

of preliminary inquiry will be sufficient to resolve the incident and, when appropriate, support the administrative sanctions under § 159a.98; or

(c) That the loss or compromise of classified information did occur and that the compromise reasonably could be expected to cause damage to the national security or that the probability of damage to the national security cannot be discounted. Upon this determination, the responsible official shall:

(1) Report the circumstances of the compromise to an appropriate authority as specified in DoD Component instructions;

(2) If the responsible official is the originator, take the action prescribed in § 159a.47; and

(3) If the responsible official is not the originator, notify the originator of the known details of the compromise, including identification of the classified information. If the originator is unknown, notification will be sent to the office specified in DoD Component instructions.

§ 159a.45 Investigation.

If it is determined that further investigation is warranted, such investigation will include the following:

(a) Identification of the source, date, and circumstances of the compromise.

(b) Complete description and classification of each item of classified information compromised;

(c) A thorough search for the classified information;

(d) Identification of any person or procedure responsible for the compromise. Any person so identified shall be apprised of the nature and circumstances of the compromise and be provided an opportunity to reply to the violation charged. If such person does not choose to make a statement, this fact shall be included in the report of investigation;

(e) An analysis and statement of the known or probable damage to the national security that has resulted or may result (See § 159a.15(k)), and the cause of the loss or compromise; or a statement that compromise did not occur or that there is minimal risk of damage to the national security;

(f) An assessment of the possible advantage to foreign powers resulting from the compromise; and

(g) A compilation of the data in paragraphs (a) through (f) of this section, in a report to the authority ordering the investigation to include an assessment of appropriate corrective, administrative, disciplinary, or legal actions. (Also see § 159a.100).

§ 159a.46 Responsibility of authority ordering investigation.

(a) The report of investigation shall be reviewed to ensure compliance with this part and instructions issued by DoD Components.

(b) The recommendations contained in the report of investigation shall be reviewed to determine sufficiency of remedial, administrative, disciplinary, or legal action proposed and, if adequate, the report of investigation shall be forwarded with recommendations through supervisory channels (See § 159a.98 and § 159a.99).

(c) Whenever an action is contemplated against any person believed responsible for the compromise of classified information, damage assessments shall be coordinated with the legal counsel of the DoD Component where the individual responsible is assigned or employed. Whenever a violation of criminal law appears to have occurred and a criminal prosecution is contemplated, the DoD Component responsible for the damage assessment shall apprise the General Counsel, Department of Defense. See § 159a.101.

§ 159a.47 Responsibility of originator.

The originator or an official higher in the originator's supervisory chain shall, upon receipt of notification of loss or probable compromise of classified information, take action as prescribed in § 159a.15(k).

§ 159a.48 System of control of damage assessments.

Each DoD Component shall establish a system of controls and internal procedures to ensure that damage assessments are conducted when required and that records are maintained in a manner that facilitates their retrieval and use within the Component.