

**THE EXPANDED APPLICATION OF FORENSIC SCIENCE AND LAW
ENFORCEMENT METHODOLOGIES IN ARMY COUNTERINTELLIGENCE**

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Abstract

This project was inspired by my own experiences in Army Counterintelligence and civilian law enforcement. The intention was to determine—from an unclassified standpoint—if there would be a positive outcome in modifying the investigative capabilities for U.S. Army Counterintelligence to more closely match that of The Naval Criminal Investigative Service and the Air Force Office of Special Investigations. In comparison, Army Counterintelligence appears lacking in three key areas: forensic science resources, law enforcement methodologies and procedures, and basic investigative training. In order to determine if these changes would be beneficial, extensive literary research was conducted followed by a private survey given to agents of all three organizations to ask their opinions on their agency’s capabilities in these areas. The results revealed a statistical difference in how Army Counterintelligence answered versus the other two. These results, in conjunction with the established doctrine and experts in the field, seem to point to a systemic problem within the current culture of Army Counterintelligence that could be corrected if forensic science and law enforcement methodologies are expanded in a similar manner that already exists in other organizations.

Keywords: Army, counterintelligence, investigation, forensic science

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List of Acronyms

AR.....	Army Regulation
CI.....	Counterintelligence
CIA.....	Central Intelligence Agency
CID.....	Army Criminal Investigation Command
CISAC.....	Counterintelligence Special Agent Course
CITP.....	Criminal Investigator Training Program
DoD.....	Department of Defense
EO.....	Executive Order
FBI.....	Federal Bureau of Investigation
FIE.....	Foreign Intelligence Entity
FISA.....	Foreign Intelligence and Surveillance Act
FLETC.....	Federal Law Enforcement Training Center
HUMINT.....	Human Intelligence
JCITA.....	Joint Counterintelligence Training Academy
JTTF.....	Joint Terrorism Task Force
LE.....	Law Enforcement
LEOSA.....	Law Enforcement Officers Safety Act
LInX.....	Law Enforcement Information Exchange
MI.....	Military Intelligence
NCIS.....	Naval Criminal Investigative Service
OSI.....	Air Force Office of Special Investigations
SSE.....	Sensitive Site Exploitation
UCMJ.....	Uniform Code of Military Justice
USC.....	United States Code

Chapter I: Introduction

Problem Statement

The use of standardized law enforcement (LE) capabilities during the investigation of criminal offenses has become commonplace in the U.S. criminal justice system. These investigative capabilities include forensic science resources and support, accepted LE methodologies and procedures, and basic criminal investigative training. However, these capabilities, which are utilized by all U.S. LE agencies, have a more sporadic degree of use throughout the U.S. intelligence community, despite common threads in both criminal and intelligence investigations. This degree of disparity is even more apparent within Army Counterintelligence (CI), where there seems to be a lack of these capabilities when compared to other organizations that have the same investigative mission. The U.S. intelligence community consists of different agencies with different jurisdictional authorities handling a variety of intelligence disciplines. The CI discipline focuses on activities that identify, assess, counter, exploit and/or neutralize adversarial foreign intelligence and terrorist threats. These activities include CI investigations, which are—at their very core—criminal investigations as well, due to the goal of seeking out those suspects who have committed national security crimes such as espionage, sedition, or support to terrorism.

Many U.S. agencies already recognize that the CI investigative mission is so closely related to that of traditional criminal LE investigations that the two activities can be conducted by the same organization. Such combined “CI/LE” organizations include the Federal Bureau of Investigation (FBI) and the other CI investigative organizations within the Department of Defense (DoD): Naval Criminal Investigative Service (NCIS) and Air Force Office of Special Investigations (OSI). However, in the Army, general criminal LE investigations and CI investigations are conducted by two separate entities—Army Criminal

Investigation Command (CID) and Army CI, with the latter operating purely as an intelligence agency, unintentionally creating investigative burdens related to the aforementioned lack of capabilities.

While the details of this capability gap may extend beyond the scope of this study, this research project will primarily focus on the three key areas already identified. Additionally, some of the issues presented here have already been addressed in previous research papers, which suggest Army CI could merge its functions with CID; a suggestion which would likely not happen for a variety reasons (including convoluted logistical concerns) thereby keeping the status quo. This new study instead focuses on a different potential solution involving an expansion of the forensic science resources in Army CI while also adopting a more LE centric approach in the conduct of Army CI investigations. Most of which can be accomplished by updating investigative procedures, providing new Army CI agents with the same basic-level forensic/investigator training as other CI/LE agencies, and also providing additional forensic support, possibly in the form of a dedicated or shared forensic laboratory.

Purpose and Objectives of the Study

The purpose of this study is to understand the disparity between U.S. Army CI and the other DoD combined CI/LE investigative agencies in the conduct of their investigations. This study will seek to determine if there would be an investigative benefit to shifting Army CI towards a more LE-centric approach in their investigative activities through added forensic science resources, LE methodologies and procedures, and LE-based basic investigative training, in order to help resolve CI cases within the Army. This shift would be commensurate to that of the DoD CI/LE agencies of NCIS and OSI, as they appear to operate significantly different in regards to CI investigative activity, yet have the same CI

investigative mission. To determine this, literary research and expert consultation will be followed by an online survey used to compare the opinions of Army CI agents to that of NCIS and OSI agents regarding their agency's investigative capabilities in the three key areas identified. Both the literary research and the survey results will assist in determining what the possible effects of such an expansion would be within Army CI. These effects will be analyzed by researching Army CI, CID, NCIS, and OSI in their investigative activities to determine if such changes would have a positive outcome in Army CI investigations.

The objectives to meet through this study began with identifying the organizational differences between Army CI, CID, and the combined DoD CI/LE agencies. To do this, it was necessary to look at the history of Army CI in addition to examining its current structure. The next objective was to identify how Army CI could expand its forensic science resources, use of LE methodologies, and update its basic investigative training, by comparing their current investigative capabilities in these areas to that of the other DoD CI/LE agencies. It was also necessary to examine how this expansion might affect the outcome of an Army CI investigation. This was accomplished by looking at what investigative burdens could be eliminated by the expansion, mirroring that of NCIS and OSI. Finally, it was important to address potential legal concerns that could inevitably arise from this change, as it is a common issue brought up when suggesting that Army CI operate like a LE agency.

Utilizing the literary research, consultation with senior Army CI personnel, and the author's personal experience within Army CI and civilian LE, three hypotheses were developed that—if answered—could help to confirm whether or not a change in Army CI investigative capabilities would be beneficial or not. The survey developed compared the opinions of agents from Army CI to that of the other DoD CI/LE agencies (NCIS & OSI) in

terms of how they view their organization's investigative capabilities in the areas of forensic science resources and support, LE methodologies and procedures, and basic investigative training. The data gathered from the survey was later analyzed to determine if statistical significance was present when comparing the responses of the two groups of agents.

Limitations of the Study

The first identified limitation of this research project is the limited number of unclassified documents available for the literature review portion of the study. Due to Army CI being an active member of the U.S. Intelligence Community, much of the work they do remains classified. Likewise, many of the tactics, techniques, and procedures documented in regulations and manuals which are utilized by Army CI agents and other agencies in the conduct of CI investigations are also classified or "For Official Use Only" making use of existing materials to present here limited. While the author of this thesis is well versed on these classified and otherwise official documents, the classification still hinders the ability to present them, forcing this study to focus solely on unclassified writings alone.

The second identified limitation of this research project is the limited number of participants gathered to take the online survey. Due to DoD restrictions placed on individuals wishing to gather survey data from DoD personnel, the method of participant recruitment for the survey had to be accomplished via personal contacts and "word of mouth" methodology only, without utilizing DoD systems. The potential participants also had to provide voluntary consent after being notified that it was not a government-sponsored survey. This made the likelihood of participants agreeing to take the survey much less due to the appearance that it was not officially sanctioned by the DoD. These issues created a noticeable hindrance, which greatly limited the number of participants who finally took the survey.

Research Hypotheses

Hypothesis #1. The first hypothesis is that there is a statistical difference in the opinions of Army CI agents compared to the combined DoD CI/LE agencies (NCIS & OSI), regarding whether their agency's forensic science resources and support is currently at an appropriate level to assist in CI investigations.

Hypothesis #2. The second hypothesis is that there is a statistical difference in the opinions of Army CI agents compared to the combined DoD CI/LE agencies (NCIS & OSI), regarding whether their agency's LE methodologies and procedures is currently satisfactory to help resolve CI cases.

Hypothesis #3. The third hypothesis is that there is a statistical difference in the opinions of Army CI agents compared to the combined DoD CI/LE agencies (NCIS & OSI), regarding whether their agency's initial agent training was satisfactory in terms of providing them with the proper basic investigative skills needed for a new investigator.

Chapter II: Literature Review

Historical Background

While this project is not an historical study, it is necessary to review and briefly highlight possible factors in the past that may still be affecting Army CI today. Further, since the hypotheses put forward in this document all suggest the prevailing opinions of Army CI agents will agree that changing Army CI through expanded capabilities would be beneficial, it is important to attempt an understanding of why the current structure in Army CI exists in the first place. Much of this understanding can be found by looking at the literature outlining Army CI history, starting from its creation during World War I. Through the examination of this history, it can be determined that the Army CI organization as it exists today seems to be a different structure than what was initially envisioned. It can also help to determine if the changes in Army CI over time were more beneficial or not.

While some CI activities in the U.S. Army have been carried out by select individuals as far back as the U.S. Revolutionary War, Army CI as a formal, internal organization took much longer to form. Even during the U.S. Civil War, where private detectives such as the famed Alan Pinkerton did much of the CI work for the War Department, it was still not a permanent entity. Army CI was only truly formed in 1917 with the creation of the Military Intelligence (MI) Division, and more specifically, the Corps of Intelligence Police. The MI Division was particularly concerned about possible subversion from within the ranks of the vast new citizen Army being raised by the draft (Gilbert, Bray, & Finnegan, 2005). During the Second World War, the Corps of Intelligence Police further evolved into what was possibly the last time that Army CI had an acknowledged LE-type mission; the Army CI Corps or CIC. During this time, Army CI agents worked alongside of the FBI and local

police departments working undercover assignments, investigating suspects domestically and abroad, and making countless arrests of alleged spies.

However, during the Cold War, the disbanding of the Army CI Corps created a different operating environment for Army CI agents. Part of this initial change occurred after controversy arose in the 1960's, when Army CI formed a civil disturbance information collection plan and—working with the FBI—began collecting information on U.S. civilians tied to specific domestic groups that may have posed a threat to U.S. national security. Unfortunately, this plan often utilized a “shotgun” approach to intelligence collection, collecting private information on people with little consideration for scope. This created problems involving potential violations of privacy rights and civil liberties. The domestic collection effort reached its conclusion in 1970, when the American Civil Liberties Union filed a lawsuit against the U.S. Army for spying on American civilians. Senate inquiries began to determine who was at fault, despite the Army's operations being fully understood and approved at the highest levels of the U.S. government by those who often misused Army CI agents. However, as is often the case, the lowest echelon—in this instance—Army CI—would bear more than its share of the consequences (Gilbert, Bray, & Finnegan, 2005).

In a letter sent out Army-wide on behalf of the Secretary of the Army, dated June 1, 1971, and titled, “Acquisition of information concerning persons and organizations, not affiliated with the Department of Defense,” almost every Army CI policy and regulation was rescinded. The letter specifically applied to investigative and related CI activities (Bowers, 1971). Leadership in Army CI quickly reacted by ordering everyone to stop what they were doing. By 1972, Army CI collection and investigation efforts were completely halted. Field offices were closed, personnel were reassigned, and investigative case files were either

destroyed, or transferred to different organizations such as the newly created Army CID. Remnants of the old Army CI now resided largely overseas where their functions still needed to be maintained for security, but under much closer scrutiny. Over the years as Army CI activities began to grow again when the need was realized, the restrictions placed on its investigative capabilities were greater than ever before. Army CI would never completely regain its investigative abilities, as those in leadership appeared to develop an extremely risk-averse mindset in allowing it to function as it once did. While having the same relative mission (in terms of activities geared at detecting, deterring, and/or neutralizing foreign intelligence and terrorist threats), the new Army CI would now operate exclusively under a broad military intelligence organization with stronger intelligence oversight.

While oversight was clearly needed, many Army CI agents began to see it taken to an extreme not seen in other agencies with an identical CI mission. Part of this new intelligence oversight was put into place in 1981 with Executive Order (EO) 12333, signed by President Reagan and as amended several times since. While this EO essentially defined U.S. intelligence activities, it also re-enabled CI functions with specific rules of who could collect and what could be collected. However, it was no longer legal for anyone to conduct “blanket” collection operations as was done in the past. This in-turn created new systems of additional oversight within multiple intelligence organizations, including Army CI. The added oversight affected how Army CI developed future policies thereby having a long lasting impact on future Army CI national security crime investigations. Such crimes include espionage and terrorism, both of which are offenses also investigated by LE agencies with a CI mission, meaning that they possess dual LE and intelligence authorities.

With Army CI being classified solely as an intelligence organization and not LE by its senior leadership, it directly affected their investigative ability. Additionally, because the implications of EO 12333 effectively limits domestic intelligence collection to foreigners, unless special dispensation is granted, Army CI cannot freely investigate indications of domestic terrorism whereas sister service CI/LE organizations can investigate both under its dual authorities (Bickford, 2012). Along with this, the MI leaders in charge of Army CI units may have had very little operational CI experience themselves (or none at all) creating the potential for misunderstandings between investigative field agents and those directly in charge of CI activities. Today this organizational structure of Army CI remains and it is clear that this current Army CI organization operates with far less investigative capabilities when compared to the FBI, NCIS or OSI.

Current Structure

Current DoD CI doctrine states that CI activities are facilitated through five core CI functions: Investigations, Operations, Collection, Analysis & Production, and Technical Services & Support Activities. While all are equally important in their own right, the investigations function is arguably one of the most vital in identifying the scope of a threat. With this knowledge, it is important to have investigations that are as successful as they can be with tools available and procedures in place to facilitate that success. However, investigative success is difficult to measure in the current Army CI structure because of limited comparable entities, as it operates very differently than its CI/LE counterparts in the Navy and Air Force: NCIS and OSI. This is why a survey was chosen as the method to help prove or disprove the hypotheses put forward in this study. Combined CI/LE investigative organizations like NCIS and OSI operate primarily like LE agencies—much like Army

CID—even when conducting CI activities specifically. This very fact indicates that both NCIS and OSI acknowledge CI-specific national security violations as crimes demanding a criminal investigation just the same.

Unlike NCIS, OSI, or even Army CID, today's Army CI operates less like a military investigative agency, and more like one component of a larger—but limited—intelligence organization. This is likely due to its existence within the larger MI organizational structure where it is treated as simply another intelligence collection discipline. This is despite the fact that its true purpose is to thwart foreign and terrorist intelligence collection efforts where investigations are but one of the core CI functions as already indicated. While there are CI-focused MI units, the CI mission often seems lost on the larger Army force. Even though CI is arguably the most unique of all intelligence disciplines, CI agents will often be put under the direct authority of MI or combat commanders with limited or incorrect knowledge of the CI mission. These commanders will often have a misconception of what investigative CI agents can or cannot do according to laws and regulations, creating additional limitations based on false information. In fact, it is common for CI agents in non-CI units to be assigned to positions not commensurate with their training or actual job functions because of these same reasons.

According to the most current unclassified Army CI publication, Army CI conducts aggressive and comprehensive investigations worldwide to detect, identify, exploit, and neutralize the foreign intelligence entities (FIE) and insider threat to the Army and DoD (U.S. Department of the Army, 2015). However, the terms “comprehensive” and “aggressive” seem to be interpreted by the current Army CI organizational leadership as not including similar investigative capabilities found in even the smallest LE agencies

worldwide. This mindset can be confirmed when examining the current investigative manuals of several of the largest investigative units within Army CI today that seem to be focused heavily on oversight, and—when compared to LE investigative manuals—lack many common LE investigative tactics, techniques, and procedures which could have enormous benefits in Army CI investigations.

The largest unit within the U.S. Army containing the bulk of investigative CI agents is the U.S. Army Intelligence and Security Command. Under this command are notable subordinate CI units including the 66 MI Brigade, the 500th MI Brigade, and the 902nd MI Group. These brigades (along with others) conduct CI activities which are geared to locating, exploiting, and—when exploitation is not possible—criminal prosecution of criminal offenders who actively commit or direct espionage, sedition, subversion, support to international terrorism, and other potentially treasonous offenses. However, investigative activity found within these units appears to be focused on liability above all else. While liability concerns are nothing new in any agency that conducts CI or LE investigations, there does appear to be a false sense of additional liability whenever there is any further push towards a more LE-centric organization in Army CI. This also seems to be a recurring theme when discussing the matter with current or recently retired Army CI agents.

While the legal reality is that CI investigations are also criminal investigations, the current Army CI organization seems intent on maintaining an environment that continually ignores this truth. In addition, within the current unclassified Army Techniques Publication regarding CI investigations, it is consistently reinforced that a CI investigation is different from a criminal investigation. However, within this same document, it also states that while CI special agents have a fairly limited role in criminal investigations, they should understand

the basics of criminal investigations (U.S. Department of the Army, 2015). This contradiction is even more evident when Army CI agents are working with other criminal investigative agencies on the exact same case during joint or parallel investigations. Army CI agents will often defer to another agency for matters as simple as processing evidence, interviewing suspects, or tapping into extended investigative resources such as forensic laboratories.

These facts seem to reinforce that Army CI has significantly less ability to conduct investigative activities when compared to other CI/LE agencies. It is also an obvious issue for many Army CI agents because when CI investigations are compared to other general criminal investigations in terms of outcome, it is apparent that the only real difference is exploitation is sought before prosecution. However, even this difference is not always present, as traditional LE criminal investigators will often seek exploitation in lieu of prosecution to go after a larger criminal element. While it may seem trivial that the current organizational structure within Army CI does not recognize their CI investigations as criminal investigations, it seems to be—at least in part—responsible for the lack of investigative capabilities normally present in a standard LE criminal investigation due to a belief that Army CI investigations are not a form of LE.

During the course of research for this project, many current and former Army CI agents were corresponded with. These agents continually expressed past frustrations with leadership and outdated policies that failed to recognize the many benefits of Army CI being considered a LE agency as well, and—by that association—recognize the agents as criminal investigators (which they are by legal definition). It appears there is a belief among many Army CI agents that this “recognition failure” by the current Army CI organizational leadership is an unnecessary burden in many CI investigations that can only be seen when

specifically operating in an investigative field agent role. Unfortunately, it seems that any attempts made by Army CI field agents to change or update the procedures in place to be recognized as LE investigators have been ignored. As long as Army CI operates only as an intelligence agency, the investigative capability gap is likely to continue due to LE methodologies and procedures being different from that of most U.S. intelligence agencies.

Forensic Science Resources

Forensic science is the application of science to criminal investigations. Whether the job title is forensic scientist, forensic technician, or criminalist; they all utilize advanced scientific tools, instruments, and training to collect and preserve evidence that is legally accepted in a court of law. Put more simply, “forensic science” is an apt term for the profession of scientists whose work answers questions for the courts through reports and testimony (Houck & Siegel, 2015). Since the work is based on science, the case results where these scientists are involved are considered largely indisputable when compared to those cases relying solely on witness testimony alone. These technicians and scientists are not limited to staying in a lab either. On important cases, they will often travel to the actual crime scene to provide direct support to case agents or officers so that they do not have to process the scene by themselves. For some agencies, a team of specialists will process the scene while investigators conduct interviews and follow up on leads (O'Hara & Woods, 2013).

Even with dedicated forensic science personnel available at an agency, every LE officer within the U.S. receives some basic level of training on forensic science techniques and principals to properly collect evidence. In fact, many basic police academies—including those in the state of California—provide training in many of these areas, even if it is just basic familiarization training. These areas include latent/patent fingerprint collection,

blood/DNA collection, crime scene investigation (to include walking and processing a crime scene), basic forensic photography, chain-of-custody/evidence custodial procedures, and even the basics of death investigations. Such basic LE forensic science training also exists in federal LE, such as that at the Federal Law Enforcement Training Center (FLETC) Criminal Investigator Training Program (CITP) and the FBI New Agent Training Course.

On the federal LE side where investigative jurisdiction is less broad and more specialized, having basic forensic scientific knowledge in these areas can still be important—even when the crime is not specifically within the agency’s investigative jurisdiction. The reason for this is that even though an investigator may be looking into one particular crime, they need to be prepared for the possibility of associated crimes. One crime scene could potentially have multiple agencies present investigating different crimes, but every investigator involved should have a concept of how all the pieces of the scene fit together. For instance, a person guilty of espionage may also be guilty of murder. Therefore, a basic understanding of the investigation of death scenes and the conditional evidence associated with them could be vitally important to your case as well, such as in discovering that the motive for a murder may have been to prevent discovery of the espionage activity. Examples of conditional evidence found on a dead body include livor mortis and rigor mortis, condition of clothing (e.g. wet, dry, intact, torn), condition of bullet entrance and exit wounds, body condition (e.g. degree of decomposition), and stomach contents (Spitz, 2006).

In addition to the personnel and training, the other resources available to a typical LE agency in terms of forensic science can be vast. Even at smaller agencies with limited resources, there is usually a system in place to get additional forensic science support from a larger state or federal agency when needed, both in the field and in the lab. These resources

can range from mobile equipment toolkits with smaller items such as blood/DNA collectors, narcotic drug re-agents, and fingerprint powder; to large operational forensic laboratories containing major equipment such as computer forensic workstations, ballistic testing areas, DNA sequencers, and mass spectrometers. While many consider criminal investigations to be more of an art form than science, the concept of merging science with criminal investigations is no longer just a possibility, it is a necessity.

So where does Army CI fit in? Does the advent of forensic science to further traditional criminal investigations also work in CI investigations? Given the already established fact that CI investigations are also criminal investigations, the answer should be clear. Additionally, a review of past CI cases will often reveal other associated crime factors that even standard criminal investigators with no CI training could detect. Advances in technology and the analysis of evidence, such as DNA, have transformed crime scene procedures (O'Hara & Woods, 2013). So why has Army CI not seemingly been a part of this transformation? If you were to look at all of the forensic science technology available today, it is relatively easy to see how such technology could be of use in solving CI cases as well. Along with this, the forensic science resources and technology currently available are still advancing even further.

The future of forensic science presents the potential for technology advances that we currently cannot fathom which may provide remarkable benefits in helping to solve traditional and CI-specific criminal cases. In addition, with already established forensic science resources, scientists and technicians can keep apprised of such advances for a particular agency. Such advances include many things that may be of use in a CI case—even without any other criminal involvement. Advances include things such as sophisticated biometrics to identify suspects through methods like computer facial recognition. There are

continuing advances in processing times for evidence such as fingerprints and DNA. Geoscientific methods are being increasingly utilized by forensic search teams for the detection and location of clandestine burials (Pringle et al., 2015); which could potentially help CI agents identify dead-drop sites among other things.

From the CI perspective, physical evidence can also include photographs or video surveillance placing the subject at the scene of the dead-drop, the Top Secret documents the subject placed in the dead-drop, or the money the subject later received for those documents (U.S. Department of the Army, 2015). If one considers Locard's Exchange Principle, the usefulness of being able to place a suspect at the scene of a CI-specific crime is just as important—if not more important—than placing someone at a scene of a traditional criminal case. Locard believed that when one person comes in contact with an object or another person, a cross-transfer of materials occurs (Saferstein, 2015). This principle has become a fundamental truth in forensic science, and its implications are vast for many types of cases. The fact is, even with a pure CI case and no other associated criminal activity, there is still potential physical evidence left behind that could be analyzed to assist in the investigation. This is where forensic science resources come into play and why CI investigations should include it whenever possible. That said, despite the necessity to reach out to other agencies for any extensive forensic science support, it is important to note that Army CI is not completely lacking in its own abilities in other specific areas of forensic science.

With the increased instances of cyber-espionage in the U.S., Army CI has been forced to create CI-Cyber capabilities which include digital forensics resources that may in fact rival many LE agencies. These cyber capabilities include digital forensic tools, labs, and certified technicians trained as cyber investigators via schools such as the Defense Cyber

Investigations Training Academy (DCITA), with a large number of these resources residing in CI-Cyber specific units. In this particular area of forensic science, Army CI has actually put in a great deal of effort in which it has gained enormous benefits. These digital forensic capabilities show how such expansions can make investigators more effective. The increase has given Army CI agents direct access to these digital forensics resources that they can request via a simple “request for information.” However, that same model does not appear to exist as completely in other realms of forensic science, severely limiting Army CI in the conduct of their investigations. Unfortunately, many Army CI agents may not even be aware of this limitation because they have not received the proper forensic training in these areas to know that they may even be available.

What is even more confusing is the fact that such forensic science abilities are not a new concept to the U.S. Army. Army CID has its own forensic criminal investigation laboratory, known as the U.S. Army Criminal Investigation Laboratory (USACIL), under the Defense Forensic Science Center, that can handle a large variety of evidence and it is the only full service forensic laboratory in the DoD (USACIL, n.d.). In both MI and Special Operations units, a form of tactical evidence collection (sometimes called “battlefield forensics”) is often described as a type of exploitation with Sensitive Site Exploitation (SSE) being comparable to a form of crime scene investigation. In reality, the only true differences between the two (in terms of technique) are simply time and location. Additionally, chain-of-custody issues are not as problematic with SSE as it normally occurs outside of the U.S. judicial system, and evidence is used primarily for intelligence and not necessarily prosecution. Despite this, the forensic science tools and techniques used in both arenas are identical. Even Army CI agents used to have much more training in forensics and site

exploitation that seems to have been greatly reduced today. Given the fact that Army CI agents can be forward-deployed with tactical units and are still often called upon to assist in both document and media exploitation, the benefits of added forensic science resources and training becomes even more obvious.

Law Enforcement Methodologies and Procedures

Although the investigative authority of Army CI agents is not in dispute, many of the Army MI leadership do continue to question whether CI investigative activities are a form of LE. The terms “law enforcement” and “law enforcement officer” are defined in several places in both the U.S. Code (USC) and in other federal regulations and laws. The most commonly accepted definitions include criminal investigators who have powers of arrest or apprehension authority. Army Regulation (AR) 381-20 clearly specifies that like Army CID, Army CI agents have both apprehension authority and investigative jurisdiction in specific national security crimes. Additionally, the U.S. job classification for a criminal investigator covers positions which supervise, lead, or perform work involving planning, conducting, or managing investigations related to alleged or suspected criminal violations of federal laws (U.S. Office of Personnel Management, 2011).

Despite the undisputed legal definitions, along with the author encountering countless field agents claiming the same, some senior Army CI personnel continue to state even today that Army CI investigators are not LE because the two types of investigations have different goals. Interestingly, the senior personnel who often make these claims—while perhaps being CI experts—appear to have very little (or no) experience in traditional LE/general criminal investigations. This has the potential to lead to incorrect conclusions that are based on common misconceptions of general LE criminal investigators. One argument often put forth

by some of these senior personnel, is that those general LE criminal investigators are only concerned with making an arrest, while Army CI investigators are looking to gain valuable intelligence—possibly by exploiting the very subject they are investigating.

This is an argument that is based on the false assumption that general LE criminal investigators are not concerned with criminal intelligence, and would even ignore a suspect who may be able to provide valuable information for the sake of making an immediate arrest. On the contrary, like CI, many general LE criminal investigators will often forgo filing criminal charges against a suspect in order to use them as informants to provide important intelligence information on criminal enterprise networks. This is something reflected in Army CI with the use of Human Intelligence (HUMINT) methods to recruit CI sources for intelligence collection purposes. This is just one example of how the Army CI investigative mission is virtually identical to that of traditional LE investigations; a fact recognized by current CI/LE agencies such as the FBI, NCIS, and OSI. However, it is a fact still denied or ignored by many policy makers within Army CI who likely do not fully understand the general LE mission, and that criminal investigators (of any crime) are classified as LE.

Even those in leadership who do recognize Army CI agents as criminal investigators, can sometimes appear to downgrade the importance of CI investigative activities. This is likely due to CI investigations and other associated operations—for the most part—being classified “Secret” or “Top Secret,” thereby keeping CI units out of the public view. This among other reasons leads to CI personnel and units receiving very little attention, even when they are successful. However, nearly 140 nations and some 35 known and suspected terrorist organizations currently target the U. S. for intelligence collection (Mobley, 2012). Along with this, the number of potential insider threats waiting to strike or steal classified

U.S. information on the behalf of foreign adversaries or as lone wolves brings the amount of threats up even higher. With these limited numbers alone, it is easy to see why CI is so important, despite their successes often going unnoticed.

This lack of attention given to Army CI is in stark contrast to that given to its investigative counter-parts in Army CID. In fact, CID is often highlighted by both its successes and its failures. Further, its agents are recognized as LE and “Special Agents” at all times while they possess the CID military occupational specialty, and this is identified in the job title for their occupation, which is listed as “CID Special Agent” regardless of their rank or position. This is not the same within the current Army CI occupation, where CI Special Agents can be assigned to non-CI type roles, and they are not always referred to as a “Special Agent.” In fact, despite everyone with the Army CI occupational specialty being credentialed as a “Counterintelligence Special Agent” (with it also stating it on the current issued badge & credentials), none actually have it as their official occupational title. According to the U.S. Army Human Resources Command, Army CI personnel in the rank of Sergeant/E-5 are simply classified as “CI agent,” with increasing rank changing the classification to titles such as “CI Sergeant,” “CI Senior Sergeant,” and “CI Technician” (for CI Warrant Officers). While these factors may appear inconsequential, they may in fact further support the prevailing belief in Army leadership that Army CI agents are not also the criminal investigators that both laws and regulations recognize them to be.

With much of the leadership in the Army believing that Army CI has no LE mission, they appear to ignore similar LE methodologies and procedures that could be beneficial to agents in the conduct of CI investigative activities. While Title 10 USC enables U.S. military operations—including intelligence and LE—the primary authorities for Army CI are derived

from EO 12333 which defines the basis of what CI is and further instructs the CI elements of the Army, Navy, Air Force, and Marine Corps to actually conduct CI activities. Within this order, and associated Army and DoD regulations, there are embedded limitations for Army CI. However, none of these laws and regulations hinder Army CI to the same degree as its own internal policies that appear to disregard established LE methodologies having the potential to make Army CI a more effective investigative force. In fact, Army CI policies seem to indicate strong resistance to any new methodologies that appear to be LE-based, regardless of how helpful they may be.

In contrast, every LE agency in the U.S.—to include agencies such as the FBI, NCIS, and OSI (who also have a dual CI mission)—operate under LE-specific procedures and agency directives that are much more conducive to investigative resolution. One of the main beliefs with this is that LE procedures allow for easier and broader collection of information with less risk of a potential intelligence violation under EO 12333. This belief only reinforces the difficulties for Army CI agents when conducting the most basic of investigative acts because there is an apparent risk of a violation. This has led to extensive requirements and approvals for simple investigative activities. For instance, an Army CI agent attempting to identify an espionage suspect with only limited information can only conduct basic non-invasive/cursory checks under their “standing investigative authority.” Even then, there is still a multi-layered approval process within Army CI with many investigative acts needing approval from a CI Coordinating Authority, and access to most record systems to conduct such checks is not immediate.

An example would be running a suspect’s name in the National Crime Information Center or NCIC. An Army CI agent would still require approval to access such a system, and

would likely need to go to their local Army CID or military police station to facilitate the check. This entire process of running a name to gather simple identifying information could take days if not longer. Given the already stringent time requirements that Army CI agents face during investigations—including a 72-hour requirement to submit a CI incident report—the lack of such resources can have an obvious detrimental effect on an investigation.

However, with CI/LE agencies, the investigator at the field level is provided much more freedom to do these checks. Moreover, that CI/LE investigator will typically already have immediate access to the systems along with other investigative tools reserved for LE. Many of these “dual hatted” agencies have even developed their own investigative tools based on their LE procedural authorities, such as the NCIS LE Information Exchange (LInX) system, which brings together hundreds of partnered LE databases to assist investigators (to include investigations into national security crimes). LE professionals with decades of experience describe LInX as the best investigative tool they have seen in their careers (NCIS, 2016).

Other effects of not having established LE procedures are also readily apparent.

Although rare for some CI units, when Army CI agents uncover a potential national security suspect—such as someone suspected of supporting international terrorism—who presents an immediate threat to U.S. national security interests, agents are authorized under AR 381-20 to detain or apprehend that suspect. However, a lack of LE procedures also means a lack of procedures in place to detain, apprehend, or simply take custody of a suspect presenting a legitimate threat. Generally, Army CI agents have no handcuffs, weapons, or even detainment areas at their immediate disposal for such events. Once again, in this instance, Army CI would be required to seek outside assistance—usually from Army CID or military police within the Army CI agent’s area of operation. If this suspect presents a time-sensitive

threat, the extra time needed to get that assistance is crucial to both agent safety—as well as—national security. This situation could be avoided with the adoption of well-established LE procedures that have been developed over many years of LE worldwide, and which focus heavily on agent/officer safety.

That being said, when talking about potential LE methodologies and agent safety in Army CI, one topic continues to come up since the current structure was put into place—Army CI agent use of firearms. According to the unclassified portion of the U.S. Army's primary CI regulation, AR 381-20, CI agents may carry weapons either openly or concealed as required in the performance of peacetime official duties (U.S. Department of Army, 2010). The latest DoD directives also establishes policy for arming, carrying of firearms, and the use of force by DoD personnel performing security and protection, law and order, investigative, or CI duties (DoD Directive 5210.56, 2016). Despite this, in the current Army CI organization, the standard carry of a pistol (openly or concealed) by Army CI agents within the U.S. is extremely rare.

In fact, other than special circumstances such as assignment to an FBI Joint Terrorism Task Force (JTTF), Army CI agents only carry firearms when overseas in high threat or combat areas. This begs the question of why. The idea of any type of criminal investigator—even those less likely to be in dangerous situations—not regularly carrying a firearm for personal safety purposes is an alien concept to most U.S. LE. For instance, NCIS and OSI agents in CI billets would never think to go out into the field to interview potentially dangerous sources or subjects without having a concealed firearm. The same goes for any other LE agency within the U.S. So where did this unarmed concept in Army CI come from? For an answer to this, it may be useful to look at FBI history, where they were once a CI

investigative agency with no specific authority to carry firearms in the performance of their duties (even though many still did). FBI agent safety no doubt became an issue and a modification of their authority came with the 1934 Crime Bill. The 1934 statute expanded FBI authority to carry firearms (concealed or not) nationwide (Wack, 2016).

In addition to frequently operating alone with Army CI badge & credentials in-hand, Army CI agents in an “investigative status” will often seek out—and may be confronted by—suspects of very serious national security crimes. Like any other criminal, these suspects may become desperate and/or deadly. Additionally, Army CI agents, may become a target of FIE or even criminal reprisals as a result of their investigative duties. Couple this with the fact that Army CI field offices are advertised on U.S. bases as places people should come to report suspicious activities, and you create a situation where an agent is more at risk than an ordinary soldier. Army CI agents are also frequently required to travel to remote locations to give briefings on sensitive topics under the Army CI Threat Awareness & Reporting Program—creating even more potential danger. Even if such dangers are uncommon, the potential fallout from even one incident would be drastic to the Army CI organization.

Even in countries such as New Zealand, where police are routinely unarmed—much like the United Kingdom—there is a push to begin regularly arming LE. This is due to the belief that more criminals than ever are gaining access to firearms, so it is wrong to make police less safe than normal citizens by painting a target on their back while deliberately keeping firearms out of their possession. It is also important to note, that in almost every LE agency where personnel are routinely armed, most officers go through their entire career and never have to use deadly force (Wittie, 2011). On the surface, the issue of Army CI agents regularly carrying concealed firearms seems to be one of unnecessary risk to the Army. This

is likely a default viewpoint of many within Army leadership. However, when researching LE opinions on the matter and factoring in the dangers associated with Army CI activities, it appears there is a greater risk in keeping agents disarmed. Studies have repeatedly shown that armed law-abiding citizens create safer environments.

In a 2013 survey of over 15,000 LE officers nation-wide by the website “PoliceOne.com,” it was revealed that over 91% of respondents supported the concealed carry of firearms by law-abiding citizens. The belief is that this actually reduces crime and creates safer conditions. This is an overwhelming response by those whose job it is to actually deal with this issue on the front lines (Avery, 2013). These are also facts that seem to be understood in other military investigative agencies, to include U.S. Army organizations—such as CID—where those agents are authorized, by policy, to carry concealed firearms on or off duty. So with added danger in not allowing it, and no specific rules against it, why are Army CI agents not regularly carrying concealed firearms like Army CID and their CI counterparts in NCIS and OSI? As already suggested, this appears to be another result of Army CI not being recognized as a legitimate criminal investigative organization.

Interestingly, a new federal law was created in 2004—and recently amended in 2013—which specifically recognized the increased dangers that LE faces both on and off duty: The LE Officer’s Safety Act (LEOSA). This law enables all U.S. LE (to include LE within the military) to carry concealed firearms on and off duty, anywhere in the U.S., thereby overriding individual state laws which may prohibit it. So does this law apply to Army CI? Despite Army CI not always operating as a LE agency, whenever this question is put forth, the answer seems to be yes. A qualified LE officer under this law includes anyone who is tasked with criminal investigations and who is authorized by their organization to carry a

firearm—despite it not occurring regularly—which the U.S. Army does for all soldiers under certain conditions as a member of armed forces.

Additionally, several legal opinions indicate that this law also applies to retired Army CI agents as well. According to the Virginia State Attorney General in 2007, U.S. Army CI special agents who have retired from service meet the definition of a "qualified retired law enforcement officer" for purposes of § 926C of the LEOSA of 2004 (McDonnell, 2007). As noted, the justification for the qualification of an Army CI agent under this law appears under the definition of a qualified LE officer. Even though the legal reasoning behind this appears sound, when the U.S. Army began issuing out DoD LEOSA identification cards to qualified Soldiers, they specifically excluded Army CI. In fact, as part of the research conducted for this project, the contracting company responsible for issuing out these LEOSA identification cards was contacted, Defense Consulting Services. An unnamed representative with the company stated that they had received a large number of requests for the LEOSA identification card from Army CI agents. The company response was that they were only authorized to provide cards to military police or CID; and, that they should reach out to their commands if they want to be added to the list. As of this writing, no known change in LEOSA card issuance policy has occurred.

The fact is, even with the common dangers associated with investigative activities that LE agencies nation-wide see as an officer/agent safety issue, Army CI appears to be extremely risk-adverse in allowing its agents to carry firearms on a regular basis. Unfortunately, without the Army leadership being presented with direct evidence of these safety concerns—such as an Army CI agent being attacked or killed as the result of their duties—this attitude is unlikely to change anytime soon. While this risk-adversity seems to

stem from the aforementioned false belief that Army CI is safer without them, there may also be a factor of training preventing a change in this area; even though Army CI agents have to qualify on a regular basis with pistols such as the Sig Sauer M-11. As is the case with many other areas, training confidence in both firearms and the use of deadly force may be one of the other factors in the regular arming of Army CI agents. This—along with the issues presented on forensic science—brings into question the initial training that Army CI agents receive.

Investigative Training

Expanding the forensic science resources and adopting LE methodologies/procedures in Army CI also means to change or update the associated training for Army CI agents. For a soldier or civilian to become a credentialed Army CI special agent, they must successfully complete the U.S. Army CI Special Agent Course (CISAC), usually held at Fort Huachuca, AZ. While the curriculum at CISAC is periodically modified, the course has most recently consisted of several key areas to include report writing, investigations, collections/source operations, and surveillance/counter-surveillance. While the investigations phase is historically the most intensive of these areas, it focuses largely on walk-in or HUMINT source reporting alone to teach new Army CI investigators in a scenario-based environment. An additional portion of the course has included evidence collection in the recent past; however, it was very short in length, and did not go into much detail. Moreover, the investigations portion has been taught in the past by people with limited investigative experience outside of the current abilities of Army CI.

In contrast, both NCIS and OSI agent trainees (in addition to many other federal agencies with different jurisdictional authorities) attend the CITP at FLETC located in

Glynco, GA before any other training takes place. Like the FBI New Agent Training Course, CITP is a basic LE course taught by seasoned professionals from various areas of expertise in criminal investigations. This means that agent trainees with no investigative experience whatsoever can be educated on current, enhanced, and legally-sound investigative tactics, techniques, and procedures. Along with that, because the FLETC CITP is a basic course attended by numerous LE agencies, personnel can be assured that their training and abilities will at least match those of partnered organizations during joint investigations, or when assigned to a joint task force (such as an FBI JTTF). Rather than being agency-specific, the program addresses common knowledge, skills, and abilities that is expected of all investigators (FLETC, n.d.).

With NCIS and OSI having the same CI mission within their respective service as Army CI, they receive additional CI training later on, which includes follow-on branch-specific training, and courses at the Joint CI Training Academy (JCITA) located in Quantico, VA, which also trains Army CI personnel in advanced CI functions. However, the primary investigative skills taught to NCIS and OSI agents at CITP are still utilized by these agents throughout their career, and even while in a dedicated CI position. One could even argue that the basic investigative skills taught to them at CITP only further enhance their individual investigative capabilities when conducting CI-specific investigations. This is because investigating someone for committing national security crimes such as espionage, often involves the same types of activities as investigating someone for traditional crimes.

Historically, Army CI has only sent its agents through CITP on rare occasions, and it is usually reserved for senior CI agents when assigned to an FBI JTTF or other specialized positions. During the research for this project, it was announced that CITP would become

available-by-request to Army CI agents, and that Army CI was now an official partnered organization with FLETC. However, it was also announced that only 30 seats per year to CITP would be made available. The current intent seems to be on keeping the process of only sending senior agents at this time, and that there would be a packet review/board approval process to even get enrolled similar to that of other advanced CI courses. This practice runs counter to what the CITP course essentially is—a basic investigator course designed for brand new agents. With Army CI utilizing the available CITP slots to send already-trained/senior agents (for which it is not designed), and on a case-by-case basis through an approval process, it will likely have limited effect on the disparity in the standardized investigative abilities between the regular Army CI agents and all other CI investigative agencies (unless more seats are made available).

This training disparity also presents potential problems if Army CI agents ever have to testify in court regarding a case. If training, education, and experience issues can be raised, they could affect a jury's view of the credibility of the testifying witness and everything he or she has touched in the course of the investigation (Becker & Dutelle, 2013). Interestingly, many of the issues within Army CI being presented here could potentially be addressed rather quickly if Army CI agents were to attend CITP as an initial requirement to become a credentialed Army CI special agent. This would make CITP the primary basic course for all Army CI agents, and additional Army-specific training could be included in a shorter follow-on course. With FLETC CITP including basic LE training in a wide variety of areas such as forensic science, evidence collection, crime scene procedures, interviewing techniques, investigative tools, and the use of firearms/deadly force, Army CI would at least have agents trained to the same basic-level as its counterparts in the other DoD CI/LE agencies of NCIS

and OSI. Sending Army CI agent trainees to this course first could even lead to a culture-shift within Army CI that could include less risk-adversity by Army CI leadership in the conduct of its CI investigations. As a result, the other capability areas of forensic science resources and LE methodologies & procedures might also be updated.

Additional Legal Concerns

When considering changes to Army CI, legal ramifications must be considered. However, this can be difficult, as U.S. agencies conducting CI activities seem to cross the threshold of multiple laws including those in Title 10 USC pertaining to military operations, Title 18 pertaining to criminal statutes, and Title 50 pertaining to U.S. intelligence operations. According to EO 12333 (as amended in 2008 by EO 13470), CI means information gathered and activities conducted to identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or their agents, or international terrorist organizations or activities (EO 12333, 2008). From an investigative perspective, all of these are viewed as matters for LE, intelligence, and the military. For example, terrorism was a LE issue in some contexts, but capture for trial would not always be possible, and in some situations, a military-style response would be needed (Chesney, 2012).

However, it is critical to point out that espionage, sabotage, assassination, and terrorism, are all also crimes listed under Title 18 USC. Legally speaking, this makes CI agents conducting investigations into these acts “criminal investigators,” and thereby LE officers by most definitions as already identified. However, to suggest that Army CI (or any intelligence organization for that matter) conduct itself as a LE agency in any aspect is to bring about legal debates nonetheless. There is a consistent idea among many within Army

CI that there are legal limitations preventing Army CI from operating like a LE agency. However, when examining DoD regulations, the Uniform Code of Military Justice (UCMJ), the USC, and EO 12333, it appears as though many of the restrictions placed upon Army CI are self-inflicted. In fact, when referencing the intelligence community, EO 12333 even specifically authorizes LE activities. In section 2.6(b) of the order, it states, unless otherwise precluded by law or this order, [the intelligence agency may] participate in LE activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities (EO 12333, 2008).

As an intelligence organization, Army CI takes intelligence oversight much further than the original EO. AR 381-10 outlines intelligence activities in the U.S. Army to include what is authorized via Army CI investigations. Additionally, AR 381-20 creates a stringent system in how the U.S. Army runs its CI activities. However, even with these added regulations, there is still a great deal of maneuverability allowed in them in regards to CI investigative acts. So then where do the investigative limitations come from? Why is it that Army CI as an organization seemingly disregards potentially useful LE methodologies while also failing to provide appropriate investigative training, and further avoids the acquisition of appropriate forensic science resources, when there appears to be no specific restrictions against them? The answer might be as simple as the perpetuating risk-adverse culture in Army CI created after the alleged intelligence violations of the 1960s already previously discussed.

Another aspect to this, which may be fueling the resistance to change Army CI, could also be the idea that any LE practices conducted by Army CI would somehow be illegal under such federal laws as the Posse Comitatus Act. Even though past legal reviews and

established case law seems to consistently reinforce the purpose of this law—in regards to military LE—being to prevent the use of federal military forces as domestic LE in support of civil authorities, and not to hinder military investigators in their own LE activities within their respective military branches. Further, The Posse Comitatus Act is often misconstrued as meaning that military LE cannot operate or investigate outside of military installations. However, as mentioned in previous studies, this act does not prevent military LE activities beyond the installation boundaries (Washington, 2012). The fact is even now Army CI only has jurisdiction over active Army personnel and when civilians or non-Army equities are involved, the FBI will also be included in on the investigation (usually as lead agency). The same goes for Army CID in their traditional LE criminal investigations. To add to this, both Army CI and CID employ civilian special agents which complement the military force. Of course, in Army CI, the civilian special agents are classified by the U.S. federal job code of 0132 – Intelligence Specialist as opposed to 1811 – Criminal Investigator; making the issue of LE versus intelligence apply to the civilian Army CI workforce as well.

There are many within the Army CI organization who seem to believe that because an agent is military and not civilian, they will have no real authority to conduct investigative acts. While it is true that regulations for both Army CI and CID tend to use different terminology when referencing military versus civilian agents—such as apprehension versus arrest—it does not specifically prevent a military agent from conducting investigations on civilian personnel when that investigation has an Army nexus. Moreover, if a civilian must be arrested in the interest of national security or public safety—when there is only a military agent available—there is nothing legally preventing that agent from detaining the civilian until civilian LE personnel arrive to finish affecting the arrest. The fact that a civilian may be

involved in a CI matter being investigated does not limit the military organization from carrying out its own investigative mission. The only difference is what part of the law those agents operate under and where they derive their authority.

Military agents derive their investigative authorities from Title 10 USC, regardless if that agent is considered intelligence or LE. In contrast, most federal civilian LE agencies derive their investigative authority from Title 18 USC while case officers of the Central Intelligence Agency (CIA) operate under Title 50 USC. Regardless, there is nothing apparent in any of the laws that demonstrate a specific legal restriction to Army CI in terms of modifying its capabilities to match that of other DoD organizations, regardless of any belief to the contrary. An example of this would be the aforementioned ability of Army CI agents to carry firearms for safety purposes during investigations in the field. As established earlier, the prevailing legal opinion is that Army CI agents meet the federal definition of a LE officer under several laws to include LEOSA. In fact, LEOSA was amended to specifically allow for active and "retired" military and DoD police and LE officers with UCMJ apprehension authority to qualify for the statute (Baranowski, 2014).

However, even without any obvious restrictions against Army CI expanding its LE procedures, methodologies, and forensic science capabilities, there are some legal areas that would still need to be addressed before any changes can occur. This includes those investigative actions which are capable under both LE and intelligence authorities. Such actions include those that fall directly under the search and seizure laws derived from the Fourth Amendment to the U.S. Constitution, which applies to every citizen, regardless if they are soldiers or civilians. Search and seizure warrants are required under the Fourth Amendment unless the facts and circumstances surrounding the search and seizure fall within

the boundaries of clearly established warrant exceptions recognized by the U.S. Supreme Court (Berlin, 2011). For instance, if an Army CI agent is investigating a soldier for allegedly committing espionage, the agent may want to conduct a search of that soldier's off-base residence. Given the type of crime, the agent may even want to conduct a surreptitious search, but what route must be taken to gain approval for such an act? In this case, it is clear that this search requires a warrant signed by a judge unless the search meets the criteria of an exception such as that with consent searches or "plain view" doctrine.

Additionally, a search warrant requires probable cause that a crime has most likely occurred and that such a search would generate further evidence of said crime. Within the U.S. military, the process is largely the same because the constitutional law still applies. Search authorizations can be granted by a military judge or a designated military magistrate when a request has been made demonstrating probable cause. However, under AR 381-10, additional approval requirements exist specifically for Army CI agents in the form of special investigative procedure requests, which is not required in a typical LE investigation. While the authority may be delegated, the regulation states that approval for such routine investigative searches by Army CI resides with the U.S. Army Deputy Chief of Staff for Intelligence, and may even go as high as the Secretary for the Army in specific circumstances. This added level of bureaucracy which has become commonplace during Army CI investigations often leads to an even greater reliance on outside agencies as already previously discussed due to the complexities involved.

Whereas it might be relatively easy for an Army CI agent to establish probable cause for a search warrant, the multiple layers of approval requirements for such a search, coupled with a lack of LE-type policies in place, would likely force the case agent involved to ask the

FBI to obtain the warrant on their behalf. The FBI would likely even conduct the search themselves. This is most often seen in Army CI cases that need to obtain Foreign Intelligence and Surveillance Act (FISA) warrants. This is a perfect example of an unnecessary investigative burden related to the lack of understanding that Army CI agents are also LE criminal investigators. That being said, in the legal sense, there also appears to be no constitutional or regulatory hindrance on Army CI to adopt specific LE procedures and training, or to expand its forensic science resources. As further justification of this, we can easily look to the other “dual” CI/LE military-based organizations referenced in this study: NCIS and OSI. As military agencies themselves, NCIS and OSI operate as both LE and intelligence organizations further proving that the model is indeed legal within the U.S. military structure.

While it is true that the current Army CI organizational structure stemmed from possible violations of privacy and civil rights of U.S. citizens, the intelligence oversight laws and regulations created since have greatly reduced further potential abuses. There is no longer any broad intelligence collection on U.S. citizens without severe consequences—even in the dual CI/LE agencies. It would appear that—legally speaking—there is nothing preventing Army CI from conducting the possible changes described here in regards to expanding its forensic science resources, LE methodologies & procedures, or basic investigative training. With this knowledge, comes the obvious question: would these changes help or hurt Army CI in the conduct of its CI investigations? While the previous literary research seems to indicate that there are greater investigative burdens on Army CI because of the lack in investigative capabilities in these three areas, definitively answering this question may ultimately end up relying on the opinions of the actual special agents who

conduct these CI investigations within the U.S. military branches. This further justifies the use of a survey in order to help answer this question.

Chapter III: Methodology

Research Design

The research conducted for this study is both qualitative and quantitative in that it began with consultation through literature and experts, and completed with a survey to obtain quantitative data. The initial research consistently pointed to distinct differences between Army CI and the other DoD CI/LE organizations of NCIS and OSI. These differences are identified in this study in terms of forensic science resources, LE methodologies/procedures, and investigative training. The research further seems to point to Army CI becoming a more effective investigative organization if it expanded its capabilities in these three areas. However, it is understood that author-bias may have played a role in this interpretation of the initial research. Additionally, given the differences in size and structure between the DoD investigative organizations, measuring success by comparison in CI cases can be highly subjective. For these reasons, to confirm if a shift in the investigative capabilities of Army CI would be beneficial, the research would need to expand to obtain additional opinions from other Army CI, NCIS, and OSI special agents in the form of a survey.

All three hypotheses put forward state there is a statistical difference between agents of Army CI and agents of the combined DoD CI/LE agencies in terms of how they view the investigative capabilities of their respective agency. The author constructed an online survey to gather these viewpoints from the two groups of agents in the three areas of investigative capabilities identified. The answers of Army CI agents are compared to the answers of NCIS and OSI agents to measure for statistical significance. If statistical significance is present in one of these three areas, then it was likely that the associated hypothesis referencing the prevailing opinion in that investigative capability area would be true.

Participants

The initial participants were gathered utilizing private contacts from pre-existing associations as per the instructions from the DoD Defense Manpower Data Center.

Additional participants were gathered via “word-of-mouth” of the existing participants. The precise geographic location of the participants was unknown due to the confidentiality of the survey. The only requirement for participating in the survey was a need to be either a current or a recently retired special agent of Army CI, NCIS, or OSI. The term “recently” for the retired participants was not defined for this research study. All participants were provided with an online information and consent form to participate in the project prior to being presented with the actual survey (Appendix A).

Research Instrument

The private online survey (Appendix B) was constructed utilizing the Internet website “Survey Monkey,” to be given to current and recently retired special agents of Army CI, NCIS, and OSI. The survey consisted of five basic demographic questions and nine relevant content-specific multiple-choice statements divided into three sections associated with the three hypotheses and three capability areas being studied. Of the five demographic questions, the first was utilized for comparisons in all later statistical analyses, “Which Agency do you belong to?” The other four demographic questions were put in place to ensure equal distribution of respondents in the two groups of agents in terms of gender, age, educational background, and investigative experience.

The nine multiple-choice statements had five potential answers indicating the respondent’s level of agreement with the statement. The answers ranged from “Strongly disagree” to “Strongly agree,” which were later converted to the numbers 1 through 5 for

quantitative statistical analysis. These content-specific statements were constructed to be as generalized as possible as to discourage any leading responses among the participants, and to encourage answers based on what is more important for their agency regarding that particular capability topic. These statements focused on three investigative capability areas previously identified: forensic science resources, LE methodologies/procedures, and basic investigative training.

Data Collection

The five demographic questions are needed for comparison while also ensuring equal distribution of the respondents based on the two groups of agents. The three sets of three multiple-choice survey statements (nine in total) were created for the relevant data collection. Each set represented an area of either forensic science resources, LE methodologies and procedures, or basic investigative training, also corresponding to the three hypotheses.

First group of survey statements. Your agency has adequate:

- Non-digital forensic science support which can be accessed by you during the conduct of an investigation.
- Forensic science facilities to store, process, and preserve evidence.
- Forensic science training for agents to assist them in the conduct of investigations.

Second group of survey statements. In the conduct of CI investigations, your agency's current use of standardized law enforcement methodologies and forensic science procedures:

- In regards to processing crime scenes is satisfactory.
- In regards to collecting / preserving evidence is satisfactory.
- Have helped to successfully resolve cases.

Third group of survey statements. Your initial agent training (all training conducting prior to becoming a "Special Agent") was satisfactory in:

- Giving you the necessary skills as an entry-level investigator.
- Teaching you basic forensic science techniques/procedures as they relate to crime scenes.
- Teaching you basic forensic science techniques & procedures as they relate to evidence collection.

Statement answer options. The options to answer each statement were, "Strongly disagree," "Disagree," "Neutral," "Agree," and "Strongly agree." A non-answer was not allowed for any of the survey questions/statements as the survey could not conclude without one of these answers being chosen.

Data Analysis

Once the survey is closed and data is collected, analysis of the demographic questions will begin. In order to ensure a relatively equal distribution of respondents among the agent groups of Army CI and DoD CI/LE, the demographic questions pertaining to gender, age, education, and investigative experience will be combined into two groups each. Each of these two groups will be compared to the two agent groups, in an attempt to make sure no other factors may be influencing the results of the nine relevant statements. The gender answers are already grouped into male and female. The four possible age range answers will be grouped into respondents under 31 and respondents over 31. The five possible education answers will be grouped into respondents with bachelor's degrees or lower, and master's degrees or higher. The four possible investigative experience answers will be grouped into respondents with less than seven years experience, and more than seven years experience.

The amount of respondents in each of these categories will then be compared to the two agent groups of Army CI and DoD CI/LE utilizing a two-tailed chi square test with a significance probability (p-value) of 0.05, as is the standard in social science research. If the p-value is under 0.05, then statistical significance is present indicating that respondent distribution among the agents groups in these demographics is not similar and therefore possible that it may be the reason for any difference found in the nine multiple-choice relevant statement answers given. If the p-value is over 0.05, then statistical significance is not present indicating that the respondent distribution among the agent groups in these demographics is similar and therefore likely that any differences in the answers to the nine multiple-choice relevant statements would be due to the respondent's associated agency.

Following the analysis of the demographic questions, data analysis of the nine multiple-choice relevant survey statements will begin. Answers for each survey statement will be given a number corresponding with a statement answer option. For instance, if a respondent chose "Strongly disagree" then this answer would be a "1." However, if a respondent chose "Strongly agree" then this answer would be a "5." The mean average for each group of three answers will be calculated for each respondent. The answers from all three groups of statements will be grouped by Army CI and DoD CI/LE (NCIS & OSI) respondents. The averaged individual numbers for Army CI respondents in the first group will be added up and then divided by the number of Army CI respondents in order to obtain the overall mean average of Army CI answers in this group. The averaged individual numbers of DoD CI/LE respondents in the first group will be added up and then divided by the number of DoD CI/LE respondents in order to obtain the overall mean average of DoD CI/LE answers in this group.

This process will be duplicated for the second and third statement groups, resulting in six total numbers: three for Army CI covering each group, and three for DoD CI/LE covering each group. For each group, the Army CI number will be compared to the DoD CI/LE number utilizing a two-tailed Welch t-test with a confidence interval of 95% and a p-value threshold of 0.05, as is standard in social science research, in order to measure for statistical significance. If the p-value was more than 0.05, then the null hypothesis would prove true meaning there would be no significant difference in how Army CI answered compared to DoD CI/LE. If the p-value was less than 0.05, then the hypothesis corresponding to this group would likely be true as there would be a statistical difference in how Army CI agents answered compared to the combined DoD CI/LE agents.

Chapter IV: Results

Respondents

There were 109 online respondents over the course of approximately three months from January to March, 2017. There were 42 Army CI, 14 NCIS, and 53 OSI. The low number of NCIS respondents further justified combining NCIS and OSI respondents into one DoD CI/LE group in addition to both agencies operating similarly in terms of LE methodologies. Of the respondents, 94 were male and 15 were female. One respondent was 21-25 years of age, six were 26-30, 21 were 31-35, and 81 were over 36. There were 23 respondents with some college, 46 had a bachelor's degree, 37 had a master's degree, and three had doctorates. There were 10 respondents with 1-3 years of investigative experience, 14 had 4-6 years, five had 7-9 years, and 80 had more than 10 years. See Figures 1-5 for respondent percentages.

A two-tailed chi square test comparing gender distribution in the Army CI group to the DoD CI/LE group resulted in a p-value of ($p = 0.3092$) indicating no significant difference, meaning this likely would not be a factor in the statement responses (Table 1).

A two-tailed chi square test comparing age distribution in the Army CI group to the DoD CI/LE group resulted in a p-value of ($p = 0.5756$) indicating no significant difference, meaning this likely would not be a factor in the statement responses (Table 2).

A two-tailed chi square test comparing education distribution in the Army CI group to the DoD CI/LE group resulted in a p-value of ($p = 0.3245$) indicating no significant difference, meaning this likely would not be a factor in the statement responses (Table 3).

A two-tailed chi square test comparing experience distribution in the Army CI group to the DoD CI/LE group resulted in a p-value of ($p = 0.0747$) indicating no significant difference, meaning this likely would not be a factor in the statement responses (Table 4).

Figure 1

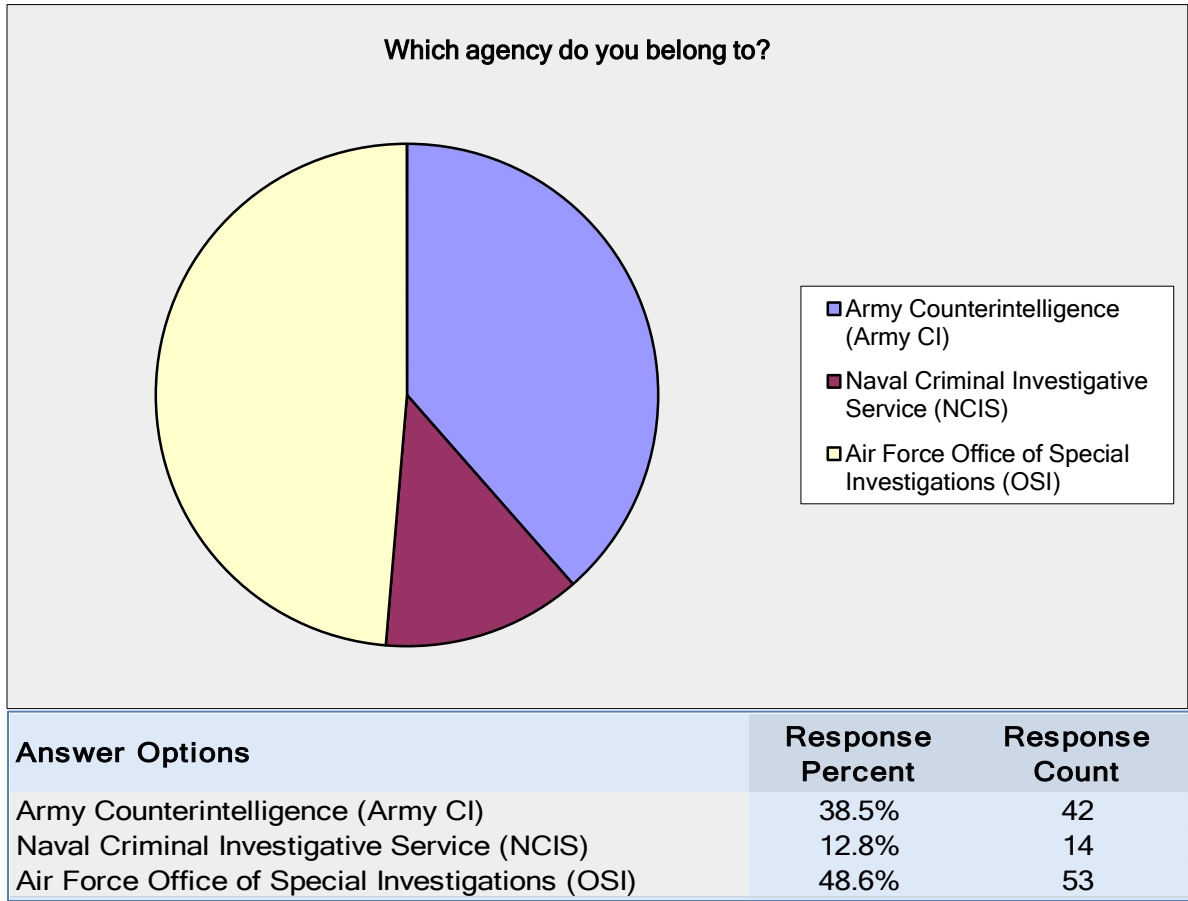


Figure 2

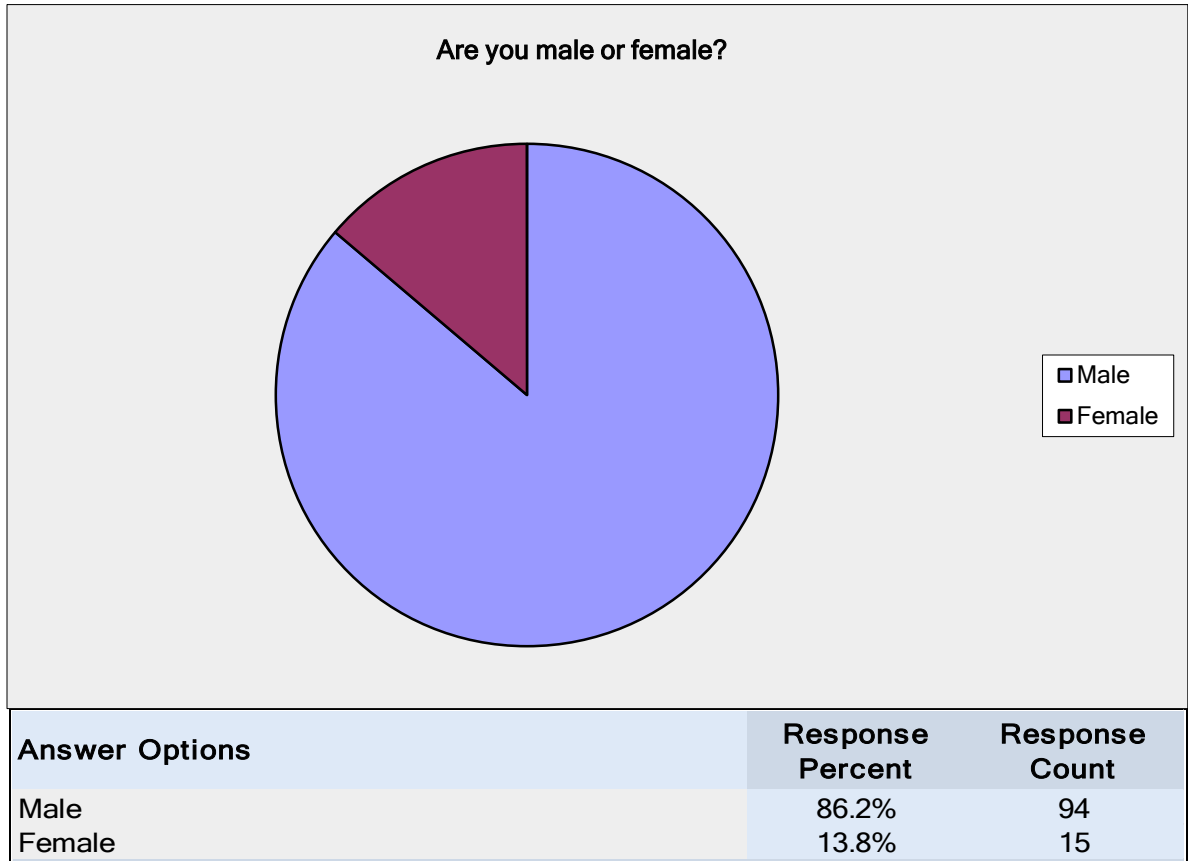


Table 1

Statistical Analysis – Gender Distribution			
	Male	Female	Row Total
Army CI	38	4	42
DoD CI/LE	56	11	67
Column Total	94	15	109
χ^2 : 1.0339		p : 0.3092	
<i>Notes: Two-tailed chi-square test done, significance at $p < 0.05$</i>			

Figure 3

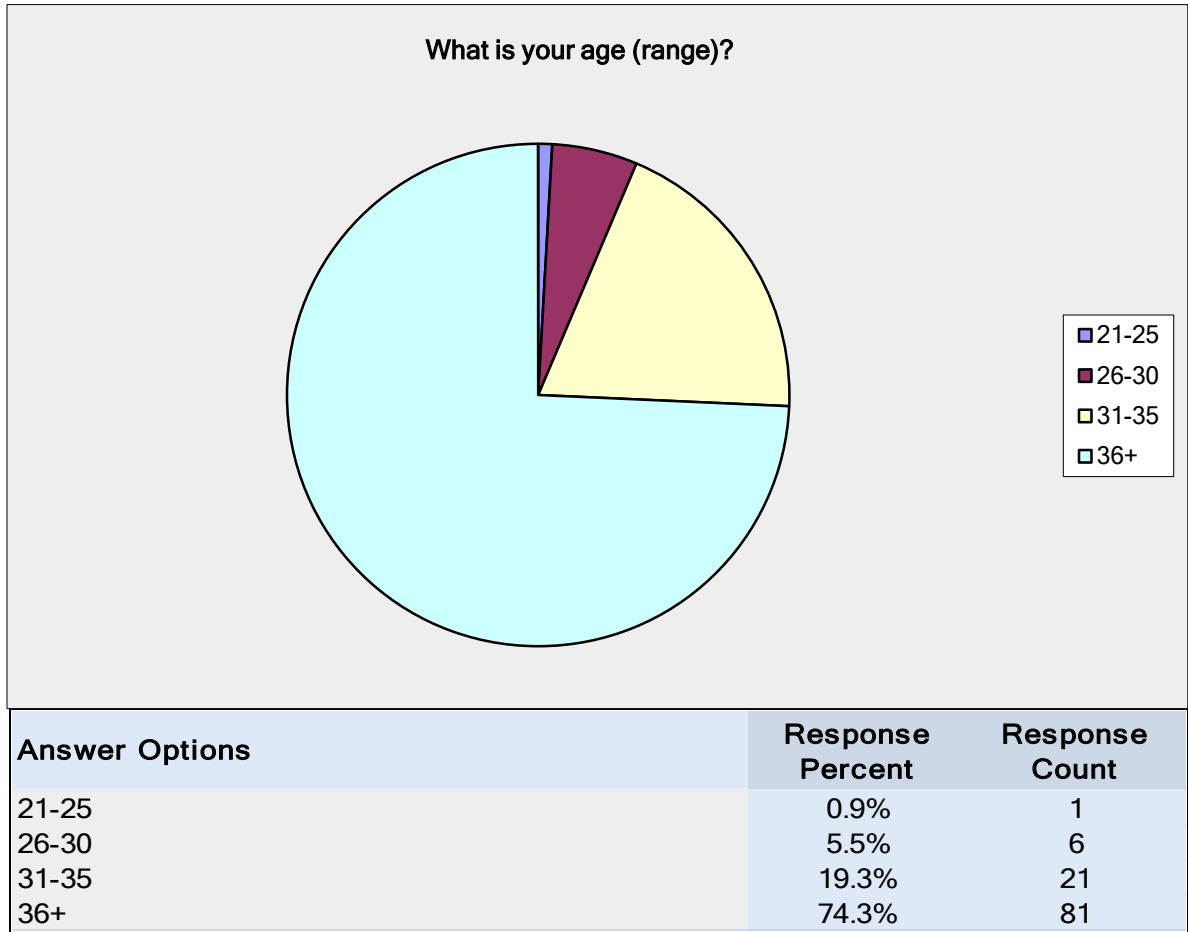


Table 2

Statistical Analysis – Age Distribution			
	Under 31	Over 31	Row Total
Army CI	2	40	42
DoD CI/LE	5	62	67
Column Total	28	81	109
χ^2 : 0.3134		p : 0.5756	
<i>Notes: Two-tailed chi-square test done, significance at $p < 0.05$</i>			

Figure 4

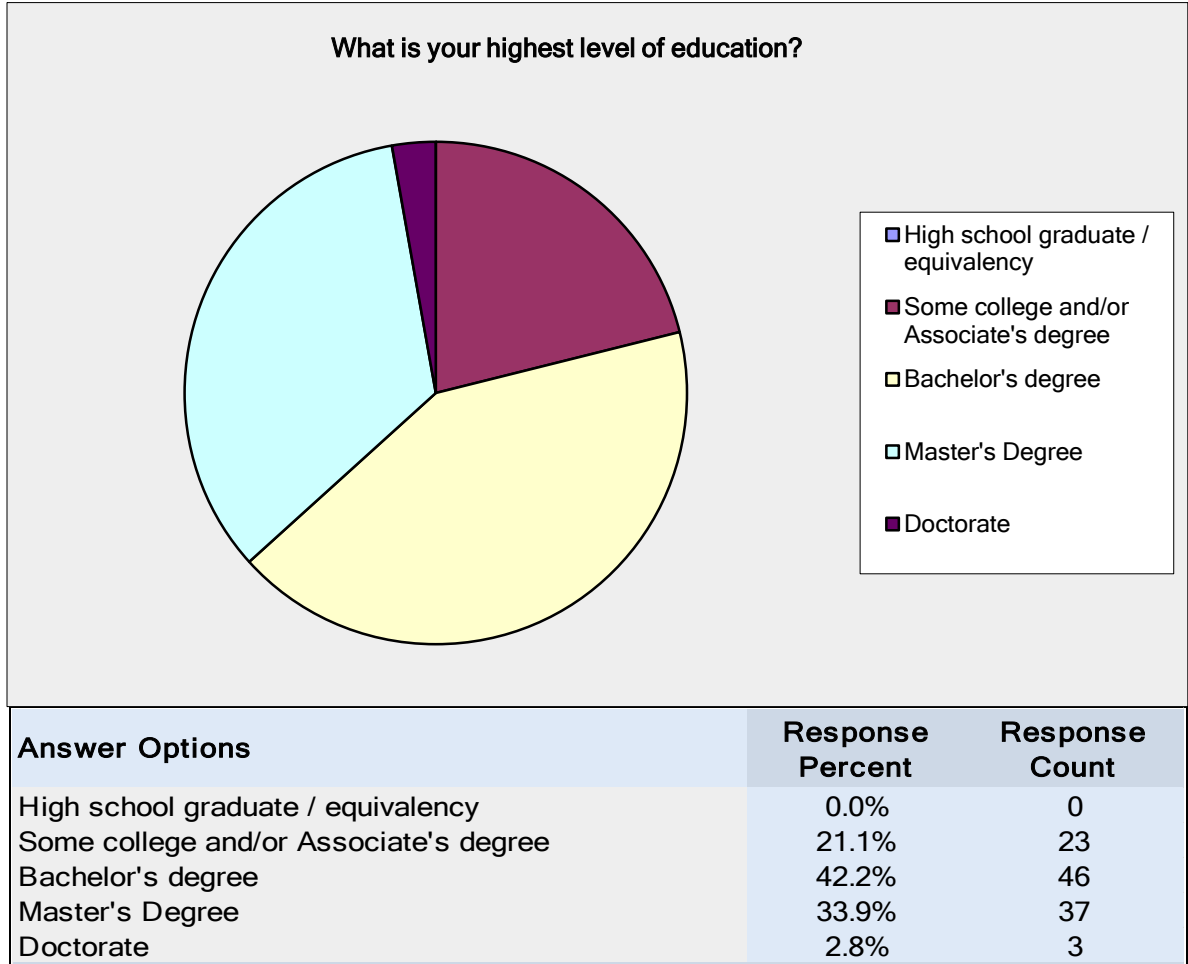


Table 3

Statistical Analysis – Education Distribution			
	Bachelors or Lower	Masters or Higher	Row Total
Army CI	29	13	42
DoD CI/LE	40	27	67
Column Total	69	40	109
χ^2 : 0.9707		p : 0.3245	
<i>Notes: Two-tailed chi-square test done, significance at $p < 0.05$</i>			

Figure 5

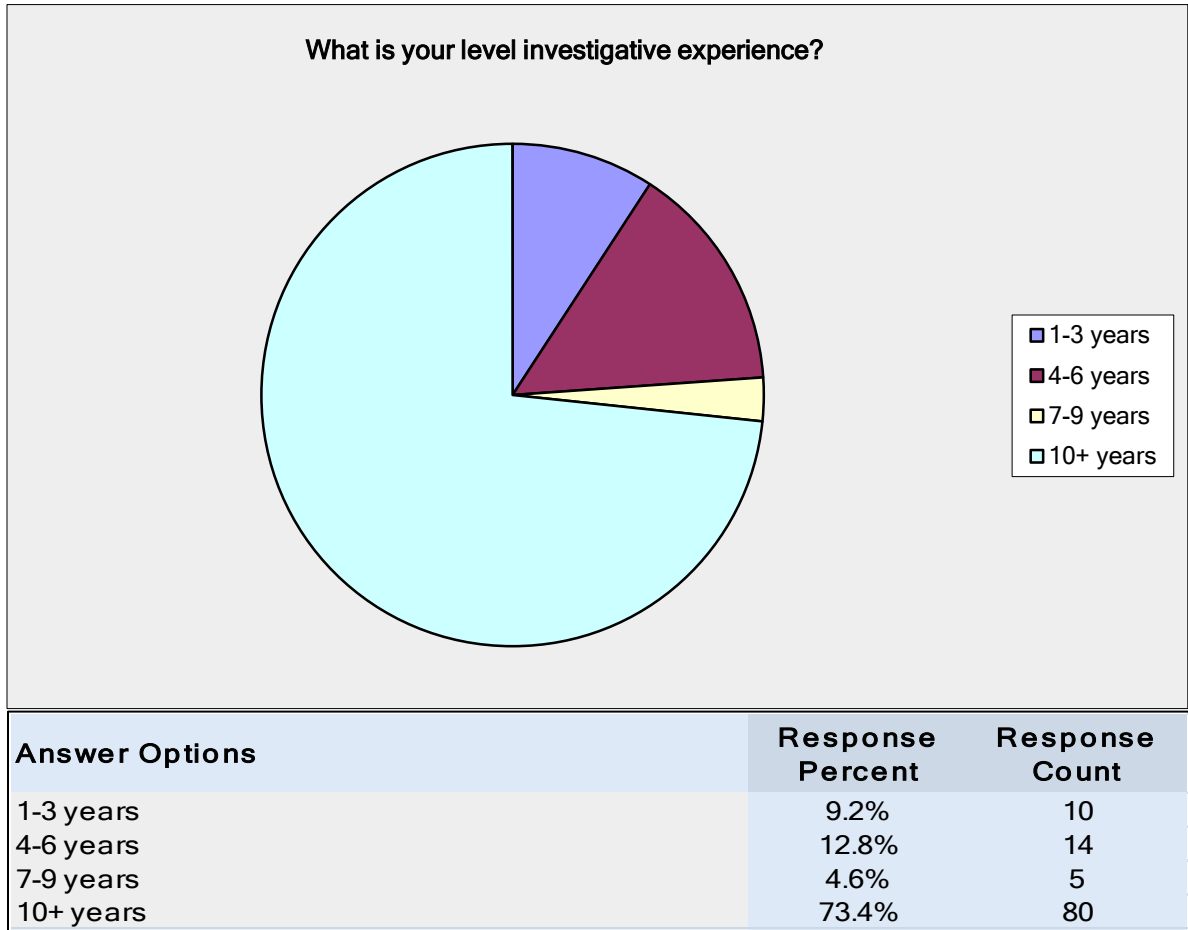


Table 4

Statistical Analysis – Investigative Experience Distribution			
	Less than Seven	More than Seven	Row Total
Army CI	13	29	42
DoD CI/LE	11	56	67
Column Total	24	85	109
χ^2 : 3.1763		p : 0.0747	
<i>Notes: Two-tailed chi-square test done, significance at $p < 0.05$</i>			

Hypothesis #1

The first hypothesis in this study was that there is a statistical difference in the opinions of agents from Army CI when compared to the opinions of agents from the combined DoD CI/LE agencies (NCIS & OSI) regarding whether their agency's forensic science resources is currently at an appropriate level to assist in CI investigations. This hypothesis proved likely to be true based on both the literary research conducted and the analyzed data gathered from the first group of relevant survey statement answers. The answers of Army CI respondents in this first group were significantly different from that of DoD CI/LE respondents. The mean average for Army CI respondents in the first group was 2.1587, and the mean average for DoD CI/LE respondents in the first group was 4.2289 (Table 5). A Welch t-test comparing these two mean averages resulted in a p-value of less than ($p < 0.0001$), which demonstrates extreme statistical significance based on a p-value threshold of 0.05, which—supported by the literary research—indicates this hypothesis is most likely true (Table 6).

Table 5

Mean Averages – Forensic Science Resources & Support						
Your agency has adequate:						
A1: Non-digital forensic science support which can be accessed by you during the conduct of an investigation.						
A2: Forensic science facilities to store, process, and preserve evidence.						
A3: Forensic science training for agents to assist them in the conduct of investigations.						
Army CI Averages						
Scaled Responses	1-Strongly disagree	2-Disagree	3-Neutral	4-Agree	5-Strongly agree	Average
Question A1	12	14	8	8	0	2.2857
Question A2	11	18	5	8	0	2.2381
Question A3	14	20	4	4	0	1.9524
Total Mean Average of Army CI:						2.1587
DoD CI/LE Averages						
Scaled Responses	1-Strongly disagree	2-Disagree	3-Neutral	4-Agree	5-Strongly agree	Average
Question A1	1	1	5	26	34	4.3582
Question A2	1	5	8	26	27	4.0896
Question A3	1	0	8	31	27	4.2388
Total Mean Average of DoD CI/LE:						4.2289

Table 6

Statistical Analysis – Forensic Science Resources & Support					
	Mean	<i>N</i>	<i>SD</i>	Variance	SEM
Army CI	2.1587	42	0.8562	0.7330	0.1321
DoD CI/LE	4.2289	67	0.7481	0.5596	0.0914
<i>df:</i> 78		<i>t:</i> 12.8873		<i>p:</i> <0.0001	
<i>Notes: Welch two-tailed t-test done, 95% confidence interval, significance at p < 0.05</i>					

Hypothesis #2

The second hypothesis in this study was that there is a statistical difference in the opinions of agents from Army CI when compared to the opinions of agents from the combined DoD CI/LE agencies (NCIS and OSI) regarding whether their agency's LE methodologies and procedures is currently satisfactory to help resolve CI cases. This hypothesis proved likely to be true based on both the literary research conducted and the analyzed data gathered from the second group of relevant survey statement answers. The answers of Army CI respondents in this second group were significantly different from that of DoD CI/LE respondents. The mean average for Army CI respondents in the second group was 2.8016, and the mean average for DoD CI/LE respondents in the first group was 4.4577 (Table 7). A Welch t-test comparing these two mean averages resulted in a p-value of less than ($p < 0.0001$), which demonstrates extreme statistical significance based on a p-value threshold of 0.05, which—supported by the literary research—indicates this hypothesis is most likely true (Table 8).

Table 7

Mean Averages – Law Enforcement Methodologies & Procedures						
In the conduct of CI investigations, your agency's current use of standardized law enforcement methodologies and forensic science procedures:						
B1: In regards to processing crime scenes is satisfactory.						
B2: In regards to collecting/preserving evidence is satisfactory.						
B3: Have helped to successfully resolve cases.						
Army CI Averages						
Scaled Responses	1-Strongly disagree	2-Disagree	3-Neutral	4-Agree	5-Strongly agree	Average
Question B1	10	12	13	7	0	2.4048
Question B2	6	11	10	15	0	2.8333
Question B3	7	5	8	19	3	3.1667
Total Mean Average of Army CI:						2.8016
DoD CI/LE Averages						
Scaled Responses	1-Strongly disagree	2-Disagree	3-Neutral	4-Agree	5-Strongly agree	Average
Question B1	2	0	1	34	30	4.3433
Question B2	2	0	3	18	44	4.5224
Question B3	1	2	0	23	41	4.5075
Total Mean Average of DoD CI/LE:						4.4577

Table 8

Statistical Analysis – Law Enforcement Methodologies & Procedures					
	Mean	<i>N</i>	<i>SD</i>	Variance	SEM
Army CI	2.8016	42	1.0203	1.0410	0.1574
DoD CI/LE	4.4577	67	0.7174	0.5146	0.0876
<i>df:</i> 66		<i>t:</i> 9.1912		<i>p:</i> <0.0001	
<i>Notes: Welch two-tailed t-test done, 95% confidence interval, significance at $p < 0.05$</i>					

Hypothesis #3

The third and final hypothesis in this study was that there is a statistical difference in the opinions of agents from Army CI when compared to the opinions of agents from the combined DoD CI/LE agents (NCIS and OSI) regarding whether their agency's initial agent training provided the proper basic investigative skills needed for a new investigator. This hypothesis proved likely to be true based on both the literary research conducted and the analyzed data gathered from the third group of relevant survey statement answers. The answers of Army CI respondents in this third group were significantly different from that of DoD CI/LE respondents. The mean average for Army CI respondents in the third group was 2.1984, and the mean average for DoD CI/LE respondents in the first group was 4.1443 (Table 9). A Welch t-test comparing these two mean averages resulted in a p-value of less than ($p < 0.0001$), which demonstrates extreme statistical significance based on a p-value threshold of 0.05, which—supported by the literary research—indicates this hypothesis is most likely true (Table 10).

Table 9

Mean Averages – Basic Investigative Training						
Your initial agent training (all training conducting prior to becoming a "Special Agent") was satisfactory in:						
C1: Giving you the necessary skills as an entry-level investigator.						
C2: Teaching you basic forensic science techniques & procedures as they relate to crime scenes.						
C3: Teaching you basic forensic science techniques & procedures as they relate to evidence collection.						
Army CI Averages						
Scaled Responses	1-Strongly disagree	2-Disagree	3-Neutral	4-Agree	5-Strongly agree	Average
Question C1	7	13	4	15	3	2.8571
Question C2	21	13	3	5	0	1.8095
Question C3	19	14	2	7	0	1.9286
Total Mean Average of Army CI:						2.1984
DoD CI/LE Averages						
Scaled Responses	1-Strongly disagree	2-Disagree	3-Neutral	4-Agree	5-Strongly agree	Average
Question C1	2	4	4	27	30	4.1791
Question C2	1	3	4	40	19	4.0896
Question C3	1	3	3	37	23	4.1642
Total Mean Average of DoD CI/LE:						4.1443

Table 10

Statistical Analysis – Basic Investigative Training					
	Mean	<i>N</i>	<i>SD</i>	Variance	SEM
Army CI	2.1984	42	0.9934	0.9868	0.1533
DoD CI/LE	4.1443	67	0.8003	0.6405	0.0978
<i>df:</i> 73		<i>t:</i> 10.7031		<i>p:</i> <0.0001	
<i>Notes: Welch two-tailed t-test done, 95% confidence interval, significance at p < 0.05</i>					

Chapter V: Discussion, Conclusions, and Recommendations

Discussion

The first hypothesis focused on agent opinions of forensic science resources in their respective agencies. The results indicate that Army CI agents are likely to believe that a change in the form of increasing such resources would benefit Army CI in the conduct of CI investigations. These results combined with consultation done with Army CI agents seem to follow the logic that “it is better to have and not need, than to need and not have.” While some may cite that the reason for this lack of resources is simply due to cost; the reason why the cost is not justified appears to be the prevailing mentality amongst Army leadership that Army CI is not LE, and therefore such resources are not needed. To the contrary, the survey data collected indicates that Army CI agents from a varying degree of backgrounds and experience seem to think that an increase in such resources would be a beneficial change.

The second hypothesis focused on agent opinions of LE methodologies for their respective agencies. Again, the results indicate that Army CI agents are likely to believe a change in this area would be beneficial. This is despite the fact that there appears to be a contingent within Army leadership resistant to such a change. Factors presented in the literature portion of this study related to LE methodologies include procedures for processing crime scenes, collecting evidence, detaining/apprehending criminal offenders, and Army CI agent use of firearms. While the survey did not include all of these specific factors, the survey results combined with the expert correspondence, all seem to point to Army CI agents believing that being recognized as LE and criminal investigators—in order to use associated LE methodologies & procedures—is important in regards CI investigative case outcome. Additionally, the legal research conducted for this study seems to support this change.

The third and final hypothesis focused on agent opinions of the initial basic investigative training that agents receive for their respective agencies, to include that of forensic science procedures. Once again, the results demonstrate that Army CI agents are likely to believe that a change here would be beneficial. The standardized federal investigators course for most LE and DoD CI/LE personnel in the U.S. is the CITP at FLETC. Without Army CI agents attending this course (or an equivalent course), they may always be lacking when it comes to investigative ability. This would be even more evident when conducting joint or parallel investigations with other agencies. As with the two previous hypotheses, the survey data shows that a majority of Army CI agents seem to agree with this concept, as most Army CI respondents did not believe their initial agent training was sufficient in providing them with the basic tools necessary to conduct the investigative aspect of their mission.

Conclusions

Since the current structure of Army CI was emplaced, there has been a notion amongst the Army CI agents in the field regarding what the proper investigative framework should be and why the organization operated so vastly different from its counter-parts in other agencies. Extensive literary research coupled with opinions from experts in the field, point to the fact that Army CI is significantly lacking in the investigative capabilities researched in this study. The survey data collected—which likely represents a “snapshot” of current or retired Army CI, NCIS, and OSI agents—appears to support this theory. Analyzing the data individually or as a whole demonstrates evidence that Army CI agent opinions on these capabilities in their agency differ significantly than that of NCIS and OSI agents. This analysis is reinforced by other demographic factors appearing to be distributed relatively similar between Army CI and the other DoD CI/LE organizations with no apparent statistical significance.

The conclusion from the statistical difference in opinions between Army CI and the other DoD CI/LE agencies is that most Army CI agents seem to believe that the overall Army CI investigative capability is lacking in the areas of forensic science resources and support, LE methodologies and procedures, and basic investigative training. Additionally, the data also suggests that most Army CI agents would likely agree that increasing all of these areas of investigative capability—to more closely match that of NCIS and OSI—would be beneficial and could even improve Army CI investigative activities and case resolution. The literary research and expert correspondence also seems to support this idea while also suggesting that there would likely be continuing resistance to such changes from some in Army leadership.

While these conclusions might initially lead to a belief that the U.S. Army might be better served if CID took over CI investigative functions, it is important to note that there is also an existing prevailing belief among many in the U.S. intelligence community, that a CI-specific organization—such as Army CI—fosters experts in CI related activities. Regardless of the investigative limitations of Army CI being analyzed in this study, many experts who were corresponded with regarding this project agree that while Army CI may be lacking in investigative capability, it has successfully created CI-focused experts that are able to recognize this capability gap only because of their vast CI expertise. This information leads to the conclusion that any recommendations made should be ones that keep Army CI intact as a separate organization, while still allowing for the expansion of its forensic science resources, LE methodologies & procedures, and investigative training. It is also likely that a transfer of the CI investigative mission to Army CID would be far more complicated than an increase in these investigative capabilities of Army CI.

Recommendations

Forensic science resources and support. The first set of recommendations involves forensic science resources. Forensic science should be considered a foundation for all Army CI investigations, as the potential benefit from current and future advances in the field appears to be vast. Army CI field offices could be issued forensic investigative field toolkits which would have a basic set of items common to the needs of any type of CI investigation as to reduce the number of outside-assistance requests. The toolkit should at minimum include evidence bags of various sizes and type (to include static-free, shielded bags for digital media evidence), explosive residue test-kits, blood & DNA collectors, finger print cards with print tape, latent print powder, evidence rulers/measuring tapes, sketch cards/pads, and a forensic-quality digital camera with different lenses capable of high-speed shots.

Additional back-end forensic resources should be expanded within existing CI units with investigative missions, or created for Army CI-specific purposes within the Defense Forensic Science Center. At a minimum, a system should be put in place to allow for the regular use of Army CID forensic resources. There should be a streamlined process for gaining access to larger forensic resources normally present in a forensic crime lab setting. Along with this, the appropriate number of forensic scientists and technicians should be staffed in these forensic facilities with a variety of forensic science specialties (if they are not already assigned there for other agencies). Additionally, Army CI agents should receive standardized forensic science training, to include training on collecting evidence (to include latent print searches, biological evidence collection, and custodial procedures), walking a crime scene, and conducting or supporting SSE in their roles when assigned to tactical and/or special operations units.

Law enforcement methodologies and procedures. The second set of recommendations starts with Army CI being clearly identified in regulations as being both a LE agency and an intelligence organization. This should alleviate some of the false assumptions made by some within the Army MI leadership that LE methodologies in Army CI investigations are not ideal. Army CI should continue to qualify with pistols as their primary weapon, but should increase the number of required qualifications to—at least—twice per year while incorporating it with a “use of deadly force” briefing. Army CI agents should then be authorized concealed carry on-and-off duty when they are assigned in an “investigative-status” with their badges and credentials, such as those Army CI agents assigned to CI field offices. This should reduce the investigative safety concerns considerably while the added qualification and training should eliminate most of the perceived risk associated with the regular carry of concealed firearms, as it already does in Army CID.

Along with this change presents greater opportunities for combined training in LE procedures with Army Military Police and CID. Additionally, a memorandum of understanding could be created between Army CI and CID allowing for such combined LE training along with shared use of temporary detention facilities, pistol ranges, forensic resources, and investigative systems. It may even be beneficial to both cost and investigations to consider—at select locations—combining Army CI and CID field offices into one field office on U.S. Army bases where they are both present. This could also be established in a memorandum of understanding. While the recommendations presented here will suggest keeping Army CI as a separate organization, having some combined CI/CID field offices in specific areas where both organizations are present may work well and even provide the initial basis for a future expansion.

Within this section also includes a recommendation to increase the ability of Army CI agents to obtain regular access and training on investigative systems for use in investigations ranging from activities associated with “standing investigative authority” to full field investigations. In addition to the access already available to Army CI agents in many systems such as the DoD Employee Identification Database, additional access should include at least one computer system in each of the Army CI field offices with connections to the National Crime Information Center, the NCIS LInX, the FBI Criminal Justice Information System, and other criminal databases. Having this access regularly available—while still monitored to ensure proper “official use only” protocol—will eliminate unneeded, and often ignored, requests for information in the conduct of Army CI investigations.

Basic investigative training. The third final set of recommendations may serve as the facilitating factor for many of the proposed changes already noted. It begins with the recommendation to start sending new Army CI agents through the CITP at FLETC as their primary initial course, and not just as an advanced course for senior agents later in their careers. In fact, this could begin almost immediately now that Army CI is an official partnered organization with FLETC. This recommendation would also have to include qualifying existing Army CI agents who have not already attended CITP, the FBI New Agent Training Course, or another equivalent course. These courses are all accredited by the Federal Law Enforcement Training Accreditation organization, and existing Army CI Agents could be “grandfathered” in to save time and money, if they have attended one of these other equivalent basic federal criminal investigator courses. The training received at CITP is extensive, and utilized in the same manner at many federal agencies, including the other DoD CI/LE investigative agencies of NCIS and OSI (as previously noted).

The CITP course is currently approximately three months in length (56 training days). In addition to general investigative training, CITP students also receive training in forensic science, firearms/use of deadly force, arrest/apprehension procedures, emergency driving, first aid, and defensive tactics. Once training at CITP is complete, CI agents could go to their agency-specific follow-on course in the same manner as NCIS and OSI do. For Army CI, this follow-on course could be CISAC. CISAC would remain as a much shorter course focusing on Army CI report writing and branch-specific procedures, in addition to teaching the basics of the other four CI functions not specifically covered at CITP such as CI collection. Additionally, JCITA at Quantico, VA, would remain for all other CI and advanced CI courses as it always has.

Other considerations. While most of these proposed changes would likely have a positive effect based on the research presented here, there is still the potential for other studies on these topics. One of the limitations noted was the lack of respondents due to DoD restrictions placed on survey recruitment of DoD personnel. A similar study in each of the areas discussed could be initiated by the DoD itself. This would allow for a new DoD-based survey with a potential to gather a much larger number of respondents. However, even with further study, the changes recommended above force consideration once again into why the current structure in Army CI remained while so many Army CI agents were seemingly opposed to it. The reason would seem to be that that change is always difficult for almost any type of organization. As also previously noted, the continued adherence to the current structure is perhaps associated with the risk adversity to such change within specific areas of Army leadership that may not believe there can be a more efficient way of operating.

The historical research conducted for this study indicates that Army CI seems to have a large number of its agents recommending a more LE-centric organization since it was grouped with the rest of Army MI. As previously stated, it is likely that the MI leadership in charge of Army CI activities could be partly to blame for this widespread resistance to change despite any evidence supporting it. A lack of understanding in the fundamental truth that a CI investigation is also a criminal investigation—regardless of investigative outcome—reinforces a culture within Army MI that is resistant to a LE-centric shift in its subordinate organizations. This is in direct opposition to what a majority of individual Army CI field agents may think about it. Without recommending CID takeover the CI investigative mission because of the previous concerns cited, the potential solution in preventing future occurrences of this problem could be to detach the Army CI organization from the rest of the Army MI force, as it once existed in the form of the Army CI Corps.

In talking with retired agents of the Army CI Corps that existed during and after World War II, the author discovered that it is clear that while some of the issues presented in this study existed back then, it does not appear to be nearly as prevalent then as it is today. It is therefore evident that Army CI agent opinions of their investigative capabilities have further devolved since Army CI was moved under the MI organizational structure. Army CI experts along with literature available seem to support this conclusion. This leads to the problems that have continued to grow within the organization, but that potentially could be corrected. The outcome of this study seems clear: if Army CI is to become more successful in the resolution of CI cases, it must be allowed to become both an internally recognized LE agency—as well as—an intelligence unit, which may require an Army CI organization that is independent from the rest of the MI force.

Appendix A: Online Survey Information and Voluntary Consent

Introduction

I am Braden Stockham of the United States Army National Guard. I am both a reservist Counterintelligence (CI) Special Agent (Warrant Officer) and a civilian law enforcement officer. I have over six years of tactical, operational, and strategic experience as an Army CI Special Agent and over ten years of experience as a civilian law enforcement officer conducting general criminal investigations. In these roles I have handled or been a part of a wide variety of criminal and CI cases which have often required me working with other agencies to include the FBI, NCIS, and OSI. You are being asked to take part in a survey as part of a research study in the effectiveness of Army CI Investigations. You were included because you are either a current or recently retired Army CI, NCIS, or an OSI Special Agent that has worked and/or been a part of CI investigations in the past and as such, may have valuable insight on the conduct of CI investigations within the Army. This message is being sent out to over 100 agents with the potential to be sent out to many more. Please read this carefully and feel free to ask me any questions before agreeing to take part in the study.

Purpose of this Study

The purpose of this study is to obtain unclassified, quantifiable data through a short survey, in regards to agent opinions on CI investigative procedures, training, and resources, within your respective agency. This data will be used by me for a research project I am conducting with National University in San Diego, CA, as part of my thesis for my Master's degree requirements in Forensic Science (Investigations Specialization). I am attempting to determine if Army CI would be more effective in its investigative functions if they shifted to a more law enforcement centric/forensic scientific approach during the conduct of its CI

investigations (similar to that of NCIS and OSI). While similar research to this has been done in the past, to my knowledge it has never involved an actual survey and always focused on combining the functions of Army CI and Army CID. In contrast, my research will focus only on the possibility of increasing the capabilities of Army CI, and what that effect might be.

Permission and Confidentiality

The National University Institutional Review Board (IRB) has approved this study. The Department of Defense (DoD) Defense Manpower Data Center (DMDC), Research, Surveys, and Statistics Center (RSSC) have determined that this survey does not require formal DoD approval as long as a valid IRB approves the research. As such, this survey is not sponsored nor facilitated by the DoD or any other government organization. Your participation is both voluntary, and private. Aside from basic demographic data used for data comparison, no one will know who answered the survey request as it was sent out to a large group of Army CI, NCIS, and OSI agents via private, non-DoD means, containing only a link to a Survey Monkey private survey website. Data regarding your possible identity (to include your I.P. address) will not be stored. No information contained in the demographics can be used to link to you and it will still be kept private. Survey Monkey has additional built-in precautions to ensure this confidentiality is maintained throughout the course of the survey completion.

Risks and Benefits

Due to there being no foreseeable way for your private information to be collected (even deliberately due to the survey being multiple-choice), there are no identifiable risks. As such, the only possible benefits which may come from this study are a better understanding of the effectiveness of Army CI Investigations. When complete, this thesis will be made available to the Department of the Army which may have some future benefit to Army CI.

Cost and Compensations

None.

Survey Structure

The short survey will consist of five basic demographic questions needed for comparison, and nine content specific statements (combined into three sections). The content-specific statements are all multiple choice containing five options: strongly disagree, disagree, neutral, agree, and strongly agree. Please remember, taking part in this survey study is completely voluntary. You may quit at any time. If you have questions, you may contact me at e-mail: braden.stockham@gmail.com. If you have any questions or concerns regarding your rights as a subject in this study, you may contact the National University Institutional Review Board (IRB) at telephone number provided. By clicking the "Next" button below, you consent to the above and agree to take the survey. The survey will begin immediately after. Thank you for your time in this matter.

Appendix B: Counterintelligence Investigations Online Survey

1. Which agency do you belong to?

- U.S. Army Counterintelligence (Army CI)
- Naval Criminal Investigative Service (NCIS)
- Air Force Office of Special Investigations (OSI)

2. Are you male or female?

- Male
- Female

3. What is your age (range)?

- 21-25
- 26-30
- 31-35
- 36+

4. What is your highest level of education?

- High school graduate / equivalency
- Some college and/or Associate's degree
- Bachelor's degree
- Master's degree
- Doctorate

5. What is your level of investigative experience?

- 1-3 years
- 4-6 years
- 7-9 years
- 10+ years

6. Your agency has adequate:

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
non-digital forensic science support which can be accessed by you during the conduct of an investigation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
forensic science facilities to store, process, and preserve evidence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
forensic science training for agents to assist them in the conduct of investigations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. In the conduct of CI investigations, your agency's current use of standardized law enforcement methodologies and forensic science procedures:

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
in regards to processing crime scenes is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
in regards to collecting / preserving evidence is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
have helped to successfully resolve cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

8. Your initial agent training (all training conducting prior to becoming a "Special Agent") was satisfactory in:

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
giving you the necessary skills as an entry-level investigator	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
teaching you basic forensic science techniques & procedures as they relate to crime scenes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
teaching you basic forensic science techniques & procedures as they relate to evidence collection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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