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DITMAC

NITAM NOTES

OFFICE OF GENERAL COUNSEL (OGC)



THE PARTNERSHIP IMPERATIVE

Insider Threat (InT) programs are critical to safeguarding organizations, but their success hinges on a strong, collaborative partnership with legal teams. Legal counsel isn't just about compliance; they are strategic enablers, ensuring that efforts to deter, detect, and mitigate insider threats are lawful, ethical, and aligned with organizational values. This partnership protects both national security/organizational interests and the rights of individuals, fostering a culture of trust and accountability.

BARRIERS & CHALLENGES

- **Information Sharing:** Absence of clear policies on the sharing of information due to unclear legal thresholds can impede timely detection and mitigation efforts.
- **Balancing Security & Civil Liberties:** Navigating the tension between proactive risk management and the protection of individual rights requires careful consideration and a shared understanding of legal boundaries.

"SECURITY WITH INTEGRITY"

A robust partnership between Insider Threat Programs and Legal teams is not merely a best practice – it's a necessity for effective threat mitigation. By working in close collaboration, organizations can act decisively, protect critical assets, and maintain the trust and confidence of their stakeholders. This partnership embodies the principle of "Security with Integrity," advancing shared security goals across government, industry, and the national security enterprise.

POLICY

- **Strategic Policy & Governance Architect:** Legal teams are pivotal in informing the development of robust InT policies, Standard Operating Procedures (SOPs), and defining authorities. This ensures legal compliance, establishes clear operational guidelines, and provides a solid foundation for program legitimacy.
- **Legal Oversight for Program Agility:** Legal teams ensure InT programs adapt to legal, organizational, and technological changes.

DECISION SUPPORT

- **Critical, real-time counsel:** Ensuring that actions are legally defensible and aligned with evolving legal interpretations
- **Privacy & Data Protection:** Ensuring that all data (PII, digital evidence) handling practices comply with privacy regulations
- **Lawful Information Sharing:** Guiding information sharing with internal and external partners, ensuring compliance with information-sharing agreements and legal boundaries.

BUILDING STRONGER PARTNERSHIPS

To overcome challenges and maximize the value of the Legal-InT partnership, programs can:

➤ Integrate Legal Early & Often:

Engage legal counsel from the initial stages of program design, investigation planning, and incident response development. This proactive approach fosters a shared understanding of legal requirements and facilitates seamless collaboration.

➤ Establish Clear Legal Review Protocols:

Define specific scenarios and thresholds that trigger mandatory legal review before taking mitigation or administrative actions. This ensures consistent application of legal standards and minimizes the risk of legal challenges.

➤ Practice Together:

Tabletop Exercises with Legal: Incorporate legal representatives into regular tabletop exercises to simulate real-world scenarios and refine shared understanding of authorities, legal thresholds, and operational procedures.

➤ Cultivate a Culture of Collaboration and Mutual Respect:

Promote a work environment where legal is viewed as a vital enabler, not a barrier, to mission execution. Open communication, mutual understanding, and a shared commitment to both security and legal integrity are essential.

KEY CONTRIBUTIONS



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DoD Insider Threat
Management and
Analysis Center