



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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JAN 7 2005

MEMORANDUM FOR CIVILIAN AND MILITARY OFFICERS AND EMPLOYEES
ASSIGNED TO THE OFFICE OF THE INSPECTOR
GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Policy on Whistleblower Protection for DoD Employees,
Standards Applied to Complaints

- References:
- (a) Inspector General Act of 1978, as amended
 - (b) Title 5, Sections 2301 and 2302 of the United States Code
 - (c) Intelligence Community Whistleblower Protection Act of 1998, as amended
 - (d) President's Council on Integrity and Efficiency, Quality Standards for Investigations (December 2003)
 - (e) DoD Directive 7050.6 "Military Whistleblower Protection" (June 23, 2000)
 - (f) DoD Directive 6490.1 "Mental Health Evaluations of Members of the Armed Forces" (October 1, 1997)
 - (g) IG Act, Section 7 Guidance Memorandum CRI-1 (November 23, 2004)
 - (h) IG Act, Section 7 Guidance Memorandum CRI-2 (May 26, 2004)

Purpose: To adopt standards for the receipt and disposition of whistleblower reprisal complaints or information received by either the Directorate of Civilian Reprisal Investigations or the Directorate of Military Reprisal Investigations within the Office of the Deputy Inspector General for Investigations.

Statutory Duty and Regulatory Responsibilities: The Inspector General Act of 1978 authorizes the Inspector General of the Department of Defense to "receive and investigate complaints or information" from Defense Department employees pursuant to Title 5, Appendix 3, Section 7 ("Section 7") of the United States Code. Reference (a). Standards are required to assess and review the performance of the Directorate, Civilian Reprisal Investigations and the Directorate, Military Reprisal Investigations. References (b), (c) and (d)(see, e.g. Section C on "Due Professional Care").

Policy Guidance: The language of Section 7 of the Inspector General Act of 1978 establishing legal protections for DOD whistleblowers parallels the merit system principle that protects government civilian employees "against reprisal for the lawful disclosure of information" that the employee reasonably believes is evidence of a violation of law. Through Section 7, the standards underlying 5 U.S.C. Section 2301(b)(9) provide a mechanism to review allegations of retaliation against a Department of Defense civilian employee. Reference (B) at Section 2302(b)(8) & (9).

Although Section 7 also applies whistleblower protections to members of the Armed Forces (5 U.S.C. Appendix 3, § 8(e)), primary authority for receiving and investigating

whistleblower reprisals against members of the Armed Services is derived from 10 U.S.C. Section 1034. References (e) and (f) implement 10 U.S.C. Section 1034.

The following standards shall apply:

(a) Complaints made by members of the Armed Forces. For Section 7 complaints filed by members of the Armed Services (including cadets and midshipmen at the military academies), DoDIG staff shall employ 10 U.S.C. Sections 1034, as implemented by References (e) and (f).

(b) Complaints made by Civilian Appropriated-Fund Employees (CAFEs). For Section 7 complaints filed by CAFEs, DoDIG staff shall employ title 5 standards as summarized in References (g) and (h), as amended from time to time.

(c) Complaints made by Non-Appropriated Fund Employees (NAFs). For Section 7 complaints filed by Non-Appropriated Fund Employees, DoDIG staff shall employ 10 U.S.C. Section 1587 and DoD Directive 1401.3 "Reprisal Protection for Non-Appropriated Fund Instrumentality Employees/Applicants" (October 16, 2001).

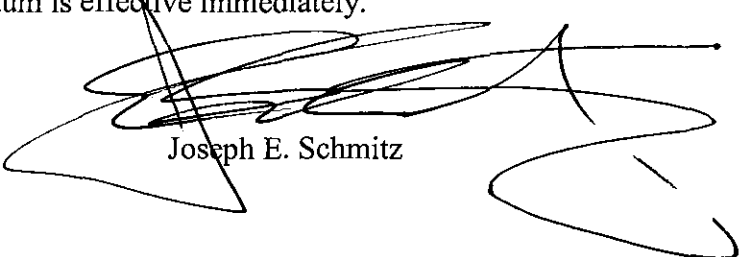
(d) Complaints made by Defense Contractor employees. For Section 7 complaints filed by Defense Contractor employees, DoDIG staff shall employ 10 U.S.C. Section 2409.

(e) Complaints made by Defense intelligence and counter-intelligence employees. For Section 7 complaints filed by CAFEs of the Defense intelligence agencies under the provisions of Reference (c), DoDIG staff shall employ Title 5 standards summarized in References (g) and (h). For Section 7 complaints filed by military members of the Defense intelligence agencies under Reference (c), DoDIG Staff shall employ References (e) and (f) as they implement Title 10, Section 1034, of the United States Code.

Pursuant to Section 7(b) of Reference (a), all whistleblower complaints will be reviewed and investigated with the utmost confidentiality. The identity of a whistleblower will not be disclosed without the consent of the whistleblower, unless a determination is made that the disclosure of the whistleblower is unavoidable during an investigation.

Copies of all standards cited herein are available from the Directorate, Civilian Reprisal Investigations and the Directorate, Military Reprisal Investigations. They are also available on the OIG Website at <http://www.dodig.osd.mil/INV/index.html>.

Effective Date: This Policy Memorandum is effective immediately.



Joseph E. Schmitz

Attachments: a/s