Why Independent Investigations Continue

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Executive Summary

Independent military defense investigations continue because the defense and the government may be asking different questions. A completed government investigation can contain valuable evidence while still leaving gaps, unresolved conflicts, untested assumptions, or leads that were outside the government's investigative focus.

This publication explains how defense investigators use the existing record as a starting point rather than an endpoint. They compare reports with source material, locate additional witnesses, test timelines, seek missing records, evaluate alternative explanations, and pursue facts that may affect the defense even when the government's investigative work is formally complete.

Why This Article Exists

The government's investigation may close, but that does not mean every important factual question has been answered. Investigative agencies work within their own mission, priorities, legal authorities, and theories of relevance. The defense may need answers to different questions.

An independent defense investigation can therefore continue after the government has completed interviews, collected evidence, or issued its investigative report. New witnesses may emerge, records may require comparison, timelines may expose gaps, and alternative explanations may need to be tested.

This Authority Publication explains why independent investigations continue and why the end of the government's investigative activity should not automatically become the end of factual development for the defense.

The Fundamental Difference

Different Missions Produce Different Questions
Government investigators collect evidence for their investigative mission. Defense counsel

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must evaluate what is necessary to protect the accused and test the government's theory. Those objectives overlap, but they are not identical.

A Closed Report Is Not a Closed Fact Pattern
Reports summarize what was developed at a particular time. Later records, witnesses, expert analysis, or contradictions can justify additional investigation.

Discussion

Follow Leads the Government Did Not Pursue
A lead may have appeared peripheral to the original investigation but become important once the defense understands the government's theory or discovers new evidence.
Test Conclusions Against Source Evidence

Investigative reports may contain summaries and conclusions. The defense should compare them with recordings, statements, photographs, records, laboratory materials, and other underlying sources when available.

Investigate Alternative Explanations
A professional defense investigation does not invent alternatives. It tests reasonable explanations suggested by the evidence and determines whether they survive factual examination.

From the Investigator's Desk

The investigative value of why independent investigations continue is not found in a slogan or a single technique. It comes from disciplined factual development. Investigators should identify the question, determine what sources can answer it, preserve those sources, and compare the resulting information with the rest of the case.

The defense investigator's role is not to manufacture doubt or advocate for a predetermined explanation. It is to develop reliable facts for counsel. When the evidence changes the direction of the investigation, the investigation should change with it.

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Investigator's Guidance

- Define the factual question before selecting an investigative technique.
- Preserve original records and complete context whenever possible.
- Distinguish personal knowledge, documentary fact, inference, and assumption.
- Corroborate significant assertions through independent sources when available.
- Document unresolved questions and convert them into specific follow-up tasks.
- Remain willing to revise the working theory when reliable evidence requires it.

Bottom Line

The proper stopping point is not simply when another investigator stopped. It is when counsel has enough reliable factual information to make informed defense decisions.

Important Information

This Authority Publication is provided for educational and informational purposes and is intended to help readers better understand military defense investigations and the investigative process. It is based upon professional investigative experience and provides practical investigative insight rather than legal advice.

Every military case is unique. Investigative strategies, factual issues, and legal considerations applicable to one case may not apply to another. Readers should consult a qualified attorney regarding legal rights, legal strategy, and decisions involving individual circumstances. Nothing in this publication creates an attorney-client or investigator-client relationship. UCMJ Investigations is independent and does not represent the Department of Defense, any military service, or any government agency.

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