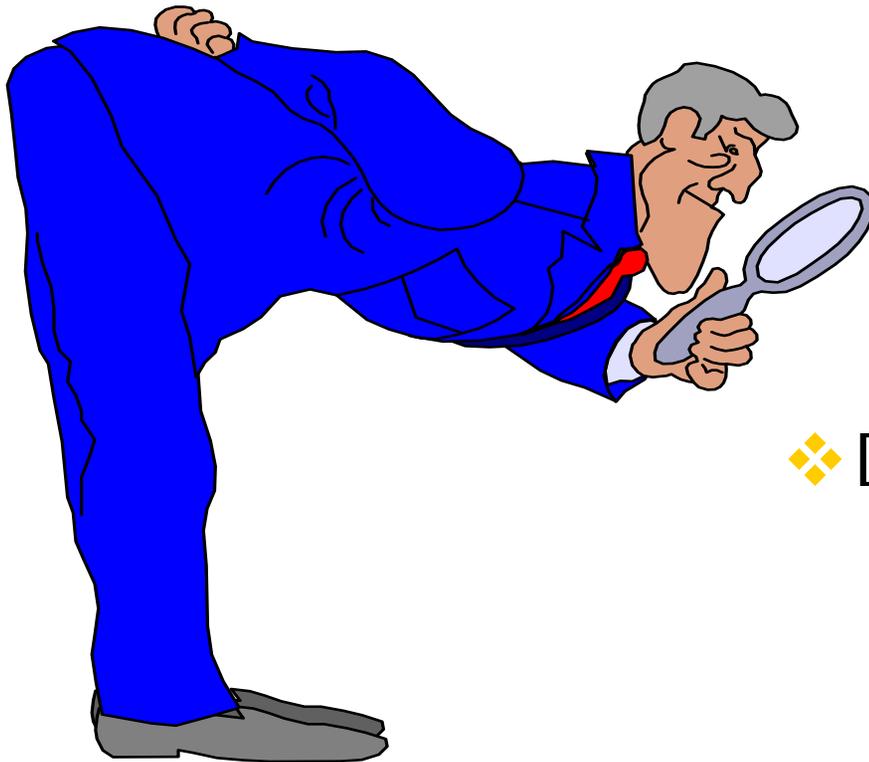


Wisconsin Department of Health & Family Services  
Bureau of Quality Assurance

# The Investigative Process



- ❖ Decision making
  - Evaluating evidence
  - Deciding what else is needed

# Decision Making



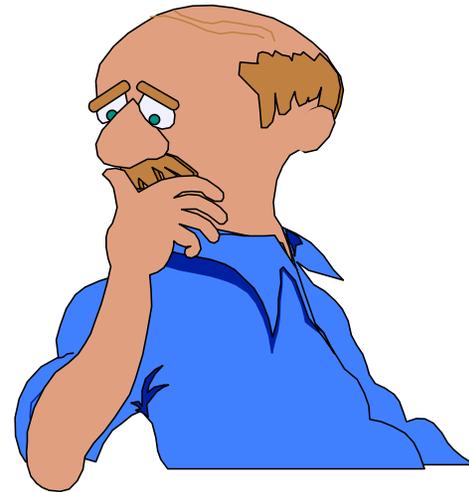
# Process



- ❖ Review
- ❖ Analyze
- ❖ Focus on sources
- ❖ Prioritize information
- ❖ Sequence
- ❖ Collate & record discussions

# Is there a Deficiency or Violation?

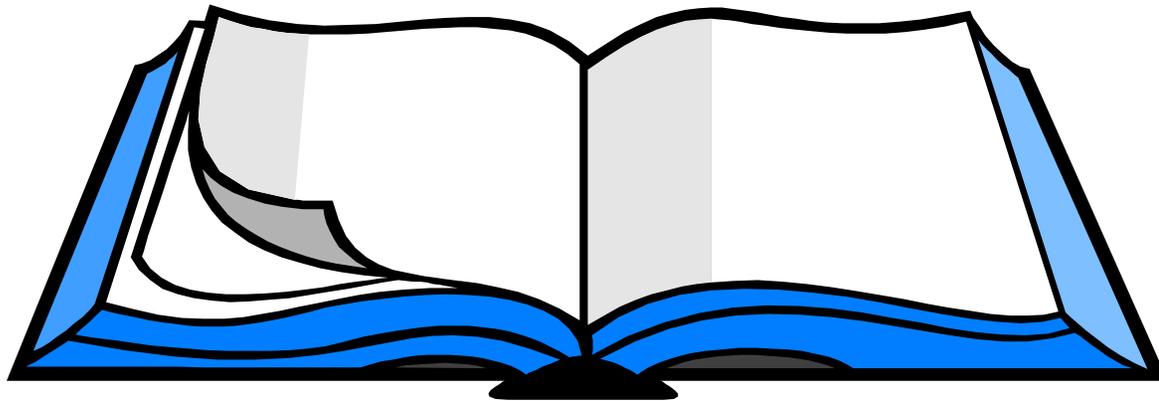
- ❖ Definitions - Look at the law (Federal Regulations, Statute, State Administrative Code)
- ❖ What does the law require?



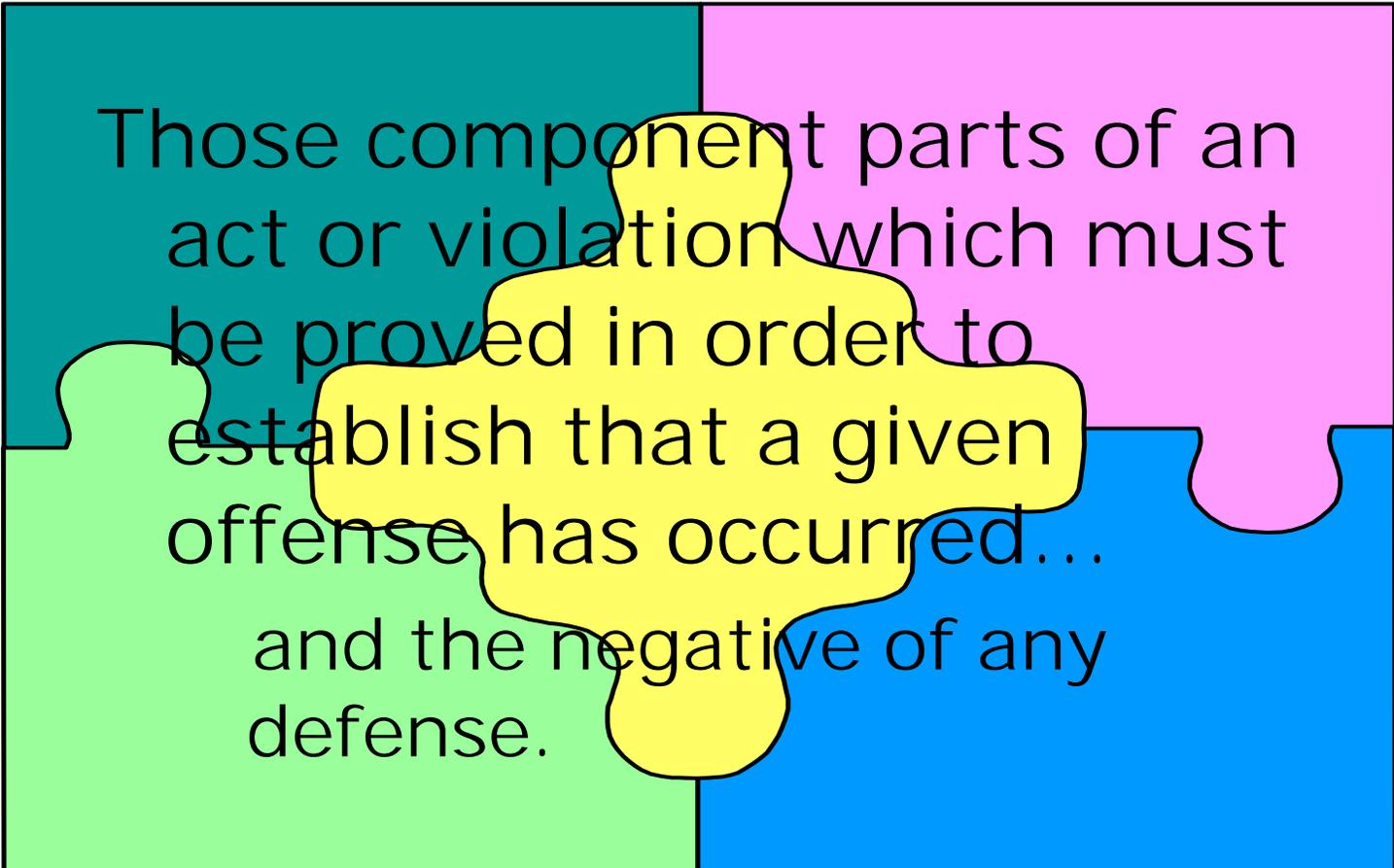
# Understanding the Criteria

## Definitions

- ❖ Language of the requirement (elements)



# Elements of a Violation



Those component parts of an act or violation which must be proved in order to establish that a given offense has occurred... and the negative of any defense.

# Elements

## ❖ Battery, s. 940.19(1), Stats.

➤ “Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed ... .”

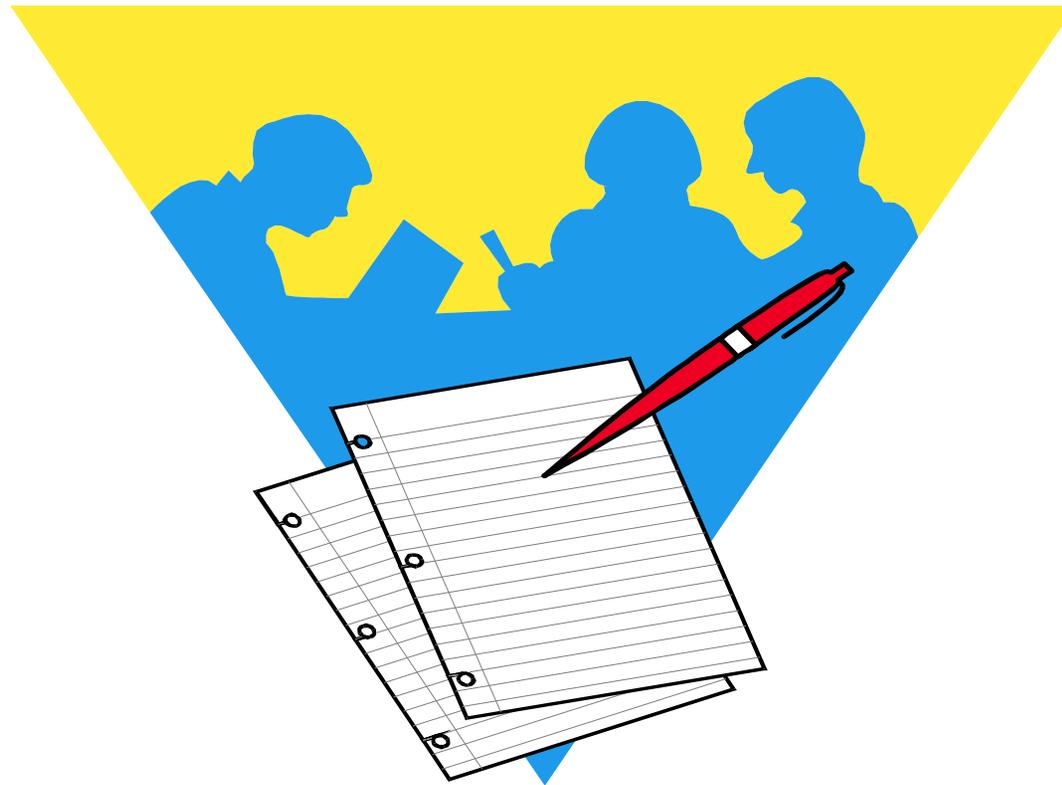
- whoever - the accused person
- caused bodily harm - “physical pain or injury, illness or any impairment of physical condition”
- to another - the victim
- by an act -what the accused person did... slap, hit, punch...
- done with intent to cause bodily harm -why the person acted
- without that person’s consent

# Jury Instructions



- ❖ To find the person guilty, the jury must find:
  - The accused person caused bodily harm to the victim.
  - The accused person intended to cause bodily harm to the victim.
  - The bodily harm occurred without the consent of the victim.

# Is There a Violation?



# Factors Leading to Non-compliance



- ❖ Intentional Abuse
- ❖ Simple or Substantial Negligence
- ❖ Failure to follow policies or established procedures or protocols
- ❖ Ignorance
- ❖ Lack of training
- ❖ Mistake

# More Factors...



- ❖ Lack of supervision and monitoring
- ❖ Improper maintenance of equipment
- ❖ Creating an unsafe environment
- ❖ Improper practices
- ❖ Failure to properly assess and follow-up

# Deficient Practice or Violation?



- ❖ Was there harm? Could there have been? (actual or potential outcome)
- ❖ History? Previous occurrence(s) -- Knew or should have known of risk?
- ❖ Systems failures vs. isolated incident?
- ❖ Response when discovered? Explanation?

# Evaluating Deficiencies...

- ❖ What is the objective of the regulation?
- ❖ How severe was the harm or potential harm? (Severity)
- ❖ How many individuals were or could have been affected? (Scope)
- ❖ Is it an emergency? Is there a serious and immediate threat?



How much evidence is enough?



# What's relevant?



- ❖ Evidence or information must:
  - pertain to a fact in question (e.g., the alleged violation as a whole or the individual element of a violation/deficient practice)
  - tending to make the existence of the fact either more or less probable than would be the case without the evidence/information
- ❖ SO WHAT????

# Factors affecting relevance

- ❖ Elements of the condition or requirement.
  - What does it say? What is required?
- ❖ Scope
  - Who was affected? Who could be affected?
  - How is each category defined?
- ❖ Severity
  - What harm occurred or could likely occur?
  - How is each category of harm defined?
- ❖ What is the goal or objective?

# Number of Examples



How many examples are needed?

- What is the objective of the requirement?
- What are the elements of the violation
- What is the nature, scope and severity of the violation?

# What's your style?

