

# P18 - INVESTIGATIONS WORKSHOP Part 5: PREPARING the INVESTIGATION REPORT



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## TOPICS TO BE COVERED IN THIS SESSION

- Investigation Report
  - Written or oral?
  - What is contained in the report?
  - Who gets to see the report?
  - Tracking data from investigation reports
    - Types of infractions
    - Discipline
    - Process improvements
  - Closing the loop with the reporter
  - Record retention

## Good Documentation is Key

- Document the following throughout the investigation process:
  - The issue
  - The information provided by the reporter
  - The reporter's motivations/expectations for reporting the issue; and
  - The person(s) assigned to investigate the issue (confirming the person(s) impartiality and fairness)
  - Identify and obtain documents concerning the issue
    - List/catalog all pertinent documents
    - Basis for conducting interviews
    - Retain to support investigation report
  - Interviews with subject matter experts
  - Interviews with witnesses
  - Interviews with implicated persons



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## Reporting the Investigation

- Notes:
  - Take notes of meetings, interviews, phone conversations, etc.
  - Use of Audio or video recording devices should be done with caution and in rare circumstances. If used, do obtain written permission of interviewees!
- Notes should:
  - Include only the relevant facts
  - Be succinct and objective
  - Consist of factual accounts of interactions
  - Include your observations of behavior

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## Analysis – Work Papers

- Include a description of how the facts collected were analyzed
- Use facts, not assumptions of intent
- Consider circumstances
- Use timelines
- Reference your company's Code of Conduct, Policies and Procedures, when appropriate, as opposed to citing laws or external regulations



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## SAMPLE INVESTIGATION REPORT TEMPLATE

Draft or Final Report

Date: \_\_\_\_\_

Matter # \_\_\_\_\_

Category: \_\_\_\_\_

Business Unit/Location: \_\_\_\_\_

Investigator(s):

Attorney(s):

Was the allegation or concern Substantiated? Y/N

Significant: (If yes, have the following been notified?)

Chief Legal Officer     Chief Financial Officer     CECO

Audit Committee     Board of Directors     Others

Describe any disciplinary actions taken:

None

Written Warning (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>)

Suspension without pay

Termination

Verbal Warning

Demotion

Deduction of Bonus

Other (describe)

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## SAMPLE INVESTIGATION REPORT TEMPLATE

Describe any corrective actions taken:

- None
- Policy/Procedure Revision
- Education /Training
- Other (Briefly Describe)

Other Actions Taken by Reporter or Complainant:

- Lawsuit
- Union Action (Briefly Explain)
- Other (Briefly Describe)
- Government Agency Notice (e.g. EEOC, Dept of Labor, State HR Commissions, Call to a Government Hot Line)

**Investigation Summary:**

*(Briefly describe the actions taking in conducting the investigation.)*

*(Please list the name(s) of the individual(s) who were involved in the investigation. If an outside source was involved, please note.)*

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## SAMPLE INVESTIGATION REPORT TEMPLATE

- **Who was Interviewed(s):**

*(Describe who was interviewed during the investigation include full name and title along with date of interview.)*

- **If matter involves/reports alleged issues with an employee, has employee been named in prior reports over the past year? Y/N**  
N/A

*If yes, please provide summarize prior incidents noting if matter reports same issue with employee.*

- **This investigation was conducted to answer the following:**

**Summarize the Investigation:**

- **Conclusion:**

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## Summarize Findings

- Document conclusions in a concise, objective, and neutral style
- Stick to the facts
  - Reporter and witness accounts
  - Documented evidence
  - Investigator findings and observations
  - Consider using timelines
  - Corrective actions taken, if any
- Do not include any content from conversations with or written communications from legal counsel



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## Summarize Findings

- Avoid personal opinions
- Avoid drawing legal conclusions
- Present what happened and only what happened.

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## Continuous Improvement to the Culture

- Process improvements
  - Identify any systems or lack thereof that failed to prevent the misconduct
  - Expose any loop holes that were exploited
    - “Where there is a will there is a way”
  - Identify the need for additional internal controls
  - Communicate any Breakdown in “Corporate Culture”
  - Management’s Role (could have, should have known)
  - Improvements to the Compliance and Ethics Program/Culture
- Ownership of the corrective actions
  - Design, Training, Implementation & Verification

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## Final Investigation File

The Final Investigation File constitutes the company record:

- Written communication from the reporter raising the issue(s)
- Your documentation of the issue(s) reported
- Investigation Summary
- Analysis and Conclusion
- Resolution – Corrective and Disciplinary Actions
- Notes and Support Documentation as necessary to support key facts, analysis, conclusions, or resolutions.

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## Final Investigation File

- Only final copies of documents should be placed in the Final Investigation File.
- Consider destroying any draft materials.
- All other files and notes should be destroyed (including information stored on computers and disks).
- Access to the file should be limited to only those with a legitimate business need-to-know.
- Take care when releasing information in the Final Investigation File to anyone outside the Company.
- Keep investigation files in accordance with your company's Record Retention Requirements.
  - Destroy investigation files as you would any critically sensitive documents.

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## Close the Loop with Stakeholders

- Validate remedial actions
  - Disciplinary Actions
  - Training and Education
  - Changes in Policy & Procedures
  - Other communications
- Prevent further misconduct
- Disclosure to internal parties
- Disclosure to external parties
- Debrief the reporter
- Share “lessons learned”



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## Final Thoughts

A well conducted and documented investigation process:

- Mitigates risk
- Is viewed favorably by stakeholders
- Builds trust and credibility for the E&C Organization
- Avoids unnecessary costs to the company – Adds Value



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## Questions, Comments, Concerns?



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# INVESTIGATIONS WORKSHOP Part 6:

## QUESTIONS & ANSWERS PANEL

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