UCMJ INVESTIGATIONS: THE GENESIS

The Starting Point for Understanding, Preparing, and Building a Fact-Driven Military Defense

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THE BEGINNING: A UCMJ matter is not a single interview, report, hearing, or trial. It is a system of people, decisions, evidence, deadlines, and consequences. This publication is the reader's entry point into that system—and the foundation for every Authority Publication that follows.

The Moment Everything Changes

Imagine waking up and realizing that your military career, rank, reputation, benefits, relationships, and future may depend on decisions made in a system you have never had to understand. For many service members and families, the first notice is sudden: report to an office, surrender a device, respond to a command action, or learn that investigators have already spoken to others.

That moment feels like the beginning. Usually, it is not. Witnesses may already have been interviewed. Screenshots may already have been captured. A command narrative may already be taking shape. Investigators may be testing a theory, seeking admissions, and selecting which facts appear important. Evidence that could provide context may be disappearing through routine deletion, device replacement, changing memories, or ordinary retention policies.

This is the genesis of the defense journey: recognizing that the process has begun, refusing to be driven by panic or assumption, and building an organized response around counsel, preservation, independent fact development, and disciplined communication.

Why This Paper Comes First

The UCMJ Investigations Authority Publication series addresses witness interviews, timelines, digital evidence, records, scenes, experts, investigative reports, missing evidence, competing accounts, and preparation for critical proceedings. Those subjects are connected. DI-001 supplies the principle that holds them together: military justice is too complex and too consequential to rely on a single narrative or an incomplete record.

The goal is not to teach a reader how to act as an attorney or investigator. It is to help each participant understand the system, recognize the value of early and independent fact development, and know what helps—or harms—the defense team. Legal strategy belongs to qualified defense counsel. Investigative work should support that strategy with accurate, documented, and candid facts.

The UCMJ System Is a Journey, Not a Single Event

A military matter can move through several overlapping tracks. It may begin with an allegation, command inquiry, law-enforcement investigation, administrative action, or restriction on duties. It may involve an Article 31 rights advisement, searches and seizures, interviews, expert review, charging decisions, an Article 32 preliminary hearing, referral to court-martial, motions practice, trial, administrative proceedings, or post-trial review. Some matters also involve parallel civilian authorities.

The path is not identical in every case. The importance of a fact can change with the allegation, forum, stage, and available evidence. That is why the defense needs both legal analysis and factual

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development. A right is most useful when the defense team knows what evidence exists, what is missing, what should be requested, and what can be independently verified.

The Five Realities That Shape the Journey

1. The process may begin before formal notice. Evidence and opinions can develop before the service member knows the scope of the matter.
2. The government's file is important, but it is not the complete universe of facts. It reflects what was found, preserved, selected, interpreted, and reported within a particular mission and theory.
3. Time changes evidence. Digital data can be overwritten, surveillance recordings can expire, physical conditions can change, and memories can be influenced by repetition or discussion.
4. Every participant sees only part of the case. Commanders, agents, counsel, witnesses, experts, service members, and families possess different information and responsibilities.
5. Early decisions can have lasting consequences. Interviews, consent, messages, social-media posts, witness contact, and deletion of material can affect both legal options and credibility.

The Government Investigation and the Defense Investigation

Government investigators perform an essential public function, but their assignment is not the same as the defense team's assignment. They work under agency authorities, command priorities, legal constraints, available resources, and an evolving theory of the case. Their report may contain careful and reliable work and still leave questions unanswered.

Independent defense investigation does not mean searching only for facts that help the accused. It means testing all material facts without assuming the answer. The investigator may locate witnesses who were overlooked, obtain original records rather than summaries, build a source-based chronology, compare accounts with objective evidence, identify alternative explanations, and report both favorable and unfavorable findings so counsel can evaluate risk.

CORE PRINCIPLE: The first investigative report is a starting point—not the final truth. A disciplined defense asks how each conclusion was built, what supports it, what contradicts it, and what evidence should exist but has not been explained.

Questions That Begin a Strong Defense Investigation

1. What exactly is alleged, and which details remain uncertain or disputed?
2. Who has firsthand knowledge, and who is repeating information received from someone else?
3. Were statements recorded verbatim, summarized, paraphrased, or influenced by prior conversations?
4. What phones, accounts, photographs, videos, access records, medical records, travel records, or location data may provide context?
5. Does the alleged timeline work when tested against objective sources and physical reality?
6. What evidence was not collected, was not preserved, is unavailable, or appears only in incomplete form?
7. What assumptions shaped later questions, searches, witness interviews, or command decisions?
8. Which issues require a qualified expert rather than an investigator's interpretation?

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A Practical Roadmap From Crisis to Case Strategy

1. Stabilize. Coordinate promptly with qualified defense counsel. Identify immediate legal, personal, professional, and evidentiary risks. Avoid impulsive communications or unilateral attempts to "clear things up."
2. Preserve. Secure potentially relevant messages, photographs, videos, records, devices, account information, calendars, receipts, and notes without altering or deleting material. Counsel should guide formal preservation and collection decisions.
3. Map the case. Define the allegations, people, places, devices, records, decision points, and known gaps. Separate verified facts from assumptions and secondhand reports.
4. Build the chronology. Anchor events to original and objective sources wherever possible. A timeline should identify sources, conflicts, uncertainties, and missing intervals—not merely retell a preferred story.
5. Test every account. Compare statements with prior statements, physical evidence, digital evidence, travel time, opportunity, and other independent indicators. Investigate inconsistency; do not automatically equate it with deception.
6. Develop and challenge alternatives. Consider plausible explanations and then test them. A theory that cannot survive contradiction is not a safe foundation for strategy.
7. Report candidly. Distinguish verified facts, disputed claims, professional observations, and unresolved questions. Counsel needs accuracy more than reassurance.
8. Reassess continuously. New evidence may change priorities, strengthen one explanation, weaken another, or create a need for additional witnesses, records, or experts.

What Each Participant Brings to the Defense Journey

Military Defense Counsel

Counsel protects legal rights, evaluates exposure, controls legal strategy, and decides how facts should be used. Counsel also determines whether and how the service member should respond to questioning, consent requests, discovery, command communications, negotiations, hearings, and trial. The investigative plan should be built with counsel—not alongside counsel as an unrelated project.

Defense Investigators

The investigator develops the factual record. That work can include witness location and interviewing, timeline reconstruction, record collection, scene documentation, comparison of reports with original source material, identification of missing evidence, and coordination with qualified experts. The investigator must remain objective enough to report facts that complicate the defense as well as facts that support it.

Service Members

The service member is the person whose liberty, career, reputation, and future may be affected. The most useful contribution is complete, accurate, and private communication with counsel; careful preservation of potentially relevant material; and disciplined compliance with the defense plan. Panic, shame, anger, or the desire to immediately correct the record can lead to avoidable mistakes.

Experts

Experts address specialized questions that exceed the investigator's role, such as medicine, toxicology, psychology, digital forensics, DNA, firearms, financial analysis, or other technical fields. Investigators help

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identify the factual issue and organize source material; qualified experts provide opinions within their discipline. Their work should be integrated early enough to affect evidence collection and case planning.

Families

Families often become the emotional and logistical center of the response. They can preserve records, help reconstruct dates and events, organize documents, support appointments, and provide stability. Their greatest value comes from accuracy and restraint—not investigating witnesses themselves, coordinating accounts, broadcasting accusations, or making public statements that may be preserved and misunderstood.

What to Do—and What Not to Do

Helpful actions

1. Contact qualified military defense counsel promptly and follow counsel's guidance.
2. Preserve potentially relevant information in its original form and document where it came from.
3. Create a private chronology for counsel that separates what you personally know from what others told you.
4. Identify possible witnesses and records for the defense team without contacting, coaching, or pressuring them.
5. Keep communications limited, accurate, and purposeful. Assume texts, emails, and posts may later become evidence.
6. Tell counsel and the investigator about facts that may be harmful, embarrassing, or difficult. Surprises weaken preparation.

Actions that can damage the defense

1. Do not delete messages, accounts, photographs, files, or other potentially relevant material.
2. Do not coordinate stories or ask others to change, conceal, or minimize what they remember.
3. Do not contact an accuser or witness to confront, persuade, pressure, or "get closure."
4. Do not post about the allegation, the investigation, investigators, counsel, witnesses, or expected evidence.
5. Do not treat an informal or "friendly" conversation as consequence-free.
6. Do not assume that a favorable fact will find its way into the government file without independent identification and preservation.

The Legal Framework Makes Facts Usable

Article 31 of the UCMJ addresses compulsory self-incrimination and requires specified warnings before covered questioning of an accused or person suspected of an offense. Article 46 provides the trial counsel, defense counsel, and court-martial an equal opportunity to obtain witnesses and other evidence in a case referred for trial, subject to governing regulations. The Manual for Courts-Martial supplies procedures for discovery and production, including R.C.M. 701 and R.C.M. 703.

These authorities matter, but they do not perform the investigation. Counsel cannot seek, challenge, contextualize, or use evidence that has not been identified. Independent fact development helps convert legal rights and procedures into a usable record while leaving legal conclusions and strategic decisions to qualified counsel.

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How to Use the Authority Publication Series

DI-001 is the orientation point. Read it first to understand why independent, fact-driven investigation matters and how the participants fit together. Then use the Knowledge Base according to the needs of the case: preservation when evidence may disappear; witness and credibility publications when accounts conflict; timeline and location publications when sequence or opportunity matters; digital-evidence publications when devices, accounts, metadata, or social media are involved; expert publications when specialized interpretation is required; and report-review publications when the government file must be tested against original sources.

The series is educational, not a substitute for case-specific advice. Its value is to give attorneys, investigators, service members, experts, and families a shared vocabulary and a disciplined way to recognize questions that require attention. The intended result is not certainty where certainty does not exist. It is a more complete record, fewer avoidable mistakes, and better-informed decisions.

A Reader's Starting Checklist

Use these questions to organize a private, counsel-led first review. They are not a substitute for legal advice or an invitation to investigate the matter personally.

1. Has qualified defense counsel been consulted, and does counsel know every known deadline, interview request, search, seizure, command restriction, or pending action?
2. What potentially relevant evidence is at risk of routine deletion, overwrite, loss, replacement, or changing physical conditions?
3. Which facts are personally known, which came from another person, and which remain assumptions?
4. Who may possess original records or firsthand knowledge, and has that information been provided privately to counsel without witness contact or coordination?
5. What part of the government's account is supported by an original source, and what part appears only as a summary, inference, or repeated statement?
6. Which technical issues may require preservation or review by a qualified expert before evidence changes or becomes unavailable?
7. What communications, public statements, or emotional reactions should stop immediately so the defense team can work from a stable factual record?

The checklist is intentionally basic. Strong defense development begins by controlling avoidable risk, identifying time-sensitive evidence, and giving counsel an honest view of both helpful and difficult facts. More specialized Authority Publications can then guide the team toward the particular witness, digital, documentary, timeline, expert, or report-review issues the case presents.

From the Investigator's Desk

Most difficult cases do not turn on one dramatic discovery. They develop through details: a time that does not match a record, an interview that omitted a necessary question, a screenshot without the surrounding conversation, a witness whose firsthand knowledge was assumed rather than confirmed, or an objective source that no one preserved. Small gaps can support large assumptions. Careful investigation works in the opposite direction—it replaces assumption with verifiable fact, one source at a time.

The purpose of UCMJ Investigations and this Authority Publication series is to help the defense community ask better questions, preserve what matters, understand the limits of the existing record, and develop facts in a form qualified counsel can use. No investigator can promise an outcome. A disciplined

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investigation can, however, reduce avoidable uncertainty and give the people facing the system a stronger foundation for the decisions ahead.

THE JOURNEY STARTS HERE: Do not wait for the government's account to become the only account. Preserve evidence. Obtain qualified counsel. Investigate independently. Verify the timeline. Test assumptions. Give the defense team the most complete factual record available.

Important Information

This publication is educational and reflects the perspective of an independent defense investigator. It is not legal advice and does not create an attorney-client or investigator-client relationship. Legal decisions should be made in consultation with qualified defense counsel. Independent investigative services complement, but do not replace, the advice and representation of an attorney.

Selected Authorities and Resources

1. Manual for Courts-Martial, United States (2024 ed.), including R.C.M. 701 and R.C.M. 703: https://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/
2. 10 U.S.C. § 831 (UCMJ Article 31), Compulsory self-incrimination prohibited: https://uscode.house.gov/view.xhtml?req=(title:10%20section:831%20edition:prelim)
3. 10 U.S.C. § 846 (UCMJ Article 46), Opportunity to obtain witnesses and other evidence: https://uscode.house.gov/view.xhtml?edition=prelim&num=0&req=granuleid%3AUSC-prelim-title10-section846
4. UCMJ Investigations Knowledge Base, DI-001: https://ucmjinvestigations.com/di-001/
5. Companion video: VIDEO DI-001_ucmj_investigations.mp4 (3 minutes, 45 seconds).

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