

Organizational Integrity *Shorts*



Edition 2.3

The Importance Of Post-Investigation Activities

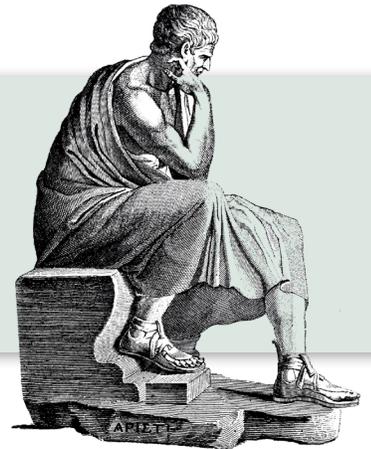
By: Jonathan Aronie and Joseph Jay, Sheppard Mullin*, April 22, 2024

Aristotle said “well begun is half done.” About 2,300 years later, Mary Poppins shared the same advice with her young charges, Jane and Michael. The adage generally is understood to mean that a thoughtful and disciplined start puts a project in a good position for success. With apologies to Aristotle (and Mary), the members of Sheppard Mullin’s *Organizational Integrity Group* use the same adage as a warning. In our experience, well begun is only half the battle.

This month’s *OIG Shorts* discusses the importance of the activities that take place toward the end of – or after – an internal investigation or other response to an organizational crises. While we are not against taking a moment – and a breath – following the conclusion of a stressful investigation, after that rest, it’s important to remember there is more to be done, including:

 • **Collateral Consequences.** It has been said that to a hammer every problem is a nail. This is an important adage to keep in mind throughout an investigation, as well as upon its completion. We always should be asking whether our mindsets are too narrow. If the investigation focused on a violation of procurement rules, is someone also thinking about SEC, tax, and public reporting consequences? If the investigation is criminal in nature, is someone thinking about the civil implications? These questions are more likely to be raised and answered when a broad collection of experts with diverse experiences and skills are part of the investigation team.

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• **Remedial Measures.** Most every investigation includes recommendations to reduce the chances of a recurrence. The energy with which folks support such recommendations during the investigation often ebbs once the investigation (and the adrenaline) comes to a end. But it is essential that all recommended and approved remedial actions be completed – especially where those actions have been shared with government enforcement officials.



• **Post-Mortem.** In his book the *Culture Code*, best-selling author Daniel Coyle looks inside a number of high-functioning organizations (e.g., U.S. Navy Seals) to identify common strategies that have made these organizations successful. Among many lessons, Coyle found that the most successful organizations are extremely disciplined in examining what went wrong – and what went right. “Unsuccessful teams,”

he found “tended not to do this.” Meaningful self-reflection is critical. And importantly, this should be done whether the “operation” was successful or not.



- **Lessons Learned.** One of the best ways to reduce the chance of a recurrence of a problem is to have a meaningful effort to identify “lessons learned” following the investigation. While similar, a “lessons learned” project is broader than a focused post-mortem. Nonetheless, it should be a formal, disciplined process; it should not be *ad hoc*. If possible, it should be conducted under the protections of the attorney client privilege. And the process should include a broad range of stakeholders from across the organization who will contribute a multitude of perspectives.



- **Follow-Up Audit.** Once root causes have been identified and corrective actions have been implemented, a thoughtful organization should check whether the remedial actions are effective. Accordingly, a meaningful, targeted follow-up audit after an appropriate time period is a must.

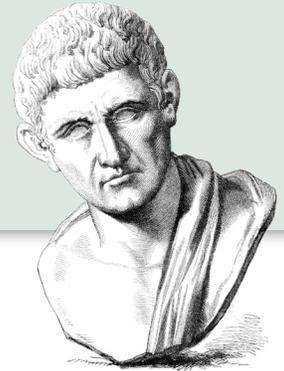


- **Close Out Debriefing.** Our Sheppard Mullin partner (and OIG co-founder) [David Douglass has commented](#) that “investigations are stressful for an organization’s leadership. But what is often overlooked is that they are stressful for an organization’s employees as well.” David is right. “Employees who fall within the scope of an investigation often know little about what’s going on, which can generate anxiety, impair morale, and create tensions in the workplace.” To mitigate the potential future negative impacts of these stresses, our OIG team advocates for a post-investigation “[closeout debrief](#),” which “can serve to bring closure for employees, relieve anxiety, and restore trust in the organization.”



- **Reputation Rebuilding.** Internal investigations often are undertaken in the context of events that become (or already are) public. Accordingly, companies need to think through the steps that will be necessary to rebuild their reputations

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– internally and externally. Some companies engage professionals to help with this, others rely upon their internal experts. Regardless of the resources brought to the table, focusing on the short-term and long-term reputational impact of enforcement matters and lawsuits is critical.



- **Investigation Fatigue and Resiliency.** Internal investigations can be disruptive, distracting, and difficult for organizations and their constituents. At some point, organizations may begin to experience “investigation fatigue” and may seek to short circuit post-investigation activities. It’s critical to fight this, demonstrate resiliency, remediate the findings of the investigation, and steer the organization back to its core business.

While certainly not an exhaustive list of post-investigation considerations, these steps will help ensure organizations secure the full benefit of their investigative efforts.

To close out this post, let’s return to ancient Greece. Aristotle is often quoted as saying “We are what we repeatedly do. Excellence, then is not an act but a habit.” Putting aside that the quote more likely comes from author Will Durant, the sentiment is worth remembering. If we are disciplined not only in conducting our investigations, but in taking the appropriate steps following our investigations, and doing so consistently and repeatedly, we can achieve excellence more routinely. Not following through after an investigation, on the other hand, will make it far more likely that history will repeat itself.

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