

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
WASHINGTON, DC

---

# FSIS DIRECTIVE

8021.1  
Revision 2

5/11/20

---

## INVESTIGATIVE METHODOLOGY FOR CONDUCTING MISCONDUCT, OFFICE OF INSPECTOR GENERAL HOTLINE, AND OTHER INVESTIGATIONS

### CHAPTER I – GENERAL

#### I. PURPOSE

The Food Safety and Inspection Service (FSIS), Internal Affairs (IA) is to follow the methodology in this directive when conducting misconduct, Office of Inspector General (OIG) Hotline, and other investigations. FSIS has revised this directive in its entirety to clarify information and reflect the updated name change from the Internal Controls Staff to IA, and to reflect current organizational structure.

#### KEY POINTS

- *Receiving and assessing complaints and allegations*
- *Preparing Investigative Plans*
- *Initiating and conducting investigations*
- *Collecting, safeguarding, and transferring evidence*
- *Maintaining notes and working files*
- *Planning, conducting, and documenting interviews*
- *Documenting the report of investigation*
- *Investigative analysis, decision-making, and closing out the investigation*

**NOTE:** For the purpose of this directive, the term “Personnel Misconduct Investigators (PMI)” includes IA employees who conduct the types of investigations covered by this directive.

#### II. CANCELLATION

FSIS Directive 8021.1 Rev. 1, *Investigative Methodology for Conducting Misconduct, OIG Hotline, and other Investigations*, 1/25/16

---

**DISTRIBUTION:** Electronic

**OPI:** OPPD

### III. BACKGROUND

A. In accordance with 5 U.S.C. Appendix 3, the FSIS Administrator is authorized to conduct employee misconduct, OIG Hotline, and other investigations to detect and deter fraud, waste, abuse, or mismanagement within the Agency. The FSIS Administrator delegated the authority to conduct these investigations to IA.

B. [FSIS Directive 4735.3](#), *Employee Responsibility and Conduct* explains the conduct requirements that each FSIS employee is to follow. All Federal employees have a responsibility to adhere to the principles of ethical conduct, report fraud, abuse, waste, or mismanagement of government funds, and cooperate during an investigation and be truthful and forthcoming with any knowledge they have regarding the allegations. Employees who refuse to cooperate or are found to be not truthful may be subject to disciplinary action up to and including removal. Employees may be interviewed as witnesses or subjects.

C. IA investigates allegations of misconduct, fraud, waste, or mismanagement, and other allegations that impact FSIS programs, or other USDA departmental operations, to determine their validity and to prevent misconduct, mismanagement, or other activity from continuing. IA conducts internal investigations of such allegations, per the [Memorandum of Agreement \(MOA\) with OIG and USDA Departmental Personnel Manual 751-1 – Discipline](#).

D. During investigations, PMI or other IA personnel may interact with various FSIS program area staffs (e.g., Office of Field Operations (OFO), Office of Management (OM), Office of the Chief Information Officer), industry personnel, Federal partners, and other witnesses regarding misconduct investigations, inquiries, or other activities.

E. The Compliance and Investigations Division (CID), Office of Investigation, Enforcement and Audit (OIEA), is responsible for surveillance, investigations, and other activities to ensure food safety and security. CID conducts investigations of apparent violations, food safety incidents, and other allegations under the Federal Meat Inspection Act (FMIA), Poultry Products Inspection Act (PPIA), Egg Products Inspection Act (EPIA), and related laws and regulations. Some of these investigations are based on referral from OIG, including from Hotline complaints. When conducting these types of investigations, CID investigators follow the investigative methods in [FSIS Directive 8010.2](#), *Investigative Methodology*. CID Investigators also may assist IA with misconduct or other investigations. When CID assists IA with investigations, CID Investigators are to follow the methods in this directive. IA personnel may contact CID for assistance with investigations or to coordinate investigations.

F. The Enforcement and Litigation Division (ELD), OIEA, is responsible for Agency-wide criminal, civil, and administrative enforcement actions and related activities. Enforcement actions may be based on information gathered by IA personnel, CID investigations, or joint activities with OIG. ELD conducts litigations to uphold FSIS-wide management decisions involving performance deficiencies, improper conduct, labor management agreements, and related matters before the federal ruling authorities. IA personnel may contact ELD to coordinate enforcement or related activities.

G. The Civil Rights Staff (CRS), Office of the Administrator (OA), provides advice, guidance, and assistance on the implementation, management, and compliance with Equal Employment Opportunity programs. CRS's goal is to ensure fair and equal treatment for internal and external customers.

H. The Labor and Employee Relations Division (LERD), OM, develops, administers, and evaluates comprehensive labor relations and employee relations. It receives complaints from FSIS employees and supervisors, which it then forwards to IA for investigation. IA personnel may discuss the

investigation with LERD to ensure sufficient information of evidentiary value is gathered.

I. The Office of Human Resources (OHR), OM, Workplace Violence Prevention & Response Program, focuses on workplace violence. All workplace violence incidents of assault, harassment, interference, intimidation, or threats are to be reported immediately. IA may be asked, in accordance with [FSIS Directive 4735.4](#), *Reporting Assault, Harassment, Interference, Intimidation or Threat*, to review, when necessary, the seriousness of a reported incident and initiate appropriate action, including investigations, enforcement actions, and referrals for prosecution. The Workplace Violence Program may refer incidents to IA for investigation through the appropriate program area.

J. The USDA-OIG performs audits and investigations of USDA programs and operations to promote economy, efficiency, effectiveness, and prevent and detect fraud, waste, and abuse. OIG makes determinations on investigative jurisdiction where there is a possible criminal violation and provides the liaison with the appropriate U.S. Attorney in referrals for prosecution. OIG obtains clearance for administrative action where there is a possible criminal violation and provides training and certification, in accordance with the Department's Office of Human Resources Management (OHRM), to Agency personnel who are designated to conduct misconduct investigations. IA investigators are required to be credentialed by OHRM. OIG receives complaints and allegations of criminal activity, mismanagement, and misconduct (e.g., hotline complaints), some of which are referred to IA for investigation. OIG also provides guidance and assistance to IA and other Agency personnel.

K. Alleged misconduct examples include, but are not limited to: absences without leave; falsification of official documents; conducting personal business during duty hours; fighting, threatening, or using abusive language to coworkers, supervisors or the public; refusal or failure to follow instructions or procedures; neglect of duty; misuse of government vehicles; off-duty conduct resulting in arrest or conviction; inappropriate use of government facilities, supplies, equipment, services, telephones, personnel, or information technology (IT) equipment including excessive or inappropriate use of the Internet; worker compensation fraud; sexual harassment; falsification of an application for employment; intoxication or consumption of alcohol or drugs while on duty; or prohibited political activity.

L. If the PMI receives media inquiries regarding misconduct or other allegations, he or she is to notify the Director immediately. The Director, Deputy Director (DD), and PMI are to follow the procedures in [FSIS Directive 1240.1](#), *Communicating with External Entities*, and refer such inquiries to the Congressional and Public Affairs staff.

#### **IV. RESPONSIBILITIES**

A. IA is responsible for conducting internal employee misconduct investigations of allegations of fraud, waste, and mismanagement in FSIS programs; investigations in response to referrals by OIG (e.g., hotline complaints); and other types of investigations or inquiries.

B. The employees listed below have specific responsibilities related to these investigations. This section contains broad areas of responsibility; details about responsibilities are in subsequent sections.

1. IA Director/DD;
2. PMIs; and
3. Management Analysts.

## CHAPTER II - INVESTIGATIVE METHODOLOGY

### I. GENERAL

A. Investigations are to be impartial, objective, fact-gathering, and analytical activities conducted to develop and document sufficient evidence to prove or disprove apparent violations or allegations. The evidence gathered must be sufficient to support Agency decisions, investigative findings, or legal actions. Investigations are used to determine whether an individual acted in a manner inconsistent with his or her duties and obligations towards FSIS. If an investigation is required, IA conducts the investigation and LERD determines if discipline is warranted and the type of discipline for each action.

B. OIG and OHRM requirements describe the minimum standards for conducting misconduct investigations. This directive includes the specific instructions and procedures for FSIS misconduct investigations. Although this directive presents the steps sequentially, some aspects of the investigation may occur simultaneously. These methods also are used for other types of investigations conducted by IA (see Chapter VII).

C. Investigations are confidential. Disclosure of investigative information may be detrimental to the investigation, the individuals involved, and the Agency. Therefore, all documents related to the investigation are considered confidential internal documents. The IA Director must approve the release of any information.

### II. RECEIVING A COMPLAINT

A. IA receives complaints of misconduct or other allegations from within FSIS (e.g., from LERD or other FSIS program areas), from OIG (e.g., referrals from Hotline Complaints), or as special requests from other sources. All internal requests are to be submitted on [FSIS Form 4700-1](#), *Request for Investigation*.

**NOTE:** Users need an e-authentication account to access the FSIS Form 4700-1.

B. Requests for investigations are to be submitted directly to the Director or the DD, who will forward the request to the Director. LERD will send the requests for investigations it receives directly to the Director. All requests for investigation from FSIS program areas are to be submitted by utilizing the Investigation request e-mail address located in the global address book (FSIS – IA Investigation Request [IAInvestigationRequest@usda.gov](mailto:IAInvestigationRequest@usda.gov)).

### III. ASSESSING A COMPLAINT

A. The IA Director or DD are to assess the allegations of the complaint and available facts to determine whether the facts justify investigation or establish that misconduct occurred.

B. If the Director or DD determines there is insufficient information, he or she is to:

1. Contact the requestor to obtain more information; and
2. Initiate an inquiry to clarify the allegations of the complaint before determining whether an investigation should be conducted.

**NOTE:** The Director or designee will provide guidance to the PMI if an inquiry is initiated.

C. If the Director, DD, or designee determines that an investigation is warranted, he or she is to:

1. Verify that FSIS has jurisdiction and authority to investigate the alleged violations;
2. Determine whether the allegations should be referred to OIG per the MOA. Allegations to be referred to OIG include, but are not limited to, FSIS employee misconduct that could lead to removal or criminal prosecution or when the Director or DD decides OIG involvement will serve the Department's interest. OIG then determines whether OIG or IA will conduct the investigation; and
3. Determine whether there is an apparent conflict of interest. In these rare instances, a complaint is referred to OIG or other FSIS program area to investigate to avoid an apparent conflict of interest.

D. If the Director, DD, or designee determines that an investigation is not warranted because FSIS does not have jurisdiction or authority, or the available facts do not indicate a violation of FSIS or USDA directives or Federal regulations has occurred, he or she is to:

1. Close the matter with no action;
2. Notify the Deputy Administrator, if necessary; and
3. Send the matter back to the requestor (e.g., OIG, LERD, program areas) through the appropriate officials.

#### **IV. INITIATING AN INVESTIGATION**

A. When the IA Director, DD, or designee determines that IA will investigate the allegations in the complaint, he or she is to send the complaint to the Management Analyst to begin the investigation process.

B. The Management Analyst is to:

1. Log the complaint into Misconduct Investigation-Assurance Net (MI-ANet) which assigns the complaint a unique case number; this case number is to be used from initiation to closure of the investigation;
2. Enter applicable information into MI-ANet, including name of complainant, subject of the complaint, location where alleged violations occurred, type of allegations, and opening date;
3. Prepare assignment letter from the Director, DD, or designee, to the PMI who will conduct the investigation;
4. Draft notification letters, when necessary, to the appropriate program Assistant Administrator (AA) or their designee and forward them to the Director or DD for signature. Notification letters are not necessary when a program official requested the investigation;
5. Once letters are signed, send the letters and appropriate correspondence to the appropriate program AA or their designee; and
6. Update MI-ANet as additional information becomes available.

C. The Director or DD is to:

1. Assign a PMI to the investigation and issue him or her an authorization letter;
2. Instruct the Management Analyst to prepare notification letters to the appropriate program AA when necessary;
3. Review and sign the prepared notification letters and return them to the Management Analyst to finalize and distribute; and
4. Coordinate the investigative activities with the assigned PMI according to the instructions in this directive.

D. The PMI is to:

1. Review the complaint and applicable information; and
2. Follow the instructions in this directive.

## **V. CONDUCTING THE INVESTIGATION**

A. Although each investigation may have unique elements, the methodology for conducting the investigation is the same and is outlined in this directive.

B. The PMI is to examine the total circumstances of an allegation in detail, review possible charges and their required elements based upon the charge and elements of proof under the current edition of the Merit System Promotion Board (MSPB) Charges and Penalties Charging Manual. The PMI determine the facts and obtain any other relevant information not readily accessible. The PMI is to collect evidence impartially and systematically; assess the evidence for supporting facts/actions and non-supporting facts/actions; and determine if evidence was found, partial evidence was found, or no evidence was found on the allegation.

C. When conducting an investigation, the PMI is to do the following:

1. Maintain a working file for the investigation, Chapter III;
2. Plan the investigation and prepare and modify, as appropriate, an Investigative Plan, Chapter III;
3. Collect evidence, Chapter IV, according to [\*FSIS Directive 8010.3, Investigation Procedures for Evidence Collection, Safeguarding and Disposal\*](#);
4. Conduct and document interviews, Chapter V;
5. Analyze the evidence, Chapter II;
6. Document the investigation, Chapter VI; and
7. Keep the Director apprised of the investigation and any special situations or issues that arise.

D. When the PMI is unsure how to handle situations or issues that arise during the investigation, the PMI is to contact the Director or DD for guidance. Some examples of circumstances in which the

PMIs need to contact the Director or DD are, if witnesses refuse to provide statements; more resources are needed; findings indicate that the investigation should be referred to another Agency because of a potential conflict of interest; criminal activity is discovered, or special investigative techniques are needed; or there is a concurrent investigation that is closely related to the incident the PMI is investigating.

## **VI. INVESTIGATIVE ANALYSIS**

A. Throughout the investigation, as data is collected, the PMI is to use a disciplined approach for reviewing allegations, critically analyzing the information, assessing how the information factors into the investigation, and deciding what should be the next steps.

B. The PMI is to analyze the results of the investigation and apply a process of critical thinking that focuses on:

1. Identifying the problems and related issues;
2. Forming hypotheses on issues, such as events, motives, root causes, viewpoints, and witnesses;
3. Applying logic and judgment to evaluate and test the hypotheses on an ongoing basis;
4. Collecting evidence to prove or disprove allegations;
5. Conducting a thorough and impartial analysis of the evidence to determine whether the allegations are supported by the evidence;
6. Making necessary adjustments in the investigative process; and
7. Updating the investigative plan as appropriate.

C. At the conclusion of the investigation, the PMI is to make investigative decisions on:

1. Determining what evidence should be included in the final report of investigation (ROI);
2. Organizing the evidence in a logical and coherent order;
3. Completing an ROI; and
4. Ensuring that all appropriate information is documented for the investigation in MI-ANet.

**NOTE:** At no time does IA recommend Agency action. Other program areas make the decision on any action to take based on the evidence and findings in the ROI.

## **VII. DOCUMENTING THE ROI**

A. The PMI is to prepare the ROI according to the directions in Chapter VI of this directive.

B. If the PMI has questions regarding the ROI, he or she is to contact the Director or DD for guidance.

## **VIII. ROI SUBMITTAL AND REVIEW**

- A. The PMI is to submit the draft ROI through MI-ANet to the Director or DD for approval.
- B. The Director or DD is to review the ROI to ensure it was prepared in accordance with this directive.
- C. If the Director or DD finds any errors or omissions, the Director or DD is to return the ROI to the PMI through MI-ANet to make the necessary changes.
- D. The Director or DD is to decide whether to approve the ROI.

## **IX. ROI DISTRIBUTION**

- A. The PMI is to follow instructions in MI-ANet in uploading evidence and creating exhibits to assemble the ROI electronically, submit the final ROI with exhibits in MI-ANet, and forward one hard copy with original evidence to the Evidence Officer (EO) in Headquarters.
- B. The letter transmitting the ROI from the PMI to the EO is to explain to the EO why he or she is receiving the evidence.
- C. The IA Director or DD is to prepare and sign a transmittal letter(s) to LERD when the report is transmitted. The IA Director or DD is to prepare and sign all transmittal letters for all investigations. When a designee signs the ROI, the signature block is to be annotated with the word "for."
- D. The Management Analyst is to forward a copy of the ROI and transmittal letter to the appropriate office and file a copy in the IA headquarters office by the EO.
- E. LERD is to receive an electronic copy of the ROI and transmittal letter.
- F. If the investigation originated from OIG, OIG is to receive an electronic copy of the ROI and transmittal letter.
- G. The Management Analyst is to send the ROI and transmittal letter to the appropriate recipients electronically or by courier.

## **X. CLOSING AN INVESTIGATION**

- A. After the ROI and transmittal letters have been distributed by the Management Analyst, the Director is to direct the Management Analyst to complete closing tasks pertaining to the investigation.
- B. The Management Analyst is responsible for:
  - 1. Updating and maintaining the IA MI-ANet which includes, at a minimum, dates, allegations, and findings (e.g., substantiated or unsubstantiated) to ensure accurate program tracking;
  - 2. Closing the investigation in the IA MI-ANet with appropriate dates and related data, and preparing reports;
  - 3. Placing the original ROI in the investigation file and ensuring that the file is complete; and
  - 4. Labeling the original investigation file as "Closed," once the investigation is officially closed.

C. If a disciplinary letter results from the investigation, LERD is to send a copy of the letter to IA.

D. Upon receipt of a letter from LERD regarding disciplinary action taken against the subjects of the investigation, the Management Analyst is to prepare a cover letter and send a copy of the LERD disciplinary action letter to the OIG, when applicable (e.g., Hotline Complaints or referral from OIG), and enter LERD disposition into MI-ANet.

E. At the direction of the Director or DD, the Management Analyst is to monitor whether administrative or other appropriate actions have been taken or proposed in response to investigative findings to ensure that the reports of investigations meet the needs of the recipients (e.g., LERD, OIG, program officials).

## **CHAPTER III – WORKING FILES, NOTES, AND INVESTIGATIVE PLAN**

### **I. GENERAL**

Each working case file in MI-ANet is to include for all investigations: the authorization letter, a copy of all information obtained in the complaint, the Investigative Plan, ROI drafts, and any other evidence, correspondence, and related investigation information.

### **II. PMI WORKING FILES**

A. The PMI is to:

1. Create and maintain a working file, including maintaining the MI-ANet working record, for each investigation; and
2. Retain the working file in accordance with applicable Agency record retention policies (see Chapter IV, Section VI).

B. Working files, including PMI notes, are confidential because of the data they may contain (e.g., information pertaining to open investigations and personal information); however, they may be subject to legal review and disclosure (e.g., through the Freedom of Information Act (FOIA)).

### **III. PMI NOTES**

A. PMI notes are a contemporaneous record regarding investigations or inquiries. PMI notes may include who the PMI talked with, what the PMI was told, and what the PMI did. They may be used to summarize interviews, explain evidence, supplement sketches or photographs, describe identification markings on evidence, and list PMI observations. PMI notes are part of the working file.

B. The PMI notes are to be:

1. Accurate, objective, factual, and free of personal feelings or conclusions;
2. Legibly handwritten or electronic;
3. Documented in a manner and in a recording medium that will provide continuity and integrity (e.g., CD-R, bound notebook, on a long-term digital format);
4. Identified with the PMI's name and date; and
5. Maintained in the corresponding working file.

#### IV. INVESTIGATIVE PLAN

A. Proper planning helps to ensure that the investigation is thorough, well-organized, and promotes efficient use of resources. The investigative plan outlines how the PMI intends to conduct the investigation. The investigative steps depend on the specific event, physical evidence, pursuit of documents, or charging elements. The PMI will consider the following things when planning and conducting the investigation: elements of intent for charges, preponderance of evidence, prohibited personnel practices, merit system principles, ethical standards of conduct, and employee standards of conduct. The Investigative Plan may be revised throughout the course of the investigation.

B. For each investigation, the PMI is to:

1. Research the information needed for the investigation. The PMI is to review the materials submitted with the request of investigation and any applicable requirements to determine the elements of the alleged misconduct and what information is necessary for the investigation, such as the required testimony, documents, and other evidence;
2. Consider logistics regarding plant coverage, time, distances, or other factors. The PMI is also to consider the risks (e.g., health and safety of all FSIS personnel), unique problems, or mitigating circumstances that he or she may encounter;
3. Contact the Director, LERD, or OIG, as necessary, to determine whether there are any related or ongoing investigations underway, or issues related to the investigation;
4. Prepare the investigative plan according to the format in this directive (Section D. below). If a part of the format is not applicable, the PMI is to document "N/A" for that part;
5. Upload the investigative plan electronically into MI-ANet to the Director or DD for review. If the Director or DD returns the investigative plan to the PMI, the PMI is to make any noted adjustments or corrections and resubmit it through MI-ANet to the Director for approval;
6. Maintain the investigative plan in the working file; and
7. Evaluate the investigative plan periodically as the investigation progresses and, if necessary, revise the Investigative Plan as findings are developed or evidence is collected. The PMI is to keep the Director or DD apprised of modifications and obtains approval, if necessary.

C. The Director or DD is to:

1. Review the investigative plan;
2. Make suggestions and recommend corrections on methodology, if needed;
3. Return the investigative plan to the PMI through MI-ANet for changes, as necessary; and
4. Approve the proposed investigative plan.

D. Each investigative plan is to contain:

1. Case Number - the sequential number from the database assigned by the Management Analyst;
2. Complainants - the names of the individuals who made the complaint or requested the investigation, when known;

3. Subjects - includes the name, title, and GS level;
4. Allegations - a brief statement (summary) of the allegations or facts upon which the investigation is based;
5. Objectives - the objectives of the investigation (what the investigation should accomplish) as determined by the PMI;
6. Scope - the proposed scope of the investigation is based on available information. The scope needs to briefly state the extent or range of the investigation and may address areas such as laws or regulations at issue, geographic area, time period during which the alleged activities occurred, and the magnitude of the allegation or violation. If the initial scope of the investigation cannot be determined with the available information, the plan may state this fact, or that the scope will be determined at a later date, as information becomes available;
7. Investigative Steps – a list in prioritized order of the steps necessary to develop the information and to collect evidence regarding the allegation and is to include a timeline by which to accomplish these steps;
8. Interviews – list the specific interviewees (and whether or not they are bargaining unit employees) and lines of inquiry. Specific questions to ask each interviewee may be attached to the Investigative Plan;
9. Resources – the resources necessary to meet investigative needs and safety issues (e.g., personnel/team members, liaison, equipment, and travel); and
10. References – a list of resource materials that pertain to the specific allegations, background materials, regulations, policies (formal and informal), and past practices needed, referred to, or cited.

## **CHAPTER IV - EVIDENCE**

### **I. GENERAL**

Proper collection and safeguarding of evidence is essential to support Agency decisions, investigative findings, and other actions. The proper treatment of evidence requires that all authorized persons handle evidentiary items with care and maintain a continuous chain of custody. PMIs are to follow applicable procedures to collect, safeguard, transfer, receive, retain, and dispose of evidence, in accordance with [FSIS Directive 8010.3](#).

### **II. COLLECTING EVIDENCE**

A. The evidence the PMI collects is primarily written documentation of interviews such as affidavits, declarations, memoranda of interview, and other documents or records. In some instances, the PMI may collect other types of evidence such as forms of digital files.

B. The PMI is to follow applicable procedures to collect and identify evidence in accordance with [FSIS Directive 8010.3](#). These procedures include:

1. Requesting, examining, and determining the specific evidence to collect;

2. Obtaining the selected evidence in the appropriate format (e.g., paper or electronic documents, photocopied documents, photographs). When digital files are obtained (e.g., photographs, videos, scanned documents, e-mails, and e-mailed files) he or she is to transfer the digital files to a CD-R in accordance with procedures in [FSIS Directive 8010.3](#);
3. Identifying collected evidence (e.g., signing and dating MOI; initialing and dating the back of copied documents; initialing/dating CD-R containing digital files/photographs; and issuing an FSIS Form 8200-1, Property Receipt, to the owner or custodian when original documents/personal property is collected as evidence). FSIS Form 8200-1 is available on the FSIS intranet site <https://inside.fsis.usda.gov> under the “Forms” tab. Users need an e-authentication account to access this form;
4. Completing FSIS Form 8000-17, “*Evidence Receipt and Chain of Custody*” in MI-ANet after uploading evidence into MI-ANet,” and printing a copy to maintain with the originally collected evidence; and
5. Making electronic (e.g., scanned) or physical copies of documents, statements, or other evidence for inclusion in the ROI.

### III. SAFEGUARDING EVIDENCE

A. In order to properly safeguard evidence and ensure its integrity, proper identification and security is to be maintained, and a limited number of people are to be involved in handling the evidence associated with the investigation.

B. PMIs are to follow the procedures provided in [FSIS Directive 8010.3](#), to properly safeguard evidence. The PMI is to safeguard the collected evidence while it is in his or her possession by:

1. Securing evidence (e.g., keeping evidence in a controlled access area such as a locked room or cabinet);
2. Maintaining a documented chain of custody, including use of FSIS Form 8000-17; and
3. Using FSIS Form 8000-16, *Evidence Log*, to monitor the control and accountability of evidence for each investigation.

**NOTE:** FSIS Form 8000-16 and FSIS Form 8000-17 are available on the FSIS Intranet site <https://inside.fsis.usda.gov> under the “Forms” tab. Users need an e-authentication account to access these forms.

### IV. TRANSFERRING AND RECEIVING EVIDENCE

A. Evidence is to have a documented and continuous chain of custody from the time of collection, until the time it is no longer needed, and there is proper disposal.

B. To preserve the chain of custody for evidence that is transferred or received, IA personnel are to complete Section II of FSIS Form 8000-17 and to follow the procedures provided in [FSIS Directive 8010.3](#). These procedures apply to all transfers of originally collected evidence, whether within IA (e.g., from PMI to the EO) or to outside agencies (e.g., from IA to OIG).

C. The PMI is to transfer the collected evidence (assembled within the ROI) to the EO once the ROI has been submitted and approved by the IA Director or DD, or as otherwise instructed by the Director.

## **V. EO**

A. The EO is the IA employee designated for each investigation, responsible for maintaining control and accountability of all originally collected evidentiary items for each assigned investigation.

B. The EO is to:

1. Document receipt and transfer of evidence by completing Section II of FSIS Form 8000-17;
2. Secure evidence (e.g., keep evidence in a controlled access area such as a locked room or cabinet); and
3. Use FSIS Form 8000-16, to monitor the control and accountability of evidence for each investigation.

## **VI. EVIDENCE RETENTION AND DISPOSAL**

A. The EO is to maintain and dispose of evidence and investigative records in accordance with established Agency schedules (e.g., [Departmental Personnel Manual \(DPM\) Chapter 751-1 – Discipline, Subchapter 3 - Agency Investigations of Employee Misconduct](#)) and this directive.

B. Closed investigative files are to be retained for 10 years.

## **CHAPTER V – INTERVIEWS AND INTERVIEW DOCUMENTATION**

### **I. GENERAL**

An interview is a conversation between the PMI and the interviewee, conducted in an effort to obtain information relevant to the investigation. Information obtained during interviews may explain, confirm, supplement, or expand upon information in the complaint. It may pinpoint what a witness heard or observed and can help correlate, identify, and explain other evidence. The interview permits persons involved to acknowledge, deny, explain, clarify, or offer mitigating, exculpatory, or other information. All interviews are made on the record and documented in statements or memoranda. Recording (e.g., audio or video) interviews is to be coordinated with OIG per the MOA.

### **II. SUBJECTS AND WITNESSES**

A. Subjects of the investigation and other individuals with knowledge related to the allegations (e.g., witnesses) are interviewed during the course of the investigation.

B. The PMI is not to reveal the allegations to the subject before the scheduled interview. Not disclosing the information ensures that the subject cannot influence any witness who may be interviewed during the investigation.

C. There is no set order in which subjects and witnesses are interviewed. Generally, the subject or subjects of the investigation are interviewed last, if appropriate. Occasionally, information gained during interviews uncovers additional witnesses who need to be interviewed.

D. Witnesses are to be interviewed separately and privately, whenever prudent, to maintain confidentiality and to avoid confusion and the potential for biased testimony.

### **III. PLANNING THE INTERVIEW**

A. To prepare for the interview, the PMI is to:

1. Familiarize himself or herself with all information developed in the investigation. Any records, documents, or other evidence to be discussed during an interview are to be understood and available, if possible; and
2. Develop the interviewee questions regarding his or her knowledge of the allegations. Questions are to be designed to uncover the facts of the investigation, issues related to the interviewee, prior documents and statements prepared by the interviewee, suspected misconduct, any known interviewee relationships to the subjects and material facts surrounding the allegations.

B. A PMI may conduct interviews for an investigation assigned to another PMI at the request of the IA Director, DD, or another PMI.

C. A PMI can request the presence and assistance of a second PMI or another authorized person during the interview if there are potential safety concerns regarding a subject or witness. The PMI can also request a change in the location of the interview, if necessary.

D. Besides preparing for the interview itself, the PMI is to consider the logistics. The PMI is to:

1. Determine whether the interviews will be conducted in person or over the phone. This determination will in turn dictate what format (refer to Section V., "Documenting the Interview") may be used for documenting the interview;
2. Determine what resources are needed; for example, whether another PMI who is closer in proximity to the interviewee could conduct the interview and save on travel costs;
3. Schedule interviews through the appropriate program area manager or supervisors;
4. Coordinate travel to an interview location for him/herself and the interviewee, when necessary. The interviews are to be conducted at an appointed time and location that ensures appropriate accommodations and privacy. Interviews are to be conducted in a neutral environment, if possible; and
5. Determine the order of the interviews. The PMI may sequence interviews to consolidate travel and reduce costs.

### **IV. CONDUCTING THE INTERVIEW**

A. At the beginning of each interview, the PMI is to verbally identify himself or herself while presenting Agency issued credentials (the PMI's credentials are to remain in PMI's possession at all times). The PMI explains the purpose of the interview and informs the interviewee that the interview is confidential and should not be discussed with others.

B. During the interviews, the PMI is to take notes, unless notetaking causes a disruption to the interview. The PMI is to keep separate notes for each interview.

C. At the conclusion of the interview, the PMI is to prepare a statement in the appropriate format (refer to Section V., "Documenting the Interview").

D. When the PMI conducts interviews over the phone, he or she is to ask questions to confirm the

interviewee's identity and include this information in the interview documentation.

## **V. DOCUMENTING THE INTERVIEW**

The PMI is to document interviews by using one of three formats:

1. Affidavits;
2. Declarations; or
3. MOIs

## **VI. AFFIDAVITS**

A. An affidavit is a sworn statement witnessed by an authority to administer oaths. The person making the statement (interviewee) takes an oath that the contents of the affidavit are, to the best of his or her knowledge, true. The PMI is to certify that the document was sworn, or affirmed, before them in person. The signature of the authorized official certifies when, where, and before whom the affidavit was sworn and affirms that the interviewee signing the affidavit was under oath when doing so.

B. Before asking the interview questions, the PMI is to explain the purpose of the interview, and that he or she will prepare an affidavit and then administer an oath once the affidavit is completed.

C. After conducting the interview, the PMI is to prepare the affidavit (promptly after the interview whenever possible) according to the format in this directive (per Section VI. L. of this chapter).

D. It is acceptable for the interviewee to write his or her own statement in an affidavit format. The PMI is to provide guidance on the format, administer the oath, and observe the interviewee sign the affidavit.

E. Affidavits require the administration of an oath. After completing the affidavit and allowing the interviewee to make appropriate changes, the PMI is to administer the oath and personally observe the interviewee sign the affidavit.

F. There may be times when the PMI who conducted the interview and prepared the affidavit is not available to administer the oath and observe the interviewee sign the affidavit. In such instances, another PMI may perform that duty. The prepared affidavit is to contain a statement explaining that one PMI conducted the interview, and another PMI administered the oath and witnessed the interviewee sign the affidavit.

G. The Department guidelines state that taking affidavits under oath is the preferred method for collecting information from witnesses. PMIs are authorized ([Title 5 U.S.C. §303\(a\)](#)) to administer oaths to witnesses and subjects and to take written statements under oath of affirmation from Federal employees and non-federal employees for use in administrative or other proceedings. Oaths can only be administered in person.

H. The PMI is to administer the oath in person before the interviewee signs the affidavit. The PMI has the discretion to determine if an oath should be administered before conducting the interview.

I. The PMI is to explain that the interviewee has the option to use either "swear" or "affirm" when the oath is administered. The verbiage in the statement can be changed to "affirm" at the request of the interviewee.

J. The PMI and the interviewee (if able) are to stand with their right hand raised as the PMI administers the oath. The PMI is to then ask the questions below, depending on the interviewee's word preference in the affidavit for the oath in the following manner:

1. For affidavits using the term "swear," the PMI is to ask:

*Do you solemnly swear that the information in this statement is true and complete, so help you God?*

2. For affidavits using the term "affirm" and given under affirmation, the PMI is to ask:

*Do you solemnly affirm, under the penalties of perjury, that the information in this statement is true and complete?*

K. The interviewee can answer in the affirmative; there is no set phrase required from the interviewee.

L. The affidavit format is as follows:

1. The statement is written in the first person, from the interviewee's point of view;
2. The location of the interview is in the upper right-hand corner of the first page;
3. The title "Affidavit" is at the top of the first page, centered, and in bold font; and
4. The opening paragraph includes the name of the interviewee and name and title of the PMI conducting the interview. This paragraph also confirms that the information is being provided freely and voluntarily and shows that the interviewee understands the purpose of the interview.

Example:

*I, Joseph A. Jones, being first duly sworn on oath, make the following statement freely and voluntarily to Edward G. Clyde, who has identified himself to me as a Personnel Misconduct Investigator, Internal Affairs (IA), Office of the Administrator, Food Safety and Inspection Service, United States Department of Agriculture, knowing this statement may be used in evidence. I understand that this statement may be shown to anyone with an official need to know.*

**NOTE:** The phrase "freely and voluntarily" may be omitted if the interviewee is reluctant but agrees to furnish a statement after being informed of the Department regulations' requirement him or her to do so. An example of how this may be worded is: *This statement is being furnished to comply with USDA regulations which require me to cooperate in this matter.*

M. When more than one PMI participates in an interview, both names are included in the opening paragraph of the affidavit and also on the signature page. The primary PMI and the secondary PMI are to use the same signature format. The secondary PMI's signature block is to be located under the Primary PMI's signature block.

N. The second paragraph describes the necessary information to identify the interviewee, such as work address, official job title, name of employer, and length of service.

Example:

*I work as a GS-8 off-line inspector for the Office of Field Operations, Food Safety and Inspection Service, United States Department of Agriculture, 100 Main Street, Lubbock, Texas. I have been in this position for the past 6 years.*

O. The body of the affidavit is to employ language that the interviewee used previously or can understand. The PMI is to avoid composing an affidavit that does not reflect the interviewee's language style. The affidavit describes relevant facts, including the facts related to the allegations and any events leading up to the events described in the allegations, the interviewee's intent and motivation, how the interviewee is related to the situation, and specific facts, such as the government equipment involved or affected. The affidavit may summarize some details succinctly as long as the summarization of this information does not affect the content of the affidavit.

P. The concluding paragraph of the affidavit is to attest:

1. The number of pages in the affidavit;
2. That the interviewee read the affidavit, or someone read the affidavit to him or her;
3. The interviewee initialed each page and each correction; and
4. The information contained therein is true and complete to the best of his or her knowledge.

Q. When more than one page is necessary for an affidavit, each page is to be numbered for order clarification (e.g., Page 1 of 2, Page 2 of 2).

R. Any disagreement about content should be resolved by the PMI and interviewee before signing the affidavit. The interviewee is to be given a final opportunity to make corrections or additions in pen to the hard copy of the affidavit. The interviewee is to initial any corrections or additions, signs or initials each page, and signs the affidavit above his or her name. The PMI is to observe the interviewee while he or she makes corrections or additions.

S. Prior to the interviewee signing the affidavit, the PMI is to ensure that the oath has been given to the interviewee.

T. The PMI is to sign the last page above his or her name, after the interviewee signs and dates the affidavit, attesting to the fact that the PMI witnessed the interviewee signing the document.

## **VII. DECLARATIONS**

A. A declaration is a statement, not under oath, from the interviewee in which facts are affirmed under penalty of perjury. The interviewee's signature is not witnessed.

**NOTE:** Because affidavits require an oath, they can only be taken by a PMI, or another credentialed Agency official. Because declarations are not given under oath but are affirmed under penalty of perjury, they may be taken by other designated Agency personnel who, in that case, perform the duties of the PMI for the interview and documentation.

B. Before asking the interview questions, the PMI is to identify himself or herself as an Agency credentialed PMI. The PMI is to explain the purpose of the interview, and that he or she will prepare a declaration for the interviewee to sign.

C. After conducting the interview, the PMI is to prepare the declaration (promptly after the interview whenever possible) according to the format in this directive (per Section VII. H. of this chapter). The

interviewee may write his or her own declaration. The PMI is to provide guidance on the documentation format according to the format in this directive (per Section VII.H. of this chapter).

D. After documenting the declaration, the PMI and interviewee are to review it. Any disagreement about content should be resolved before completing the declaration.

E. Before signing the declaration, the interviewee is told they are affirming under penalty of perjury and is to be given a final opportunity to make corrections or additions to the declaration. The PMI is to ask the interviewee to initial any corrections or additions, sign or initial each page, sign the declaration above his or her name, and give it back to the PMI.

**NOTE:** When the declaration is not reviewed in the PMI's presence, the PMI is to send (e.g., e-mail, fax, mail, or courier) the declaration to the interviewee and may include a cover sheet explaining what the interviewee should do to verify the document (e.g., initial each page), how to address corrections (e.g., draw a single line through the inaccurate information and initial it), and how to send the original declaration back to the PMI.

F. The PMI is to retain the declaration containing the interviewee's original signature.

G. The PMI does not need to sign a declaration.

H. The declaration format is as follows:

1. The declaration is written in the first person from the interviewee's point of view;
2. The location of the interview is in the upper right-hand corner of the first page;
3. The title "Declaration" is at the top of the first page, centered, and in bold font; and
4. The opening paragraph includes the interviewee's name and that the information is being provided freely and voluntarily.

Example:

*I, James Jones, declare that I am over the age of eighteen and I am fully competent to make this declaration. I know each of the facts set forth below based on personal, firsthand knowledge, or as described herein. I am providing this declaration freely and voluntarily to USDA, FSIS, Internal Affairs (IA).*

I. In the second paragraph, the declaration is to have the name and title of the PMI conducting the interview and show that the interviewee understands the purpose of the interview. If more than one PMI is present during the interview, this information is to be included in this paragraph.

J. The body of the declaration is to contain the information obtained during the interview.

K. The final paragraph of the declaration is to include a signed endorsement stating that the declaration is made under penalty of perjury.

Example:

*I declare (or affirm, certify, verify, or state) under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct. Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20 (date).*

L. When more than one page is necessary for the declaration, each page is to be numbered for order clarification (e.g., Page 1 of 2, Page 2 of 2).

M. The final line of the declaration is to provide a space for the date and the interviewee's signature.

### **VIII. MOI**

A. The MOI is a record of the interview or attempts made by the PMI to obtain an interview and is written by the PMI. The interviewee does not sign the MOI. The MOI does not carry the penalty of perjury. The MOI may be used as an addendum to an affidavit or declaration, if necessary. The PMI is to use the MOI:

1. When he or she determines a signed statement by the interviewee (affidavit or declaration) is not needed;
2. When the interviewee declines to provide any type of sworn or affirmed statement of interview;  
or
3. As an addendum to a previously signed statement.

B. When the PMI uses the MOI because a witness or subject declines to provide or sign any type of sworn or affirmed statement, the PMI is to describe the circumstances of the situation and details of the refusal as part of the MOI.

C. When the witness refuses to do an interview or uses stalling tactics, the PMI is to document all attempts to conduct an interview in the MOI.

D. The PMI is not to add details in the MOI that did not arise from the interview, if one is conducted.

E. The PMI is to prepare the MOI using the MOI format in H below.

F. The PMI is to sign and date the MOI promptly.

G. If an additional PMI participated in the interview, they are to sign the MOI as a witness to the interview.

H. The MOI format is as follows:

1. The MOI is written in the first person, from the PMI's point of view;
2. The location of the interview is in the upper right-hand corner of the first page;
3. The title "Memorandum of Interview" is at the top of the first page, centered, and in bold font;
4. In the left margin before the first paragraph, the PMI is to document the name and official job title of interviewee, the employer and business address, and length of service of the interviewee. Below the interviewee information, the names and titles of others present during the interview are documented;
5. In the first paragraph, the PMI is to state how he or she identified himself or herself to the interviewee. This description of the introduction/identification process is to be detailed and

thorough and include documentation of the interviewee's acknowledgement of understanding regarding the PMI's official capacity;

Example:

*Investigator Clyde and I introduced ourselves to Ms. Jones and presented our credentials to her. I explained that we were Investigators with Internal Affairs, Office of the Administrator, Food Safety and Inspection Service, United States Department of Agriculture. Ms. Jones acknowledged that she understood our official capacity.*

6. In the second paragraph, the PMI is to state why he or she used the MOI to document the interview instead of an affidavit or declaration;
7. The PMI is to recount the facts elicited from the interviewee in the remainder of the MOI and present them in a logical and concise manner. The facts are to be presented in a narrative fashion using paragraphs to separate different segments; and
8. The PMI is to prepare a closing statement that includes the date the MOI was prepared and certifies that it contains the information discussed during the interview.

Example:

*I prepared this memorandum on \_\_\_\_\_, 20\_\_, immediately after the interview with the witness. I certify that this memorandum has recorded in it a summary of all pertinent matters discussed with the interviewee.*

I. When more than one page is necessary for the MOI, each page is to be numbered for order clarification (e.g., Page 1 of 2, Page 2 of 2).

J. The PMI is to sign and date the last page above his or her name in the signature line.

## **IX. ADDENDUMS**

Pertinent information may be obtained from an interviewee after the original sworn statement (e.g., affidavit or declaration) is signed. This additional information can be documented as an affidavit, a declaration, or an addendum statement in the form of a MOI.

Example:

*Mr. James Jones is providing this addendum to a declaration given to Investigator Smith on July 27, 2010.*

## **X. THIRD PARTIES AND INTERVIEWEE REPRESENTATION**

A. When an interviewee who is a customer or client or someone doing business with the Agency cannot read, write, or speak a language understood by the PMI, a third-party (e.g., FSIS contracted interpreter service, plant management, Agency employee, or Agency contractor) may act as an interpreter during the interview. In these situations, the third-party signs the affidavit or declaration as a witness.

B. When an interviewee who is not a customer or client or someone doing business with the Agency cannot read, write, or speak a language understood by the PMI, a third-party (e.g., FSIS contracted interpreter service, relative, friend, neighbor, or employee) may act as an interpreter during the interview. In these situations, the third-party signs the affidavit or declaration as a witness.

C. When the interviewee's attorney is present during the interview, the PMI is to provide the attorney the optional opportunity to sign the affidavit or declaration as a witness and is to include the name and address of the law firm and the capacity in which the attorney is serving the interviewee.

D. When the interviewee is a bargaining unit employee, he or she is entitled to have a union representative present during an interview if the employee reasonably believes that the examination may result in disciplinary action against him or her, and the employee requests union representation. These rights are not to be used to frustrate the investigative process by causing undue and unwarranted delays. The PMI is to provide the union representative, if present, the opportunity (it is optional) to sign the affidavit or declaration as a witness and is to include the capacity in which he or she is serving the interviewee.

## **XI. SUBJECT AND NON-FSIS EMPLOYEE RIGHTS**

A. An FSIS program employee who is personally involved in a criminal act is not obligated to provide a signed sworn statement because his or her testimony could be used as evidence in a criminal proceeding. Employees in this category are protected by the Constitution of the United States under the Fifth Amendment-Right against self-incrimination. In these instances, the PMI is to document in the MOI and note in it that the employee invoked the Fifth Amendment.

**NOTE:** An employee cannot invoke the Fifth Amendment privilege if there is no criminal act, or if the behavior is not criminal in nature.

B. Non-FSIS employees are not obligated to be interviewed or to give statements. If the PMI encounters this issue, he or she is to document the attempt to conduct an interview in the MOI and may contact the Director or DD for additional guidance.

## **CHAPTER VI - ROI**

### **I. GENERAL**

The PMI is to prepare an ROI to lay out the facts and circumstances involving allegations of misconduct or other matters requiring an investigation. An ROI is to be factually correct, impartial, concise, clear, logically organized, and completed in a timely manner. The ROI consists of statements, documents, and other evidence, properly identified, taken by the PMI during the course of the investigation. The ROI is to provide FSIS a means to determine whether the evidence supports the findings, and whether it can serve as a basis for Agency decisions and action.

### **II. ROI GUIDELINES**

A. A well-written ROI tells a story to the reader, outlines the nature of the allegations, and organizes the findings and supporting evidence to allow the reader to evaluate evidence presented in the ROI and to assess whether it supports or refutes the allegations. The ROI is used for official purposes only.

B. The PMI is to ensure that the ROI:

1. Is restricted to items that are important and relevant to the scope and objectives of the investigation;
2. Sets forth facts to facilitate reader comprehension;
3. Communicates the purpose, scope, sources of information, and facts of the investigation

appropriately;

4. Does not contain personal opinions or views. The information is to be factual and objective;
5. Avoids unanswered questions and does not leave matters open to interpretation;
6. Records or references all pertinent interviews, contacts, exhibits, or other investigative activities;
7. Contains enough relevant and reliable evidence to lead a reasonable person to determine the validity of the allegations, events, issues; and
8. Is completed in a timely manner. Timeliness is critical given the impact of investigations on individuals and FSIS activities.

C. The ROI format is as follows:

1. It is a Word document;
2. It is in Times New Roman 12-point font (except for headings);
3. Headings are Times New Roman 14-point font, bold, uppercase, and centered over each section;
4. The text of an ROI is written in active voice; past tense; and
5. The first time the name of a subject, witness or firm is stated, the full name is written in capital letters (i.e. JOHN DOE). Once the full information of a subject, witness, or firm is stated, any subsequent mention only states the last name of the subject or witness, or abbreviated firm names in capital letters (i.e. DOE). Subjects with the same last name will be differentiated by the initial of the first name followed by a period and then last name (i.e. J.DOE).

D. The ROI is organized with a cover page, the text, and the list of exhibits followed by the actual exhibits.

E. The cover page is the ROI title page with the United States Department of Agriculture symbol (see [FSIS Directive 2680.1](#), *Printing, Graphics, and Copying Services*) and is to include:

1. The name of the PMI who conducted the investigation and wrote the ROI, and the PMI's duty location, ROI submission date, in the lower right-hand corner; and
2. A title block with the following information located four line breaks below the seal and centered on the cover page:
  - a. Name of the subject of the investigation (in uppercase letters);
  - b. Duty station of the subject of the investigation;
  - c. Case number, and
  - d. Case Type (e.g., Special Investigative Request (SIR), or OIG Hotline Complaint).

F. The text includes a synopsis, background, allegations, and miscellaneous information. Documented

text in one part should not be repeated in subsequent parts.

1. The synopsis is an overview of why the investigation was initiated, by whom, and the identity of the subject(s). It is to identify when and how IA became aware of and involved in the issue.
  - a. If the investigation was initiated based upon a referral from the OIG Hotline, the date of the referral is the appropriate date;
  - b. If IA initiated the investigation only subsequent to or as a result of another program area (e.g., OFO, CID) being involved in an issue, it is appropriate for the PMI to show the date as the date when IA was advised of or asked to investigate the alleged violation;
  - c. In a brief statement, the synopsis is to summarize the results of the investigation; and
  - d. Exhibit 1 is the investigation request and is to be documented at the end of the synopsis paragraph. The exhibit is to be included to ensure that the intended audience of the ROI has the original request for review.
2. The background is to include relevant history regarding the subject, including the subject's title, job series, GS-level, number of years in service with FSIS, number of years in current position, his or her official duty station (including establishment number, city, state), and if he or she has any past disciplinary actions in his or her personnel file (determined by calling or e-mailing Human Resources Operations Division or LERD). Depending on the nature of the investigation, it may be necessary to include the specific duties for which the subject is responsible.
  - a. This part is to include any relevant issues to help the reader of the report better understand the situation or circumstances involved; and
  - b. Additional information (e.g., conflicts of interest the subject may have that are pertinent to the investigation or unusual, confusing, or complex issues about the investigation) may be included in this section, when needed.
3. The allegations section is the body of the report. It is to include a narrative summarizing the evidence relevant to each allegation and is to refer the reader to particular exhibits for detail.
  - a. It is to list and describe each individual allegation in sufficient detail to understand the allegation. The sources of the allegations are to be described (e.g., whistleblower complaint, audit of records, management initiated). Also, specifics of the various allegations, which were accepted by the Agency for investigation, and any new allegations that surfaced during the investigation are to be described;

Example:

*SAM SMITH (SMITH), Supervisory Public Health Veterinarian (SPHV) (GS-12), Jonesville, Idaho, in an affidavit dated June 14, 2010 (Exhibit 1) said he went to Est. 38 on February 14, 2010, to conduct the IPPS review for JOHN DOE (DOE) at 11:30 a.m. Eastern Time. DOE was not at the plant at the time, so he waited for DOE to return. DOE returned to the plant at 1:30 p.m. Eastern Time and said DOE took his spouse to lunch for Valentine's Day. He said DOE did not request to use leave for the one and one-half hours beyond the normal lunch period of 30 minutes.*

- b. Evidence is to be presented for each allegation. The organization and content of the evidence is critical to the ROI. A summary of the evidence developed in response to each factual situation is to be presented in the ROI accompanied by a specific reference to the exhibits, which contain the supporting evidence;
- c. Exculpatory, aggravating, or mitigating issues related to the allegations (e.g., allegations raised that are not substantiated or are contradicted by findings) is to be included in the evidence related to each allegation; and
- d. If there is more than one allegation, they are to be listed in a logical flow, such as chronologically, most severe to less severe, substantiated to unsubstantiated, or other order that is appropriate to the specific investigation.

4. The miscellaneous section is to be used for information that should be included in the report but is not placed elsewhere. Examples are to include interference that may have occurred during the investigation; an explanation of what the PMI did with the specific information identified from documents reviewed; an explanation why a potential witness was not interviewed; or other issues related to the investigation but outside of its scope.

G. The list of exhibits is a sequential list of evidence that supports the findings. The ROI is exhibit oriented. No exhibit is to be included unless it is relevant and necessary to facilitate an understanding of the investigation and support findings.

1. The "List of Exhibits" page is to immediately follow the text and contain three columns: Exhibit Number, Description of the Exhibit, and Page Introduced;
2. Each interview and document are to be easily identifiable in the report by exhibit number (e.g., Exhibit 1);
3. Under a heading, "Evidence Obtained but not Submitted," the PMI is to list evidence obtained in the investigation but not included in the ROI. When applicable, a list is to be attached. If all evidence was used, then there is to be a statement to that effect; Evidence obtained but not submitted is to be held in the working file with PMI;
4. The "List of Exhibits" is to be separated from the exhibits in the ROI with a tabbed divider identified as "Exhibits;"
5. Each exhibit is to be tabbed with a number to facilitate locating documents. Tabs are to be uniformly distributed along the bottom of the ROI from left to right;
6. The exhibits are to be placed numerically in the same order as referenced in the text (usually in the "Allegations" section);
7. Each piece of evidence in the ROI is to be under its own exhibit cover sheet (FSIS Form 8000-7, *Exhibit Cover Sheet*) and populated electronically after the PMI uploads the evidence into MI-ANet. Each exhibit cover sheet is to include:
  - a. A description of the evidence;
  - b. Name of the person from whom the evidence was obtained;
  - c. Name, title, and badge number of the person who obtained the evidence;

- d. Date the evidence was obtained;
  - e. The location of the original evidence (e.g., generally, PMI collect copies of documents or records; therefore, the original would be held by the person from whom the copy was collected); and
  - f. The appropriate sequential exhibit number.
8. Exhibits are to be legible. When a document is not legible, the PMI is to copy the document, make the copy legible by writing in the information, and include the legible copy with the exhibit. Examples of exhibits are:
- a. A sworn statement from the subject of the investigation. When a sworn/affirmed statement is handwritten, the PMI is to type a verbatim copy and include it with the exhibit;
  - b. The MOI from interviews;
  - c. Relevant Agency records (e.g., time and attendance records, travel vouchers, phone bills, accident reports); and
  - d. Demonstrative information created by the PMI to assist the reader in understanding the evidence (e.g., tables or charts that summarize the evidence, maps, flow charts, diagrams, and sketches). Demonstrative exhibits will not have an evidence receipt and chain of custody form.

## **CHAPTER VII – NON-MISCONDUCT INVESTIGATIONS PERFORMED BY PMI**

### **I. TYPES OF NON-MISCONDUCT INVESTIGATIONS**

A. PMI or other IA personnel also conduct non-misconduct investigations at the request of the IA Director or other Agency officials to ensure program integrity, Agency effectiveness, and other reasons. Non-misconduct investigations include but are not limited to the following:

1. Accident safety;
2. Animal cruelty;
3. Personal security/background;
4. International/export;
5. Federal - state cooperative;
6. IT security violations;
7. Finances;
8. Contractor/grants;
9. Ethics;
10. Pollution and environmental;

11. Other program and management issues; or
12. Other criminal and non-criminal investigations.

B. The methods in this directive are to be used for these investigations.

## **II. INVESTIGATIVE PROCEDURES**

A. The IA Director or DD is to:

1. Determine whether an inquiry or investigation is warranted;
2. Determine who will handle/coordinate the inquiry or investigation;
3. Communicate with the PMI that an inquiry or investigation is warranted, when applicable;
4. Assign a PMI to the inquiry or investigation;
5. Provide guidance on how to proceed with the inquiry or investigation; and
6. Provide guidance if additional investigative steps are needed other than what are listed in this directive.

B. The PMI or other IA personnel are to conduct non-misconduct types of investigations using the methods in this directive.

## **III. QUESTIONS**

Refer all questions regarding this directive to IA through supervisory channels.



Acting Assistant Administrator  
Office of Policy and Program and Development