



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

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 Selection of Intakes to Process as Civilian Reprisal
Investigations

References: (a) Inspector General Act of 1978, as amended
(b) Harvey v. Department of the Navy, 92 M.S.P.R. 51 (2002)
(c) Nafus v. Department of the Army, 57 M.S.P.R. 386, 395 (1993)

Purpose: To adopt criteria for prioritizing whistleblower reprisal complaints received by the Directorate, Civilian Reprisal Investigations (CRI) within the Office of the Deputy Inspector General for Investigations, OIG DoD.

Statutory Duty: The Inspector General Act of 1978, as amended, states that the Inspector General, Department of Defense "may receive and investigate complaints" from Defense Department employees. 5 U.S.C. Appendix 3, Section 7. The exercise of authority by the OIG DoD is discretionary when complaints are filed by Civilian Appropriated-Fund Employees (CAFEs). Triage criteria are required to prioritize the limited resources available to CRI.

Policy Guidance: While counseling potential complainants, CRI shall ensure that all DoD CAFEs understand that CRI's jurisdiction is secondary and parallel to the U.S. Office of Special Counsel ("OSC"). CAFEs shall be advised on the procedures for filing with OSC. In reviewing the DoD Hotline complaints filed by Civilian Appropriated-Fund Employees alleging reprisal for making a protected disclosure, the Director, CRI, shall accept intakes by giving priority to the cases impacting the following matters:

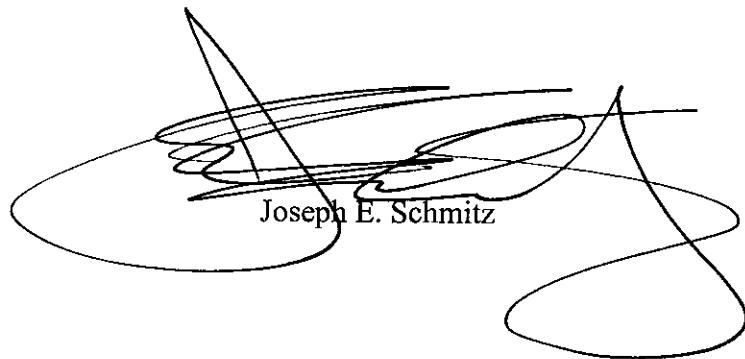
- (1) Cases originating in the intelligence community, to include the Defense Intelligence Agency (DIA), National Reconnaissance Office (NRO), National Security Agency (NSA), National Geospatial-Intelligence Agency (NGA), and including the intelligence and counter-intelligence components of the military services;
- (2) Cases with potential to implicate contractor fraud against the U.S. Government involving gross mismanagement. See Harvey v. Department of the Navy, 92 M.S.P.R. 51 (2002) at ¶ 9; see generally, Nafus v. Department of the Army, 57 M.S.P.R. 386, 395 (1993) (management

action or inaction that creates a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission. It is more than de minimis wrongdoing or negligence and does not include management decisions that are merely debatable. It must also include an element of blatancy.").

- (3) Cases tied directly to the DoD mission in the Global War On Terrorism (GWOT);
- (4) Cases in which the employee is a source for either the Defense Criminal Investigative Service (DCIS) or Investigation of Senior Officials (ISO);
- (5) Cases in which the employee is facing a termination, and which are not covered by one of the categories, above.

Once CRI begins an investigation, the subsequent pulling of the complaint by the complainant will not terminate the investigation. In the recommendations resulting from such an investigation, CRI may take into account remedies received in other proceedings. However, CRI shall issue its findings independent of agreements made by the complainant in other proceedings.

Effective Date: This Policy Memorandum is effective immediately. It shall be reviewed annually and revised for criteria changes.



Joseph E. Schmitz