

**Conducting a Complex Investigation:
A Guide for Legal Advisors**

8 January 2018

This page left intentionally blank

Table of Contents

INTRODUCTION	1
First Thoughts	1
• Convening Authority	1
• Investigating Officer	2
• Legal Advisor	2
• Gear and Logistics	3
• Do the Homework	4
• Find a Mentor	4
Closing Thought.....	4
PART A – GETTING STARTED/PRELIMINARY DISCUSSIONS	5
Introductory Discussion with the IO.....	5
Understanding the Task – The Convening Order	5
Setting up to Succeed.....	6
• Supporting the IO	6
• Assets and Structure of the Investigation	6
• Funding.....	7
PART B - STAND UP PHASE	8
The Investigation Team	8
• General Comments	8
• Sourcing.....	9
• Numbers.....	9
Specific Personnel Requirements	9
• Team Leaders	9
• Administrative Leader	9
• SMEs/Special Skills Personnel.....	10
• Legal Support	10
• Investigation Team Staff and Administrative Support	10
• Criminal Investigators	10
• Public Affairs Officer	11
• Lead Writer.....	11
Administrative Support.....	12
• General.....	12
• Composition.....	12
Credentials/Documentation for the Investigation Team	13
Space & Equipment	14
• Designated Spaces	14
• Computer/Network Capabilities	15
• Storage and Logistics.....	16

Document Control.....	16
• Intake and Control	16
• Access to Documents.....	17
PART C – INVESTIGATION PHASE	19
Preliminary Administrative Matters	19
• Develop a Charter	19
• Conceptualize the Report.....	19
• Lessons Learned	20
• Long Term Plan of Action and Milestones	20
Battle Rhythm/Staff Meetings	20
Responding to Inquiries	21
Orienting the Investigation Team	21
Conducting the Investigation	22
Information Gathering	24
• Requests for Information	24
• Interviews	25
• Field Observations.....	28
Relationship with Parallel Investigations.....	29
• Responsibilities.....	29
• Safety Investigation	29
• Law Enforcement Investigations	29
• Sharing Information and Methodology	29
• Notifying Witnesses	29
• Interaction with Other Outside Entities	30
PART D – PREPARING THE REPORT	31
• Format.....	31
• The Drafting Stages – Generic Comments	31
• Version Control, Review, and Finalizing the Report	33
PART E – POST-REPORT ACTIVITIES	35
• Public Disclosure of Report.....	35
• Filing and Storage of Investigation	35
APPENDIX	A-1

INTRODUCTION

This guide is a compilation of ideas and practical tips for attorneys who have been assigned as the legal advisor to a large-scale, complex investigation. It is meant to provide a series of considerations from a wide variety of individuals who have dealt with the challenges of conducting large-scale, complex investigations. This guide is purposely not entitled “best practices” as there should be no limitations on when or how this information may be helpful.

This is not intended to be a legal advisor’s sole source reference document. Chapter II, and its appendices, of the Manual of the Judge Advocate General (JAGMAN) remains the primary reference for complex investigations. All legal advisors must be fully versed in the JAGMAN prior to commencing an investigation, and continue to consult it throughout the investigation.

Some of the language contained herein may suggest that the legal advisor has the authority to take or direct a certain course of action. That was not the intent. The language was chosen as the simplest and most direct way to address various issues, recognizing that the legal advisor’s role is to facilitate discussion with, and offer options to, the Investigating Officer (IO) or Chief of Staff (COS), and allow them to make decisions.

Finally, while this document was prepared for legal advisors, it may be helpful for anyone working on the investigation, from the Convening Authority (CA) to the support staff.

First Thoughts

The focus of this document is what happens after the CA has been designated and the IO appointed. However, if discussions occur before a CA and IO are named, the following are some points that might be helpful.

- **Convening Authority** - The JAGMAN provides the technical background on who should be the CA. There are, however, other factors that should be considered and discussed when selecting the CA.¹ Be mindful that the investigation process and the report produced, especially in complex investigations, will need to stand up to media, public, and/or Congressional scrutiny.

¹ This is particularly important when there are various commanders having some level of cognizance over the units or incident involved. Whether the administrative or operational command assumes investigatory responsibility is an initial consideration. Initial coordination needs to occur at service headquarters and operational command levels to ensure there is agreement on how a matter will be investigated, who will do it, and the appropriate endorsement chain.

- Avoid conflicts of interest or the appearance of a conflict of interest. Determine if the immediate cognizant command/staff should conduct the investigation or if higher headquarters should convene the investigation and deploy a disassociated Investigation Team. Depending upon the circumstances, investigators may have to interview the operational commander. It may be inappropriate for the operational commander to investigate his own performance or have his own staff obtain a statement from him. For example, if there is an incident involving an installation, it may not be prudent to appoint Commander, Navy Installations Command (CNIC) as CA or IO – it should be an entity independent from CNIC whose Commander is higher ranking than CNIC since CNIC may be interviewed during the investigation.
- It may be difficult to maintain the independent integrity of an Investigation Team if the CA is investigating an incident in which he was involved or exercised supervisory responsibilities over. It may be similarly difficult to have the CA's staff evaluate the performance of fellow members of the staff.
- Assuming responsibility for an investigation can also become an administrative burden for a command and an unnecessary distraction from its mission, especially during a time when the underlying incident has likely impacted morale and productivity. This will be even more acute when it concerns an operational incident.
- **Investigating Officer** - The JAGMAN provides general guidance, but there are some additional factors that should be considered when selecting the IO:
 - Appoint an IO senior to anyone who may have been involved in the incident under investigation and outside the immediate chain of command of commander(s) that could be the subject of the incident under investigation.
 - Consider the current assignment of the potential IO. Avoid, if possible, a situation wherein the IO evaluates the performance of one or more of his contemporaries.
 - Do not hesitate to bring in someone from outside the CA's command. Getting the right person to lead the investigatory effort is the most important decision that is made during the introductory phase.
- **Legal Advisor** - The legal advisor's role is to provide guidance on legal and other related matters associated with the investigation. While the legal advisor may have a technical background in one or more of the areas under investigation from previous experiences or duties in the Navy, he is not assigned to the investigation to be a technical subject matter expert (SME). With respect to those other matters,

it is prudent to bring in others with the requisite qualifications and expertise. The legal advisor brings legal expertise, knowledge, and experience with the JAGMAN and the investigative process to the Investigation Team, and his sole focus should be performing those responsibilities.

- One of the legal advisor's primary responsibilities is to set the stage so that the IO can remain independent and unbiased. This may appear simple, but it may place the legal advisor in an uncomfortable position between the CA, the CA's staff, and the IO. While the rank of the IO may help, sometimes the legal advisor must have difficult discussions with the CA to ensure that the IO and the Investigation Team have the autonomy to do its task without interference from the CA, his staff, or higher authority. The legal advisor may also have to remind the IO that his job is not to reach a conclusion he thinks the CA may want but to do an independent analysis.
- The legal advisor may also have to set some boundaries for other senior attorneys who might want to become involved. Assuming that the legal advisor is not concurrently assigned as the attorney for the CA or IO,² he will need to have a plan in place as to how he is going to interact with the other attorneys and what he will do if they attempt to insert themselves into the investigation. The legal advisor needs to decide what he can and cannot divulge to other attorneys outside the Investigation Team. The legal advisor must consider to what extent, if at all, other attorneys need to be briefed or can assist. In the case of the CA and his attorney, there is a nexus between the legal advisor's role and the CA's attorney's responsibilities. As a general rule, solicited input is fine, but unsolicited direction is generally not helpful. In the case of the IO's attorney, this is not his investigation to work. In most instances, simply telling the IO it is best to let his attorney remain focused on the command's day-to-day matters is sufficient to resolve any issue.

- **Gear and Logistics**

- Consider bringing your work laptop, an Ethernet cord, a one-terabyte external hard drive (without Guardian Edge), and a few DVDs. Working conditions can be unpredictable and bringing personal gear will allow work after normal business hours.³

² As a general rule, it is preferable that the CA's or IO's assigned legal advisor not also be selected as the legal advisor for the investigation. Although there is a working relationship, the dual responsibilities for both duties could detract from the legal advisor's ability to perform each function well.

³ In most scenarios, work on the investigation should be performed in the designated Investigation Team work space. Barring an emergency or unplanned contingency, as with the execution of official duties and responsibilities, personal equipment should not be used. However, if such emergency or contingency arises and personal equipment is used, all DoN record-keeping and handling requirements pertain (e.g., adequate protection of PII, no classified information, etc.).

- Contact the “gaining command” (through the CA’s attorney or the IO) for computer access, etc., and request that it start processing all of the necessary technical paperwork. This will ensure appropriate network access (NIPR, SIPR, JWICS, etc.) immediately upon arrival.
- **Do the Homework.** Do not reinvent the wheel. Look for previous JAGMAN investigations that address similar types of incidents to see how they were investigated and the format of the report. There is a repository of unclassified/declassified JAGMAN investigations at DON’s FOIA website and at the following website:
http://www.jag.navy.mil/library/jagman_investigations.htm.⁴
- **Find a Mentor.** A mentor can be an incredible resource that will help avoid pitfalls. Do not be afraid to reach out to someone who has been on a similar investigation to use as a mentor. The Assistant Judge Advocate General (Civil Law), specifically Codes 11, 13 and 15, have many alumni of previous investigations.

Closing Thought

One final thought. There is no set order or definitively right or wrong way to conduct an investigation. Chapter II of the JAGMAN provides guidance on the technical aspects of the report but it does not delve into issues associated with actually doing one. Because the investigatory process is an iterative one and each investigation is fact-dependent, many of the sections and topics discussed will likely be occurring concurrently or may play out in a different sequence than reflected in this document. Remember that at the outset things are fluid and flexibility will be key because tasks, facts, and even responsibilities, will constantly evolve. However, there are tasks that can be done at the outset that will make the rest of the investigation flow more smoothly.

⁴ Classified investigations can likely be obtained from VCNO or OJAG if they are recent. Investigations older than two years should be retrievable by Code 15.

PART A – GETTING STARTED/PRELIMINARY DISCUSSIONS

Introductory Discussion with the IO

One of the legal advisor's first tasks upon arrival should be to meet with the IO and have a general discussion about the investigation and the way forward. The meeting should be kept small, ideally involving only the IO and the legal advisor, but the IO may also include a senior officer who has worked with the IO in the past. In complex investigations, this officer frequently becomes the COS. It is important to be deliberate and thorough during this conversation. No actions should be initiated until the IO and legal advisor are fully satisfied that all pertinent issues have been addressed. There will always be challenges in conducting complex investigations but they can be minimized by being methodical. Once the investigation is in motion, inertia takes over and it is extremely difficult to refocus and realign efforts.

Prior to this conversation, the IO will likely have already spoken with the CA or have some general ideas about what the CA wants to do, how to do it, and who else the CA wants to be on the Investigation Team. This is an excellent starting point, but it is important that the IO also gets the legal advisor's thoughts on how to approach this investigation. While the list of potential topics for the initial discussion could be endless, the following addresses the most important ones:

Understanding the Task – The Convening Order

Thoroughly review the Convening Order and any amendments. Do not make any assumptions. Address any ambiguities or gaps in the group's tasking, as well as any questions or concerns, with the CA before organizing the investigatory effort.

- Pay particular attention to the following points: the nature and scope of the task; due dates; and sources of support. All of these points should be clearly identified in the Convening Order. Ensure that any additional guidance provided by the CA is understood.
- Consider whether there are other topics that may be tangentially related to but are not specified in the Convening Order.⁵
- Be mindful of mission creep. Expanding the scope of the investigation without communication from the CA or other authority not only exceeds the scope of the Convening Order, but will take more time and require more people.

⁵ For example, if an investigation is convened to examine a specific event, whether specific personnel were qualified in the actions taken is often a relevant investigative issue. Should that be considered part of the investigation? If so, how will that expand the scope of the inquiry? Would it need to become a section on organize, train and equip (OTE) responsibilities or should a separate investigation into a larger OTE issue be convened?

Setting up to Succeed

It is important to consider how investigative efforts should be organized to complete the investigation and what assets will be needed to do so. Although it may be very difficult to fully grasp the task this early in the process, it may help to discuss with the IO what the end product should look like, the topics it should address, and then work backwards.⁶

- **Supporting the IO** - In complex investigations, the IO should be focused on the big picture, and not concerned with mundane administrative matters. Consider whether the investigative effort would benefit from assigning someone to assist the IO and oversee/manage day-to-day operations. If so, consider designating a COS. While the inclination of some will be to assign this role to the legal advisor because of his familiarity with investigations, avoid that trap.⁷
 - The COS becomes the project manager, responsible for making assignments (following the IO's guidance), developing timelines, and timely accomplishment of tasks.
 - The COS does not need to be a SME but should be accustomed to working with a large staff, be flexible and adaptable to changing needs, and have exceptional administrative and organizational skills.
- **Assets and Structure of the Investigation** – These are two of the most important topics to discuss at the outset. The decisions made will shape the entire effort and become the baseline for the organizational construct.
 - Determine if the matter is straightforward or simple enough such that one or two individuals can capably complete the project, or if the matter is of such breadth and complexity that it will require multiple people or multiple teams to complete the investigation within the allotted timeframe.
 - If the scope of the investigation can be readily broken down into identifiable components, using topically-focused teams is recommended. Teams can focus more extensively and in greater detail on specific topics and facilitate compliance with tight timelines.⁸

⁶ Since the legal advisor has a background in investigations, the IO will likely be totally dependent upon him to discuss investigations he has worked on or reviewed. The legal advisor may discuss in general terms how other investigations had defined topical sections (or not) and how other IOs conducted investigations.

⁷ See “Legal Advisor” section discussed previously.

⁸ Teams do, however, require more personnel and result in multiple authors with multiple writing styles, necessitating a single editor at the end to ensure that the written product flows.

- **Funding** - If there will be costs associated with the investigation, determine who should provide funding. It is better to ensure agreement on this topic *a priori* rather than debate it during the investigation.
 - Normally, the costs of travel, per diem, consulting fees, or other expenses will be charged to the operation and maintenance budget of the CA.⁹ However, if the CA has been specially designated to conduct the investigation, the CA may be able to obtain a separate line of accounting from another authority.
 - Once the Funding Authority is determined, a separate line of accounting for the investigation should be established.¹⁰

⁹ See section 0205 of the JAGMAN.

¹⁰ Frequently the Funding Authority will request details on costs associated with any investigation conducted.

PART B - STAND UP PHASE

After the initial introductory meeting with the IO, the legal advisor and the IO should be in sync on how to proceed.¹¹ The agreed-upon generic concepts must now be converted into a functional entity that is manned, organized, and equipped to actually do the work. The following is a discussion of some of the most important preliminary matters that need to be resolved prior to commencing the investigation. This discussion should be with a small group that will be referred to as the “Core Group”¹² – it consists of the legal advisor, the IO, and the COS (if assigned).

The Investigation Team

- Choosing the right team for a high profile investigation is key. Because in complex, high-visibility investigations, the timeline for completion will likely be tight, the IO and COS need individuals who have the physical and mental fortitude to handle the pressure. Do not depend on luck to get the right team. All prospective members should be thoroughly vetted to make sure they are a good fit.
- **General Comments** – Select personnel who come from a diverse background and possess different skill-sets and perspectives, who have familiarity with the concepts that are the focus of the investigation, and can operate independently.¹³
 - The team needs to be comprised of independent self-starters who are top-notch performers. Criteria for membership should not be driven by the workload of the prospective members since the most highly-tasked personnel are often those who are the most productive because of their ability to meet deadlines and perform under pressure – traits that are vital to the successful completion of any complex investigation.
 - Everyone on the team needs to understand that the investigation is now his or her full-time job – this is not a collateral duty. Everybody must be “all in.”
 - Select team members that will be able to get to the bottom of issues quickly and are comfortable talking to witnesses in interviews to extract necessary information. The team members should be individuals who are

¹¹ While this is an entirely separate section for this guide, depending upon the IO this could merely be a continuation of the initial conversation.

¹² This group will likely expand slightly after the full team is built.

¹³ In addition to professional qualifications, do not ignore personal issues, i.e., scheduled leave, outside education commitments, family matters. The legal advisor should also consider potential members’ upcoming PCS or TAD orders, even if the expected dates are beyond the CA’s initial completion deadline, as complex investigations often require an extension before final completion.

comfortable talking to others about potentially embarrassing subjects and also have the skill to make witnesses comfortable with them.

- **Sourcing** – In many instances, the natural inclination is to assemble the Investigation Team from the CA's staff. Do this only after careful consideration. Be mindful that organic staff might not have the focus required for this task as they are more likely to be pulled back to respond to critical daily issues associated with their normal duties, particularly as they may be working in or close to their normal workspaces.
 - Do not be afraid to bring in personnel from other local commands or even TDY. If a specific skill-set is needed, obtain it. If those that meet the requirements are not local, issue them orders. TDY team members are frequently the most focused and productive performers. Once they are removed from the responsibilities of their usual daily duties, they are not as likely to be distracted and can focus on their new primary duty - the investigation.
- **Numbers** – The number of personnel assigned to the team will depend on the complexity of the investigation and the timeline. It is important not to underestimate what will be needed during the initial planning phases. For many reasons, legal advisors and IOs are often reluctant to ask for assistance or, if they do, ask for insufficient numbers. It is better to err on the side of too many rather than too few as it is far easier to release individuals after a week or two than it is to obtain and read-in additional personnel after investigating for two weeks and realizing that there is not enough support.

Specific Personnel Requirements

The following is a list of specific personnel to consider when assembling an Investigation Team:

- **Team Leaders** - Team Leaders should be of sufficient rank (O-5+ or GS-14+), have leadership and management experience, and a strong background in their areas of responsibility. Nonetheless, officers with investigative and/or leadership experience but without subject-matter familiarity can be equally valuable as Team Leaders if SMEs are available for consultation. The number of Team Leaders will vary depending upon the nature and scope of the investigation and its organizational breakdown. Normally, each team is assigned a Team Leader, although if there are a number of minor areas to be investigated, or particular topics overlap, a Team Leader can assume responsibilities for more than one topic.
- **Administrative Leader** - A complex investigation should have someone skilled in the frequently Byzantine but critical world of directives, regulations and document version control. The Administrative Lead takes direction from the IO

or COS, puts out schedules, and is responsible for managing the incredibly large amount of information and evidence the team will acquire.¹⁴

- **SMEs/Special Skills Personnel** – If the scope of the investigation covers a specialized, technical, or highly complex area, assigning a SME to the investigation makes the team more effective. There may also be a number administrative-related functions, such as sketches, modeling, or graphics, that may be needed to support the investigative effort.¹⁵ However, if the expertise sought is limited to an isolated point or function, it may be more appropriate to merely identify the resource and use it on an as-needed basis vice assigning additional personnel to the team.
- **Legal Support** - A robust legal contingent from the outset can prove to be very beneficial in the long run if utilized appropriately.¹⁶ Realizing three to four weeks into the investigation that the team requires additional legal support is challenging. If the team is appropriately staffed with attorneys from the outset, they can be assigned to the various teams for not only legal advice but to ensure thoroughness in preparation. For example, attorneys may assist with overall or detailed strategy in order to ensure that it comports with the goal of the investigation or that the right questions are asked during initial witness interviews so that re-interviews are not required.¹⁷
- **Investigation Team Staff and Administrative Support** - Obtain a sufficient number of personnel to fully accomplish the task within the allotted timeframe. A good rule of thumb is to add at least one person to initial estimates of required manpower. As was mentioned above, it is better at the outset to assign too many than too few.¹⁸
- **Criminal Investigators** - NCIS, CID, FBI, etc. may be brought in as official members of the team, or an individual can be assigned as a liaison. If there is sufficient overlap with an ongoing criminal investigation or a key component of the report relates to a matter for which a criminal investigative agency has

¹⁴ If the Administrative Leader is not a knowledge management expert, one should be assigned to the Administrative Support Team.

¹⁵ The work of special skills experts can greatly assist investigators and their work product may even be included as an enclosure or appendix to the investigation.

¹⁶ While attorneys are often effective writers, they generally should not be appointed to investigations to simply be content generators or “wordsmiths” unless one is selected as the Lead Writer. It is important to balance the attorney’s role as legal advisor and writer.

¹⁷ Re-interviews can become a substantial issue where a witness may or may not be willing to provide another statement.

¹⁸ See “Administrative Support” section.

cognizance, the full-time presence of a representative as a member of the team is beneficial.¹⁹

- **Public Affairs Officer (PAO)** - A PAO should be an integral member of the Investigation Team in order to properly respond to queries, prepare releases, and keep key audiences appropriately informed. Major investigations, particularly those involving high ranking individuals or catastrophic events, are of interest to the public. Anticipate that there will be a strong desire for information from both inside the Department of Defense (DoD) and outside DoD (Congress, media, international organizations). Improper handling of a major investigation can generate more publicity than the investigation itself, and can ultimately weaken public trust enough to degrade mission accomplishment of not just the unit or people involved, but the Navy or DoD itself.
- **Lead Writer** - Depending upon the nature of the investigation, identifying a Lead Writer whose primary focus is working on developing the final product and making the Lead Writer a part of the Core Group can pay huge dividends.²⁰
 - The Lead Writer will assist with report development, can guide the integration of subparts in the investigation, and smooth the document into one “voice.” Since this is the IO’s product, the Lead Writer must work closely with the IO to ensure that the IO’s voice is primary.
 - The Lead Writer should be the final arbitrator for grammar and syntax during review sessions if a “group review” process is used to refine draft versions of the report.
 - In addition to writing skills, the Lead Writer should be proficient with the capabilities of Microsoft Word (section breaks, hyperlinking tables of contents, inserting tables, etc.).
 - Depending on the complexity of the investigation, it may be beneficial to have legal advisors act as a writing team in support of the Lead Writer. The senior legal advisor should not be one of the writers.

¹⁹ In the alternative, or in investigations where there is a lesser nexus between the command investigation and the criminal investigation, ensure that there is a designated liaison with the agency with whom the team can r exchange information or questions necessary for the investigation.

²⁰ In many instances, this will be one of the legal advisors assigned to the team, but should not be the lead legal advisor, unless the IO or COS has personal familiarity with someone with excellent writing skills and wants to have that person assigned to the Investigation Team in this role.

Administrative Support

Administrative support can become the choke point of the investigative process. Having a dedicated team to accept and catalog each piece of evidence collected is essential. Do not underestimate the importance of administrative support. One member of administrative support for every four or five team members is a good estimate.

- **General** - The following is a list of factors to consider when assembling an administrative team:
 - While many commands may want to use in-house administrative assets to support an investigation, this is not advisable. Not only are the numbers likely insufficient, but unless those personnel can be completely walled off from their regular duties, they will normally receive work from their daily supervisors that will interfere with their support to the investigation.²¹ It is advisable to obtain “outside” resources from the outset. Look to the local Region Legal Service Office, Defense Service Office (DSO), or installation to augment the staff with LNs, YNs or other administrative personnel.²² If there is no administrative support to deal with routine administrative matters, the Investigation Team will invariably be pulled away to deal with them.
 - Set up a watch for administrative functions. Having personnel assigned to handle routine needs (answering the phone, copying, scanning, etc.) will allow flexibility for the administrative staff and ensure all team requirements are met.
 - For large-scale efforts, consider shifts (i.e., 0700 – 1600/1000 – 1900) to prevent burnout (and avoid everyone taking lunch at the same time).
 - Military members of the administrative team must understand that they may be staying later and/or working longer than civilians, since there are specific rules governing civilian work days, overtime, pay, etc. This may be a source of morale issues, so make sure to keep an eye out for any dissention and address concerns early.
- **Composition** - When determining the composition of the administrative support team, it is prudent to think about specific skill-sets:²³

²¹ The availability of administrative personnel is extremely tight, more so than for officers, so it is particularly important to consider what a command can spare when considering the provision of administrative resources.

²² Do not be reluctant to go to the CA to ask for the support needed.

²³ This list identifies skill-sets, not necessarily individuals. One person may fulfill multiple requirements.

- Information specialist. Someone who is experienced in information handling, storage, and retrieval. For investigations involving classified material or protected personal information, the Investigation Team requires someone with expertise in classification requirements and procedures; handling, storage, and transmitting documents or working notes containing classified and protected personal information; and who has a classified courier card.²⁴
- Document control. In cases involving a very large amount of documents, consider the assignment of a junior officer whose sole responsibility is to work with the Administrative Team Leader and provide on-scene oversight.²⁵
- Information Technology (IT) support. Having support available 24/7 is essential because the team cannot afford to have its systems down for any extended period of time.
- Administrative support requirements. Someone who has experience handling the “routine” administrative issues that inevitably arise (e.g., handling travel arrangements within DTS, gathering office supplies, delivering documents, etc.).
- Transcription. If there are a large number of witnesses and interviews are to be transcribed, transcriptionists can save the team considerable time and effort.

Credentials/Documentation for the Investigation Team

Once provided the list of names of who will support the investigation, the legal advisor should consider the following:

- **Appointing Letters** - Formally appoint members to the Investigation Team and issue them an appointing letter signed by the IO that designates them as a member of the Investigation Team. This document explains their role in the investigation process and should make clear that the investigation is their primary/only duty until they are released. These letters can be instrumental in spurring organizations within DON to comply with requests for information within an extremely short timeframe, as well as facilitating the investigator’s ability to interview witnesses.²⁶

²⁴ If applicable, a Foreign Disclosure Officer may also be necessary.

²⁵ While this might seem unnecessary, the Administrative Team Leader is often pulled in multiple directions and frequently may be away from his workspace. The presence of a squared-away junior officer provides constant on-scene oversight and direction to what is often a very junior group of personnel.

²⁶ Frequently, showing a witness the appointing letter facilitates cooperation. These letters also visually demonstrate the importance and emphasis senior leadership has placed on this investigation.

- **Confidentiality Agreements** - Depending upon the nature of the investigation, it may be appropriate for each team member and those handling sensitive information to sign a confidentiality agreement (including IT personnel).²⁷
- **Security Clearances** – As the team composition solidifies, consider whether the investigation will involve classified information. If so, each member of the team will require the requisite security clearance.²⁸
- **Passports and Credentials** - Ensure that selected personnel have credentials that will last for the entire duration of the investigation. The individuals should have either an Official Passport (preferred) or a Tourist Passport valid for at least another six months. It is highly recommended that members check the status of their CAC/PIV credentials at the beginning of the investigation so they do not expire at an inopportune time.

Space & Equipment

- **Designated Spaces** - One of the first housekeeping items that must be addressed prior to the arrival of the team is finding a designated workspace. This space needs to be appropriately furnished and large enough to allow sufficient space for team members and for administrative requirements. It also should have the ability to be secured, as well as be available for extended work hours.²⁹ Ideally, the team could acquire four co-located working spaces away from high traffic areas of the building.³⁰ Each space should have at least one phone line with the phone in the administrative space designated as the central line for the team:³¹
 - An executive work space for the Core Group to work and conduct small group discussions;
 - An enclosed office for the COS;

²⁷ Some may believe this to be unnecessary. It is a judgment call based upon the nature of the investigation and the sensitivity of the information gathered. Err on the side of caution. If they may be appropriate, use them.

²⁸ In some cases, certain members of the team may need to be “read in” to specific special access programs.

²⁹ Using a space that needs to be secured early forces team members to work off-site using either hard copies or laptops, neither of which is a best practice.

³⁰ If options are available for more space consider a break-out room for telephone interviews and a separate space for report drafting.

³¹ If the subject of the investigation is classified or it is likely that it will discuss classified matters, consider whether secure voice services are required.

- A larger Investigation Team working space that is able to accommodate all members of the team and serves as the nucleus of the investigatory effort,³² and
- A space that serves as the administrative processing and records center.
- **Computer/Network Capabilities** - The team work space should have sufficient computer equipment and network capability to support the investigative effort. A primary concern is ensuring that there are enough network drops and computers to allow each team member to have an assigned work station. Additional considerations include:
 - Sufficient printer and copying capabilities. In larger investigations, once the investigation starts, nothing frustrates team members more than waiting for their turn at either the printer or the copier.
 - Monitors of sufficient size. Dual monitors are ideal as they are extremely helpful for both drafting and document review. A large wall-mounted TV screen or projector connected to the network can be extremely helpful during the editorial review of the final draft.
 - A set of designated investigation laptops that can be moved to other workspaces to collaborate or for investigators to use off-site.³³
 - A share drive or Share Point site with access restricted to the Investigation Team. This facilitates team accessibility of all documents and keeps others out. It is essential that access to work product be restricted. This is particularly important when the team is working at a large command where the share drive is used by many other personnel.³⁴
 - If the team is working at a command that has both secure and a non-secure network capability, a decision must be made at the outset as to which will be used. When considering this, assess whether a secure network is absolutely necessary or if the standard network with a restricted access folder/site could be used.³⁵ An investigation involving classified information will likely require SIPRNET/JWICS network and SIPR/JWICS share drive access. If using a secure network, it is important

³² Being able to consult SMEs across the room saves a lot of time over the long term and makes information sharing easier.

³³ As mentioned previously, laptops are also essential if the investigation team is working in a building that is subject to closure during evening hours. Members of the investigation team, especially the legal advisors, will inevitably need to continue working and writing after normal business hours.

³⁴ Depending on the Team's familiarity with SharePoint, this may be a great tool for providing comments or track changes.

³⁵ A secure network may also require users to be granted special access, complete read-ins, etc.

to also have access to an unsecure network to communicate with individuals outside the team and conduct general research.

- High Volume Portable Data Storage. High volume (one terabyte or more) external hard drives will be essential for storing and transporting electronic files, including digital video footage and images. If digital evidence such as video footage will be cited as an enclosure in the investigation, the external hard drive will be the means to store and forward the data up the chain of command with the report of investigation during the endorsement stage.³⁶ DVDs are also a solution depending on the volume of data, and they can be used on networks where plugging in USB devices is forbidden.
- **Storage and Logistics** - In addition to a work space for the investigation, consider how and where information collected during the investigation will be stored.
 - Ensure a sufficient quantity of safes or locked closets for the organized storage of hard copies of documents and products generated by the team.
 - An investigation involving classified information will require a classified space, SIPRNET and/or JWICS computers (and share drive), printers, scanner, and copier, as well as classified storage.³⁷

Document Control - Managing the flow of documents collected during a complex investigation is one of the most difficult challenges facing the Investigation Team. Multiple documents will be collected or produced, and then provided to the administrative team, in a compressed timeline. In order to maintain positive document control, and to facilitate the drafting and final production of the report, it is important to develop and follow records control procedures that provide central management (collection, log-in, storage) of everything the group acquires.

- **Intake and Control** - There is no set process that will work for every investigation. Many of these ideas will depend upon the complexity of the investigation and the type and amount of material collected. In some investigations, this may be rather straightforward and simplistic. In others, the sheer volume and diversity of the information may require a very detailed process. The following provides some tips that may be helpful during investigations where a large amount of documentary materials is collected:
 - Create a standardized labeling/tracking system. Start with a master document tracker with access restricted to the Administrative Team. Each

³⁶ If an external hard drives or DVDs are used, they must become enclosures to the investigation.

³⁷ Do not forget movement of classified material. At least a few members of the investigation team should have courier cards and pouches.

document should be numbered (acquiring a “Bates Stamp” or stamping software which automatically sequences the documents in consecutive order is very helpful and ensures no duplicate numbers are used), given a file name, and logged into the master document tracker.³⁸ Entries should include the date and time the document was delivered, the Bates number, originating organization, and the submitter/drafter. It is also helpful to include a descriptor that reflects the contents of the document, particularly when the document contains multiple items such as an Official Military Personnel File (OMPF) or e-mail with attachments.³⁹

- Update and promulgate the master document tracker on a daily basis. This will help prevent duplication. Once the Investigation Team starts collecting/producing documents, the sheer volume of documents may be astounding. Also consider setting up a “request for information” folder so the Administrative Team can track outstanding requests and avoid duplication.
 - Original documents must be kept under strict control. Once logged in, they should be secured immediately in a standalone area with restricted access.⁴⁰ No original document should be released once it has been accepted and logged in (to prevent alterations) unless directed by the IO or COS. The Team Leaders and members should only use products properly labeled when referencing them in their reports (and cite to their Bates stamp or other numbered label).
 - Make copies. Since originals are not released after submission, part of the administrative process should be to make a scanned or hard copy duplicate of each document submitted, noting the Bates or label number on the document.
 - Classified Documents require secure storage. Do not forget to carefully check for classified documents and ensure that they are stored in an appropriate container or space.
- **Access to Documents** – Copies of documents submitted need to be retrievable upon demand. Since the originals should not be released once submitted, a

³⁸ Adobe Acrobat is recommended, but limited licensing on computers can be a challenge. Consider other options such as Bluebeam Revu or other products authorized on the network that may not present such a challenge. These suggestions are not an endorsement of any product.

³⁹ To reduce confusion during the drafting stage, link the document to a specific section or topic related to the investigation.

⁴⁰ If it is even remotely possible that a court-martial will be a recommended disposition option, then a designated secure storage space for maintaining chain of custody of physical evidence will be required unless the local NCIS office is nearby to support storage. One person on the Investigation Team, either the legal advisor or NCIS agent, should be tasked with maintaining custody. Evidence must be appropriately bagged, tagged, logged, and securely stored at all times.

system should be created that allows members to retrieve copies of those documents when needed. There are two general options:

- Web-based system. Using a web-based system that allows all users to see what documents have been obtained. Scan all documents and post to a share drive or Information/Knowledge Management system so that all team members may easily access the information. Ensure that access is limited to just printing the documents, not removing.
- Duplicate copies. Create a scanned version or second copy of the documents to be used as working files for the Team. If the originals are maintained in a share drive or web-based system, make secondary hard copies of documents, index them, and put them in a notebook.⁴¹

⁴¹ This works well in investigations that have a “joint” component and there is a need to compare various Service regulations.

PART C – INVESTIGATION PHASE

Preliminary Administrative Matters

After identifying the Investigation Team, it is now time to think about how to actually investigate the incident. Although the Team may not yet be on-site, the IO or Core Group will likely look to the legal advisor for suggestions/advice on how to get started. The following section provides some ideas:

- **Develop a Charter** - Spending the time to clearly identify the purpose and goals of the investigation in a written document can be very beneficial. Not only will the process facilitate discussion amongst the investigation leadership team on a wide variety of topics, including ideas that may not have been originally considered, a charter will ensure clarity of purpose so that everyone involved is working towards a common goal. Once the topically-focused teams stand-up, it is helpful for them to develop charters as well.
- **Conceptualize the Report** - Having a general idea of the structure, format, and appearance of the final report and what types of information will be captured will assist in focusing the investigatory effort. An outline is useful, but reviewing prior investigations into similar incidents is always helpful and is probably the easiest way for the legal advisor to support the IO/COS in this effort.
 - Outline the key focal points of the investigation as early as possible. Even if the report evolves significantly, investigators always need to be clear on what questions they are looking into and where the answers to those questions are likely to be worked into the report.
 - Do not refrain from discussing the minutia. Thinking about this before the team crafts documents, e-mails, etc., can save countless hours of reformatting during the investigation. For example, what will a Memorandum for the Record (MFR) look like; will there be a cover sheet for every chapter; what font and size should be used; spacing and margins; how the pagination should work (1-1000 for the whole report, or the 1-1, 2-1 type); proper end note formatting; proper headers and footers; etc. While this seems trivial to discuss at the outset, ironing out these small issues early avoids having a fleet of YNs reformatting reports and their contents at the last minute in order to make the report presentable.
 - Think beyond words. Graphics and descriptive pictures may assist in understanding the report or the issue. A team member with special talents in IT and multimedia development skills may be especially useful. The use of graphics, charts, appendices, and visual presentations is frequently overlooked but can be of huge value when trying to explain a scenario that is difficult to capture in words.

- **Lessons Learned** - This should be a continuous, iterative process, initiated at the outset of the investigation. While lessons learned are normally associated with an after action task, continuously compiling and sharing lessons during the investigation will help prevent other team members from making the same mistakes. Contemporaneous creation will also ensure that lessons learned are not forgotten along the way. To ensure a robust program, assign one person the responsibility for collecting and assembling lessons learned.
- **Long Term Plan of Action and Milestones (POA&M)** - Creating a long-term schedule/ POA&M gives all team members an idea of the scope of work and time constraints. It is worth noting that in high visibility incidents this timeline likely will be incredibly short and driven by higher authority.⁴²
 - Be realistic when putting the POA&M together. Things always take a little longer than anticipated and most importantly, allow for sufficient time during the final stages of the investigation to complete the initial draft, conduct a full-scale review, and make amendments as needed.
 - Factor in some time off. Every complex investigation will require everyone to put in extra-long hours; keeping the team fresh is one of the biggest challenges. Consider shutting the team down at certain points (weekend or early liberty) during the introductory stages since this time will likely not be available near the end of the investigation.

Battle Rhythm/Staff Meetings

- All members will be used to following daily schedules. Knowing what is expected will make all team members feel more comfortable and establishing a daily battle rhythm sets a routine that will likely increase productivity. It should be promulgated early and followed to the maximum extent possible.
- Staff meetings are important.⁴³ Meetings are a good way to get guidance from the IO/COS, synchronize everyone's efforts, plan for the day ahead, and ensure that information is flowing (i.e., brief investigators on what

⁴² It may also be appropriate, if the investigation will include subgroups, that each subgroup be encouraged to evaluate their task and develop their own internal POA&M to meet their responsibilities.

⁴³ A cautionary note - be careful not to become a slave to meetings. Each one needs to have a stated purpose and agenda. Meetings without purpose prevent members from doing what they are there to do – investigate. Consequently, meeting tempo needs constant assessment and adjustment as necessary to ensure they stay useful.

information has been obtained).⁴⁴ Consistency is the key. Pick a time and stick with it. This will facilitate establishing the team's battle rhythm.

- Team meetings for the topically-focused teams can be equally important. These meetings can be a great forum to brainstorm, generate interview questions, and identify necessary tasks. They also can provide a good opportunity to re-read and discuss the Convening Order to ensure everyone remains on track. During the investigation phase, investigators should regularly brief the information they have obtained so that Team Leaders may share that with other Team Leaders.

Responding to Inquiries

- In high visibility investigations, expect inquiries from higher authority, Congress, or the press shortly after initial tasking. It is prudent to develop a response strategy at the outset of the investigation.
- Engagement with the Office of Legislative Affairs early on can help shape the message and minimize the number of Requests for Information (RFIs) and queries from various sources.
- Establish a designated group (PAO/COS/legal advisor) to be prepared to develop talking points for the IO to respond to questions.

Orienting the Investigation Team

It is common practice for military leaders, from COs to the new LPO, to address their subordinates once they come into a new position. The Investigation Team is no different. After preliminary administrative matters have been resolved, it is important for the entire team to hear what is expected. The Core Group should be visible but it is strongly recommended that the IO or COS have the lead/primary speaking role, not the legal advisor.⁴⁵ The following are some ideas for a team-wide introductory meeting.

- Consider having everyone introduce themselves so the background of the individuals is known to the whole team.
- Review the Charter, Convening Order, and Appointing Orders and have a discussion of what they all mean. Resolve any questions or ambiguity. Remind

⁴⁴ Size and scope will vary depending upon the size of the Investigation Team and the desires of the IO or COS. In some investigations, the COS wants to just meet with the Core Group and then let the Team Leaders pass along information to their respective teams. In other investigations, primarily those that have a smaller footprint, the IO wants to have everyone participate every day.

⁴⁵ This is personality and organizationally specific, but in many cases the IO provides an introductory overview of the task and then introduces the COS to discuss the details of the team's work.

everyone that it is imperative they read JAGMAN Chapter II in its entirety prior to commencing the investigation.⁴⁶

- Go through the long term schedule/POA&M. Emphasize that things are fluid, but at this point, this is what is expected from the team. Establish milestones early on. It is better for the Investigation Team to know expectations up front, and know it may change, than to keep them in the dark about their future.
- Go over the organizational construct and administrative processes. Explain how the Investigation Team will be organized and the investigation will be conducted. If topically-focused teams are used, introduce the Team Leaders and explain what their respective tasks are and how those fit into the overall scheme of the Charter and the desired end-product. Discuss document control rules.⁴⁷ At the end of this meeting, everyone should understand in general terms what is being done during the Stand Up and Investigation Phases and how.⁴⁸
- Encourage and emphasize the importance of PT, sleep, and maintaining a healthy lifestyle during the course of the investigation. Everyone needs to be in peak condition, particularly as the investigation picks up steam. Getting sick during the investigation will undermine an otherwise solid effort by team members.⁴⁹
- Last, and perhaps most importantly, the IO or the COS should encourage analytic rigor and precision from day one. Setting the tone for everyone will pay dividends in the long run. All team members should not just be permitted to question team assumptions as part of the investigation - they should very nearly be required to do so. A senior Team Leader can set the tone for analytic rigor by openly encouraging team members to challenge his ideas - and sincerely thanking them when they do. Show the team that questioning an idea is productive, can be done safely, and is never a personal attack.

Conducting the Investigation

One general, but very critical, introductory point - remember whose ship the team is on. Ensure that Commanders are briefed about the investigation (or contacted by the IO) before the team attempts to gather any information from their command. The first time a

⁴⁶ Recommend an electronic or hard copy of JAGMAN Chapter II be produced prior to this meeting and have it at the ready for those that want to get started immediately.

⁴⁷ This is why it is imperative for the administrative minutia to be hammered out before the first team-wide meetings.

⁴⁸ Because of the importance of having the meeting early in the process, the specifics regarding the preparation of the report will likely not be completed. Those should be briefed to the Investigation Team by the COS or by Team Leaders at a subsequent meeting.

⁴⁹ Having several bottles of hand sanitizer in the workspaces is also recommended to avoid illness, particularly when members eat while working and share computers.

Commander learns of the investigation should not be after the investigators have already interviewed, requested information from, or observed their personnel.⁵⁰

As a general rule, before the investigators start investigating, the Core Group should discuss the types and kinds of information they hope to obtain and develop protocols for how they should proceed. Standardization of processes and forms increases effectiveness.

- Nothing should be done until the Investigation Team has a precise understanding of what information it needs to collect. Focus on de-confliction and preventing duplication of effort.
- Standardize investigatory processes. For example, determine in general how interviews will be conducted and documented, i.e., recorded or notes taken, summarized results of interviews or verbatim transcripts, etc..⁵¹ Determine deadlines for the production of documents, i.e., done by close of business of the day the information was collected to ensure the information is fresh in the mind of the investigator. Determine who will interview or request information from flag or general officers.
- Develop templates for use by the Investigation Team. Many forms will be used throughout the investigation and they should be accurate, comprehensive, and consistent. In the final report, each type of document should be identical. At a minimum, address the following:
 - Create a unified subject line for all documents, i.e., any e-mail/memo related to the investigation should begin with: [Name of Investigation] (FOUO/PRIVACY SENSITIVE).
 - All e-mails related to the investigation should have a standard signature block.
 - Appropriately mark all documents/memos created by the investigation. Suggest use of the following in the footer:
 - Pre-decisional / Deliberative Work Product/ Attorney-Client Privileged Information and FOR OFFICIAL USE ONLY – PRIVACY SENSITIVE
 - Depending on the particular report, LAW ENFORCEMENT SENSITIVE can also be used.

⁵⁰ This would also be the appropriate time to inquire about a designated POC for that particular command so the Investigation Team has a single contact point to scheduled interviews, submit RFIs, conduct site visits, etc.

⁵¹ Whether interviews are recorded or not, in most investigations a summary of interview is most appropriate.

- Questioning and fact-gathering should be done with a purpose. The team should spend a few days reviewing reference materials and other documents relating to the incident before beginning interviews or distributing RFIs.
- Group or team meetings can be a great forum to brainstorm, generate interview questions, and identify necessary tasks. These meetings can also help team leadership assess the expertise and skills of the various team members and optimally structure sub-teams.
- Team members should, if at all possible, view the location, material items, vessel, etc. involved in the investigation. A personal visit is invaluable in putting an incident in context, i.e., what something looked like, where someone was or what personnel did or should have done, etc.⁵²
- If a site visit is contemplated, coordination with the command to be visited is critical, especially if it involves a large group. In those circumstances, it may be advisable to send an advance party to handle logistical issues (lodging, access, interview rooms, network connectivity, etc.).⁵³

Information Gathering

There are a number of different ways to gather information. The following describes three of the most common mechanisms associated with a command investigation:⁵⁴

- **Requests for Information (RFIs)** - RFIs are an excellent way to collect background information and save time in gathering information. In many cases, RFIs will form the basis of subsequent interviews. Even when investigators are able to obtain information via informal means, it is important to follow up with formal RFIs because senior leaders need to have visibility on the information requested from them and take ownership of the information supplied.
 - All RFIs should follow the same template. RFIs may request different types of information but should all look the same.
 - RFIs need to be focused. Vague or ambiguous RFIs are not helpful. Recommend that before sending RFIs, discuss the type of information that is sought, what answers are desired, and tailor the requests accordingly. In

⁵² Even if a particular vessel or location may not be the exact one investigated, seeing a similar ship or a model may give the team perspective on how events unfolded.

⁵³ If the team will travel, develop a plan to allow investigators to move with ease and be able to hit the ground running. This may include taking care of all IT requirements ahead of time (SAAR forms and NIPR/SIPR access, badge paperwork, share drive access paperwork, etc.).

⁵⁴ Since in most circumstance investigators come from various commands and backgrounds, a meeting to discuss “best practices” for acquiring information is extremely helpful.

many cases, a preliminary phone call to holders of information before sending out an RFI may be helpful in obtaining a complete and helpful response.

- All RFIs should be in writing, numbered, addressed to the CO or designated point of contact (POC), contain a due date, and signed by a member of the Investigation Team. A copy of the drafter's letter appointing him to the investigation should be attached to demonstrate *bona fides*.
- RFIs should direct the command to reference the RFI number to which the provided document or information relates and direct how information is to be provided.
- A copy of every RFI should be maintained by the Administrative Team for tracking of both fulfilled and outstanding requests.
- **Interviews** - It is important that each investigator follows the same practice. To ensure consistency, and because some of the team members may have never conducted an interview, consider having a group session to discuss basic interview techniques, provide team guidance, and common problems. The following are some factors that the team may consider in planning and conducting interviews:
 - Interviewers should focus on acquiring facts. Opinions of witnesses are generally not relevant. The investigation is interested in establishing a factual summation. Interviewers should only take hearsay evidence to "establish a lead" for potential interviews of other witnesses.
 - Develop a standard paragraph that an investigator can use when first introduced to a witness that highlights the purpose of the investigation and the investigator's role. Consistency is key.
 - Determine whether it is appropriate to have interviews recorded and then transcribed or if summaries of interviews will be sufficient. If the latter, determine who will be responsible for documenting witness' responses to facilitate the summary of the interview.
 - Determine how many interviewers will be assigned to each interview. For important witnesses, teams of two to three interviewers are optimal. Using more than three interviewers can cause the interview to take on an intimidating quality and be counter-productive, while using less than two can result in points being missed and useful follow-up questions going unasked. If multiple interviewers are used, one interviewer should be designated as the lead for note-taking and summarizing.

- Each interviewer should bring the Convening Order to each interview and show it to the witness before getting started.
- If more than one witness will be asked about the same specific issue and multiple interviewers are involved, use the same line of questioning for each (and then expand as necessary).
- For each voluntary written statement or summary of interview, create an introductory template that sets forth basic background information for each witness, i.e., full name of the witness, command and assignment during the time of the subject incident, current command and assignment, and any additional contact or relevant details that may be helpful to the Investigation Team. As the enclosures rapidly grow, having this introductory statement will assist in the review of the document.
- Ensure that investigators prepare questions for the interview prior to the actual interview. Having a basic template of questions for each witness is vital so that essential areas of interest are not inadvertently omitted. One of the legal advisors should consider working with the various teams on developing interview questions prior to any interviews being conducted.
- Plan to ask residual questions such as, “What recommendations would you have for X, Y, Z?” This format gives the witness a stake in the process and encourages candor. The question, “Who else should we talk to as part of this investigation?” can also yield names of persons who might not otherwise have been consulted. Remember to follow-up on body language cues (e.g., “I noticed you hesitated before answering - why is that?”).
- Ask witnesses about any imminent travel plans and get good contact information in the event that follow-up is necessary.
- If multiple interview teams are involved in the investigation, it is a good idea to have short sync meetings at the end of the day to share information learned over the course of the day and ensure everyone is informed of the latest discoveries.
- Frequently refer back to the report outline. Even if the report evolves significantly, investigators always need to be clear on what questions they are looking into and where the answers to those questions are likely to be worked into the report.
- If non-disclosure forms are used, they should be provided to witnesses before an interview is conducted.
- Prior to conducting any interviews, the interviewer shall consult with a legal advisor concerning the need for rights advisory warnings and for

special requirements and considerations when interviewing civilian personnel. Interviewers shall:

- Know what rights/warnings forms to provide (Art 31(b), LOD, etc.).
 - If utilized, issue a non-disclosure form to witnesses.
 - Know when to place interviewees under oath and obtain sworn testimony.
- Unions. Some civilians may be members of a union and the union may need to be advised of an interview before it takes place. The union might also have the right to have a union representative present during the course of an interview. If the interviewee exercises his right to have a union representative present, the interviewers should respect that request and schedule the interview at a time when the representative can also be present; that said, giving some firm dates/times in the near future is advisable – oftentimes, union representatives will want to push the scheduled interview time far out into the future to drag out the process to allow them to prepare and find out more information about the substance of the investigation.⁵⁵
 - Advise all witnesses (military and civilian federal employees) that they must answer all questions relating to the investigation except those that may be self-incriminating (where immunity has not been granted).
 - Whether to read Article 31(b) rights is a particularly important decision for the IO, and this decision should be made only in close consultation with the legal advisor. There are pros and cons to reading Article 31(b) rights. Reading Article 31(b) rights may have a chilling effect on the interview, but failing to read such rights may create evidentiary problems if the Commander later desires to pursue punitive action against a witness.

⁵⁵ Referred to as ‘Weingarten Rights’ after the Supreme Court decision in NLRB v. J. Weingarten, Inc. 420 U.S. 251 (1975). During an investigatory interview, the Supreme Court ruled that the following rules apply:
Rule 1: The employee must make a clear request for union representation before or during the interview. The employee cannot be punished for making this request.

Rule 2: After the employee makes the request, the employer must choose from among three options:

- grant the request and delay questioning until the union representative arrives and (prior to the interview continuing) the representative has a chance to consult privately with the employee;
- deny the request and end the interview immediately; or
- give the employee a clear choice between having the interview without representation, or ending the interview.

Rule 3: If the employer denies the request for union representation, and continues to ask questions, it commits an unfair labor practice and the employee has a right to refuse to answer. The employer may not discipline the employee for such a refusal.

- If a witness has retained counsel, the legal advisor should ensure that all correspondence and scheduling is conducted through counsel. In a complex investigation, defense counsel at the local DSO may soon become conflicted, requiring assignment of defense counsel from outside the immediate area and the need to arrange for travel and funding for counsel to attend interviews in person.
- Requests for interviews of individuals from non-DoD Agencies or corporations need to be carefully coordinated and conducted. All such requests should be routed through a designated POC for appropriate scheduling. Several teams may need to speak with these individuals and other agencies may also be looking to speak with them during the same timeframe.
- The team may not be the first to interview a particular witness. Other agencies may have also questioned a witness. Remember to be patient and clear with the interviewee and inform him of the reasons for the interview and that the team may not have access to the notes or interview(s) taken by other agencies or individuals.
- **Field Observations** - FOs can be an excellent mechanism to allow the Investigation Team to report on their observations of a site or to document command compliance with regulatory guidance. In most instances, an actual visit to the locale is essential, especially for operationally related incidents. Putting “eyes on” puts everything in context and is much more informative than viewing a photograph of a place or thing (even more so when investigators are flown in to investigate).
 - FOs require detailed preparation. Those conducting FOs must know enough about the subject matter to recognize what they are looking at and whether a unit or person is performing in accordance with expectations. At a minimum, all regulatory requirements and local procedures should be reviewed before an FO is conducted.
 - In most cases, visits should be pre-coordinated and conducted with a command representative. Doing so provides the investigator with insight as to how a command observes performance and permits the investigator to make an independent assessment. This does not mean that the people actually being observed need to be notified, only that the command is notified.
 - FOs should be prepared using a standard template and may also document conversations occurring during the site visit.
 - Any photos associated with a FO must be taken concurrently with the FO and appropriately marked in accordance with the JAGMAN.

Relationship with Parallel Investigations

A significant mishap or high visibility incident, such as an aircraft accident, vessel grounding/collision, or mass casualty incident, will likely result in multiple, concurrent investigations. In operational incidents, this investigation may be statutorily or administratively required, e.g., a Safety Investigation. In other incidents, there may be a concurrent law enforcement investigation or a higher authority that may have initiated a separate but parallel policy assessment. In all cases, the legal advisor must determine at the outset what other investigations are being conducted and their purpose/scope.

- **Responsibilities** - It is the legal advisor's responsibility to ensure that the IO and all members of the Investigation Team understand the distinctions between the different investigations and the information that may and may not be shared between the various investigations. Additionally, the legal advisor should determine if there is a reason that certain aspects of the investigation should be segregated or whether they are outside the scope of the investigation.⁵⁶
- **Safety Investigation** - A Safety Investigation is conducted with the aim of determining the cause of a mishap and to prevent future mishaps. As such, the witness statements to the Safety Inspection Board are privileged and likely will not be made available to the Investigation Team.
- **Law Enforcement Investigations** - Law enforcement investigations are focused on determining criminal liability. While statements made are not privileged, the law enforcement agency involved is unlikely to share statements with the Investigation Team until its investigation has been completed. In contrast, the purpose of the JAGMAN investigation is to document the event for higher authority (and likely the public) and ensure accountability, so the witness statements are not privileged and may be used and disclosed to the public (after appropriate redaction). Establishing a good relationship with law enforcement liaisons is key.
- **Sharing Information and Methodology** - In most cases, sharing documentary, physical, or computer evidence, with the exception of witness statements, between the JAGMAN investigation and Safety Inspection Board is appropriate. Information from law enforcement investigations is not expected to be shared until the law enforcement investigation is complete.
- **Notifying Witnesses** - When interviewing witnesses, it is a good practice to inform them at the start of the interview that "another investigation team" may also interview them, but for a different purpose. This is particularly important for

⁵⁶ See Chapter II of the JAGMAN, section 0201(d).

junior service members who are not familiar with the various investigatory processes and will likely be anxious about the interview process.

- **Interaction with Other Outside Entities** - There may be occasions where other organizations might be conducting an investigation.
 - In such cases, recommend the IO meet with the head of the entity conducting the other investigation(s) as soon as practicable to facilitate cooperation/information sharing and ensure de-confliction.⁵⁷
 - Identify a main POC or liaison for that entity through which information will flow so that there is no confusion with respect to any interactions or duplication of requests. If the Command Investigation Team's POC is someone other than the legal advisor, the POC should know to closely coordinate with the legal advisor and document the particular information shared when responding to any requests.

⁵⁷ The goal is to avoid any potential conflicts between the findings of the other investigations and accordingly, the team should be aware of the progress of other investigations. This initial meeting can go a long way to facilitating the cooperation necessary to ensure information-sharing.

PART D – PREPARING THE REPORT

While the administrative planning is important, it is the end product that will determine whether the efforts of the team were successful. Keep in mind that the degree of professionalism within the report is reflected not only by how the information is conveyed but also the ability for others to retrieve and validate that information.

Plan twice, write once. Regardless of how well thought out the timeline for completing the report is, expect an unanticipated problem or delay that will adversely impact that timeline.

Ambitious internal writing deadlines are beneficial - they spur action. Below are a number of factors to consider during the drafting effort:

- **Format** - Format is a matter of choice for the IO, in consultation with the COS and legal advisor. Nonetheless, investigations are called “JAGMAN Investigations” for a reason. Prior to putting fingers to the keyboard, re-review Chapter II and look at the investigation template at appendix A-2-e. If the investigation is about a specific incident where endorsements are critical, the standard JAGMAN format is the easiest manner for the endorsing chain of command to review and, if necessary, modify.⁵⁸ However, this strict format is not always the best for all investigations or audiences, particularly when the investigation may be of public interest and will be disseminated or made available to the media.
- **The Drafting Stages – Generic Comments**⁵⁹ - A high profile report will be read by many people, e.g. civilians, families of victims, press, etc. It is important that the report be organized in such a way that it will be intelligible to all. Sentences do not have to be informal, but they do need to be clear.
 - Assume the reader is an intelligent generalist - not a SME. Do not expect the reader to be familiar with technical terms. To the maximum extent practicable, use plain language. Do not use acronyms, or at a minimum, ensure that each acronym is spelled out before use.⁶⁰
 - If a chronology of events is important to the underlying matter being investigated, consider developing a timeline or chronology of key events

⁵⁸ In a limited number of circumstances when the audience is outside normal DON or DoD channels and readability is an important focus, a “free flow narrative format” may be appropriate. Consider the complexity of the underlying matter to be investigated and the purpose of the report. The CA, IO, and legal advisor need to discuss if there are valid reasons to not use the JAGMAN format.

⁵⁹ For simplicity, this section intentionally skips the technical requirements of a Command Investigation set forth in Chapter II of the JAGMAN.

⁶⁰ Strings of buzzwords and long, difficult-to-follow sentences often signal that the writer really does not know what he is trying to say.

for inclusion as an appendix.⁶¹ This provides the reader, particularly the endorsing chain, a simple way to quickly and easily understand the sequence of events, while having it always available as a reference while reading the investigation.

- Anything that may assist the reader in understanding the factual setting surrounding an incident can be included as a reference or an enclosure even if not used for a specific finding of fact.⁶²
- Decide how references will be used and cited in the investigation, how they appear, and whether they will be included as appendices. Appropriate citations and consistent use will improve readability, prevent the same document being cited with multiple titles, and will ensure report conclusions are supportable and verifiable.
 - Pay particular attention on how to cite from a large document (e.g., OMPF). For example, if citing to a qualification, page 13, or other document, cite to that document only. This will ensure that the printed investigation enclosures only contain documents referenced by the drafter rather than an entire voluminous file.
 - With respect to e-mails, only cite those that contain relevant information; if the e-mail forwards a document and that document is pertinent to the drafter's narrative, cite the document, not just the originating e-mail.
- Normally, citations are accomplished by listing enclosures; however, endnotes or footnotes may also be considered. In high visibility investigations with multiple interviews, such notes often improve readability immensely. It is also far easier in the later redaction process to redact large chunks of endnotes rather than individual enclosures, titles, or text in the investigation.
- An unclassified JAGMAN report of investigation concerning a high-visibility mishap will likely be affirmatively released under the Freedom of Information Act (FOIA) and posted on a command's FOIA reading room website. Whenever possible, the investigation should be composed in a format that will minimize redactions and enable the reader to

⁶¹ There are numerous ways to depict a timeline, and no one method is inherently better than another: a simple list in a Word document with date/time headings; a flowchart; a horizontal line diagram in Power Point, etc.

⁶² Consider including various documents as enclosures that are not specifically cited within the text of the investigation. These documents may provide a backdrop or underlying narrative which can assist the reader with understanding the landscape of the area or command at which the incident occurred. If necessary, copies of the Rules of Engagement, pertinent sections of the Law of the Sea, Code of Conduct, or Laws of Armed Conflict, etc., may be included to assist the reader.

- understand the content, the actions of all personnel, and sequence of events notwithstanding the necessary redactions.⁶³
- Consider whether this investigation will be completely classified or whether certain sections will be releasable. If classified, the findings may allow for an unclassified Executive Summary. Expect that senior leadership will want to release a statement or conduct a press conference upon completion of the report.
 - Always have an eye for how the team that will draft the endorsement will read a complex investigation. Use an Executive Summary that describes the JAGMAN, scope of investigation, and how the investigation was conducted, in plain language. Use signposts and develop a timeline for any critical events.
- **Version Control, Review, and Finalizing the Report** - If teams were used during the course of the investigation, it is logical that they create the initial draft of the section they investigated and deliver that to the Lead Writer.
 - Ensure version control during the drafting stage. Once initial products are submitted by the team and the report is nearing its final form, editing should be limited to a small group, and if the report is maintained on a shared drive, access should be limited.
 - If updates/corrections are required, the drafting team will submit requests to the Team Leader for follow-on assignment to the requisite team/personnel.
 - Water-marking “DRAFT,” numbering, time stamping, and dating versions can assist in version control.
 - With sufficient time, remember that finalizing the report is an iterative process. Once the first draft is completed, use the Team Leaders to review the report. If there are distinct sections of the report, Team Leaders should start with their section and then review others.
 - Upon completion of the revised final draft, consider using a separate group of very senior officers or civilians (Red Cell), knowledgeable in general terms about the subject of the investigation, yet unassociated with it, to review the product prior to final submission. After a lengthy process, team members know so much about the topic that they might omit some

⁶³ For example, it may be appropriate to use an individual’s job title or billet instead of repeating her name. If the investigation involves a warship, state an officer’s rank/name the first time with the shorthand billet title in a parenthetical; then refer to the shorthand title thereafter. E.g., At 2345, LTJG John P. Jones (“Navigator”) assumed the watch as Officer of the Deck. ... At 0015, the Navigator called the CO to the Bridge.

items that are important to understanding the final report. A separate set of eyes picks up on those omissions. The Red Cell should approach this as if evaluating a final thesis – nothing should be omitted. No question or detail should be considered too small or insignificant. The Red Cell's job is to ensure that the final product can withstand the scrutiny of anyone who tries to pick the report apart.

- Allow sufficient time for final review, formatting issues, and compilation, particularly if references are being included. As a general rule, try to allow 2 days after the report is completely done (i.e., ready to sign) to conduct a final review for completeness and to put the final hard copy of the report together.
- Once signed, make at least three certified copies of the report and number them. Forward the original to the CA in accordance with the JAGMAN. Coordinate with the CA to determine if additional copies are required. If so, provide a numbered certified copy. Ensure that at least two certified copies are always maintained by the team.

PART E – POST-REPORT ACTIVITIES

Do not wait until the last minute to think about post-report requirements. At the end of the investigation, the only thing the team wants to do is pack up and go home. Planning ahead will allow the Investigation Team to wrap-up faster, and in an orderly and controlled fashion.

- **Public Disclosure of Report**
 - Plan for the FOIA release during the final stages of completion.⁶⁴ Expect that the document will either be requested or senior leadership will want to publicly release the report as soon as it has been endorsed. Conducting an initial scrub during the final phases will prevent last minute scrambling.
 - Expect that senior leadership will want to release a statement or conduct a press availability. In many cases they will look to the Investigation Team to prepare a draft, talking points or responses to query. Again, pre-planning and coordination with CHINFO will pay dividends.
- **Filing and Storage of Investigation** – While a copy of the investigation is routed up the endorsement chain, it is prudent to keep the originals in a secure place until the final endorsement is completed. Consider the following:
 - Plan on keeping all materials at least temporarily. Separate materials that were used in the investigation as enclosures and references from those that were collected but not used.
 - Box materials up and label them. Ensure that there is a secured space where they may be kept until higher authority gives further direction.
 - Keep a master list of stored materials so that if copies are needed, they are easily retrievable.
 - To ensure a historical copy of the investigation is maintained, consider sending a copy of the final report, including enclosures, to Code 15 as the custodian of all JAGMAN investigations. Forward copies of the endorsement as received.
- **Data Collection and Storage** – All data from all computers, including laptops must be collected and stored.

⁶⁴ When considering a potential release, do not forget that high-visibility FOIA requests must be coordinated with OSD.

- At the end of the investigation, every Team Member should forward information from his or her investigation computer electronically to the Administrative Leader or his designee for storage. Data should include all emails, draft documents, collected documents, etc., that was collected during the course of the investigation. The Administrative Leader should plan for how to best receive this information , e.g. via burned CD.
- Once received by the Administrative staff, the Information should be organized in a file on the Share Drive until all information is received. It should then be retrieved and stored on a master disk(s). Disks should be appropriately labeled and then stored.

Appendices

INTRODUCTION: The documents provided in Parts A through D are examples that have been used in prior investigations and may be helpful in conducting the investigation.

PART A – BACKGROUND MATERIALS

- Investigation Types – Quick Look A-1

PART B – ADMINISTRATIVE MATTERS

The Investigation Team

- Investigation Team Appointing Order (Member) A-3
- Investigation Team Appointing Order (Senior Member) A-4
- Team Member Non-disclosure Agreement..... A-6

Schedules & Staff List

- Contact Sheet A-7
- Battle Rhythm A-8
- Investigation Schedule A-9

In-Brief & Charters

- Business Rules A-10
- Investigation Charter..... A-14
- Team Charter – Example 1 A-15
- Team Charter – Example 2 ,,,..... A-18

PART C – ADMINISTRATIVE MATTERS

Requesting Information

- Retention and Storage of Electronic Records A-21
- Preservation of Records Memo A-23
- Preservation of Records and Request for Records Memo A-24
- Request for Records A-25
- Supplemental Records Request A-26
- Interrogatory Memo A-27

Tracking Requests

- Master Document Request Tracker A-28

PART D – INFORMATION GATHERING

- Conducting Witness Interviews..... A-35
- Interview Questions Form (shell) A-38
- Interview Introduction Script..... A-40
- Frequently Asked Questions During Interviews.....A-41
- Bargaining Unit Employees Disclosure Statement A-42
- Memo to file re Union Rep Conversation..... A-43
- Summary of Interview - Example..... A-44
- Summary of Field Observation – Example 1.....A-45
- Summary of Field Observation – Example 2.....A-47
- Summary of Field Observation – Example 3.....A-49

This page left intentionally blank

Administrative Investigations Pursuant to CH II of the JAGMAN:
A Quick Look

	Command Investigations	Litigation-Report Investigations	Courts and Boards of Inquiry
Purpose of Report	GATHER, analyze, and record relevant information about an incident or event of primary interest to command authorities	PREPARE to defend the legal interests of the DoN and the U.S. when an incident is likely to result in claims or civil litigation	INVESTIGATE major incidents using hearing procedures
Seriousness of Event/Mishap	SIGNIFICANT: Death or injury of military personnel (or civilians accompanying military in the field); significant property losses; aircraft incidents, groundings, floodings, fires, and collisions (not major incidents)	VARIOUS: The seriousness of the incident will vary; even minor incidents (i.e. vehicle collision) require investigation if claim/litigation anticipated; required for potential significant environmental damage incidents	MAJOR: Multiple deaths (military and/or civilian), substantial property loss, substantial harm to the environment; circumstances suggest a significant departure from expected level of professionalism, leadership, judgment, communication, state of material readiness, or other relevant standard; involves foreign citizens/gov't
Public Release	RELEASABLE under FOIA and PA when completed (subject to various redactions and exceptions); the CA or GCMCA is release authority, except CNO (N09N) for compromise of classified info investigations	PROTECTED from release under FOIA/PA and civil litigation as attorney work-product; Code 15 is release authority	OPEN: Proceeding open to public and final report usually released in full (except classified info); ensures transparency of process & results; CA may permit outside organization participation (e.g. FFA for aviation mishap or foreign ally non-voting member); all testimony under oath and transcribed verbatim; cognizant Echelon II is release authority

Factors:	Command Investigations	Litigation-Report Investigations	Courts and Boards of Inquiry
Media Interest	VARIOUS: Usually little interest outside the immediate command	VARIOUS: Interest will vary (e.g. both GOV accident and Camp Lejeune toxic tort investigations are litigation-reports)	HIGH: National public and press interest; significant congressional attention; potential of undermining public confidence in the Naval service; involves foreign media interest
Powers of Investigator	LIMITED: Has authority commander bestows; requires cooperation of witnesses, NCIS, state law enforcement; no subpoena powers; cannot promise confidentiality	LIMITED: No subpoena powers but may have easier access to information and witness cooperation because the report is not subject to release	MANY: Both Courts and Boards have power to order military personnel to appear, testify, and produce evidence; Courts have power to subpoena civilian witnesses to appear, testify, and produce evidence per Article 47, UCMJ; suspect witnesses may be more forthcoming when questioned by being given the rights of a party; may be assisted by appointed advisors
Resources/Time Required	Generally requires FEWER resources and time than Courts and Boards of Inquiry	Generally similar to Command Investigations; requires judge advocate support and review	GREATER resources and time because of formalities; requires members, judge advocates, hearing support staff; BUT a less formal format may fail to address issues adequately; if a General Court-Martial may arise from the incident, may be a substitute for an Article 32, UCMJ, investigation

5800
Ser XXXXX
Date

From: IO
To: XXXX [Team Member]

Subj: [From the Convening Order]

Ref: (a) JAG Manual
(b) [Appointing Letter to IO]

1. This appoints you, utilizing guidance provided in references (a) and (b), to act as a member of an investigation team, to inquire into the facts and circumstances surrounding [describe event to be investigated]. [Identify Senior Member/COS] has been appointed as the Senior Member/Chief of Staff of the investigation team and will act as your immediate superior during the investigation.
2. The investigation will be comprehensive and conducted as a matter of organizational priority. You are directed to assist in accomplishing the investigation established in reference (b). Your responsibilities take precedence over all other military duties.
3. You are reminded that this is a sensitive investigation. As part of the investigation team, you will have access to sensitive information. This information, in any format, may not be shared outside of the investigation team unless authorized by me or [Senior Member/IO].
4. By copy of this appointing order and reference (b), you may obtain necessary technical and administrative support, including staff, office facilities, administrative equipment, legal support and technical assistance, from any of the DoD components as promulgated in reference (b).

[IO]

5800
Ser XXXXX
Date

From: IO
To: [Senior Member/CoS]

Subj: [From the Convening Order]

Ref: (a) JAG Manual
(b) Appointing Letter to IO

1. This appoints you, utilizing guidance provided in references (a) and (b), to act as the Senior Member/Chief of Staff of an investigation team and to inquire into the facts and circumstances surrounding the [describe incident] per reference (b). Your responsibilities as Senior Member/Chief of Staff take precedence over all other military duties.

2. The investigation will be comprehensive and conducted as a matter of organizational priority. (If clarifying information is required, insert here, i.e., "For the purposes of this memo, _____ encompasses or means _____.") You are directed to accomplish the following [extracted from any specific issues that the IO wants addressed in the investigation: For example:]

- (a) Establish an authoritative account of the actions, decisions and events that led to the _____.
- (b) Determine what deficiencies in policies and procedures resulted in the shipment in question.
- (c) Assess whether those personnel involved in the [taken from the incident] in question performed their duties properly as directed.
- (d) Determine whether any applicable policies and procedures have been changed since their inception in a manner that contributed to this incident.
- (e) Identify and determine any other contributing factors that may have resulted in _____.
- (f) Identify and assess the procedural, personnel and policy deficiencies that [failed to identify or caused a specific event] between _____ 20XX and _____ March 20XX [Include if necessary].
- (g) Make appropriate recommendations to improve _____.
- (h) Address such related matters as you deem appropriate.

3. Please provide me your initial assessment by [20 to 30 days prior to due date]. I would like your completed, detailed report, including findings and recommendations, within 60 days from the date of

this memorandum, but not later than [IO Due Date, likely at least 10 days prior to CA due date]
Your report should be in unclassified and classified formats, with an executive summary for each.

4. By copy of this appointing order and reference (b), you may obtain necessary technical and administrative support, including staff, office facilities, administrative equipment, legal support and technical assistance, from any of the DoD components as promulgated in reference (b).

NON-DISCLOSURE AGREEMENT

You have been appointed to serve as a member of the team investigating [description of incident being investigated]. As stated in your appointment letter, this is a sensitive investigation, requiring your access to protected information. Information, of any nature and in any format, including information about the investigation itself, may only be shared with personnel who have received a formal letter from [IO] appointing them as a member of the investigation team. Information may not be shared with anyone outside of the investigation team (including other government personnel) unless expressly authorized by [IO or COS].

Date

Print Name

Signature

[IO or COS]

INVESTIGATIVE TEAM

Position	Rank	Name	Command	Email	Work #	Home #	Cell #
TEAM							
IO							
Sr Mbr/IO							
Sr Legal Advisor							
Core Group							
Core Group							
Core Group							
Team Leader (1)							
Team Member							
Team Member							
Team Leader (2)							
Team Member							
Team Member							
Team Member							
Team Leader (3)							
Team Member							
Team Member							
Team Member							
JAG							
JAG							
JAG							
PAO							
Admin Lead							
Admin Support							
Admin Support							
Admin Support							
LIAISONS							
NCIS							
Other Agencies							
Tech Experts							
Safety Rep							

Battle Rhythm (Notional)

- 0800 COS/Core Group Meeting
- 0815 IO/COS Small Group Meeting (as needed)
- 0830-0930 Morning Meeting – COS/Core Group/Team Leads
- Each Team provides update on past 24 hours and what is planned for the next 24 hours to synchronize efforts
- Admin/Logistics/Evidence Control Update
POA&M Synch
IO's Direction/Guidance (from IO/COS meeting)
- 0930-1900 Team Investigation – Normal Operations
- 1700 Wrap – Up COS/Core Group/Team Leads
Wrap-up mtg. prep
Draft status update e-mail
- 1730 IO/COS Afternoon Wrap-Up as needed

XX INVESTIGATION TEAM END GAME

Small Group Review: [Core Group]

Red Team Review: [List names]

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Day 16	Day 17	Day 18	Day 19	Day 20	Day 21
	Writing Trip Reports and Findings			Team Members A, B & C to X	Team Members A, B & C to X	
Day 23	Day 24	Day 25	Day 26	Day 27	Day 28	Day 29
Off		Team X travel to XXXX	Input from [Command] Due		Each Major Section delivered to Final Report Staff	Group Head Reviews and First Draft Writing
Day 30	Day 31	Day 32	Day 33	Day 34	Day 35	Day 36
Work day	1st Rough Draft of Report Small Group Review	2nd Rough Draft of Report Small Group Review Flag Officer Meeting	Final Recommendations & Accountability Final Small Group Review IO Meeting with [Flag Officer]	Final Draft Report Due Red Team Review	Final Report Reading Small Group Review	Final Classified Report Signed
Day 37	Day 38	Day 39	Day 40	Day 41	Day 42	Day 43
Work day	Briefing Slides Complete	Unclassified Report Due	IO Dry-Run of Brief	PAO Material Complete		Final Report DUE (start date + 45 days)
Day 25	Day 26	Day 27	Day 28	Day 29	Day 30	Day 31
Work day	Record Consolidation/ Packout	IO Brief for CA or Sr Leadership)	Finished?			

BUSINESS RULES - Examples

CONDUCTING INTERVIEWS

1. Personally Identifiable information should be kept to a minimum.

- a. Avoid collecting addresses, personal phone numbers, date of birth, and social security numbers.
- b. Unless the team lead decides other identifying information is required, only record the interviewee's name, rank, unit, position and work phone number .

2. Witness De-Confliction

- a. During daily staff meetings, Team leaders shall discuss whom they are planning on interviewing.
- b. Any interviewee that is relevant to multiple teams will be interviewed jointly by representatives from those teams.

3. Conducting the interview/field observation.

- a. Interview teams will consist of a lead interviewer and at least one other person, normally administrative support personnel, and any other support the lead interview requires, e.g., JAG.
 - b. All interviews will OR will not be recorded (as applicable to your investigation).
 - c. The lead interviewer shall develop a list of questions prior to conducting the interview; and be ready to present other evidence (documentary) to the interviewee in order to establish the facts. These questions should account for the elements of relevant UCMJ punitive articles or Navy/DOD instructions.
 - d. Prior to conducting any interviews, the interviewer shall:
 - i. Review the general guidance on "Conducting Witness Interviews" (separate document).
 - ii. Consult with assigned legal counsel concerning the need for rights advisory warnings to military personnel and for special requirements and considerations when interviewing civilian personnel. Interviewers shall:
 - know what Rights/Warnings Forms to provide (e.g., Kalkines; Weingarten; UCMJ, Art 31(b), etc.)
 - place interviewees under oath and obtain sworn testimony (if applicable).
 - advise all witnesses (military and civilian federal employees) that they must answer all questions relating to the investigation except those that may be self-incriminating (where immunity has not been granted).
 - e. The lead interviewer shall provide bullet points for the Team Leader/COS/IO by COB the day the interview took place.
 - f. Interview Summaries/Field Observations shall be prepared within 72 hours of the interview/observation and provided to the lead interviewer to ensure it accurately reflects the notes taken during the interview before signature.
-

DOCUMENTS AND EVIDENCE

1. Hard copy documents (Unclassified)

- a. Shall be given to [ID designated Admin Lead].
- b. A unique identifier will be assigned to the document in sequential order of arrival.
- c. Tracking spread-sheet will be filled out with document number, document name, date and time of receipt, and location of document.
- d. [ID designated Admin Lead] shall scan and upload the document to the appropriate section of the investigation portal site.

2. Hard copy documents (Classified)

- a. See instructions that will be provided separately.

3. Electronic versions (Unclassified)

- a. Shall be e-mailed to [ID designated Admin POC] (e-mail address). If too large for e-mail, uploaded to AMRDEC SAFE and a notification sent to [ID designated Admin POC] via e-mail.
- b. A unique identifier will be assigned to the document in sequential order of arrival.
- c. Tracking spread-sheet will be filled out with document number, document name, date and time of receipt, and location of document.
- d. [ID designated Admin POC] shall upload the document to the appropriate section of the investigation portal site.

4. Working copies

- a. Do not use original documents as working copies.
- b. Working copies of documents can be downloaded from the portal site.

5. Non-documentary evidence

- a. [ID designated Admin POC] shall maintain control over all original evidence.
- b. A unique identifier will be assigned to the evidence in sequential order of arrival.
- c. Tracking spread-sheet will be filled out with document number, document name, date and time of receipt, and location of document.
- d. When possible evidence shall be scanned and uploaded to the investigation portal.
- e. If a team member needs access to original evidence, such as videos or photos that are not available on the investigation portal they must be checked out from [ID designated Admin POC].

6. Document Footers. All documents created by the investigation should contain the following in the footer:

Pre-decisional / Deliberative Work Product/ Attorney-Client Privileged Information

FOR OFFICIAL USE ONLY – PRIVACY SENSITIVE

Any misuse or unauthorized disclosure may result in civil and/or criminal penalties.

7. Document Retention

- a. An Outlook Data File (also known as a PST file) has been created in Outlook for this investigation. Each Team Member shall create his or her own personal file for emails related to the investigation. Do not discard any e-mails related to the investigation.
- b. Do not discard hard copy or electronic versions of documents, including drafts of your own work product. All documents should be turned into [ID designated Admin POC] for retention in a duplicate document file.

8. E-mail

- a. **Subject Lines.** All subject lines related to the investigation should begin with: **[ID INVESTIGATION] (FOUO/PRIVACY SENSITIVE)**
- b. **Signatures.** All e-mails related to the investigation should include the following disclaimer in the signature line:

FOR OFFICIAL USE ONLY/PRIVACY SENSITIVE. This electronic transmission, and any attachments, may contain confidential information intended only for the person(s) named above. It may be protected from disclosure by applicable law, including the Privacy Act, attorney-client privilege, and/or work product doctrine. Any misuse, distribution, copying, or unauthorized disclosure of this information by another person is strictly prohibited and may result in both civil and criminal penalties. If you receive this transmission in error, please notify the sender at the telephone number or e-mail address above.

9. Draft Reports

- a. [ID designated Admin POC] will be the POC for maintaining version control.
- b. Draft sections shall be submitted to [ID designated Admin POC] (Email address of POC) via email to be merged into the full draft report.
- c. After sections have been incorporated into the master draft report all inputs shall be saved in a separate directory.
- e. Before anyone edits any existing section of the report contact [ID designated Admin POC] to ensure that the document being edited is the latest version.

10. Document Naming

- a. Draft report documents shall be named “[section of report] [name of drafter] ver [current date and time] [INV TITLE].”
- b. Evidence will be entitled “[command/organization] [evidence name] [date] [INV TITLE].”

LESSONS LEARNED

1. Lessons learned shall be submitted to [ID designated POC] (e-mail address of POC) via e-mail as soon as practicable after discovery.
2. Any lesson that can be immediately applied to the remainder of the investigation shall be forwarded to the IO and upon approval distributed to the rest of the investigation team for action.
3. [ID designated POC] shall keep all lessons learned received in one repository for consolidation after the investigation is complete.

INVESTIGATION CHARTER

Thoroughly and comprehensively analyze the facts and circumstances surrounding [insert language from the Convening Order]. Prepare a well-reasoned and easy to understand written report and submit to the [CA] by [due date]. Due to the complexity and bandwidth of this task, the investigative effort will be broken down into the following # sections under the direction of a team leader:

- 1.
- 2.
- 3.
- 4.

Each Team will operate independently, coordinating frequently with the other Teams to ensure there is no duplication of effort or gaps in coverage. Upon completion of the investigation phase, each Team shall be responsible for drafting a section of the report and submitting it to the IO for inclusion in the Final Report.

Team X Charter: Review of [Command's] Installation's Access Controls, Installation Security and Force Protection Procedures and Policies

Team Members, Roles, and Responsibilities:

XXXX - Lead
XXXX (JAG)
XXXX (lead author)
XXXX (topic)
XXXX (topic)

Scope:

Assess the execution of and compliance with DoN programs, policies and procedures pertaining to [insert from Convening Order and specific tasks of IO]. Assess the execution of and compliance with DoN programs, policies and procedures pertaining to [issue] at [locale] on [date of incident]. Provide specific opinions as to the adequacy of applicable Departmental programs, policies and procedures as applied to this incident, as well as the execution thereof and compliance therewith, and recommendations to address any concerns, lessons learned, or other issues identified.

Evaluate the effectiveness of internal and external audit and assessment programs to identify and correct weaknesses and deficiencies in [from Convening Order and IO tasks] procedures.

Method of Review:

1. (Names of team members assigned) Assess compliance with Physical Security and Law Enforcement as derived from OPNAVINST 5530.14E and NTTP 3-07.2.3. This review will cover the following elements:
 - a. Security force compliance with standard operating procedures, post orders, and preplanned responses; evaluate adequacy of SOP, PO, and PPR
 - b. Jurisdictional Authority and Memorandum of Agreements, Memorandum of Understanding, and Mutual Aid Agreements.
 - c. Training and qualification programs
 - d. Contractor security force performance and management
 - e. Auxiliary security force performance and management
 - f. Security force manning, resources, and budgeting process (MPV-P)
 - g. Effectiveness of annual physical security surveys

- h. [Command] credentialing and access including by not limited to Navy Commercial Access Control System
 - i. Facility infrastructure assessment
 - 2. (Names of team members assigned) Evaluate the adequacy, compliance, and readiness of Force Protection and Antiterrorism policies, requirements, and instructions. Evaluate and assess the following aspects:
 - a. Interaction with Physical Security and Law Enforcement infrastructure
 - b. Adequacy and compliance with Random Antiterrorism Measures (RAM) and other AT program requirements
 - 3. (Names of team members assigned) Assess [command(s)][investigation] compliance with Department of Defense (DoD), Department of Navy (DoN), and local policies, requirements and procedures associated with Industrial Security requirements.
 - a. Evaluate the adequacy of the building access and credentialing processes for contractors through an evaluation and assessment of practices at Buildings 197, 201, and 104 on the [_____].
 - 4. (Names of team members assigned) Evaluate the adequacy and effectiveness of training programs to prepare and test the security forces on the [_____] to respond to various scenarios. Elements to be assessed include:
 - a. Drill Reports and Assessment
 - b. Incorporation of Lessons Learned
 - 5. (Names of team members assigned) Evaluate the Incorporation of Lessons Learned from Other Significant Events
 - a. Review investigation report from the 2009 Fort Hood event and determine if the Navy incorporated lessons learned and recommendations into applicable policy and procedures.
 - b. Review investigation report from the [Investigation] and determine if lessons learned were incorporated into applicable policy and procedures.
 - 6. (Names of team members assigned) Evaluate and assess the effectiveness of internal and external audits, inspections and assessments of security programs.
 - a. Identify and assess compliance with DoD/DoN requirements and instructions
-

- b. Evaluate the implementation of recommendations at integrated vulnerability assessments of the [____] conducted by the Joint Staff, Chief of Naval Operation and [____].
- c. Evaluate the management and disposition of security and force protection vulnerabilities identified by periodic vulnerability assessments
- d. Evaluate the effectiveness of employee concerns/feedback programs.

Milestone Schedule:

Refer to Master Project Schedule

Documents Required:

Interrogatories:

Planned Interviews:

AGENCY	INDIVIDUALS	REASON FOR INTERVIEW
--------	-------------	----------------------

Team Y Charter: Emergency Preparedness and Response

Team Members, Roles, and Responsibilities

XXXX – Lead
XXXX- Lead Writer
XXXX- JAG
XXXX
XXXX

Scope:

Assess the execution of and compliance with DOD and DON programs, policies and procedures pertaining to emergency response management at [] on and prior to [date], including an assessment of whether DON response was delayed or impeded. Provide specific opinions as to the adequacy of applicable Departmental programs, policies and procedures as applied to this incident, as well as the execution thereof and compliance therewith, and recommendations to address any concerns, lessons learned, or other issues identified.

Method of Review:

1. (Names of team members assigned) Assess [command(s)] compliance with DOD, DON, and local policies, requirements, and procedures associated with OPNAVINST 3440.17 Navy Installation Emergency Management Program.
 - a. Guidance developed and provided to subordinate commands from [command] regarding the Emergency Management program.
 - b. Regional and installation implementation plans from [command] guidance.
 - c. Emergency management organizational structures on the installation and roles and responsibilities of functional groups.
 - d. Review required Installation assessments (per DODI 2000.16) in the areas of critical asset, threat/hazard, vulnerability, consequence, and response capability.
 - e. Tenant command's separate EM program, if applicable.
2. (Names of team members assigned) Assess the readiness of the various emergency management and response organizations associated with [command]. Evaluate the structure of the applicable emergency response organizations. Specific areas to be reviewed:
 - a. Organizational Structure (org charts)
 - b. Training Programs
 - i. Qualifications/Proficiency
 - ii. Continuing Training

- iii. Training material for Category 1 through 4 personnel
 - iv. Qualifications and training records (i.e., attendance) for all 5 Personnel Categories
 - v. Signed letters assigning the regional and installation emergency managers
 - vi. Training records demonstrating equipment usage, maintenance, and employment
 - vii. Any requirements for specialty training (per OPNAVINST 3440.17 and other documents)
 - viii. Personnel training records assigned to the EOC for the purposes of Command and Control per [command] guidance
- c. Equipment
- i. Audit the storage, maintenance, inventory, repair, and lifecycle management of equipment in the areas of:
 - 1. Command and Control
 - 2. Warning and reporting
 - 3. Communications
 - 4. Detection
 - 5. Identification of hazard(s)
 - 6. Personal / individual protection
 - 7. Collective protection
 - ii. Vertical audits of:
 - 1. [command] Regional Operations Centers (ROC) and [command] Emergency Operations Centers (EOC) (primary and alternate)
 - 2. Communications equipment between ROC, EOC and on-scene functions
 - 3. Mass warning systems,
 - 4. Emergency response vehicles,
 - 5. Incident command post
 - 6. Medical facilities and staged response equipment
 - 7. Region dispatch center
- d. Drills/Exercise
- i. Review of exercises and assessments as required in OPNAVINST 3440.17
 - ii. Review of functional area exercises for Category 5 personnel
 - iii. Review of tenant command exercises (i.e., evacuation, accountability)
 - iv. Records of tenant command participation in exercises and drills
 - v. Incorporation of Lessons Learned
- e. Manning and Watch bills
- i. Number of Category 5 (emergency response) billets required and assigned to the [command] currently and for the past two years
 - ii. Watch bills for command(s)] Category 5 personnel on [date].
- f. Resources

- i. Budgets for past 5 years as pertaining to Category 5 personnel, equipment, and operations in [command(s)]
- 3. (Names of team members assigned) Specific MOA, MAA, MOV, ISSA, contracts, and other exercise coordination agreements between the base and tenant commands, region, and other federal organizations as outlined in OPNAVINST 3440.17.
- 4. (Names of team members assigned) Evaluate and assess the effectiveness of internal and external audits, inspections and assessments of [command] emergency management and response programs.
 - a. Independent evaluation of exercises per OPNAVINST 3440.17 for Group 1 installations
 - b. Implementation of lessons learned from external events/previous investigations
 - c. Director of Test and Evaluation and Technology Requirements (CNO (N091) oversight to specialized EM Program test and evaluation assets reports
- 5. (Names of team members assigned) Time line for events on [date]
 - a. Category 5 personnel manning and response times on [command]
 - i. Review of command logs and interviews
 - b. Response by Regional dispatch center
 - c. Time of notifications for organizations external to [command(s)]
 - d. Functional area response
 - i. Command and Control
 - ii. Logistics
 - iii. Medical
 - iv. Public Affairs

Milestone Schedule:

Refer to Master Project Schedule

Documents Required:

Interrogatories:

Planned Interviews:

AGENCY	INDIVIDUALS	REASON FOR INTERVIEW
--------	-------------	----------------------

RETENTION AND STORAGE OF ELECTRONIC RECORDS (SAMPLE)

The following discusses how the Investigation Team should handle documents collected during the investigation.

- Duplicate copies of documents collected during the investigation, that are not provided to the administrative staff, should be properly disposed.
- Electronic records that contain draft reports, letters, schedules, e-mails and other electronically stored material should be transferred to the administrative staff at the conclusion of the investigation.
- The “official” record of this investigation will consist of the following:
 - The Final Report;
 - Appendices to the Final Report;
 - “Books of Evidence” supporting the Final Report and Appendices;
 - Any other Assessments of the Incident by other entities prepared before the investigation was initiated;
 - “Books of Evidence” supporting those Assessments;
 - Official Correspondence from the Investigation Team, and Responses thereto;
 - Investigation Team Work;
 - Investigation Team Work Product, such as the PowerPoint presentations delivered to XX; and
 - The document produced in response to document requests, currently estimated at XX pages.
- Any document or item not on the above list is not part of the official record and may be treated in the normal course of business. As for electronic media, there will be a mix of documents and items which may be discarded, as well as relevant items that must be preserved. Since there is no anticipated litigation, it is not necessary to keep drafts of sections. Whether a document is simply a draft or contains more substantive information is a discretionary matter. Because of the importance of maintaining a complete and accurate record, err on the side of caution –if there is any question, maintain the document as outlined below.
- The best course of action is to store these records in the following manner:
 - Classified e-mails: All Investigation Team members should save all incoming and outgoing e-mails in the shared directory in a folder bearing your name.
 - Electronic documents on the classified system: All Investigation Team members should download their documents onto the same folder containing classified e-mails.
 - Unclassified e-mails: All Investigation Team members should use the shared directory to store all unclassified e-mails.

- Electronic documents on the unclassified system: All Investigation Team members should attach such a document in an e-mail, send it to themselves, and capture it in the shared drive on the unclassified system.
- When the Investigation Team has concluded its storage into the shared folders, the records will be transferred to CDs and placed into a jacket with a label affixed stating:

THIS CD CONTAINS CLASSIFIED INFORMATION PROTECTED FROM DISCLOSURE BY DELIBERATIVE PROCESS PRIVILEGE, ATTORNEY CLIENT PRIVILEGE, ATTORNEY WORK PRODUCT, PRIVACY ACT, AND OTHER APPLICABLE LAWS AND REGULATIONS. DO NOT RELEASE TO ANYONE OUTSIDE OF APPOINTED INVESTIGATION TEAM MEMBERS WITHOUT EXPRESS WRITTEN AUTHORITY

- The CDs will be placed in a sealed box with the rest of the official file. It is important to act conservatively in this regard in the event that an outside entity (e.g., Congress) seeks to review documentary material that exists only in electronic format.

5800
Ser XXXXX
Date

MEMORANDUM FOR COMMANDER, _____

Subj: PRESERVATION OF RECORDS

Ref: (a) Appointing Order

1. In reference (a), the [CA] appointed me to conduct an investigation into the facts and circumstances surrounding the [topic of investigation].
2. Accordingly, I request that you take immediate steps to identify and ensure the preservation of all records, including without limitation, electronics records of any type, in the possession, custody or control of your Command, or subordinate commands, that may be relevant to my investigation. I also request that you suspend or adjust any Command policies or procedures regarding the deletion, destruction, or overwriting of such records to ensure their preservation.
3. If you are aware of any additional steps that should be taken or offices that should be contacted to preserve these records, please take those steps and inform me of them. If you are aware, or become aware, of the destruction of any related records, please inform me immediately.
4. My point of contact for this matter is [COS]. He may be reached at [phone] XXX-XXX-XXXX or by email at _____. Please designate a point of contact (POC) in your Command for this matter and have your POC contact [COS]. Thank you for your support.

IO

5800
Ser XXXXX
Date

MEMORANDUM FOR COMMANDER, _____

Subj: PRESERVATION OF RECORDS

Ref: (a) Appointing Letter

Encl: (1) List of Requested Materials OR List of Questions

1. In reference (a), [CA] appointed me to conduct an investigation into the facts and circumstances surrounding the [topic of investigation].
2. Accordingly, I request that you take immediate steps to identify and ensure the preservation of all records, including without limitation, electronics records of any type, in the possession, custody or control of your Command, or subordinate commands, that may be relevant to my investigation. I also request that you suspend or adjust any Command policies or procedures regarding the deletion, destruction, or overwriting of such records to ensure their preservation.
3. If you are aware of any additional steps that should be taken or offices that should be contacted to preserve these records, please take those steps and inform me of them. If you are aware, or become aware, of the destruction of any related records, please inform me immediately.
4. Enclosure (1) is a list of requested material that should be compiled and delivered to the Investigation Team no later than _____. If additional time is needed to gather the requested materials, provide a written justification and a date/time commitment to complete production of all materials.

OR

Enclosure (1) is a list of questions that should be addressed. Responses should be delivered to the Investigation Team no later than _____. If additional time is needed to respond to the questions, provide a written justification and a date/time commitment to complete the response.

5. My point of contact for this matter is [COS]. He may be reached at [phone] XXX-XXX-XXXX or by email at _____. Please designate a point of contact (POC) in your Command for this matter and have your POC contact [COS]. Thank you for your support.

IO

5800
Ser XXXXX
Date

MEMORANDUM FOR COMMANDER, _____

Subj: LIST OF REQUESTED MATERIALS

Ref: (a) Appointing Letter

Encl: (1) List of Requested Materials

1. In reference (a), the [CA] appointed me to conduct an investigation into the facts and circumstances surrounding [from Appointing Order].
2. Enclosure (1) is a list of materials that the Investigating Team requires to complete its assigned task. Please compile and deliver these materials to the Investigation Team no later than [date]. If additional time is needed to gather the requested materials, please provide a written justification and a date/time commitment to complete production of all materials. Those materials gathered in the interim should be delivered as they become available.
3. My point of contact for this matter is [_____]. He may be reached at [phone/e-mail]. Please designate a point of contact (POC) in your Command for this matter and have your POC contact [_____]. Thank you for your support.

IO

5800
Ser XXXXX
Date

From: Senior Team Lead/COS
To: Command

Subj: SUPPLEMENTAL REQUEST FOR INFORMATION

Ref: (a) Appointing Letter
(b) Initial Request

1. In reference (a), [IO] was appointed to conduct an investigation into the facts and circumstances surrounding [investigation topic].
2. An initial request for information was provided via reference (b). Subsequent to issuing reference (b), the Investigation Team has identified additional information that is needed to support the investigation. Accordingly, I request you provide the following material to the inspection team as soon as possible but no later than [date].
 - a. _____.
 - b. _____
3. If additional time is needed to gather the requested materials, please provide written justification and a date/time commitment for completion.
4. I can be reached at [phone/e-mail]. Thank you for your support.

Senior Team Lead/COS

5800
Ser XXXXX
Date

MEMORANDUM FOR COMMANDER, _____

Subj: INTERROGATORY

Ref: (a) Appointing Letter

Encl: (1) List of Questions

1. In reference (a), the Secretary of the Navy appointed me to conduct an investigation into the facts and circumstances surrounding the [insert from Convening Order].

2. Enclosure (1) is a list of questions that the Investigation Team requires answered to complete its assigned task. Please compile and deliver these materials to the Investigation Team no later than [date]. If additional time is needed to respond to the questions, provide a written justification and a date/time commitment to complete the response.

3. My point of contact for this matter is [_____]. He may be reached at [phone/e-mail]. Please designate a point of contact (POC) in your Command for this matter and have your POC contact [_____]. Thank you for your support.

IO

MASTER DOCUMENT REQUESTS - SAMPLE

Command A

1. Security Department procedures or operating instructions or policies to recognize risk factors and indicators that an individual is a danger to herself or others.
2. Reporting procedures if an individual identified to be a danger to herself or others.
3. Instructions, procedures, policy or similar documents relating to reporting of potential derogatory or other information of concern as it relates to Navy personnel or Navy contractors whether or not holding security clearances.

Command B

1. Designed code of record for the design and construction of building A and B entry control points. Specifically, information regarding which Unified Facilities Criteria were used to design/build these facilities
2. The final as-built drawing for Building A
3. Maintenance plans and records for all physical security facilities and equipment on the command and within Buildings A, B, and C. Specifically, any and all contracts or other support provided under CNIC Antiterrorism/Force Protection (ATFP) Ashore Program.
4. Identify any Anti-Terrorism/ Force Protection related projects proposed in the past 5 years. Contact information for the project manager and status of each proposed project.

Subsequent Request

5. Contracting Officer Representative (COR) for contract NXXXXXX. An interview will be scheduled.
6. Extension of or replacement for Security Guard Contract NXXXXXX. Complete COR files for this contract.
7. SOW/PWS for this contract.
8. The designated COR for this contract and contact information. An interview will be scheduled.

Command C

1. [command] Access Control and Security Instruction/Policies.
2. [command] Physical Security Instruction/Policies.
3. All audit and/or inspection (internal and external) reports conducted over the past 5 years related to access controls, physical security and force protection.
4. Documentation associated with any corrective actions taken in response to any audits and/or inspections (internal and external) conducted over the past 5 years related to access controls, physical security and force protection.
5. AT Plan per DODI 2000.16
6. Standard Operating Procedures/Post Operating Procedures for Security.

Subsequent Request

7. Specific to the contractors under Prime Contract# NXXXXXX and Subcontract P.O. XXXXXX. [] and [] provide all visit requests and supporting documentation used to grant access to all [command] headquarters Buildings [command], and [command]..
8. All records required by local instructions that document access to any headquarters spaces at the [command] between [date] and [date].
9. A listing of all applicable instructions, manuals, policies that provide guidance and requirements for access and visitor controls specific to buildings A, B, and on the [command].

Subsequent Request #2

10. Any MOUs/MOAs for other commands and installations to support use of alternate operating facilities (AOFs).
11. Any individual business unit (BU) Continuity of Operations (COOP) plans, and BU plans/documents which discuss relocation, devolution of control, and reconstitution, if not already part of their respective COOP plan.
12. Most recent AOF Vital Records Inventory and corresponding lists of required vital records supplied by individual BUs.
13. Any documentation associated with the last twelve months of all-hands awareness briefings on COOP policies and procedures (handouts, lectures, attendance rosters) if available
14. Any documents associated with the most recent annual training on devolution and reconstitution plans, and training on IT system layout and capabilities at alternate operating facilities, and semiannual training of the Emergency Relocation Staff.
15. The last two years' worth of Training, Test, and Evaluation plans for COOP.
16. Any other documentation associated with the last two years' worth of training exercises, (such as mock-activation of Sites I and R), including after-action reports, lessons learned, and corrective action plans.
17. [] Teleworking policies
18. The most recent annual reports of COOP limiting factors, as discussed in [] S3730.1B

Command D

1. List of all active [command] Instructions.
 2. [command] Force Protection Instruction/Policy Documents. (ATO/COP)
 3. [command] Installation Access Control Instruction/Policy Documents. (COP)
 4. [command] Vendor/Contractor Access Policy/Instruction. (COP)
 5. [command] Emergency Operations Center (EOC) policy/procedures documentation. (Installation EMO)
-

6. Documents/Information related to Random Anti-Terrorism Measures (RAMs) for past two years, to include RAM schedules and RAM policies. (ATO)
 7. Facility Change Requests related to Security/Force Protection for past five years. (ATO)
 8. Mission Profile Validation-Protection (MPV-P) for [] for past five years. (COP)
 9. Manning documentation for [] Security Department to include civilian military personnel, and auxiliary security force for the past five years. (COP)
 10. [command] Training Documents to include: qualifications including small arms and EVOC; proficiency; continuing training; drill/exercise performance and results; follow-on training documentation. (COP/Installation N7)
 11. [command] Security Department watch bills for past two years. (COP)
 12. [command] Security Department watch bill for 16 September []3. (COP)
 13. [command] Security and Force Protection (FP) in annual budget for past five years. (COP)
 14. Any information related to hiring freeze/reduction in security/force protection billets at [command] (COP, XO)
 15. All Memorandum of Agreement/Understanding and Mutual Aid Agreements with tenant commands, contractors, local and federal law enforcement organizations, Washington Navy District, and other organizations (COP/XO) with respect to the EM interoperability. (EMO)
 16. Current [command] Map/Drawing showing all roads, structures, boundaries, base access locations. (XO)
 17. Contracts with all contract security providers for the [command] and individual buildings. (XO)
 18. Logs and records pertaining to criminal background checks conducted on unescorted visitors (COP)
 19. Hiring guidelines (knowledge, skills and abilities requirements)for security personnel. (COP)
 20. Documentation defining jurisdiction authority on and around the [command]. (COP/JAG)
 21. Policies, instructions, qualification, proficiency requirements unique to the auxiliary security force. (COP/ASF Coordinator)
 22. All audit and/or inspection (internal and external) reports conducted over the past 5 years related to access controls, physical security and force protection. (JSIVA, CNOIVA, HHA, etc.) (COP/ATO)
 23. Documentation associated with any corrective actions taken in response to any audits and/or inspections (internal and external) conducted over the past 5 years related to access controls, physical security and force protection. (COP/ATO)
 24. Base assessment from the critical asset, threat/hazard, vulnerability, consequence, and response capability per DODI 2000.16 (ATO)
 25. Latest EM performance assessments including, but not limited to, JSIVA, CNO IVA, CIP, and COOP per OPNAVINST 3440.17 enclosure 1 par 5. (EMO)
-

26. All applicable MOA, MAA, MOV, ISSA, contracts, and other exercise coordination agreements with respect to the EM interoperability. (EMO)
27. Prevention and mitigation standards per CNO (N3AT). (OPNAVINST 3440.17 encl (1) para 12.) (ATO)
28. Letters designating all EM officer/managers in writing per OPNAVINST 3440.17 (regional, installation and tenant). (EMO)
29. EM Plans and procedures for evacuation, safe haven and shelter in place for CAT 2-4 personnel per OPNAVINST 3440.17. (EMO)
30. EM Training material and attendance records per OPNAVINST 3440.17 par 8 (ie. CAT 5 personnel, dispatch personnel, COOP training for CAT 1, etc) (EMO)
31. EM Transition plan per OPNAVINST 3440.17 (EMO)
32. List of tenant commands and organizational charts regarding the EM team. (EMO)
33. Battle watch captains logs for the 16 Sept event (COP)
34. EM Equipment list/ PMS maintained/ operated per the OPNAVINST 3440.17 (EMO)
35. Emergency operations center organizational/ manning chart (EMO)
36. List of EM support civilian points of contact (EMO) for civil-military coordination per OPNAV 3440.17 (Enclosures 1, 7.i)
37. Annual Physical Security Surveys (3 years) per OPNAVINST 5530.14 (Security Officer)
38. Installation AT vulnerabilities as listed in CVAMP. (ATO)
39. DRRS-N reports (security). (XO)
40. Appointment letters for ATO, Security Officer, Key & Lock custodian, etc (XO)
41. Training records for ATO (Completion of AT Level II Training) and Security Officer (Navy Physical Security and Law Enforcement Officer school) (XO/COP/ATO)
42. NSF Post Orders/SOPs/PPRs.

Subsequent Request #1

43. All records and documents associated with Anti-Terrorism (AT) and emergency Preparedness (EP) training, including but not limited to:
 - a. Long range and short range training plans for the past three years
 - b. AT and EP drills for the past three years, including drill guides/records and evaluations
 - c. Assessment reports associated with AT and EP drills for the past three years including evaluation of installation-specific capability area NMETs
 - d. Any minutes or report generated by the PB4T for the past three years
 - e. Lessons learned reports or after action reports from completed training, exercises, and real-world events for the past three years
 - f. Monthly installation training reports for the past three years
44. All [] Temporary Standing Orders for the past three years.
45. List of Random Anti-terrorism Measures (RAM) that associates the specified RAM with the number designated in the monthly RAM memo.
46. Letters of designation for the Anti-Terrorism Officer and Security Officer
47. Naval Security Force non-labor budgets for FY10 - FY13

Subsequent Request #2

48. Qualification training records for Cat 1 and Cat 5 Installation level personnel (e.g., ESAMS/TWMS/etc.)
49. MOAs/MOUs between tenant commands and the Region Commander.
50. Actions, and progress on actions taken in response to Chief of Naval Operations Integrated Vulnerability Assessment (CNOIVA) as documented in Navy letter 3300 Ser N46/12S140181 of [date].
51. Prioritization, tracking and reporting methods for progress on identified vulnerabilities as part of CNOIVAs.
52. Actions taken in response to deficiencies identified in post drill/exercise AARs including POA&M developed in response to paragraph 6.a of [date] NCIS Physical Security Assist Visit documented by 2A2L-0011.9Y04/C dated 12 August 13.
53. Designation of Cat 1 and Cat 5 personnel in writing.
54. Documentation of tenant commands participation in EM exercises/program
55. Copy of last threat assessment matrix performed from Installation level
56. Copy of EOC logs from [date]
57. Meeting minutes of Installation Emergency Management Working Group or last 3 years.

Command E

1. List of all active [type] instructions.
 2. Regional Operations Center (ROC) policy/procedures documentation.
 3. All audit and/or inspection (internal and external) reports conducted over the past 5 years related to access controls, physical security and force protection.
 4. Documentation associated with any corrective actions taken in response to any audits and/or inspections (internal and external) conducted over the past 5 years related to access controls, physical security and force protection.
 5. Emergency Management (EM) installation plan per OPNAVINST 3440.17 including regional, installation and tenant commands.
 6. Letters designating all EM officer/managers in writing per OPNAVINST 3440.17 (regional, installation and tenant).
 7. Battle watch captains logs for the [date] event
 8. Letter designating the Regional Operations Manager
 9. Regional operations center organizational/ manning chart
 10. Training records for the regional dispatch personnel
 11. Watch bill for the CAT 5 personnel on [date]
 12. List of EM support civilian points of contact at the installation level
 13. All Memoranda of Agreement /Understanding and Material Aid Agreement with tenant commands, contractors, and local and Federal Law enforcement
 14. All applicable Memoranda of Agreement/ Understanding, Mutual Aid Agreements, Interservice Support Agreements, contracts, and other exercise coordination agreements related to EM interoperability
-

Subsequent Request #1

15. Radio design, contract, requirements for Navy and contracted Police/Fire/emergency personnel. Additionally, any test results validating meeting the contract requirements and any periodic maintenance/test records that validate continued operability/readiness.
16. Copy of the radio communication case study of [] building/floor "dead zones."
17. Copy of all instructions/XORDs/requirements for ATHOC registration
18. Qualification training records for Cat 1 and Cat 5 Regional level personnel (e.g., ESAMS/TWMS/etc.)
19. [] Electrical distribution system schematic relative to IEOC
20. Regional EM budget request, basis, actual allocation, and identified gaps between funding requirements and allocation over the past 5 years.
21. Region Dispatch Center qualification and recurring training records.
22. Joint-Base Anacostia-Bolling EM Plan
23. RDC Standard Operations Procedures for emergency calls
24. MOAs/MOUs between tenant commands and []
25. OQE for command staff required training (CNIC 3440.17)
26. Actions, and progress on actions taken in response to Chief of Naval Operations Integrated Vulnerability Assessment (CNOIVA) as documented in Navy letter 3300 Ser N46/12S140181 of 11 May []2.
27. Prioritization, tracking and reporting methods for progress on identified vulnerabilities as part of CNOIVAs.
28. Actions taken in response to deficiencies identified in post drill/exercise AARs including POA&M developed in response to paragraph 6.a of August []3 NCIS Physical Security Assist Visit documented by 2A2L-0011.9Y04/C dated 12 August 13.
29. Designation of Cat 1 and Cat 5 personnel in writing.
30. Copy of actions taken wrt to deficiencies identified in IVAs.
31. Copy of planned maintenance/life-cycle support/ corrective maintenance for [] EOC, ROC, and RDC essential systems.
32. Enhanced 911 plan/budget/status
33. Documentation from and who are members of the Operations Planning Group
34. Regional level MOAs/MOUs/ISSAs
35. OQE for the Regional training plan developed, executed, and tracked IAW CNIC 3440.17
36. Copy of RDC logs from 9/16/13
37. Meeting minutes of Region Emergency Management Working Group or last 3 years.

Command F

1. List of all active CNIC instructions.
2. Installation Security and Access Requirements policies and instructions for [location]

3. All audit and/or inspection (internal and external) reports conducted over the past 5 years related to access controls, physical security and force protection for the [facility]
4. Documentation associated with any corrective actions taken in response to any audit and/or inspections (internal and external) conducted over the past 5 years related to access controls, physical security and force protection for the [facility].
5. Guidance developed and provided to subordinate commands from [Command] regarding Emergency Management program per OPNAVINST 3440.17 para 6.c
6. Letters designating all EM managers in writing per OPNAVINST 3440.17 (regional, installation and tenant).
7. Battle watch captains logs for [date].
8. All correspondence (e.g., Advisory Reports) documenting deficiencies in the Emergency Management Program issued in the past five years
9. Any documentation (e.g. requirements cross-reference sheet) demonstrating compliance with OPNAV 3440.17 (series) instruction
10. Threats Assessment Matrix as required by OPNAVINST 3440.17, Encl. 1, para 5.

CONDUCTING WITNESS INTERVIEWS

Your Investigation Team may have members who have never conducted a witness interview. The following contains a number of hints that may assist the uninitiated in conducting an interview or serve as a refresher for those who have not conducted an interview recently.

- Conduct testimonial interviews so that the transcript “tells the story” in a logical way.
 - Establish the relationship of the witness to the case – including the witness’s position or role in the matter being investigated.
 - Establish the basis for the witness’s knowledge: how does the witness know what he or she knows. For example, establish presence at the scene of significant events.
 - Establish any experience or training that the witness has that assisted with his or her understanding of the course of the events. This experience may have provided a way for the witness to have a deeper (or shallower) understanding of what occurred.
 - Have the witness explain, in his/her own words, what happened, starting from the beginning. Once the employee has completely related his/her narrative, ask specific questions.
 - During questioning, focus testimony on **material evidence**:
 - Make sure that the witness testifies to the material facts. This may sound obvious, but investigators often simply fail to ask -- or insist on direct answers to -- critical questions, such as whether the subject did the act complained of, how, and why.
 - Treat all witnesses with respect -- whether they are subjects, complainants, eyewitnesses, experts, employees, VA beneficiaries, or others -- but don’t be reluctant to ask any witness probing questions about material facts.
 - Focus on what the witnesses did or observed -- saw, heard, felt, smelled, or tasted - rather than what they thought about it (unless their thoughts are themselves material facts). Ask not only what the witnesses know, but also how they know it.
 - Do not presume that minor inconsistencies between a witness’s testimony and other evidence indicate a deliberate falsehood. Such inconsistencies can often be explained by, for example, a lack of time to review notes and records or to prepare for the testimony. Your approach should be analytical and critical – not cynical.
 - Once you have firm testimony on the relevant facts, ask the witnesses about the inconsistent matter, and give them an opportunity to explain any apparent prior inconsistency.
-

- Although witnesses' opinions, characterizations, and conclusions are rarely helpful as evidence unless they are directly at issue, questions about these matters may be useful as leads to more helpful questions. Delve into the basis for opinions or conclusions: what did the witnesses see, hear, smell, feel, taste that led them to that opinion or conclusion?
 - Remember, however, that a person's beliefs, knowledge, or thought processes may sometimes be material facts. If the witnesses's intentions, purposes, or reasons for doing something are themselves at issue (e.g., when a person is suspected of discrimination or reprisal), their account of such matters is extremely important. Question them thoroughly on such matters. Ask them what they knew or believed about the situation and details about why they decided as they did. Have them identify (and produce, if possible) any documents or other information they relied on, any person they consulted or discussed the issue with.
 - Look for and follow up on leads (but do this during preliminary interviews if possible rather than in testimony that will be transcribed). Ask questions that may lead to new or corroborating evidence (e.g., identification of date, time, and other witnesses to a significant act or conversation) and then check leads out.
 - Ask witnesses whether they have discussed the matters testified to with others, and why.
- Use **effective** questioning techniques.
- Have a list of questions or points to address, starting with less controversial, embarrassing, or confrontational matters.
 - Phrase questions in a manner that will elicit full explanations, and then ask narrower follow-up questions as needed for clarity. Constructing questions too narrowly might impede your efforts to learn all of the facts.
 - Listen to the answer. Don't presume that the witness answered the same as s/he did in the preliminary meeting or in their previous statement.
 - Cover all of the bases regarding the event (i.e., who, what, when, where, how, and why). Ask the witness to be specific in describing the incident, even if it entails repeating profanity, or describing/demonstrating inappropriate physical contact.
 - Think about how your question and the answer will appear in written form. Avoid ambiguous questions (e.g., bad question: Did you not see Ms. Jones punch Mr. Smith in the nose?" Answer: Yes).
 - If the witness rambles into irrelevant matters or becomes evasive, bring the witness back on to track with more specific questions.
-

- Use *open* questions (questions that require a narrative response) to determine the extent of a witness's knowledge or to obtain general recollections from the witness's point of view (Open question: "Please describe what you did when Mr. Smith called you a buffoon.") Use *closed* questions (questions that call for a "yes" "no," or "short answer" response) to "nail down" the specifics of the testimony. (Closed Question: What part of Mr. Smith's face did Ms. Jones strike?)
 - Generally, avoid using *leading* questions (questions that suggest or encourage a particular "preferred" answer) except where necessary to elicit specific admissions or answers from an evasive or uncooperative witness (e.g., "You punched Mr. Smith in the nose, didn't you?"), or if you have no other reasonable alternative to get the information. These types of questions often make it look like the interviewer is testifying or pressuring the witness.
 - If a witness does not appear to remember incidents or seems to have difficulty recollecting specifics, it is permissible to refresh their recollection with documents or other items, but use only items that they previously had access to (notes, correspondence, etc.)
 - Ask questions about apparent exaggerations, inconsistencies, gaps, etc.; whether internal to the interview, or between the interview account and a previous statement. Give the witness an opportunity to explain any inconsistency.
 - Do not be reluctant to clarify statements if it is necessary to fully develop the testimony, even if it might make the person uncomfortable (e.g., repeating obscenities).
 - You may ask the same question repeatedly, particularly if answers seem evasive.
- Review your witness plan again before concluding the interview to ensure that all necessary points have been covered.
 - After the interview, it may be helpful to follow-up with questions (written or oral) with the witness.

INTERVIEW OUTLINE EXAMPLE

[Name/Title/Position of Interviewee]

- [List topics to be covered]
- _____
- _____
- _____
- _____

State your name, rank and position. Experience in _____
Discuss your guidance to [identify subordinate] for the [topic]
Do you conduct regular [topic] spot checks and watchstander qualification verifications?
What is the periodicity of this?
Do you review their [topic instructions to ensure compliance with higher directive?
What other methods do you use for oversight of individual ship's [topic] programs?
Have you reviewed the XXX [topic] Directive ISP for [unit]?
Do you send a representative to waterfront security meetings?

What methods do you employ to ensure ship/shore security integration meets your requirements?
If there are seams or deficiencies in the shore based security infrastructure, how do you address them?
When did you receive the report of the incident?
When did an ISIC rep report to the ship?

Closing (if required): "You are directed [if civilian requested] not to discuss the interview or anything that was discussed during the interview with anyone other than members of the investigation team. If you are asked about the investigation do not answer any questions and immediately notify me; the Investigating Officer, or your Commanding Officer."

INTERVIEW INTRODUCTION

Good morning/afternoon. My name is _____, and I am part of a team reviewing the facts and circumstances surrounding the [use language from Convening Order]. [Convening Authority] appointed [IO] on [date] to conduct this investigation, which includes, among other things, interviewing personnel from different organizations with information relevant to the investigation. (Show copy of Convening Order). [IO] appointed me to the investigating team on September 27, and I am talking to you in my investigatory capacity, as a representative of [IO & CA]. (Show letter designating you as a member of the team). We are required to provide [CA] with a written report upon the completion of our investigation.

I am talking with you because the investigating team believes you might have information that may be relevant to the investigation. It is important for us to understand the: [select what is relevant to the witness - full facts and circumstances surrounding x OR the underlying policies and procedures relevant to y] so please inform us of anything you believe should be considered in this review. This is an administrative investigation; however, due to the sensitive nature of the ongoing review, we are asking personnel we talk to as part of the investigation not to share anything we discuss today with any other person.

So, before we start, do you have any questions about my role or this investigation?

FREQUENTLY ASKED QUESTIONS

Q: I will cooperate with the investigation but am concerned that my answers can be used against me in a future disciplinary action. Can I decline to answer your questions or seek an attorney to represent me during questioning?

A: This is an administrative, not a criminal, investigation, and therefore you are not entitled to an attorney.¹ We are in fact finding mode only, and as federal employees and military personnel we are required to cooperate with this administrative investigation. The purpose of the investigation and the interview is for us to gather relevant facts for the Navy to understand what happened and why, not for any punitive action. We will provide a copy of our report to the Secretary of the Navy, and it would be premature and inappropriate for us to comment on what the Secretary may do with the report.

Q: If I belong to a union, may I request union representation during the questioning?

A: Yes.

Q: Is this testimony considered sworn testimony?

A: At this time, the investigation is not requiring witnesses to swear an oath. However, you do have an obligation to be complete and truthful, and may be subject to potential action for misleading or incomplete statements.

Q: Some of the information I know is protected by the Privacy Act/HIPAA. Am I risking a violation if I share it with you?

A: No. The information you provide will be protected in accordance with all law, regulation and policy, including personally identifiable and other Privacy Act protected information, as well as any medical information under HIPAA.

Q: I believe I have information which the Navy could view as negative toward the Navy. Do I have reprisal protection?

A: All normal protections apply, including laws and regulations against reprisal and retaliation. The purpose of the investigation is for us to gather relevant facts for the Navy to understand what happened and why.

¹ This is true as a general matter in administrative investigations. However, if it is possible that the witness is suspected of an offense, then this sentence needs to be amended to reflect that the witness may be entitled to consult with an attorney.

DISCLOSURE STATEMENT TO INTERVIEW BARGAINING UNIT EMPLOYEE

I am part of a team reviewing the facts and circumstances surrounding the [topic of investigation, include date and location]. [CA] appointed [IO] on [date] to conduct this investigation, which includes, among other things, interviewing personnel from different organizations with information relevant to the investigation. We are required to provide [CA] with a written report upon the completion of our investigation. This is an administrative, not a criminal, investigation. We are in fact finding mode only. The purpose of the investigation and the interview is for us to gather relevant facts for the Navy to understand what happened and why, not for any punitive action. We will provide a copy of our report to the [CA].

We are disclosing the following information to support our interviews with the following members of the [Unit or Entity]:

[Name of Individual to be interviewed]

1. (Date, Time and Place)
2. (interviewers)
3. (Expected Duration)
4. (Topics intended to be discussed)

[Signature of interviewer(s)]

[Signature of union official]

Date

MEMO TO FILE

Subj: CONVERSATION WITH MR. XXXXX, PRESIDENT,
LOCAL XXXX/XXXX

Ref: (a) Convening Order

1. In my capacity as a legal advisor to the investigation team appointed by reference (a), I called Mr. XXXX, President, Local XXXXX, on [date].
2. The purpose of my call was to discuss the investigation team's plan of action regarding interviewing members of the LocalXXXX. I informed Mr. XXXX that team members were currently discussing processes with local employees, but had not yet begun interviewing any of them. I also informed him that we would start interviews either later today, or tomorrow, most likely.
3. I asked Mr. XXXX if he wanted to be notified of each separate interview. He said that he did not. He explained that each of the local employees was well aware of their "Weingarten" rights, and knew to ask for a union representative to be present should they so desire
4. I informed Mr. XXXX that if any member did ask for a union representative, we would immediately notify him, and ensure that a union representative was present. Otherwise, we would proceed with the interview without a union representative. Mr. XXXX understood that the union representative would not be able to interfere with, or impede, the investigation.
5. Mr. XXXX ended the conversation by thanking me for the call, letting me know that he believed all local employees would be very cooperative with, and understanding of, the investigation, and he offered to provide any assistance we needed. He said his door was always open to us.

Team Member

SUMMARY OF INTERVIEW

Name: [Full name, e-mail and phone of interviewee]

Position/Title:

Date:

Time:

Location: [of interview]

Investigation Team Member(s):

(The interview summary should be organized by interview topic. Start with a background introductory headnote that sets the stage and then use headnotes to discuss specific areas. Use your standard interview outline to create the summary. Where appropriate for emphasis of a point, direct quotes of a witness should be used. Request official contact information (e.g. telephone for real time dialog) in case you need to ask follow-up questions). :

Background: Mr. X and Mr. Y are assigned to [command]. The Investigation Team discussed Mr. X and Mr. Y's observations during their initial response to [describe event].

Initial Response [Headnote: Topic discussed]: At approximately 0836 on the morning of 23 January 2017, both agents were informed of an explosion at [facility] by a member of the Plano Police Department. At approximately, Mr. A notified his response team and responded to the [location].

At approximately 0845, Mr. A arrived at 24th Avenue and High Street and identified what he described as a medical command post because no police or Naval officials were present. A local officer informed him that the Unified Command Post was at Mill Avenue and Alpha Drive. Mr. A transited to Mill and Alpha where, at this time, there were no responding units or military personnel present. He then went back to the 24th Avenue and High Street location.

Mr. B arrived at the 24th Avenue and High Street, met Mr. A, and determined the best posture was for Mr. A to stay there while he reported to the Unified Command Post at Mill Avenue and Alpha Drive. Additionally Mr. B sent two agents (names) to the Regional Operations Centers to monitor the video surveillance.

Command Structure (Headnote Topic discussed): Mr. A and Mr. B believed there were three command posts. Mr. B was at the Unified Command Post. Mr. A was at the operational area at 24th Avenue and High Street (later moved to Admiral Bull Park), and a tactical command at Building 49. Mr. A and Mr. B were aware that [base] . . .

Signature of Investigating Officer
TYPED NAME OF INVESTIGATOR
Date of Document

SUMMARY OF FIELD OBSERVATION (Example 1)

Observed: [What is being reviewed/observed and where (command)] Example: *Performed a review of Memorandums of Agreement (MOAs), Memorandums of Understanding (MOUs) and Inter-Service Support Agreements (ISSAs)*

Contacts: [Full name, position and phone of Command Rep contacted]

Date:

Time;

Investigation Team Member(s):

(In completing a field observation, provide a summary of the specific activities, equipment, documents, locations reviewed. Include any discussions with personnel at the site. Cite references for any non-compliance issues identified).

Background: The NCIS threat assessment states “numerous law enforcement agencies operate in the Northwest Region, often with overlapping jurisdictions. There are limited inter-departmental or inter-agency agreements; most working relationships are informal”. The Regional and Installation Emergency Management plans MOAs, MOUs, MAAs, and ISSAs were reviewed for compliance with the higher headquarter requirements. The reviews included an examination of local documentation, as well as records and interviews with supervisors and program administrators.

Observation:

1. The Region and Installation Emergency Management MOAs, MOUs, MAAs, and ISSAs are not in compliance with the requirements of the higher headquarters agreements and, in most cases, do not exist or are expired. None of these deficiencies cited directly contributed to the events of [date].

a. Deficiencies were identified with specific adherence to the requirements in [cite the relevant instructions].

b. Over 22 tenant commands exist within [command] and only one document was provided indicating tenant participation in the [identify program].

2. [List instructions] require that MOAs, MOUs, MAAs, and ISSAs be developed in support of the [identify program] at both the region and installation levels. Additionally, these agreements are required to be integrated into the program and exercised annually at a minimum (cite reference).

a. None of the support agreements have been incorporated into the regional installation [identify program] program.

3. Contrary to [Inst], the following agreements have not been exercised annually (no supporting documentation was provided demonstrating this) and are not incorporated into the [identify program]

- a. The MOA with [identify parties] was executed [date] (Current)
- b. The MOA between [identify parties], detailing some [identify] functions, was executed [date]. (The MOA states this is required to be reviewed tri-annually; the last review was in [year]).
- c. The MOA

SUMMARY OF FIELD OBSERVATION (Example 2)

Observed: {What is being reviewed/observed and where(command)} Example: *[Base] Fire House and [Base] Installation Tour*

Contacts: [Full name, position and phone of Command Rep contacted]

Date:

Time;

Investigation Team Member(s):

(In completing a field observation, provide a summary of the specific activities, equipment, documents, locations reviewed. Include any discussions with personnel at the site. Cite references for any non-compliance issues identified).

Background: A field observation was conducted at the [base] Fire House with Fire Inspector T. Smith. Smith was enroute to the gym when he encountered a number of individuals rapidly exiting the barber shop. He recalled asking them what was happening and they described a noxious odor emanating from the facility. Smith details his call to the Regional Dispatch Center (RDC) using his radio and not receiving a response. He attempted to call the RDC again, this time using an "all call." Smith received an acknowledgment and informed all lines were "lit up" in the RDC.

Observation:

1. The regulatory requirements for fire prevention and protection were reviewed and field observations of [Command] installations including fire alarm infrastructure and monitoring capabilities were conducted. Nine buildings were toured with Fire Inspector Smith to evaluate alarm system status. Specific deficiencies identified:

- a. Building XX (Firehouse): Alarm transmitter has been out of commission since [date] due to a bad circuit card. As a result, an alarm will not signal the RDC when actuated.
- b. Building XX (Command): Alarm transmitter is out of commission since [date].
 - i. As a result, an alarm will not signal the RDC when activated
 - ii. A failed supervisory signal has been received nightly since [date] in the RDC. No corrective action was initiated, and the signal has been "acknowledged and cleared" each night.
- c. Building XXX (description) Alarm transmitter has been out of commission since [date] on the RDC. As a result
- d. Building XXX
- e. Building XX . . .

2. Contrary to [Instruction], contractors, vice the fire department or public works, often disable the fire alarm system to support work.

SUMMARY OF FIELD OBSERVATION (Example 3)

Observed: {What is being reviewed/observed and where (command)] Example: *Region emergency management program at [base]*

Contacts: [Full name, position and phone of Command Rep contacted]

Date:

Time;

Investigation Team Member(s):

(In completing a field observation, provide a summary of the specific activities, equipment, documents, locations reviewed. Include any discussions with personnel at the site. Cite references for any non-compliance issues identified).

Background: A follow-up field observation was conducted with [witness]. Discussion topics included budget basis and plans for the FY 14 increase; documentation of installation emergency management (EM program oversight; documentation of Memorandums of Agreement (MOAs)/ Memorandums of Understanding (MOUs)/Inter-Service Support Agreements (ISSAs) ; training records for EM program personnel; and operational planning group structure.

Observation:

1. Budget non-labor was increased for FY 14 from \$9K to \$2.3M. [witness] could not provide any formal plan to allocate the funding amongst priorities. He stated the labor increase of \$300K will go to fund the RDC manning shortfall in accordance with [Inst}. Additionally, he stated some of the non-labor funds would be spent on a new regional threat hazard assessment.
2. Any documentation of validation/oversight of installation EM:
 - a. [witness] agreed based on the words in the [Inst], the installation EM program should be “deemed not to exist.”
 - i. Contrary to the [Inst}, the regional EM is not providing oversight of the Installation EM program. Specifically, Jones could not provide any evidence regarding oversight of the installation EM program (Jones discussed that he had attempted to assist the installation EM program in the past but was turned away by the Chain of Command.
 - ii. When question regarding his understanding of the requirements for oversight, He is aware of the requirements, but is not performing them formally. He believes the installation should be performing the oversight functions, but he is “ready to assist in any way.”
3. As to whether the MOA/MOU/ISSAs for the region are accurately reflected:

a. [witness] was unaware of the status of the MOA/MOU/ISSAs . He was unaware of the status update provided by the comptroller indicating all agreements had expired.

- i. Contrary to the [Inst], the regional EM is not reviewing and approving the MOAs.
- ii. [Inst} requires the Regional EM program have MOUs and ISSAs to