Ogilvie, Janice E

From: Mark D Siciliano [Mark.Siciliano@inl.gov]
Sent: Thursday, February 04, 2010 3:07 PM
To: Ogilvie, Janice E
Subject: RE: Copy of DOE F 5639.3 (Preservation of Evidence)

Jan,

I have mediation scheduled on the 24th. If not resolved I intend to request we move forward with my 708.

Please let me know who I need to talk to in your personnel security side so I can touch base with them.

Thanks!

Mark

Mark Siciliano, Department Manager, Special Programs
National & Homeland Security Directorate
Idaho National Laboratory
P.O. Box 1625, MS-3520, Idaho Falls, ID 83415-3520
O: 208-526-4464, C: 208-360-4367, STE: 208-526-4464
Email: Mark.Siciliano@inl.gov
SIPR: sicilimd@idaho.doe.sgov.gov, IC: idsicimd@doe.ic.gov
(Please call/email if a time critical msg sent to SIPRNET)

"Ogilvie, Janice E" <ogilvije@id.doe.gov>

02/04/2010 12:54 PM

To "Siciliano, Mark David" <mark.siciliano@inl.gov>
cc
Subject RE: Copy of DOE F 5639.3 (Preservation of Evidence)

Mark:
If you do not believe that BEA is investigating your security issues I can work with the DOE-ID security staff to investigate them. Just let me know.

Are you and BEA making progress on mediating your 708 complaint?

Jan

From: Mark D Siciliano [mailto:Mark.Siciliano@inl.gov]
Sent: Thursday, February 04, 2010 11:08 AM
To: Ogilvie, Janice E

Subject: Fw: Copy of DOE F 5639.3 (Preservation of Evidence)

Dear Janice,

I am a little concerned about the preservation of evidence as it pertains to my complaint. The document that I was looking for yesterday was not in the binder that it should have been in with the rest of the security incidents in N&HS.

I'm also concerned about the potential deletion of emails, etc.

I haven't received confirmation that anyone on the BEA side is investigating what I asked them to look into.

Is there anything DOE can do to make sure that evidence is preserved and an investigation has been initiated?

Thanks Janice,

Mark

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National & Homeland Security Directorate
Idaho National Laboratory
P.O. Box 1625, MS-3520, Idaho Falls, ID 83415-3520
O: 208-526-4464, C: 208-360-4367, STE: 208-526-4491
Email: Mark.Siciliano@inl.gov
SIPR: sicilimd@idaho.doe.sgov.gov, IC: idsicmd@doe.ic.gov
(Please call/email if a time critical msg sent to SIPRNET)

----- Forwarded by Mark D Siciliano/SICIMD/CC01/INEEL/US on 02/04/2010 10:51 AM -----

Mark D Siciliano/SICIMD/CC01/INEEL/US

02/03/2010 10:48 AM

[redacted]

To [redacted]

Copy of DOE F 5639.3

Subject

[redacted]

Background-- As you are aware, after [redacted] retired, members of Special Programs were tasked to clean out the file cabinets that contained [redacted]'s documents, including classified ones. This occurred sometime in Apr/May of 2007 when I believe [redacted] was in charge of SP (not 100% sure).

Subsequently, in December of 2008, a classified document was found at the site and reported. An official investigation ensued and it was deemed to be an IMI-2.

During my tenure as department manager, and before, during and after this investigation, I remarked to you and senior management in N&HS that our employees were concerned about filling out a form that indicated: "signature of individual responsible for incident" before an investigation was completed, or when they were deemed NOT responsible for the incident. No action was taken and I was for the most part told to shut up. This is completely out of synch with our employee handbook.

Four of my employees were investigated as a result of this incident. All four of these employees expressed sincere concerns about signing a form that indicated they were responsible for this incident. I reviewed their statements and could not conclude that they were responsible. Since management never adequately addressed the concerns of my employees, I documented their concerns in the form. You later counseled me and indicated that [redacted] was pissed/livid about this. In one-on-one meetings with the other directors, they also commented on [redacted] "displeasure" with my comments. [redacted], upon the completion of the investigation concluded that there was insufficient evidence to warrant issuing an infraction. I agree.

Several weeks to months after this investigation, I was required to fill out the same form for the same incident. To be clear, I WAS NOT EVEN AN EMPLOYEE when this document was moved out of SAF. I was a Navy Commander on active duty. When I provided my statement, as required, you met with me and told me I was being defensive.

Recently, I called [redacted] to discuss this because I am curious, to say the least, why I was required to fill out this form in the first place. [redacted] indicated that he is not permitted to discuss it with me. Which given the circumstances, I fully understand.

Today I went to EROB to review the binder because I want to confirm the specific date in which I was required to fill out that form and compare it to the date the investigation was closed and the dates on everyone else's statements.

The forms and statements from the four other employees are there, **however MINE IS NOT.**

I know you have a copy of this form (DOE F 5639.3) and my statement. I want a copy of it for my records as well. It pertains to me and I believe as an employee I have a right to that document. As you well know, this is one of the reasons you indicated that [redacted] considered me "unfit" to be a department manager and it is pertinent to my retaliation complaint.

B R E A K

Dear [redacted]

Please confirm that BEA is doing an investigation into this matter to include:

Why was I required to complete this form?

Who made the decision to require me to fill it out and what was the motivation?
Note: I have tremendous respect for [redacted] and consider him one of our best and most thorough investigators. I have absolutely no reason to believe he did this on his own accord.

Why was it done after the investigation was closed?

Why wasn't [redacted] required to fill one out ***since they were the actual managers*** and BEA EMPLOYEES at the time the document was missing?

Why is this documentation **MISSING** from the N&HS binder that is kept with [redacted] that I reviewed this morning?

Who is conducting this investigation?

Finally, there was an investigation recently completed ([redacted] box in SAF) where I was interviewed as well as several of my former employees and to my knowledge, no one was required to fill out this form while the investigation was pending. Have we changed our procedure to better preserve the fundamentals of due process and assuage our employees' concerns? If so, I applaud the people who made the modifications.

I regret to bring these things up as I would much rather be doing my job. I am concerned that there is no copy of the form I filled out to include my response in the N&HS security incident binder. I look forward to your response.

Regards,

Mark Siciliano

(See attached file: Incident Response.doc)

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