

# The art of the effective HIPAA investigation (Privacy and Security)

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# Agenda

- **Introduction and objectives**
- **Children's background information**
- **Investigation basics**
  - **Sources of Investigations**
  - **Overview of Children's investigation process**
- **Key factors and helpful reminders**
- **Case studies – the real, the irrational and the just plain weird**
- **Questions and answers**

# Objectives

- **Review the basics of investigative procedure and the approach to Privacy and Security investigations that Children's Medical Center Dallas has employed**
- **Discuss the key factors that lead to successful investigative outcomes**
- **Review case study examples of investigations**



# Background

- **Private – Not for profit, located in Dallas, TX with 325 operating patient-beds**
- **One of US News and World Report's Top 25 Pediatric Hospitals in 2005; approx. 250 facilities were reviewed for the list.**
- **Children's is a designated Level 1 Trauma Center-the only pediatric hospital in Texas and the Southwest and one of only 14 in the nation with this distinction.**
- **A system of nearly 50 outpatient specialty clinics providing a comprehensive range of care to children with specialized medical needs**
- **Children's Dallas cares for more than 340,000 children each year. One out of every eight children in Dallas County is treated at the hospital at some point in their childhood. (18,402 inpatient admissions in 2004)**
- **One of the nation's largest and busiest pediatric emergency rooms. In 2004 there were more than 88,000 emergency visits.**
- **A major pediatric kidney, liver and heart transplant center with more than 30 transplants in 2004.**
- **Access to the most advanced medical research and treatments available through its affiliation as the primary pediatric teaching facility for UT Southwestern Medical Center at Dallas.**

# Investigation Basics

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- Sources of Investigations
  - Direct report from patient/personal representative
  - Report through Guest Relations
  - Direct report from employee
  - Report from internal department concerning a Security breach
  - HIPAA Hotline
  - Security alert from network monitoring tools
  - Call or direct report to the Corporate Compliance department
  - Audit Findings
  - Personal observations
  - Outside agency findings (JCAHO, TDH, CMS etc.)
  - other

# Investigation Basics

## Overview of Children's Investigative Process

- Receive or Discover notice of incident
- Assign tracking number
  - Document date and time the incident was reported or discovered
  - All incidents are opened as a Preliminary Inquiry, when facts demonstrate necessity it is upgraded to a Formal Investigation
- Assess and review incident report and seek facts of the case
  - Contact appropriate individuals that need to be involved in the inquiry (i.e. Privacy Officer, Information Security Officer, Legal Counsel Compliance Officer etc.)
  - Attempt to confirm the claims made in the incident report and collect any available evidence (if you did not witness the incident yourself)
  - Contact HR if you intend to interview a hospital employee
  - Perform any background research and computer forensic work needed
  - Check any past incidents involving the same department or individuals – look for similarities or patterns

# Investigation Basics

## Overview of Children's Investigative Process (continued)

- **Classify as Closed Preliminary or Upgrade to Formal Investigation**
  - Complete Preliminary Inquiry documentation and close if case goes no further
  - Open and document as Formal Investigation if more action is required
- **Recommend Actions**
  - Disciplinary – through Human Resources
  - Procedural for organization or department specific
  - Address any vulnerabilities (how can we prevent this from happening again)
  - Mitigate any damage caused by the incident
- **Formal Investigation Closure**
  - Production of Executive Summary of events
  - Production of Formal report describing the entire process and actions that have taken place on this issue since the time the issue was reported



# **Key Factors and Helpful Reminders**

Leading to successful outcomes

# Key Factors and Helpful Reminders

- Document and communicate approved investigation process at an organizational level
  - This keeps the process organized and consistent
  - Provides credibility to the investigation and shows that all issues are treated the same regardless of the individuals involved
- Update Privacy and Security Policies regularly to ensure they cover the organizational practices – never assume your policies address everything your staff does
- Make sure it is clear to all levels of management (from supervisors to executives) whose responsibility it is to perform Privacy and/or Security investigations
- Expect some “pushback” – this is where rhetoric become real

# Key Factors and Helpful Reminders

- Maintain control of the investigation process thorough the cycle of events (avoid departmental hand-offs if possible)
- Document, Document, Document – There is rarely such a thing as too much detail when documenting an investigation
- Do not assume anything – especially that you are being told the truth
- Facts speak louder than words
- Seek assistance from peers when needed
- Know what is law and what is lore
- Recommendations for disciplinary actions must be free of emotion
  - Violation vs. sanctions grid
- Be very specific when citing which part of the law may have been in violation – just saying “it’s a HIPAA violation” isn’t enough

# Case Study - Investigations

The real, the irrational  
and the just plain weird...

# Case Study - Investigations

- High Profile Media Coverage
- And now you know...the rest of the story
- Patient Parent / Employee “Drama”
- Privacy violations in the strangest places (fishing for PHI...)

# Summary and Questions

**Questions????**