checkbox"/> Training records |
| <input type="checkbox"/> Court records (criminal, civil, domestic, bankruptcy) | <input type="checkbox"/> Payroll records | <input type="checkbox"/> Videos (surveillance) |
| <input type="checkbox"/> Credit Card Charges | <input type="checkbox"/> Performance evaluations | <input type="checkbox"/> Websites |
| <input type="checkbox"/> Disciplinary notices | <input type="checkbox"/> Personal devices | <input type="checkbox"/> Work complaint |
| <input type="checkbox"/> Drug or alcohol tests | <input type="checkbox"/> Personality assessments | <input type="checkbox"/> Work product |
| <input type="checkbox"/> Electronic signatures | <input type="checkbox"/> Personnel files | |

Assessing Credibility

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|--|---|---|
| <input type="checkbox"/> Aggressive? | <input type="checkbox"/> General demeanor? | <input type="checkbox"/> Omissions? |
| <input type="checkbox"/> Caught lying? | <input type="checkbox"/> Inappropriate response? | <input type="checkbox"/> Plausible? |
| <input type="checkbox"/> Declaration against interest? | <input type="checkbox"/> Inconsistencies? | <input type="checkbox"/> Prefacing answers |
| <input type="checkbox"/> Defensive? | <input type="checkbox"/> Judgment towards others? | <input type="checkbox"/> Prior acts? |
| <input type="checkbox"/> Documentation? | <input type="checkbox"/> Lack of details? | <input type="checkbox"/> Refuse to answer? |
| <input type="checkbox"/> Evasive? | <input type="checkbox"/> Lack of proof? | <input type="checkbox"/> Speculation? |
| <input type="checkbox"/> Fail to deny? | <input type="checkbox"/> Memory problems? | <input type="checkbox"/> Story changes? |
| <input type="checkbox"/> Feigned anger or crying? | <input type="checkbox"/> Motive? | <input type="checkbox"/> Who they shared info with? |
| <input type="checkbox"/> Fidgety? | <input type="checkbox"/> Non-cooperative? | |