



# Generic Valuation Tool

## Investigating

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# Generic Valuation Tool (GVT)

## INVESTIGATING

How to use this tool:

- This tool is designed for IM specialists to use with relevant business areas when identifying information resources of business value (IRBV) and retention specifications.
- The IRBV and retention specifications contained in this document are recommendations only and should be customized to apply in each institutional context. The complete document should be read before using any recommendations.
- **This GVT does not provide Government of Canada institutions with the authority to dispose of information.** GVTs are not Records Disposition Authorities (RDA) and do not replace the Multi-Institutional Disposition Authorities (MIDA).

**Validation:** The business processes and IRBV of this GVT have been validated by subject matter experts from the following departments: Office of the Commissioner of Lobbying of Canada (OCL), the Office of the Correctional Investigator (OCI), and the Transportation Safety Board of Canada (TSB).

### Defining the Activity

Investigation involves gathering, from a variety of sources, evidence and information relevant to a suspected violation, accident or wrongdoing, and making a recommendation or determination based on the findings.

There are many types of investigations performed in the Government of Canada (GC) that are conducted for various purposes. Types of investigations include: criminal, regulatory, accident, human rights, and administrative fairness.

Based on a review of multiple institutions that perform this activity, investigating is rarely expressed in the Program Activity Architecture (PAA) by that term. More commonly, it is referred to as complaints resolution, review, detection, dispute resolution, or as an ombudsman activity. Investigating may appear as a program activity or, more commonly for larger institutions, at the sub-activity level. When investigating appears in the PAA as a sub-activity, it is often expressed as part of regulation, compliance, enforcement, protection, or risk activities. For clarity, in this Generic Valuation Tool (GVT), investigating will be referred to as an activity, though it may also be used at the sub-activity level.

Investigating is not prescribed in a stabilized manner across the GC, though it is prescribed for certain individual institutions. Despite the lack of prescription,

investigations are conducted in a predictable manner regardless of the type of investigation conducted or the subject matter being examined. As such, this GVT relies on legislation, policies and guidelines from multiple institutions across the GC that conduct investigations.

## **Relationship to Other GVTs**

Business processes often overlap. When the IRBV for a sub-activity is also identified in another GVT, there is a note in the table of IRBV and retention recommendations (below) to direct the user to the proper tool.

The Investigating GVT addresses investigations performed by an institution in the course of fulfilling its operational mandate. Any complaints investigations related to an internal service will be addressed by the GVT related to that sub-activity. For example, complaints investigations conducted into harassment in the workplace are addressed by the GVT for Human Resources Management.

**Management and Oversight:** All policy and procedures related to investigating are addressed in the Management and Oversight GVT. Additionally, though audits are a type of investigation related to an institution's finances, they have been identified by the Treasury Board of Canada Secretariat (TBS) as forming part of the Management and Oversight Internal Service and are therefore addressed in that GVT.

**Communications:** Communications are an integral part of the investigating process. Many institutions are required to communicate with the media and the public throughout the course of an investigation, and many investigations generate a significant amount of media attention. Furthermore, the findings and recommendations made in many investigations are published in print form and on institutional websites. Though the Investigating GVT will make reference to how investigations are communicated to the media and the public, the business processes associated with this communication are included in the GVT for Communications Services.

**Adjudication:** Many investigations are conducted for the purposes of resolving disputes and some result in the determination of penal liability. Cases may be escalated to an adjudicative body following the investigation when alternative forms of dispute resolution, such as mediation, are not successful. Any processes that follow the issuance of the final investigation report, such as mediation or court action, are addressed in the Adjudicating GVT.

**Regulatory Compliance and Enforcement:** The relationship between regulating and investigating is complex. Put simply, investigating is often a process within the regulating activity. According to institutional policies for Environment Canada, Health Canada and the Canadian Food Inspection Agency, a significant part of regulating involves compliance.<sup>1</sup> Compliance refers to the state of conformity with the law, which is

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<sup>1</sup> *Drugs and Health Products Compliance and Enforcement Policy*, Health Canada, Issued on 30 May 2005, [http://www.hc-sc.gc.ca/dhp-mps/compli-conform/gmp-bpf/pol/pol\\_1\\_tc-tm-eng.php](http://www.hc-sc.gc.ca/dhp-mps/compli-conform/gmp-bpf/pol/pol_1_tc-tm-eng.php). *Compliance and Enforcement*

achieved through promotion and enforcement.<sup>2</sup> Enforcement consists of inspections to verify compliance, investigations of violations, and measures to compel compliance. The distinction between inspection and investigation is that inspections are undertaken to verify and achieve compliance with legislation, whereas regulatory investigations are conducted for the determination of penal liability.<sup>3</sup> Therefore, investigating is a process within the regulatory activity and the Investigating GVT should be used in conjunction with the Regulatory Compliance and Enforcement GVT for institutions that regulate.<sup>4</sup> As such, compliance, including promotion, inspection, and measures to compel compliance are addressed by the Regulatory Compliance and Enforcement GVT, while the Investigating GVT should be used for any investigations performed by institutions that regulate. Other responses to non-compliance, such as inspections or sanctions, are addressed by the Regulatory Compliance and Enforcement GVT.

## Business Processes

The business processes and information resources of business value were identified based on a thorough review of secondary literature, as well as an examination of relevant legislation and policies from GC institutions that perform investigations.

The investigating activity consists of four sub-activities, with a number of associated business processes.

### 1. Preliminary Reviewing:

This sub-activity involves an initial review to determine if a complaint or issue is founded and whether an investigation should be launched. It begins when a complaint/occurrence notification is issued or a request is made to conduct an investigation. A preliminary review involves a high-level examination of the issue or complaint and usually results in a case assessment, which outlines the event/issue/complaint and determines whether an investigation will be launched. The process will end here if the review determines that an investigation is not warranted.

### 2. Planning:

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*Policy for the Canadian Environment Protection Act (CEPA)*, Environment Canada, Issued March 2001, <http://www.ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=5082BFBE-1>. *Compliance and Enforcement Policy for Wildlife Protection*, Environment Canada, <http://www.ec.gc.ca/alef-ewe/default.asp?lang=En&n=39897788-1&offset=1&toc=show>. *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act*, Issued November 2001, <http://www.ec.gc.ca/alef-ewe/default.asp?lang=en&n=D6B74D58-1>. *Compliance and Enforcement Operational Policy*, Canadian Food Inspection Agency, <http://www.inspection.gc.ca/about-the-cfia/accountability/enforcement-and-compliance/operational-policy/eng/1326788174756/1326788306568>.

<sup>2</sup> Compliance and Enforcement Policy for CEPA.

<sup>3</sup> Compliance and Enforcement Operational Policy, Canadian Food Inspection Agency.

<sup>4</sup> It is important to note that not all regulatory institutions use the same language for regulatory inspections. Processes that conform to the definition of regulatory investigation as per the Investigating GVT are addressed in that GVT, regardless of how they are referred to by the institutions. Similarly, institutions may use the terms “investigate” or “investigation” to refer to activities that do not conform to the definition of regulatory investigation. These activities are addressed in the GVT for Regulatory Compliance and Enforcement.

Once a preliminary review has been conducted and an institution decides to undertake an investigation, the next sub-activity involves developing and updating an investigation plan. The plan sets the parameters of the investigation and helps to keep investigators on track as the investigation progresses. Many investigators use the investigation plan as a roadmap from which to guide their work.<sup>5</sup> As such, the plan will often be revisited throughout the investigation and will be updated to reflect any necessary changes. Investigators often use the plan as a basis for preparing final reports. Any planning or policy documents created by an institution to deal with investigations as a whole are addressed in the Management and Oversight GVT.

### **3. Researching:**

The majority of time spent on an investigation is devoted to research. This sub-activity includes obtaining warrants, conducting surveillance, gathering evidence,<sup>6</sup> conducting interviews, and liaising with scientific, technical, or legal experts and outside organizations to gather all pertinent factual information about the issue being investigated.

### **4. Reporting:**

Once the research has been compiled, investigators assemble findings into a final report or recommendation. Often institutions issue an interim report, which is sent to all relevant parties for comment before a final report is drafted. The final investigation report summarizes the complaint or issue, outlines the evidence gathered, and provides a conclusion based on the findings. Depending on the investigation, reports may include recommendations on how a particular incident transpired, what parties were responsible, how to prevent such an incident from recurring, or how to resolve a particular dispute. Depending on the nature of the investigation, the final reports may be made public, or confidentiality and privacy considerations may limit the distribution of the findings. Final investigation reports are distributed to all relevant parties, and are often published and/or posted to institutional websites. Some institutions are required to report to parent departments or directly to Parliament.<sup>7</sup>

## **Retention**

Recommended retention specifications in GVTs are determined based on traditional or best practices, a review of government-wide legislation and policy, and validation with subject matter experts. Retention periods are suggestions only; departments must take into account their own legislative requirements and business needs.

There are no GC-wide pieces of legislation or regulations that govern the retention of information resources associated with the Investigating activity.

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<sup>5</sup> Gareth Jones, *Conducting Administrative, Oversight and Systemic Investigations* (Toronto: Canada Law Book Ltd., 2009), p. 95. Some institutions use the word “scoping” to describe their planning process.

<sup>6</sup> This might include obtaining background information such as service history, related procedures, drawings, certification data, conducting examinations and/or tests.

<sup>7</sup> The communication of the findings of an investigation is addressed in the GVT for Communications Services.

# Business Value and Retention Recommendations

## 1. Preliminary Review

Business Processes	Recommendations: Information Resources of Business Value (IRBVs)	Recommendations: Retention Period
<b>Receive complaint</b>	Complaint/request/occurrence notification (e.g. letter, email)  Acknowledgement letter to complainant	10 years after case closed if investigation does not proceed; 25 years after case closed if investigation goes forward
<b>Notify subject</b>	Correspondence with subject	10 years after case closed if investigation does not proceed; 25 years after case closed if investigation goes forward
<b>Determine validity of complaint</b>	Case assessment Case file:	10 years after case closed if investigation does not proceed; 25 years after case closed if investigation goes forward
<b>Make decision whether or not to investigate</b>	Record of decision	10 years after case closed if investigation does not proceed; 25 years after case closed if investigation goes forward
<b>Inform complainant, subject, other institutions or companies as required Inform media if necessary</b>	Correspondence Preliminary safety advisories	10 years after case closed if investigation does not proceed; 25 years after case closed if investigation goes forward

## 2. Planning

Business Processes	Recommendations: Information Resources of Business Value (IRBVs)	Recommendations: Retention Period
<b>Assign investigators</b>	<i>No information resources of business value</i>	<i>N/A</i>

	<i>(IRBV) are created in this process</i>	
<b>Plan investigation</b>	Investigation plan <sup>ii</sup> Evidence collection system Investigators' notebooks	25 years after case closed
<b>Acquire necessary tools of authority</b>	Correspondence to obtain authorities Warrants (to enter property, seize and detain property, examine and obtain documents Production orders	25 years after case closed
<b>Liaise with other departments or authorities as necessary</b>	Discussion logs Correspondence	25 years after case closed

### 3. Researching

<b>Business Processes</b>	<b>Recommendations: Information Resources of Business Value (IRBVs)</b>	<b>Recommendations: Retention Period</b>
<b>Review supporting documentation</b>	<i>No IRBV are created in this process</i>	<i>N/A</i>
<b>Liaise with other departments or authorities as necessary</b>	Discussion logs Correspondence	25 years after case closed
<b>Conduct interviews</b>	Interview questions Transcripts and recordings Interview notes Interview summaries Signed affidavits	25 years after case closed
<b>Gather evidence</b> <b>Conduct scientific experiments and analysis</b>	Evidence <sup>iii</sup> Assessments and reports from subject-matter experts	25 years after case closed

<b>Conduct simulations and reconstructions</b> <b>Conduct surveillance activities</b> <b>Conduct search and seizure</b>		
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#### 4. Reporting

<b>Business Processes</b>	<b>Recommendations: Information Resources of Business Value (IRBVs)</b>	<b>Recommendations: Retention Period</b>
<b>Create interim report(s)</b>	Interim report(s) <sup>iv</sup>	25 years after case closed
<b>Solicit comments from complainant and subject</b> <b>Integrate comments</b>	Correspondence with complainant and subject Comments from complainant and subject	25 years after case closed
<b>Report findings</b>	Final report Findings and/or recommendations Synopsis	25 years after case closed
<b>Communicate findings: to complainant and subject through website through published materials to Parliament</b>	Correspondence (for publication and/or to recipients)	25 years after case closed
<b>Transfer investigation to different authority (alternative dispute resolution, court, hearing, tribunal)</b>	Notices and correspondence Referral	25 years after case closed

<sup>i</sup> Many departments create case files or electronic systems in which to gather and organize all information resources related to an investigation. In this case, the entire file or system has business value

<sup>ii</sup> Investigation plans and investigators' notebooks will be used and revised throughout all business processes.



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iii Investigations result in the accumulation of many different types of evidence (documentary, physical, electronic, etc.). Evidence that will have business value consists of those information resources that must be kept in order to prove a case. It should be noted that retention may vary based on the type of evidence in question.

iv Interim reports or drafts have business value where information is not captured in later versions—in cases where changes reflect substantive, content-based modifications rather than simple editorial alterations.