

**INSURANCE DEPARTMENT INVESTIGATOR SAFETY GUIDELINE**

*(Adopted by the Market Regulation and Consumer Affairs (D) Committee 8/26/13)*

***Introduction***

The purpose of this Guideline is to provide states and their investigative department's guidance as they develop policies concerning the safety of their investigators. While not all dangerous activities or situations can be avoided, the risks associated with investigators' work can be minimized. This Guideline outlines the potential issues to be considered by states when developing safety policies, as well as providing tips and useful guidance. The Guideline provides direction regarding safety policies, procedures and precautions that can be taken to ensure investigators remain safe while conducting field operations.

***Safety Recommendations and Reporting Procedures***

Before an investigator steps foot in the field, there are several basic procedures and policies a department can follow to minimize or alleviate the risk of harm. One basic first step is to provide investigators with identification cards which show that the investigator is authorized by the state and that bear the investigator's name and photograph. This demonstrates the investigator's legal authority to be on the premises.

In addition, departments should consider developing an investigator safety form. This form would contain personal information concerning an investigator which can be provided to law enforcement agencies in the event of an emergency. The forms should remain on file with the department and access should be restricted to only those few individuals in a "need to know" position.

Departments should consider developing a roll call procedure to always be aware of the whereabouts of each investigator. Departments should require investigators and examiners to report their expected locations for each workday. Departments should also consider having team members coordinate work hours and schedules so that examiners or investigators never enter or work in an agency alone. Along with this roll call procedure, Departments should require their examiners and investigators to report in at pre-set times during the day and to check out at the end of the workday.

Departments should also develop a procedure and protocol for instances in which there is no contact with an investigator. Investigators should be required to notify their supervisor when they will not arrive at work on time. Departments should establish a contact procedure when an investigator does not arrive at work or to an interview site within a specific timeframe. Departments should also consider having a contact person that the investigator can inform when leaving a vehicle before an interview and when returning to the vehicle after the interview.

In addition, departments should develop a chain of command for reporting any incidents, threats or use of force during an investigation. This policy will be developed more fully below.

***Interview Procedures and Policies***

Departments should also train investigators and develop policies and procedures surrounding interviews of witnesses and potential suspects. At the outset, departments should consider whether to or if there is a need to involve law enforcement during the interview process. For example, the department could develop a criteria for law enforcement to be present on examinations or interviews: if the subject has made threats or been overly aggressive; if the subject has a history of violent behavior; or if there has been tension.

Regardless of whether law enforcement is involved, departments should consider other procedures to protect the safety of investigators during an interview. Where the resources are available, a department should require two investigators to be present in some or all situations, including interviews or examinations. Two investigators are particularly important for interviews with suspect subjects and victims or witnesses with a criminal past.

Following the interview or examination, the investigator should prepare a report or summary of the events for a supervisor at the end of the business day. The supervisor can then review the information and determine if there is a need for additional assistance during an examination and/or on future interviews.

The department should also consider requiring interviews or examinations to be conducted in a protected venue. Some possible locations for consideration are a public place such as a restaurant, coffee shop or public library; the insurance department office; or a law enforcement office or courthouse which will have metal detectors and screenings prior to entry. Departments may consider a ban on conducting interviews in a subject's home.

### ***Safety Equipment and Use of Force Policies***

Each department or legislature will need to consider the use of safety or protective equipment for its investigators. States vary as to whether their investigators are trained similarly to law enforcement and whether the investigators have access to certain safety or protective equipment. Although this determination is often made outside of the department, each department should consider the need for such safety or protective equipment or training. Should the department make safety or protective equipment available to its investigators, the department should consider implemented guidelines and training on the use of force.

Departments should determine which types of safety or protective equipment are appropriate for use by investigators. Some states may choose to arm investigators, while others may use other safety or protective equipment such as batons, pepper spray, etc. Departments may want to determine the need for safety or protective equipment such as bullet proof vests based on the situation, the witness or suspect and prior criminal history.

If the department decides to not allow concealed weapons as mentioned above, there should be consideration of partnering with law enforcement authorities to have an armed officer accompany investigators on interviews with suspects or witnesses with a history of criminal activity or aggression or when there is reason to believe that the situation may become hostile.

If weapons are issued, consider when the weapons should be used and or carried. Considerations include when conducting surveillance, when conducting interviews of targets of an investigation, or when conducting interviews of parties associated with an investigation (this may be done on a case-by-case basis considering criminal history of party, relationship with subject, etc.). The department should consider situations in which the equipment may not be carried for safety purposes—i.e., non-work situations, out of state, travel, courtroom, etc. If the department decides to provide weapons, it should develop a policy for storage of weapons and for reporting lost or stolen weapons.

If a department decides to issue weapons of any kind, the department should develop a use-of-force policy to determine when use of force is appropriate. The information below should be considered and incorporated in any use of force policy.

In a confrontational situation, personnel shall identify themselves and issue verbal commands whenever feasible. If the command fails, personnel shall leave the area. When attempts to diffuse the situation fail, self-defense may become necessary; however, responses to aggression must be reflective of the amount of aggression given by the subject. When an investigator has reason to believe that an act of aggression poses a credible threat of physical harm and attempts to diffuse the situation have failed, the investigator shall defend in a manner consistent with the aggression, using only the minimum level of force necessary to defend. Departments need to consider the type of situations which may arise and train personnel on use of force policies. See the table below for an example of an appropriate use of force policy.

<b>Individual's actions</b>	<b>Personnel's response</b>
<i>Blue</i>	<i>Blue</i>
Verbal threats or other physical danger cues	Attempt to leave situation
<i>Green</i>	<i>Green</i>
Blocking escape	<ul style="list-style-type: none"> <li>• Balance displacement technique</li> <li>• Striking muscle groups</li> <li>• Takedowns</li> <li>• Verbal Commands</li> <li>• Defense spray</li> </ul>
<i>Yellow</i>	<i>Yellow</i>
Wrestling with personnel	<ul style="list-style-type: none"> <li>• Striking, punching, kicking</li> <li>• Defense spray</li> <li>• Any response listed above</li> </ul>
<i>Orange</i>	<i>Orange</i>
Striking or kicking personnel	<ul style="list-style-type: none"> <li>• Baton techniques</li> <li>• Any response listed above</li> </ul>
<i>Red</i>	<i>Red</i>
<ul style="list-style-type: none"> <li>• Weapons used against personnel that could result in death or serious physical injury</li> <li>• Attempting to disarm personnel</li> <li>• Life threatening non-weapon assaults</li> </ul>	<ul style="list-style-type: none"> <li>• Deadly force</li> <li>• Natural weapons available</li> <li>• Any response listed above</li> </ul>

Should an investigator receive a threat or injury during the course of an interview or investigation, the department should develop procedures to respond to such threats or injuries. Ideally, the department would establish a chain of command for reporting procedures. The first report should be to the director or supervisor. The director or supervisor should be immediately notified if there is any injury or alleged injury to investigative personnel or if there is any threat made to an investigator. The director or supervisor should also be made aware of any damage to property. If an investigator used restraint used to subdue an individual or if any response to aggression was necessary, the director or supervisor should be made aware and the incident should be formally reported.

Following any reporting of these issues, there should be an internal investigation of the incident and possible coordination with law enforcement authorities. There should be a regular review of these incidents to ascertain future training and policy needs.

The next chain of reporting would be to criminal law enforcement authorities if the incident rises to the level of a misdemeanor or felony.

***Training Recommendations***

All investigators should be required to attend and pass department-approved safety training. The NAIC and the Antifraud (D) Task Force are developing a training program and webinar for investigators. Departments should consider requiring refresher safety training sessions on an annual basis. In addition to this program, departments may want to consider regular training sessions with local law enforcement authorities.