



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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AUG 20 2004

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

SUBJECT: Due Process in the Activities of the Office of the Inspector General

References: (a) U.S. Constitution
(b) *Hamdi v. Rumsfeld*, 124 S. Ct. 2633 (2004)
(c) Inspector General Act of 1978, as amended
(d) IG Policy Memo, November 7, 2003, "Inspector General Act Implementation and Office of Inspector General Policy Guidance (Revision 1)"

Purpose: To reaffirm the "essential constitutional promises" of due process required by Reference (a), as explained in reference (b) and as applied to the various audit, inspection, investigation, and oversight activities of this Office of Inspector General authorized by reference (c) and implemented generally by reference (d).

Background: The Fifth and Fourteenth Amendments of Reference (a) stipulate, respectively, that "No person shall be . . . deprived of life, liberty, or property, without due process of law," "nor shall any State deprive any person of life, liberty, or property without due process of law." Courts generally recognize that professional reputation implicates liberty rights protected by the "due process of law."

In reference (b), the Supreme Court reaffirmed that, "For more than a century the central meaning of procedural due process has been clear: Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner. These essential constitutional promises may not be eroded." *Hamdi v. Rumsfeld*, 124 S. Ct. 2633, 2649 (2004) (internal citations and quotation marks omitted).

Policy: It is the policy of this Office of Inspector General that any person whose professional reputation is directly impacted by an audit, inspection, investigation, or oversight activity of this Office be afforded the "essential constitutional promises" of procedural due process in a manner transparently consistent with references (a) through (d), to the maximum extent possible. Of course, the degree to which "due process" is infused into the various activities of this Office may vary depending upon the nature, facts, and circumstances of the various activities. Each Deputy Inspector General is responsible for ensuring that procedures (*i.e.*, processes) for carrying out the various audit, inspection, investigation, and oversight activities of this Office are: prescribed, promulgated, and transparently applied in a manner consistent with references (a) through (d), to the maximum extent possible; and transparently reflected in any professional work products produced under their respective cognizance.

Effective Date: This Policy Memorandum is effective immediately.


Joseph E. Schmitz