



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

February 15, 2007

INSPECTOR GENERAL INSTRUCTION 7050.11

PROCESSING COMPLAINTS OR INFORMATION UNDER THE INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTION ACT OF 1998

FOREWORD

This Instruction implements the Intelligence Community Whistleblower Protection Act of 1998 within the Department of Defense Office of Inspector General. The Intelligence Community Whistleblower Protection Act provides a process by which employees, or contractor employees, of the Defense Intelligence Agency, National Geospatial-Intelligence Agency, National Reconnaissance Office, and the National Security Agency may report matters of “urgent concern” to the intelligence committees of Congress.

This Instruction is effective immediately.

A handwritten signature in dark ink that reads "Thomas F. Gimble".

Thomas F. Gimble
Acting

2 Appendices: a/s

A. Purpose. This Instruction implements the Intelligence Community Whistleblower Protection Act (ICWPA) of 1998 within the Department of Defense Office of Inspector General (DoD OIG). Section 8H of the Inspector General Act of 1978, as amended, implements the ICWPA. The ICWPA provides a process by which employees, or contractor employees, of the Defense Intelligence Agency (DIA), National Geospatial-Intelligence Agency (NGA), National Reconnaissance Office (NRO), and the National Security Agency (NSA) may report matters of “urgent concern” to the intelligence committees of Congress.

B. References. See Appendix A.

C. Definitions. See Appendix B.

D. Applicability and Scope. This Instruction applies to the Offices of Inspector General, the Deputy Inspectors General (DIGs), the Assistant Inspectors General (AIGs) who report to the Inspector General, the General Counsel, and the Director, Equal Employment Opportunity, hereafter referred to collectively as the OIG Components.

E. Policy. It is the policy of the DoD IG that:

1. The DoD IG shall serve as an independent and objective fact finder in making his or her determinations as envisioned by Congress in enacting the ICWPA.

2. The DoD OIG shall not disclose the identity of an ICWPA complainant or information provider, without that person’s consent, unless the DoD IG determines that such disclosure is unavoidable.

3. The DoD IG, through its Military and Civilian Reprisal Investigations Directorates, shall investigate any claims of reprisal taken against an ICWPA complainant or information provider.

4. The DoD OIG Components shall ensure that their component employees are made aware of the ICWPA and of the need to refer any individual apparently attempting to file an ICWPA complaint or information with the DoD IG, directly to the Defense Hotline.

F. Responsibilities

1. The **Deputy Inspector General for Intelligence (DIG-Intel)** is responsible for ensuring the proper processing of ICWPA complaints and information. The DIG-Intel shall:

a. Verify that the originator of a complaint or information is eligible to use the provisions of the ICWPA.

b. Convene and chair the ICWPA Working Group (WG).

c. Coordinate with the Office of the Secretary of Defense and the particular DoD intelligence agency to obtain whatever additional security clearance access may be required for the ICWPAWG representatives to properly assess the complaint or information.

d. Ensure that the DoD IG is able to provide the Secretary of Defense a written determination of the credibility of the complainant or information provider within 14 calendar days, in a matter determined by the ICWPAWG to be an urgent concern.

e. Inform an eligible originator of each action taken in the notification process within three days of taking the action.

f. Assist an eligible originator, upon assertion of the right to contact the intelligence committees directly under §8H(d)(1) and (2) of the IG Act (reference (a)), to obtain direction from the Secretary of Defense for making that contact in accordance with appropriate security practices.

2. The **Director, Defense Hotline** is responsible for the administrative processing of all ICWPA complaints or information. The Director, Defense Hotline, shall:

a. Assign personnel with Top Secret security clearances and Sensitive Compartmented Information (SCI) read on capability, as necessary, to intake and process any ICWPA complaint or information.

b. Ensure that all ICWPA complaints or information are processed expeditiously in accordance with published Defense Hotline procedures.

c. Immediately notify the DIG-Intel upon receipt of an ICWPA complaint or information.

d. Implement procedures within Defense Hotline to ensure that any ICWPA complaint or information, once logged into Defense Hotline, is forwarded immediately to the DIG-Intel.

e. Establish and maintain an official file of record regarding the ICWPA complaint.

3. The DIGs for Audit, Investigations, and Policy and Oversight, and the AIGs for the Office of Communications and Congressional Liaison (OCCL) and the Office of the General Counsel shall provide permanent representatives to the ICWPAWG. The permanent representatives must have Top Secret security clearances and be indoctrinated for SCI. Alternate representatives, with proper clearances, may appear, as required.

4. The **ICWPAWG** shall serve as the steering group for the initial disposition of all ICWPA complaints or information. The ICWPAWG shall:

a. Be convened and chaired by the DIG-Intel.

b. Determine whether the complaint or information constitutes an urgent concern as defined in Appendix B, and whether it appears credible.

c. Develop and execute a plan for completing the urgency and credibility determinations within the 14 day deadline for the DoD IG to deliver his or her written notification to the Secretary of Defense.

d. Assign responsibility to one or more DoD OIG Components to complete a substantive inquiry of the complaint or information itself. If the inquiry should be conducted outside the DoD OIG, recommend to DoD IG that the Inspectors General offices of DIA, NGA, NRO, or NSA, complete a substantive inquiry of the complaint or information itself. This substantive inquiry is a separate action from the urgency and credibility determinations.

e. Review and advise the DoD IG of the findings and recommendations, if any, of the completed substantive inquiry. If applicable, upon direction by the DoD IG, provide findings and recommendations to the concerned DoD Component or to the DIA, NGA, NRO, or NSA for implementation.

5. The **OIG Component**, if designated by the ICWPAWG, shall be responsible for completing the substantive inquiry of the issue raised by an ICWPA complaint or information. The OIG Component shall:

a. Conduct a substantive inquiry in accordance with standards and procedures established by the OIG Component.

b. Report its findings and recommendations, if any, to the ICWPAWG.

c. Inform the DIG-Intel and the AIG-OCCL of any congressional contacts received while conducting the inquiry.

6. If the DoD IG requests DIA, NGA, NRO, or NSA to conduct a substantive inquiry raised by an ICWPA complaint or information, the IG for that entity will be responsible for completing the substantive inquiry and for reporting the findings and recommendations, if any, to the ICWPAWG.

**APPENDIX A
REFERENCES**

- a. Appendix 3 of title 5, United States Code, *Inspector General Act of 1978*, as amended
- b. DoD Directive 5106.01, *Inspector General of the Department of Defense*, April 13, 2006

**APPENDIX B
DEFINITIONS**

1. **Eligible Originator.** An employee of, or an employee of a contractor to, the DIA, NGA, NRO, or NSA, who intends to report a complaint or information asserted to be a matter of urgent concern to the intelligence committees of Congress.
2. **Intelligence Committees.** The term means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.
3. **Urgent Concern.** An urgent concern means any of the following:
 - a. A serious or flagrant problem, abuse, violation of law or Executive Order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinion concerning public policy matters.
 - b. A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.
 - c. An action, including a personnel action described in section 2302(a)(2)(A) of Title 5, constituting reprisal or threat of reprisal prohibited under section 7(c) (reference (a)), in response to an employee's reporting an urgent concern under §8H of the IG Act, as amended.