

#aiTIXAdvInvestigator

10-STEP INVESTIGATION MODEL INTRODUCTION



1

AGENDA

- I. The Complex Scenario
- II. Qualities of an Investigator
- III. Where to Start - Shell
 - i. Pre-Flight
- IV. Step by Step Approach - 10 Steps
- V. Approaches to Specific Types of Cases (Session 3)
- VI. Harvard IAT - Check Your Own Biases (Session 3)



2

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Complaint, Counter Complaint, Retaliation

THE SCENARIO



3



ACTIVITY

To: Title IX Office

I need to report another student who is stalking me. Eliza Darcy has been following me around campus, lurking around my dorm and my classrooms, sneaking up on me in the dining hall, and yelling at me when I told her to stop. I told my RA today, and we called the police and told them about it. I wanted to also tell the Title IX office. I can't learn on a campus where I don't feel safe. Something has to happen; she has to leave me alone.

Sincerely,
Jane Bingley



4



CHAT

What are you thinking now?

What's your game plan?

5

QUALITIES OF AN INVESTIGATOR

Open-
minded

Courageous

Culturally
conscious

Aware of
own biases

Organized

Detailed-
oriented

6

KEY TO APPROACH

“Of all the ploys and techniques, the most important and, sadly, the most usually neglected is good organization. While this principle is the oldest and most widely recognized, it is the one that is most frequently violated.”

- McElhaney, Trial Notebook, *An Introduction to Cross-Examination*, 2 Litig 37, 48 (Spring 1976).

7

WHERE TO BEGIN?

start

- Investigate one time or separate investigations?
- OUTLINE your approach – deliberate, methodical; set expectations for time to completion
- Send out new notices of investigation for each complaint with specificity

8

■ WHERE TO BEGIN?

- Frame the beginning by what you'll need at the end
- A report that sets forth each complaint (e.g., harassment, stalking, sexual contact)
- The elements of each
- The evidence that addresses each

9

■ 10-Step Investigation Model

10

1. Identify Violations and Elements
2. Gather Information
3. Determine Interview Logistics
4. Review and Outline
5. Developing Questions
6. Using Documents
7. Starting the Interview
8. Questioning
9. Wrapping It Up
10. Specific Techniques/Situations

10

STEP 1: Identify Violations and Elements

Example: Stalking

1. repeated following, watching, or harassing
2. of a specific person
3. that would cause a reasonable person to
 - a. fear for their safety or the safety of others, or
 - b. suffer substantial emotional distress

You will **target questions** to these elements and will frame your report around the elements.



11

STEP 2: Gather Information

Information gathering.

- Documents **BEFORE** interviews
- Student files, class schedules, activities
- Identify the location of the incident – surveillance camera (eyewitnesses identified from these)
- Cultural issues
- Documents **FROM** interviews
 - Social media and chat logs; IPs?
 - Photos/videos
 - Gather as much prior interactions between the parties as possible
 - Ask to read/copy their text messages
- Note re: “privileged materials”



12

STEP 3: Determine Interview Logistics

- Order of interviews
 - Usually going to be complainant/respondent first
 - CP then her witnesses?
- Try not to schedule interviews for more than 2-hour sessions
- Neutral place*
(digital world?)



13

STEP 4: Review and Outline

- REVIEW all the documents/evidence **BEFORE** your first interview
- START chronology
- OUTLINE your interview
 - Outline should start with what you think you know and be designed to help you figure out:
 - What you don't know
 - Whether what you think you know is correct (confirming or refuting what you do "know")
- BRAINSTORM your outline
- ELEMENTS and source of them (policy)



14

STEP 5: Developing Questions



15

STEP 6: Using Documents

Using Documents

- Organize documents by witness
- Two sets: one with your notes about what you want to ask, the other clean for use with the witness
- If it is to or from that witness, lay groundwork BEFORE you show them the document
 - Emails, texts, photos, videos, chat logs, social media

16

STEP 6: Using Documents

Organizing them

- On your copy, mark (for example: 1) in big marker on the first page. Have a folder marked “1” for the associated document, clean copy, for your witness.
- Put your own copy in whatever order makes sense to you
- When you get to the document in your outline, just find the folder with the same number, pull it out, and go!
- You and/or your interview partner in taking notes can refer to the document as #1 instead of “showed email of 9/4/2019,” “showed doc #1.”
- Keep an index of the documents so you can be sure what you were asking about later.

17



ACTIVITY

Prepare a Document

18



QUESTIONS