

**SIMULTANEOUS CRIMINAL AND SAFETY  
INVESTIGATIONS:  
In search of a Solution**

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# **SIMULTANEOUS CRIMINAL AND SAFETY INVESTIGATIONS**

- ❑ The conduct of safety investigations whose goal is to determine the technical cause of a disaster is made more difficult when a simultaneous criminal investigation is underway.
- ❑ This challenge is now faced by various Federal agencies charged with the conduct of safety investigations, including the Chemical Safety Board, the National Transportation Safety Board (NTSB), and of course NIST, when it acts under the National Construction Safety Team Act.

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- ❑ As NIST addresses this problem, we have the solace that we share this challenge with other agencies.
- ❑ But we still must strike our own balance, weighing our need for a robust investigatory capability with the legal authorities available to NIST.

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- ❑ The NCST Act requires that the NIST investigation team relinquish investigative priority in the event of a criminal investigation.
- ❑ NIST is constitutionally required to respect the rights of private litigants seeking redress from the courts.

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- ❑ In our World Trade Center investigation we have sought and received cooperation from the Fire Department of New York, the New York Police Department, and the Port Authority.
- ❑ In the NIST investigation into the fire at The Station, we respect the jurisdiction of the State of Rhode Island, and have structured our investigation to ensure a successful outcome with the resources available to us.

## NCST Challenges

- ❑ Establish investigatory reputation.
- ❑ Establish and formalize agency relationships.
- ❑ Secure evidence in timely, cost-effective manner.

## Establish Investigatory Reputation

- ❑ Standardize NCST site activities.
- ❑ Effective communication of investigation status.
- ❑ Effective release of reports.

## Establish Agency Relationships

- ❑ Mirror NTSB, OSHA and CSB on-site relationship building with state and local authorities.
- ❑ Formalize general protocol for multi-agency criminal and civil investigations.
- ❑ Active participation in new standing committee of agencies similarly situated.

## Secure Evidence

- ❑ Interim rules provide means of earlier deployment of teams for reconnaissance and evidence gathering.
- ❑ Evidence secured immediately to ease NCST investigation and analysis.
- ❑ Interim rules implement statute fully and target resources.

## SIMULTANEOUS CRIMINAL AND SAFETY INVESTIGATIONS

- ❑ NIST is part of a legal and constitutional system that both empowers and constrains our ability to conduct our technical investigations.
- ❑ Our limited experience to date teaches us that there is no “one size fits all solution” to this problem. So we will continue to work on a case-by-case basis, using all of our authorities, but respecting the rights and interests of the criminal investigatory agencies with whom we co-exist.