

Investigation Report Checklist

The Elements of the Report

- The name and title of the investigator
- The date the report was completed
- If there is a complaint, the date of the complaint and name of the employee who complained
- If there is no complaint, how and when the company learned of the problem (for example, a fight broke out or an outside audit revealed accounting irregularities)
- A summary of the incident(s) under investigation, from the complaint or other information that caused the company to investigate
- A summary of any actions taken before the investigation began, such as placing an employee on leave, changing an employee's reporting relationship, or calling in an outside expert
- When the investigation began, including the reasons for delaying any part of the investigation (if applicable)
- Who was interviewed
- The date of each interview
- The names of any witnesses whom you chose not to interview, and the reasons for your decision
- What documents or other evidence were gathered
- Where documents or evidence were found (for example, in an employee's personnel file, pinned to the company bulletin board, or in an employee's desk drawer)
- When documents or evidence were gathered
- Your conclusions and how you came to them, including a summary of the witness's statements and any other facts you considered in relation to the incident(s) under investigation
- Any important issues left unresolved

- Your recommendations for action or, if you are responsible for taking action, the actions taken as a result of the investigation (for example, discipline against the wrongdoer or workplace training)

The Real Ingredients of a Good Report

- It's written in the first person singular. It is objective, with no speculation, hypothesis or opinion. It is factual with no assumptions. It is chronological and comprehensive.
- The report avoids legal conclusions and legalistic words. The report is intended to explain facts. It is for others to draw conclusions – legal and otherwise – from the facts reported.
- The report answers the “what:” what is the investigation trying to prove or explain.
- The report answers the “how:” how was the misconduct accomplished and how did (or can) the offender get caught.
- The report answers the “who:” by combining the interviews and documents, you explain who did it, who may have done it, and/or who didn't do it.
- The report answers the “where:” where did the incident occur? Where else could it have happened?
- The report answers the “when:” it tells the time(s) the incident happened. This is often shown through documents.
- The report answers the “why:” it explains the motive for the misconduct. (Understanding motive may also tell you who did it.)
- The report identifies any operations failures in order to improve the business. The report also explains the reason for that failure, such as a gap in processes, poor management oversight, a lack of training, etc.
- The report should be written for a jury to review. Ultimately that is where it may wind up.

Tips for a Quality Internal Investigation

1. **Determine whether an investigation is necessary.** In some instances, it may not be. In other instances, a limited investigation is needed but with the understanding that it could be expanded if the situation warranted. In all instances, the investigation can be “scoped” to reflect the situation as you then understand it.

2. **Determine the goals of the investigation.** To ensure that the investigation is appropriate and focused on the needs of your business, identify from the outset the goals you want to achieve. Making this determination early allows you to approach the investigation with the complete picture in mind. Investigation goals include determining whether misconduct occurred, identifying business processes which require improvement, ensuring you know “what happened” and especially “what didn’t happen,” and laying the foundation for post-investigation steps like litigation and referrals to law enforcement.

3. **Consider the disadvantages of an investigation.** Investigations are not cost-free to your company. At best, investigations disrupt business operations and take the focus of employees off making money. They also announce that the company thinks there may be a problem, and this knowledge can be helpful to potential adversaries and hostile employees. Besides cost, consider the risks of adverse publicity, civil litigation or government inquiries. However, these are not reasons for you not to investigate. These are just additional facts you should consider and for which you should plan.

4. **Have a standard investigations protocol.** Each investigation does not operate in a vacuum. In an adverse setting, the investigation steps taken in one case may be compared to other cases to show that the company cut corners to “railroad” an employee. Also, because your process depends on the quality of each investigation, subjective investigator techniques may deprive your company of useful information. The best solution is to have a standard protocol that the company requires for each of its investigations companywide. There are many situations which will require you to deviate from the benchmark standards, but these deviations will be the product of informed decisions necessitated by the investigation and not just a haphazard approach.

5. **Select the right investigator for the job.** Investigations are equal parts art and science, so you should always look for the right fit. Consider not only the personal investigative style of the investigator but also that person’s skill set. Lawyers are good investigators if your objective is, among other things, determining whether your company may be sued or if it can sue someone. Internal auditors are good investigators if the investigation requires “number crunching” or the analysis of financial records. HR managers are good investigators if the investigation will rely on information coming from witnesses. Each of these disciplines has its strengths as well as its weaknesses, so you need to make an informed decision each time. The quality of your investigation depends on it.

6. **Scope the investigation properly.** Many investigations suffer from “mission creep” as new leads take the investigators in unplanned directions. The scope of the investigation should be limited to finding out those facts which substantiate the issues underlying the investigation goals. For example, an investigation of expense-account fraud should be limited to proving each of the elements of the fraud by a preponderance of the evidence. If it appears that process improvements are needed, the scope could also include an examination of the report-approval process, the amount of discretion given to employees to determine the propriety of the expense, etc. However, the investigation would not examine, for existence, whether employees could dine out more cheaply or use teleconferencing as a substitute for travel.

7. **Identify potential witnesses well.** Each witness interviewed should be asked about other people who may have specific useful information. You do not need to interview each of them, but it is a good step towards knowing that you have identified everyone who can help you. Witnesses not interviewed may also be asked specific questions by email too. While you do not want to over-interview, which often has the effect of generating contradictory recollections simply because of the frailty of human memory, you certainly want to make sure you get the best information possible.

8. **Interview witnesses carefully.** Because most investigation findings rest on the statements of witnesses, this is the most important part of the investigation. Not only will you be gathering facts, but you will also be telling your witness about the case and the investigations process. Witnesses should be given a standard set of instructions at the beginning of the interview. Investigators should have an outline of key topics to cover but not a script. (A script makes the investigator more focused on his questions than his answers.) Have your investigators prepare interview memos that explain the information elicited in simple declaratory sentences. Resist the temptation to simply drop handwritten notes in a file.

9. **Choose documents carefully.** In most workplace investigations, the findings will rely in large part on the statements of witnesses. Documents will play a supporting role. In this context, documents help to corroborate what a witness said – such as a complaint made two months ago to a manager – or to pin down crucial details, such as an IT log showing that an employee logged into the company’s network at 2am on a Sunday. Too many documents can be distracting and overwhelming. If a document is relevant to a material fact in the investigation, by all means use it. Otherwise, resist the temptation that more is somehow better.

10. **Remember the Titanic.** Investigators should always be alert to whether a commonplace complaint is just the “tip of the iceberg” that identifies a more serious or pervasive issue. For example, a failure to properly submit attendance records to the payroll department may just show a poorly trained or incompetent staff person. It may also be a sign of a fraud scheme to divert additional payroll amounts to his benefit.

11. **Secure the investigation records.** If your company values the investigations process, it will base post-investigation decisions on the findings. This means that the underlying documents and data for your investigation need to be secured against loss. (In most companies, misplacing a document is a more-likely threat than someone destroying it.) Where possible, all material documents and interview memoranda should be uploaded to a secure database. Paper records should be securely stored. Make sure there is a common storage protocol so that a departing investigator does not take his storage strategy with him.

12. **Have a good final investigations report.** A final report is the sum-total of your efforts and, most likely, is the only proof of your value that your senior management will see. Don't miss the opportunity to demonstrate your importance to the business operations. The report should be a free-standing document that tells the whole story in plain English to people who might know nothing about your business. The report should be sufficiently complete so that post-investigation decisions like discipline, process improvements and lawsuits may rely on your report without the need for additional fact-finding. If done right, your report can be your company's conclusive statement about the matter investigated.

13. **Maintain "operational security."** Be alert to who knows about your investigation and tentative findings. Even well-intentioned people can destroy your attempts to maintain confidentiality. Also be alert to maintaining the safety – personal and professional – your investigators. Interviews should be taken in public places. Sometimes consider placing a third party in the room as a witness to the investigator's professionalism if you fear that a hostile witness might falsely accuse the investigator of saying or doing something improper. Finally, ensure that your investigators conduct the investigations in such a way that each can recreate their steps if their techniques in an investigation are later challenged.

14. **Fix the business.** In most investigations, substantiated misconduct is often the result of poor business practices that left the company exposed to a dishonest person. The business value of an investigation is only demonstrated when the business is actually improved as a result of the findings. Resist the temptation to simply submit your report and leave the rest to others. Gathering information for sake of knowing it does nothing to enhance the company's value to its shareholders. Instead, stay involved with the remediation process all the way through. After all, you know the underlying facts better than anyone.

Witness instructions

1. This is a formal company investigation. It is important that you tell me the truth. Employees may be terminated if they lie during an investigation.
2. Everything you and I say should be considered “on the record.” I may have to take action on anything you tell me.
3. I will make my questions simple and straightforward. If you don’t understand a question, please don’t answer it. Instead, ask me to rephrase it for you.
4. I am interested in what you know from your own personal knowledge. If you learned of something from someone else, please tell me that as well as the person who told you.
5. I presume that everyone is innocent. If someone committed misconduct, the facts will show it. There is no need for me to presume otherwise.
6. Everything we say in this room should be kept confidential. You are not the only person I may be interviewing. I would not want their statements to me to be influenced by what we discussed.
7. The company does not tolerate retaliation against anyone who cooperates in an investigation. If anyone makes you feel uncomfortable for having spoken with me, please tell me right away.
8. Don’t be a detective. If I need you to follow-up on any of the issues we discuss, I will ask you. Otherwise, please leave any further inquiries to me.
9. Keep all records you may have regarding the subject I am investigating. It is important not to destroy any information that might prove relevant.
10. It is okay for you to correct any information you give me in your interview. If you later realize that something you said needs to be corrected or you remember something you had forgotten earlier, let me know.
11. You may, if you want to, give me a written statement. Some people prefer to also explain things in their own words. You can email the statement to me if you wish or I have a form for you to use.
12. You can ask me questions. If I can, I will answer them. If I can’t, I will explain why.
13. Sometimes I have to ask people questions that make them feel uncomfortable. If I ask you a question that you may think is intrusive or not something people should normally inquire about, please know that I am asking it only because I believe it would have some bearing on the investigation.