

Workplace Investigations

Part II: Conducting the Workplace Investigation

Now to the “nuts and bolts” of a workplace investigation: An important rule is that you must “own” your investigations. You determine the manner in which the investigations will be conducted. Considering the goals, views and concerns of management is important, but you determine the investigation’s particulars.

Process Pointer: Just like any other business process, this one has to be implemented fairly. Fairness for everyone is critical, especially for the implicated person because he has the most at risk. “Owning” an investigation is the gold standard between a professional and a hack investigator. If you act as if you own the investigation, you are poised to offer true value to your company.

A) The Four Critical Steps

A properly conducted workplace investigation follows four steps:

1. **Determine the nature of the allegation.** You must gain a quick understanding of the problem. Usually, someone in the company knows the subject matter at issue and might even have personal knowledge of the incident. That person must be quickly debriefed so that you have some basis from which to proceed and a solid idea of how the matter under investigation evolved.
2. **Develop the Facts.** There are two basic components to the fact development in a workplace investigation: interviews of employees or third parties, and the review of relevant documents. Document review is an important part of any investigation. Documents provide a historical narrative of events. They often tell much of the story by themselves. Also, they can provide a written framework into which information developed through witness interviews will fit.
3. **Document the Investigation.** To serve as a basis for management decisions, the investigation findings must be documented and supported. The report must give a comprehensive explanation of the information gathered in the course of the investigation. Sometimes a brief memorandum will suffice. In a complex investigation, a detailed written report will be prepared for presentation to executive management. The complexity of the issues and the stakes involved often dictate the way the investigation is documented.
4. **Publish the Findings.** Once completed, the investigation findings must be disclosed to management, the reporter and the implicated person. Of course, the level of detail will vary as necessary as will the document you produce, if at all, to each of them.

B) Understanding the Initial Report

Reports will come to you from a number of internal and external sources. (For convenience, we will assume the report came in through the company’s whistleblower hotline.) Regardless of its source, you need sufficient information to provide probable cause that misconduct may have occurred. If so, then sufficient reason exists to begin an investigation. You should examine the initially available facts to determine if either the source of the

information or the combination of the source of the information and the then-available facts offer probable cause.

Meeting the Reporter

Consider the form of the report. Was it anonymous, or did it come from an identified party? Anonymous reports should not be discounted unfairly. An anonymous report may be malicious, or it may be valid and accurate. Some employees do not trust management to keep their names confidential. Some do not want to be identified as the person responsible for bringing the matter to the attention of management. The detail provided in the anonymous report, or the lack of it, may either validate or invalidate the report. Keep an open mind and don't jump to conclusions either way.

Process Pointer: Your company must accept anonymous complaints because you want maximum feedback on how your employees are acting improperly. You need to remain attentive if someone tells you, even anonymously, that one of your employees could be engaging in misconduct.

Reporters who speak to a hotline caseworker or investigator are submitting themselves to the interview process at that time. Under ideal circumstances, reporter interviews are conducted by the person who also conducts the principal investigation. As this is not always practical, those people doing initial reporter interviews should approach them as if they were going to do the principal investigation. Note that no matter how thorough the initial interview may be, the person eventually assigned to conduct the principal investigation should also interview the reporter whenever possible. When reporters insist on anonymity, consider asking them to call back at some later date to receive information that will enable them to contact the investigator assigned to the case.

The following points are particularly important for investigators to keep in mind when dealing with reporters:

- Set the stage for a productive interview.
- Meet walk-ins in a semi-private area that permits initial assessment and control of security and safety. Then move to a comfortable, private area that will encourage the reporter to be completely candid during the interview.
- Use the same number of interviewers and other precautionary measures as would be appropriate for a witness interview.
- Establish good rapport; engage in active listening; and assess demeanor, candor, bias, intelligence, motivation and understanding of the implicated person, the matter, and the applicable rules.
- Encourage reporters to provide a narrative recital of their concerns with minimum interruption for questions.
- Be alert for the possibility that reporters may implicate themselves in wrongdoing.
- After listening to the narrative, ask clarifying questions, then summarize the key points. Work on the summary until the reporter agrees it is accurate and that you understand the information the reporter is trying to convey. Then write down the key points.
- Your goal is to prepare a “mini hotline report,” which, as much as possible, answers the following familiar

questions framed in the context of one or more allegations that would be appropriate for a workplace investigation:

1. Who engaged in the wrongdoing?
 2. What did they do (or fail to do) that constitutes the wrongdoing?
 3. What standard, rule, regulation, law, etc. was violated when this happened?
 4. When did this happen?
 5. Where did it happen?
 6. How did it happen?
 7. Why does the reporter think this happened, i.e., was it intentional, negligent, a lack of training, a motive of personal gain or an intent to injure another, etc?
 8. How is the company adversely affected by what happened?
 9. Who was harmed by what happened, and in what manner?
 10. What corrective remedial, or disciplinary action, if any, does the reporter think should be taken, and why?
- Probe for weaknesses by asking reporters to explain what they expect the person implicated in their allegations or others who might not agree with the reporter would say in defense of their actions, and why such a response is not sufficient to dispose of the matter.
 - Ask reporters to identify others who may have pertinent information about the matter that would tend to support or refute the reporter's position. Ask reporters to identify documents that relate to the matter, including those that would tend to support or refute the reporter's position, and, if possible, to provide copies of them for the investigative file as soon as possible.
 - Ask reporters who else they may have contacted in an attempt to get action on their complaints, and what those others have done to date.
 - Ask reporters what they want the company to do about their report. This helps to focus the report and permits a determination of whether the case should be referred to another department. It also provides an opportunity to tell reporters whether their expectations are realistic, in regards to what you can or will do.
 - Get as much detailed information as possible. A detailed first discussion helps to prepare a good, efficient investigation plan and reduces the number of times you may need to contact the reporter for more information.
 - Don't express opinions about the alleged conduct, and avoid opinions or comments about the character or ability of the others involved.
 - Advise the reporter not to discuss the matter with others within the company except those with a need to know.
 - Reassure the reporter that the company takes these complaints seriously and will determine whether an investigation is needed. Emphasize that no final conclusion will be reached until the investigation has been

completed.

- If the reporter asks whether he will receive a copy of a final report of the investigation, the reporter should be informed that, although a final report will be prepared, the reporter will not receive a copy. Similarly, no specific, detailed report will be made to the reporter on management's response to the allegation.
- Advise the reporter to immediately report any possible acts of retaliation.
- Explain that, depending on the information that is learned, the investigation may be resolved at an informal stage rather than through a formal investigation.
- If the reporter says that he only wants to share his concerns but does not want an investigation conducted, inform the reporter that, depending on the information, your company may have a legal obligation to investigate the report.

Process Pointer: Don't accept the reporter's characterization of the allegation at face value. You must analyze the facts you are offered and make your own determination regarding the category in which it fits. The report from the person who made the allegation is just a report. Offer no opinions to the reporter. At that time, you probably don't know the motives, personalities or histories of the people involved.

Discuss Confidentiality

If asked, most employees would say they assume the identities of hotline reporters are maintained in confidence. This may explain why reporters never ask whether their identity will be protected. The ability to identify reporters to responsible managers and use them as witnesses in adverse actions enhances the likelihood of a successful investigation. Therefore, you should discuss this matter with reporters and document their wishes.

An explanation of the normal practice regarding (implied) confidentiality includes:

- The identity of the reporter, as such, is generally not provided to anyone other than those with a need to know. Reporters who seek redress of injuries that are personal to them will probably need to be identified to the implicated person's department at some point during the investigative process in order to correct the injury.
- If the reporter has first-hand knowledge of the matter to be investigated, the initial interview, or a subsequent interview, may be treated as an ordinary witness interview, in which case the reporter will be identified as a witness in the investigative report, and perhaps during the course of the investigation should it become necessary to reconcile conflicting witness statements.
- The reporter's identity is usually furnished to the investigator. If the reporter objects to such disclosure, the reporter's name should be released to the investigator, but this may limit the investigator's ability to conduct the investigation or substantiate the allegations. Since some reporters do not mind being identified, determine and document whether the reporter is willing to be identified as the reporter:
 1. To the investigator assigned to handle the case;
 2. To the responsible manager;

3. To the implicated person's department; and
4. To the implicated person of the investigation.

Affirmative responses may assist the investigator assigned the case.

Finally, it should be explained that if the implicated person is disciplined as a result of the investigation and brings a lawsuit, then the implicated person will normally be entitled to review the entire case file, including information that may identify the reporter, after that action is taken. If the reporter objects, then the investigator may wish to discuss conditions of express confidentiality. If the investigator and reporter agree to an express grant of confidentiality, the investigator must document the terms of the agreement for the case file and take appropriate action to ensure it is honored.

In some cases, reporters will ask for an explanation of the company's policy on confidentiality at the start of the conversation. You must not promise complete or absolute confidentiality because there is no way to ensure it in all circumstances. When reporters are granted some degree of express confidentiality, they may be assigned a "confidential source number" and referred to by that number in all case documents and reports.

Granting Anonymity

Some reporters refuse to provide their names or a means of contacting them during the course of a phone or face-to-face interview. Others provide such information, and then wish they had not after they understand the consequences of filing their report. People in the first category, along with those who write unsigned letters or leave messages on answering machines without providing their names, are truly anonymous. People in the second category are not, since their identity is known to the person taking the report. However, the person taking the report may elect to treat these people as anonymous reporters by deleting all identifying information from the case file before forwarding it for further action. This action should not be taken lightly, but the interest of promoting confidence in the hotline system suggests this action is appropriate in some cases. It is especially important when the reporter expresses credible fears of retaliation. When the person taking the reports decides to grant anonymity, he should give reporters a code number and log it in the case file so reporters who later may need to prove they were the source of the report will have a means of doing so.

Discuss Retaliation

People who seek confidentiality usually fear retaliation. The person taking the reports should probe whether reporters have any specific reason to believe they may become the targets of retaliation, and should document those fears in the case file. The person taking the reports should explain the company's policy against retaliation, being careful to point out the company cannot guarantee there will be no act of retaliation, but can take action to undo it and punish those who engage in retaliation.

Discuss the Reporter's Role as a Witness

If reporters who are concerned about confidentiality would appear to be logical witnesses in an investigation into the report, explain there is a possibility they may be interviewed at the same time as other witnesses. This may occur inadvertently if you do not know the identity of the reporter. But investigators who know the reporter's identity may decide it necessary to interview him again to reduce the likelihood the reporter may be perceived as the original source of the report because not interviewing him along with others in the office would arouse suspicion.

Obtaining a Written Statement

In some cases, it may be appropriate to ask the reporter to provide a written statement of the allegations and supporting facts. The writing process may assist the reporter in remembering to provide additional pertinent facts. A written report is useful if you intend to refer the investigation to another department or a government agency. The person taking the report should also consider whether to ask the reporter to provide a sworn statement. This is important when serious misconduct by senior officials is alleged. If the reporter agrees to give a statement, the interviewer should take it at that time, even if the reporter expresses a willingness to be interviewed later, to avoid the possibility the reporter may subsequently decline to give the statement. Later, the principal investigator assigned to the case can ask the reporter to prepare a second statement if it becomes necessary.

Do Not Promise an Investigation

No promises or commitments should be made about the action that will be taken, other than that the allegations will be looked into, and, when appropriate, that a response will be provided to the reporter. After the interview is completed, you should record impressions of the reporter's understanding of the issues, attitude, apparent sincerity, credibility, and veracity in a separate document for the case file.

Process Pointer: A failure to understand the complaint fully (what it includes and what it does not) can result in: a failure to investigate; a failure to investigate the right thing; a failure to talk to the right people; a failure to reach the right conclusion; and an over-reaction or under-reaction to the complaint. Do whatever it takes to get the story.

C) Inquiry or Investigation?

The purpose of a workplace investigation is to obtain facts sufficient to enable responsible managers to make informed decisions about corrective, remedial, or disciplinary action. Some degree of stigma attaches to the implicated person in every workplace investigation, even when the allegations are not substantiated. Not all concerns reported are appropriate for a workplace investigation. Therefore, the purpose of a preliminary inquiry is to gather sufficient information to determine whether a full workplace investigation is appropriate. The inquiry should be conducted in a way that has the least adverse impact on the reputation of implicated people and their departments.

Preliminary Inquiries

The preliminary inquiry is less formal than the principal investigation because it does not require the creation of a written investigative plan or the preparation of an investigative report. There is, however, no clear line dividing the preliminary inquiry from the principal investigation. Certainly, when it becomes necessary to notify the implicated person or the implicated person's department that allegations have been made against them, the preliminary inquiry is over. Also, once it becomes necessary to interview witnesses who work with the implicated person on a regular basis, and who will learn the implicated person is under investigation by the nature of the interview questions, the principal investigation has started—whether or not the implicated person has been notified. But actions that do not cross the line include: conversations with Human Resources, business executives, and legal advisors, a discrete review of applicable documents or other records, and interviews of a limited nature, in person or over the phone, especially when they are not conducted at the site of the implicated person's department.

A somewhat arbitrary dividing line is established at the point of preparation of the initial written investigative

plan, which thus becomes the first step in the principal investigation. Because experience shows that reporters should be interviewed at the beginning of an investigation whenever possible, and that those interviews sometimes reveal no further investigation is necessary, the reporter interview is generally considered as part of the preliminary inquiry. Therefore it may be conducted before the written investigative plan is prepared.

When a preliminary inquiry results in a decision that no further action is warranted, neither an investigative plan nor an investigative report is required. A memorandum for the record is sufficient to document the reasons for the decision to go no further. This minimizes the number of documents in the record that may be subject to disclosure, and therefore helps minimize the adverse impact on the privacy and reputations of implicated people and others involved in the inquiry. Similarly, when the preliminary inquiry results in a referral to another company department for action, a memorandum is sufficient to close out compliance department action on the matter, unless there is a specific reason for the compliance department to continue to monitor the case.

Deciding to Investigate

If you decide that a formal investigation is needed, you must answer some important questions. What will be the scope of the investigation? Who will conduct it? How much will it cost? The answers to these questions are not trivial because your responses may likely be viewed with hindsight by executive management, the press, the courts, and possibly the government.

There are certain benefits to deciding in favor of an investigation. These benefits include:

- A workplace investigation helps the company determine the extent of potential criminal or civil liability.
- If a company effectively investigates its own misconduct, the company may persuade the government to forego conducting a separate investigation, reduce the scope of its investigation, or allow the corporation to guide the government's investigation. A credible investigation may prevent a wide-ranging government investigation into the company's affairs.
- A director's fiduciary duty to the company includes the obligation to self-police, to establish compliance and detection programs.
- When there is a duty to investigate, the failure to do so may subject management to civil liability.
- The best way to avoid indictment is to have full knowledge of all of the relevant facts so that an appropriate pre-indictment defense may be presented to the government. A thorough investigation, combined with voluntary disclosure, may be the dispositive factor in convincing the government not to bring criminal charges.
- A company can use a workplace investigation to minimize the effect of negative publicity that has arisen from allegations of wrongdoing. An investigation enhances the company's credibility now and in the future. The investigation distances the company from any wrongful acts by its employees, and the very existence of an investigation shows the company's good faith.
- A company may decide to investigate to encourage investor confidence and protect its position in the market. When allegations of misconduct are raised, the investigation may be used to address issues or dispel a cloud of suspicion.

However, consider the consequences of investigating the report. The investigation will require the commitment of time, resources and corporate energy, perhaps more than was initially expected or budgeted. There will be lost productivity in the business. People helping you will be diverted from their job duties. The internal machinery of

the company will be explored and exposed. Executive management will have to live with the results of the investigation. This might include findings of fault, require public disclosure of the conduct, or the taking of internal or external remedial action.

Deciding Not to Investigate

Not every allegation of misconduct must be investigated. If initial inquiries about the report fail to confirm that an incident may have occurred or that there is a commercially reasonable basis for the conduct alleged in the report, there may be no basis for an investigation at that time. For example, an investigation is not needed if:

- The report is a misunderstanding of company policy;
- The allegation relates to a lack of communication between the reporter and another person;
- No other facts are necessary to resolve the issue, or the material facts are undisputed;
- The substance of the report can be resolved informally, such as a request for assistance rather than an allegation of misconduct.

You must document the report and the basis not to proceed. The record should show that, although no investigation was made, the reasons for not proceeding were commercially reasonable. If the investigation process is audited at some later time, the permanent record documents the handling of the matter and the inquiries you made at that time. The ability to account for all inquiries made is part of the ability to build a perception in management that there is a high degree of integrity in your process. The documented decision also allows you to reopen the investigation if additional facts are obtained in the future that warrant further inquiries.

Process Pointer: All the allegations must be documented or it will look as if you just pick and choose your investigations. If you choose not to investigate a report, you must document that fact and the reasons why you are not investigating.

Opening a Case over Objection

Once reporters have contacted a company manager or relevant department, a business process has started. That process includes advising managers—who are also company fiduciaries—that the company may be exposed to an unacceptable business risk (usually with financial and/or legal implications). The company must look into the report and, if needed, take action to protect its employees and shareholders. Consequently, reporters have no right to insist a case file not be opened on a matter. Nor do they have the right to “withdraw” the report during an investigation and demand that an investigation be closed at that point. If there is a basis to proceed, an investigation must begin regardless of the reporter’s preferences.

Informing Management

When an investigation will be conducted, you should inform your management. Because workplace investigations are just another internal process, do not work secretly, unless the circumstances of the investigation are so sensitive that there is no practical alternative. The investigative function will not be accepted by the managers you must cultivate as corporate allies if you are perceived as some secret police force snooping around unannounced. Similarly, you should be mindful of the effect on the future viability of your function if your secret steps cause employees to believe they are working in some corporate “police state.” A template

notification memorandum for the affected business people may be found in Appendix H.

Selecting which managers to inform is not based solely on finding someone who is not involved in the matter under investigation. A senior manager of the business group involved should be informed about the nature of the investigation and its likely scope because, after all, he or she will be held accountable for your findings. The manager informed must also be of sufficient seniority to support the investigation's goals and neutralize any attempts by other managers to interfere with or impede the goals of the investigation. A sufficiently senior manager can also use their position to facilitate the availability of witnesses and the production of relevant documents. The manager informed should also be someone who will determine the action to be taken once the investigation's findings are disclosed. Consider who else in the company has a vested interest in the investigation and its outcome, such as legal counsel, Human Resources or your company's security department. (If the allegation is serious enough, consider also informing your communications and investor relations departments.)

When informing management, a detailed explanation of your investigation plan is not necessary. However, alert them when significant events happen or if the scope of the investigation changes. Tell them about key investigative issues, especially those which have the potential to be provocative or embarrassing. This will allow managers time to prepare some internal response to those issues when challenged, and it will start them thinking about the possible impact of the investigation findings on their business's operations and structure.

You and management should have a clear understanding of what they hope the investigation will accomplish. Managing expectations is a crucial part of cultivating a relationship of confidence and value.

Process Pointer: Manage the expectations of the business leaders carefully. Their perceptions of the investigation, the process and your involvement will depend on it. Counsel them regarding likely outcomes, so they can prepare themselves accordingly.

Secure the Documents

The news that an investigation has begun may spread throughout the affected business group. It might even become public knowledge. If the misconduct under investigation is likely to be proven, some employees may be tempted to destroy documents or computer files that show their involvement. Of course, your investigation will be compromised if this happens.

At the initial stages of the investigation, try to identify, with the help of the reporter if possible, the documents that are relevant to the investigation and the likely sources for those documents. Obtain the documents immediately.

Computer files should be immediately safeguarded. Consult your company's information-technology department to determine whether and to what extent server backups are done. Consider curtailing or shutting off access to company systems—or copying their system use—by employees under investigation.

D) Planning the Investigation

Issue Spotting

Issue spotting is the process of reviewing the facts to determine whether they would provide the basis for a management decision to take corrective, remedial, or disciplinary action. Such a determination might be based on the currently known facts alone, or it might rely on the currently known facts together with others that may

be established upon further investigation.

Looking for Misconduct Issues

Careful planning is critical to a successful, credible investigation. The issue-spotting analysis begins with the initial contact with the reporter, when you question the reporter to develop more information. It continues after the interview is completed, when you determine whether or not to open a workplace investigation. Issue spotting is the first step of the planning phase of an investigation.

Once the issues have been identified, they should be written in the form of allegations to be investigated. Consider the following:

- Do not rely on the reporter's description or characterization of the facts. You should formulate your own statement of the allegation.
- An allegation to be investigated should be expressed in neutral, non-emotional terms. It should be formulated in such a manner that substantiation (a "yes" answer) of the allegation demonstrates that misconduct has occurred.
- The allegation should be worded similar to the following: someone (the implicated person) did, or failed to do, something (the act or omission), and such act or omission was improper (the wrongdoing) because it violated some standard (law, rule, regulation, or company policy).

Decide What Should Be Done about Each Allegation

Having written allegations in the proper format, you can then decide whether action is warranted and, if so, what that action should be. At this point, it may be clear that one or more of the allegations must be thoroughly investigated and discussed in a formal investigative report that documents the findings. You would then be ready to start writing the investigative plan and begin the investigation. In other cases, you may want to make discrete inquiries, which may develop additional information from other sources, before proceeding further.

Which way to proceed is a judgment call that comes with investigation experience. On the other hand, at this point you may realize that some allegations are simply not significant enough to warrant any further form of inquiry. At best, they may warrant maintaining for record purposes. If you cannot write a good allegation after consulting with others in the office, reviewing applicable policies, and perhaps talking with counsel, it may be there is nothing to investigate.

Sometimes an allegation may be serious, but contain insufficient information or detail for you to determine how to gather more information. Your company does not have sufficient resources to engage in fishing expeditions. Reports that fall in this category should be documented and closed. The matter may be reopened if and when additional information is learned.

Developing the Investigation Plan

You must be prepared to conduct a comprehensive, objective, fair and professional investigation. The planning needs to be flexible to accommodate new information and developments. The investigation may have to be expanded as information is developed.

The detail required, and the time consumed, to plan an investigation depends on the allegations. Routine investigations usually require a minimum amount of time and detail, and a simple outline. More complex investigations need more time and require finely developed planning.

Process Pointer: A broad investigation objective is not optimal—it is more likely the sign of a poor investigation plan than a good one. Investigators who cannot narrow the objective are likely unclear regarding their precise needs, so they cast the net wider hoping to catch their objective. All you need to investigate is whether the specific allegation against a specific person can be supported by the information you learn in the investigation.

The scope of the investigation should also reinforce the fairness of the process. If the company must later defend a decision based on the investigation—a wrongful termination claim, for example—it will appear unreasonable for an employer to have reached a conclusion based on no or weak evidence. It will also appear unfair if the company disciplines an employee based on weak evidence when better or stronger evidence was reasonably available but ignored.

Proper definition of the scope also protects the innocent. A properly conducted investigation identifies culpable employees, but that does not mean that other individuals might not be injured as a result of the fact-finding. The importance of defining the scope of an investigation is, in some ways, an effort to protect the innocent, to narrowly define the area to be investigated and to assure that those not involved in a particular act of misconduct are neither implicated by their proximity to the event nor exonerated by omission. A proper investigation determines the relevant facts, provides a basis for fixing accountability, and provides a basis for neutralizing rumors and innuendo.

Once the scope has been determined, make your plan. This is more than just a list of documents and witnesses. It incorporates your proposed strategy. A proper strategy, regardless of the investigation's complexity, makes the investigation thorough and professional. The strategy of the investigation should move from the general to the specific, gradually zeroing in on the implicated person by carefully acquiring and analyzing information. As information is gathered, your theory can be refined to focus the investigation on the most logical source of misconduct and/or business process failure.

An investigation plan also ensures that the company has met its obligations to the implicated person, to the proper operations of the business, and to the company's shareholders. A good investigation plan addresses each of the following issues and questions:

- What are the alleged facts and behavior that led to the investigation? This can be set out in a chronology of events which can then be enlarged as the investigation develops.
- Which company employees are the subject of the investigation?
- What law, policies, procedures, codes of conduct or other requirements may have been violated, and where can the documents specifying those requirements be located?
- How widespread is the misconduct? Is this an isolated occurrence or a systemic problem?
- What information will be sought on each issue, and who are the potential sources of that information?
- What type of report should be prepared to publish the findings?
- After the investigation is completed, what post-investigation steps are likely to be needed?
- Which individuals might have personal knowledge about one or more of the factual issues?

- In what order should the witnesses be interviewed?
- What specific issues are to be covered with each witness?
- What documents will be needed to conduct the investigation and complete the investigation file?
- What documents will be shown to each witness, and which documents will be sought from each witness?
- Which senior managers will receive the reported findings, and to whom will the investigative team report?

There may be serious consequences if the investigation is too narrow or too broad. You need to get to the root cause of the problem and not just deal with its symptoms. If the investigation is superficial, the business problem will not be addressed, and the workplace may be exposed to further disruption. However, an overly broad investigation can equally harm the workplace culture and disrupt the business.

As the investigation proceeds, be flexible to changes in the plan. Situations change, and you have to be able to adapt. The true nature of the problem under investigation may turn out to be different from what you first thought. Do not let the investigation process become so rigid that you can't alter it when necessary.

If you change the investigation objectives, it may be a good idea to add a contemporaneous note to the file documenting the new objectives and your reasons for changing them. This could help you later if you are accused of some improper motive for changing. (You must protect the process from being put on trial by the implicated person.)

Process Pointer: An investigation plan does not have to be formal, but set the scope properly so you will have the right parameters to guide you. You always must be prepared to explain why you did what you did. Never put yourself in the position of explaining your plan by saying that you never considered any other course of action.

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