

UNITED STATES ARMY INSPECTOR GENERAL SCHOOL

THE ASSISTANCE AND INVESTIGATIONS GUIDE



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SAIG-ZA

MEMORANDUM FOR ALL U.S. ARMY INSPECTORS GENERAL

SUBJECT: The Assistance and Investigations Guide

1. The Assistance and Investigations Guide represents U.S. Army Inspector General (IG) doctrine for the conduct of all Army IG Assistance Inquiries, Investigations, and Investigative Inquiries. This doctrine is authoritative and has the backing of Army IG policy in the form of Army Regulation 20-1 (Inspector General Activities and Procedures). All IGs will employ this doctrine within the policy framework set forth in Army Regulation 20-1. If a discrepancy exists between the guide and the regulation, the regulation will take precedence.
2. This doctrinal guide's Foreign Disclosure Determination / Designation is FD-1, which means that this doctrine is releasable to members of partner nations and to the general public.
3. If you have questions or comments about this guide, or identify discrepancies or inconsistencies requiring attention, please contact Dr. Stephen M. Rusiecki, Dean of Academics and Deputy Commandant, U.S. Army Inspector General School, (703) 805-3918 or DSN 655-3918.

Droit et Avant!

A handwritten signature in black ink, reading "Donna W. Martin", is positioned above the typed name.

DONNA W. MARTIN
Lieutenant General, USA
The Inspector General

Introduction

The Assistance and Investigations Guide

- 1. Purpose.** This guide outlines the specific techniques, formats, and procedures used when performing Assistance, Investigations, and Investigative Inquiries.
- 2. The Assistance and Investigations Guide and the IGAP.** The Inspector General Action Process (IGAP) is the seven-step process IGs use when performing the two reactive IG functions: Assistance and Investigations. These two functions address those unexpected matters that "walk in the door" with little warning. The IGAP is designed specifically to address these unexpected matters. Even though Assistance and Investigations are separate functions, each one shares this same process and, as a result, many of the same steps, formats, and techniques. Factors that bear on Assistance also have an impact on Investigations and vice versa. Since both functions share similar doctrine, they appear together -- for doctrinal purposes -- in one complete guide for ease of reference.
- 3. The Guide as a Handbook.** This guide is designed to serve as a ready reference and step-by-step handbook that will allow an IG serving in the field to follow each step of the IGAP and perform Assistance or conduct an Investigation (or Investigative Inquiry). Part One of the guide addresses the IGAP in the context of the Assistance function and the resolution of **issues** brought to an Army IG. Part Two addresses the IGAP in the context of the Investigations function and the resolution of **allegations**. Many of the techniques and formats offered herein are not mandatory for use but instead offer all Army IGs a common frame of reference and a generally approved way of executing both of these functions. The rules bearing on these two functions, as outlined in Chapters 6 and 7 of Army Regulation 20-1, Inspector General Activities and Procedures, represent the policy that frames this doctrine and, ultimately, the execution of both functions. Therefore, IGs must use this guide in concert with the policy outlined in Army Regulation 20-1 and must recognize how the prescriptive provisions articulated in the regulation are nested within the overall doctrinal procedures.
- 4. Format for Sample Memorandums:** This guide contains numerous sample memorandums that adhere to the format requirements outlined in Army Regulation 25-50, Preparing and Managing Correspondence. However, in an effort to save space and paper, some of the required font sizes and spacing have been compressed. Refer to Army Regulation 25-50 for the precise format specifications.
- 5. Controlled Unclassified Information (CUI) Markings:** This guide provides multiple examples of IG documents that reflect current Army guidance on the use and placement of CUI markings. This guide omits CUI markings from those documents that are not CUI and generally releasable outside the Army IG system. However, the use of those markings in this guide should not deter an IG from marking a document as CUI if the situation requires it, even if samples of that same document in this guide do not display those markings. In all cases, follow Army guidance on CUI markings.

6. Questions and Comments: For questions or comments concerning this guide, please contact the U.S. Army Inspector General School, 5500 21st Street, Suite 2305, Fort Belvoir, Virginia 22060-5935 or call commercial (703) 805-3900 or DSN 655-3900.

7. Summary of Change: This version of The Assistance and Investigations Guide supersedes the version dated March 2020 and all accompanying Interim Changes. The major changes included in this version are as follows:

- a. Corrects typographical and other minor errors throughout.
- b. Updates the standard IG FOUO markings to reflect the new Controlled Unclassified Information (CUI) marking requirements throughout.
- c. Incorporates the new DA Form 1559 (dated 15 April 2021) and includes guidance on how to use the form (Part One, Chapter 1, Section 1-3-1).
- d. Provides guidance on how IG staff sections can establish an iPERMS account to assist in Inspector General Preliminary Analysis (Part One, Chapter 2, Section 2-3).
- e. Incorporates new guidance from Army Regulation 608-99 regarding a Commander's responsibilities concerning non-support of Family members (Part One, Chapter 3).
- f. Adds guidance for handling allegations of retaliation from a sexual-assault victim (Part One, Chapter 3, Section 3-1-5).
- g. Adds new guidance on Department of Defense IG Hotline cases regarding issues (Part One, Chapter 10).
- h. Adds guidelines and a script for briefing a suspect's lawyer prior to the suspect interview (Part Two, Section 4-6, and Appendix A).
- i. Provides guidance regarding the uploading of unfavorable information into IGARS as part of Step 6 (Part Two, Chapter 6).
- j. Incorporates various updates in Part Two, Chapter 9, on Whistleblower Reprisal investigations (Part Two, Chapter 9).
- k. Incorporates new Department of Defense IG guidance on Whistleblower Protection Act coverage for Army National Guard members (Part Two, Section 9-4).
- l. Incorporates new guidance on Department of Defense IG Hotline cases regarding allegations (Part Two, Chapter 10).
- m. Eliminates the requirement for an additional legal review for Hotline cases if the command product already has a legal review and the IG agrees that the evidence supports the findings (Part Two, Chapter 10, Section 10-2).

n. Adds a new section to Part Three, Chapter 1, describing the processes IGs must follow to obtain access to Command Climate Assessments and medical information (Part Three, Chapter 1, Section 1-12).

8. Key Definitions: This guide uses numerous IG-specific terms that require precise definitions. This paragraph addresses those key terms common to all three parts of the guide and that are necessary to ensure the proper understanding of the IG procedures contained herein.

a. **Allegation:** The term "allegation" has two specific meanings given the context within which it is used.

(1) An allegation is generally a statement or assertion of a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard) normally submitted by a third party against an individual. In this general context, allegation has the same definition as a complaint.

(2) The term allegation can, however, be used in an IG-specific context as one of the two possible parts of a complaint (the other part being an issue). When used in an IG-specific context, allegation may refer to the specific way that a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard) is formulated or drafted. No matter how or in what form someone might submit an allegation as part of a complaint, the IG has complete discretion over how the allegation is ultimately formulated or drafted in the ROI, ROII, or modified ROII. An allegation in the IG-specific context normally contains four essential elements: who, improperly, did or failed to do what, in violation of an established standard. The IG refines allegations based upon evidence gathered during the course of an Investigation or Investigative Inquiry.

b. **Army Command (ACOM):** An Army force, designated by the Secretary of the Army, performing multiple Army Service Title 10 functions across multiple disciplines.

c. **Army Service Component Command (ASCC):** An Army force, designated by the Secretary of the Army, comprised primarily of operational organizations serving as the Army component of a combatant command or sub-unified command.

d. **Assistance:** Assistance is the process of receiving, inquiring into, recording, and responding to complaints or requests for information either brought directly to the Inspector General or referred to the Inspector General for action concerning matters of Army interest.

e. **Assistance Inquiry:** An informal fact-finding process used to address or respond to a complaint involving a request for help, information, or other issues but not complaints with allegations of a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard). (See Part One of this guide)

f. **Complainant:** A person who submits a complaint, allegation, or other request for assistance to an IG.

g. **Complaint:** A complaint is generally a notice of -- or an expression of -- dissatisfaction or discontent with a process or system or with the specific behavior or

actions of an individual submitted by a third party. Complaints contain one or more issues or allegations, or both.

h. **Direct Reporting Unit (DRU):** An Army organization of one or more units with institutional or operational support functions, designated by the Secretary of the Army, normally to provide broad general support to the Army in a single, unique discipline not otherwise available elsewhere in the Army.

i. **First Party:** A first party, as used in this guide and in Army Regulation 20-1, is someone whom a second party has aggrieved in the context of violating a rule, regulation, policy, directive, order, requirement, or law (or similar standard) and who reports it, or brings it to the attention of, an appropriate authority that can take action to resolve the matter. In most cases, the first party is often the complainant (see the definition of complainant).

j. **Information IGAR:** Information IGARs are a shorthand method to document certain types of IGARs for information requests only. The only two general types are 1A (Routine Request for Information) and 1B (Request for Support IG to IG). The IG may also use the Information IGAR to document workload expended outside Assistance and Investigations utilizing the '18E' series codes. For example, the IG may use 18E5 to document time spent conducting an Inspection. This is useful for smaller offices that do not have a separate inspection team.

k. **Inspector General Action Request (IGAR):** IGAR is the term used to refer to the process of receiving, inquiring into, recording, and responding to complaints or requests for information either brought directly to the Inspector General or referred to the Inspector General for action. Inspectors General record this information on DA Form 1559, Inspector General Action Request.

l. **Inspector General Action Request System (IGARS):** The IG database that documents all IGARs within the Department of the Army. Only trained and qualified IGs have access to this database.

m. **Inspector General Investigation:** A formal fact-finding examination by an IG into allegations, issues, or adverse conditions that provides the Directing Authority a sound basis for making decisions and taking action. (See Part Two of this guide).

n. **Inspector General Investigative Inquiry:** An informal fact-finding examination by an IG into allegations that are not significant in nature and when the potential for serious consequences (such as potential harm to a Soldier or negative impact on the Army's image) are not foreseen. IGs use the investigative inquiry to gather information needed to address allegations of impropriety against an individual that do not require a **formal** investigation. (See Part Two of this guide).

o. **Issue:** An issue is a complaint or request for information made to the Inspector General that does not list a "who" as the violator of a standard or policy. An issue is resolved by 1) conducting an Assistance Inquiry, in which case it is either "Founded" if it has merit and requires resolution or "Unfounded" if it does not have merit and requires no additional action or 2) providing the requested information or referring the complainant to the agency or organization best suited to resolve the problem.

p. **Office of Inquiry (OOI):** If another IG office refers an IGAR to a lower-echelon IG office for action but retains office of record status, the IG office acting on the IGAR becomes the office of inquiry. The OOI must gather all pertinent information and submit the completed case to the office of record for final disposition.

q. **Office of Record (OOR):** Normally the IG office that receives the complaint. This office may request to refer the office of record status to another IG office if the case falls under another's IG area of command. The OOR must ensure that all issues are addressed and all IG responsibilities were fulfilled.

r. **Second Party:** A second party, as used in this guide and in Army Regulation 20-1, is someone alleged to have affected a first party in the context of violating a rule, regulation, policy, directive, order, requirement, or law (or similar standard). Second parties are normally the subjects and suspects in IG Investigations and Investigative Inquiries (see the definition of subject / suspect).

s. **Senior Official (SO):** Includes general officers (Active Army and Reserve Component); selected U.S. Military Academy Professors in the grade of colonel; colonels selected for promotion to brigadier general; retired general officers; and current or former civilian employees of the Department of the Army Senior Executive Service (SES) or equal positions, to include comparable political appointees.

t. **Standard IGAR:** A standard IGAR will be opened in the IGARS database when a complaint is made to an Inspector General for which there is an associated function code that specifically explains or defines the issue presented. The standard IGAR includes detailed information on the initiator, complainant, subject / suspect, function codes, case notes, and synopsis.

u. **Subject:** A person against whom non-criminal allegations have been made such as a violation of a local policy or regulation that is not punitive.

v. **Suspect:** A person against whom criminal allegations were made. The allegations include violations of UCMJ punitive articles, punitive regulations, or violations of other criminal laws. A person may also become a suspect as a result of incriminating information that arises during an investigation or interview, or whenever the questioner believes, or reasonably should believe, that the person committed a criminal offense.

w. **Third Party:** A third party, as used in this guide and in Army Regulation 20-1, is one who discovers, observes, or otherwise becomes aware of what he or she believes is a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard) and who reports it or brings it to the attention of someone other than the person believed to have committed the violation. Furthermore, this third party has not been personally aggrieved by the actions of the person believed to have committed the violation (usually known as the second party).

x. **Unfavorable Information:** As described in AR 600-37, Unfavorable Information is any credible, derogatory information that may reflect on a Soldier's character, integrity, trustworthiness, or reliability. An Assistance Inquiry that results in a determination code of "Founded" does not connote Unfavorable Information in the Army IG system. Other agencies such as Criminal Investigations Divisions (CIDC) use the term "Founded" to substantiate allegations of wrongdoing.

9. Categories of IGs: This guide refers to all five categories of IG service: Inspector General, Assistant IG, Temporary assistant IG, Acting IG, and Administrative support staff members. This guide addresses these categories in the context of current IG policy, so IGs must refer to Chapter 2 of Army Regulation 20-1 for the most current policy guidance regarding these categories.

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Pagination Key: This guide uses a pagination format that identifies the part, chapter, and page in one single entry at the bottom (or footer) of each page. The format does not identify portions of the guide below the chapter level, so sub-sections are not included to avoid confusion. The following example and subsequent explanation serve as a key to the pagination format:

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The Roman numeral "II" indicates Part Two of the guide.

The number "4" indicates the chapter within Part Two.

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Note: The only variation to this format occurs with the appendices when a chapter number is replaced with the appropriate letter for the appendix (for example, II - A - 17).

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Section 1-1

The Assistance Function

1. **Purpose:** Assistance, in a broad sense, is the process of receiving, inquiring into, and responding to complaints or requests for information presented or referred to an Inspector General. The Assistance and Investigations functions both use the Inspector General Action Process (IGAP) to resolve matters brought to an IG. Therefore, depending upon the nature of the complaint, an IG will apply the IGAP to either the Assistance function or the Investigations function, as appropriate. Although the purpose of Part One of this guide is to help Inspectors General at all levels within the Army carry out the Assistance function, and since the two functions share the same process, Part One will also address various other concepts that apply equally to both.

2. **Assistance Function:** The Assistance function, which IGs use to resolve issues brought to the IG's attention, is a major portion of the Inspector General workload. It complements the Inspections and Investigations functions of the Inspector General system. For example, during an Inspection you may receive an Inspector General Action Request (IGAR) with either an issue or allegation after you have conducted interviews and / or sensing sessions. Likewise, a simple request for Assistance may require an Inspection to resolve -- especially in cases where the IG suspects a systemic problem may exist. Additionally, some issues may expand into allegations, which will in turn require an Investigation (see Part Two). Any Inspector General can perform the Assistance function.

Performing the Assistance function is another opportunity for the Inspector General to teach and train; provide information about Army systems, processes, and procedures; and assess attitudes while assisting, inspecting, and investigating. The Inspector General Teaching and Training function is an integral part of all Inspector General functions.

3. **Army Regulation 20-1:** This guide creates a tool that, when used in conjunction with Army Regulation 20-1, Inspector General Activities and Procedures, will prepare an Inspector General to provide the best support to Soldiers, Civilians, Family members, the command, and the U.S. Army.

The policy outlined in Army Regulation 20-1, Inspector General Activities and Procedures, takes precedence in the event of a conflict between the regulation and this guide.

Section 1-2

Who May Submit a Complaint to an Inspector General?

1. **Purpose:** This section explains who may submit a complaint to an Inspector General and lists and describes some of the many sources of Inspector General Action Requests (IGARs).

2. **Who May Submit a Complaint to an Inspector General?** Anyone, regardless of status, may make a complaint or request for information to any Army Inspector General concerning matters of Army interest. There are no pre-conditions for coming to the Inspector General for Assistance. However, during normal duty hours, military and Department of Defense (DoD) personnel must inform the chain of command that they are leaving their place of duty. They cannot just walk off the job and fail to inform their supervisors where they are going. After duty hours, they may go to the Inspector General without notifying their supervisors.

As a general rule, an IG will encourage the Soldier or Civilian employee to discuss the complaint or request for information first with the Commander, chain of command, or supervisor as outlined in Army Regulation 600-20. If specific redress procedures are available, the IG will Teach and Train the complainant on using the appropriate, formally established, redress process and refer him or her to that process (see Part One, Section 3-4, Issues with Other Forms of Redress).

3. **Sources of Inspector General Action Requests (IGARs):** An IGAR can originate from anyone and anywhere. An IGAR can come from a walk-in, call-in, email message, write-in, anonymously, or with Inspectors General hearing the IGAR for themselves. The following are some examples of sources of Inspector General Action Requests:

- a. Active, Army Reserve, and National Guard Soldiers (Example: Reserve Soldiers not getting the same treatment as an active counterpart when they access the Army systems).
- b. Anonymous (Example: An unidentified person complains about a lack of command opportunities in a specific unit).
- c. Family members (Example: Nonsupport issues).
- d. Retirees / Veterans (Example: Veterans Administration (VA) benefits / medical problems).
- e. Commander (Example: Discussing a policy or consulting with the Inspector General).
- f. Other services (Example: Member of the Navy comes to an Army Inspector General for Assistance).
- g. Civilian-civilians (Example: Civilians complaining about a Soldier driving too fast or drinking while driving a government vehicle).

h. Media (Example: Requesting that the Inspector General confirm or deny something).

i. Contractors (Example: Contractors not meeting requirements or the Government exceeding the requirements of a contract).

j. Third parties (Example: Parents complaining on behalf of a son or daughter).

k. Other Inspectors General (Example: Another Inspector General received your case by mistake, or a Soldier is not in his or her command).

l. Congress (Example: A Soldier went to his or her Member of Congress about a matter).

An IG's responsibility is to receive the IGAR and determine if it is appropriate for that IG to work or refer to another agency. Because an IG assists on an area basis, these IGARs can come from anyone and anywhere. As long as the matter is Army-related, the IG will provide Assistance by working the case, either via the Assistance or Investigations function, or referring the matter to the appropriate agency for action.

Section 1-3

The Purpose and Use of DA Form 1559 and Electronic Case Form

1. Purpose: This section describes the DA Form 1559, Inspector General Action Request and the IGARs generated Electronic Case Form.

2. The Purpose of DA Form 1559 and its Use: Inspectors General provide and use the DA Form 1559, Inspector General Action Request, as the primary intake document to record complaints and requests for information. This form explains the Privacy Act and the consent elections that pertain to the release of personal information and supporting documents outside of IG channels (but within DoD channels). Complainants should submit their IGAR using the DA Form 1559 in order to capture pertinent contact information, the specific action requested, key information pertaining to the request, and the complainant's consent elections. The IG facilitates the completion of the DA Form 1559 as part of the intake process and utilizes it to explain the Privacy Act and consent elections. While the DA Form 1559 serves to inform, document, and facilitate receiving the IGAR, neither the complainant nor the IG are required to complete the DA Form 1559 in order for the IG to resolve the complaint or request for information. However, when a DA Form 1559 is completed or submitted to the IG, it becomes an IG record. The IG must mark the completed DA Form 1559 properly in accordance with Army Regulation 20-1, Chapter 3, and upload it as a supporting case document into IGARS. The complainant may retain a copy of his or her DA Form 1559 provided that the copy has not been stamped or marked with the IG standard classification.

2. The Purpose of Electronic Case Form and its Use: The Electronic Case Form is automatically generated when the IG initiates a case and enters data into the IGARS database. The Electronic Case Form in IGARS serves as the base-control document that contains all information related to the complaint or request for assistance. The Electronic Case Form is not releasable to the complainant or outside IG channels in any format because it contains IG-specific information.

Section 1-3-1

DA Form 1559

1. **Purpose:** This section discusses the use of the DA Form 1559, Inspector General Action Request.
2. **DA Form 1559:** Complete the DA Form 1559 in as much detail as possible when receiving a complaint or a request for information. Keep in mind that the purpose of the form is to capture pertinent contact information, the specific action requested, key information pertaining to the request, and the complainant's consent elections.

For walk-in cases, the IG should assist the complainant in completing a DA Form 1559. If the IG receives the complaint via telephone, the IG can use DA Form 1559 to explain the Privacy Act and consent elections to the complainant and then write the word telephonic in the IG / Intake Remarks section (Block 16). If the complaint arrives via e-mail, fax, or letter, the IG can attach as a cover sheet a DA Form 1559 to the source document and write in the "specific action requested" block the following phrase: See attached document. The IG will also write in the IG / Intake Remarks section the receipt method of the IGAR. If the complaint is anonymous, the IG will write the word anonymous in the IG / Intake Remarks section. This entry will help remind the IG not to attempt to identify the complainant.

If a previously obsolete edition of the DA Form 1559 is completed and presented to an IG, the IG may request that the complainant complete the most updated edition of the form. If an obsolete edition of the DA Form 1559 is submitted and / or the complainant does not submit a DA Form 1559, an IG must still take action on the complaint. An IG cannot require a DA Form 1559 in order to take action on a complaint. If the IG is the one who completes the DA Form 1559, the IG will annotate this fact in Block 16 and leave the signature block blank. IG offices may use Block 16 to annotate the receipt method of an IGAR, such as email, fax, telephonic (completed by IG), mailed, in-person, etc. IG offices may also use Block 16 to annotate intake remarks that specify how the form was completed and presented to the IG office, such as the name of the intake IG, anonymous, completed by third party on behalf of the complainant, translated copy, files attached, etc.

During the initial complainant interview, the IG will obtain a good phone number to contact the complainant and ask the complainant exactly what it is that he or she wants the IG to do for him or her. The IG will advise the complainant of the Privacy Act Statement of 1974 on the DA Form 1559. The purpose of discussing the Privacy Act is to explain that the Inspector General has the authority to request personal information and that the release of that information, such as a home address and home telephone number, is voluntary. The complainant will check consent or non-consent to the release of personal information outside of IG channels in the appropriate block at the bottom of the DA Form 1559. The complainant will also check the consent or non-consent blocks regarding the release of documents he or she provided to the IG for release outside of IG channels; these blocks appear at the bottom of the DA Form 1559. The IG will also annotate these consent and non-consent elections in the IGARS database and case notes. The complainant's consent elections will dictate what personal information and supporting documentation, if any, is later provided to the local chain of command or

other officials or agencies within DoD once the IG determines that the issue(s) or allegation(s) should be referred for resolution.

The IG will also review with the complainant the statement concerning presenting false information or allegations to an Inspector General at the bottom of the DA Form 1559. The complainant will then sign the form. If the IG fills out the DA Form 1559, the signature block will remain blank, and the IG will annotate "Completed by IG" (IG name is optional) in the IG / Intake Remarks section. Keep in mind that the completed DA Form 1559 becomes an IG record, so the IG must mark it properly in accordance with current DAIG guidance for marking controlled unclassified information (CUI). A completed DA Form 1559 will include the CUI classification marking at the top and bottom. However, the five-line CUI designator box is not required for the DA Form 1559. The IG may provide the complainant with a copy of the completed DA Form 1559, since the complainant was the one who provided the information. The IG will not include CUI markings on the copy of the completed DA Form 1559 provided to the complainant.

The DA Form 1559 allows for the attachment of files directly to the form. The complainant or the IG may utilize this feature. The attached files are limited to intake and supporting documentation provided by the complainant. IGs should annotate any attached files in the Information section (Block 11) or in the IG / Intake Remarks Section (Block 16) to ensure awareness that files are attached. If additional spaced is needed, the DA Form 1559 allows for up to 10 continuation pages. The continuation pages are pre-numbered in the bottom left corner and pre-formatted to replicate data inputted in Blocks 1 through 4. The complainant should initial each continuation page.

The IG will upload the DA Form 1559 in the IGARS database as the first document unless the DA Form 1559 includes an allegation against a senior official. The IG must be attentive during the acceptance of a DA Form 1559 to recognize any potential mention of senior-official allegations. The IG will not complete or upload any submitted DA Form 1559 or any documentation regarding a senior official into IGARS. At the direction of the DAIG's Investigations Division (SAIG-IN), the IG will only open an Information IGAR. SAIG-IN will provide all guidance on how the IG will submit the Information IGAR and the use of any documentation for issues or allegations related to the original complaint (see Army Regulation 20-1, paragraph 7-1I, and Part One, Section 3-6, and Part Two, Section 2-4, of this guide).

This DA Form 1559 is available through the Army Publishing Directorate's website (<https://armypubs.army.mil/>).

A Blank DA Form 1559

CUI

INSPECTOR GENERAL ACTION REQUEST			
For use of this form, see AR 20-1; the proponent agency is the Office of The Inspector General.			
DATA REQUIRED BY THE PRIVACY ACT OF 1974			
AUTHORITY:		10 U.S.C. 7013, Secretary of the Army; 10 U.S.C. 7020, Inspector General; Inspector General Act of 1978, Public Law 95-452, 92 Stat. 1101 (1978), as amended; DoDD 1030.1, Victim and Witness Assistance; AR 20-1, Inspector General Activities and Procedures.	
PRINCIPAL PURPOSE:		To secure information sufficient to inquire into the matters presented, to take action to correct deficiencies, and to respond to requesters.	
ROUTINE USES:		Information is used for official purposes within the Department of Defense; to answer complaints or respond to requests for assistance, advice, or information; by Members of Congress and other Government agencies when determined by the Inspector General to be in the best interest of the Army; and, in certain cases, in trials by court-martial and other military matters as authorized by the Uniform Code of Military Justice.	
DISCLOSURE:		Voluntary. However, failure to provide complete information may hinder proper identification of the requester, accomplishment of the requested action(s), and response to the requester.	
SORN:		A0020-1 SAIG, Inspector General Records (January 11, 2002, 67 FR 1447)	
1. LAST, FIRST, MIDDLE INITIAL	2. GRADE / RANK	3. DOD ID	4. COMPONENT / DUTY STATUS
5. PREFERRED CONTACT TELEPHONE (Duty, home, and / or cell)		6. E-MAIL ADDRESS(ES)	
7. UNIT AND COMPLETE MILITARY ADDRESS (Point of Contact/Telephone if applicable)		8. PREFERRED MAILING ADDRESS (if different from military address, including ZIP Code)	
9. SPECIFIC ACTION REQUESTED (What do you want the IG to do for you?)			
10. HAVE YOU CONTACTED YOUR CHAIN OF COMMAND OR ANY AGENCY CONCERNING THIS REQUEST? (Explain for both yes and no responses)			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
11. INFORMATION PERTAINING TO THIS REQUEST (Be specific and detailed. List any supporting documentation or enclosures if applicable.)			
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>			
12. I do <input type="checkbox"/> I do not <input type="checkbox"/> consent to release my personal information outside of IG channels to the chain of command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not consent to the release of my personal information, my request for assistance may go unresolved.			
13. I do <input type="checkbox"/> I do not <input type="checkbox"/> consent to release the supporting documents I provided to the IG (to exclude this DA Form) outside of IG channels to the chain of command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not consent to the release of my documents, my request for assistance may go unresolved.			
This information is submitted for the basic purpose of requesting assistance, correcting injustices affecting the individual, or eliminating conditions considered detrimental to the efficiency or reputation of the Army. Those who knowingly and intentionally provide false statements on this form are subject to potential punitive and administrative action (UCMJ Art 107, 18 U.S.C 1001).			
14. SIGNATURE	15. DATE (YYYYMMDD)	16. IG / INTAKE REMARKS	

Attach files to form

What do you want the IG to do for you?

Consent blocks

IG (office) use only

Up to 10 continuation pages

Section 1-3-2

Electronic Case Form

1. **Purpose:** This section discusses the Electronic Case Form.
2. **Electronic Case Form:** The Electronic Case Form exists only within the IGARS database and is for Inspector General use only. This form is simply a graphic, hard-copy representation of the data that an IG will enter into the IGARS database when opening and editing a case. IGs can keep copies of this blank form on hand in the event the IG has no computer, the computer fails, or access to the IGARS database is spotty. The IG may then capture the same information on the blank database form and then input that data later when the computer resumes operation or a computer becomes available. The IG must complete each field marked with an asterisk prior to closing the case. Unlike the DA Form 1559, the IG may not release a completed copy of this Electronic Case Form to the complainant as the form contains sensitive and confidential information.

Since the IGARS database is under continuous refinement, DAIG's Assistance Division will routinely update the database to include new fields for required information. Inspectors General should keep abreast of these changes by checking the current form available on the IGARS database at least monthly. A feature within the IGARS database in the Reports Menu allows IGs to click on a button, open a copy of the blank form in IGARS, and print it for hard-copy reproduction and use as necessary.

Acting IGs do not have access to the IGARS database to enter and track cases. This responsibility falls to the supervising IG's office. The acting IG can fill out this form to capture pertinent case data and then send it to the IG's office for entry into IGARS to complete the case record.

A Blank Electronic Case Form

**Department of the Army
Inspector General Action Request System**

11-29-2011

Electronic Case Form

Case Number:	<input type="text"/>	Close Date:	<input type="text"/>	Open Date:	<input type="text"/>
Suspense Date:	<input type="text"/>			External Suspense Date:	<input type="text"/>
Complaint Made To:	<input type="text"/>			Receipt Mode:	<input type="text"/>
Case Status:	<input type="text"/>			Non-IG Referral:	<input type="text"/>
Priority Flag:	<input type="text"/>				

Initiator(s) Information

Name	Component	Gender	Grade	Race
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Complainant(s) Information

Name	Component	Gender	Grade	Race
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Case Label:	<input type="text"/>				
Notification Date:	<input type="text"/>	Home IG:	<input type="text"/>	IG:	<input type="text"/>
Location:	<input type="text"/>				
Problem Area:	<input type="text"/>				

Subject Information

Name:	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Component:	<input type="text"/>			SSN:	<input type="text"/>
Race:	<input type="text"/>			Grade:	<input type="text"/>
Organization:	<input type="text"/>			Gender:	<input type="text"/>
Mobilization:	<input type="text"/>	Email:	<input type="text"/>	Consent:	<input type="text"/>

Function Information

Function:	<input type="text"/>				
Stated Allegation:	<input type="text"/>				
Discussion:	<input type="text"/>				
Conclusion:	<input type="text"/>				
Determination:	<input type="text"/>	User Data:	<input type="text"/>	TIM Category:	<input type="text"/>
Characterization:	<input type="text"/>				

Other Issues or Allegations:

Function:	<input type="text"/>
Stated Allegation:	<input type="text"/>

Chapter 2

Seven-Step Inspector General Action Process (IGAP)

Section 2-1 - The IGAP Chart

Section 2-2 - Step 1, Receive the IGAR

Section 2-2-1 - Walk-in IGAR

Section 2-2-2 - Call-in IGAR

Section 2-2-3 - Write-in IGAR

Section 2-2-4 - Email IGAR

Section 2-2-5 - Anonymous IGAR

Section 2-2-6 - IGAR and DA Form 1559 Consent Procedures

Section 2-3 - Step 2, Conduct Inspector General Preliminary Analysis (IGPA)

Section 2-3-1 - Analyze for Issue(s) and Allegation(s)

Section 2-3-1-1 - What is an Issue and an Allegation?

Section 2-3-1-2 - What is an Allegation

Section 2-3-1-3 - What is a Request for Information?

Section 2-3-1-4 - What is a Request for Assistance?

Section 2-3-1-5 - What is a Complaint?

Section 2-3-2 - Determine IG Appropriateness

Section 2-3-3 - Open a Case in IGARS

Section 2-3-4 - Acknowledge Receipt

Section 2-3-4-1- Acknowledge Receipt to a Complainant

Section 2-3-4-2 - Acknowledge Receipt to a Third Party

Section 2-3-5 - Select a Course of Action

Section 2-4 - Step 3, Initiate Referrals and Make Initial Notifications

Section 2-4-1 - Referring Issues

Section 2-4-2 - Make Initial Notifications

Section 2-5 - Step 4, Conduct Inspector General Fact-Finding

Section 2-6 - Step 5, Make Notification of Results

Section 2-7 - Step 6, Conduct Follow-up

Section 2-8 - Step 7, Close the IGAR

Section 2-8-1 - Send a Final Reply

Section 2-8-2 - Close the IGAR in the Database

Section 2-8-3 - Make Appropriate Reports

Section 2-8-4 - Analyze for Developing Trends

Section 2-8-5 – Case Note Evaluation Form

Section 2-1

The Inspector General Action Process (IGAP) Chart

1. **Purpose:** This section explains the Inspector General Action Process (IGAP) Chart.

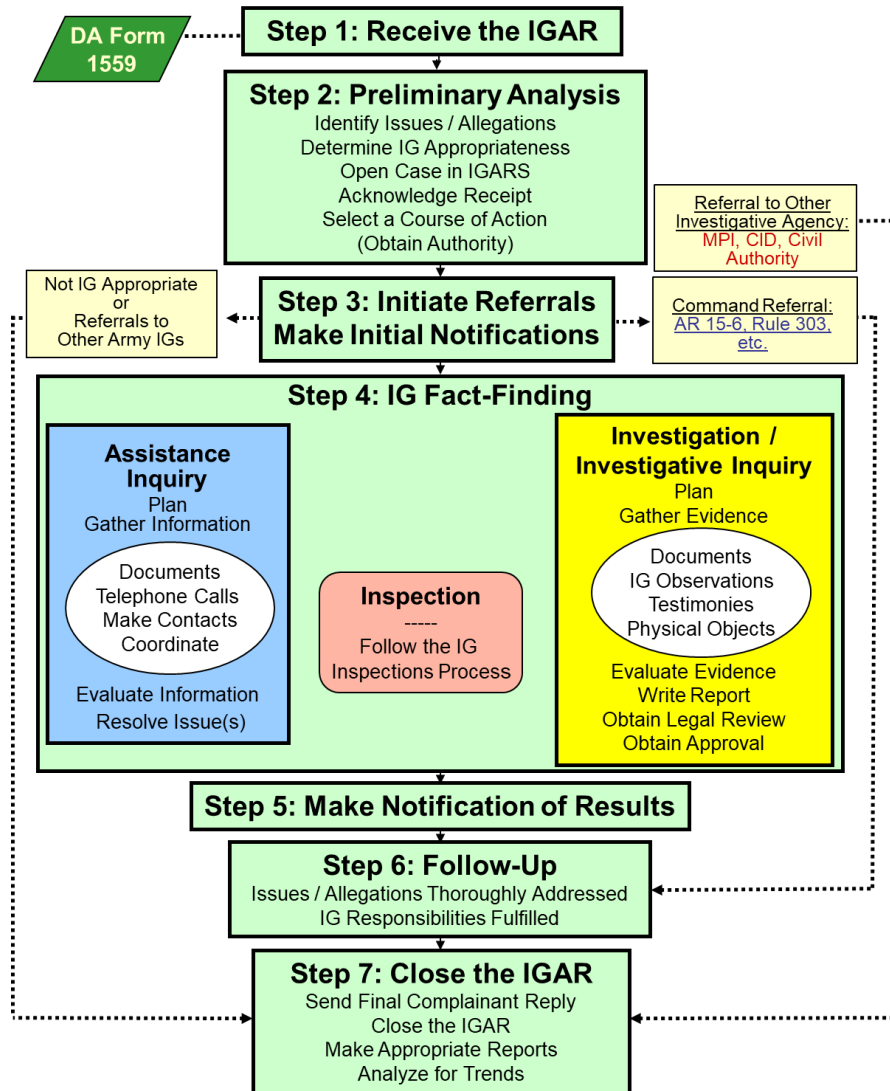


Figure I-2-1

2. **The Inspector General Action Process Chart:** This chart covers seven steps beginning with receiving the IGAR in Step One to closing the IGAR in Step Seven. The IGAP chart will assist IGs in following a logical sequence in which to process an IGAR from beginning to end. The process does not require a dogmatic, sequential application of each step for every case. Instead, this process allows the Inspector General to accomplish all critical tasks required to resolve complaints. Subsequent pages will explain each of the seven steps.

Section 2-2

Step One, Receive the IGAR

Section 2-2-1 - Walk-in IGAR

Section 2-2-2 - Call-in IGAR

Section 2-2-3 - Write-in IGAR

Section 2-2-4 - Email IGAR

Section 2-2-5 - Anonymous IGAR

Section 2-2-6 - IGAR Consent Elections and Procedures

Section 2-2

Step One, Receive the IGAR

1. **Purpose:** This section explains step one in the seven-step Inspector General Action Process.
2. **Step One, Receive the IGAR:** Step one of the seven-step Inspector General Action Process starts when an IG receives a complaint (issue or allegation) or request for information. The receiving IG will record all information received from the complainant (annotated on the DA Form 1559) into the IGARS database.

The IG will encourage the Soldier or Civilian employee first to discuss complaints with the Commander, chain of command, or supervisor as explained in Army Regulation 600-20, Army Command Policy. If the complainant has not already contacted or allowed the chain of command to resolve the issue, but at this time agrees to try this avenue, the IG will document this course of action and follow up with the complainant later to ensure that the issue has been resolved. If a complainant does not wish to use the chain of command at this time, the IG still accepts the IGAR. If the complainant is concerned about reprisal or does not trust the current chain of command to address the issue(s) properly, then the IG needs to proceed with caution in order to protect the individual. If specific redress procedures are available, the IG will Teach and Train the complainant on using the appropriate, formally established redress process and refer him or her to that process (see Part One, Chapter 3, Issues with Other Forms of Redress).

Even if the case is not appropriate for Inspector General action, the IG receiving the IGAR will always open a case in the IGARS database -- unless the complaint contains classified information. For complaints involving a senior official (SO), follow Part One, Section 3-6, of this guide; for members of special-access programs (SAPs) or sensitive activities (SAs), see Part One, Section 3-7, of this guide. If the IG refers the matter to an agency outside the chain of command, the IG will close the case once the other IG office or agency has accepted the referral. When referring to the local chain of command, the IG will keep the case open to monitor the chain of command's actions and to document those actions in IGARS as Assistance before closing the case (see Part Two, Chapter 3, of this guide).

Anyone can submit a complaint or request for information to any Army IG concerning a matter of Army interest. Inspector General Action Requests can come from multiple sources: walk-ins, call-ins, write-ins, emails, and indirectly. An example of an indirect IGAR is an IG shopping in the Post Exchange (PX) who overhears two individuals discussing double standards in the awards program in their unit. The IG just received an IGAR, even if the two individuals, when queried, decline to submit a formal IGAR.

Section 2-2-1

Walk-in IGAR

1. **Purpose:** This section explains the process of receiving a walk-in IGAR.
2. **Walk-in IGARs:** Walk-in is one of many options available to a complainant for submitting a complaint or request for information to the IG. The IG will conduct a complainant intake interview to capture the essence of that person's complaint. As part of this process, the IG should have the complainant complete, or will assist the complainant in completing, DA Form 1559. The IG will follow the procedures listed below when interviewing a complainant (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (1) (a)**).
 - a. **Interview:** The IG will interview the complainant during a walk-in complaint. The key to a successful interview is to establish rapport and to listen actively.
 - b. **Private Area:** The IG will interview the complainant in a private or semi-private area that affords confidentiality between the IG and the complainant. If there are two or more complainants, the IG will attempt to conduct separate interviews.
 - c. **Action Desired:** The IG will ask the complainant at a minimum these five basic questions:
 - (1) What do you want the Inspector General to do for you?
 - (2) Do you have any supporting documentation?
 - (3) Have you asked any other agency to assist you?
 - (4) Is your chain of command aware of your problem?
 - (5) What is your status?
 - d. **DA Form 1559:** A complainant may submit an IGAR in any form, such as by telephone, in person, or by letter. The preferred method is for the complainant to submit a completed DA Form 1559 because the form provides fields that, when completed, will provide the IG with all or most of the information required to resolve the matter. The IG must also ensure that the complainant completes DA Form 1559 with as much detail as possible and confirms consent or non-consent to the release of the complainant's personal information and supporting documents to other officials within DoD as necessary to resolve the matter. The DA Form 1559 also provides the complainant with Privacy Act information. The IG will explain and ensure that the complainant reads and understands the Privacy Act statement. See the example of the Privacy Act statement on the following page. The IG must give the complainant an opportunity to review the form before signing and departing the Inspector General office. The IG may provide a copy of the completed DA Form 1559 to the complainant before it is stamped or marked with the IG classification.

Privacy Act of 1974**DATA REQUIRED BY THE PRIVACY ACT OF 1974**

AUTHORITY: 10 U.S.C 3013, Secretary of the Army; 10 U.S.C 3020, Inspector General Act of 1978 (Public Law, 95-452), as amended; DoDD 1030.1, Victim and Witness Assistance; Army Regulation 20-1, Inspector General Activities and Procedures.

PRINCIPAL PURPOSE: To secure sufficient information to inquire into the matters presented and to provide a response to the requestor(s) and / or take action to correct deficiencies.

ROUTINE USES: Information is used for official purposes within the Department of Defense; to answer complaints or respond to requests for assistance, advice, or information; by Members of Congress and other Government agencies when determined by The Inspector General to be in the best interest of the Army; and, in certain cases, in trial by courts-martial and other military matters as authorized by the Uniform Code of Military Justice. Department of Defense Blanket Routine Uses also apply.

DISCLOSURE: Voluntary, however, failure to provide complete information may hinder proper identification of the requester, accomplishment of the requested action(s), and response to the requester.

e. **Confidentiality:** IGs will ensure complainant confidentiality to the maximum extent possible. The complainant does not necessarily need to request confidentiality; the IG will automatically maintain confidentiality. **However, IGs never guarantee confidentiality because a legal proceeding or other unforeseen event may require the release of the person's information by law, or TIG or another appropriate authority may direct the release for other reasons. Additionally, the IG must inform the complainant that confidentiality may be limited upon referral to the command or other official.**

f. **Commitments:** The IG will avoid making any promises or commitments. Instead, the IG will inform the complainant that he or she will look into the matter and, when appropriate, respond to the complainant (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (2) (g)**).

g. **Case File:** All information gathered during an interview in Step One, Receive the IGAR, will be included in the IG case file and uploaded into IGARS. This information includes the IG's notes, the DA Form 1559, and any documents received from the complainant's initial intake interview. The IG will make copies of all documents received from the complainant but will not take original documents from the complainant. See Part Three of this guide for additional guidance on IG records and file management.

A Sample DA Form 1559 for a Walk-in IGAR

INSPECTOR GENERAL ACTION REQUEST			
For use of this form, see AR 20-1; the proponent agency is the Office of The Inspector General.			
DATA REQUIRED BY THE PRIVACY ACT OF 1974			
AUTHORITY:	10 U.S.C 3013, Secretary of the Army; 10 U.S.C 3020, Inspector General Act of 1978 (Public Law, 95-452), as amended; DoDD 1030.1, Victim and Witness Assistance; AR 20-1, Inspector General Activities and Procedures.		
PRINCIPAL PURPOSE:	To secure sufficient information to inquire into the matters presented and to provide a response to the requester(s) and/or take action to correct deficiencies.		
ROUTINE USES:	Information is used for official purposes within the Department of Defense; to answer complaints or respond to requests for assistance, advice, or information; by Members of Congress and other Government agencies when determined by The Inspector General to be in the best interest of the Army; and, in certain cases, in trial by courts-martial and other Military matters as authorized by the Uniform Code of Military Justice.		
DISCLOSURE:	Voluntary, however, failure to provide complete information may hinder proper identification of the requester, accomplishment of the requested action(s), and response to the requester.		
SORN:	A0020-1 SAIG, Inspector General Records (January 11, 2002, 67 FR 1447)		
LAST, FIRST, MIDDLE INITIAL	GRADE / RANK	DOD ID	COMPONENT / STATUS
Moopling, Tye M.	E4	135 2287210	AC
UNIT AND COMPLETE MILITARY ADDRESS (Point of Contact/Telephone if applicable)		PREFERRED CONTACT TELEPHONE (Duty, home, and / or cell)	
HHC, 66 th Sustainment Bde Fort Von Steuben, VA 22605		Duty : DSN 555-3449 Cell : 540-208-4321	
PREFERRED MAILING ADDRESS (If different from military address, including ZIP Code)		E-MAIL ADDRESS (Optional)	
2 Some Place City, VA 22601		tmm@email.com	
SPECIFIC ACTION REQUESTED (What do you want the IG to do for you?)			
I want PCS orders			
INFORMATION PERTAINING TO THIS REQUEST (Background. Use additional sheets if necessary, list enclosures if applicable.)			
<p>I'm an AC Soldier and have been assigned here over 3 years.</p> <p>It's time to move - PCS - to another place.</p> <p>I've asked my Company Commander, but he did not know how I can get orders.</p>			
I do <input checked="" type="checkbox"/> I do not <input type="checkbox"/> consent to release my personal information outside of IG channels to the chain of command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not release my personal information, my request for assistance may go unresolved.			
I do <input checked="" type="checkbox"/> I do not <input type="checkbox"/> consent to release the supporting documents I provided to the IG (to exclude this DA Form) outside of IG channels to the chain command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not release my documents, my request for assistance may go unresolved.			
This information is submitted for the basic purpose of requesting assistance, correcting injustices affecting the individual, or eliminating conditions considered detrimental to the efficiency or reputation of the Army. Those who knowingly and intentionally provide false statements on this form are subject to potential punitive and administrative action (UCMJ Art 107, 18 U.S.C 1001).			
SIGNATURE		DATE (YYYYMMDD)	
Tye M. Moopling		20180608	

Section 2-2-2

Call-in IGAR

1. **Purpose:** This section explains the process of receiving a call-in IGAR.
2. **Call-in IGARs:** Call-in is one of the options to a complainant for submitting a complaint or request for information to the Inspector General. The IG will conduct an initial intake interview with the complainant over the telephone to capture the essence of that person's complaint. The IG will utilize the DA Form 1559 to explain the Privacy Act and consent elections and to record information from the complainant. The IG will conduct the telephonic interview in the same manner as a walk-in IGAR. In addition to the interview, the IG will follow the four steps listed below during a telephonic interview:
 - a. **Privacy Act:** The IG will read the Privacy Act Statement of 1974 to the complainant located on the top of the DA Form 1559. The IG must ensure that the complainant understands the Privacy Act statement before the IG begins working the complainant's case (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (1) (b)**).
 - b. **Consent:** The IG will read the consent options to the complainant located at the bottom of the DA Form 1559. The IG must ensure that the complainant understands the consent options. The IG will then annotate whether or not the complainant consents to the release of his or her personal information and / or documents provided to the IG before the IG begins working the complainant's case (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (1) (b)**).
 - c. **Read Back the DA Form 1559:** The IG will read back to the complainant the information taken during the telephonic interview for clarity and accuracy.
 - d. **Telephonic:** When taking complaints via the telephone, the IG will annotate in the signature block the word "Telephonic" on the DA Form 1559. The Inspector General may forward to the complainant a copy of the DA Form 1559 for that person's records.
 - a. **Written Follow-up Documentation:** The IG will ask the complainant to forward any supporting documentation to the Inspector General office.

A Sample DA Form 1559 for a Call-in IGAR

INSPECTOR GENERAL ACTION REQUEST			
For use of this form, see AR 20-1; the proponent agency is the Office of The Inspector General.			
DATA REQUIRED BY THE PRIVACY ACT OF 1974			
AUTHORITY:	10 U.S.C 3013, Secretary of the Army; 10 U.S.C 3020, Inspector General Act of 1978 (Public Law, 95-452), as amended; DoDD 1030.1, Victim and Witness Assistance; AR 20-1, Inspector General Activities and Procedures.		
PRINCIPAL PURPOSE:	To secure sufficient information to inquire into the matters presented and to provide a response to the requester(s) and/or take action to correct deficiencies.		
ROUTINE USES:	Information is used for official purposes within the Department of Defense; to answer complaints or respond to requests for assistance, advice, or information; by Members of Congress and other Government agencies when determined by The Inspector General to be in the best interest of the Army; and, in certain cases, in trial by courts-martial and other Military matters as authorized by the Uniform Code of Military Justice.		
DISCLOSURE:	Voluntary, however, failure to provide complete information may hinder proper identification of the requester, accomplishment of the requested action(s), and response to the requester.		
SORN:	A0020-1 SAIG, Inspector General Records (January 11, 2002, 67 FR 1447)		
LAST, FIRST, MIDDLE INITIAL	GRADE / RANK	DOD ID	COMPONENT / STATUS
Moophing, Tye W.	E4	1352287210	AC
UNIT AND COMPLETE MILITARY ADDRESS (Point of Contact/Telephone if applicable)		PREFERRED CONTACT TELEPHONE (Duty, home, and / or cell)	
66th Sustainment BDE Fort Von Steuben, VA 22605		Duty: DSN 555-3449 Cell: 540-208-4321	
PREFERRED MAILING ADDRESS (If different from military address, including ZIP Code)		E-MAIL ADDRESS (Optional)	
2 Some Place City, VA 22601		tmm@email.com	
SPECIFIC ACTION REQUESTED (What do you want the IG to do for you?)			
Wants his PCS orders			
INFORMATION PERTAINING TO THIS REQUEST (Background. Use additional sheets if necessary; list enclosures if applicable.)			
Contacted his chain of command: Commander was unable to get his orders.			
Other agencies contacted: None			
Supporting Documentation None			
Soldier consented to release of his personal information and stated that he understood the Privacy Act.			
I do <input checked="" type="checkbox"/> I do not <input type="checkbox"/> consent to release my personal information outside of IG channels to the chain of command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not release my personal information, my request for assistance may go unresolved.			
I do <input checked="" type="checkbox"/> I do not <input type="checkbox"/> consent to release the supporting documents I provided to the IG (to exclude this DA Form) outside of IG channels to the chain command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not release my documents, my request for assistance may go unresolved.			
This information is submitted for the basic purpose of requesting assistance, correcting injustices affecting the individual, or eliminating conditions considered detrimental to the efficiency or reputation of the Army. Those who knowingly and intentionally provide false statements on this form are subject to potential punitive and administrative action (UCMJ Art 107, 18 U.S.C 1001).			
SIGNATURE	Telephonic		DATE (YYYYMMDD) 20180608

Section 2-2-3

Write-in IGAR

1. **Purpose:** The purpose of this section is to explain the process of receiving a write-in IGAR.

2. **Write-in IGARs:** Inspectors General may receive written complaints or requests for information in a variety of formats. Upon receipt of a written complaint or request for information, the IG should attach the document to a DA Form 1559 and write in the “specific action requested” block the phrase “see attached document.” The following are some types of write-in IGARs.

a. **Normal Correspondence:** These are letters written by the complainant and addressed to the IG presenting a complaint or request for information.

b. **Congressional Correspondence:** These referrals from Members of Congress include requests from constituents who may be Soldiers, Family members, or private citizens. The Office of the Chief of Legislative Liaison (OCLL) receives cases from Members of Congress (MC) and refers them to the Army Staff, the chain of command, Adjutant General (AG) congressional channels, or DAIG's Assistance Division. The Assistance Division normally refers the correspondence through the ACOM, ASCC, or DRU IG to the field IG for action. If an IG receives congressional correspondence directly from a MC, the IG must contact Assistance Division immediately and then forward the correspondence to that office -- even though the IG who received the correspondence may later handle the issue on behalf of Assistance Division. See Part One, Section 7-1, of this guide for more information.

b. **White House Correspondence:** The Army White House Liaison Office refers selected requests from the President, Vice President, or their spouses to DAIG's Assistance Division (SAIG-AC). The Assistance Division normally refers the correspondence through the ACOM, ASCC, or DRU IG to the field IG for action. The field IG will work the case as the Office of Inquiry and forward all findings to Assistance Division. Assistance Division will respond to The Office of the White House. If the command or activity's congressional liaison office receives a case that the IG is currently working or has already completed, the local IG must inform the tasking official that the response will be forwarded through Inspector General channels to DAIG's Assistance Division. See Part One, Chapter 8, of this guide for more information.

c. **Secretary of Defense, Secretary of the Army, and Army Chief of Staff Correspondence:** The Army Administrative Assistant and the Office of Executive Communications and Control (ECC) receive referrals from the Secretary of Defense, Secretary of the Army, Army Chief of Staff, and other senior leaders. The ECC reviews the information provided and refers the case to the Army agency or headquarters best able to gather the facts and respond. The field IG may receive this type of referral from the chain of command. These referrals normally include instructions as to the type of action requested and the desired form of reply. The IG should contact Assistance Division regarding the ECC referral and advise the command that DAIG's Assistance Division answers all investigative work completed by an IG pertaining to these referrals.

d. **Department of Defense (DoD) Hotline Correspondence:** DoD Hotline cases come through DAIG's Assistance Division. The coordinator at Assistance Division refers all DoD Hotline cases to the field IG offices for appropriate action and reply in a specific format. The format for this report is in Department of Defense Instruction (DoDI) 7050.01, Defense Hotline Program. The IG must meet the suspense established for DoD Hotline cases or request an extension in writing. See Part Two, Chapter 10, of this guide for more information.

A Sample DA Form 1559 for a Write-in IGAR

INSPECTOR GENERAL ACTION REQUEST			
For use of this form, see AR 20-1; the proponent agency is the Office of The Inspector General.			
DATA REQUIRED BY THE PRIVACY ACT OF 1974			
AUTHORITY:	10 U.S.C 3013, Secretary of the Army; 10 U.S.C 3020, Inspector General Act of 1978 (Public Law, 95-452), as amended; DoDD 1030.1, Victim and Witness Assistance; AR 20-1, Inspector General Activities and Procedures.		
PRINCIPAL PURPOSE:	To secure sufficient information to inquire into the matters presented and to provide a response to the requester(s) and/or take action to correct deficiencies.		
ROUTINE USES:	Information is used for official purposes within the Department of Defense; to answer complaints or respond to requests for assistance, advice, or information; by Members of Congress and other Government agencies when determined by The Inspector General to be in the best interest of the Army; and, in certain cases, in trial by courts-martial and other Military matters as authorized by the Uniform Code of Military Justice.		
DISCLOSURE:	Voluntary, however, failure to provide complete information may hinder proper identification of the requester, accomplishment of the requested action(s), and response to the requester.		
SORN:	A0020-1 SAIG, Inspector General Records (January 11, 2002, 67 FR 1447)		
LAST, FIRST, MIDDLE INITIAL Moophing, Tye W.	GRADE / RANK E4	DOD ID 1352287210	COMPONENT / STATUS AC
UNIT AND COMPLETE MILITARY ADDRESS (Point of Contact/Telephone if applicable) 66th Sustainment BDE Fort Von Steuben, VA 22605		PREFERRED CONTACT TELEPHONE (Duty, home, and / or cell) Duty: DSN 555-3449 Cell: 540-208-4321	
PREFERRED MAILING ADDRESS (If different from military address, including ZIP Code) 2 Some Place City, VA 22601		E-MAIL ADDRESS (Optional) tmm@email.com	
SPECIFIC ACTION REQUESTED (What do you want the IG to do for you?) See attached letter			
INFORMATION PERTAINING TO THIS REQUEST (Background. Use additional sheets if necessary; list enclosures if applicable.)			
I do <input type="checkbox"/> I do not <input type="checkbox"/> consent to release my personal information outside of IG channels to the chain of command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not release my personal information, my request for assistance may go unresolved.			
I do <input type="checkbox"/> I do not <input type="checkbox"/> consent to release the supporting documents I provided to the IG (to exclude this DA Form) outside of IG channels to the chain command or other officials (but within DoD channels) in order to resolve the matters listed above. I understand that if I do not release my documents, my request for assistance may go unresolved.			
This information is submitted for the basic purpose of requesting assistance, correcting injustices affecting the individual, or eliminating conditions considered detrimental to the efficiency or reputation of the Army. Those who knowingly and intentionally provide false statements on this form are subject to potential punitive and administrative action (UCMJ Art 107, 18 U.S.C 1001).			
SIGNATURE			DATE (YYYYMMDD)

Section 2-2-4

Email IGAR

1. **Purpose:** This section explains the process of receiving an email IGAR.
2. **Email IGARs:** Inspectors General may receive complaints or requests for information via electronic mail (email). Upon receipt of an email request for assistance, the IG will acknowledge receipt by sending a generic email if the complainant did not provide a mailing address or phone number. When using email to acknowledge receipt, the IG must use a generic subject line to ensure confidentiality of the complainant. Never respond to the actual message; develop and send a new message so that you do not inadvertently send any confidential information through an open email server. In addition, there is no way for the IG to know if the person making the complaint is actually the same person on the email address line. The IG must confirm the name of the complainant and should make every attempt to speak with the complainant by telephone. The bottom line is that the IG receiving the complaint or request for information should treat email IGARs just like a call-in IGAR. If the complainant refuses to provide further information requested by the IG or to call the IG to verify the email sender's identity, then treat the case just like an anonymous complaint. The following is an example of an email IGAR sent to the IG for action from a complainant.

Sample Email IGAR to the IG

From: Doe, SGT Jane
Sent: Monday, June 20, 2017 3:19 PM
To: Britton, MAJ Richard (IG)
Subject: My IG Complaint

Dear IG

I am making this complaint because I cannot live with my conscience anymore.
I just returned from having sex with my 1SG in his quarters.

What can you do about this?

Jane

Sample IG Response to an Email IGAR

Subject: Your Email

We are in receipt of your email dated June 20, 2017. Please give us a call at (540) 802-0001 or email us back with your mailing address or phone number so that we can discuss this matter with you.

You may fax or mail this request to our office. Our fax number is (540) 802-0003, and our mailing address is Iron Mountain Road, Suite 2222, Fort Von Steuben, VA, 22605.

Sincerely,

MAJ Richard Britton
Deputy Inspector General
(540) 802-0002
DSN 555-0002

Section 2-2-5

Anonymous IGAR

1. **Purpose:** This section explains the process of receiving an anonymous IGAR.
2. **Anonymous IGAR:** The IG will always look into anonymous IGARs. Historically, the substantiation rate for anonymous allegations has been slightly higher than signed IGARs. Inspectors General will take action to resolve anonymous IGARs and protect the interests of the government. When processing anonymous complaints, IGs should not create the appearance of unduly trying to identify a complainant. IGs will not attempt to identify the complainant or create the appearance of doing so. The determination of the facts and circumstances related to the IGAR is the IG's primary concern (**prescriptive provision in Army Regulation 20-1, paragraph 6-2a**).

If the IG does not have enough information to work the case, the IG should annotate that fact in the case notes and synopsis and close the case. The IG must not confuse determining a lack of information with evaluating the credibility of the information received. If the IG can establish what the issue or allegation is, then generally there is enough information to work the case. However, since the complaint is anonymous, there is no need for the IG to reply to the complainant even if the IG later discovers the identity of the complainant. If the IG does learn of the complainant's identity at some point, the IG will simply document the name in the case notes.

3. **Request for Anonymity:** Some complainants in the past have requested anonymity after making themselves known to the IG. In these cases, the IG will remind the complainant of the IG tenet of confidentiality and how IGs safeguard the information they gather. If the complainant insists on anonymity, and in the interest of sustaining the complainant's continued cooperation, the IG will:

- a. Explain that the IG will enter the case into the IGARS database as "anonymous" and will only identify the complainant by name as the initiator in the case notes.

- b. Explain that the IG office will take the added measure of ensuring that the IG will not use the complainant's name as a case-label identifier.

- c. Advise the complainant that he or she may still be identified as a witness with respect to the complaint and that an investigator from either the IG office or the command may contact him or her for further information or to testify as a witness in an investigation.

- d. Advise the complainant that, as an anonymous complainant, he or she will not receive a final reply from the IG.

- e. Advise the complainant that, as an anonymous complainant, the IG will treat him or her as a third party for all FOIA requests, significantly limiting what the complainant will receive upon request.

Section 2-2-6

IGAR Consent Elections and Procedures

1. **Purpose:** This section explains the procedures for processing, uploading, and referring complainant information and supporting documents following the complainant's consent elections.

2. Sometimes the IG must release certain information to either the chain of command or other outside agencies in order to resolve a matter presented to the IG. Depending on the circumstances, and whether or not a complaint or request for information is IG appropriate, the IG may also refer a complaint or request for information, in its entirety, to the local chain of command, other official, or agency within DoD in order to resolve it. The IG, however, may not include any personal information or supporting documents provided by the complainant as part of a resolution effort or a referral without the express consent and authorization of the complainant. This consent provision exists primarily because complainants may not be aware of how the IG uses complainant information and supporting documentation to resolve complaints or requests for information. The IG should inform the complainant that the IG will protect, to the maximum extent possible, the confidentiality of the person but that confidentiality may be limited upon referral to the command. Therefore, a complainant must elect to consent or non-consent to the release of his or her personal information and any supporting documents he or she provides in confidence to the IG. Depending upon the complainant's response, four courses of action are possible:

a. If the complainant consents to the release of his or her personal information and supporting documents to the command or other officials, the IG will ensure the complainant indicates that consent election on the DA Form 1559. The IG will also annotate the consent election in the IGARS database and case notes. The IG will upload all documents in IGARS but will not stamp any complainant submitted documents other than the DA Form 1559. Upon determining that referral to the command or other officials is appropriate, the IG will forward all supporting documentation in accordance with procedures outlined in Part One, Section 2-4-1, and Part Two, Chapter 3, of this guide.

b. If the complainant consents to the release of his or her personal information but not supporting documents to the command or other officials, the IG will ensure the complainant indicates both the consent and non-consent elections on the DA Form 1559. The IG will also annotate these consent and non-consent elections in the IGARS database and case notes. The IG will stamp or mark the complainant submitted documents with the standard IG classification prior to uploading them into IGARS. Upon determining that referral to the command or other officials is appropriate, the IG will forward the issue(s) or allegation(s) but not the supporting documentation in accordance with procedures outlined in Part One, Section 2-4-1, and Part Two, Chapter 3, of this guide.

c. If the complainant does not consent to the release of his or her personal information but consents to the release of supporting documents to the command or

other officials, the IG will ensure the complainant indicates both the consent and non-consent elections on the DA Form 1559. The IG will also annotate these non-consent and consent elections in the IGARS database and case notes. The IG will upload all documents in IGARS but will not stamp the complainant submitted documents other than the DA Form 1559. Upon determining that referral to the command or other officials is appropriate, the IG will treat the referral like an anonymous complaint. The IG will refer the issue(s) or allegation(s), and all supporting documents to the command or other officials but will not release the complainant's personal information. However, the IG is still required to provide the complainant with a final reply. The IG may exercise discretion to withhold any supporting documents that may inadvertently identify the complainant to the command or other officials; the IG should address such situations with the complainant for final determination.

d. If the complainant does not consent to the release of his or her personal information or the release of supporting documents to the command or other officials, the IG will ensure the complainant indicates this non-consent election on the DA Form 1559. The IG will also annotate the non-consent election in the IGARS database and case notes. The IG will stamp or mark the standard IG classification on the complainant submitted documents prior to uploading them in IGARS. Upon determining that referral to the command or other officials is appropriate, the IG will treat the referral like an anonymous complaint and forward the issues(s) or allegation(s), without any personal information or supporting documentation, to the command or other officials in accordance with procedures outlined in Part One, Section 2-4-1, and Part Two, Chapter 3, of this guide. However, the IG is still required to provide the complainant with a final reply. If the complainant opts to withdraw the entire complaint, refer to Part One, Section 4-1, of this guide for withdrawn complaint procedures.

3. The consent to the release of the complainant's personal information or provided documents rests with the complainant. Refusal of this consent, however, can limit the IG's ability to resolve the presented complaint. In these instances, the IG should consider the following actions:

a. Try to ascertain why the complainant is hesitant about releasing his or her information. Is the complainant fearful of reprisal or some other negative consequence?

b. Remind the complainant that without certain information, the IG may not be able to resolve the issue.

c. Can the IG address or resolve the issue if worked as an anonymous complaint? If so, then refer the matter to the appropriate command or outside agency. Simultaneously, explain to the complainant the importance of allowing the chain of command to work the issue (the chain of command might not be aware there is a problem and should have the first opportunity to resolve it).

d. Ask the complainant what he or she wants or expects the IG to do. Does the complainant want the individual issue resolved or simply addressed? If the complainant just wants the issue addressed, then an IG-led professional development class or some other group-training event on the subject could potentially resolve it.

e. If the IG initially determined that a referral is the preferred course of action, but it is better for the Soldier and / or the Command if it remains in the IG system, then work

the case within IG channels (for issues only); or consider presenting the situation to the Directing Authority for a different investigative option (for allegations).

Section 2-3

Step Two, Conduct Inspector General Preliminary Analysis (IGPA)

Section 2-3-1 - Identify Issue(s) and Allegation(s)

Section 2-3-1-1 - What is an Issue?

Section 2-3-1-2 – What is an Allegation?

Section 2-3-1-3 - What is a Request for Information?

Section 2-3-1-4 - What is a Request for Assistance?

Section 2-3-1-5 - What is a Complaint?

Section 2-3-2 - Determine IG Appropriateness

Section 2-3-3 - Open a Case in IGARS

Section 2-3-4 - Acknowledge Receipt

Section 2-3-4-1 - Acknowledge Receipt to a Complainant

Section 2-3-4-2 - Acknowledge Receipt to a Third Party

Section 2-3-5 - Select a Course of Action

Section 2-3

Step Two, Conduct Inspector General Preliminary Analysis (IGPA)

1. **Purpose:** This section describes step two in the seven step Inspector General Action Process.

2. **Step 2, Conduct Inspector General Preliminary Analysis (IGPA):**

a. Inspector General Preliminary Analysis (IGPA) is a process used by an Inspector General to determine how best to proceed with a case. IGPA may take a few moments, hours, or days. This process helps identify the issues and / or allegations, determines whether those issues or allegations are appropriate for Inspector General action, acknowledges receipt to the complainant, and assists the Inspector General in developing a course of action. It helps the IG determine who should resolve the problem and how to solve it. IGPA is the beginning of a process that may result in several courses of action. The IG will select one of the following and most appropriate courses of action given the nature of the complaint or request for information: Assistance Inquiry, Inspector General Inspection, Inspector General Investigation, or Referral to the command or other official / agency. If the IG refers a matter to the command, the Commander, usually at the lowest appropriate level, and not the IG, will determine the most appropriate method of inquiry or investigation to resolve the complaint. If the IG refers an allegation to the command, the Commander, not the IG, should check with the SJA to determine which form of Investigation to use, such as a Commander's Inquiry, Army Regulation 15-6 Investigation, Military Police Investigation (MPI) -- or referral to Criminal Investigation Command (USACIDC). An Inspector General is usually in IGPA until he or she selects a course of action.

b. Inspectors General always look for the central issues at the core of a problem (or problems) when formulating issues and allegations. Many cases require the IG to turn a matter of concern over to another official or agency. This referral process requires the IG to be aware of the possible implications concerning the confidentiality of the complainant. A Soldier who asks for help may not want his or her First Sergeant to know that he or she made a complaint to the IG. While interviewing the complainant, the IG should determine the circumstances and act accordingly. Referring the complaint to another official or agency usually means the IG will need to follow-up to determine the action taken and whether or not that action addressed the complaint. The IG should request that the official or agency provide the response back to the IG. The IG will review the response to ensure it addressed each concern before providing a final response to the complainant. A response for an incomplete action, if provided directly to a complainant, may adversely affect the credibility of the IG.

c. As an added tool for enhancing IGPA, each IG staff section in an Army Command (ACOM), Army Service Component Command (ASCC), and Direct-Reporting Unit (DRU) can acquire two (iPERMS) accounts with Army-wide access. Inspector General staff sections at these levels may obtain this access by submitting DD Form 2875 (System Authorization Access Request) to the HRC Army Soldier Records Branch

team email address at army.knox.hrc.mbx.ipperms-accounts@mail.mil to obtain required documents for both IG assistance and investigation cases. IGs will not use this access for administrative measures such as evaluating IG nominations. The respective Command IG will appoint in writing the two account designees and provide the information to Human Resources Command (HRC) (with a courtesy copy to the HRC IG) for account establishment. Other IG offices can acquire up to two iPERMS accounts with access to records within the authority of the respective Directing Authority to obtain required documents for IG Assistance Inquiries and / or IG Investigations. The respective Command IG will appoint in writing the account designee(s) and provide the names to HRC for account establishment. Inspector General staff sections requiring personnel records beyond the scope of their access level will request such documents from the ACOM, ASCC and DRU office under which they are aligned instead of requesting those documents directly from the HRC IG. Additionally, IG offices requiring rating-profile information can obtain it directly from the Department of the Army (DA) Secretariat. Contact DAIG's Assistance Division (SAIG-AC) for assistance in obtaining that information. Assistance Division will arbitrate the release of this information should the Secretariat determine that release is not warranted. The key points of contact for obtaining these accounts and / or information are the HRC IG and DAIG's Assistance Division.

Section 2-3-1

Identify Issue(s) and Allegation(s)

1. **Purpose:** This section explains the process of analyzing a complaint, request for assistance, or request for information in order to identify the issue(s) and / or allegation(s).
2. **Analyzing for Issues and Allegations:** The IG will analyze the information presented by the complainant and determine whether that information is an issue (complaint without a "who", a basic request for information, or a request for assistance), or an allegation (a complaint against a specific "who"), or a combination of both types. The challenge is that complaints come in many formats, degrees of organization, and levels of readability. IGs must make a copy of any written complaint and preserve the original. As a technique, thoroughly highlight everything that looks like an issue or an allegation on the copy of the complaint. Make a second pass and eliminate any redundancies. IGs must take the time to correctly identify ALL of the issues and / or allegations the complainant presented, either explicitly or implicitly.

The IG must also identify all requests for help and matters of concern, even if the complainant did not specifically mention them. The IG should contact the complainant to clarify the issues, allegations, or concerns. The IG may later refer the complainant to the chain of command, other official, or an appropriate staff agency for action. For example, the IG should encourage a Soldier with a pay complaint to allow his or her chain of command or servicing Personnel Administration Center to attempt to resolve it first. The IG will follow-up all referrals to ensure that the complainant receives the appropriate assistance.

Section 2-3-1-1

What is an Issue?

1. **Purpose:** This section explains what an IG determines to be an issue.
2. **An Issue:** An issue is a **complaint, request for information, or request for assistance** made to the IG that does not list a “who” as the violator of a standard or policy. For example, a Soldier's complaint about not receiving a paycheck is an issue. There is no specified person that the complainant is blaming for the problem, and there is no action identified as a violation of a standard or policy.

The IG must determine the most appropriate action to resolve the issue -- Assistance Inquiry, Referral, or Inspector General Inspection.

Sample Issues

A request to correct a pay problem by a Soldier.

A complaint about post facility or housing conditions.

A complaint that the finance office improperly failed to process a Soldier's TDY voucher in a timely manner in violation of the 66th Finance Battalion SOP. (There is no specific “who” identified; therefore, this complaint is an issue.)

Final resolution of issues presented to, and worked by, an IG that required an Assistance Inquiry are categorized in the synopsis of the IGARS database as either “Founded”, “Unfounded,” or “Assistance” once the IG completes the final determination. IGs will further annotate the final resolution of issues that accompanied allegations and which resulted in an IG Investigation or Investigative Inquiry in the IG's Report of Investigation (ROI) / Report of Investigative Inquiry (ROI). IGs will categorize as Issues those matters in which the IG referred the complainant to an agency or organization best suited to resolve the matter.

Section 2-3-1-2

What is an Allegation?

1. **Purpose:** This section explains what an IG determines to be an allegation.
2. **An Allegation:** An allegation is a ***complaint*** made to the IG that lists a “who” as a violator of a standard or policy. For example, if a Soldier indicated that SPC John Doe (“who”), the finance clerk, was purposefully and wrongfully deleting information from the finance database, then it is an allegation; the complainant is blaming a specific person for improperly doing something that is likely in violation of a standard. Note that the complainant may not know or communicate to the IG the exact standard or policy that he or she believes the person has violated. Depending on the information provided, the IG may recognize that the action described is in violation or standard. In other cases, the IG may need to seek clarification from the complainant or execute additional research to establish what regulation or policy governs the specific action or activity in question. In such cases, the IG should treat the complaint as an issue until the IG establishes what specific standard or policy was violated. If the IG determines that no violation of a standard or policy has occurred, the complaint remains categorized as an issue.

The IG must determine the most appropriate action to resolve the allegation(s) – Referral to the command or Inspector General Investigation or Investigative Inquiry (see Part 2, Chapter 2, of this guide).

Sample Allegations Received by an IG

1SG Jim Bow is having an adulterous relationship with SPC Jane Doe.

SFC Bill Brown wore unauthorized ribbons in his DA photo in violation of the UCMJ.

SGM Jack Black ordered SGT Sarah Smith to pick up his lunch and personal dry-cleaning from the Post Exchange.

Final resolution of allegations presented to an IG are categorized as either “Substantiated” or “Not Substantiated” when final determination is completed in the synopsis of the IGARS database. IGs will further annotate in the IG’s Report of Investigation (ROI) / Report of Investigative Inquiry (ROII) the final resolution of allegations that resulted in an IG Investigation or Investigative Inquiry.

Section 2-3-1-3

What is a Request for Information?

1. **Purpose:** This section explains what an IG determines to be a request for information.
2. **Request for Information (RFI):** Since the Army is a standards-based organization; IGs are a valuable resource to assist members of the command. Members of the command or community often approach IGs requesting assistance in obtaining information or clarification on various matters related to what one can euphemistically call "administrivia" (local policies, procedures, or Army regulations). Requests for Information may come in different forms; but, generally, they are simple in nature and do not require IGs to conduct extensive research, expend an inordinate amount of time, or resolve a specific problem. The IG will enter these types of requests for assistance as Information IGARs in the IGARS database. The IG must remember that RFIs are basic requests for information and should not be confused with, or substituted for, Standard IGARs.

Sample RFIs

Mr. Jones contacted the Inspector General to request the phone number for Army Community Services.

1LT Moore contacted the Inspector General requesting clarification on the Installation's policy regarding vehicle registration.

3. **RFIs as a Standard IGARS Entry:** In some cases, the IG may opt to use a Standard IGARS entry with a function code if certain RFIs take on distinct patterns and may require trends analysis in the near future. For example, several people who call over the course of a week or even month asking for clarification of a new Army policy may mean that the IG needs to track that matter as a distinct and emerging trend that may require an IG Inspection or some other action. Inspectors General have full discretion to make this determination and should not feel wedded solely to the Information IGAR as a way to document RFIs.

Section 2-3-1-4

What is a Request for Assistance?

1. **Purpose:** This section explains what an IG determines to be a request for assistance.
2. **Request for Assistance:** A request for assistance is a simple request for help on the part of a complainant seeking understanding about a process or system. The request for assistance will generally require some fact-finding on the part of the IG, but the bulk of the time spent will be in Teaching and Training the complainant on the process or system in question. The following is an example of a generic request for assistance.

Sample Request for Assistance

SGT Jones is unsure why he has not been promoted. He believes he is fully qualified and wants the IG to help him understand why he has not been promoted.

In this case, the IG must conduct an Assistance Inquiry by researching the system identified in the complaint. The complainant is not expressing dissatisfaction with the process but is simply seeking clarification or information about the process. The request for assistance differs from a request for information in that there is a function code associated with a request for assistance. Further, the request for assistance differs from a complaint in that it is not immediately directing blame or fault in an Army system or process. The determination code in IGARS for requests for assistance is "A - Assistance."

If a request for assistance develops into a complaint about an Army system or procedure, the IG will code it in IGARS accordingly.

Section 2-3-1-5

What is a Complaint?

1. **Purpose:** This section explains what an IG determines to be a complaint.
2. **Complaint:** A complaint is either an expression of dissatisfaction or discontent with a process, system, person, or a problem (real or perceived) that requires resolution. In some cases, the IG may not be able to assist the complainant with his or her complaint, especially regarding expressions of dissatisfaction with a process or system. The IG will conduct some Teaching and Training with the complainant and explain the role of the IG. Even though the IG knows that the complaint is not appropriate for IG action, the IG must still analyze the entire complaint for any issues and / or allegations. The following is an example of an expression of dissatisfaction.

Sample Expression of Dissatisfaction

LTC Jones complains to the Inspector General about the Basic Allowance for Housing (BAH). He is dissatisfied with the amount that he is receiving based upon the zip code for Arkansas. He feels that he should be getting more.

The IG's job is to Teach and Train the individual while at the same time analyzing the complaint for larger issues. In this case, the IG must explain the BAH process to the complainant and, if necessary, refer the complainant to either the Housing or Finance office for a more informed explanation. If the complainant is receiving BAH in accordance with approved rates, then the IG can refer his dissatisfaction about the approved BAH rate to the chain of command or recommend that the complainant use another established appeal or grievance process (if one exists). Many complaints presented to the IG will have an established redress or appeal process. If so, the complaints are not appropriate for IG action until the complainant uses the established process. If the complainant is still dissatisfied, the IG can check the appeal action for due process. IGs will enter complaints of this nature into the IGARS database as a Standard IGAR and coded "A" for Assistance.

Sample Problem

SGT Smith complains to the Inspector General that she did not receive the annual re-enlistment bonus last month to which she is entitled.

In this case, the IG must conduct an Assistance Inquiry by researching the validity of the complaint. If the IG determines the complainant is entitled to an annual re-enlistment bonus payment, the complaint has merit (founded), and the IG will assist the complainant in resolving the problem. If the IG determines that no payment is due to the complainant, then the complaint does not have merit (unfounded), and the IG will explain the reason to the complainant.

Section 2-3-2

Determine IG Appropriateness

1. **Purpose:** This section explains what issues are appropriate for Inspector General action.
2. **Determining Inspector General Appropriateness:** As a rule, not all matters presented to the IG are appropriate for Inspector General action (see Part One, Chapter 3, for specific examples).
 - a. When presented with matters that are not appropriate for Inspector General action, IGs will advise complainants of the appropriate agency that can resolve the complaint and normally allow complainants to present their issues to that agency directly. Inspectors General may elect to refer the issue to the appropriate agency (within the Department of Defense) on behalf of the complainant but must be mindful of confidentiality concerns. The IG will provide the necessary information to the agency and determine whether to monitor the action until completion. Normally, IGs will only monitor those issues for which the Directing Authority has control and / or oversight. The IG will still open the case in IGARS, state why the issue is not appropriate for Inspector General action, and explain what the IG did with the IGAR. The IG will then close the case in the IGARS database unless the IG referred the issue to the command. If the IG referred the issue to the command, the IG will monitor the case to ensure the command took proper action prior to closing the case in the IGARS database.
 - b. If the IG determines that the matters of concern are appropriate for Inspector General action, the IG should ask the following questions as part of preliminary analysis:
 - (1) Is the matter of concern clearly systemic in nature? If so, does the IG need to conduct an Inspection?
 - (2) Is there any indication of senior-official misconduct or violations of 18 U.S.C., 207(a), (b), or (c) (post-employment violations)? Refer these allegations directly to DAIG's Investigations Division (SAIG-IN) within two working days of receipt. Paragraph 7-1l of Army Regulation 20-1, Inspector General Activities and Procedures, provides guidance on allegations against senior officials.
 - (3) Do the matters involve an allegation against an IG? If so, refer them, within two working days of receipt, to that IG's next higher echelon IG for appropriate action while also informing DAIG's Assistance Division. Paragraph 7-1j (1) of Army Regulation 20-1 provides guidance on Inspector General actions for allegations against other IGs.
 - (4) Are the concerns within the purview of the IG's Directing Authority? If not, refer them to the IG of the appropriate organization.

Section 2-3-3

Open a Case in IGARS

1. **Purpose:** This section provides an overview of the Inspector General Action Request System (IGARS).
 2. **Inspector General Action Request System (IGARS):** IGARS is a web-based database that stores all cases in order to provide a complete record of all issues and allegations presented to an IG. This database facilitates the identification of trends and helps IGs in the field to monitor and track open cases and refer back to closed cases as necessary.
 3. **When to Open a Case in IGARS:** The IG will ALWAYS open a case in the IGARS database prior to completing Step Two, Preliminary Analysis.
 - a. The IG will log all complaints and requests for information in the IGARS database. The IG will still open a case and annotate all actions taken in IGARS, even if the case is not appropriate for Inspector General action or is referred to another agency outside the command, such as CIDC, EEO, CPAC, etc. (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (2) (j)**).
 - b. See Part One, Section 3-6, for special requirements and restrictions when the complaint includes allegations against senior officials and Part One, Section 3-7, when the complaint includes allegations against members of special-access programs or sensitive activities.
 4. **Entries:** This database has several entry fields to identify and track all pertinent information for each particular case. Some fields are explained below.
 - a. **Function Codes:** The function code explains or defines the allegation or issue. Accurate and specific entries make the database useful and the information gleaned from it meaningful. Complaints are grouped into various categories, which are assigned a specific number. For example, all finance issues are grouped under the category code "13," Finance and Accounting, and all health- and medical-related issues under "16," Health Care. Further characters identify more specific categories that better facilitate trends analysis. Hence, the function code for a Soldier requesting assistance to correct his or her temporary duty (TDY) travel pay will have a function code of "13C2."
 - 13 - Finance and Accounting
 - 13C - Travel Pay
 - 13C2 - Issue regarding temporary duty (TDY) travel pay for Soldiers
- The Utilities function within IGARS contains a table of all function codes. These function codes are also available to the IG in the Issue and Allegation Tab of the IGARS electronic case file.

b. Agency / Command Code: The agency or command that best defines where the complaint resides. All command codes are listed in IGARS under the Utilities tab.

c. Determination Codes: Shows the final determination of the allegation as either S (Substantiated) or N (Not Substantiated) or indicates the issue as either F (Founded), U (Unfounded), or A (Assistance).

d. Case Notes: Case notes are a detailed, chronological listing of everything pertaining to the case. Case notes will include, at a minimum --

- phone calls, including names, phone numbers, summary of topic / discussion
- notifications, if verbal or written
- coordination with staff / command (who, what, ...)
- legal reviews
- any emails, faxes, or correspondence received or sent
- additional information as required

NOTE: See Section 2-8-5 for a Case Note Evaluation Form for peer reviewers.

Case notes follow the following format: Date (IG Name): Notes. A sample appears below:

01/05/2019 (SFC John Jones): SPC Needs Money (active component), Company A, 66th Signal Battalion, walked into the IG office complaining that an allotment he started two months ago is still not reflected on his Leave and Earnings Statement (LES). SPC Money provided a copy of his LES and the allotment he submitted. He also completed a DA Form 1559 and consented to the release of his information and the documents he provided in order to resolve the matter. I told SPC Money that I would look into it and get back to him. I also briefed SPC Money about the tenet of IG confidentiality and the Privacy Act. I opened a case in IGARS, uploaded the DA Form 1559 with the consent blocks checked, and created a hard-copy folder for the case.

01/05/2019 (SFC John Jones): I contacted the Fort Von Steuben Finance office, Mr. Cash Flow, regarding SPC Money's allotment. Mr. Flow determined that the finance office encountered an error while processing SPC Money's allotment, which caused a delay in payment. Mr. Flow stated that he corrected the error, and SPC Money's allotment will appear on his end-of-month LES.

01/06/2019 (SFC John Jones): I contacted SPC Money on his cell phone to inform him that his allotment should appear on his end-of-month LES due to an error in processing his allotment. SPC Money verbally acknowledged the information.

02/02/2019 (SFC John Jones): I received confirmation from SPC Money that the Finance office processed his allotment and that it now appears on his LES.

I provided the complainant, SPC Money, a final reply and closed the case in the IGARS database.

(1) The IG may write several entries on the same date without repeating the date and IG's name if the same IG is responsible for the multiple entries.

(2) IGARS allows more than one IG to input data into the same IGARS electronic case file. The IG should make use of this capability and update cases notes whenever necessary, even if he or she is not the primary IG working a particular case but someone who merely provided or processed information on behalf of -- or in the absence of -- the primary action officer.

(3) The IG may want to include personal opinions or observations in case notes at times, but the IG needs to be careful what subjective comments he or she writes. Although the IG system protects and restricts access to information, proper authorities can release an entire IG file with case notes under certain circumstances. Only write what you want others to read; the IGARS database is not the IG's personal diary.

e. Synopsis: The synopsis is a concise summary of everything pertaining to the case. See Part One, Section 2-8-2, Close an IGAR in the Database, of this guide for more detail.

f. Information IGAR:

(1) The Information IGAR is a one-page IGAR used to document IG-to-IG requests for support (function code 1B) and routine requests for information (function code 1A). Information IGARs are also the preferred method of documenting referrals of senior official (SO) allegations to DAIG's Investigations Division. IGs will use Information IGARs only for simple requests for information that the IG can resolve easily **(prescriptive provision in Army Regulation 20-1, paragraph 6-1d (2) (k))**.

(2) Historically, IGs have abused the use of Information IGARs, since these IGARs are quick and easy to open and close. However, use of them severely limits the IG's ability to run trends-analysis reports, which allow for an accurate status of the command that the Directing Authority will find useful as well as identifying possible systemic issues within the command. For example, a commander or staff member may request assistance from an IG for clarification of a new policy or regulation. Even though it may take the IG a few hours to review the policy or regulation and / or consult with a SME prior to providing an answer, use of the Information IGAR is appropriate in order to document time spent providing simple assistance. IGs should use discretion, though; if what originally appeared as a simple request for information becomes an emerging trend, then a Standard IGAR may be more appropriate. Conversely, the Information IGAR is NOT appropriate when a complaint is made to the IG for which there is an associated function code that specifically explains / defines the issue presented, even if the issue is not IG-appropriate and the IG conducts Teaching and Training on the matter (i.e. redress issues) or refers the complainant to another organization or agency.

(3) The Command IG may use the Information IGAR to document IG man-hour support to the staff and time spent conducting inspections. The "18E" series function codes include "IG-led training," "IG-Staff Coordination," "IG Technical Supervisory Coordination," "IG-executed Due-Process Reviews," and "IG Inspections." The IGARS database provides a full definition and description of the uses for each of these codes. These codes allow the IG office to document the office workload more effectively.

Section 2-3-4

Acknowledge Receipt

1. **Purpose:** This section explains when and how to acknowledge receipt of an IGAR.
2. **Acknowledge Receipt:** The IG will properly acknowledge receipt of all IGARs. Inspectors General acknowledge, orally or in writing, individual complaints or requests for information. An acknowledgment is simply a notification that the IG received the request and will take the most appropriate action (i.e., initiate an inquiry, refer the IGAR, or do nothing if the issue does not meet the criteria for Inspector General action). In some cases, it may be appropriate to provide a more detailed acknowledgment based upon the nature of the correspondence (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (2) (a)**).

If an IG receives an oral IGAR, he or she may orally acknowledge it at that time but will make a written record of the acknowledgment in the file's case notes. However, if the IGAR contains an allegation, the IG must acknowledge receipt in writing. Inspectors General do not acknowledge anonymous complaints.

An individual may ask an IG for assistance and at the same time seek help from a Member of Congress (MC). Once a MC intervenes, the complainant will not receive a response from the IG. Rather, the MC will receive the IG response from DAIG's Assistance Division (SAIG-AC). The IG must therefore inform the complainant that he or she will receive a response from the MC and not directly from the IG. When the local IG discovers Congressional involvement, the IG must immediately contact DAIG's Assistance Division, which is the Office of Record for all Congressional correspondence.

In acknowledging a complaint or request for information, inform the complainant that he or she will only receive information on the results of the Inquiry or Investigation that affect him or her directly and personally (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (2) (e)**).

Before referring cases to another IG office in the IGARS database, IGs will attempt to contact the receiving IG office via telephone or email to ensure a warm hand-off of the case. The receiving IG will acknowledge receipt by accepting the case in the IGARS database. However, the IG is not required to acknowledge receipt of information or copies of letters addressed to other agencies unless that IG is required to take some type of action.

NOTE: Army guidance requires a "wet" signature on letter correspondence (scanned for electronic correspondence or records storage); digital signatures are not authorized for letter correspondence.

Section 2-3-4-1

Acknowledge Receipt to a Complainant

1. **Purpose:** This section explains when and how to acknowledge receipt to a complainant.
2. **Acknowledge Receipt to a Complainant:** Inspectors General acknowledging receipt of a complaint in writing should use a letter format. This recommended example is direct and to the point; appears less awkward to a civilian recipient; and is in accordance with Army Regulation 25-50, Preparing and Managing Correspondence. A sample acknowledgement letter of receipt to a complainant appears on the page:

Sample of an Acknowledgment Letter to a Complainant

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

December 2, 20XX

Office of the Inspector General

Captain John Doe
3030 Anywhere Lane
Anywhere, VA 22060

Dear Captain Doe:

We received your inquiry to the 66th Infantry Division and Fort Von Steuben Inspector General on November 29, 20XX, requesting assistance concerning incorrect retirement points.

We have initiated an inquiry into your request for assistance. We may consult with, or refer your complaint to, an appropriate command or agency within the Department of Defense for appropriate action and adjudication in accordance with Army Regulation 20-1. The IG will protect your confidentiality to the maximum extent possible with respect to your personal information and the documentary evidence you provided. However, confidentiality may be limited upon referral. You informed this office on November 29, 20XX, that you consented to the release of both your personal information and the supporting documents you provided.

We will advise you of the results at the conclusion of the inquiry.

Sincerely,

Richard Britton
Major, U.S. Army
Inspector General

Section 2-3-4-2

Acknowledge Receipt to a Third Party

1. **Purpose:** This section explains how to acknowledge receipt to a third party.
2. **Acknowledge Receipt to a Third Party:** Inspectors General reply to third-party complainants in a very general manner. The IG may divide third-party letters into two types. The first type is a letter sent by someone on behalf of someone else. For example, parents or Family members may submit complaints on behalf of a Soldier without the Soldier's knowledge. The second type of third-party letter pertains to someone giving information about another person who alleges that someone has done something wrong. The resulting inquiries into both cases will produce information not directly pertaining to the individuals who initiated the letters. Remember that the Privacy Act generally prohibits the release of personal information to third parties without consent. In general, IG replies to third parties are direct in nature and simply acknowledge receipt of the complaint or allegation. The replies contain no specific information about the complaint or what the IG did with the complaint. Also, replies to third parties must not violate an individual's right to privacy (unless an exception exists). The IG should always obtain a Privacy Act release authorization as shown below from the individual about whom the complaint is made in order to release personal information relating to the results of the Assistance Inquiry or Investigation to any third party. Shown below is a sample copy of a Privacy Act Information Release Form (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (2)(f)**).

Before an IG can release personal information to a third party the IG must have a signed DA Form 7433. Typically, the consent to release personal information or complainant-provided documentation annotated on the DA Form 1559 is authorization for the IG to work a complaint, whereas the authorization documented on the DA Form 7433 is specifically for release to a third party. Information released to a third party will not exceed the limits of what an IG would normally share with the complainant.

Privacy Act Information Release Form

PRIVACY ACT INFORMATION RELEASE STATEMENT	
For use of this form, see AR 20-1; the proponent agency is the Office of The Inspector General.	
I, _____, authorize access or release of:	
<i>(Rank/Title, First MI Last Name)</i>	
<input type="checkbox"/>	Any inspector general information or records pertaining to me
<input type="checkbox"/>	Inspector general information or records pertaining to my request specifically for

to the following individual(s):	
<input type="checkbox"/>	General release
<input type="checkbox"/>	_____

	<i>(Rank/Title, First MI Last Name)</i>
_____	_____
SIGNATURE	DATE(YYYYMMDD)

DA FORM 7433, APR 2009

APD PE v1.00ES

Section 2-3-5

Select a Course of Action

1. **Purpose:** This section explains how to select a course of action.
2. **Select a Course of Action:** There are four courses of action available to an IG: (1) conduct an Inspector General Inspection; (2) conduct an Inspector General Investigation or Investigative Inquiry; (3) conduct an Inspector General Assistance Inquiry; or (4) Refer the matter to another official, agency, or the command. The IG should determine the appropriate course of action for each issue and allegation presented in the IGAR. The IGAR often contains matters that result in more than one course of action.
 - a. If a systemic problem exists and warrants an Inspection, and the Directing Authority directs the IG to resolve the systemic issue, then the IG should follow the Inspector General Inspections Process outlined in The Inspections Guide.
 - b. If the IG identifies the complaint as an issue and determines that IG action is appropriate and warranted, then the IG will use the IGAP and conduct an Assistance Inquiry to resolve the issue.
 - c. If the IG identifies the complaint as an allegation and determines that IG action is appropriate and authorized by the Directing Authority, then the IG will use the IGAP and conduct either an Investigation or Investigative Inquiry (see Part Two, Chapters 2 and 3, of this guide). For allegations against senior officials and members of Army special-access programs (SAPs) and sensitive activities (SAs), refer to Part One, Sections 3-6 and 3-7.
 - d. If the IG determines that the complaint or request for information is not appropriate for IG action, then the IG will refer the complaint or request for information to the following individuals as necessary:
 - (1) the responsible Army leader, Commander, or management official within the IG's command;
 - (2) to other Army IGs using IG technical channels;
 - (3) to the Inspector General, DoD;
 - (4) to IGs in other Services; or
 - (5) to other DoD or Army agencies.

Section 2-4

Step Three, Initiate Referrals and Make Initial Notifications

Section 2-4-1 – Referring Issues

Section 2-4-2 - Make Initial Notifications

Section 2-4-1

Referring Issues

1. **Purpose:** This section explains the process of initiating referrals of issues.
2. **When to Refer an Issue:** Depending upon the nature of the issue(s), IGs may decide during preliminary analysis that their best course of action for resolution of the issue(s) is to refer it to the local chain of command, another official or agency, or to another IG office.
3. **Initiating a Referral to the Local Chain of Command:** Inspectors General will refer issues directly to the lowest level of command that has the responsibility and the authority to address them. When referring issues to the chain of command, the IG must take care not to violate the tenet of confidentiality. Whenever possible, describe the issues that need addressing in generic terms and avoid divulging the source of the complaint, unless the complainant has expressly given his or her consent as described in Part One, Section 2-2-6, of this guide. The IG will keep open and monitor cases referred to the chain of command that warrant continued IG interest to ensure that the chain of command takes proper action (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (3)(a)**).

b. If the IG, in reviewing the command product or inquiry results, notes that information is missing or that all issues were not addressed, the IG will discuss the discrepancies with the Commander (if necessary) and ask that corrections be made. If the Commander decides not to address the missing issues or add the missing information, the IG will conduct an inquiry on only those areas that the Commander did not address and resolve. If the IG disagrees with the command product's findings – or the command product or inquiry did not address the issues, the IG will attempt to resolve the disagreement with the command; if he or she cannot resolve the disagreement, the IG will contact DAIG's Assistance Division for guidance before proceeding. If the Commander does not provide the IG with a copy of his or her command product or inquiry results, the IG will explain to the Commander that the IG is authorized a copy of all documents, records, and evidentiary materials needed to discharge his or her duties, per Army Regulation 20-1, Inspector General Activities and Procedures, paragraph 1-7a.

c. During the Inspector General Action Process, an IG may discover that the command is aware of and, as the appropriate authority, already addressing the issue or allegation brought to the IG. The IG may discover this fact while receiving the IGAR; but, more likely than not, the IG will learn about it when he or she attempts to refer the case to the command. With respect to issues, the IG should document this discovery in IGARS, inform the complainant that the proper authority is addressing the issue, and close the case as "Assistance." Further, the IG should inform the complainant that if he or she does not believe the issue was properly resolved, then he or she may return to the IG for additional assistance. With respect to allegations, the IG should continue to follow the command-referral procedures outlined in Part Two, Chapter Three, of this guide if the discovery occurs as a part of the referral process. However, if the complainant informs the IG during receipt of the IGAR that the command has initiated some form of investigative action, then the IG should inform the complainant that the

proper authority is addressing the allegation and close the case in IGARS as "Assistance." Further, the IG should inform the complainant that if he or she does not believe that the allegation was properly resolved, he or she may return to the IG for a due-process review.

4. Initiating Referrals Outside the Chain of Command: The IG may elect to refer the issue to an appropriate official or agency within DoD on behalf of the complainant but must be mindful of confidentiality concerns. Provide the necessary information to the agency, and determine whether to monitor the action until completion. For example, if an individual complains about hazardous conditions in the motor pool, the IG should refer the issue to the appropriate Safety Office and request a copy of the results of their inquiry when complete (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (3) (b)**).

The IG may also elect to refer the complainant directly to the other agency, especially if that agency is outside of the DoD. In such cases, the IG will provide the complainant with the contact information for the appropriate agency. This information allows the complainant to present his or her issue to the appropriate agency directly.

5. Initiating Referrals to Another Inspector General Office: The IG receiving an IGAR may decide during his or her preliminary analysis that another IG office is best suited to handle a particular issue due to jurisdictional or other reasons. A referral to another IG can occur by either retaining Office-of-Record status and requesting the other IG office work the case as an Office of Inquiry, or referring the case to the new IG office and giving them full Office-of-Record status. In all cases, the receiving IG office must agree to accept the referral (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (3)(c)**).

a. There will be times when a higher, vertical-echelon command IG needs assistance from another IG in order to resolve the issues raised by the complainant. If this IG office chooses to refer the issue to the other IG office and retain Office-of-Record status, the new IG office (if that office accepts the case) becomes the Office of Inquiry, and the originating IG can only close the case once the Office of Inquiry has reported the fact-finding results. IGARS allows the Office of Record to close the case only after the Office of Inquiry case is closed. Referred IGARS must be complete and must fully document all work performed by the referring IG. It should include case notes up to the referral action and the first paragraph of the synopsis. Case notes will include contact information for anyone consulted and any information that will assist the receiving IG and reduce duplication of effort, especially for cases referred to a deployed IG.

b. When IGs receive an IGAR from complainants that another IG must address due to jurisdictional or other reasons (such as non-support cases), they will take the IGAR as part of their area of responsibility and refer the case to the appropriate IG office. In this type of referral, the IG transfers the issues (along with Office of Record status) to the appropriate IG office, and the originating office closes the case once the gaining IG office has accepted it.

c. IGs referring issues to other IG offices will use the referral function in the IGARS database. Referrals will include thorough case notes of all actions taken to document the historical record of the case for the receiving IG office. The originating IG

office will upload any supporting document prior to referring the case. Although these electronic referrals ease the referring of cases, IGs must still communicate via encrypted email and / or telephone with each other before completing the referral. The IGARS electronic referral process is not a “fire-and-forget system” that allows an IG to manage his or her caseload by referring all work to other IGs. Remember that the referral to other IGs is an extension of IG technical channels and that the receiving IG office must agree to accept the referred case. Only DAIG may directly task another IG office to work an issue or conduct an investigation. This tasking authority does not exist among IGs, regardless of echelon, below DAIG level. If a disagreement between two IG offices occurs with regard to a referral, DAIG's Assistance Division will adjudicate (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (3)(d)**).

Section 2-4-2

Make Initial Notifications

1. **Purpose:** This section explains the process of making initial notifications.
2. **Making Initial Notifications:** There are no notification requirements regarding IG issues and associated Assistance Inquiries. For notification requirements regarding allegations, refer to Part Two, Section 3-2, of this guide.

Section 2-5

Step Four, Conduct Inspector General Fact-Finding

1. **Purpose:** This section explains the process of conducting Inspector General fact-finding.
2. **Conduct Inspector General Fact-Finding:** Fact-finding involves the process of obtaining factual information during the conduct of an Inspector General Inspection, Assistance Inquiry, Investigative Inquiry, and Investigation. In order to resolve the issues and allegations gleaned from an IGAR (no matter whether the IGAR is from a complainant or a request from a Commander), the IG must obtain facts that will support the IG's eventual decision or resolution of the case.

The IG does not need additional authority to conduct an Assistance Inquiry. The IG will use the Assistance Inquiry as the fact-finding process to gather the information needed to resolve the issues. However, if an IG determines that an Inspector General Inspection, Investigative Inquiry, or Investigation is necessary, he or she must first obtain authority from the Directing Authority (usually the Commanding General). No matter which Inspector General fact-finding process the IG uses, the IG will enter into the case notes in the IGARS database each action taken -- in chronological sequence -- to resolve the complaint. The following paragraphs further discuss Inspector General Fact-Finding associated with each respective IG function.

3. **Fact-Finding during an Assistance Inquiry:** The Assistance Inquiry utilizes an informal fact-finding process to address or respond to a complaint involving issues, requests for assistance, or requests for information but not allegations of impropriety or wrongdoing. During an Assistance Inquiry, the IG typically gathers information by reviewing applicable policies and standards or by requesting documentation and additional information from the complainant, from the command, or from other agencies within DoD. The IG maintains the authority to access all Department of the Army records in the course of executing his or her duties per Army Regulation 20-1, Inspector General Activities and Procedures, paragraph 1-7a. Depending on the nature of the IGAR, the IG may also refer the issue(s) to another agency to for fact-finding and resolution. However, the IG must evaluate the information and assess the resolution actions if referred to another agency prior to responding to the complainant. Furthermore, the information provided to the IG must lead to a reasonable conclusion or recommendation. If there is a proponent available regarding the information gathered, the proponent should verify the accuracy of information provided to the IG when appropriate.

4. **Fact-Finding that indicates the need for an Inspection:** An Inspection may be necessary if the IG learns of a trend or sees a pattern develop from individual complaints or during fact-finding for an Assistance Inquiry. When complaints identified as issues and requests for information come to the IG, the IG records them in the IGARS database and analyzes them for any developing trends or systemic issues. These trends may indicate the need for an Inspector General Inspection. If the IG determines that a complaint, issue, or request for information is part of a developing trend, the IG should recommend and seek approval from the Directing Authority to execute an IG Inspection

into the matter. Therefore, Inspections complement the Assistance function by allowing IGs to identify potential problem areas and acting on them proactively. See [The Inspections Guide](#) for further information about Inspector General Inspections.

5. Fact-Finding during an Investigative Inquiry: An Investigative Inquiry is an informal fact-finding examination by an IG into allegations that are not significant in nature -- as directed by the Directing Authority -- and when the potential for serious consequences are not foreseen (such as possible harm to a Soldier or negative impact on the Army's image). Inspector General Investigative Inquiries involve the collection and examination of evidence that primarily consists of written statements; documents; and, in some cases, testimony or physical evidence. Fact-finding during an Investigative Inquiry establishes the facts surrounding an allegation in order to determine whether an allegation is substantiated or not substantiated. These facts are further discussed and analyzed using the Report of Investigative Inquiry (ROI) format addressed in Part Two of this guide.

6. Fact-Finding during an Investigation: An Investigation is a formal fact-finding examination led by an IG into allegations that provides the Directing Authority a sound basis for making decisions and taking action. IG Investigations address allegations of wrongdoing by an individual that are more serious in nature, may result in more dire consequences, and require a written directive from the Directing Authority. Inspector General Investigations involves the systematic collection and examination of testimony and documents but may also include physical evidence. Fact-finding during an Investigation establishes the facts surrounding an allegation in order to determine whether an allegation is substantiated or not substantiated. These facts are further discussed and analyzed using the Report of Investigation (ROI) format addressed in Part Two of this guide.

Section 2-6

Step Five, Make Notification of Results

1. **Purpose:** This section explains the process of making notification of results for an Assistance inquiry.
2. **Make Notifications of Results for an Assistance Inquiry:** At the completion of fact-finding during the Assistance Inquiry, the IG will notify and inform the complainant of the results. The notification of results does not necessarily connote resolution of the complaint. For example, the IG may find that the complainant's pay issue should be resolved and reflected on the next Leave and Earning Statement (LES). In this case, the IG should update the complainant on the status of the complaint and ask the complainant to contact the IG when he or she receives the next LES to ensure resolution. The IG will only provide information to the complainant directly pertaining to that complainant regarding actions taken to resolve the matter. The complainant does not get to know with whom the IG spoke in order to address the complaint.

In some cases, the person presenting the complaint may be a third party and is only authorized by law to receive information directly pertaining to him or her without prior consent from the complainant (unless a Privacy Act exception applies). The IG will record all notifications in the IGARS database as part of the Electronic Case Form and in the case notes (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (5)**).

Section 2-7

Step Six, Conduct Follow-up

1. **Purpose:** This section explains the IG's responsibilities in conducting follow-up.
2. **The IG's Responsibilities in Conducting Follow-up:** The IG has two primary responsibilities in Step 6:
 - a. Ensure that all issues and / or allegations were thoroughly addressed.
 - b. Ensure that all IG responsibilities were fulfilled.

This responsibility includes ensuring that the complainant does not require any further assistance and to conduct follow-up on any needed corrective actions. Although the corrective actions may not satisfy the complainant, an IG's primary concern is with ensuring that all IG actions, command decisions, or proponent actions occurred as necessary.

Follow-up should include a review of issues and / or allegations previously addressed to determine if further appeal procedures are available or if the IG should examine due process for the complainant. An IG may not be able to resolve some matters until standards, such as laws, regulations, or policies, are changed. IGs may also follow-up by focusing on a specific issue or by addressing more broadly the issues and / or allegations during a Staff Assistance Visit (SAV) or during future Inspector General Inspections (**prescriptive provision in Army Regulation 20-1, paragraphs 6-1d (6) (a) and (b)**).

An IG will not close a case until all IG actions, command decisions, or proponent actions are either completed or have occurred within prescribed limitations, such as the pending revision of an Army policy (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (6)(c)**).

Section 2-8

Step Seven, Close the IGAR

Section 2-8-1 - Send a Final Reply

Section 2-8-2 - Close the IGAR in the Database

Section 2-8-3 - Make Appropriate Reports

Section 2-8-4 - Analyze for Developing Trends

Section 2-8-1

Send a Final Reply

1. **Purpose:** This section explains the process of sending the complainant a final reply.
2. **Sending a Final Reply:** Closing an IGAR includes providing the complainant a final reply. The response should be helpful, reflect established policies, and state corrective action as appropriate. The response will not contain classified information, information from agencies outside the Department of the Army, private information about third parties, unconfirmed or speculative information, information pertaining to the loyalty of an individual, or information that could involve a breach of faith or violate a moral obligation to keep information confidential. The IG will annotate this action on the Electronic Case Form as part of the IGARS case file.

The complainant will only get the information pertaining directly to him or her. If the complainant wishes to have more information, he or she must complete a Freedom of Information Act (FOIA) request for unofficial use of Inspector General records. At no time will the IG provide any documents from Inspector General records directly to the requestor.

The final reply provides the IG with an excellent opportunity to Teach and Train. The complainant may not like the reply provided by the IG. In this case, the IG must be prepared to attempt to resolve the questionable issues with the complainant. If it becomes apparent that resolution in the complainant's favor is not possible, advise the individual that he or she can request the assistance of an IG at a higher headquarters (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (7) (f)**).

If the final reply is for White House or Congressional Correspondence, DAIG's Assistance Division makes the final response except for cases received directly by Army National Guard (ARNG) IGs (see Army Regulation 20-1, paragraph 6-5). The IG should be thorough and accurate, even if it requires more time. Request suspense-date extensions through the appropriate ACOM, ASCC, or DRU to DAIG's Assistance Division -- the Office of Record -- who will in turn send an interim reply to the complainant if the extended suspense date is beyond the original expected date of the DAIG reply. For DAIG referrals, always interview the complainant; if unavailable, consult with DAIG's Assistance Division.

The final response to the complainant for an Assistance Inquiry may be verbal or written. For Investigative Inquiries or Investigations, the final response to the complainant must be in writing. For more information on responses to subjects or suspects, supervisors, and complainants, see Part Two, Chapters 5 and 7, of this guide. IGs may use the following sample letters when providing a written final response to the complainant either as the affected party or as a third party.

NOTE: Army guidance requires a "wet" signature on letter correspondence (scanned for electronic correspondence or records storage); digital signatures are not authorized for letter correspondence.

A Sample Final Response Letter to a Complainant Who is the Affected Party

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

December 22, 20XX

Office of the Inspector General

Captain John Doe
3030 Anywhere Lane
Anywhere, VA 22060

Dear Captain Doe:

This letter is in response to your letter dated December 1, 20XX, to the 66th Infantry Division and Fort Von Steuben Inspector General concerning your pay problem.

We conducted a thorough inquiry into your request for assistance. Our inquiry determined that the Finance Office was missing the promotion orders they needed to pay you your base pay for the rank of captain. (If more than one issue or complaint was provided, address each one in the same order in which the complainant listed them in the initial letter or phone call).

We trust this information responds to your concerns. Should you need to further contact this office, please refer to case number OTR 10-0123.

Sincerely,

Richard Britton
Major, U.S. Army
Inspector General

A Sample Final Response Letter to a Complainant Who is a Third Party

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

December 22, 20XX

Office of the Inspector General

Sergeant John Smith
22 Stone Road
Whistle, Virginia 22222

Dear Sergeant Smith:

This is a final response to your December 1, 20XX, letter regarding the alleged improper separation of your son, SPC Joe Davis.

We conducted a thorough inquiry into your complaint. However, legislation regarding an individual's right to privacy restricts us from releasing information on an individual's personal affairs to those the Privacy Act classifies as third parties. You are classified as a third party under the act. Therefore, we are precluded from providing any further details to you.

We trust this information responds to your concerns. Should you feel the need to further contact this office, please refer to case number OTR 10-0123.

Sincerely,

Richard Britton
Major, U.S. Army
Inspector General

Section 2-8-2

Close the IGAR in the Database

1. **Purpose:** This section explains the process of closing the IGAR in the IGARS database.
2. **Close the IGAR in the IGARS Database:** Prior to closing the case, ensure that all relevant documents, including memorandums and collected evidence, are uploaded and attached to the Electronic Case Form and case file (see Part Three of this guide for additional instructions and guidance). Review completed actions to ensure that the IG appropriately addressed all issues and allegations. Ensure that all required data fields are populated correctly. The file is complete if another IG, unfamiliar with the case, can determine the extent of the inquiry conducted, understand the factual content upon which the IG based the conclusions, and agree that the inquiry was complete and accurate. Closed Inspector General case files are subject to quality-assurance reviews by The Office of The Inspector General. The Department of the Army Inspector General looks for objectivity, completeness, thoroughness, and timeliness.
3. **Function and Determination Codes:** Give special attention to deciding which function and determination codes are appropriate for each listed issue or allegation. The IGARS database must be useful to all IGs in the office. The data must also have meaning, since ACOMs, ASCCs, DRUs, and DAIG often run reports from the database to identify broader emerging trends and issues. The function code selected identifies the areas where the Inspector General has received complaints. It is important to remember that each issue and allegation requires a separate function code. Likewise, the determination codes are also important to understanding what the data is showing. The determination codes are defined as the following:
 - a. **Assistance (A)** is used when an IG responds to simple requests for information, requests for assistance, or determines that the matter is not IG appropriate and either conducts Teaching and Training to explain a process or refers the complainant to the agency or organization best suited to address and resolve the problem.
 - b. An issue is **founded (F)** if it had merit and required action by the IG in order to resolve.
 - c. An issue is **unfounded (U)** if it did not have merit and required no additional action by the IG.
 - d. An allegation is **substantiated (S)** when the preponderance of the credible evidence established that the standard was violated.
 - e. An allegation is **not substantiated (N)** when the preponderance of the credible evidence established that the standard was not violated.
 - f. IGs will use **command referred (C)** when referring a command-appropriate allegation to the command for investigative action and final determination.

NOTE: Command Referred (C) code is currently under refinement. In the near future, DAIG's Assistance Division will publish guidance to reflect changes and variations associated with this code option.

4. **Synopsis:** After updating the case notes, the synopsis is the final item entered into the IGARS database. As a concise summary of everything pertaining to the case, the synopsis describes the complaint and gives a brief summary of each issue and allegation associated with the case, to include actions taken to resolve them. The entries create a stand-alone document that an IG can pull from the IGARS database anytime in the future and understand the case. If the IG substantiates the allegation, this synopsis will be part of the Electronic Case Form retained in the DAIG IGARS database for up to 30 years. An example format for the synopsis is as follows (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (7) (a)**):

a. **First Part (How the IG Received the IGAR)**

The complainant / initiator (name, rank / grade) assigned to (unit, agency, command, location, etc.), status (AC, USAR, NG, mobilized, civilian, contractor, DAC, etc.).

- or -

the spouse / parent (or whatever the relationship) of (name, rank / grade) assigned to (unit, agency, command, location, etc.), status (AC, USAR, NG, mobilized, civilian, contractor, DAC, etc.).

and:

contacted / wrote / faxed (whoever at DAIG, USARC, congressman XXX, etc.) alleging someone acted improperly by (doing what); or complaining of (what); or requesting (what).

b. **Second Part (What the IG did with the Complaint)**

(FOR Assistance Inquiry / Investigation / Investigative Inquiry) who completed an Assistance Inquiry / Investigation / Investigative Inquiry. Specify if the IG used any Command Products (AR 15-6, MP / CIDC Reports, EO Inquiries, etc.) and if those products sufficiently addressed all issues / allegations, or if the IG used other additional resources / findings.

- or -

(For Command-Referred Allegation) An allegation that (who, improperly, did / failed to do, in violation of a standard) was referred by (whom) to (whom / command organization) on (date). Include a list of any referred complainant-provided documents.

c. **Third Part (Summary of IG Conclusion)**

(For Assistance Inquiry) FOUNDED ISSUE / UNFOUNDED ISSUE / REQUEST FOR ASSISTANCE: The IG resolved the issue (as derived from the DA Form 1559 / Electronic Case Form) by coordinating with / processing paperwork / documents through (command, staff, agency, etc.). Describe the IG actions taken to provide assistance or information to the complainant. [Add the Function Code and Function Code Description.]

- or -

(For IG Investigation and Investigative Inquiry) SUBSTANTIATED ALLEGATION / NOT SUBSTANTIATED ALLEGATION: [As stated in the Action Memorandum and ROI / ROII] who (name, rank / grade) improperly did / did not do something in violation of a standard. [Add the Function Code and Function Code Description.]

NOTE: Cut and paste the allegation and synopsis directly from the approved ROI / ROII for each allegation. For multiple allegations, list them in the order found in the ROI / ROII. The IG should list the allegations in the same order found in the ROI / ROII.

SUBSTANTIATED / NOT SUBSTANTIATED ALLEGATION (#): [As stated in the Action Memorandum and ROI / ROII.] [Add the Function Code and Function Code Description.]

SYNOPSIS: [As written and approved in the ROI / ROII in accordance with The Assistance and Investigations Guide, Part Two.]

- or -

(For Command-Referred Allegation) The command addressed the referred allegation that (name, rank / grade) improperly did / did not do something in violation of a standard utilizing a (list the specific command product provided, i.e. AR 15-6 Investigation, Commander's Inquiry, etc.). The (command product provided) determined (results of the command product using the command product's terminology).

d. **Fourth Part (How the IG Closed the Case)**

The case was closed by (describe method of case closure and final assistance provided). Annotate legal review (if conducted) and final notifications, including mailing addresses of subject, complainant, and Commander.

5. Information IGAR Synopsis. The Information IGAR synopsis should reflect the same four parts of a synopsis as described above. The content may be greatly reduced simply due to the nature of the complaint. Essentially, the IG must document the receipt of the complaint; what the IG did with the complaint (Request for Assistance or Information), including actions taken; and the fact that IG closed the case.

When documenting "18E" series codes, the IG should describe the work accomplished in the synopsis to justify the documented time. Use of the "18E" series codes is not prescriptive. As such, the synopsis format to account for this time is up to the local IG office.

6. A recent change in IGARS has removed the ability of the IG to identify the issue, discussion, and conclusion within the individual 'issue' or 'allegation' tabs. To ensure the reader clearly understands, the IG must include the function code and function code description as part of the IGARS synopsis.

7. Information IGARS Examples.

a. Senior Official Information IGAR Synopsis: The IG received what appeared to be a senior-official allegation from LTC Smith on 10 January 2017. The IG called SAIG-IN (12 January 2017) within 2 working days to seek guidance. The IG talked with COL Doe at SAIG-IN at the following phone number: (703) 545-4665. COL Doe asked me to send the complaint and all evidence presented by the complainant via encrypted email to his email account. COL Doe called me back on 12 January 2017 after he reviewed the complaint. COL Doe confirmed that the complaint was a senior-official allegation and directed me to create an Information IGAR without referring to the senior official by name or the senior official's unit. COL Doe directed me to delete / destroy all evidence the complainant provided and advised me that his office would send an acknowledgement to the complainant and that my office should not conduct any fact-finding into this allegation.

b. Information IGAR Synopsis: MSG Doe, an active-duty Soldier assigned to the 66th Infantry Division Headquarters, walked into the IG office requesting information regarding the latest 66th Infantry Division Policy on the Organizational Inspection Program.

The 66th Infantry Division and Fort Von Steuben IG office conducted an Assistance Inquiry (Request for Information) to address the complaint.

The IG was able to show MSG Doe on the 66th Infantry Division and Fort Von Steuben web page where the division publishes the current policies. The IG printed a copy of the current Organizational Inspection Program policy (dated 17 January 20XX) for MSG Doe. MSG Doe was satisfied with the policy and knowing where to look for policies in the future. The IG assisted MSG Doe by providing him with the 66th Infantry Division Policy on the Organizational Inspection Program.

When asked, he did not indicate that he needed any further support from the IG and that the request for information was resolved.

8. Standard IGAR Issue Example.

First Part

LTC James Mustang, an active-duty former member of the 66th Infantry Division G3, Fort Von Steuben, now assigned to III Corps Headquarters, Fort Hood, Texas 76544, called to complain about an end-of-tour award that he believes is late.

Second Part

The Fort Von Steuben IG office initiated an Assistance Inquiry into the complaint that LTC Mustang did not receive his Meritorious Service Medal (MSM) prior to his Permanent Change of Station (PCS) move.

Third Part

UNFOUNDED ISSUE: The issue that LTC Mustang did not receive his MSM prior to PCS was unfounded. [Function Code 27Q - Awards and Decorations]

SYNOPSIS: LTC Mustang complained that he did not receive his MSM prior to his PCS. He believes that he should have received the award prior to his PCS. A review of the Fort Von Steuben awards policy recommends that when possible, the unit should present a PCS award prior to a Soldier's PCS. However, it does not mandate a PCS award or that a Soldier must receive the award prior to PCS. AR 600-8-22 does not mandate that every Soldier that executes a PCS receive an award. MSG Name, in the Fort Von Steuben G1, indicated that the awards clerk had published and mailed the award to LTC Mustang's gaining unit. MSG Name explained that LTC Mustang's PCS was relatively short notice, and he had heard that LTC Mustang's supervisor was on an extended TDY in theater and unable to produce the award. MSG Name further explained that when the award was submitted, it had errors and could not be processed. The Fort Von Steuben IG office contacted the gaining unit G1 to request a status of the award. The III Corps IG office was able to confirm that their office had the award and that the unit commander was going to present the MSM that week. LTC Mustang confirmed with the Fort Von Steuben IG office that he had received his award. Even though LTC Mustang believed he should have received his MSM prior to PCS, there is no regulatory requirement. Additionally, due to the timeline of LTC Mustang's identification for PCS and award's process, the award was delayed. Therefore, the preponderance of credible information indicated that the complaint that LTC Mustang should receive his award prior to PCS did not have merit.

Fourth Part

No legal review was necessary. The IG closed the case after verifying that LTC Mustang had received his PCS award. The IG emailed a final reply to LTC Mustang, who did not request any further actions from this office.

Complainant Address: 1825 San Antonio Street, Fort Hood, Texas 76544

9. Standard IGAR Allegation Example.

First Part

An anonymous "concerned Employee" made allegations against COL Brown in a letter received by the Commanding General (CG) on 30 November 2005. The anonymous letter alleged that COL Brown had an affair and that he sexually harassed female employees. The CG directed the IG to investigate the allegations.

Second Part

The IG conducted an IG Investigation into both allegations presented. The IG did not refer the allegations to the command. Only IG investigative evidence was used in consideration of the allegations.

Third Part

SUBSTANTIATED ALLEGATION 1: COL Brown conducted an adulterous relationship with his secretary in violation of Article 134, Uniform Code of Military Justice (UCMJ). [Function Code 8C - Adultery]

SYNOPSIS: An anonymous complainant alleged that COL Brown had an adulterous relationship with his secretary, Ms. Sallie Smith, Secretary, DPCA, FVS. Article 134, UCMJ, prohibited adultery. The elements of proof were [the incidence of] sexual intercourse, [one or both were] married, and the conduct [was prejudicial to] good order and discipline. Ms. Smith testified that she and COL Brown had an adulterous relationship during March and April 2005. Other witnesses testified they believed the two were having an adulterous relationship because they saw them kissing, because of their "unusually familiar" behavior and demeanor, and because they occasionally arrived at work together when COL Brown's wife was out of town. Motel receipts and registration slips indicated COL Brown registered for a double room at the Motel Motel in Lynchburg, Virginia, with "Mrs. Brown" on 21 March, 27 March, and 15 April 2005. A witness saw COL Brown with a woman in the motel lobby on those dates. COL Brown denied the allegation. COL Brown testified that his wife, Jenny Brown, was out of town during March and April 2005. COL Brown testified that he stayed in the motel occasionally to avoid the stress of being in his house by himself and that the registration slips with "Mrs. Brown" registered were a mistake. COL Brown testified that he had dinner with Ms. Smith on the occasions he stayed in the motel but no more. Ms. Smith's testimony that she had sexual intercourse with COL Brown on multiple occasions, supported by documentary evidence and corroborated by witness testimony, was more credible than COL Brown's denials. The preponderance of credible evidence indicated that COL Brown violated Article 134, UCMJ.

NOT SUBSTANTIATED ALLEGATION 2: COL Brown sexually harassed female employees in violation of Army Regulation (AR) 600-20, Army Command Policy. [Function Code 8D - Sexual Harassment]

SYNOPSIS: An anonymous complainant alleged COL Brown sexually harassed female employees within the DPCA, 66th ID. AR 600-20 prohibited sexual harassment. The elements of proof were "unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature," to include "telling sexual jokes," that threatened the individual's job or career. No witnesses testified that COL Brown harassed them. One witness testified that he saw COL Brown harassing others, but his testimony was not credible due to his personal grudge against COL Brown. Witnesses testified that COL Brown frequently used endearing terms ("Honey, Darling") to female employees but attributed this behavior to his age and background. Two female witnesses testified that they heard COL Brown tell a "mildly off-color" joke on one occasion, but they thought it was funny and were not offended. COL Brown admitted that he had a habit of referring to women as "Honey" and "Darling" and once told a "dirty" joke in the office, which he suggested was a lapse in judgment. He denied harassing anyone. None of the women in the office, or any credible witness, objected to either the use of terms of endearment or the joke or felt that their jobs or careers were threatened. The preponderance of credible evidence indicated COL Brown did not violate AR 600-20.

Fourth Part

The 66th Infantry Division Staff Judge Advocate, COL Beagle, conducted a legal review of the Report of Investigation. He found the IG reached the level of legal sufficiency in the findings for each allegation.

The IG did not send a final reply since this was an anonymous complaint. The IG did send a final notification of results to the suspect and suspect's commander.

The IG closed the case upon receipt of the legal review and the Commanding General's approval of the Report of Investigation. The suspect signed for the final notification memorandum on 17 January 2005. The Commander signed for the final notification memorandum on 17 January 2005. The IG uploaded both the memorandum and return read-receipts in the IGARS case file.

Complainant Address: Anonymous

Suspect Address: 100 Why Me Lane, Lynchburg, VA 24501

Commander's Address: 247 21st Street, Fort Von Stueben, VA 22060

10. **Sample IGAR for a Command-Referred Allegation.**

First Part

An anonymous "concerned Employee" made allegations against COL Brown in a letter received by the Commanding General (CG) on 30 November 20XX. The anonymous letter alleged that COL Brown had an affair with his secretary and that he sexually harassed female employees.

Second Part

The IG consulted with the SJA to refine the allegations as follows:

Allegation #1: COL Brown conducted an adulterous relationship in violation of Article 134, Uniform Code of Military Justice (UCMJ).

Allegation #2: COL Brown sexually harassed female employees in violation of Army Regulation (AR) 600-20, Army Command Policy.

The IG referred the command-appropriate allegations to the Commander, 66th Infantry Division on 1 December 20XX.

Third Part

The Commander, 66th Infantry Division, appointed an investigating officer (IO) to conduct a preliminary inquiry under the provisions of Army Regulation 15-6. The inquiry specifically addressed the allegation that COL Brown conducted an adulterous relationship with his secretary in violation of Article 134, Uniform Code of Military Justice (UCMJ), and the allegation that COL Brown sexually harassed female employees in violation of Army Regulation (AR) 600-20, Army Command Policy. The command IO concluded that the allegation that COL Brown conducted an adulterous relationship with his secretary in violation of Article 134, UCMJ was substantiated. The command IO concluded that the allegation that COL Brown sexually harassed female employees in violation of AR 600-20 was not substantiated. The IO recommended that the command initiate appropriate action.

Fourth Part

The IG closed the case following the completion and review of the command's preliminary inquiry. Because the case was command referred, the command executed notification of results to the suspect. Additionally, there was no final notification to complainant since the complainant was anonymous.

Section 2-8-3

Making Appropriate Reports

1. **Purpose:** This section explains the process of making appropriate reports.
2. **Making Appropriate Reports:** Appropriate reports in the context of the Assistance function are often based upon local Inspector General Standing Operating Procedures (SOP). These reports may vary from command to command and normally depend upon the Directing Authority's guidance. Reports typically involve trends made available to subordinate commanders or the next higher IG office (see Part One, Section 2-8-4, of this guide); reports to DAIG; and, in some cases, reports to DoD IG. See The IG Reference Guide, Part 7, Chapter 2, for further guidance related to reports.

In addition to reports generated in IGARS that indicate trends and systemic issues, the Directing Authority may require specific information regarding Assistance cases, Reports of Investigation, or Reports of Investigative Inquiry. The CIG or senior IG must make himself or herself aware of the Directing Authority's information requirements regarding specific complaint topics.

Section 2-8-4

Analyze for Developing Trends

1. **Purpose:** This section explains the process of analyzing for developing trends.
2. **Analyze for Developing Trends:** The final process in closing an IGAR is analyzing trends that may be developing. The IG's objectives are to identify trends that affect the command and to identify and correct systemic problems or potential problem areas. The IG may also provide the Commander and staff with information and insight for their use in improving the command (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (7) (b)**).
 - a. The following are some items that an IG should identify:
 - (1) Most frequent categories or function codes.
 - (2) Most substantiated categories or function codes.
 - (3) Most frequent assistance categories or function codes.
 - (4) Total numbers.
 - (5) Sources of IGARs.
 - b. The IG should always ask: Is there anything that suggests the need for an Inspector General Inspection or other command or staff action? How frequently should an IG conduct an analysis? Monthly? Quarterly? By major category or sub-category? Comparing one quarter to the next or the fiscal year to a quarter?
 - c. Here are a few guidelines:
 - (1) Do not compare units (outside of the Inspector General office). Start your analysis with major categories and work down to sub-categories. Look for good news as well as bad. Be observant for seasonal aberrations.
 - (2) A high level of not-substantiated allegations may indicate areas that require more information and / or training.
 - (3) Consult closely with the other IGs in the office on a regular basis to ensure that similar cases are coded (determination and function codes) in a like manner.
 - (4) Look first at the coding process to explain wide variations in data.
 - (5) Look at issues and allegations most frequently founded / substantiated in addition to issues and allegations most frequently made.

3. Providing Trends to the Command: One way the IG can be proactive is to inform the command of current trends and provide recommendations to address recurring or potential problems. IGARS provides various reports to assist the IG in this endeavor. However, IGs must use caution when presenting trends to the commanders to ensure that these reports are not used improperly, i.e., not used to compare subordinate commanders on their evaluations. Information gleaned from trends analysis can provide the command insight into certain areas and allow them to exercise more command emphasis; coordinate for additional training; or develop, establish, and implement SOPs.

The IG can create a statistical report that provides a ‘Summary of Allegations / Issues by Function Code by Determination and Component in Descending Order by Total Numerical Occurrences.’ This report provides the number of IGARS sorted by the most common function codes. Figures I-2-2 and I-2-3 are sample snapshots of the top five issues from such a report in an Excel-data-only format and bar graph.

FC	Description	Total Issues and Allegations
27J3	Enlisted Promotions (E5-E9)	105
13A5	Bonuses	89
27J1	NCOER	45
27Q	Awards and Decorations	39
27M5	Identification Cards	29

Figure I-2-2

Sample bar graph (histogram) created from the above data.

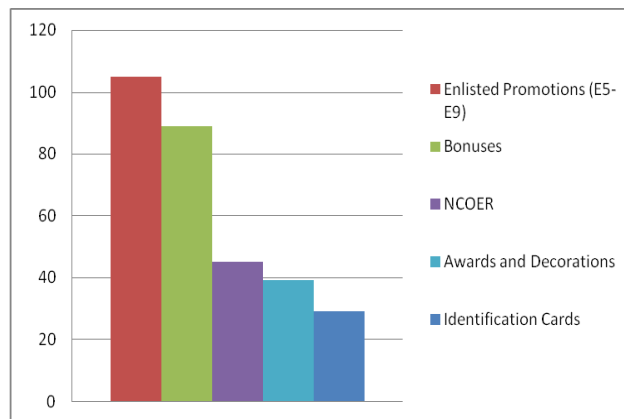


Figure I-2-3

The IG may summarize the case files to provide Commanders with some possible reasons for these issues and then offer recommendations to address them. See the chart on the next page for an example.

Issue	Observation / Underlying Causes	Way Ahead
Enlisted Promotions (E5-E9)	Incomplete packets	Establish training session with Soldiers and supervisors to explain what a complete package entails; provide checklist; set up a review board to ensure completeness of packages before submitting to board
Bonuses	Not paid on time due to incorrect paperwork and missing signatures	Teach and Train on proper procedures
NCOER	Late submission	Unit establishes timeline and tracking system
Awards and Decorations	Unfair distribution / awarding	Review awards policies to ensure proper awards are issued; post requirements for awards so Soldiers understand who is eligible
Identification Cards	Primarily dependents having difficulty obtaining a card due to limited operating hours	Extend hours of operation at the DEERS sections to better assist Family members

Figure I-2-4

Section 2-8-5

Case Note Evaluation Form

1. **Purpose:** The purpose of this section is to provide a case-note evaluation tool for peer reviewers who proof the results of Assistance Inquiries and their associated case notes within the IGARS database. IGs may modify this tool by adding or subtracting to it as necessary. This evaluation form contains the most significant details that should appear in the case notes for most Assistance Inquiries.

Case Note Evaluation Form Assistance Inquiry

IG's Name:

Peer Reviewer's Name:

1. Did the intake case note answer the following questions?
 - What does the complainant want the IG to do for him or her?
 - Did the complainant provide any supporting documentation? If so, did the IG describe the nature and general content of the documentation?
 - Did the complainant ask any other agency for help?
 - Is the complainant's chain of command aware of the issue?
 - What is the complainant's status?
2. Did the IG document in the intake case note the fact that the IG briefed the complainant on:
 - IG confidentiality?
 - The Privacy Act?
 - The consequences of false statements (if applicable)?
3. Did the case notes explain that the IG opened a case in IGARS and uploaded the DA Form 1559?
4. Did the case notes explain that the complainant checked the consent blocks on the DA Form 1559?
5. Did the IG write the case notes in the active voice? If not, mark all instances of passive voice.
6. Did the IG write each case note clearly and generally free of grammar and punctuation errors? If not, mark all grammar errors or cases of awkward syntax.

7. Did the series of case notes generally follow all seven steps of the Inspector General Action Process?
8. Did the cases notes flow logically and clearly document all actions taken by the IG to resolve the matter?
9. Did the IG list the names and contact information of all individuals whom the IG contacted for assistance in resolving the matter?
10. Did the IG document the final reply to the complainant following completion of the Assistance Inquiry?
11. Did the IG document in the case notes if he or she asked the complainant if the IG could do anything else?
12. Did the IG include in the case notes that he or she closed the case in IGARS?

Chapter 3

Matters Considered Not Inspector General Appropriate

Section 3-1 - Matters Considered Not IG Appropriate

Section 3-1-1 - Matters Not of Army Interest

Section 3-1-2 - Issues with Other Forms of Redress

Section 3-1-3 - Non-Support of Family Members

Section 3-1-3-1 - Parentage Cases

Section 3-1-3-2 - Child Custody

Section 3-1-4 - Equal Opportunity (EO) Complaints

Section 3-1-5 - Sexual Harassment and Assault Complaints

Section 3-1-6 - Criminal Allegations

Section 3-1-7 - Hazardous Work Conditions

Section 3-1-8 - Complaints from Creditors

Section 3-1-9 - Complaints Involving Suicidal Ideation

Section 3-2 - Matters Considered Not Local IG Appropriate

Section 3-2-1 - Allegations Against Senior Officials

Section 3-2-2 - Allegations Against Members of SAPs and SAs

Section 3-2-3 - Allegations of Misconduct by Specific Army Professionals

Section 3-2-4 – Requests for Inspector General Records

Section 3-3 - Referral Quick Reference Guide

Section 3-1

Matters Considered Not IG Appropriate

1. **Purpose:** This section explains the process for working and referring matters in the form of complaints and requests for information that are not appropriate for an Inspector General.
2. **Matters Not IG Appropriate:** Certain complaints or requests for information presented to the IG may not be appropriate for the IG to work. However, regardless of the topic, the IG will still complete a DA Form 1559 or an Electronic Case Form to capture the complaint or request for information. The IG will thoroughly analyze the complaint for all issues and allegations to ensure that the entire matter is not appropriate for the IG, open a case in the IGARS database, input the complaint or request, annotate any actions taken, and then close the case.

Listed on the following page is a sample letter of acknowledgement to the complainant in response to a complaint that not IG appropriate.

Acknowledgment to Complainant, Not Inspector General Appropriate

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

December 2, 20XX

Office of the Inspector General

Major Jane Doe
3030 Anywhere Lane
Anywhere, VA 22060

Dear Major Doe:

We received your letter to the 66th Infantry Division and Fort Von Steuben Inspector General dated November 29, 20XX, concerning erroneous information listed on your Officer Evaluation Report dated April 15, 20XX.

As discussed, the matter you presented is under the jurisdiction of The Army Board of Corrections for Military Records (ABCMR). We advise you to seek their assistance directly. This case is closed, and the 66th Infantry Division and Fort Von Steuben Inspector General will take no further action.

Sincerely,

Richard Britton
Richard Britton
Major, U.S. Army
Inspector General

Section 3-1-1

Matters Not of Army Interest

1. **Purpose:** This section explains the process for working matters that are not of Army interest.
2. **Matters Not of Army Interest:** The IG will advise individuals presenting complaints or requests for information that are of no interest to the Army (or that have no connection or impact to the Army) that the IG will not take any action with regard to their request.

Sample Matters Not of Army Interest

Mr. Smith, a DA Civilian, is disputing property violations cited by his off-post Home Owners' Association president, LTC Williams.

In the example above, the complaint presented is a private matter and not of interest to the Army, despite the fact that the personnel involved are Department of the Army employees.

The IG will still complete a DA Form 1559 and Electronic Case Form to capture the complaint or request for information, thoroughly analyze the complaint for all issues and allegations to ensure that the entire matter is not appropriate for the IG, open a case in the IGARS database, annotate the complaint or request, and then close the case. The IG will further advise the complainant to present the matter to the appropriate agency or Service or, if necessary, refer to that Service on behalf of the complainant through DAIG's Assistance Division (**prescriptive provision in Army Regulation 20-1, paragraph 6-3d**).

Section 3-1-2

Issues with Other Forms of Redress

1. **Purpose:** This section explains the process for working issues where another form of redress exists.

2. **Issues with other forms of redress:** In many situations, numerous laws and regulations provide a Soldier or Civilian employee remedy or means of redress. Complainants must seek the prescribed redress or remedy before an IG can provide assistance. Once the complainant has used the available redress procedures, IG action is limited to conducting a due-process review of the situation to determine if the complainant was afforded an opportunity for redress as provided by law or regulation (**prescriptive provision in Army Regulation 20-1, paragraph 6-3b**).

Some common situations where specific redress, remedy, or appeals procedures are applicable include, but are not limited to, the following:

- a. Courts-martial actions and trial-related appeals (10 USC, Chapter 47, United States Code of Military Justice).
- b. Non-judicial proceedings, appeal denial, and / or imposition of punishment (Manual for Courts-Martial, Part V, paragraph 1 thru 7).
- c. Officer evaluation reports (Army Regulation 623-3, Evaluation Reporting System).
- d. Non-Commissioned Officer evaluation reports (Army Regulation 623-3, Evaluation Reporting System).
- e. Enlisted reductions (Army Regulation 600-8-19, Enlisted Promotions and Reductions).
- f. Type of discharge received (Army Regulation 635-200, Active Duty Enlisted Separations).
- g. Pending or requested discharge (Army Regulation 635-200, Active Duty Enlisted Separations, and Army Regulation 600-8-24, Officer Transfers and Discharges).
- h. Financial Liability Investigations of Property Loss (AR 735-5, Property Accountability Policies).
- i. Relief for cause (Army Regulation 623-3, Evaluation Reporting System).
- j. Adverse information filed in personnel records (AR 600-37, Unfavorable Information).
- k. Claims (Army Regulation 27-20, Claims).
- l. Security clearances (Army Regulation 380-67, Personnel Security Program).
- m. Requests for redress or other complaints submitted and accepted for processing under Article 138, Uniform Code of Military Justice (UCMJ) (Army Regulation 27-1010).
- n. Medical credentialing (Army Regulation 40-68, Clinical Quality Management).
- o. Claims comprised of civilian financial liability issues, landlord-tenant disputes, alleged breaches of contract, installment sales, and / or other torts / civil disputes (Army Regulation 27-40, Litigation).
- p. Issues related to post bars, directives to vacate post housing, suspension of post driving privileges, and so forth (Army Regulation 608-18, The Army Family Advocacy Program)

q. Decisions, results, or conclusions related to constituted HRC retention (Army Regulation 601-280, Army Retention Program) or show-cause boards (Army Regulation 600-8-24, Officer Transfers and Discharges).

r. Medical Evaluation Board (MEB) determinations, disability ratings, and disapproval of request for Continuation on Active Duty (COAD) (Army Regulation 635-40, Physical Evaluation for Retention, Retirement, or Separation).

s. Issues related to the enforcement of alleged violations of Federal, state, local traffic and vehicle codes on military installations, or issues related to potential appearances before a Federal magistrate (Army Regulation 27-40, Litigation; Army Regulation 27-10, Military Justice; Post Regulations; Command Policies; or local civilian law enforcement policies).

t. Issues related to semi-privatized housing landlord tenant disputes (Army Regulation 420-1, Army Facilities Management).

u. Issues involving Release from Active Duty (RFRAD) decisions (Army Regulation 635-200, Active Duty Enlisted Administrative Separations).

The IG does not need to be the subject-matter expert on what redress, remedy, or appeals procedures the complainant must take, but he or she must recognize if the complainant's request has a formally established redress process in place before taking action.

As a matter of policy, the IG does not normally become involved in complaints where an established avenue of redress is available to resolve a problem. The IG's primary concern is that the complainant is afforded an opportunity for redress and that the redress was conducted in accordance with the applicable standard. If the complainant, after pursuing the established avenues of redress, still feels an injustice has occurred, the IG could address the individual's concerns. However, the involvement would be limited to ensuring the complainant's rights were protected and that he or she received due process.

The IG will still complete a DA Form 1559 and Electronic Case Form to capture the complaint or request for information; thoroughly analyze the complaint for all issues and allegations to ensure that the entire matter is not appropriate for the IG; open a case in the IGARS database; annotate the complaint or request, annotate any action taken such as Teaching and Training or referral to the appropriate agency; then, close the case.

Section 3-1-3

Non-Support of Family Members

Section 3-1-3-1 - Parentage Cases

Section 3-1-3-2 - Child Custody

Section 3-1-3

Non-Support of Family Members

1. **Purpose:** This section explains how to process and refer complaints concerning non-support of Family members.
2. **Non-Support of Family Members:** The request for support to Family members is and has been the top IGAR in the Army IG system for decades. Soldiers have a responsibility to provide adequate financial support to Family members. Army Regulation 608-99, Family Support, Child Custody, and Parentage, outlines these responsibilities and provides interim guidance when Family members do not have an oral agreement in limited circumstances, written support agreement, or court order. This regulation also explains the Commander's requirements for addressing this matter when a Family member, or a person on behalf of the Family member, makes a complaint to the command that the Soldier is failing to provide proper support.
3. **Commander's Responsibilities:** Army Regulation 608-99 prescribes the Commander's responsibilities in detail, primarily in Chapters 1 and 3. The Commander's actions when presented with a request for Family support include, but are not limited to, reviewing the inquiry, initiating a preliminary inquiry or administrative investigation, and responding to the complainant within a reasonable amount of time from receipt and / or completion of the non-support complaint. A higher echelon Commander can prescribe to lower level Commanders what constitutes a reasonable amount of time to respond to a complainant. The Commander's response to the complainant must meet the minimum requirements outlined in Army Regulation 608-99. Since The Judge Advocate General (TJAG) is the proponent for this regulation, the Commander should consult with the SJA prior to responding to ensure that no violations of privacy occur and that all obligations per this regulation are met.

If the complainant provided insufficient information, the Commander will still review the complaint, acknowledge receipt, and explain that the information provided is insufficient to take action on the complaint and what information is needed before the Commander can provide a complete reply.

4. **Inspector General's Responsibilities:** Army Regulation 608-99 specifies the Commander as the responsible entity to resolve requests for Family support. Hence, this type of IGAR is not IG appropriate, and the IG will promptly refer this complaint to the Commander. Inspectors General sometimes overstep their boundaries by providing advice or guidance beyond the referral actions; and, as a result, they often cross into legal areas. To prevent such incidents, paragraph 5 of this section discusses restrictions for IGs handling Family non-support cases. Upon receipt of a Family-support request, the IG will:

- a. Determine if the complainant -- usually the Soldier's spouse or former spouse on behalf of the child(ren) -- has forwarded a complaint through command channels informing the Soldier's commander of the problem. If yes, the IG continues providing assistance only if the Commander has failed to respond in accordance with Army Regulation 608-99, in which case the IG will route the support request and the allegation

that the Commander failed to respond to the next higher Commander. If not, the IG may offer assistance in formulating and properly routing the complaint.

(1) If the Soldier involved is assigned within the IG's command area, the IG will refer the complaint and the complainant to the lowest appropriate level of command responsible for the Soldier, usually the Company Commander, and monitor the situation only to ensure that the commander responded to the complainant as prescribed by Army Regulation 608-99. In other words, the IG will receive a copy of the Commander's response to the complainant but not challenge the outcome or calculations. Once the IG confirms that the Commander has provided the required response, the IG will close the case in IGARS as "Assistance."

(2) If the Soldier involved is assigned to a command outside the IG's area, the IG will refer this request to the appropriate Command IG. The IG who initially received the request will electronically refer the IGAR as the Office of Record as well as personally coordinate via telephone, email, or surface mail. Once the other IG accepts the case in IGARS, the referring IG can close the case.

b. Ensure that the immediate needs of the Family are met (shelter, food, medical care, etc.) by referring the complainant to agencies such as the Family Readiness Group (FRG), the command, the Red Cross, Army Emergency Relief (AER), Army Community Services (ACS), or other local agencies that might provide interim support to Family members in need.

c. When an IG gets a "repeat offender," the IG should refer the Soldier's Commander to the SJA to discuss options for appropriate follow-up action. Although IGs never "direct" or "tell" a commander what to do, as the eyes, ears, voice, and conscience of the Directing Authority, it IS the IG's responsibility to Teach and Train about standards and inform the Commander of the potential negative effects bad behavior may have on the overall health, welfare, and morale of the command. Moreover, Commanders should be reminded that in accordance with Army Regulation 20-1, paragraph 6-3a (5), if the Commander fails to respond within a reasonable amount of time or in accordance with the timeframe directed by a higher level Commander and the complainant returns to the IG for assistance, the IG will contact the Commander's next higher Commander and allow the chain of command to resolve the matter. If no further action occurs, the IG should discuss the situation with the Directing Authority, who may direct the IG to investigate the Soldier's Commander for failing to adhere to the requirements of Army Regulation 608-99.

5. The IG will not:

a. Offer opinions or be judgmental in the complainant's or in the Soldier's presence, become personally involved, or take sides against another Family member.

b. Become advocates for either the complainant or the Soldier.

c. Determine how much the Soldier "owes" the Family. That matter is strictly for the Commander, the legal office, the Soldier, and the Family to resolve. The SJA is the local proponent and the only one authorized to provide definitive interpretations of the regulation.

d. Deal or correspond directly with the Soldier to keep the Commander out of the loop.

e. Require Commanders to provide a copy of their inquiries if the Commander decides to conduct any further investigation beyond the requirements of Army Regulation 608-99, i.e., an AR 15-6 investigation.

f. Gather banking information such as routing and account numbers. Only if the accepting IG office requests assistance on behalf of a deployed Soldier will the IG assist in gathering and forwarding this information. After confirming that the receiving IG office has the information, the IG must delete or destroy the personal account information prior to closing the case. The IG must never retain personal account information in any IG record or the IGARS database.

6. Sample Memorandum and Letter:

a. A sample referral memorandum used to refer this matter to the appropriate Commander when the complainant does not know the Commander's name or does not initially wish to contact the Commander appears on the next page.

b. A sample letter that IGs may use to acknowledge receipt of a Family support request to the complainant follows the sample memorandum.

Sample Referral Memorandum of a Non-Support Case to a Commander

CUI

(OFFICE SYMBOL)

2 December 20XX

MEMORANDUM FOR Commander (UNIT ADDRESS)

SUBJECT: Request for Family Support (Army Regulation 608-99)

1. Reference our telephonic coordination on 2 December 20XX, (Name) is requesting support for Family members for (himself / herself, son, daughter) and can be reached at (phone) and (address). (Name) is requesting support from (Soldier's information).
2. Under the provisions of Army Regulation 608-99, Family Support, Child Custody, and Parentage, please review the request for support, determine all relevant facts and evidence (e.g. allotment forms, canceled checks, court orders), and provide the complainant a response (with a copy to this office) in writing as prescribed in Army Regulation 608-99 and in accordance with any local policy. You should consult with your Staff Judge Advocate concerning the amount of financial obligation and necessary proof of payment and ensure that all legal requirements are met, to include protection under the Privacy Act.
3. This memorandum is an Inspector General record and contains privileged and confidential information. (Name) consented to the release of his or her name in the interest of resolving this issue. However, as an individual requesting Inspector General assistance, (Name) is entitled to confidentiality and certain safeguards; among these safeguards is the right to register complaints with the Inspector General free from restraint, coercion, discrimination, harassment, or reprimand.
4. The use or attachment of this memorandum as an exhibit to the records of other offices or agencies within the Department of the Army is not authorized without the written approval of The Inspector General. UNAUTHORIZED REPRODUCTION OR RETENTION OF INSPECTOR GENERAL DOCUMENTS IS STRICTLY PROHIBITED. Please return this document to this office with a copy of your written response to the complainant.
5. When contacting this office, please refer to case number (Local Case #). If you need additional information, please contact (Name) at (DSN / COM XXX-XXXX).

Encl

Richard Britton
RICHARD BRITTON
MAJ, U.S. Army
Inspector General

CUI

Sample of Acknowledgment to a Complainant for Non-Support

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

December 2, 20XX

Office of the Inspector General

Mrs. Jane Doe
1515 Anywhere Road
Anywhere, Virginia 22222

Dear Mrs. Doe:

This letter is in reply to your inquiry concerning the support obligations of Major John Doe.

The Army expects Soldiers to provide support to their legal dependents. However, the determination of what is adequate or reasonably sufficient support is a highly complex and individual matter. In the absence of a court order, the Department of the Army has established a minimum-support policy as an interim measure until the parties involved resolve their differences by mutual written agreement or the matter is resolved by court action.

Army officials must assume that adequate support is provided to Family members unless a complaint is received. When a complaint arises regarding support, Army Regulation 608-99 requires a Commander to take action. Be advised, however, that while the Soldier will be counseled to provide the required amount of support, and certain adverse personnel or disciplinary actions may be taken against him or her for noncompliance, the Army cannot actually force a Soldier to make payment. Only a civil court or state child support enforcement agency action can require such payment.

We have sent your correspondence to the Soldier's Commander, who will reply directly to you. If you are not satisfied with the Commander's answer, you should pursue the matter through the civil courts.

Sincerely,

Richard Britton
Richard Britton
Major, U.S. Army
Inspector General

7. Additional Resources for Complainants: The following agencies might be of assistance to certain Family members in resolving support and custody issues.

a. **State Offices of Child Support Enforcement:** Each of the 50 States has a civilian support structure specifically created by Congress to enforce Family support issues with branch offices located in all large cities and at most county seats. These offices are normally located in the county court house or the local county or State office building -- often collocated with the welfare office. While State laws vary in detail and specific procedures, each State provides child-support collection assistance, normally at no cost to the requesting spouse. Many States also provide assistance for spousal support and alimony. An excellent source of contact information for State Child Support Enforcement Agencies is at www.acf.hhs.gov/css/map/state-and-tribal-child-support-agency-contacts.

b. **Uniform Interstate Family Support Act (UIFSA):** Allows transfer of enforcement authority of court-ordered support from the State in which the supported spouse resides to the State of the Soldier's duty station by registry of the court decree in the local court of the duty station State. Child Support Enforcement Agencies can assist.

c. **State's Welfare Authorities:** In cases where the supported spouse is destitute, the State's welfare authorities can, in some cases, also provide for subsidized housing and child care, food stamps, job training, and State monetary aid (paid in large part from Health and Human Services Federal grant money). The State Office of Child Support Enforcement will refer qualifying cases to the State's welfare authorities while still pursuing support from the Soldier.

d. For information regarding garnishment and involuntary allotments, see the DFAS website at www.dfas.mil/Garnishment/.

e. Locator Services:

(1) **Parent Locator Service of the U.S. Department of Health and Human Services:** Available to former Soldiers by going through the main State Office of Child Support Enforcement. The Parent Locator Service can access the database of the Internal Revenue Service, Social Security Administration, Department of Veteran's Affairs, and States such as driver's license records and motor vehicle registries.

(2) **State Adjutant General:** Address Army National Guard personnel inquiries to the appropriate State Adjutant General.

Section 3-1-3-1

Parentage Cases

1. **Purpose:** This section explains the process for working and referring complaints related to Parentage Cases.
2. **Parentage Cases:** The IG will refer complaints involving parentage to the appropriate Commander for action. In a case where parentage has not been legally established or a court order identifies the legal parent, the Commander will follow the actions prescribed in Army Regulation 608-99, paragraph 3-5; the Commander will provide complete, accurate, and timely information to the individual making the complaint in accordance with Army Regulation 608-99. The Commander should seek legal advice from the servicing SJA office if in doubt as to the requirements or application of his or her requirement under Army Regulation 608-99, Family Support, Child Custody, and Parentage. This advice should not come from a legal assistance attorney who advocates the client's interest.

The Commander should respond in writing within a reasonable amount of time of receiving the complainant request or in accordance with the timeframe directed by a higher level Commander. If the Commander fails to respond in writing within a timely matter, and the complainant returns to the IG for assistance, the IG will contact the Commander's next higher Commander and allow the chain of command to resolve the matter. If no further action occurs, the IG will discuss the situation with the Directing Authority, who may direct the IG to investigate the Soldier's Commander for failing to adhere to the requirements of Army Regulation 608-99.

Section 3-1-3-2

Child Custody

1. **Purpose:** This section explains the process for working and referring complaints related to Child Custody.
2. **Child Custody:** The IG will refer complaints involving child custody to the appropriate Commander for action. The Commander will initiate an inquiry or administrative investigation into every complaint alleging child custody, visitation, or related matters and provide complete, accurate, and timely information to the individual making the complaint. The Commander should seek legal advice from the servicing SJA office if in doubt as to the requirements or application of his or her requirement under Army Regulation 608-99, Family Support, Child Custody, and Parentage. This advice should not come from a legal assistance attorney who advocates the client's interest.

The Commander should respond in writing within a reasonable amount of time after receiving the complainant request or in accordance with the timeframe directed by a higher level Commander. If the Commander fails to respond in writing within a timely matter, and the complainant returns to the IG for assistance, the IG will contact the Commander's next higher Commander and allow the chain of command to resolve the matter. If no further action occurs, the IG will discuss the situation with the Directing Authority, who may direct the IG to investigate the Soldier's Commander for failing to adhere to the requirements of Army Regulation 608-99.

Section 3-1-4

Equal Opportunity (EO) Complaints

1. **Purpose:** This section explains the process for working or referring Equal Opportunity complaints.
2. **Equal Opportunity Complaints:** Equal Opportunity complaints involve discrimination based on race, color, national origin, religion, sex, or sexual orientation. The Equal Opportunity / Equal Employment Opportunity (EO / EEO) Office, Equal Opportunity Advisor (EOA), or Equal Opportunity Representative normally work these complaints. An IG should only investigate EO complaints as a last resort and only if explicitly directed to do so, primarily because the results of the IG Investigation will not become part of Equal Opportunity Reporting System. If the complainant seeks redress for past alleged discriminatory practices that have become part of official Army records, the IG should advise the complainant to seek redress through appeals procedures provided by law or Army regulations (**prescriptive provision in Army Regulation 20-1, paragraph 6-3i**).
3. **Complaints of Discrimination Based on Sexual Orientation:** Complaints of discrimination based on sexual orientation from members of the armed forces are appropriate for the EO / EEO Office to work. Secretary of the Army memorandum SUBJECT: Army Directive 2015-39 (Inclusion of Sexual Orientation in the Military Equal Opportunity Program) dated 14 October 2015, provides implementation guidance for processing complaints of discrimination based on Sexual Orientation under the Equal Opportunity Program.
4. **Complaints of Discrimination Based on Gender Identity.** Complaints from military members regarding discrimination based on gender identity, or for being transgender, are appropriate for the EO / EEO Office to address. The most up-to-date resources regarding military service by transgender persons appears online at <https://www.milsuite.mil/book/groups/army-transgender-service-information>.

Section 3-1-5

Sexual Harassment and Assault Complaints

1. **Purpose:** This section explains the process for working or referring Sexual Harassment and Sexual Assault complaints.
2. **Sexual Harassment Complaints:** Inspectors General will handle complaints of Sexual Harassment much like Equal Opportunity complaints. These complaints are not appropriate for the IG, and the IG should refer military complaints of sexual harassment to Sexual Harassment / Assault Response and Prevention (SHARP) professionals, such as the Sexual Assault Response Coordinator (SARC) and / or Victim Advocate (VA). The IG should refer Department of the Army Civilian (DAC) complaints of sexual harassment to the Equal Employment Opportunity (EEO) Office. An IG should only investigate allegations of sexual harassment as a last resort and only if explicitly directed to do so, primarily because the results of the IG investigation will not become part of the Integrated Case Response System or the Equal Opportunity Reporting System.

IGs who conduct due-process reviews of complaints involving SHARP should be graduates of the 80-hour resident SHARP training course due to the nuances and complexities associated with such matters. Command IGs should strongly consider having at least one IG in the staff section trained at the SHARP course in order to handle these due-process reviews effectively.

3. **Sexual Assault Complaints:** IGs are not included in the restricted reporting chain. Therefore, in accordance with Department of Defense Instruction (DoDI) 5505.18, Change 2, dated 31 January 2019, IGs are required to immediately report all allegations of sexual assault to the U.S. Army Criminal Investigation Command (USACIDC), commonly referred to as CID. Inspectors General are not required to notify the SARC, as this is a regulatory requirement for USACIDC; however, the IG may contact the SARC as part of rendering immediate assistance to a requesting sexual assault victim. Lastly, IGs should ensure that the Directing Authority is aware of this reporting requirement and that subordinate Commanders know and understand that **ONLY CID** can investigate allegations of sexual assault.

The IG will still complete a DA Form 1559 and Electronic Case Form to capture the complaint or request for information; thoroughly analyze the complaint for all issues and allegations to ensure that the entire matter is not appropriate for the IG; open a case in the IGARS database; annotate the complaint or request; annotate any action taken such as Teach and Train or referral to the appropriate agency; then, close the case.

Section 3-1-6

Criminal Allegations

1. **Purpose:** This section explains the process for working criminal allegations.
2. **Criminal Allegation:** Allegations of a criminal nature are normally not appropriate for Inspector General action. However, the Inspector General's Directing Authority may still direct the Inspector General to conduct an Investigation or Investigative Inquiry into allegations of criminal misconduct. Allegations that constitute serious criminal misconduct are definitely not appropriate for IG action. Coordination or consultation with the appropriate legal advisor is essential in such cases, to include coordination with U.S. Army Criminal Investigation Command (USACIDC) officials if necessary (**prescriptive provision in Army Regulation 20-1, paragraph 7-1i (1)**).
3. **Confidentiality Considerations:** Army IG confidentiality rules exist to encourage Soldiers, Family members, and Civilians to be candid with IGs. The more that complainants and witnesses tell IGs, the more we can improve the Army's efficiency. These rules do not apply, however, when the IG has a reasonable belief that he or she needs to "prevent the client from committing a criminal act that . . . is likely to result in imminent death or substantial bodily harm, or significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system." This quotation is not from Army Regulation 20-1 but from Army Regulation 27-26, Rules of Professional Conduct for Lawyers. This rule for attorney professional conduct fits perfectly with IG practice as well.

Section 3-1-7

Hazardous Work Conditions

1. **Purpose:** This section explains the process for working or referring complaints involving Hazardous Work Conditions.
2. **Hazardous Work Conditions:** The IG will advise individuals presenting complaints of hazardous, unsafe, or unhealthy work conditions to follow the procedures outlined in Army Regulation 385-10, Army Safety Program. The Inspector General will not work cases involving hazardous work conditions (**prescriptive provision in Army Regulation 20-1, paragraph 6-3f**).

The IG will still complete a DA Form 1559 and Electronic Case Form to capture the complaint or request for information; thoroughly analyze the complaint for all issues and allegations to ensure that the entire matter is not appropriate for the IG; open a case in the IGARS database; annotate the complaint or request; annotate any action taken such as Teach and Train or referral to the appropriate agency; then, close the case.

Section 3-1-8

Complaints from Creditors

1. **Purpose:** This section explains the process for working or referring complaints of private indebtedness from creditors.

2. **Creditor Request for Soldier Contact Information:** Department of Defense Instruction (DoDI) 1344.09 states that members of the military are expected to pay their just financial obligations in a proper and timely manner. Additionally, claimants may contact military members by having correspondence forwarded through the military locator services for an appropriate fee. Enclosure 3 of DoDI 1344.09 specifically covers procedures for processing debt complaints.

3. **Complaints from Creditors:** Given the complexity and legalities associated with complaints and requests from creditors, IGs will consult with the SJA before processing the complaint. Some States prohibit creditors from contacting a debtor's employer. (See Army Regulation 20-1, paragraph 6-3b).

Section 3-1-9

Complaints Involving Suicidal Ideation

1. **Purpose:** This section explains the process for responding to complaints involving persons with suicidal ideations.
2. **Complaints involving suicidal ideation:** An IG might face situations that involve a complainant or someone else that is exhibiting suicidal ideations. Such situations involve a potential conflict between protecting IG confidentiality and taking immediate action to protect individual(s) by releasing IG information to third parties. While conducting an IG interview, if an IG determines that a witness, suspect, or complainant may be a suicide risk, the IG should first advise the individual of the places he or she can seek treatment or help as mentioned below and then strongly urge the individual to seek such professional assistance. If the individual declines this advice or if the IG is not confident the individual will indeed seek appropriate treatment or help, AND if time permits, the IG should then coordinate with the Command IG and DAIG Legal / Records Release Office for further guidance on how to proceed. This coordination allows for a sanity check so the IG does not inadvertently release too much information and also allows DAIG to approve the release if time permits.

In certain instances where it is necessary to protect the individual or the safety of others, the IG may reveal some IG-protected communications to the individual's chain of command or to appropriate medical personnel without first coordinating with the Command IG or DAIG. This release is executed on a "FOUO" (for official use only) basis so that the Commander has the information necessary to consider and process an emergency mental-health referral (see DoDI 6490.04, Mental Health Evaluations of Members of the Military Services). For extreme emergencies, especially when others are possibly in harm's way, the police (either military or local), might also provide assistance, especially if the incident is developing in a housing area. Your command surgeon or the local medical facility's doctor-on-call might also be able to assist in extreme emergencies, especially when civilians are involved.

Bottom line: Never place IG confidentiality over an individual's safety. IGs should not allow suicidal complainants to depart the office until a Chaplain, mental health professional, or member of the chain of command is present. If the suicidal complainant is on the phone, the IG should attempt to contact the nearest Chaplain, mental health professional, or member of the chain of command, if possible, or contact the Suicide Prevention Hotline at 1-800-273-TALK (8255). You may reveal protected IG communications to the appropriate chain of command or medical authorities to the limited extent necessary to protect the safety of others (see Section 3-1-5 for additional guidance for situations when a complainant makes a threat of bodily harm or indicates that someone else intends to do so).

3. **Resources for professional assistance:** Many organizations are available to care for people either under emergency conditions or through regular preventative assistance by providing various services such as counseling, anger-management classes, awareness training, and immediate intervention. These resources include the local

command or post Chaplain's Office, unit-training requirements, some Family Readiness Group members trained in intervention techniques, Army Community Service (ACS), medical care facilities, Family Advocacy, Red Cross, Military One Source, various hotlines, etc. IGs should familiarize themselves with the specific resources available at their local camp, post, or station and within the surrounding community.

4. **Training:** The IG can help promote awareness and training by reminding Commanders to ensure that unit training -- such as suicide awareness and prevention, post-traumatic stress disorder, brain injuries, and stress training -- is being conducted and that everyone is aware of counseling locations, hotlines, and support groups. Also, this awareness can help reduce the stigma associated with seeking mental-health care.

5. **Documentation:** The IG will record these cases and actions in the Inspector General Action Request System (IGARS).

Section 3-2

Matters Considered Not Local IG Appropriate

1. **Purpose:** This section explains the process for handling complaints and requests for information that are not appropriate for an IG at the local level.
2. **Matters Not IG Appropriate:** Certain complaints or requests for information presented to the IG may not be appropriate for the local IG to work. In these cases, the authority to resolve the matter rests with another Commander or authority. Examples include certain pay issues or installation-specific matters. However, regardless of the topic, the IG will still complete a DA Form 1559 or an Electronic Case Form to capture the complaint or request for information. The IG will thoroughly analyze the complaint for all issues and allegations to ensure that the entire matter is not appropriate for the IG at the local level, open a case in the IGARS database, annotate the complaint or request, annotate referral actions, and then close the case.

Section 3-2-1

Allegations Against Senior Officials

1. **Purpose:** This section explains the process for handling allegations against senior officials below the DAIG level.
2. **Allegations Against Senior Officials:** Senior Officials are defined as general officers (including ARNGUS, USAR, and retired general officers), promotable colonels, Professors at the United States Military Academy (PUSMAs), and SES Civilians -- within 2 working days of receipt when practicable. Special Government employees (scientific or professional, senior level, defense intelligence senior level, and highly qualified experts) are considered senior officials. Of note, a National Guard colonel becomes a senior official when the officer is submitted to compete on a General Officer Federal Recognition Board (GOFRB) for a Certificate of Eligibility (COE) and remains a senior official until completion of the GOFRB process. Colonels selected by the GOFRB, confirmed by the Senate for a COE, and assigned to a general officer (GO) billet are senior officials. Colonels who receive a COE but are not assigned to a GO billet are not considered senior officials until they are assigned to a GO billet or nominated for a GO billet. Inspectors General will forward all allegations senior officials to DAIG's Investigations Division (SAIG-IN) within two working days to usarmy.pentagon.hqda-otig.mbx.saig-in-office@mail.mil or by telephone (commercial (703) 545-4556, DSN 865-4556).

The local IG will only receive the IGAR. While a complainant may submit a DA Form 1559 and other documents as part of their senior-official allegation, the local IG will not upload anything into the IGARS database. Furthermore, the IG will not conduct any preliminary analysis or fact-finding but instead immediately pass the allegation to DAIG's Investigations Division for action. (**prescriptive provision in AR 20-1, paragraph 7-1I**).

The local IG will document this referral action by completing an Information IGAR. Furthermore, the local IG will not include the senior official's name, position, or the nature of the allegation in the IGARS entry. Since the allegation will not be referred in IGARS to Investigations Division, the local IG will simply state within the body of the Information IGAR that the IG received an allegation against a senior official (no name); the date of that allegation; the method of delivery of the allegation to DAIG's Investigations Division (phone or fax); the date and time of that delivery; and, if applicable, with whom the IG spoke at Investigations Division. Once DAIG's Investigations Division acknowledges receipt of the allegation, the local IG will save the Information IGAR, thus closing the case in IGARS. See Army Regulation 20-1, Inspector General Activities and Procedures, paragraph 7-1I, and Appendix D, Table D-1, for more information.

3. **Handling requests for information from the complainant:** Even though you may have informed the complainant initially that the allegation is not appropriate for your office and that you will refer it to DAIG, the complainant may still contact you in an effort to check the status of the case. If you receive the request in writing, a recommended written response is the following:

"(Title) (Name),

This office has forwarded your concerns to the Department of the Army IG (DAIG) in accordance with Army Regulation 20-1. You may contact DAIG at (703) 545-4545 or at usarmy.pentagon.hqda-otig.mbx.saig-in-office@mail.mil for further information on the matter.

(Signature block)"

If you receive the request verbally, simply provide the information stated above. In either situation, the IG should document the contact and request for information (without naming the senior official) using an Information IGAR. The IG should also report the contact to DAIG's Investigations Division.

Section 3-2-2

Allegations Against Members of Special Access Programs (SAPs) and Sensitive Activities (SAs)

1. **Purpose:** This section explains the process for handling allegations against members serving in -- or working with -- Army Special-Access Programs (SAPs) and Sensitive Activities (SAs).

2. **Allegations Against Soldiers and Civilians assigned to -- or working with -- Army Special-Access Programs (SAPs) and Sensitive Activities (SAs):**

Inspectors General will forward all IGARs containing an allegation against any person assigned to a SAP or SA as defined in AR 380-381 within two working days by secure means to DAIG's Intelligence Oversight Division (**prescriptive provision in AR 20-1, paragraph 1-4b (5)(e)**).

Section 3-2-3

Allegations of Misconduct by Specific Army Professionals

- 1. Purpose:** This section explains the process for handling allegations of misconduct by specific Army professionals.
- 2. Allegations of misconduct by specific Army professionals:** Some allegations received by the IG are not easily decipherable, especially if the allegations involve matters, processes, and requirements related to a specific profession. For example, when a complainant alleges misconduct by someone of a specific profession -- such as a doctor making an incorrect medical decision; a lawyer's improper representation in a legal matter; or a recruiter fraudulently processing an initial enlistment contract -- the local IG, if he or she is not of this particular professional background, may not know the applicable professional standards or what actions would constitute a violation of the standard. Furthermore, certain Army professionals may undergo additional credentialing and licensing requirements that, given the nature of their misconduct, might also affect their ability to continue to work or practice in their specific field. Therefore, complaints related to specific Army professionals such as Army lawyers, Army chaplains, Army healthcare providers, Inspectors General, Army recruiters, and Army criminal investigative agents (CID) are not local IG appropriate. Instead, the IG will refer the case to the appropriate Army IG associated with the specific professional area or, in some cases, directly to the appropriate professional office or agency. The following examples, although not all-inclusive, provide appropriate points of contact for complaint referrals.
- 3. Professional Misconduct by an Army Lawyer or Mismanagement in a Legal Office:** IGs will refer allegations involving professional misconduct by an Army lawyer, military or civilian, through DAIG's Legal Advisor to the senior counsel having jurisdiction over the subject lawyer for disposition. See Army Regulation 20-1, paragraph 7-1i (4). An IG will refer all allegations involving mismanagement in a legal office through DAIG's legal advisor to the senior lawyer's designated representative to receive such complaints for disposition under applicable regulations. See Army Regulation 20-1, paragraph 7-1i (5). Contact DAIG's Legal Advisor (SAIG-JA) at (703) 545-4591 for more information or assistance. Once DAIG's Legal Advisor confirms receipt of the referral, the IG will close the case after annotating in the IGARS case notes the actions taken. The IG will then notify the complainant that the IG has referred the case to the appropriate office or agency.
- 4. Professional Misconduct by an Army Chaplain:** Inspectors general who receive allegations against Army chaplains regarding the quality of spiritual or religious counseling will open a case in IGARS, refer the allegations to the next higher supervisory chaplain (i.e. battalion to brigade), and close the case in IGARS. See Army Regulation 20-1, paragraph 7-1i (6). Due to the sensitive nature and the complexity of the many various religious beliefs, the IG should consider these types of complaints as not appropriate for the IG. Depending on the nature and severity of the complaint, the IG may also consider referring the matter directly to the Chief of Chaplains. Inspectors General will refer allegations concerning matters other than professional misconduct to the chain of command. Once the appropriate office or agency confirms receipt of the

referral, the IG will close the case after annotating in the IGARS case notes the actions taken. The IG will then notify the complainant that the IG has referred the case to the appropriate office or agency.

5. Professional Misconduct by Army Healthcare Providers: Inspectors general do not investigate alleged professional misconduct (standard care / quality of care) by Army Healthcare Providers. These matters are a Military Treatment Facility (MTF) responsibility in accordance with Army Regulation 40-68. Should the IG receive such a complaint, the IG will redirect the Soldier to the Patient Advocacy / Patient Experience Office at the MTF for redress in accordance with DoDI 6000.14, or refer the case to the U.S. Army Medical Command (MEDCOM) IG or the local servicing Regional Health Command (RHC) IG. See Army Regulation 20-1, paragraph 7-1j (2). For MEDCOM IG points of contact, see the IG Worldwide Directory or, for TRICARE-specific questions, see <http://www.tricare.mil>. Once the appropriate office confirms receipt of the referral, the IG will close the case after annotating in the IGARS case notes the actions taken. The IG will then notify the complainant that the IG has referred the case to the appropriate office or agency.

6. Allegations against Inspectors General: Allegations that involve the actions of an Inspector General while performing IG-specific duties, such as not resolving an Assistance Inquiry or not responding to the complainant, will be resolved in accordance with Army Regulation 20-1, paragraph 7-1j. Report allegations against IGs, military and civilian, to the next higher echelon IG and to the ACOM, ASCC, or DRUI IG for appropriate action within two working days after receipt. The ACOM, ASC, or DRU IG will consult with DAIG's Assistance Division concerning what actions to take. If the allegation involves other misconduct or other non-IG related offenses, the command may relieve the IG for cause (or, in the case of Civilian IGs, temporarily suspend the IG from his or her duties or remove the individual) and use other investigative methods or administrative actions to determine the facts of the case after coordinating with DAIG's Assistance Division. Contact DAIG's Assistance Division at (703) 545-1845 for more information or assistance. Once the appropriate IG office confirms receipt of the referral, the IG will close the case after annotating in the IGARS case notes the actions taken. The IG will then notify the complainant that the IG has referred the case to the appropriate office.

7. Allegations against Army Recruiters: U.S. Army Recruiting Command (USAREC) has two primary regulations (USAREC Regulation 600-25, Prohibited and Regulated Activities, and USAREC Regulation 601-45, Recruiting Improprieties and Procedures) under which most allegations pertaining to recruiters fall. Examples of recruiter misconduct or impropriety include, but are not limited to, prohibited relationships (social, business, or personal employment with subjects of recruiting efforts), criminal involvement, false documents, misrepresentation, and coercion. Upon receipt of an allegation of professional impropriety by a Regular Army or Army Reserve recruiter, the local IG should refer the allegation to the USAREC IG. Contact the USAREC IG at (800) 223-3735, extension 60397 / 60415, regarding any questions or allegations pertaining to recruiters or initial enlistment contracts. Inspectors General will refer cases with allegations against an Army National Guard recruiter to their State IG. Once the USAREC IG confirms receipt of the referral, the IG will close the case after annotating in the IGARS case notes the actions taken. The IG will then notify the complainant that the IG has referred the case to the appropriate office or agency.

8. Allegations against Army Criminal Investigations Agents (CID): Inspectors General will refer any complaints involving a CID Special Agent as the subject or suspect to the U.S. Army Criminal Investigation Command (USACIDC) Inspector General. Examples of CID agent misconduct include treating a victim, witness, or suspect without dignity or respect; threatening the victim or suspect; conducting an unauthorized or illegal search of a person or premises; or violations of the Privacy Act by disclosing the victim's identity to unauthorized personnel. However, if the complainant believes that a detective in civilian clothing, who was rude to a witness or tried to ask a victim out on a date, was a CID Agent but, once identified, was actually a Military Police Investigator, then refer the allegation to the appropriate Commander of the Military Police Investigator in question. The main references are Army Regulation 195-2, Criminal Investigation Activities, and CID Regulation 195-1, Criminal Investigation Operational Procedures. The local IG may coordinate the referral of the allegation or issue via e-mail or telephonically (depending on the circumstances) with USACIDC IG at (571) 305-4012. Keep in mind that the sooner the CID IG has visibility on agent misconduct, the better. Once the CID IG confirms receipt of the referral, the IG will close the case after annotating in the IGARS case notes the actions taken. The IG will then notify the complainant that the IG has referred the case to the appropriate office or agency.

9. Other Considerations: Even though a complaint might involve someone of a special profession, the issue or allegation might fall outside the specific professional conduct area as discussed previously. For example, a complaint that the doctor, Chaplain, or IG used a military vehicle to move personal household goods from one off-post apartment to another is clearly a violation of the Joint Ethics Regulation and is not directly related to the medical, religious, or IG professions. Allegations and issues of these types are still best resolved at that local IG's office -- either by the IG or through the appropriate command. However, to avoid confusion or handling procedures related to multiple allegations against the same person, it is best to seek discuss with the appropriate IG or agencies listed above.

10. Documentation: No matter how these allegations are resolved, the IG will always open a case in IGARS to capture the capture the complaint or request for information; thoroughly analyze the complaint for all issues and allegations to ensure the entire matter is not appropriate for the local IG; and annotate any action taken, such as referral to the appropriate agency.

Section 3-2-4

Requests for Inspector General Records

- 1. Purpose:** This section explains the process for referring requests for Inspector General Records to DAIG's Records-Release Office and defines the role of the local IG in requests for IG records.
- 2. Nature of IG Records:** Inspector General records are the property of the Secretary of the Army and further maintained by IGs. The only IG office that can release IG records requested through the Freedom of Information Act (FOIA) is DAIG's Records-Release Office. Requests for IG records are appropriate for IGs; the local office may receive these requests but will not release (or redact) the records.
- 3. Request for Records (Case Open):** The IG may receive a request for IG records while a case is still open. The IG will record these requests as an issue in IGARS and as part of the overall Electronic Case Form with the function code of '1A.' Do not confuse this request with a witness's / subject's / suspect's request to review his or her own testimony. The IG will not release records to the requestor. (Note: Release of IG records while a case is still open is not appropriate).
- 4. Request of Records (Case Closed):** If the case is closed, the IG will record the request for IG records as an Information IGAR. The request and all IG actions will be included in the synopsis, and the IG will forward the request to DAIG's Records-Release Office.
- 5. Processing Requests:** The complainant can present requests for IG records either verbally or in writing. Regardless of how the IG receives the request, the official request must reach the Records-Release Office in written format. See Part Three, Section 1-6, for procedures to process requests for Release of Records for Unofficial (Personal) Use.
- 6. Example Request for IG Records under the Freedom of Information Act (FOIA):** After closing a recent case, one of the witnesses returns to the IG office and verbally requests a copy of his or her testimony and all other documents relating to the case.

Since only IGs maintain IG records, this request is IG appropriate, but only with limited involvement by the local IG. A request for IG records for unofficial (personal) use is the best description of this issue. Since this case is closed, the Information IGAR is the appropriate IGAR to open in the IGARS database to document the IG's actions. The Assistance Inquiry (Request for Information) or Referral best captures the IG Course of Action, since the local IG receiving the request will provide information to the complainant in order process the request. However, the local IG will not provide the records and will Teach and Train the requestor that DAIG's Records-Release Office will respond to his or her request.

Since the complainant requested the documents verbally, the IG will refer him or her to the DAIG website (<http://www.daig.pentagon.mil/foia.aspx>) for instructions on submitting the request directly to the Records-Release Office. The website provides instructions on the procedure to submit written requests for IG records to DAIG's Records-Release Office via email; usarmy.pentagon.hqda-otig.mbx.saig-zxl@mail.mil.

Section 3-3

Referral Quick Reference Guide

1. **Purpose:** This section provides a listing of issues and allegations and the potential agency / office to which the IG should refer the issue / allegation. This list is neither exhaustive nor all-inclusive, and the IG must analyze each issue / allegation before automatically referring it to another organization.

Issues or Allegations Involving:	Referral To:	Time Standard:	Paragraph reference:
Issue / Allegation outside Directing Authority's jurisdiction	The proper IG office or agency with DoD	5 working days	<u>The A&I Guide</u> , Part One, Section 2-4-1
Another Military Service	DAIG or Military Service IG	5 working days	AR 20-1, 6-2g
Another Government Agency	The proper Agency IG through DAIG	5 working days	AR 20-1, 6-3d
Inherently Criminal / Criminal Allegations	CID / Command / MPI / Local law enforcement	2 working days	AR 20-1, 6-3k and 7-1i (1)
Suspected law-of-war violation	Chain of command / next higher IG / DAIG	Immediately	AR 20-1, 1-4b (5) (h)
Whistleblower Reprisal (service member)	DAIG Assistance Division – WIOB; ACOM, ASCC, or DRU IG	2 working days	AR 20-1, 1-4b (5) (g)
Whistleblower Reprisal (Contractor / Non-Appropriated Fund Civilians)	DoD IG	2 working days	AR 20-1, 1-4b (5) (g)
Whistleblower Reprisal (Appropriated Fund Civilians)	Office of Special Counsel	2 working days	AR 20-1, 1-4b (5) (g)
Command appropriate Issue / Allegation	Command	2 working days	AR 20-1, 7-1i (3)
Senior Official (General Officers, COL(P), SES)	DAIG's Investigations Division (SAIG-IN)	2 working days	AR 20-1, 1-4b (5) (d)
Colonels	DAIG's Investigations Division (SAIG-IN)	2 working days	AR 20-1, 1-4b (5) (c) and 7-1k (2)

Issues or Allegations Involving:	Referral To:	Time Standard:	Paragraph reference:
Special-Access Program / Sensitive Activity Personnel	DAIG's IO Division (SAIG-IO)	2 working days	AR 20-1, 1-4b (5) (e)
Requests for IG Records (FOIA)	DAIG's Records-Release Office	2 working days	AR 20-1, 3-4c (4)
Sexual Assault	CID	Immediately	<u>The A&I Guide</u> , Part One, Section 3-1-7
Sexual Harassment	SARC	Immediately	<u>The A&I Guide</u> , Part One, Section 3-1-7
Discrimination (military)	EO (or IG may work)	Immediately	AR 20-1, 6-3i
Discrimination (civilian)	EEO	Immediately	AR 20-1, 6-3h
Complaints with other means of redress	The governing regulation or office	2 working days	AR 20-1, 6-3g
Allegations of professional misconduct by an Army lawyer	Senior counsel with jurisdiction over the lawyer (through DAIG's legal advisor)	2 working days	AR 20-1, 7-1i (4)
Allegations of mismanagement by Judge Advocate Legal Service Members	Senior counsel with jurisdiction over the lawyer (through DAIG's legal advisor)	2 working days	AR 20-1, 7-1i (4)
Allegations of professional misconduct by an Army chaplain	Next higher supervisory chaplain	2 working days	AR 20-1, 7-1i (6)
Allegations of professional misconduct by an Army Healthcare Provider	Regional medical command IG or U.S. Medical Command IG	2 working days	AR 20-1, 7-1j(2)
Allegations against IGs	The next higher echelon IG office (cc DAIG Assistance Division)	2 working days	AR 20-1, 1-4b (5) (f) and 7-1j (1)

Issues or Allegations Involving:	Referral To:	Time Standard:	Paragraph reference:
Recruiter (Title 10)	Recruiting Command IG	2 working days	<u>The A&I Guide</u> , Part One, Section 3-2-3
Recruiter (Title 32)	State IG	2 working days	<u>The A&I Guide</u> , Part One, Section 3-2-3
Allegations against a CID agent	CID IG	2 working days	<u>The A&I Guide</u> , Part One, Section 3-2-3
Civilian complaints of adverse action / grievances related to Civilian Personnel Advisory Centers (CPAC)	U.S. Army Civilian Human Resources Agency, DCS, G-1	Immediately	AR 20-1, 6-3e and 6-3h
Contractor Activities	The COR / Contracting Command IG /	5 working days	AR 20-1, 6-3c
Requests to work IGARs that are between 3 and 5 years old	ACOM, ASCC, or DRU IG (or DAIG)	5 working days	AR 20-1, 6-1e
Requests to work IGARs older than 5 years	TIG	5 working days	AR 20-1, 6-1e
Soldier non-support of Family member	Commander	Immediately	AR 20-1, 6-3a
Private indebtedness	Commander / Consult with SJA	2 working days	AR 20-1, 6-3b
Hazardous work conditions	Refer complainant to procedures outlined in AR 385-10	Immediately	AR 20-1, 6-3f

Chapter 4

Considerations

Section 4-1 – Due-Process Reviews

Section 4-2 - Withdrawn Complaints

Section 4-3 - Complaints Not Received in a Timely Manner

Section 4-4 - Unresponsive / Uncooperative Complainant

Section 4-5 - Misusers of the IG System

Section 4-1

Due-Process Reviews

- 1. Purpose:** This section explains the term 'due process' and the procedures for handling requests to conduct a due-process review.
- 2. Due Process:** The concept of due process stems from the Fifth Amendment of the Bill of Rights, which states that citizens shall not "be deprived of life, liberty, or property, without due process of law..." For IGs, due process means fidelity and adherence to the established avenues of redress used by the Army to resolve complaints or disagreements for certain things, such as rebuttals of OERs, NCOERs, etc. Inspectors General typically consult the regulation (or policy) that governs the avenue of redress when reviewing due process. Due process then is redress available as outlined in those regulations or policies that responsible individuals must follow when processing requests for redress. Complainants must follow these redress venues first before requesting assistance from the IG.

For example, a complainant may complain to the IG about his or her evaluation report. Complaints regarding evaluation reports are not IG-appropriate because another means of redress exists within the Army and is outlined in a governing regulation. Specifically, Army Regulation 623-3, Evaluation Reporting System, describes two forms of redress for Soldiers depending on the submission status of the evaluation. The appeals process is generally used after the evaluation is permanently filed, whereas the Commander's Inquiry addresses the Soldier's concerns prior to permanent filing. If the complainant is still not satisfied with the results of the Commander's Inquiry or appeal, the IG can further Teach and Train the complainant about redress means available through the Army Board for Correction of Military Records (ABCMR). Each of these means of redress outlines a process for the Soldier and responsible officer to take in addressing the complaint.

- 3. Due-Process Review:** When an IG conducts a due-process review based upon a complaint, the IG must identify the proper process for redress identified in law, regulation, or local policy. Some questions the IG must answer are (1) Did the complainant submit the request for redress in accordance with the governing regulation? and (2) Did the responsible office properly address the request in accordance with the appropriate law, regulation, or policy, and respond / take actions in accordance with the governing regulation?

The due-process review is not an investigation; however, it does require some IG investigatory techniques, in which the IG will ask direct questions about the process and potentially reveal the identity of the complainant. As such, complainants requesting due-process reviews by the IG must consent to the release of their personal information in order to resolve the issue.

Inspectors General that receive requests for a due-process review of a Commander's Inquiry request by the complainant into an evaluation report must consult Army Regulation 623-3, Chapter 4, Section II, which addresses the Commander's Inquiry process. In capturing the complaint, the IG needs to ask the complainant what

part of the process he or she believes the Commander or command's investigation failed to follow. While the complainant may have specific issues with the process, the IG must look at the entire process for influencing factors. Hence, the IG must fully understand the process as a whole, not just a particular part of the process.

The IG should begin the due-process review by ensuring that the Soldier properly complied with the regulation. Specifically, Army Regulation 623-3, paragraph 4-5c, states, "Requests for inquiry will occur no later than 60 days after the signature date of the rated Soldier (or senior rater, if rated Soldiers' signature is omitted) for OERs and NCOERs or authenticating official for DA Form 1059 and DA Form 1059-2." Additionally, in accordance with paragraph 4-5b, the Soldier must submit the request to the Commander "above the designated rating chain."

The IG then needs to ensure that the responsible Commander took action in accordance with the regulation. Army Regulation 623-3, paragraph 4-3, requires Commanders "to look into alleged errors, injustices, and illegalities in evaluation reports." More directly, Army Regulation 623-3, paragraphs 4-5 and 4-6, as well as Table 4-1, provide specific steps and requirements for Commanders to follow in processing the Commander's Inquiry. The IG must understand these steps and requirements and determine if the Commander followed them appropriately.

The processes outlined above, using Army Regulation 623-3 as an example, is not all-inclusive of the Commander's Inquiry requirements but rather a sample the Commander must follow. The same concept applies to any complaint that may have a means of redress.

4. Due-Process Review Outcomes: Three outcomes from the due-process review are possible: (1) There was no fault, (2) The complainant failed to comply with the regulation, or (3) The responsible officer failed to comply with the regulation. Each outcome will require some measure of Teaching and Training when responding to the complainant or potentially the command. In the third case, if the responsible officer failed to comply after the IG consults with him or her, then the IG may have an allegation to bring to the Directing Authority.

The IG may determine during the course of the due-process review that the complainant and responsible officer complied with the regulation or policy. The IG will inform the complainant that the IG found no fault during the due-process review. The IG will Teach and Train the complainant of the process and why the IG found no fault. If the complainant is not satisfied with the results of the due-process review, the IG should ask the complainant if he or she has additional information or evidence to present. If the complainant is not satisfied with the IG's finding, the IG can always refer the case to the next higher IG office for review. Additionally, the IG can refer the complainant to the next level of redress available.

The IG may find that the complainant did not comply with the redress processes outlined in the governing regulation. In this case, the IG will again Teach and Train the complainant about the redress process. Additionally, the IG should identify in the regulation or policy where the complainant did not comply. Again, the IG can always Teach and Train on further means of redress available to the complainant.

Finally, the IG may determine that the responsible officer did not conduct the redress process within the intent of the regulation or policy. The IG should consult with the Staff Judge Advocate in such cases, especially for those means of redress that had a legal sufficiency review. Inspectors General must remember that it is not within their authority to direct actions or influence the outcomes of redress processes. As a fair and impartial fact-finder, the IG should clearly understand the actions taken by the responsible officer and how that person violated or mishandled the redress process. The IG may need to swear in a Temporary Assistance Inspector General with subject-matter expertise to assist in reviewing the redress process. After a review of the process is completed, the IG can Teach and Train either party on the process. In any case, the IG will inform the complainant in the final reply of the results of the due-process review by explaining that the redress process (or portions thereof) was not followed. The final reply should not directly affix failure to a specific individual but instead which step in the means of redress the complainant was not afforded.

In the course of the due-process review, the IG must remember that the responsible officer is not under Investigation. Either the responsible officer followed or did not follow the means of redress. That said, the IG should assume that the responsible officer acted with good faith in overseeing the redress process. Even if the IG finds merit in the complaint, the IG should assume that the responsible officer did not know that the redress process was not followed. In the event that the IG uncovers malicious intent or willful failure to remedy the procedural problems after speaking with the IG, the IG will consult the SJA for legal advice.

5. Due-Process Steps: As a general outline, the IG must familiarize himself or herself with the regulation or policy in question. This familiarization may require swearing in a subject-matter expert who is a Temporary Assistant IG to educate the IG on all aspects of the process. The IG must then compare the actions of the complainant and responsible officer(s) to the redress process outlined in the policy or regulation and note any deviations. The IG should consider mitigating circumstances during this review that do not violate the intent of the policy or regulation or appear to be malicious in nature by the responsible officer. The IG may need to consult with the SJA during this process when deviations are noted, especially when a member of the SJA team conducted a legal sufficiency review of the process. The IG should then present the findings of the due-process review to the parties involved for consideration as noted above.

Section 4-2

Withdrawn Complaints

1. **Purpose:** This section explains the procedures for processing a complainant's request to withdraw a complaint.
2. **Withdrawn Complaints:** At any point following receipt of a complaint, the complainant or the initiator may ask to withdraw the IGAR. The IG decides whether or not to continue based on the best interests of the Army or the command and does not require the complainant's permission in doing so. If the IG decides to continue to work the case, the IG must consider the withdrawal as a removal of consent by the complainant to release his or her personal information and supporting documentation. Specifically, the IG should determine another way to resolve the issue(s) or allegation(s) without using the complainant's information or any supporting documentation provided in confidence. That being said, IGs cannot undo actions already set in motion. For example, once an allegation has been referred to the command, the IG cannot 'take it back.' Criminal allegations are another example. Once the IG has knowledge of a criminal allegation, the IG must report the alleged crime to the proper authorities.

Additionally, when a person who withdraws a complaint provides information about an impropriety or wrongdoing, the IG may disclose the complainant's identity to other IGs, the supporting legal advisor, and the Directing Authority without the complainant's consent unless the IG determines that such disclosure is unnecessary or prohibited during the course of an inquiry or investigation.

Before accepting the request to withdraw the complaint, the IG will ask the complainant why he or she wants to withdraw the complaint. Possible reprisal, coercion, or duress are issues of concern for IGs. Inspectors General will not suggest that a complainant withdraw a complaint; however, if the complainant desires to do so, the complainant must submit the withdrawal request in one of two ways: in writing or telephonically.

If the IG accepts the request to withdraw the complaint but keeps the case open, the IG will ensure that the case name is a generic title and not the complainant's name; in addition, the IG is no longer required to provide a final response (**prescriptive provision in Army Regulation 20-1, paragraph 6-2e**).

Section 4-3

Complaints Not Received in a Timely Manner

1. **Purpose:** This section explains the procedures for processing an IGAR not received in a timely manner.
2. **Complaints Not Received in a Timely Manner:** Complainants must present complaints to an IG in a timely manner in order for IGs to resolve them effectively. An IG is not required to look into a complaint if the complainant has failed to present the matter to an IG within one year of learning -- or becoming aware -- of an alleged problem or wrongdoing or if more than three years have elapsed since the date of the problem or wrongdoing. The IG will thoroughly analyze the complaint for all issues and allegations and open a case in the IGARS database. If the IG feels the case does NOT warrant further action, he or she will inform the complainant that the request is not timely, document the decision, and close the case. There are times when, despite the untimeliness of the complaint, the matters still warrant further IG action. Under these circumstances, the following rules apply:
 - a. The local IG may work a complaint concerning a matter that occurred less than three years prior to the complaint being presented to the IG.
 - b. ACOM, ASCC, or DRU IGs and DAIG may accept and refer complaints submitted between three and five years after the alleged wrongdoing where extraordinary circumstances justify the complainant's delay in reporting the allegation or issue -- or in cases of special Army interest. ACOM, ASCC, or DRU IGs may also approve for action complaints received by subordinate IG offices that occurred between three and five years after the alleged wrongdoing and where extraordinary circumstances exist. ACOM, ASCC, or DRU IGs -- and DAIG -- will serve as the Office of Record when referring such cases to a lower-level IG.
 - c. TIG must give a local Inspector General approval to work any IGAR presented more than five years after an event occurred. The complainant always has the freedom to send the IGAR to TIG for final disposition. TIG is the final authority in the event the complainant is not satisfied with the local Inspector General's decision.
 - d. This time limit does not invest IGs with the authority to decline a referral from TIG, DoD, or a Member of Congress. For example, the time limit does not apply to the requirement to report allegations against senior officials in accordance with paragraphs 1-4b (5)(d) of Army Regulation 20-1. Additionally, the time limit does not apply to Hotline cases referred by DoD IG.

Example: A complainant submits an IGAR to a local Inspector General that is four years old. The Inspector General will thoroughly analyze the entire complaint for issues and allegations. If the IG determines that IG action is not warranted or that the IG cannot resolve the matters presented due to an absence of information, the IG will inform the complainant that the IGAR is untimely. If the IG thinks there is enough evidence to work the case, he or she must obtain approval from the ACOM, ASCC, or DRU IG before proceeding.

Section 4-4

Uncooperative or Unresponsive Complainants

1. **Purpose:** This section explains the procedures for processing an IGAR when the complainant is uncooperative or unresponsive to the IG.

2. **Uncooperative Complainant:** Cooperation, in the context of IG functions, equates to appearing and providing timely and accurate information upon request. Cooperation from a complainant is necessary to effectively address complaints brought to the IG. However, at any time during the IGAP, the cooperation from a complainant may falter or cease to exist. It is important to note that while cooperation may be necessary to resolve a complaint, the IG's ability to mandate cooperation is limited to the complainant's information consent elections and identified role in the case.

An IG may need the consent of the complainant to release personal information, supporting documentation, or evidence in order to address issues or allegations for which the complainant is the affected party. Should the complainant fail to cooperate in this manner, which is ultimately his or her right, the IG's ability to resolve the complaint may be limited. The IG should explain to the complainant how his or her cooperation, or lack thereof, may affect or limit case resolution. Refer to Part One, Section 2-2-6, for more information on consent procedures. If the complainant fails to provide essential information, the IG may have to close the case, but the IG should make every attempt to resolve the complaint with the information or evidence provided. Of note, when the complainant is a third party, the IG does not need consent to address the complaint.

If the complainant presents an allegation to the IG, cooperation may be mandatory given the complainant's status and role in a subsequent IG Investigation or criminal investigation. In such cases, the IG should remind Army personnel of the provisions set forth in Army Regulation 20-1, paragraph 7-1g (3), which requires a witness to cooperate. Should a complainant, identified as a witness and someone subject to the provisions in Army Regulation 20-1, not cooperate with an IG during the course of an IG investigation or Investigative Inquiry, the IG should consider referring an allegation against the complainant to the appropriate command. However, IGs should take care not to confuse the act of invoking one's rights and remaining silent as a failure to cooperate.

3. **Unresponsive Complainant:** At any time during the IGAP, the responsiveness of a complainant may falter or cease to exist. Remaining responsive is a form of cooperating with the IG, and the IG should always have available more than one form of communication (phone, email, or mail) to contact the complainant. Should a complainant become unresponsive, the IG should make at least three attempts to contact the complainant using all available modes of communication, such as a home / cell telephone, duty phone, personal email, .mil email, letter, etc. followed by a final attempt in writing. The IG will document in IGARS each attempt to contact the complainant. If contact is successful, the IG should consider asking the complainant if he or she wishes to withdraw the complaint. The fact that the complainant requests withdrawal or is unresponsive does not preclude the IG from reopening the case when the complainant comes forward again. If contact is ultimately unsuccessful, the IG

should consider closing the case if he or she is unable to resolve the complaint without additional information from the complainant.

Section 4-5

Misusers of the IG System

1. **Purpose:** This section defines and explains the process for identifying misusers of the Army IG System.
2. **Misusers of the IG System:** Misusers of the Army IG system are complainants who have a documented history of presenting patterns of issues and / or allegations that are false, baseless, malicious, deceptive, defamatory, improbable, or are matters previously addressed in the IG system as unfounded, not substantiated, or not appropriate for Army IG action.
3. **Teaching and Training:** The IG should always remind the complainant of his or her obligation to provide truthful information as stated at the bottom of DA Form 1559. However, if a complainant refuses to comply, the IG may take appropriate steps to formally designate that person as a misuser of the IG system.
4. **Designation:** Only TIG has the authority to designate a complainant as a misuser of the Army IG system. Upon receiving the designation of "misuser," the complainant will be required to submit all future complaints or requests for assistance to an IG in writing. The IG receiving the complaint will always complete Steps 1 and 2 of the IGAP but is only required to respond if the designated misuser's complaint is new and / or provides credible evidence of new information. Below are the three phases for properly designating a misuser of the IG system:
 - a. **Phase 1:** If a local IG desires to identify a complainant as a misuser of the IG system, the IG will notify DAIG's Assistance Division (SAIG-AC) via email at usarmy.pentagon.hqda-otig.mbx.ignet-saig-ac-assist-you-mailbox@mail.mil. DAIG's Assistance Division will review the request and coordinate directly with the requesting IG. If Assistance Division concurs with the request, the local IG will open a standard case in IGARS, prepare and staff the Directing Authority Memorandum Request, and seek formal approval from the Directing Authority. If the Directing Authority signs the memorandum, the local IG will upload into IGARS the signed Directing Authority's Memorandum Request and all pertinent evidence. The local Command IG will ensure that all of the complainant's previous case numbers are listed in the case notes, that the supporting documentation has been uploaded, and that the IGAR was referred as an office-of-record referral to Assistance Division.
 - b. **Phase 2:** The Investigating Officer (IO) in Assistance Division will accept the case referral in IGARS and complete the IGAP. The IO will formally notify the complainant in writing (signed by the Chief, Assistance Division) via certified mail using the U. S. Postal Service (USPS) or email with a confirmed delivery / read-receipt that TIG is considering designating him or her as a misuser of the Army IG system in accordance with Army Regulation 20-1, paragraph 6-2f. The letter will also provide the designated misuser with the IG case number, explain the ramifications of the designation, and provide the individual a 14-day suspense from receipt of the notification to provide his or her comments back to Assistance Division. After the suspense has expired or upon receipt of the complainant's response, the IO will prepare the TIG Memorandum of Concurrence / Nonoccurrence, which will include the complainant's

response (if any), the Directing Authority's initial request, the approval memorandums, and all other pertinent documents. The IO will submit this package through DTIG for review and to TIG for final review and approval. If TIG disapproves the individual's designation as a misuser, the individual will receive a certified letter from Assistance Division signed by the Division Chief via USPS (or email if that is the only option available) notifying the individual that the IG system has opted not to designate the individual as a misuser of the Army IG system. The letter will also explain that the IG will process any future correspondence from them in accordance with Army Regulation 20-1 and this guide.

c. **Phase 3:** If TIG approves the individual's designation as a misuser of the Army IG system, a Level 8 IGARS user (from Assistance Division only) will open the case in IGARS, formally identify the complainant as a misuser of the IG system, and ensure that all cases associated with the misuser and listed by the local IG are protected from automatic purging or destruction. The individual will also receive a certified letter from Assistance Division signed by the Division Chief via USPS that notifies that person of his or her official designation as a misuser of the Army IG system. The letter will explain the impact of the misuser designation on any future complaints and inform the designated misuser of his or her option to request reconsideration of the designation after a three-year period. The letter will also explain that this designation is not an adverse action; therefore, it will not be used against the designated misuser for any other administrative action. In all cases, Assistance Division will ensure that the final notification of TIG's decision and all supporting documentation is uploaded to the case in IGARS prior to closing the case.

5. Following the Designation: If a designated misuser contacts an IG office, the IGARS notification will include Assistance Division's case number as a reference. The receiving IG will contact Assistance Division to request assistance referencing the DAIG case number in confirming or denying the complainant's status as a misuser. If confirmed, the IG will then complete steps 1 and 2 of the IGAP and thoroughly analyze all complaints and requests for assistance -- with assistance from Assistance Division as required -- to determine if there are new issues or if the complaint contains credible evidence of new information. If there are no new issues or credible evidence of new information, the IG will open an Information IGAR, document the IG's analysis, upload the complaint / request for assistance with supporting documentation, and close the case with no further action. The complainant will not receive any response from the IG. If the complaint / request for assistance contains new issues or provides credible evidence of new information, the IG will initiate a new standard case and handle the matter in accordance with Army Regulation 20-1 and this guide.

6. Handling and Release to Outside Agencies: Assistance Division will determine the handling and release of cases presented by or requested from outside agencies, such as members of Congress and the Department of Defense Inspector General. The rules for misusers of the IG system will not apply for Whistleblower Reprisal Investigations, Secretary of the Army priority cases, and Presidential cases.

Sample: Email sent to DAIG's Division Chief for Initial Request (use proper CUI markings)

Dear COL Von Steuben (Chief, Assistance Division),

The 66th ID IG Office would like to designate Mr. John Doe, a former GS-12 Chaplain's Assistant, as a misuser of the IG system. Mr. Doe came to the office multiple times for two main reasons: bar from post and his evaluation. Mr. Doe presented patterns of false and misleading information to the IG. Last year, the Garrison Commander barred Mr. Doe for stealing at the Fort Von Steuben Post Exchange (PX). The complainant feels that barring him from the post was unfair and wants the IG to assist him so that he can regain access. Our office opened six cases to address the same issue: F516-0754, F516-0758, F516-0804, F516-1234, F516-1867, and F516-2014. For his criminal allegation, Mr. Doe accused the Garrison Commander and the PX manager for taking part in the theft. He also alleged they were abusing their power and treating him without dignity and respect. Our review of both the criminal and AR 15-6 command investigations confirmed that all allegations he presented were investigated and found to be false. We informed the complainant that his means of redress is CID, his servicing legal office, or his direct supervisor to address any other concerns. However, during the last phone conversation on 12 June 2016 (F516-2014), Mr. Doe was belligerent and extremely rude, directing foul language at two IGs. Mr. Doe was dissatisfied with the redress provided and threatened to report our office to the media for perceived injustice.

Mr. Doe presented similar patterns back in 2011 when he received a bad evaluation. During Mr. Doe's first year as the Chaplain's Assistant, his supervisor gave him a poor evaluation. The complainant said that his supervisor made him take sick leave and got into many arguments with his supervisor. We opened up cases F5110192, F51106891, F5112980, F51117890, and F5119991, all of which addressed the issues and events that resulted in this evaluation. Our office informed him that his allegation of unfair treatment was not substantiated. However, he was dissatisfied with that response and told us he would write to DAIG and Congress. Assistance Division later informed us that Mr. Doe did write to his representative, who, after reviewing our actions, deemed our actions appropriate and that the evidence supported the determinations we made.

Our office has done everything possible to assist Mr. Doe. Please acknowledge receipt of this email and provide any guidance.

Respectfully,

*Albert R. Rightway
LTC, IG
Command Inspector General,
66th Infantry Division
albert.r.rightway.mil@mail.mil*

**Sample: Directing Authority's Memorandum Request
CUI**

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66th INFANTRY DIVISION AND FORT VON STEUBEN
FORT VON STEUBEN, VIRGINIA 12345

AFVS-IG

16 June 2018

MEMORANDUM FOR The Department of the Army Inspector General Agency
(ATTN: SAIG-AC), 1700 Army Pentagon, Washington, D.C. 20310

SUBJECT: Request for Designation of a Misuser of the IG System (Mr. John Doe)

1. Request that The Inspector General designate Mr. John Doe, GS-12, former Chaplain's Assistant, Headquarters, 66th Infantry Division, Fort Von Steuben, Virginia, as a misuser of the Inspector General (IG) system. Mr. Doe came to the 66th Division's IG office over 10 times over a period of several months concerning the same issues and allegations, all of which our office determined to be false and misleading. We resolved all of Mr. Doe's issues, which were his bar from the installation and bad evaluation. However, Mr. Doe continues to come to the IG office demanding the assistance he prefers, not what is allowable under Army Regulation 20-1.
2. Last year, Mr. Doe was barred from the installation for stealing over \$10,000 worth of items from the Fort Von Steuben Post Exchange (PX). The criminal investigation report stated that Mr. Doe was caught on camera stealing expensive merchandise. The same criminal investigation also addressed allegations against the Garrison Command and the PX manager, because Mr. Doe claimed they were also involved in the theft. However, those allegations were not substantiated, and the evidence confirmed that all the allegations he made were false and misleading. Later, Mr. Doe made allegations against the Garrison Commander and the PX manager for abuse of power and disrespect. A command investigation of his allegations determined that all of the allegations were not substantiated and that Mr. Doe's statements were also false and misleading. After receiving a response concerning the results of the investigation, he then contacted our IG office requesting that another investigation from an outside agency address the same allegations because he did not trust the command.
3. In 2011, during his first year assigned as a Chaplain's Assistant, Mr. Doe came into the IG office on numerous occasions alleging that he improperly received a poor evaluation because he had argued with his supervisor about his medical appointments. The IG conducted a thorough analysis of each complaint he presented, confirmed that there was an established means of redress, provided him the appropriate redress processes, and informed him that our inquiry confirmed that no standards had been

CUI

CONTROLLED BY: The Inspector General (SAIG-ZA)
CONTROLLED BY: 66th Infantry Division (AFVS-IG)
CUI CATEGORY: PRIIG / PRVCY
DISTRIBUTION/DISSEMINATION CONTROL: FEDCON
POC: LTC Albert R. Rightway (703) 123-4567

CUI

SUBJECT: Request for Designation of a Misuser of the IG System (Mr. John Doe)

violated. He continually contacted the IG and demanded that the IG investigate his complaints against his supervisor, even though we explained that the evidence did not indicate any misconduct. After we repeatedly informed him that in the absence of additional and new evidence, the IG was not going to take any additional action concerning his complaints, Mr. Doe then made threats against the IG office and submitted a complaint to his Member of Congress concerning the same issues and allegations. The Chief, Assistance Division, confirmed that his division had in fact received and responded to a congressional inquiry, in turn providing the same response to the Member of Congress that our office originally provided to Mr. Doe.

4. Please let me know if you have any questions. My point of contact for this memorandum is LTC Albert R. Rightway, Command IG, at (703)-555-0001. His email is albert.r.rightway.mil@mail.mil.

MOTTIN DE LA BLAME
MG, USA
Commanding

CUI

Sample Assistance Division (SAIG-AC) Memorandum Requesting Concurrence / Non-concurrence from The Inspector General (TIG)

CUI

**U.S. ARMY INSPECTOR GENERAL AGENCY
Misuser of the IG System Request**

NAME / POSITION / LOCATION: Mr. John Doe, GS-12, Chaplain's Assistant, Fort Von Steuben, Virginia

1. PURPOSE: To obtain concurrence to designate Mr. John Doe as a misuser of the IG System in IGARS.

2. BACKGROUND: (This paragraph -- or paragraphs -- will contain a summary of the pertinent facts supporting the purpose statement. It should include the complainant's name and status, case numbers, and the listing of all issues / allegations. This paragraph should also list the IG's and any other office's actions in addressing the same complaints. This section should not include any analysis.)

According to 66th Infantry Division's Inspector General staff section, Mr. John Doe, former GS-12, Chaplain's Assistant, Fort Von Steuben, VA, has submitted 11 IG complaints regarding his bar from the installation and his evaluation. Between 2 January 2016 and 13 June 2016, Mr. Doe came to the IG office multiple times regarding his bar from post, which went into effect on 10 August 2015. The IG opened cases F516-0754, F516-0758, F516-0804, F516-1234, F516-1867, and F516-2014 to address the issue and allegations from this complaint. The IG determined that the Garrison Commander (GC) was authorized to bar Mr. Doe from Fort Von Steuben after the Criminal Investigation Division confirmed that Mr. Doe stole \$10,000 worth of merchandise from the Post Exchange (PX). The II Corps Commander also investigated the allegations he made against the Garrison Command and the PX manager after Mr. Doe claimed they abused their power and lacked dignity and respect. The command did not substantiate the allegations.

The 66th Infantry Division IG also opened five cases between 4 January 2011 and 15 September 2011 -- F5110192, F51106891, F5112980, F51117890, and F5119991 -- regarding Mr. Doe's evaluation. Mr. Doe claimed he should not have received a bad evaluation and that his supervisor was not treating him fairly. The IG determined that the evidence did not indicate that there had been any violation of a standard. Mr. Doe, however, came to the office several more times complaining of the same issues and continued to demand that the IG investigate, even though he had been formally notified that his matters were not IG appropriate. On 13 October 2011, the Chief, Assistance Division, confirmed that his division had received and responded to a congressional inquiry, in turn providing the same response to the Member of Congress that the IG originally provided Mr. Doe.

<p>CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567</p>
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CUI

CUI

3. DISCUSSION: (This paragraph will include an analysis of the facts drawn from the background. It must provide details that support the official designation.)

The IG handled all of Mr. Doe's issues and allegations in accordance with AR 20-1. The IG thoroughly analyzed each complaint, provided appropriate assistance, and took appropriate actions for all allegations and issues. Even after the IG addressed the matters, Mr. Doe claimed nothing was done. The IG case notes confirmed that Mr. Doe came to the IG numerous times with false and misleading allegations. He repeated the same issues and was belligerent several times when he did not get the answer he desired. For cases F516-1234, F516-1867, and F516-2014, Mr. Doe focused on the collaborative effort between him, the Garrison Commander, and the manager to profit from the goods at the PX. When the IG asked Mr. Doe about the inconsistency in his facts, he blamed both CID and the command for not questioning the right witnesses. When the IG told him that our office would no longer assist him because the IG had already addressed the matters appropriately, he blurted out statements like "f*** you, you piece of s***" and "you don't deserve to be in your position" and "You're useless, and I can't believe I'm paying you your paycheck with my tax dollars." In cases F5110192, F51106891, and F5112980, the IG provided Mr. Doe the same redress 10 times to address his concerns with the evaluation. However, since Mr. Doe was not satisfied, he came back to the IG repeatedly for a different answer and then threatened the Command IG that he would consider writing to the media to ruin the IG's reputation.

4. RECOMMENDATION:

The statement should simply read "Designate Mr. John Doe as a misuser of the IG system"

NO LEGAL OBJECTION:

ACTION OFFICER
Rank, IG
Inspector General

BRANCH CHIEF
Rank, IG
Inspector General

LEGAL ADVISOR
COL, JA
Legal Advisor

DIVISION CHIEF
COL, IG
Chief, Assistance Division concur / non-concur

Lieutenant General, USA
The Inspector General
COORDINATION:

(date)

CUI

CUI

DTIG concur/non-concur: _____
OTIG, XO concur/non-concur: _____

Encls:

- Tab A: Request for the TIG / DTIG
- Tab B: Request from Directing Authority
- Tab C: Complainant's Rebuttal Letter
- Tab D: Local and DAIG legal review

2

Tab E: Preliminary Analysis of all cases for F516-0754, F516-0758, F516-0804, F5 16-1234, F516-1867, F516-2014, F5110192, F51106891, F5112980, F51117890, and F5119991 (*Memorandum for Record from DAIG*)

CUI

Sample: Letter to the Possible Misuser of the IG System from the Chief, Assistance Division Chief (Opportunity to “Know and Comment”)

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON, DC 20310-1700

June 16, 2018

Assistance Division

Mr. John Doe
123 San Antonio St.
Richmond, VA 73695

Dear Mr. Doe:

Paragraph 1: The IG will notify the complainant that he / she is a possible misuser of the IG system. This paragraph explains to the complainant why he or she might be designated as a misuser of the IG system.

Due to the false, misleading, and defamatory information submitted to an Army Inspector General, we are considering designating you as a misuser of the IG system in accordance with Army Regulation 20-1, paragraph 6-2f.

Paragraph 2: Write in detail the limited correspondence options and rebuttal opportunity.

If you are designated as a misuser of the IG system, you must submit all future correspondence with an Army IG in writing and must only present new issues and or evidence. We will no longer respond to future inquiries that we have previously addressed unless you present credible evidence of new information. If you disagree with this possible designation, you may submit a rebuttal within 14 days of your receipt of this notification. We will review all rebuttals before the Army Inspector General makes a final decision on this designation. Please submit your response to our inbox at usarmy.pentagon.hqda-otig.mbx.ignet-saig-ac-assist-you-mailbox@mail.mil or write a letter to the following address:

The Office of Inspector General
ATTN: SAIG-AC
1700 Army Pentagon, Room 1D116
Washington, D.C. 20310

Paragraph 3: The IG will let the complainant know that this designation is not punitive in nature.

Designation as a misuser of the IG system is not punitive in nature and is not considered an adverse finding. The designation cannot be used against you for any punitive actions.

Sincerely,

Rick Von Steuben
Colonel, U.S. Army
Chief, Assistance Division

Sample: Final Notification from DAIG's Assistance Division to a Local IG Staff Section for an Approved / Disapproved Misuser Designation

CUI

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON, DC 20310-1700

SAIG-AC

3 February 2018

MEMORANDUM FOR Inspector General, 66th Infantry Division and Fort Von Steuben,
Fort Von Steuben, VA 12345

SUBJECT: Misuser of the IG System (Mr. John Doe)

1. The recommendation as specified in case DIH 17-1234 is approved / disapproved. Mr. John Doe is / is not designated a misuser of the IG system in IGARS. We will make the final notification to the complainant of his status and limited correspondence to the IG.
2. We consider these matters closed. POC for this action is MAJ Jamie Smith, (703) 545-1845 or DSN 865-1845.

RICK VON STEUBEN
COL, IG
Chief, Assistance Division

<p>CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: DAIG (SAIG-AC) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: MAJ Jamie Smith (703) 123-4567</p>
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CUI

**Sample: Final Notification from DAIG's Assistance Division to the Complainant
Confirming Non-designation as a Misuser of the IG System**

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON, DC 20310-1700

February 3, 2018

Mr. John Doe
123 San Antonio St.
Richmond, VA 73695

Dear Mr. Doe:

We have completed our analysis of your previous complaints to an Army Inspector General as well as the formal request to have you designated as a misuser of the Army IG system. After careful review, The Inspector General has determined that you will not be designated as a misuser of the Inspector General system.

Therefore, we consider this case closed. When contacting this office, please refer to case number DIH 17-1234.

Sincerely,

Rick Von Steuben
Colonel, U.S. Army
Chief, Assistance Division

**Sample: Final Notification from DAIG's Assistance Division to the Complainant
Confirming Designation as a Misuser of the IG System**

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON, DC 20310-1700

March 5, 2017

Assistance Division

Mr. John Doe
123 San Antonio St.
Richmond, VA 73695

Dear Mr. Doe:

Paragraph 1: In this paragraph, explain what the IG did to assist the complainant and the reason DAIG could not assist any further.

Due to your submission of false and misleading issues and allegations, The Inspector General (TIG) formally designated you as a misuser of the Army Inspector General (IG) system in accordance with Army Regulation 20-1, paragraph 6-2f. Our inquiry confirmed that although you disagreed with the IG responses you received pertaining to your bar from Fort Von Steuben and issues regarding your evaluation, the Inspector General thoroughly and appropriately addressed all of the matters you presented and informed you of the results of those actions.

Paragraph 2: Explain in detail the limited correspondence the complainant can have from this point forward and what to expect from the IG.

As a designated misuser of the Army IG system, you must submit in writing any future issues you wish to present to an Army IG. The IG will thoroughly review any written issues or complaints you present. However, the IG will only respond to new issues or allegations when you present credible evidence of new information. If you wish to appeal you designation as a misuser of the Army IG system, you may submit a formal request to reconsider your designation three years from the date of this letter to the following address:

The Office of Inspector General
ATTN: SAIG-AC
1700 Army Pentagon, Room 1D116
Washington, D.C. 20310

Paragraph 3: Explain to the complainant that the designation is not a punitive action.

Designation as a misuser of the IG system is not punitive in nature and is not considered an adverse finding. The designation cannot be used against you for any punitive actions.

Sincerely,

Rick Von Steuben
Colonel, U.S. Army
Chief, Assistance Division

Chapter 5

Morale Assessments

1. **Purpose:** The purpose of this section is to provide guidance to IGs on how to plan and conduct morale assessments within the command or organization.
2. **Morale Assessments:** Army Regulation 20-1, paragraph 1-4a (1), charges The Inspector General with "[i]nquir[ing] into, and periodically report[ing] on, the discipline, efficiency, economy, **morale**, training, and readiness of the Army to the Secretary of the Army (SA) and the Chief of Staff, Army (CSA), in accordance with Section 7020, Title 10, United States Code (10 USC 7020). These requirements apply to all IGs in the Army IG system; but, in particular, **assessing morale** is a key aspect of an IG's charter and a critical barometer for helping Commanders determine the overall mission readiness of their organizations. More importantly, assessing morale is a **proactive effort** that not only IGs can employ on behalf of Commanders but that Commanders can conduct for themselves as a way to identify issues within the organization before they become readiness-hindering problems. In most cases, the IG's Directing Authority will direct a broad morale assessment of the overall command (division, corps, etc.), but subordinate Commanders (brigade, battalion, etc.) may request them from the IG as well.
3. **Morale versus Command Climate:** Assessing morale differs from assessing command climate because **command climate** focuses primarily on leaders while **morale** focuses primarily on the led -- although both concepts are inextricably linked in numerous ways. In a sense, morale is a *subset* of command climate because command climate is the principal driver behind morale. Army Regulation 20-1, paragraph 6-3j, cautions IGs against conducting command-climate sensing sessions because, as the regulation states, "the IG must act on every issue or allegation that surfaces during the session." Keep in mind that command-climate assessments are focused on a particular commander's organization, which provides an IG with an automatic "who" for any alleged improprieties that surface. Inspector General Investigations are not the intended goal of command-climate sensing sessions, which is why Equal Opportunity (EO) personnel should perform them. EO personnel are trained specifically to conduct these command-climate sensing sessions and know how to craft the appropriate questions. In particular, EO records are less restrictive than IG records and can be shared more freely without potential investigatory implications. However, Army Regulation 20-1 allows Directing Authorities to have their IGs conduct command-climate sensing sessions only if specifically directed to do so, and certain situations may warrant IG involvement in these assessments. If charged with conducting a command-climate sensing session, the IG should coordinate with the EO advisor for guidance on how to use and / or reshape the Defense Equal Opportunity Management Institute's Organizational Climate Survey to target the specific things the Directing Authority wants to know. But, ultimately, the IG's specific regulatory charter is to assess morale and not command climate. Army Regulation 600-20, Army Command Policy, clearly specifies in paragraph 6-3i that "Commanders at all levels are the EO officers for their commands"; but, more specifically, item (13) of that same paragraph requires company-level Commanders to "conduct a unit climate assessment within 90 days (180 days for Army Reserve) of assuming command and annually thereafter." Such assessments should be part of the new company-level Commander's Initial Command Inspection as required by Army

Regulation 1-201, Army Inspection Policy. Appendix D of Army Regulation 600-20 provides specific guidance for company-level Commanders about how to obtain and administer command-climate surveys.

4. **Morale:** Morale generally focuses on the perceptions of the individual Soldier and, in many cases, Civilians and Family members. But more specifically, morale refers to the way a Soldier feels about himself or herself, the level of individual faith a Soldier puts in his or her unit, the belief that the Soldier's unit is a good one, the faith a Soldier has in the unit's support of Family members, and the collective benefit gained by being a member of such a unit. In this context, morale is often used interchangeably with *esprit de corps*. Morale also includes matters that are beyond the unit itself and that apply to the Army as an institution. Title 10, United States Code, Section 3583, Requirement of Exemplary Conduct, charges all officers and others in authority with "promot[ing] and safeguard[ing] the **morale** [emphasis added], the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge." Inspectors General assist Commanders in this statutory charter by assessing and then reporting on the morale of all troops within the commands or organizations they support. Morale is best defined as the state of a person's or group's spirits as exhibited by confidence, cheerfulness, discipline, and willingness to perform assigned tasks. Keeping this basic definition in mind, morale assessments can include many factors and approaches.

5. **Morale Assessments:** Morale assessments conducted by IGs consider many factors and are generally conducted by straightforward questionnaires or other non-intrusive approaches that safeguard the confidentiality of the respondents. Morale assessments are a dynamic process that can occur over time or at a specific point in time.

a. **Sensing sessions:** Sensing sessions will require questions and a read-in as outlined in Part 2 of The IG Reference Guide.

b. **Surveys or Questionnaires:** The questions should follow the format of command-climate surveys but will vary in content based on the factors the Commander wants assessed. Although these questions will be tailored to command-climate surveys, they offer excellent ideas for ways to construct and organize morale-related surveys based on the factors discussed in paragraph seven of this chapter.

c. **Data analyses:** The data can cover a wide array of information, to include the nature and frequency of UCMJ actions, the unit's overall training performance as indicated in written after-action reports, the generic results of company-level climate assessments, the statistics surrounding unit re-enlistment rates, and other relevant information.

d. **Observation:** Inspectors General will have numerous opportunities to observe units operationally and in training to determine how Soldiers interact with their leaders, how Soldiers perform and the vigor with which they perform, their perceived competency in their respective specialties, and so on.

Inspectors General treat morale assessments as Assistance cases and enter each one into the IGARS database to capture workload and to maintain a record of the assessment and its results (use the function code for command-climate surveys, 2M6:

Issues related to a unit's command climate or command climate surveys. For allegations involving command climate, use function code 2B). The IGs must be certain to indicate that the assessment was focused on morale and not command climate.

6. Morale Assessment Reports: The assessment itself will normally come in the form of a memorandum or other locally recognized format provided directly to the Commander or Directing Authority. Since morale assessments can apply to an entire command and do not target specific Commanders, IGs can readily distribute the results (like trends) on a CUI basis to subordinate Commanders and staff members as specified by the Directing Authority. However, the Commander or Directing Authority (or any subordinate Commander) may not use the results of an IG morale assessment in an evaluation or to compare leaders or Commanders.

7. Factors to Consider for Assessing Morale: Developing a strategy for assessing morale depends strongly on the Commander's or Directing Authority's specific guidance regarding what he or she wants to know. In the broadest sense, morale concerns numerous factors that often serve as a general barometer for the feelings and well-being of the Soldiers and Civilians comprising an organization. Therefore, IGs must carefully construct a methodology tailored to the needs of the organization and the requirement. Some factors to consider when determining that scope of the assessment and which techniques to use (sensing sessions, surveys, etc.) are as follows:

- a. Quality of food, water, and shelter.
- b. Quality of leadership (best assessed through EO-led, command-climate sensing sessions and then used in concert with morale assessments).
- c. Quality of training.
- d. Belief in the Army's values and what the Army represents.
- e. Belief in (and loyalty to) the Nation and the American culture for which the Army fights.
- f. Belief in the Army's capabilities to overcome an enemy on the battlefield.
- g. The pride one feels in his or her unit and that unit's traditions.
- h. Quality and nature of distinctive uniforms, badges, and insignia that contribute to *esprit de corps*.
- i. The sense of camaraderie that troops feel with and for one another.
- j. A clear understanding of the unit's mission, goals, objectives, and vision.
- k. The sense of security and comfort a Soldier feels in being a part of his or her unit or the Army as a whole.
- l. The perceived fairness or belief in Army personnel and other policies that affect a Soldier's well-being.
- m. The belief that a Soldier can make a difference in the unit, in the Army, and on the battlefield.
- n. The belief that the Army as an institution safeguards the Soldier's right to religious freedom.
- o. The belief that the Army's benefits and compensation will adequately cover the needs of Soldiers and their Families.
- p. Confidence in Family Readiness Groups and Army Family Action Plan conferences and the effectiveness of those entities.
- q. The belief that the unit (or Army as a whole) treats Families well.
- r. The belief that the unit (or Army as a whole) treats single Soldiers and supports programs like Better Opportunities for Single Soldiers (BOSS).
- s. The perception that the unit's operational tempo is fair and manageable.

t. The belief that one's unit compares favorably (or better) with other units within the command or the Army at large.

8. Using the Results: The results of morale assessments assist Commanders and Directing Authorities in making an informed assessment of the organization's warfighting and readiness capability. Like the results obtained from inspections (part of the Organizational Inspection Program), command-climate sensing sessions (conducted by EO personnel), combat-training-center evaluations, APFT / ACFT results, maintenance readiness rates, and other numerous factors, Commanders and Directing Authorities use morale assessments as part of their overall **organizational assessment** for determining mission readiness. But morale assessments are not simply applicable to the training environment and the Sustainable Readiness Process; these assessments can occur in deployed or other operational environments as necessary and can prove particularly critical for organizations that have engaged in sustained, high-intensity combat operations. Inspectors General should advise their Commanders and Directing Authorities on how best to integrate morale assessments into the larger organizational assessments so that those Commanders can form a clearer, more informed picture of their organization's strengths and weaknesses.

Chapter 6

Civilian Employee Categories

Section 6-1 - Appropriated Fund Employees

Section 6-2 - Non-Appropriated Fund Employees

Section 6-3 - Local Nationals

Section 6-4 - Contractors

Section 6-1

Appropriated Fund Employees

1. **Purpose:** This section explains how IGs handle requests for assistance from Appropriated Fund Employees.
2. **Appropriated Fund Employees:** Appropriated Fund (APF) employees are U.S. citizens paid from funds appropriated by Congress and governed by Federal civil-service laws. The Office of Personnel Management (OPM) administers the laws governing APF employees. APF employees include General Schedule (GS) civilians working in DoD or in specific services such as the Army and Navy.

As in all cases, the IG receiving the request for assistance must determine if the request is appropriate for the IG. If the issues are IG-appropriate, the IG will provide the necessary assistance. If not, the IG will refer the matter to the appropriate agency. The IG must be careful when addressing Civilian matters as the IG may inadvertently deprive an employee of his or her right to due process. Before addressing Civilian employee matters, the IG should first determine if there is a procedure or system in place with the Civilian Personnel Advisory Center (CPAC), Equal Employment Opportunity (EEO) Office, or a labor union (e.g., written policy, negotiated agreement, etc.) as it relates to the grievance procedures.

Section 6-2

Non-Appropriated Fund Employees

1. **Purpose:** This section explains how IGs handle requests for assistance from Non-Appropriated Fund Employees.

2. **Non-Appropriated Fund Employees:** Funds generated through the sale of goods and services are used to pay Non-Appropriated Fund (NAF) employees. Non-Appropriated Fund (NAF) employees are Civilians, usually from the local labor market, or off-duty U.S. military personnel who compete for employment based on merit.

NAF employees play an important role in providing morale and recreation services to military personnel and their Family members. Army clubs, guest houses, child-care centers, craft shops, bowling centers, swimming pools, gymnasiums, and many other NAF activities employ a considerable number of employees at most Army installations.

Army Regulation 215-3, NAF-Personnel Policies and Procedures, establishes policies and procedures applicable to Department of the Army NAF employees. These policies maintain uniform, fair, and equitable employment practices in keeping with the Army's traditional concept of being a good employer. The local Civilian Personnel Advisory Center (CPAC) provides guidance and personnel support to NAF managers who are responsible for administering the NAF personnel program.

Inspectors General will treat requests for assistance from NAF employees in the same manner as Appropriated Fund employees. If the issues are IG appropriate, the IG will provide the necessary assistance. If not, the IG will refer the matter to the appropriate agency. The IG must be careful when addressing Civilian matters as the IG may inadvertently deprive an employee of his or her right to due process. Before addressing Civilian employee matters, the IG should first determine if there is a procedure or system in place with the Civilian Personnel Advisory Center (CPAC), Equal Employment Opportunity (EEO) Office, or a labor union (e.g., written policy, negotiated agreement, etc.) as it relates to the grievance procedures.

Section 6-3

Local Nationals

1. **Purpose:** This section explains how IGs handle requests for assistance from Local Nationals.
2. **Local Nationals:** Overseas duty stations such as South Korea and Germany hire Local National employees. Federal law and DoD policy are consistent with the applicable Status-of-Forces Agreements (SOFA) that form the basis of these employment systems. Within this framework, administration must be consistent with host-country practices, with U.S. law, and the management needs of the Army based upon Department of the Army requirements.
3. **Civilian Personnel Agencies or Activities:** The Office of Personnel Management (OPM) is the central personnel agency of the Executive Branch with delegation of authority from the President to administer most Federal laws and executive orders dealing with all aspects of personnel administration and related subjects. Some laws and executive orders place certain personnel management responsibilities directly on agency or department heads subject to OPM policy and review.

In other cases, OPM has authority by statute and delegation to establish specific program standards and to regulate and control the means of carrying out major aspects of agency / department personnel management.

The IG will treat requests for assistance from Local National employees in the same manner as Appropriated Fund employees. If the issues are IG appropriate, the IG will provide the necessary assistance. If not, the IG will refer the matter to the appropriate agency. The IG needs to be careful when addressing Civilian matters as the IG may inadvertently deprive an employee of his or her right to due process. Before addressing Civilian employee matters, the IG should first determine if there is a procedure or system in place with the Civilian Personnel Advisory Center (CPAC), Equal Employment Opportunity (EEO) Office, or a labor union (e.g., written policy, negotiated agreement, etc.) as it relates to the grievance procedures. Direct additional questions related to SOFA to the SJA for assistance.

Section 6-4

Contractors

1. **Purpose:** This section explains how IGs process requests for assistance from Contractors.
2. **Contractors:** The IG must analyze the substance of complaints and requests for assistance from contractors involved in commercial activities, procurement activities, or contracting to determine if the complaints are proper for IG action. Contract-related complaints could cover various topics: someone outside the contract complaining about the contract or contractors not fulfilling the requirements for which they are being paid; unfair awarding of the contract; unfair hiring practices by the contractor (nepotism); contractor complaints about the Army or government not fulfilling their requirements, not getting paid, or not getting paid in a timely manner; or individual complaints from people working for the contractor concerning promotions, pay, leave accountability, overtime, time cards, supervisors inactions, discrimination, harassment, etc.

The IG may act upon general requests for assistance. This assistance may include referring contractors to the appropriate agency for a specific issue, since most contract-related matters normally have their own avenues for redress outlined in the contract. Due to the unique aspects of contractor-related issues and to better assist the IG or agency to which the case may be referred, the IG receiving the complaint should ask the complainant the following five questions in addition to the five basic questions normally asked upon receipt of a complaint:

1. What is the contract number? (For example, W12345-P-09-1234)
2. What is the role of the Subject / Suspect (Contracting Officer [KO] Contracting Officer Representative [COR], Source Selection member, etc.)?
3. Who is the KO, COR, or Government Representative?
4. What is the name of the Prime Contractor or Subcontractor?
5. Where did the event / issue occur?

The IG should check with the KO or COR for specific information and / or recommendations. Additionally, the IG should check with someone in the SJA office or with the Army Contracting Command IG for assistance with contract-related questions. For complaints involving fraud, waste, or mismanagement, an audit (possibly by the Internal Review and Audit Division) might be able to identify the problem. Be cautious not to tell contractors to change certain procedures or practices since these changes might incur additional costs that the IG is not authorized to approve or obligate.

Chapter 7

Civilian IGARs Not Appropriate for an Inspector General

Section 7-1 - Civilian Grievances

Section 7-2 - Inspector General Decision Matrix for DoD Civilian Complaints

Section 7-1

Civilian Grievances

1. **Purpose:** This section explains how IGs process Civilian employee grievances.
2. **Grievances:** The Code of Federal Regulations, Department of Defense Civilian Personnel Manual (CPM), Army Regulations, and local collective bargaining agreements include procedures for processing grievances, appeals, and Equal Employment Opportunity (EEO) complaints. These complaints pertain to all aspects of employment. The role of IGs in these cases usually involves determining the nature of the complaint and where the person should take the complaint for action. In most situations, these complaints are not IG appropriate except to ensure due process -- unless they fall into the fifth category below. Army Regulation 20-1, Inspector General Activities and Procedures, paragraph 6-3h, provides guidance on how to handle the various categories of Civilian complaints as follows:
 - a. Refer grievances within the purview of DoDI 1400.25-M, the DoD CPM, and the local collective bargaining agreement to the Chief, Civilian Personnel Advisory Center (CPAC) for information and assistance.
 - b. Refer appeals of adverse action within the purview of 5 U.S.C., Sections 7701 through 7703 to the CPAC for information and assistance.
 - c. Refer Equal Employment Opportunity (EEO) complaints, within the purview of 29 Code of Federal Regulations (CFR), 1614, and Army Regulation 690-600 to the local EEO counselor for action and resolution.
 - d. Refer complaints of retaliation or reprisal (Whistleblower) within the purview of 5 U.S.C., 2301 and 2302 to the Office of Special Counsel (OSC). In the case on Non-Appropriated Fund employees, refer them to DoD IG.
 - e. Civilian complaints involving matters that do not directly affect the employment, situation, or well-being of the individual will be worked by the IG. Examples include complaints or allegations against third parties and reports of alleged misconduct, mismanagement, or other matters requiring command attention.
3. **Inspector General Actions:** Inspectors General must analyze a complaint upon receipt to determine the category and IG appropriateness. Inspectors General should consult the following individuals as necessary:
 - a. The Staff Judge Advocate (SJA).
 - b. The Chief, Civilian Personnel Advisory Center (CPAC).
 - c. The Equal Employment Opportunity (EEO) Office.
 - d. Army Regulations and Public Laws.

4. Appeal for Adverse Action: If the IGAR is a grievance or appeal, the IG will refer the employee to the local CPAC for information and assistance. Also, the IG will advise the employee of procedures and timelines provided by regulation.

If the complainant, while understanding due process and presenting valid reasons for not exercising the employee grievance channel, insists on IG involvement, the IG may, as an exception to policy, accept the IGAR and work it. The IGAR should be in writing. If a locally negotiated grievance procedure exists, the complainant must use it. An IG Assistance Inquiry or Investigation can only determine the facts of the case. Subsequent correction of the record or change of a personnel action may still require submission of a request by the Civilian to the appropriate agency.

5. Equal Employment Opportunity (EEO): If the IGAR pertains to a complaint based on discrimination or allegations of reprisal, harassment, or intimidation for filing such a complaint, the IG should:

a. Advise the complainant to contact the EEO officer or counselor for information and assistance in processing the complaint.

b. Not accept EEO complaints per Army Regulation 20-1, Inspector General Activities and Procedures, paragraph 6-3h (3).

c. Refer complaints of discrimination based on sexual orientation from a Civilian to EEO.

d. Refer complaints of reprisal (Whistleblower) for employees within the purview of 5 U.S.C., 2301 and 2302 to the Office of Special Counsel (OSC). In the case on Non-Appropriated Fund employees, refer them to DoD IG.

6. IGPA and the IGARS Database: In all cases involving Civilians, the IG will thoroughly analyze the entire complaint and look for systemic issues or trends that might be IG or command appropriate. Furthermore, the IG will enter a case into IGARS annotating the IG's referral of the complainant to the appropriate agency.

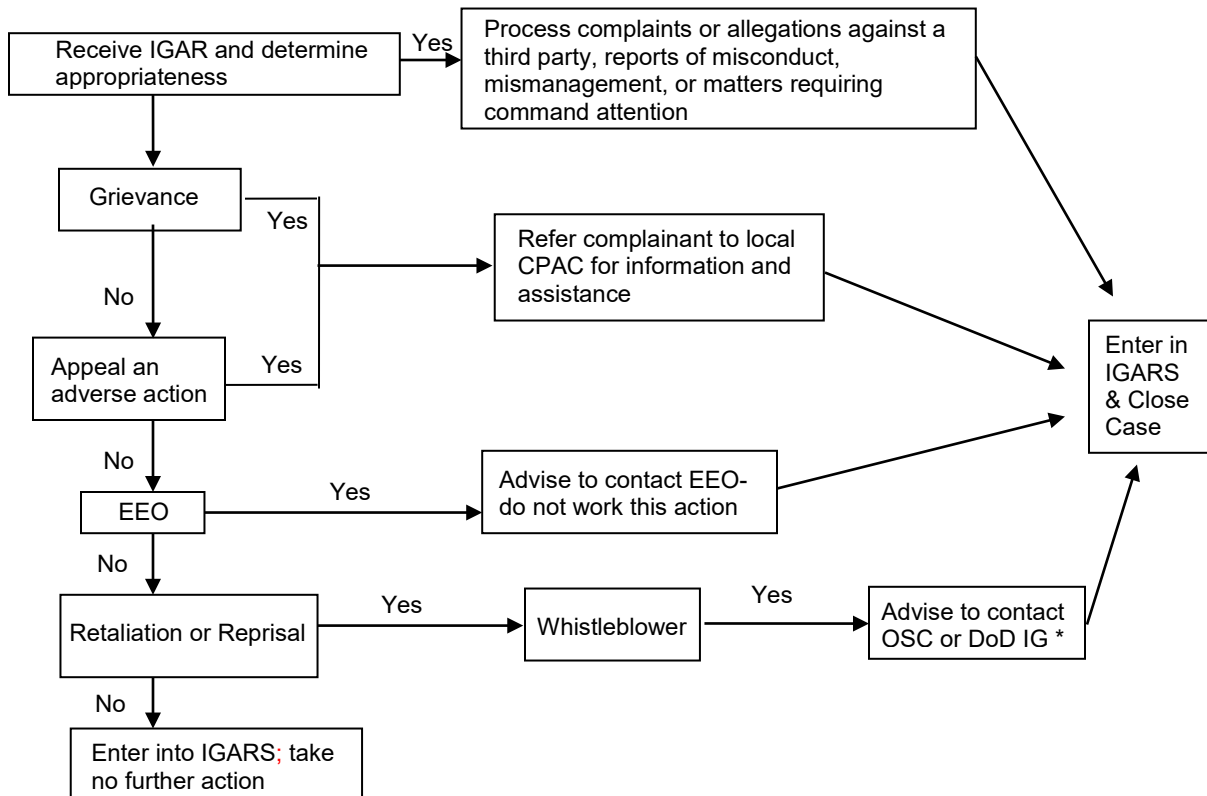
Section 7-2

Inspector General Decision Matrix for DoD Civilian Complaints

1. **Purpose:** This section explains the Inspector General Decision Matrix for DoD Civilian Complaints.

2. **Inspector General Decision Matrix for DoD Civilian Complaints:** This Inspector General Decision Matrix will assist IGs in either working the case or referring it to the proper agency. Inspectors General will determine the appropriate course of action in step two of the seven-step IGAP.

Inspector General Matrix for DoD Civilian Complaints



* Appropriated Fund Employee: contact Office of Special Council (OSC); Non-Appropriated Fund Employee: contact DoD Inspector General.

Chapter 8

Congressional Inquiries

Section 8-1 - Congressional Inquiries in Command Channels

Section 8-2 - Congressional Inquiries in Inspector General Channels

Section 8-1

Congressional Inquiries in Command Channels

1. **Purpose:** This section explains how IGs process Congressional Inquiries in Command Channels.
2. **Congressional Inquiries in Command Channels:** Sometimes referrals from a Member of Congress (MC) on behalf of constituents who may be a Soldier, Family member, or a private citizen will flow down through command channels. The Army Office of the Chief of Legislative Liaison (OCLL) receives cases from the MC and refers them to either the Army Staff, the chain of command (Adjutant General [AG]), congressional channels, or to DAIG's Assistance Division (**prescriptive provision in Army Regulation 20-1, paragraph 6-1f (1)**).

When the IG receives a request directly from the MC or from the installation or activity's congressional liaison office, the IG will promptly notify DAIG's Assistance Division (SAIG-AC). If the command or activity's congressional liaison office receives a case in which the IG is currently working or has already completed an Assistance Inquiry or Investigation / Investigative Inquiry, the local IG must inform the tasking official that the response will be forwarded through IG channels to Assistance Division. These cases are handled as IG cases. Assistance Division is the Office of Record for these cases and will contact the Office of the Chief, Legislative Liaison, to transfer the case to DAIG's Assistance Division. Once the case is complete, the local IG will forward the results (memorandum explaining the results of the Assistance Inquiry or Report of Investigation / Investigative Inquiry) through the ACOM, ASCC, or DRU IG to DAIG's Assistance Division. Assistance Division, not the local IG, will prepare the final response to the complainant on behalf of the MC and furnish copies to OCLL and the IG office that processed the case.

National Guard IGs process Congressional Inquiries in the following manner. If an inquiry is received directly from a MC and there is no indication that the OCLL or DAIG's Assistance Division has been contacted by that or any other MC on the same issue, the National Guard IG may respond directly to the MC in accordance with that State's customs for handling congressional replies as long as the matter has no Federal interest. If the matter does have Federal interest, then the National Guard IG will notify DAIG's Assistance Division and confirm who has Office-of-Record responsibility for the case. The local National Guard IG will forward the completed case (memorandum explaining the results of an Assistance Inquiry or Report of Investigation / Investigative Inquiry) through the National Guard Bureau (NGB) IG to DAIG's Assistance Division.

Section 8-2

Congressional Inquiries in Inspector General Channels

1. **Purpose:** This section explains how IGs process Congressional Inquiries in Inspector General Channels.

2. **Congressional Inquiries in Inspector General Channels:** DAIG's Assistance Division (SAIG-AC) -- the Office of Record for all Congressional Inquiries -- will refer the case in IGARS as Office of Inquiry through the ACOM, ASCC, or DRU IG. The local IG will then work the case as the Office of Inquiry and provide the completed case results to DAIG's Assistance Division. For Congressional Inquiries, the local IG -- as the Office of Inquiry -- will **not** provide final responses to the complainant, subject, or suspect as ordinarily done during Step Five (Make Notifications of Results) and Step Seven (Close the IGAR, Provide a Final Reply) of the IGAP. DAIG's Assistance Division -- as the Office of Record -- provides a final response to the Member of Congress (MC).

3. **Complainant Notification of Filing a Congressional Inquiry:** During any phase of the IGAP, if a complainant notifies an IG that the complainant contacted an MC to file a congressional inquiry, the IG will promptly notify DAIG's Assistance Division. Assistance Division will coordinate with the Army Office of the Chief of Legislative Liaison (OCLL) to determine if there is, in fact, a congressional inquiry with the same matters as presented by the complainant. While DAIG is conducting this coordination with OCLL, the local IG will continue to work the case, to include contact with the complainant, as required. If the coordination with OCLL does not reveal a congressional inquiry, Assistance Division will advise the local IG to work the case through to completion. If the coordination with OCLL does reveal a congressional inquiry with the same matters presented by the complainant, Assistance Division will advise the local IG as outlined in paragraph 2 above.

Chapter 9

White House Inquiries

1. **Purpose:** This section explains how IGs process White House Inquiries.
2. **White House Inquiries:** White House inquiries may include requests from the President, the Vice President, or their spouses. DAIG's Assistance Division is the Office of Record for White House Inquiries. Assistance Division may task an Army Command (ACOM), Army Service Component Command (ASCC), or Direct Reporting Unit (DRU) IG office to inquire into a White House Inquiry by referring the case in IGARS to the appropriate IG office as Office of Inquiry. The ACOM, ASCC, or DRU IG will then work the case as the Office of Inquiry by conducting an Assistance Inquiry, Investigative Inquiry, or Investigation and then forward the results (a memorandum explaining the results of an Assistance Inquiry or Report of Investigation / Investigative Inquiry) to Assistance Division. Assistance Division then provides a final reply to the complainant and furnishes a copy to the White House Liaison Office (WHLO). If the local IG needs an extension to the suspense, the ACOM, ASCC, or DRU IG must request that extension through Assistance Division. Assistance Division will send an interim reply to the complainant if the extended suspense date is beyond the original expected date of the Assistance Division's reply.

If there are any questions regarding the processing of White House Inquiries, call DAIG's Assistance Division for guidance.

Chapter 10

Resolving Issues Received from DoD Hotline

1. **Purpose:** This section describes how Army IGs resolve issues received from the Department of Defense Hotline Program.
2. **General:** The DoD Hotline Program, governed by DoDI 7050.01, is one of two IG programs the U.S. Army Inspector General System administers on behalf of DoD IG. The other program is Whistleblower Reprisal Investigations (see Part Two, Chapter 9). Since DoD IG owns these two programs, Army IGs must follow certain unique requirements associated with each one, even though Army IGs will primarily use Army IG processes to resolve matters referred from the DoD Hotline Program.

Army IGs may receive both issues and allegations to resolve as part of a DoD Hotline referral. However, DoD IG does not recognize the distinction between these two types of complaints (issue or allegation). Instead, DoD IG generally approaches all Hotline matters as allegations and expects the Services to resolve them as such. In fact, most Hotline referrals requiring Army IG action will in fact be allegations of impropriety, which is the reason why the primary doctrinal guidance regarding DoD Hotline cases appears in the Investigations section of this guide – Part Two, Chapter 10. In effect, Army IGs will treat issues received through the DoD Hotline program as though they were allegations, even though Army IGs will use the Assistance Inquiry methodology of the Inspector General Action Process to resolve the issues. Most importantly, the Army IG system's timeliness rules do not apply to DoD Hotline cases. Army IGs will resolve all Hotline referrals regardless of their age.

3. **General Procedures:** The Hotline Branch is a branch within the DAIG's Assistance Division. Hotline Branch receives and works cases directly from DoD Hotline only and does not run a separate Hotline operation. Upon referral from DoD Hotline, DAIG Hotline Branch processes and further refers Hotline cases for resolution to Command IGs at Army Commands (ACOMs), Army Service Component Commands (ASCCs), and Direct Reporting Units (DRUs) -- as well as Army Staff Principals -- for command inquiry or investigation. Only DAIG's Hotline Branch can transfer referred cases from one ACOM, ASCC, DRU, or Army Staff principal to another.

4. **Issues for Action-Referral / Information-Referral:** Complaints are submitted to DoD Hotline via mail, online submission, fax, or telephone. DoD IG analyzes the complaint, determines what type of case it is, and then refers the case to DAIG via the Hotline (HL) Form 1 with the complaint attached. The complaint does not generate a DA Form 1559, and DoD IG executes the initial acknowledgement to the complainant.

There are two types of cases: Action-Referral and Information-Referral. An Action-Referral case (issue or allegation) requires some form of inquiry or investigation to resolve. All Action-Referral cases must be addressed -- even if Army IG policy considers the case not appropriate for Army IG action. In short, all cases coming from DoD Hotline are appropriate for the Army IG action. By contrast, an Information-Referral

case does not require an inquiry or investigation, but the matter should be brought to the attention of the interested Service. Information-Referral cases do not require any type of response back to DoD IG.

In general, most Action-Referral cases tend to involve allegations of impropriety. In fact, very few Action-Referral cases deal solely with issues. Moreover, an issue resolved through DoD's Hotline uses the same conclusion as an allegation -- substantiated or not substantiated. **For that reason, detailed procedures on how to resolve both issues and allegations received through DoD's Hotline Program appear in Part Two, Chapter 10, of this guide.** Chapter 10 provides specific guidelines for crafting Hotline Completion Reports and what documents must accompany those reports.

Part Two

Investigations

Chapter 1

Overview

Section 1-1 - Purpose and Investigations Philosophy

Section 1-2 - Definitions

Section 1-3 - Categories of Individuals

Section 1-4 - Rights of Individuals Involved in IG Investigations

Section 1-5 - Non-Rights of Individuals Involved in IG Investigations

Section 1-6 - Requirement to Cooperate and Flagging Actions

Section 1-7 - Overview of Evidence

Section 1-8 - Categories of Evidence

Section 1-9 - Levels of Evidence

Section 1-10 - Facts

Section 1-11 - Evaluating Evidence

Section 1-12 - Military Rules of Evidence

Section 1-13 - Inspector General Action Process Chart

Section 1-14 - Step 1, Receive IGAR

Section 1-1

Purpose and Investigations Philosophy

1. **Purpose:** The purpose of this section is to provide IGs with an overview of the recommended procedures and techniques for implementing the regulatory requirements relating to IG Investigations and Investigative Inquiries in accordance with Army Regulation 20-1. In addition, this section outlines the general philosophy that must guide each IG in the conduct of the Investigations function.

2. **Scope:** While in the process of resolving Inspector General Action Requests (IGARs), if preliminary analysis (step two) reveals possible wrongdoing by an individual that leads to an allegation, the IG will refer any command-appropriate allegation(s) to the command for action. However, if the Directing Authority's guidance is to use the IG as his or her investigatory option, then the IG will resolve the allegation. In this case, the fact-finding (step four) methodology will either be an Investigation or Investigative Inquiry.

This section of the guide describes the principles and philosophies of IG Investigations and Investigative Inquiries as well as the procedures and the techniques used to conduct them. The techniques discussed are based on field experience and are effective; but, most importantly, the process for resolving allegations of impropriety outlined in this guide and in Army Regulation 20-1 adhere strictly to the requirements of legal due-process and the overarching IG principle of fair and impartial fact-finding. However, field IGs should remain flexible in how they apply these principles and the overall process. All cases are unique, and the facts and circumstances will differ. Consequently, IGs must apply sound judgment based upon training, experience, knowledge of the case at hand, and the Directing Authority's goals while ensuring adherence to the provisions of Army Regulation 20-1.

3. **Inspector General Investigations Philosophy:** Understanding the nature and role of IG Investigations and Investigative Inquiries within a command is an essential aspect of performing the IG Investigations function properly. All IGs must remember that an IG Investigation is simply **one investigatory option** available to Commanders who serve as IG Directing Authorities. In almost all cases, IGs will refer command-appropriate allegations of impropriety directly to the appropriate Commander so that he or she may choose an investigatory approach that best suits the allegation, ensures prompt resolution of the allegation within command channels, and considers the possibility that adverse action may be appropriate. For these command referrals, the IG will resolve the matter following the procedures outlined in Chapter 3 of this guide. Depending on the circumstances, however, the Directing Authority may choose to direct an IG Investigation or Investigative Inquiry into any matter within his or her jurisdiction, particularly when extreme discretion, efficiency, and effectiveness are necessary. In this case, the IG will resolve the matter using the procedures outlined in Army Regulation 20-1 and in Part Two of this guide. The IG will not independently initiate an IG Investigation or Investigative Inquiry without the Directing Authority's explicit permission -- unless the Commander has provided specific standing guidance for doing so in clearly articulated circumstances (for example, withholding a certain type or category of

misconduct, such as an allegation of impropriety made against a battalion or brigade Commander, etc.).

The IG must never seek out allegations to resolve. The IG Investigations function is strictly reactive and depends solely upon allegations brought to the IG's attention by a complainant or anonymously through a variety of other means mentioned in this guide. An exception to this principle is when an IG personally witnesses or discovers violations of standards unintentionally. Inspectors General are never off the record; therefore, an example of an IG initiating an allegation could involve the IG receiving a private commercial solicitation from an Army employee via a group email sent from that employee's official government computer.

4. **Caution:** Before conducting an Investigation or Investigative Inquiry, review Chapter 7, The Inspector General Investigations Function, of Army Regulation 20-1, to ensure familiarity with the requirements of an Investigation and an Investigative Inquiry.

5. **Quality Standards for Investigations:** At the Federal government level, the Council of Inspectors General on Integrity and Efficiency (CIGIE) publishes standing guidelines in the form of Quality Standards for Investigations. These standards fall into two separate categories:

a. General Standards for qualifications, independence, and due professional care.

b. Qualitative Standards for investigative planning, execution, reporting, and information management.

The U.S. Army Inspector General system's procedures for the conduct of Investigations and Investigative Inquiries, as outlined in Part Two of this guide, adhere to the applicable portions of these CIGIE standards in order to ensure that Army IG investigatory activities follow the same basic guidelines for all investigations conducted within the Department of Defense and in the Federal government more broadly. Another aspect of quality is the timely and efficient conduct and completion of IG Investigations and Investigative Inquiries. The goal of completion for all IG Investigations and Investigative Inquiries is less than 180 days, or six months.

Section 1-2

Definitions

1. **Army Regulation (AR) 15-6 Preliminary Inquiries.** A preliminary inquiry is an informal investigation conducted personally by the appointing authority or an appointed inquiry officer. A preliminary inquiry is a procedure used to ascertain the magnitude of a problem in an effort to determine whether an investigation or board may be necessary or to assist in determining the scope of a subsequent investigation. A preliminary inquiry in accordance with Army Regulation 15-6, Procedures for Administrative Investigations and Board of Officers, may satisfy the preliminary requirement, sometimes referred to as a "commander's inquiry," in RCM 303, Manual for Courts-Martial (MCM). Additionally, a preliminary inquiry need not follow the procedural requirements of an administrative investigation or board.

2. **Army Regulation (AR) 15-6 Administrative Investigations.** An administrative investigation is an informal investigation conducted by a single investigating officer (IO), with or without the assistance of assistant IOs, under the authority of the approval authority / Commander and in accordance with Army Regulation 15-6, Procedures for Administrative Investigations and Board of Officers. The findings of an administrative investigation are conveyed to the approval authority / Commander in a DA Form 1574-1, Report of Proceedings by Investigating Officer. The approval authority / Commander is not bound or limited to the findings or recommendations of the investigation and may direct findings or take action other than that recommended by the investigation. Commanders can use the results of an administrative investigation for adverse action against the subject or suspect of the investigation.

3. **Army Regulation (AR) 15-6 Board of Officers.** A board of officers is a formal investigation conducted by selected members under the authority of any general court-martial convening authority (GCMCA) or special court-martial convening authority (SPCMCA); any general / flag officer; or any Commander, Deputy Commander, or special, personal, or principal staff officer in the rank of colonel or above at HQDA, the installation, activity, or unit level; and in accordance with Army Regulation 15-6, Procedures for Administrative Investigations and Board of Officers. The findings of a board of officers are conveyed to the approval authority / Commander in a DA Form 1574-2, Report of Proceedings by Board of Officers. The approval authority / Commander is not bound or limited to the findings or recommendations of the investigation and may direct findings or take action other than that recommended by the investigation. Commanders can use the results of an administrative investigation for adverse action against the subject or suspect of the investigation.

4. **Article 32 Investigation.** The Fifth Amendment constitutional right to grand jury indictment is expressly inapplicable to the Armed Forces. In its absence, Article 32 of the Uniform Code of Military Justice (Section 832 of Title 10, United States Code) requires a thorough and impartial investigation into charges and specifications before they may be referred to general court-martial (the most serious level of courts-martial). The purpose of this pretrial investigation is to inquire into the truth of the matter set forth in the charges, to consider the form of the charges, and to secure information to determine what disposition should be made of the case in the interest of justice and discipline. The

investigation also serves as a means of pretrial discovery for the accused and defense counsel. Copies of the criminal investigation and witness statements are provided, and witnesses who testify may be cross-examined.

5. Manual for Courts-Martial, Rule 303, Preliminary Inquiry. In accordance with the Manual for Courts-Martial, Rule 303, Commanders are required to inquire into allegations of misconduct by members of their command when informed of possible offenses that can be tried by courts-martial. These inquiries are normally informal, are conducted by the Commander or others appointed by the Commander, and do not require a written report. The results of a Commander's inquiry under this provision can be used for adverse action against the inquiry's subject or suspect.

6. Criminal Investigations (CID / MPI). The U.S. Army Criminal Investigations Command (CID) and Military Police are required to investigate allegations of criminal activity in which the Army is, or may be, a party of interest as defined in Army Regulation 190-30 and Army Regulation 195-2. Army CID Special Agents conduct criminal investigations that range from death to fraud on and off military reservations and, when appropriate, with local, state, and other Federal investigative agencies. CID is responsible for investigating felonies, complex misdemeanors, and property-related offenses when the value is greater than \$5,000.00 (see Army Regulation 195-2, paragraph 3-3). Military Police Investigators (MPI) normally investigate less serious offenses, including misdemeanors and property-related offenses when the value is less than \$1,000.00. In accordance with Army Regulation 190-30 and Army Regulation 195-2, CID or MPI do not normally investigate allegations of adultery and fraternization unless the allegations are tied to greater offenses. The results of a CID or MP investigation can be used for adverse action against the subject or suspect of the investigation.

7. Criminal Offense. Any criminal act or omission as defined and prohibited by the Uniform Code of Military Justice (UCMJ), U.S. Code, State or local codes, foreign law, or international law or treaty.

8. Directing Authority. Any Army official who has the authority to direct an IG Investigation or Inspection is a Directing Authority. Normally, a Directing Authority is a general officer serving in a command position and, by virtue of holding that position, is authorized an IG and an accompanying IG staff section. In some cases Civilian Directors who are part of the Senior Executive Service are authorized an IG. Others designated as Directing Authorities are the Secretary of the Army (SA); the Under Secretary of the Army (USofA); the Army Chief of Staff (CSA); the Army Vice Chief of Staff (VCSA); The Inspector General (TIG); or The Adjutant General (TAG) of any state, territory, or the District of Columbia. Commanders and Directors who are authorized IGs on their staffs may direct IG Investigations and Inspections within their commands. The SA, USofA, CSA, VCSA, TIG, and TAG may direct IG investigations and inspections within subordinate commands as necessary.

9. Felony. A criminal offense punishable by death or confinement for more than one year.

10. Investigation.

a. An Investigation is a formal fact-finding examination into allegations, issues, or adverse conditions of a serious nature that provides the Directing Authority a sound basis for making decisions and taking action. Inspector General Investigations involve the systematic collection and examination of evidence that consists of testimony (evidence recorded under oath); documents and statements; and, in some cases, physical evidence. Only the Directing Authority can authorize IG Investigations using a written and signed directive. Inspectors General report the conclusions of their Investigations using a Report of Investigation (ROI). Occasionally, IG Investigations may examine systemic issues, especially when the possibility of some wrongdoing exists. For example, an IG might investigate an allegation that the development of a weapon system is fraught with fraud, waste, and abuse.

b. IG Investigations are characterized by:

(1) A written directive issued by the Commander or other Directing Authority authorizing the IG to examine the allegations and issues as directed. The IG presents the specific allegations or issues to the Directing Authority using an action memorandum. The action memorandum, like a decision memorandum, provides background information and recommends that the Directing Authority sign the directive. It also sets the limits of the investigation.

(2) A mandatory process providing a road map of how to proceed. These steps standardize procedures, protect individual rights, ensure proper command notifications, and protect the confidentiality of individuals and the IG system.

(3) A required format for documenting the results in the form of a Report of Investigation (ROI). The IG who led the Investigation makes recommendations in the ROI to the Directing Authority. The Directing Authority cannot share the ROI with anyone other than the IG and the Directing Authority's Staff Judge Advocate. Requests for further release must involve TIG.

9. Investigative Inquiry.

a. An Investigative Inquiry is an informal fact-finding examination into allegations, issues, or adverse conditions that are not significant in nature -- as deemed by the Directing Authority or the Command IG (when authorized by the Directing Authority) -- and when the potential for serious consequences (such as potential harm to a Soldier or negative impact on the Army's image) are not foreseen. Inspector General Investigative Inquiries involve the collection and examination of evidence that consists of testimony; documents or statements; and, in some cases, physical evidence. The Directing Authority reserves the right to direct an Investigative Inquiry if he or she feels an Investigation is not appropriate. When directed or authorized by the Directing Authority, Command IGs may initiate Investigative Inquiries. Inspectors General report the conclusions of their Investigative Inquiries using a Report of Investigative Inquiry (ROI).

b. IG Investigative Inquiries are characterized by:

(1) The Directing Authority or Command IG (under the authority of the Directing Authority) verbally authorizing the IG to examine the allegations and issues as directed. There is no written directive.

(2) A less formal process with the same protection of individual rights, command notification, and confidentiality protection.

(3) A summary of the interviews conducted. Inspectors General summarize unrecorded interviews and document them in a memorandum as a statement in memorandum-for-record format, or the witness may provide a written statement. The IG will note the date, time, place, mode (face-to-face, telephonic, VTC), status (witness, subject, suspect), the individual's personal identifying information, and persons present; the allegations about which the IG asked questions; the key evidence obtained; and the credibility of the individual interviewed.

(4) A required format for documenting the results in the form of a Report of Investigative Inquiry (ROI). The IG who led the Investigative Inquiry makes recommendations in the ROI to the Directing Authority. The Directing Authority cannot share the ROI with anyone other than the IG and the Directing Authority's Staff Judge Advocate. Requests for further release must involve TIG.

10. **Element of Proof.** An element of proof is derived from the standard and must be established in order to substantiate or not substantiate an allegation. Elements of proof are found in the standards themselves.

An example of a standard found in the law is 10 USC Section 3583, which reads:

"All commanding officers and others in authority in the Army are required -- (1) to show in themselves a good example of virtue, honor, patriotism, and subordination; (2) to be vigilant in inspecting the conduct of all persons who are placed under their command; (3) to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them; and (4) to take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge."

The elements of proof are easy to find since they are listed numerically:

(1) to show in themselves a good example of virtue, honor, patriotism, and subordination;

(2) to be vigilant in inspecting the conduct of all persons who are placed under their command;

(3) to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them; and

(4) to take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

This standard requires that a commanding officer or other person in a position of authority meet all of the elements of proof. If a commanding officer or other person in authority covered by the standard fails to satisfy all of these elements of proof through his or her actions, then he or she has violated 10 USC 3583, and the allegation is substantiated.

Some standards may require more work to identify the elements of proof. For example, Army Regulation 600-20, paragraph 4-19, reads:

"The Army is a values-based organization where everyone is expected to do what is right by treating all persons as they should be treated -- with dignity and respect. Hazing, bullying, and other behaviors that undermine dignity and respect are fundamentally in opposition to our values and are prohibited."

The elements of proof for an allegation that a suspect violated Army Regulation 600-20, paragraph 4-19, would be:

The suspect -

- (1) hazed a Servicemember(s)
- (2) bullied a Servicemember(s)
- (3) engaged in other behaviors that undermine dignity and respect

If a leader fails in any one of the elements in a standard such as this one, then he or she has violated the standard. Hazing and bullying are explicitly defined in Army Regulation 600-20, paragraph 4-19a. However, the term 'other behaviors' remains vague and may require other standards to clarify and further define.

The elements of proof for 'other behaviors' that undermine dignity and respect appear in Army Regulation 600-100, paragraph 1-11d, which reads:

"Army professionals are required to uphold the Army Ethic and model the core leader competencies described above. They must remain vigilant to guard against counterproductive leadership behaviors from themselves as well as in the units with which they serve. Counterproductive leadership can take different forms, from incompetence to abusiveness, all of which have detrimental impacts on individuals, the unit, and the accomplishment of the mission. Counterproductive leadership behaviors can span a range of behaviors to include bullying, distorting information, refusing to listen to subordinates, abusing authority, retaliating, blaming others, poor self-control (loses temper), withholding encouragement, dishonesty, unfairness, unjustness, showing little or no respect, talking down to others, behaving erratically, and taking credit for others' work."

Thus, the elements of proof regarding other behaviors are listed as:

- (1) bullying
- (2) distorting information
- (3) refusing to listen to subordinates
- (4) abusing authority

- (5) retaliating
- (6) blaming others
- (7) poor self-control (loses temper)
- (8) withholding encouragement
- (9) dishonesty
- (10) unfairness
- (11) unjustness
- (12) showing little or no respect
- (13) talking down to others
- (14) behaving erratically
- (15) taking credit for others' work

If a leader exhibits any one or more of these behaviors, then he or she has violated the standard for guarding against counterproductive leadership behaviors. In doing so, the leader is further in violation of the third element of proof (engaged in other behaviors that undermine dignity and respect) for an allegation in which a suspect violated Army Regulation 600-20, paragraph 4-19.

Section 1-3

Categories of Individuals

1. **Overview.** People involved in IG Investigations or Investigative Inquiries are classified as IGs, witnesses, subjects, or suspects.

a. A **witness** is any person who provides information to an IG during the conduct of an Investigation or Investigative Inquiry and who has some knowledge to support or refute an allegation. A witness can be a subject-matter expert or a person who saw, heard, or knows something relevant to the issues and allegations under Investigation.

b. A **subject** is any person who is alleged to have violated a non-criminal standard (e.g., a non-punitive policy or regulation).

c. A **suspect** is any person who is alleged to have violated a criminal standard (e.g., punitive law, punitive regulation, or code such as the Uniform Code of Military Justice (UCMJ)).

2. **Caution.** Individuals, to include witnesses, may become subjects or suspects during an Investigation based on evidence developed during the case (including information given by the individuals themselves). The rights individuals have in an IG Investigative Inquiry or Investigation depend partially upon their category. For example, suspects in IG Investigations must be informed of their legal rights under Article 31, UCMJ.

3. **Criminal / Punitive Allegations.** Inspectors General often use these two terms interchangeably. However, a violation of a regulation's punitive provisions can be criminal under Article 92, UCMJ. The bottom line is that criminal violations include violations of punitive regulations, violations of the UCMJ, and violations of other State and Federal laws. Consult with the staff judge advocate when in doubt about the criminal nature of an allegation.

a. For the most part, the Army's many technical instructions, administrative regulations, directives, and doctrinal manuals serve to standardize Army operations. Failure to adhere to these publications usually carries few consequences aside from counseling. A portion of a regulation is "punitive," however, when a violation of that portion of the regulation subjects the violator to punishment under Article 92, UCMJ, "Violation of general orders or regulations," and sometimes to punishment under similar statutory sanctions and regulations pertaining to Department of Army Civilian personnel.

b. Punitive provisions must be more than mere policy statements or administrative guidelines. Such provisions must impose a specific duty on Soldiers to perform or refrain from certain acts. These provisions and regulations cannot require further implementation from subordinates. The President, Secretary of Defense, Secretary of a military department, a flag or general officer in command, or a general court-martial convening authority must also have promulgated the regulation before any

portion of it becomes "punitive." This situation is never a problem with Army Regulations, since all of them are promulgated by order of the Secretary of the Army.

c. The Army almost always delineates its punitive regulations, or the punitive portions of regulations, by stating this fact on the title page of the regulation and by indicating in the text that Soldiers who violate the subject provision will be subject to disciplinary action under the UCMJ (for an example, see Army Regulation 20-1, paragraph 1-13).

Section 1-4

Rights of Individuals Involved in IG Investigations

1. Right to Counsel.

a. Witnesses, subjects, and suspects should be afforded the opportunity to consult with a lawyer before or after questioning. However, only the suspect has a right to have an attorney present during questioning. If questioning a suspect who has a criminal allegation against him or her, or whom the IG believes may have committed a criminal offense, the IG must advise the individual of his or her rights using a DA Form 3881, Rights Warning Procedure / Waiver Certificate, before questioning (see Army Regulation 20-1, paragraph 7-1b (4)(d)). During an interview, if a witness says something that causes the IG to suspect that the individual may have committed a criminal offense, the IG must warn the witness or subject of his or her rights using the DA Form 3881 before continuing questioning. Once advised, an individual has the right to seek the advice of a lawyer, to have a lawyer present during questioning, and to remain silent. If the suspect invokes the right to consult with an attorney, the IG will stop and reschedule the interview to allow the suspect the opportunity to do so.

b. Subjects -- both Soldiers and DA Civilians -- also have the right to remain silent during questioning related to the matter under investigation and have the right to terminate the questioning. The IG will notify the subject of this right during the pre-brief but will not administer a DA Form 3881, Rights Warning Procedure / Waiver Certificate. Accordingly, if a subject invokes his or her rights, or fails to waive those rights after the IG properly advises the individual of such, the IG will record the time and terminate the interview without a read-out. Invoking one's rights and remaining silent does not constitute a failure to cooperate and cannot be the basis for any adverse or corrective action.

c. If a witness or subject requests that a lawyer be present during his interview, the IG leading the Investigation or the Command IG will determine whether to allow it or not allow it. Experienced IGs, comfortable with the IG Investigations process and with conducting interviews, may allow a lawyer to be present.

(1) Having a lawyer present usually makes the interviewee more comfortable and cooperative and is more likely to result in a better interview. Remember that the lawyer's only function in an IG Investigation or Investigative Inquiry is to advise the client. The IG leading the Investigation or Investigative Inquiry can greatly improve cooperation through direct coordination with the lawyer prior to the interview. The IG can provide the attorney a copy of (or link to) Army Regulation 20-1; explain the four-part interview process; provide a redacted narrative for parts one, two, and four; and answer questions related to the Privacy Act, Article 31 rights (if appropriate), and any other IG administrative processes ahead of time.

(2) The IG should explain that the U.S. Army respects privileged communications between an attorney and client but that all interaction with the IG is on

the record. Because of IG records-release requirements, neither the lawyer nor the interviewee may remove notes taken during the interview. If the lawyer or the interviewee wants to make notes for use after the interview, then the IG must call a recess and excuse all IGs from the interview room. This technique will allow the lawyer to confer privately with his client and make separate notes as necessary.

(3) The lawyer may ask the IG questions for clarity during the interview, but the lawyer may not answer questions for the interviewee or otherwise try to control the interview. The IG must explain these ground rules to all participants at the beginning of the interview. If a lawyer attempts to control the interview or otherwise becomes disruptive, consider taking a break or terminating the interview and then seek SJA advice on how to proceed. If an IG has to deal with a confrontational or disruptive lawyer, then the IG should speak directly to the suspect and remind the individual that the interview is his opportunity to tell his side of the story as well as to know and comment on the allegations and unfavorable information that will appear in the final IG report.

2. Right of Individuals to Confidentiality.

a. Witnesses, subjects, and suspects have the right to confidentiality, but confidentiality is not guaranteed. Inspectors General always strive to provide confidentiality to protect privacy, maintain confidence in the IG System, and minimize the risk of reprisal. Confidentiality is a key component of the IG System because it encourages voluntary cooperation and willingness to present complaints for resolution. Confidentiality is maintained by protecting the identities of all persons involved from unnecessary disclosure as well as protecting the nature of their contact with the IG. Identities of individuals and the information they provide may be disclosed if required by law or regulation or at the direction of The Inspector General. Confidentiality also cannot be guaranteed because the Freedom of Information Act (FOIA) allows members of the public to request government records for unofficial purposes. The IG should inform individuals of the provisions of the FOIA.

b. The primary threat to confidentiality is an individual's voluntary disclosure of the matters under investigation. Consequently, the IG should conclude each interview (during Investigations and Investigative Inquiries as stated in the interview guides) by admonishing the individual not to discuss the matters under Investigation with anyone without the permission of the investigating officers. The only exception is that the individual may speak about any matter to his attorney if he or she chooses to consult one.

3. Right to Review One's Own Testimony. Witnesses, subjects, and suspects have the right to review their own testimony prior to completion of the Investigation or Investigative Inquiry, but they may not keep a copy. This review is limited to an accuracy review only. Any effort to change, add, or clarify the testimony requires a subsequent interview, or the individual may provide a statement -- oral, written, or sworn on a DA Form 2823 -- for the IG to consider. Individuals reviewing their own testimony have no right or authority to demand the IG change the transcript or summation. The IG will determine whether any suggested changes are minor / administrative or substantive. The IG will also determine whether or not the additional information is credible and how to use that information. Testimony review should take place only under controlled conditions similar to the interview, and the IG should end the review with a reminder of

the standard admonishment for protecting IG records and IG confidentiality. After completion of the Investigation or Investigative Inquiry and approval of the report, individuals may request a copy of their own testimony through a standard FOIA request to DAIG's Records-Release Office.

4. Right to Avoid Self-Incrimination. Witnesses, subjects, and suspects have the right to avoid self-incrimination. Self-incrimination means that the witness may decline to answer a question when the answer might tend to incriminate the witness. Only suspects and subjects can remain silent. Witnesses can lawfully refuse to answer only those questions that will incriminate them. Any witness who refuses to answer an IG question by invoking the right to avoid self-incrimination must clearly state this fact as justification and must do so on his or her own behalf.

5. Right to Know and Comment.

a. Administrative due-process in IG Investigative Inquiries and Investigations (Army Regulation 20-1, paragraph 7-1f) requires that an IG notify a suspect or subject of unfavorable information that will appear in the ROI / ROII.

b. In an Investigation or Investigative Inquiry, ensure that the subject or suspect is afforded the opportunity to know and comment on the allegations made against him or her (see Army Regulation 20-1, paragraph 7-1b (3) (d)). Individuals have the right to know the allegations against them and to tell their story during an IG Investigation or Investigative Inquiry.

c. A common misperception is that individuals are reluctant to comment on allegations; the opposite is generally true. The IG investigative process is often the subject's and suspect's only chance to rebut the allegations, and he or she is often willing and eager to provide information. While there are exceptions, the IG should interview the subject or suspect last so that he or she has an opportunity to comment on the allegations and any unfavorable information that the IG is required to disclose.

6. Subject and Suspect Rights. Subjects and suspects have all the rights afforded to witnesses. Suspects are additionally afforded Article 31 rights and are warned of those rights with a DA Form 3881, Rights Warning Procedure / Waiver Certificate. Article 31 affords suspects the right to know the nature of the accusation, to avoid self-incrimination, and to remain silent. It also prohibits compelling suspects to make a statement or to produce evidence that is not material to the issue and may tend to degrade the individual. Only suspects have the right to have an attorney present during the interview.

7. Right to Union Representation.

a. The Civil Service Reform Act of 1978 (as a consequence of the 1975 case *Weingarten vs. the National Labor Relations Board*) created a right to union representation for Federal civilian employees, to include Army National Guard and U.S. Army Reserve Military Technicians (MILTECHS) whose term of employment is governed by a collective bargaining agreement. This right exists during interviews with a Federal employee in connection with IG Investigations or Investigative Inquiries if the employee reasonably believes that disciplinary action will be taken against him or her as a result of the interview.

b. The Civil Service Reform Act does not require an IG to advise an employee of the right to union representation before an interview. The act merely requires management to inform its employees annually of this right. This advice is frequently communicated through an installation's daily bulletin. However, some local collective bargaining agreements have been negotiated wherein the management of an installation has agreed to provide notice before each interview. Therefore, exercise caution when interviewing Federal (not just DA) employees to ensure compliance with the terms of a local contract. Ask the SJA what the local bargaining agreement specifies. Additionally, some installations have more than one collective bargaining agreement. IGs should regularly review all bargaining agreements that govern the Civilian employees within their jurisdiction.

c. The basic rules that apply to legal counsel in an interview apply to union representatives as well. The representative may advise the employee but may not ask or answer questions for the employee. However, the representative can comment, speak, and make statements. An individual may have both a union representative and legal counsel present in an interview.

d. In some cases, the right to union representation has been extended to other IG activities, such as sensing sessions. You should check with the SJA and the local labor relations representatives, Civilian Personnel Advisory Center (CPAC), or Civilian Personnel Operations Center (CPOC) before conducting interviews or sensing sessions with any Federal employees.

Section 1-5

Non-Rights of Individuals Involved in IG Investigations

Army Regulation 20-1, paragraph 7-1, specifies the administrative due-process afforded during Investigations. Frequently, persons involved with IG Investigations or Investigative Inquiries have confused administrative due-process with legal due-process. These common misperceptions are called non-rights and consist of the following:

1. To Know the Identity of Witnesses. In an IG Investigation or Investigative Inquiry, neither the suspect nor the subject have the right to know who made allegations against him or her or to know the names of witnesses or other individuals who provided information. When an IG record is used as a basis for adverse action, the subject or suspect may become entitled to the legal due-process right to see the IG record, know who made the allegations, and know who provided evidence during the course of the Investigation or Investigative inquiry. When this situation occurs, TIG must release this information in accordance with Army Regulation 20-1.

2. To Question Witnesses. In an IG Investigation or Investigative Inquiry, subjects and suspects do not have the right to question other witnesses or be present for witness interviews. Individuals being interviewed do not have the right to know the names of other witnesses, specific allegations, the identity of subjects or suspects, or the results of the Investigative Inquiry or Investigation.

3. To Review Evidence. In an IG Investigation or Investigative Inquiry, subjects and suspects do not have the right to review evidence. Discovery and confrontation are not rights afforded any witness, subject, or suspect during IG Investigations and Investigative Inquiries. Subjects and suspects have a right to know and comment on unfavorable information that will appear in the ROI / ROII. The IG might want to show a piece of evidence during the interview to elicit comment. Be careful! The subject or suspect has no right to see the evidence and certainly has no right to a copy of any evidence. He or she can make a Freedom of Information Act request after the Investigation is completed. If the IG must show a piece of evidence, the IG must ensure that that evidence is redacted appropriately. To protect confidentiality, consider not divulging any evidence until the subject or suspect fails to recall an incident, omits part of a story, or otherwise appears to hide something. Subjects and suspects have the right to know and comment on unfavorable information, but IGs have the duty to protect witnesses from reprisal. Craft effective questions, and think twice before disclosing any evidence.

4. To Have a Friend or Family Member Present. No one has the right to have friends or Family members present during interviews. Should someone make such a request, the Command IG or the lead IG of the Investigation or Investigative Inquiry may grant permission based upon an assessment of the benefit gained (for example, a more relaxed individual). If permission is granted, do not permit the friend or Family member to advise the witness or otherwise participate in the interview. At the conclusion of the interview, the IG must explain to the friend or Family member the tenet of IG confidentiality and the importance of not disclosing the matters under Investigation.

5. **IG's Dual Role.** Whether conducting an Investigation or an Investigative Inquiry, the dual role of the IG is to protect the best interests of the U.S. Army and the rights and confidentiality of all individuals involved.

6. **To Record or Take Notes.** In an Investigation or Investigative Inquiry, individuals, to include lawyers, do not have the right to remove notes taken during an IG interview or to record testimony (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (4)(f)**). Should an individual request to take notes or to record the interview, stress the importance of confidentiality. Remind the interviewee of the Army's Personal Electronic Device (PED) policy and that unauthorized recordings may compromise the confidentiality of witnesses, subjects, and suspects. Offer the individual the opportunity to review his testimony in the IG's office prior to completion of the report, and explain that he or she may request a copy of the testimony through the FOIA once the case is complete. Refer to Part Two, Section 1-5, of this guide for more on this topic.

Section 1-6

Requirement to Cooperate and Flagging Actions

1. **Active-Duty Military Personnel and DA Civilians.** Soldiers and DA Civilians are required by Army Regulation 20-1 to cooperate in IG Investigations and Investigative Inquiries. Witnesses, suspects, and subjects with a duty to cooperate cannot lawfully refuse to answer questions unless the answers are self-incriminating or privileged. If a witness is reluctant to cooperate in either an Investigation or an Investigative Inquiry, the best course of action is to persuade that person that cooperating is in his or her (and the organization's) best interest. The interview is often the suspect's or subject's only opportunity to present evidence. When necessary, the appropriate Commander or supervisor can order subordinates to cooperate.

2. **Reserve Component Personnel.** Members of the Reserve Components, both Army Reserve (USAR) and Army National Guard (ARNG), are not required to cooperate with an IG if not in a duty status (e.g., while at their civilian job). Army Regulation 20-1 governs members of the National Guard when they are performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function (Federal interest). However, if a member of the National Guard is strictly on State status (e.g. State Active Duty), Army Regulation 20-1 does not apply to that person since he or she is governed by State regulations. In those cases, the IG should coordinate with the ARNG chain of command. Members of the Army Reserve only have a Federal mission, so Army Regulation 20-1 governs them in any duty status. Army Reserve and National Guard Soldiers can be ordered to a duty status (Title 10 USC) to provide testimony to an IG. Review the attached matrix below prior to interviewing Reserve Component personnel. Most members of the Reserve Components, as well as Active-Component personnel, are willing to cooperate with an IG regardless of their status at the time of the interview. Requesting assistance from the chain of command is an infrequent and extreme remedy for dealing with uncooperative witnesses.

3. Civilians.

a. Civilians not connected with the Federal government (commonly known as civilian-civilians) have no requirement to cooperate with Army IGs. An IG cannot compel civilians not connected with the government to cooperate with an Investigation or Investigative Inquiry. Inspectors General have no authority to investigate allegations against individuals who were in a civilian-civilian status at the time of the alleged impropriety. Family members are civilian-civilians unless DoD employs them in some capacity. Individuals employed by companies under contract to DoD are also civilian-civilians. See paragraph 4, below, for additional information on DoD contractors.

b. If a witness is not in military service or is not a government employee, Army Regulation 20-1 does not require the IG to provide him or her with procedural due-process protections, such as advising him or her of rights or allowing him or her to know and comment on unfavorable information. However, the IG may choose to treat the individual as a suspect and advise the individual of his or her rights if the IG believes it to be the best and fairest course of action. For example, while conducting a

witness interview of a DoD contractor, the DoD contractor provides information to the IG that the individual gave himself or herself a personal loan from the Family Readiness Group (FRG) funds. This act might be criminal and a violation of Federal law. The investigating IG should notify the witness that this behavior may be in violation of a criminal statute and advise the individual of his or her rights. While IGs would not investigate the civilian, IGs would most likely need to interview the individual to gain information about the allegations. Consulting the SJA prior to advising the individual of his or her rights should reduce any doubt concerning the correct course of action. When advising the civilian of his or her rights, execute a rights warning using the DA Form 3881 in the same way that you would with military personnel or with DA Civilians.

c. Remember: Inspectors General do not investigate civilian-civilians. If a criminal allegation against a civilian emerges, turn these allegations over to your SJA, local CID, or MPI. In the FRG example used above, if the allegation was substantiated, the matter would be reported to procurement officials. The civilian contractor might be barred or suspended from further government contracts as well as face possible civilian court action.

d. Since non-governmental civilians (civilian-civilians) have no requirement to cooperate, IGs have limited recourse should they request to take notes, record interviews, or have friends present. As with military personnel, the best approach is to emphasize to them the need for confidentiality. As with military personnel and DA Civilians, IGs may offer civilian-civilians the opportunity to read their testimony while the case is ongoing or to request a copy through the FOIA of their testimony after the case is complete. If a civilian refuses to interview without taping or having a friend present, then contact your SJA for advice on whether the individual's testimony is crucial enough to warrant conducting the interview and how to proceed. Even though civilians are not required to cooperate with IG Investigations, it is a violation of Federal law under 18 USC 1001 for them to give false testimony knowingly under oath.

4. Department of Defense Contractor Witnesses. DoD Contractor personnel are considered civilian-civilians under the provisions of Army Regulation 20-1. However, if the contract employing them by the Government requires them to cooperate with IG Investigations and Investigative Inquiries, then the IG is authorized to question them. In these situations, the IG should contact the contracting office and work through the Contracting Officer's Representative (COR) to obtain witness cooperation. The IG must not reveal the allegations or provide any IG records to the COR.

5. Other DoD Personnel. Non-DA military and civilian personnel are not bound by Army Regulation 20-1, and an Army IG cannot compel them to cooperate. However, DoD Civilians, other Federal civilian employees, and military personnel from other services may have a duty to cooperate. Before interviewing anyone from outside the Army, make sure you coordinate with the individual's Service or department supervisory chain if there are any doubts about the individual's obligation to cooperate. Do not order individuals to cooperate. To do so places yourself in an adversarial position with the individual whom you desire to interview. Seek assistance from the individual's supervisor or Commander and your SJA when necessary.

6. Control of Witnesses. Conducting an Investigation is difficult if witnesses talk to each other about the case. Inform each witness of the requirement not to reveal to anyone the questions or topics discussed during the interview (**prescriptive provision**

in Army Regulation 20-1, paragraph 7-1b (4) (g)). Appendix A of this guide details specific language used to enhance IG confidentiality during interviews.

7. Flagging Actions.

a. Unlike other official investigations, such as those outlined in Army Regulation 15-6, Commanders are not authorized to initiate flagging actions for individuals based solely on the initiation of an IG Investigation or Investigative Inquiry. Inspectors General never advise the Commander to initiate a flagging action in accordance with Army Regulation 600-8-2 as result of an IG Investigation, because such action could be construed as adverse. Inspectors General must conduct fact-finding independent of command actions and remain fair and impartial fact-finders for the Commander. Commanders may initiate flagging actions for matters that the IG has referred to the command for investigation. For more specific guidance, review Army Regulation 20-1, paragraph 3-3c.

b. The above provision does not preclude U.S. Army Human Resources Command, or another similar agency at the Department of the Army (DA) level, from initiating a DA-level flag on individuals identified during records screening as having a substantiated finding from an IG Investigation or Investigative Inquiry -- or who may be pending IG Investigation -- in order to stop a promotion or assignment until the IG investigatory action is concluded.

8. Figure II-1-1 below details rights and witness cooperation requirements for all IG investigations and investigative inquiries.

Witness Interview Status, Rights, and Non-Rights

MILITARY STATUS AT TIME OF INTERVIEW	ROLE IN INVESTIGATION	SUBJECT TO UCMJ	REQUIRED TO TESTIFY	LAWYER PRESENT	UNION REPRESENTATION
ACTIVE ARMY	WITNESS	YES	YES	NO	NA
	SUBJECT	YES	NO (1)	NO	NA
	SUSPECT	YES	NO (1)	YES	NA
USAR ON ANY OFFICIAL STATUS	WITNESS	YES	YES	NO	YES (4)
	SUBJECT	YES	NO (1)	NO	YES (4)
	SUSPECT	YES	NO (1)	YES	YES (4)
ARNG TITLE 10 (IADT, OCONUS, AGR) (2)	WITNESS	YES	YES	NO	YES (4)
	SUBJECT	YES	NO (1)	NO	YES (4)
	SUSPECT	YES	NO (1)	YES	YES (4)
ARNG TITLE 32 (IDT, AT, AGR) (2)	WITNESS	NO	YES	NO	YES (4)
	SUBJECT	NO	NO (1)	NO	YES (4)
	SUSPECT	NO	NO (1)	YES	YES (4)
USAR & ARNG WHEN NOT ON DUTY	WITNESS	NO	NO	NO	NA
	SUBJECT	NO	NO	NO	NA
	SUSPECT	NO	NO	YES (3)	NA
DA CIVILIAN EMPLOYEES	WITNESS	NO	YES	NO	YES (4)
	SUBJECT	NO	NO (1)	NO	YES (4)
	SUSPECT	NO	NO (1)	YES (3)	YES (4)
CIVILIANS, INCLUDING STATE NG EMPLOYEES AND FAMILY MEMBERS	WITNESS	NO	NO	NO	NO (4 & 5)
	SUBJECT (5)	NO	NO	NO	NO (4 & 5)
	SUSPECT (5)	NO	NO	YES (3)	NO (4 & 5)

Figure II-1-1

NOTES:

(1) The duty of a subject or suspect to cooperate is offset by his or her right to remain silent on all matters that may incriminate him or her.

(2) The IG should check the Guardsman's orders to determine status. ADT / ADSW / AGR / MILTECH can be either Title 10 or Title 32.

(3) Must be a civilian lawyer at own expense or as appointed by law.

(4) Includes ARNG and USAR MILTECH members. Only applicable if the Civilian employee's position is covered by a collective-bargaining agreement and if the event under investigation occurred when the member was in a MILTECH status. The employee does not have to be a member of a union.

(5) Normally a civilian-civilian will not be either a subject or a suspect in an IG investigation. Consult with your SJA.

Section 1-7

Overview of Evidence

Investigations and Investigative Inquiries are both focused searches for factual, credible evidence in order to substantiate or refute allegations. Inspectors general draw conclusions by evaluating the preponderance of credible evidence gathered. Consequently, a thorough understanding of the nature and characteristics of evidence is essential. Evidence is identified by its source and its comparative value. Therefore, IGs gather and assess evidence in both categories and levels of credibility.

Section 1-8

Categories of Evidence

1. **Evidence Categories.** Evidence is first described by its source and generally falls into one of five major categories:

- a. Testimony.
- b. Physical evidence.
- c. Documentary evidence and statements.
- d. Standards.
- e. The IG's personal observations.

Some Investigations rely mostly on the testimony of witnesses while other Investigations require extensive use of documentary evidence and, in some cases, physical evidence.

2. **Testimony.** Testimony is evidence provided by a witness, subject, or suspect that is recorded under oath. Administering the oath to tell the truth adds formality to the interview and may enhance the accuracy of the information presented by the interviewee. The oath reinforces the seriousness of the interview and that the interviewee must be truthful or may face disciplinary action from the chain of command. Inspectors general may also obtain testimony when the witness, subject, or suspect submits a sworn statement on a DA Form 2823. There are two types of testimony: **oral** and **written**.

a. **Oral Testimony.**

(1) Oral testimony is recorded, verbal evidence taken under oath and later transcribed or summarized. Individuals who do not wish to swear an oath may affirm that their testimony is truthful. Testimony is the primary means of gathering evidence in IG Investigations and should be used in Investigative Inquiries. Court reporters (sometimes available from the SJA), contracted transcriptionists, or the IG may prepare verbatim transcripts of the testimony. Verbatim transcripts are the most accurate record of the testimony, but they are time-consuming and can be expensive to prepare and review. The IG who conducted the interview must certify the accuracy of the transcript by reading it and making corrections as necessary (see paragraph (2) below). Verbatim transcription may not always be practical. If assets or time are limited, take recorded testimony under oath, and prepare a summary using a Memorandum for Record (MFR) format. Should you determine a transcript is necessary as the case proceeds, you can prepare it at that time. Another alternative is to transcribe only the testimony of key witnesses (complainant, subject, or suspect) or only key parts of their testimony. You can summarize testimony from other witnesses using the MFR format.

(2) All IGs will verify the accuracy of the transcribed or summarized testimony against the recorded version before including it as an exhibit in an ROI or ROII. Upon verification, the IG who conducted the interview and reviewed the testimony, both transcribed and summarized, must include a certification statement at the bottom of the written testimony, even if a professional transcriptionist provided by the Army, the IG, or a contracted service completed the transcription. The following is an example of a certification statement: ***I have reviewed this transcribed / summarized testimony against the recorded testimony and certify it as accurate.*** The IG who conducted the interview and certified the testimony for accuracy must sign the statement. The IG must also include the appropriate signature block.

b. Written testimony. Inspectors General obtain sworn statements using DA Form 2823. When evaluating evidence, sworn statements generally carry more weight than unsworn written statements. Upon approval by the Directing Authority, if the IG alters an allegation in an ROI or ROII from that contained in a command product, adds an additional allegation, or includes additional unfavorable information not contained in the command product, a subject or suspect may provide a sworn statement commenting on the new allegation.

3. Physical Evidence. Physical evidence consists of objects or conditions that establish facts. It is the least common category of evidence found in Investigations or Investigative Inquiries. Physical evidence may or may not accompany the ROI / ROII. When the inclusion of physical evidence is required, the IG should review and follow appropriate regulations regarding chain-of-custody guidelines and the safeguarding and accountability of the items in question.

a. A physical object is normally not required to accompany an ROI / ROII. When forwarding an object, if possible, securely attach it to the ROI / ROII and identify it by showing:

- (1) The name of the object.
- (2) Where and when the object was obtained.
- (3) Custodian (or from whom obtained).
- (4) Its function, if applicable.
- (5) Serial number, size, make, brand name, or other identifying information.
- (6) Monetary value, if applicable.
- (7) Description of container, if appropriate.
- (8) State of serviceability.

b. Inspectors General normally do not include physical evidence with the ROI / ROII because of size, monetary value, or other reasons. A viable alternative is to photograph, sketch, or describe these objects in an MFR that contains the information and attach or include it as an exhibit to the ROI / ROII.

4. Documentary Evidence and Statements. Documentary evidence includes, but is not limited to, counseling statements; photographs; maps; sketches; training records; travel vouchers; evaluation reports; medical records; other investigation reports; and other types of written material, such as statements.

a. **Documents.** The IG should gather documents early in the Investigation or Investigative Inquiry and identify them by showing the date obtained, indicating whether they were an original or a copy, specifying the location of the original, and identifying the custodian and signature of the IG. When practical, use copies of the documents and leave the originals with their proper custodians.

b. **Statements.** Statements are evidence gathered during interviews as part of an Investigation or Investigative Inquiry that do not meet the requirements of testimony. Some witnesses may not want to be recorded or to provide a comment under oath; therefore, the evidence they provide cannot be considered testimony. The IG should attempt to obtain the necessary information from the witness and rely on statements as the means to do so. There are two types of statements that an IG may obtain: **written** and **oral**.

(1) Written Statements from witnesses, subjects, and suspects may be used as evidence in IG Investigations or Investigative Inquiries. Further, a subject-matter expert may provide a written statement, most often to interpret standards that have a bearing on the allegation. Sworn statements can also be used as evidence but are considered testimony as discussed in paragraph 2b above.

(2) Oral Statements from IG interviews can be used as evidence in both Investigations and Investigative Inquiries. The IG who conducted the interview can document the statement in summarized form in an MFR. When preparing the summary, the IG must ensure the accuracy of what was said and avoid injecting any IG opinion, such as commenting on what the statement possibly meant. An opinion may result in claims by the witness, subject, or suspect that the IG did not quote him or her correctly. Draft the summary immediately following the interview to avoid having to rely on memory later. The IG may also ask the interviewee to verify the interview summary. For accuracy, the IG may record oral statements; but, if the oral statement is recorded under oath, then the oral statement becomes testimony.

5. **Standards.** Standards are the laws, regulations, or policies that prescribe conduct. The IG must compare the subject's / suspect's actions against the standard to determine whether the allegation is substantiated or not substantiated. When choosing a standard, ensure that the standard was in effect at the time of the alleged actions. The standard provides the IG with the elements of proof necessary to support or to refute an allegation.

6. **Personal Observation.**

(1) The IG can document observed physical conditions in an MFR. Observations may include descriptions of vehicle damage, unsanitary dining facilities, overcrowded troop quarters, etc. Inspector General observations in an MFR can supplement or provide background for reports or testimony by authorities whose expertise may be better evidence than an IG's non-expert observation. Certain observations or events that occur during an interview (such as off-tape witness comments) may be worthy of an MFR.

(2) Investigating officers should minimize the use of personal observation. Including an IG's personal observations as evidence makes the IG a witness in the case and may create the impression of partiality or impropriety and lead to allegations of bias.

The best way to avoid this pitfall is to have a credible and unbiased person observe the conditions or review the evidence in question and then interview that person as a witness.

Section 1-9

Levels of Evidence

- 1. Overview.** Evidence is also characterized by its quality, detail, and credibility. Evidence generally falls into one of four major levels that are rank-ordered in value from highest to lowest: Direct (**D**), circumstantial (**C**), hearsay (**H**), and opinion (**O**). A credibility assessment is applied to each category of evidence to establish its relative merit. Together, these characterizations enable the IG to weigh the evidence collected and to reach a conclusion in the Investigation.
- 2. Direct Evidence.** Direct evidence is first-hand knowledge or observation that tends directly to prove or disprove a fact. For example, if a witness states, "I saw the subject's car at the headquarters on day x at time y," you have direct evidence that the subject's car was at the headquarters at that date and time.
- 3. Circumstantial Evidence.** Circumstantial evidence tends to prove or disprove facts by inference. The statement, "I saw the subject's car parked in front of the headquarters on day x at time y," or a photograph of the subject's car parked in front of the headquarters, is circumstantial evidence that the subject was inside the headquarters at that time. Circumstantial evidence is given less weight than direct evidence and is often used when there is little or no direct evidence. It may not have the weight of direct evidence, but it is still valid evidence. Some issues such as command climate and unit morale are seldom established by direct evidence. Frequently, they are established by circumstantial evidence alone.
- 4. Hearsay.** Hearsay is what one individual says another person said and is an acceptable source of information in IG Investigations and Investigative Inquiries. However, IGs should attempt to verify hearsay by contacting the person having direct knowledge of the information (the person who said whatever the witness heard).
- 5. Opinion.** An opinion is a person's belief or judgment. Qualified subject-matter expert (SME) opinions are commonly used as evidence in IG Investigations. An IG may ask witnesses for their opinions, but asking for the reasons why they reached their opinions is also important. Some Investigations or Investigative Inquiries, especially those concerning unit morale, *esprit de corps*, and command climate, must rely heavily on witnesses' opinions. Clearly identify such oral statements as opinion. Complainants frequently express opinions during interviews. Statements such as "CPT Jones is a jerk!" taken without specific examples of CPT Jones's past behavior represent an opinion.

Section 1-10

Facts

Inspector General Investigations and Investigative Inquiries constitute fact-finding. Facts include events that are known to have happened and things that are known to be true. Some matters are easily established as facts while others are difficult. To resolve an allegation of impropriety, an IG must use judgment, critical thinking, common sense, and experience to weigh the evidence. Consider the probability and reasonableness of an action and then make findings and form conclusions on the most credible evidence. A general guide in establishing facts is to obtain the testimony (recorded and transcribed oral statements taken under oath) of two or more competent witnesses who independently agree on a single point.

Inspectors general may also establish a fact by a combination of testimony, documentary evidence, and physical evidence that all agree on a single point. Use common sense. The testimony of two witnesses that agree on a single point is not a fact if the witnesses were not credible.

If the only evidence gathered is personal opinion, not expert opinion or opinions not based on any knowledge of the facts, or if there are unresolved conflicts in the testimony, then the IG should seek additional, more credible evidence to resolve those conflicts. Defending a substantiated finding using only opinion as evidence -- even if the witnesses are credible -- is nearly impossible. Regardless, the IG must determine what constitutes a fact through a careful and measured examination of all the evidence.

Section 1-11

Evaluating Evidence

1. The critical analytical task performed by the IG in each Investigation or Investigative Inquiry is the evaluation of the evidence. To draw a conclusion of either **substantiated** or **not substantiated**, the IG must determine if there is a preponderance of credible evidence as viewed by a reasonable person. Preponderance is defined as "superiority of weight." In layman's terms, preponderance means "more likely than not." The preponderance of credible evidence is a lesser standard than "beyond a reasonable doubt," which is used in criminal proceedings. **A preponderance of credible evidence is the standard IGs use to reach a conclusion and resolve an allegation.** Army Regulation 15-6, Procedures for Administrative Investigations and Boards of Officers, defines preponderance of evidence as follows: *"Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence."*

2. To evaluate the evidence, the IG must first determine the facts required to support **and** refute whether or not the impropriety occurred. The IG must then collate the evidence pertaining to each element of proof and determine the credibility of each item of evidence -- often a difficult task. Some witnesses provide inaccurate information, others fail to provide the whole truth or slant the truth to their advantage, and a few deliberately lie. The IG must look for and address voids and conflicts in the evidence. The IG must seek corroboration. The IG must assign a relative value to each item of evidence; some evidence is more important than other evidence. Finally, the IG must determine if a preponderance of the credible evidence substantiates or not substantiates the allegation, which is a highly subjective process. Remember -- the more thorough IGs are in gathering pertinent evidence, the more likely they are to be objective in evaluating the facts.

3. The IG repeats this evaluation process for each of the facts essential to the elements of proof. Finally, given a set of supported or refuted facts, they must determine whether a preponderance of credible evidence exists regarding the allegation as a whole. If a preponderance of credible evidence supports the allegation and indicates that the impropriety occurred, the allegation is **substantiated**. If a preponderance of credible evidence refutes the allegation and indicates that the impropriety did not occur, then the allegation is **not substantiated**. If a preponderance of credible evidence is lacking one way or the other, the IG should re-evaluate the entire process and attempt to gather additional credible evidence. If an equal balance still exists after searching for additional credible evidence, then the allegation is **not substantiated** because there is no "superiority of weight"; in other words, evidence greater than 50 percent is not established for **substantiation**.

4. An IG is neither bound by the rules of evidence that apply in a court of law nor must prove an allegation beyond a reasonable doubt. The process of evaluating evidence is not easy. Few cases are black and white; most are gray. Thoroughness, objectivity, critical thinking, and good judgment are critical aspects of an IG's evaluation process in every Investigation or Investigative Inquiry.

5. **Force-Field Diagram.** A force-field diagram (shown below) for each allegation is an invaluable tool for graphically depicting the assigned weight of evidence, determining facts, and assessing the preponderance of evidence in any Investigation or Investigative Inquiry. Begin by writing the allegation and elements of proof at the top of the chart. Next, divide your *evidence* or, more specifically, *facts* into two groups: (1) evidence that tends to support substantiating the allegation and (2) evidence that tends to support not substantiating the allegation. Indicate the level of each piece of evidence (direct, circumstantial, hearsay, opinion). Similarly, indicate whether a statement (not under oath) is provided versus recorded testimony (taken under oath). Look for multiple citations in the evidence to corroborate and establish facts, and then enter the facts as a separate line in either or both of the columns. The resulting columns of evidence and facts are then weighed and compared against the elements of proof to determine a preponderance of credible evidence. Three entries of direct evidence weigh greater than three entries of hearsay evidence. Keep in mind that this process is not objective arithmetic. One irrefutable fact to **substantiate** will possibly outweigh 10 marginal items of evidence to **not substantiate**. Finally, assess the evidence as a whole and make a determination of substantiated or not substantiated.

Force-Field Diagram

Allegation: COL Brown committed adultery in violation of Article 134 (Adultery), UCMJ.

Elements of Proof: (1) One or more parties were married and (2) Wrongful sexual intercourse transpired, and (3) Conduct was detrimental to good order and discipline.

Substantiate	Not Substantiate
<ul style="list-style-type: none"> • (O) MAJ Jones stated COL Brown was having an affair. • (D) COL Brown DD 1172- was married to Diane Brown 4 June 1980. • (C) Mrs. Brown, wife of COL Brown, provided 7 love letters from unknown woman addressed to COL Brown expressing love for him. • (H / S) CPT Baker heard rumors that COL Brown was having an affair with Ms. Smith. Lost respect for COL Brown. • (D) Ms. Smith stated she had sexual intercourse with COL Brown on 4 January 2003. • (D) Ms. Smith provided photos, made with COL Brown's consent, of the sexual intercourse on 4 January 2003. • Fact – COL Brown had wrongful sexual intercourse, was married, and conduct was detrimental to good order and discipline. 	<ul style="list-style-type: none"> • (O) COL Brown stated his relationship with Ms. Smith was “platonic.” • (D) COL Brown refused to comment when asked about having sexual intercourse with Ms. Smith on 4 January 2003.

Key – (O) Opinion; (H/S) Hearsay; (C) Circumstantial; (D) Direct

Figure II-1-2

Section 1-12

Military Rules of Evidence

Inspectors general will not consider evidence that is privileged under the Manual for Courts Martial, Military Rules of Evidence (MRE), as follows: communications between a lawyer and client, (MRE 502), privileged communications with clergy (MRE 503), the husband-wife privilege (MRE 504), the political vote privilege (MRE 508), deliberations of courts and juries (MRE 509), and the psychotherapist-patient privilege (MRE 513). In addition, the IG will not use evidence derived from the illegal monitoring of electronic communications in violation of 18 USC 2511. Furthermore, the IG may not use in any IG Investigation or Investigative Inquiry evidence derived from other evidence procured in violation of 18 USC 2511 pursuant to 18 USC 2515.

Section 1-13

Inspector General Action Process (IGAP) Chart

Inspectors General conduct Investigations and Investigative Inquiries in accordance with the IGAP. The IGAP facilitates a systematic, fact-finding approach to IG problem-solving. Specific actions or components of the IGAP are integral to the entire process and are not intended to be a group of isolated steps that are accomplished independently of the process. The process does not require a dogmatic, sequential application of each step for every case. The IGAP facilitates the accomplishment of all critical tasks for resolving complaints. Part One of this guide details each step of the IGAP. A chart of the IGAP that outlines the steps used is shown below at Figure II-1-3. Refer to this chart throughout this part of The Assistance and Investigations Guide.

Inspector General Action Process (IGAP)

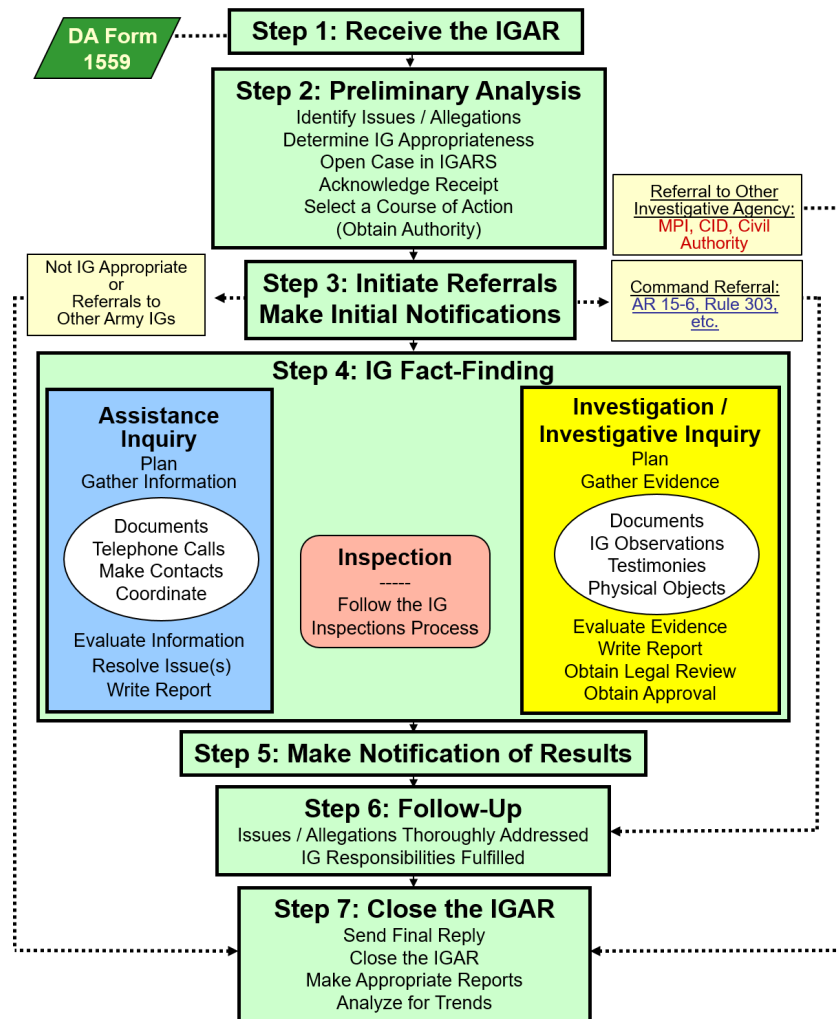


Figure II-1-3

Section 1-14

Step One, Receive the IGAR

In the Investigations function, IGs receive the IGAR in a few different ways. Complainants make allegations directly to the IG, DoD IG, or a Member of Congress. The latter two ways can result in a referral to the IG from DoD IG or the Office, Chief of Legislative Liaison, through DAIG. Regardless of the method of receipt, IGs treat each complaint with equal vigor and attention to detail.

The IG or complainant will complete a DA Form 1559 (Inspector General Action Request) as the primary intake document to record the complaint and annotate consent elections. Additionally, the IG will enter the IGAR into the IGARS database and complete the Electronic Case Form. The Electronic Case Form serves as the base-control document and contains all the information related to the complaint and allegations presented to the IG (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (1)(a)**).

The IG will explain to all complainants the IG tenet of confidentiality; the Privacy Act; the election to consent or not consent to the release within DoD channels any documents provided to the IG; and the false-charge statement and then document the discussion in the case notes contained in the IGARS database (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (1)(b)**). The IG will not make promises or commitments to complainants except that the IG will look into the matter (**prescriptive provision in Army Regulation 20-1, paragraph 6-1d (1)(c)**). See Part One of this guide for more details regarding Step One of the IGAP.

Chapter 2

Step Two, Preliminary Analysis

Section 2-1 - Introduction

Section 2-2 - Allegations

Section 2-3 - Identify Issues / Allegations

Section 2-4 - Identifying the Proper Standard

Section 2-5 - Determine IG Appropriateness

Section 2-6 - Select a Course of Action

Section 2-7 - Allegations Often Resolved by an IG Investigative Inquiry or Investigation

Section 2-8 - Comparison of Investigative Inquiries and Investigations

Section 2-9 - Obtain Authority

Section 2-10 - Common Pitfalls

Section 2-1

Introduction

In step two, Preliminary Analysis, of the seven-step Inspector General Action Process (IGAP), the IG must identify and develop the issues and allegations. If step two of the IGAP revealed an impropriety, the IG must determine the key elements of the allegation and then research and apply the most applicable standard violated. Preliminary analysis, therefore, frequently involves clarifying the information and documents provided by the complainant but is limited only to enough research, analysis, and fact-finding necessary to craft a proper allegation. After crafting a proper allegation, the IG will determine if the allegation is in fact IG appropriate and will either refer the allegation(s) to the appropriate Commander or, in some cases, to the next higher IG or external agency for resolution. Occasionally, the Directing Authority may choose the IG as his or her investigatory option. In this case, the IG will obtain explicit authority in the form of a signed directive to proceed with conducting an IG Investigation or Investigative Inquiry.

Good Preliminary Analysis ensures successful completion of the IGAP. Failing to properly identify the issues and allegations is the primary problem encountered by IGs when referring or conducting Investigations and Investigative Inquiries. Inspectors General commonly identify both issues and allegations during preliminary analysis. Refer to Part One of this guide for a detailed discussion of how to identify and address IG issues. Part Two provides a detailed discussion of how to identify and address allegations.

Section 2-2

Allegations

1. **Overview. The IG is responsible, with assistance from the servicing SJA, for forming allegations based on a complaint.** The IG must take the information from the complainant, research the standards for each matter raised by the complainant, and write a concise allegation that contains four elements: (1) who, (2) the word “improperly” (unless wrongdoing is clearly indicated in the language), (3) the acts that allegedly occurred or failed to occur, and (4) the standard violated. The IG must consider each of the four elements of an allegation. On occasion, several people may come to the IG together to lodge a group complaint. Although the IG receiving the IGAR may initially listen to the group as a whole in order to understand the allegation(s), the IG would then have to interview each complainant separately. This approach protects confidentiality for all those involved. How the IG decides to address each allegation and each complainant will determine initial and final notification requirements and may require the IG to follow different interviewing techniques. When in doubt, separate the complainants and deal with each one individually. Contact the SJA for advice if needed.

a. Identify the “**WHO.**” The “who” becomes the subject or suspect in the Investigation or Investigative Inquiry. A “who” must be identified by name and not by position or job title. For example, you receive a complaint alleging the Commander of Company B, 4-4th Arm, improperly used a Government vehicle. If the unit in question falls within your jurisdiction, then you must identify who the Company Commander was at the time of the alleged impropriety to identify the subject or suspect. If he or she is not in your command, coordinate a referral of the case through IG tech channels to another IG. If he or she is a civilian-civilian, consult with your SJA. For example, you receive a complaint that the Garrison Commander's wife was using a Government vehicle to visit the commissary. If she was not a DoD employee, you have no jurisdiction over her. Her husband could be the suspect or subject in this case since he may have permitted her to use the vehicle. If the civilian-civilian is alleged to have committed a serious crime, then the IG must determine the exigency of the situation and report the matter to CID or civil authorities immediately or after consulting with the SJA.

b. In most cases IGs will insert the word “**IMPROPERLY**” in each allegation to ensure that the focus is on an impropriety. Although the word “improperly” may appear redundant and misplaced, improper behavior is an essential element of a correctly worded allegation. Some standards include language that already indicates the inherent wrongfulness of the action. For example, “dereliction of duty” already describes wrongful behavior without the addition of the word “improperly.” In these cases, IGs should not include the word “improperly” in the allegation. For clarification, contact your local SJA.

c. Describe the “**ALLEGED ACTS**” that constitute the impropriety. This information is extracted from information provided by the complainant through an interview, complaint letter, request for assistance, etc. The language in an allegation should be simple and worded in such a way that substantiation represents impropriety. In some cases, the alleged act could be a commander failing to take action when informed of misconduct by a subordinate. You must also ensure that the focus is correct. In this regard you need to balance specificity and confidentiality. For example, you receive a complaint that a supervisor sexually harassed his secretary during the month of May. You might write the allegation that the supervisor

"sexually harassed a female subordinate assigned to Fort Von Steuben." Avoid including dates. Including the date would unnecessarily limit your fact-finding. Plus, the complainant may not know the correct date or all the dates of the alleged impropriety. Do not name the victim of the improper action in the allegation. You have a responsibility to protect confidentiality, to the maximum extent possible, of all individuals involved in an IG Investigation or Investigative Inquiry.

d. Research the "**STANDARD.**" Researching the standard is often the most difficult and important step in properly framing allegations. The IG, not the complainant, must determine the correct standard to use and then must ensure that the standard applied was in effect at the time the alleged impropriety occurred. In many cases, complainants will observe something they believe to be wrong that actually did not violate any standard. The question you must inevitably answer is: "Do the alleged acts violate law, regulation, or policy?" If there is no applicable standard, it remains an issue, and the IG can make a finding of "unfounded" or "founded" if resolution requires a formal written response. See Part One of this guide for further explanation of issues.

e. Unreasonable multiplication of allegations. Do not craft multiple, or otherwise multiply, an allegation pertaining to a single offense. Doing so is unreasonable and overreaching as it improperly suggests that the subject or suspect committed more than one offense. For example, if a subject made an inappropriate joke in front of 10 Soldiers, the IG should not craft 10 separate allegations pertaining to each Soldier. Instead, the IG will treat the inappropriate joke as a singular act from which to form a single allegation.

f. Multiplicious allegations. Some acts may violate more than one standard; however, do not attempt to "stack" allegations for related or otherwise dependent standards. From a legal perspective, allegations are improperly multiplicious if additional allegations for lesser offenses -- or those which easily satisfy all elements of proof -- are combined. For example, an act of sexual harassment violates Army Regulation 600-20, Army Command Policy; the Joint Ethics Regulation; and multiple articles within the UCMJ. Instead of using all three standards to craft three separate allegations for one singular act, IGs must select the most appropriate **single standard** related to the specific act in question. In determining the appropriate standard, consult your SJA and discuss the circumstances surrounding the allegation.

g. The complainant is often emotional and does not clearly communicate whether he or she is presenting an issue or an allegation. The IG must determine if the complainant is requesting that the IG fix something or if he or she is affixing blame. The former is an issue that could become an allegation while the latter is an allegation that could become an issue.

(1) The complainant might only request that something 'be fixed.' Either initially or later in fact-finding, the IG might discover that someone possibly violated a standard. If the IG can form an allegation, the IG must determine the appropriate course of action to resolve the allegation. But keep in mind that the IG will only notify the complainant about the results of the Assistance Inquiry related to the issue and not of any subsequent allegation resulting in an IG referral or Investigation.

(2) The complainant might allege wrongdoing, but the IG knows that there is no wrongdoing without conducting any fact-finding. An example would be an allegation that someone improperly accepted a gift from a prohibited source. The IG knows that the Joint Ethics Regulation allows officials to accept gifts in a public forum to avoid embarrassment to the government and to the presenter, as long as the recipient later returns the gift or reports

the gift and the specific circumstances to his or her ethics counselor for adjudication as soon as possible after the event. In this case the IG would Teach and Train the complainant about the standard.

(3) If the complainant clearly communicates an expectation that someone, as opposed to something, be investigated; the IG has the four parts of an allegation; and there is no *prima facie* (at first look or on its face) evidence that clears the alleged subject or suspect (i.e., it is known that the person did not do or fail to do what is alleged to have happened), then the IG is obligated to identify it as an allegation. Regardless of the scenario, the IG must get an answer to the complainant on all issues and allegations -- but only for information that pertains to him or her.

h. If you cannot identify a violation of a standard, you may not have an impropriety, hence no need for an investigation or inquiry. Sometimes there may not be an applicable standard. You cannot substantiate an impropriety for an action that does not violate an established standard. In such cases, resolving the issue with Teaching and Training may be appropriate. Be cautious, however. Actions may violate one of the seven Army values contained in Army Regulation 600-100, The Army Profession and Leadership Policy: Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage, or the 14 general ethical principles contained in DoD Directive 5500.7-R, The Joint Ethics Regulation (JER). Other acts might violate common sense or indicate negligence to a degree that allows you to use the provisions of dereliction of duty as a standard. If in doubt, consult with your SJA.

i. You may encounter a situation where you are unable to determine a standard, but systemic problems are evident. In such cases, you may elect to Inspect, Teach and Train, or recommend corrective action rather than investigate.

j. There are situations when you identify systemic problems during your Investigation or Investigative Inquiry that violate a standard but do not indicate misconduct (an allegation) on the part of any individual. You may address the systemic issue in the Other Matters paragraph of the ROI / ROII.

k. It may be necessary for you to interview experts to determine the applicable standards. For example, should you receive allegations of wasteful official travel, you might interview personnel from your servicing finance office to gather information on the provisions of the Joint Federal Travel Regulation (JFTR). When discussing standards with experts other than your SJA, always be aware of the need to maintain confidentiality. Protect the identity of your complainant as well as the identity of the subject or suspect. Describe to the expert the general nature of the allegation, and allow the expert to describe how regulations apply. Record the results of the interview as summarized testimony and continue with your own research of the cited regulations.

l. The Army Publishing Directorate (APD) Web site (<https://armypubs.army.mil>) is an excellent source for current regulatory and other standards.

2. When writing the allegation, be concise, focusing on a specific type of impropriety. Combining two or more improprieties compounds the elements of proof necessary to substantiate or refute the allegation and inhibits your ability to provide a clearly stated conclusion. For example, combining the improprieties of conducting civilian commercial business using a government computer during duty hours and the improper solicitation of gifts from subordinates will entail the use of different standards and consequent elements of proof.

Therefore, write a separate allegation for each act of impropriety. If a complainant makes the same allegation against two or more individuals, then the IG must formulate separate allegations for each individual. If necessary, contact the SJA for advice.

3. Review the allegation, and **ensure you consult and coordinate with your SJA**. Asking the SJA what facts you need to substantiate a violation of a standard is often very helpful. Talking to your SJA is particularly vital when dealing with criminal standards. You must establish whether any of the allegations violated a criminal standard. If they did, you must treat the individual as a suspect rather than a subject.

4. When you formulate the allegations, do not be afraid to tackle complex, technical cases simply because you have no previous experience in that area. Remember: you can call experts as witnesses or make experts temporary assistant IGs for your case. Gather the facts and compare them against the information gleaned from the experts and regulations. IGs without previous technical experience in a specific functional area often conduct excellent Investigations and Investigative Inquiries. You should carefully study and become "smart" in the area you are investigating, since that knowledge will help you immeasurably as you resolve the allegation.

5. Writing accurate allegations takes practice. Do not hesitate to ask for help from other IGs in your office or through tech channels. **When in doubt, don't punt – huddle!**

Section 2-3

Identify Issues / Allegations

1. **Identify All Issues and Allegations.** Inspectors General must identify all issues and allegations when presented with a complaint. The IG must determine the appropriate standard when forming allegations so that the elements of proof necessary to refute or to substantiate the allegation are clearly defined. Simply citing an entire Army regulation as the standard is too broad and could presume that scores of elements of proof are necessary to determine if the entire regulation was violated. On the other hand, choosing too narrow a standard may limit the ability of the IG to determine properly all relevant facts, which may result in an improper IG finding. Identifying issues and allegations is not easy. The challenge is that complaints come in many formats and degrees of organization and readability. Make a copy of the complaint and preserve the original. Thoroughly highlight everything that looks like an issue or allegation, and make notes on what standards may apply. Make a second pass and eliminate any redundancies. Pass the complaint to another IG for a peer review to see if you missed anything. We must always be receptive and responsive to complainants.

2. **Extension of the Directing Authority's Eyes and Ears.** The IG will promptly notify the next higher IG and the Directing Authority of any allegation that, if substantiated, would adversely affect public perception of the command such as matters of media interest; complaints of sexual harassment; and reports of fraud, waste, and abuse (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (2)(a)**).

3. **Complaint Clarification.** The IG must interview the complainant during Step 2 or Step 4 if the complainant is known (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (2)(b)**). Interviewing the complainant will not only produce more evidence, but it will serve to further clarify the issues and allegations.

4. **Teaching and Training.** The IG will inform complainants that the IG may refer any issues and allegations to the chain of command or other non-IG entity for resolution. Refusal by the complainant to consent to the release of relevant documentation may preclude the IG from resolving the complainant's issues (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (3)(a)**).

Section 2-4

Identifying the Proper Standard

1. **General Guidance on Selecting Standards.** When developing allegations, IGs should always select the standard that best fits the circumstances alleged. Most of the time, this standard will come from a regulation rather than from a statute, such as the Uniform Code of Military Justice (UCMJ). However, there are exceptions. For example, Article 107, UCMJ, is probably the best standard for a false official statement. But most of the time, when presented with a choice of standards, use the regulatory standard. Regulatory standards tend to be more specific and are often best suited to resolve the specific nature of the impropriety. Work closely with your Staff Judge Advocate when selecting standards; but, ultimately, the final choice for standard selection rests with the IG.
2. **Standards for Command Referrals.** The IG has a reasonable amount of control over standard selection when conducting an IG Investigation or Investigative Inquiry. But when the IG refers allegations to the command for investigation, the IG has less control over standard selection. Commands, in consultation with the legal advisors, may choose standards, such as UCMJ articles, that still address the nature of the allegation referred by the IG but which lend themselves more easily to adverse action. The command's focus in this regard is legitimate. When the command selects a UCMJ article as a standard, the IG should encourage the command to review other relevant regulatory standards, such as those that may apply to lesser-included offenses. In most cases, the regulatory standard may be better suited to resolve the specific nature of the misconduct.
3. **Use of Article 92, UCMJ.** The IG should only use Article 92 as a standard for violations of punitive regulatory provisions. Army regulations clearly state which portions are punitive. The IG will not select Article 92 as a standard for violations of non-punitive regulatory provisions. When contemplating the use of Article 92 as a standard in any circumstance, the IG should always consider first the underlying regulatory provision or local policy, which is almost always a better fit for the circumstances alleged. For example, for allegations of fraternization, use Army Regulation 600-20, paragraph 4-14, as a standard rather than Article 92. The language in the regulation will likely be more specific than the UCMJ article regarding the precise nature of the allegation and will allow for a clearer resolution of the matter. However, the regulatory language, if punitive, still falls under the auspices of Article 92.
4. **Special Category Allegations.** Army Regulation 20-1 requires all allegations against General Officers (GOs); members of the Senior Executive Service (SES); promotable Colonels; and Professors, USMA (PUSMA) to be reported directly to DAIG's Investigations Division. This requirement includes allegations made to the chain of command, reports of derogatory information about GO or SES personnel from MPI, CID, EEO, EO, etc. as well as the IG. DAIG's Investigations Division will determine the method of investigation.
 - a. **Allegations Against GOs and SESs.** The IG must refer all allegations against GOs, SESs, promotable Colonels, and PUSMAs, including allegations against retired GOs, to DAIG's Investigations Division (SAIG-IN) through IG communications channels within **two working days** in accordance with Army Regulation 20-1, paragraph 7-11. During the course of an IG

Investigation or Investigative Inquiry, you must continually evaluate whether any emerging allegations or issues are appropriate for your continued involvement. As an example, if you identify allegations against GOs (or SESs) as you gather facts or evidence, you must notify DAIG's Investigations Division. When in doubt, call DAIG's Investigations Division for guidance. Inform Investigations Division if the GO is your Directing Authority and if you are concerned about confidentiality or possibly damaging your relationship with your Directing Authority. Investigations Division will take every reasonable step to protect that relationship. ***You are not authorized to do any preliminary analysis into allegations against senior officials.***

(1) You may inform your Directing Authority of the general nature of the allegations against other GOs in the command. Army Regulation 20-1, paragraph 7-11, provides specific guidance concerning allegations against GOs. Should you receive an allegation against your GO commander, contact DAIG's Investigations Division for guidance prior to informing your Commander. Past experience has shown that IGs who have attempted to "protect" their bosses by informing them of the allegations and / or conducting their own "preliminary analysis" or "preliminary inquiry" have actually exposed the GO and themselves to allegations of reprisal and regulatory violations. **The best way to protect your Directing Authority is to immediately report the allegation in accordance with Army Regulation 20-1.** DAIG's Investigations Division will provide you information on what, if anything, to tell your Directing Authority.

(2) If DAIG is conducting an Investigation within your command, the agency will normally inform your Commander. DAIG may not inform you of the Investigation, however. Even if you are aware of an Investigation, you will not be informed of the specific allegations unless DAIG's Investigations Division deems that you have a need to know.

b. **Other Allegations.** If an Army IG receives an allegation against an Army officer, NCO, enlisted Soldier, or DA Civilian that results in the initiation of an IG Investigation or Investigative Inquiry, then the IG will enter the allegation(s) into the IGARS database within **two working days** after receipt in accordance with Army Regulation 20-1, paragraph 7-1k (1). If the allegation is against a Colonel, then the IG will also notify DAIG's Investigations Division within two working days. However, unlike an allegation against a GO, SES, COL (P), or PUSMAs, you may work an allegation against a colonel at your level.

c. **Post-Employment Violations.** Should you receive allegations of post-employment violations (18 USC 207(a), (b), or (c); 5 USC 3326; 37 USC 908; or 41 USC 423 (d)), coordinate with your command Ethics Counselor (SJA). You will report these types of allegations to DAIG's Legal Advisor for action. If an investigation is required, DAIG will usually ask the higher command of the activity involved to conduct the Investigation and will receive specific guidance.

Section 2-5

Determine IG Appropriateness

1. **Overview.** Army Regulation 20-1, paragraph 7-1i, addresses areas where IG involvement is not normally appropriate. These determinations are very subjective, so IGs must discuss these areas with their Directing Authorities and SJAs to ensure a clear understanding of what approach is best. As a general rule, the following issues and allegations are not appropriate for IG involvement:

a. Allegations of **serious criminal misconduct** such as murder, rape, and grand theft are normally outside the purview of the IG. Furthermore, allegations constituting a felony offense are not appropriate for an IG. However, ***IGs do investigate uniquely military criminal violations*** pertaining to acts or omissions that could constitute dereliction of duty, violations of law, or conduct unbecoming an officer. Inspectors General frequently inquire into and investigate these types of criminal allegations. Consult your SJA or DAIG's Legal Division for advice if you are uncertain on how to proceed.

b. When **other means of redress** are available, IGs will advise complainants to exhaust the prescribed redress or remedy first. Inspector General involvement will include a review of the situation to determine if the complainant was afforded the due-process provided by the applicable law or regulation. For example, if a civilian contractor alleged to an IG that a government contract was improperly awarded, the IG would ask the complainant if he or she had appealed the contract in accordance with the Federal Acquisition Regulation (FAR). If the complainant had not made the appeal, you would advise him or her as to the procedure for redress and deem the complaint to be not IG appropriate.

c. Your Directing Authority may require you to conduct an Investigation or Investigative Inquiry into matters that would **normally** not be IG appropriate. When this situation occurs, advise your Directing Authority of the provisions of Army Regulation 20-1 limiting the use of IG records for adverse action. If directed to proceed, then coordinate with your SJA and your local CID office as appropriate.

Refer to Part One, Section 2-3, and Chapter 3, of this guide for more information on IG appropriateness.

2. **Command-Appropriate Allegations.** IGs will not investigate allegations that are command-appropriate unless explicitly directed by their Commander / Directing Authority. IGs will always afford their Commander / Directing Authorities, or subordinate Commanders who have the means to investigate, the opportunity to resolve the matter in command channels. Refer these allegations to the chain of command using the procedures outlined in Part Two, Section 3-1-1, of this guide. See Army Regulation 20-1, paragraph 7-1i (3), for further details.

3. **Misconduct by Army Lawyers.** Allegations involving professional misconduct by Army lawyers are not normally IG appropriate. Refer these allegations through DAIG's Legal Advisor to the senior counsel for disposition. Enter the allegation as a referred issue in IGARS, and then close the case in IGARS. See Army Regulation 20-1, paragraph 7-1i (4), for further details.

4. **Mismanagement by Judge Advocate Legal Service members.** Allegations involving mismanagement by members of the Judge Advocate Legal Service serving in a supervisory capacity are not normally IG appropriate. Refer these allegations through DAIG's Legal Advisor to The Judge Advocate General (TJAG) for disposition. Enter the allegation as a referred issue in IGARS and then close the case. See Army Regulation 20-1, paragraph 7-1i (5), for further details.
5. **Professional Misconduct by an Army Chaplain.** Allegations involving the quality of spiritual or religious counseling from Army chaplains are not normally IG appropriate. Refer these allegations to the next higher supervisory chaplain. Enter the allegation as a referred issue in IGARS and then close the case. If no clear higher headquarters for the chaplain is apparent, consult with the Commander's chaplain's office. See Army Regulation 20-1, paragraph 7-1i (6), for further details.
6. **Professional Misconduct by Army Healthcare Providers.** Allegations involving the standard or quality of medical treatment from Army Healthcare Providers are not normally IG appropriate. If an IG encounters a case of medical malpractice or professional misconduct by an Army Healthcare Provider, then the IG must refer the allegations to the servicing Regional Health Command IG or the U.S. Army Medical Command IG. Enter the allegation as a referred issue in IGARS and then close the case in IGARS. See Army Regulation 20-1, paragraph 7-1j (2), for further details.
7. **Professional Misconduct by Army CID Agents.** If an IG encounters a case of professional misconduct by an Army CID Agent, then the IG will consult with the U.S. Army Criminal Investigations Command (USACIDC) IG for guidance regarding an appropriate course of action and to resolve potential jurisdictional issues. Enter the allegation as a referred issue in IGARS and then close the case.

Section 2-6

Select a Course of Action

1. Commander's / Directing Authority's Options.

a. Your Commander / Directing Authority has several options available to resolve allegations of wrongdoing. He or she may elect to take no further action, pass the allegations to a subordinate Commander, refer the case to another investigator (Army Regulation 15-6, UCMJ Rule 303, MPI / CID, civil authorities), or conduct either an IG Investigation or Investigative Inquiry. Commanders are responsible for everything that happens, or fails to happen, within their commands. If a Commander chooses to do nothing to resolve an allegation, then the IG must advise the Commander that he or she must still respond to the complainant in writing and that inaction may violate UCMJ Rule 303 and other standards. The IG must also remind the Commander that inaction may create the impression of impropriety, specifically negligence.

b. The decision whether to conduct an IG Investigation or Investigative Inquiry rests with the Commander / Directing Authority and is usually based on the circumstances of the case as well as recommendations of the IG and the SJA. Remember: IGs *never* recommend a specific type of investigation – only that the allegations be investigated using another form of investigation. Ensure you coordinate your recommendations with the SJA before you bring allegations to your Commander for a decision. IGs are trained to investigate and are a logical choice when factual information surrounding the allegation is lacking, the identity of the subjects or suspects will be more difficult to protect, the allegations are very sensitive in nature, protecting reputations will be critical, and protecting confidentiality will be more challenging. As a cautionary note, your Commander / Directing Authority may not utilize an IG Investigation or Investigative Inquiry as a means of preliminary analysis or fact-finding in an effort to determine whether to initiate a command investigation. Once your Commander / Directing Authority elects to use an IG Investigation or Investigative Inquiry as his or her investigatory option, the IG can only resolve the allegation by completing a ROI / ROII. IGs will not refer allegations back to the command, even if substantiation appears likely. See Army Regulation 20-1, paragraph 7-1i (3) (d), and Part Two, Section 3-1-1, for further details.

c. As an IG, you must understand your Commander / Directing Authority. Your Commander will want to know about certain types of allegations immediately. Also, your Commander will probably want to know immediately when someone makes allegations against key individuals in the command. Awareness for these allegations is similar to the Commander's Critical Information Requirements (CCIRs). On the other hand, your Commander may provide you -- the IG -- standing guidance regarding certain categories of misconduct for which you may initiate an IG Investigative Inquiry without expressly informing him or her in advance. Although not explicitly required, the IG should capture this guidance in writing. However, all elections to resolve an allegation with an IG Investigation require a written Directive. As your relationship with your Commander evolves, you will gain a better understanding of those issues important to him or her. The key point here is to avoid "blind-siding" your Commander or independently initiating IG Investigative activities without his or her knowledge and permission.

2. Select an Investigative Methodology.

a. After you formulate the allegations and determine IG appropriateness, you may conclude that the circumstances of the case warrant informing your Commander / Directing Authority prior to referring the allegation to the appropriate Commander for resolution within the chain of command. Deciding which cases to bring to him or her may appear to be a high-risk venture; but, as your relationship with your Commander develops, you will gain an appreciation for the types of issues of personal interest to him or her. During your initial in-brief with your Commander, you should ask for his or her guidance on this subject. If your Commander favors using the IG as his or her investigatory option, you must determine whether you will conduct an Investigative Inquiry or recommend that your Commander formally direct an Investigation.

There are no hard and fast rules to guide you in making this determination. Every case is different. You must evaluate the circumstances at hand and make a decision with which both you and your Commander can be comfortable. Factors to consider when deciding whether to recommend an Investigation or an Investigative Inquiry are:

(1) **Seriousness of the Allegations.** The allegations are serious and, if substantiated, could result in adverse personnel action or criminal charges against the suspect.

(2) **Image of Army.** Are the issues so sensitive that the image of the Army or the command could be needlessly damaged if confidentiality is not maintained? Inspector General fact-finding is generally more discreet than any other form of investigation.

(3) **Impact on Command.** If known, could the allegations impact on the command's ability to function or on the ability of key members of the command to function effectively?

(4) **Need to Document.** Have the allegations surfaced at a higher level or might surface at a higher level (for example, to Members of Congress), and is there a requirement for a formal report? Inspectors General document all Investigations and Investigative Inquiries in a written report.

(5) **Media Interest.** Do the issues have potential media interest (or already have media interest)?

(6) **Harm to Soldier.** Do the issues have the potential to cause real or perceived harm to a Soldier's career or personal life?

(7) **Civilian Involvement.** Do the allegations involve civilian-civilians or members of another command not under your Directing Authority's control?

(8) **Protection of Confidentiality and Rights.** Are the issues and their potential impact such that there is an increased concern for protection of an individual's confidentiality and administrative due-process? Inspector General Investigations must protect the rights of all persons involved.

(9) **"Glass-House" Allegations.** Does the level of responsibility and visibility of individuals against whom allegations are made put them in the "glass house?" These are

individuals who may have allegations made against them because of their position rather than because of wrongdoing.

b. Note: These issues are not listed in order of importance. Depending on the situation, any combination of these issues might cause you or your Commander to resolve the matters with an IG Investigation or Investigative Inquiry. Remember, the primary factor in your decision should be: Do you feel comfortable that your decision to conduct either an Investigation or Investigative Inquiry will satisfy your Commander's needs, will be thorough, and will protect the rights of everyone involved?

3. Nature of IG Investigative Inquiries and Investigations.

a. **Fair and Impartial.** Your Commander will base decisions on the facts you present. Therefore, you must thoroughly investigate and make an accurate, timely, impartial, and complete report. As an impartial fact-finder, you must also report both sides of the story, not just the evidence that supports your conclusion. Additionally, IG Investigations and Investigative Inquiries occur in an overt manner; covert methods are not appropriate for IGs. However, IGs conducting Investigations or Investigative Inquiries are always concerned with confidentiality, and so IGs must conduct them discreetly.

b. **Limited Distribution of Information.** Many allegations by their very existence, either substantiated or not substantiated, have the potential of being disruptive and having a traumatic effect upon the individuals or units concerned. You can minimize these effects by maximizing your protection of confidentiality and limiting distribution of information about the Investigation to only those who need to know. Refer to Part One, Section 3-2-4, of this guide and Army Regulation 20-1, Chapter 3, for procedures for the release of IG records.

c. **Confidentiality.** All Department of the Army personnel have a duty to cooperate with IGs. Individuals who provide information to IGs have a reasonable expectation that the IGs will safeguard their identity and the nature of their testimony to the maximum extent possible. Successfully protecting the confidentiality of those with whom you interact is a key component of the IG system as it protects individual privacy and precludes reprisal. This approach also maintains confidence in the IG system and encourages voluntary cooperation and willingness to ask for help or to present a complaint for resolution. **However, you must not state or imply a "guarantee" of confidentiality.** Information and testimony provided to IGs is used within the Army for official purposes and may be released outside the Army if required by law or regulation.

d. **Non-adversarial.** Inspectors General conduct Investigations in a non-adversarial manner. Inspectors General must conduct themselves professionally; tactfully; and in an unbiased, non-judgmental manner. An IG **is not** a prosecutor conducting a trial. Remember: the IG's role is to protect the best interests of the government as well as the rights and confidentiality of all involved individuals. **Inspectors General accomplish this role through a dogged pursuit of the truth in a given matter.**

e. No Recommendations for Adverse Action.

(1) Inspectors General do not recommend adverse action in the ROI / ROII.

(2) Inspectors General assess facts, draw conclusions, and make recommendations. Prior to rendering a report to the Commander, you should request the SJA

review the ROI and, in some cases, an ROII for legal sufficiency. Accordingly, the SJA may then provide specific recommendations to the Commander regarding subsequent action.

(3) Inspector General records may be used as the basis for adverse action only with approval of the Secretary of the Army; Under Secretary of the Army; Chief of Staff, Army; Vice Chief of Staff, Army, or The Inspector General. See Army Regulation 20-1, paragraph 3-3, for further details. The IG should advise the Commander on the possible consequences such action may have on the perceived confidentiality of the IG System. Should IG records be approved for use in adverse action, the records may have to be released to the individual against whom the action is taken. If this circumstance occurs, the confidentiality normally afforded to witnesses may be reduced or eliminated.

(4) Inspector General Investigations and Investigative Inquiries by themselves never cause a local Suspension of Favorable Personnel Action (flag). Subjects and suspects of IG Investigations do not have favorable personnel actions suspended as this could compromise confidentiality. If personnel actions are pending, the IG should inform the Commander of the allegations and status of the Investigation so the Commander can make an appropriate decision regarding the personnel action. When the IG refers an allegation to the command or to another non-IG investigator, and adverse action is a consideration, then a flag initiated by the local Commander may be appropriate.

(5) Army IGs are responsible for conducting Investigations and Investigative Inquiries in accordance with Chapter 7 of Army Regulation 20-1. Notwithstanding the information in paragraph (4) above, Department of the Army-level flags associated with post-board adjudication of adverse information are required for officers who are under consideration for positions of increased responsibility. Title 10, U. S. Code, Section 3583, requires exemplary conduct for all officer appointments, both in the active and reserve components. Department of Defense Instruction (DoDI) 1320.04 requires adjudication of adverse and reportable information, such as substantiated findings or conclusions from an official investigation or inquiry, including open or substantiated IG Investigations. The Secretary of the Army established the Director of Military Personnel Management (DMPM) as the responsible agent for screening adverse information. The Secretary signed Army Directive 2016-26 on 18 July 2016 requiring that officers undergoing DMPM screening of adverse information, to include substantiated IG findings, be flagged until the adjudication is complete and the Secretary removes the flag. The purpose of this process is to prevent embarrassment to the Service member and the Army in the event of an erroneous promotion that might have to be revoked.

f. Inspectors General Identify Problems. During an Investigation or Investigative Inquiry, if you discover issues or problems not specifically related to the allegation, you can initiate corrective action by bringing the issues to the attention of the Commander or the appropriate staff agency. This communication should not compromise confidentiality. An acceptable method would be an extract of pertinent data without revealing protected information. As an example, after investigating allegations of travel-claim fraud, the IG determined that travel claims are not properly processed within the command. The IG could alert the Commander and provide the local Finance and Accounting Officer an extract of the pertinent information without revealing confidential IG information.

Section 2-7

Allegations Often Resolved by an IG Investigation or Investigative Inquiry

1. **Overview.** Experience has shown that IGs normally look at three classes of allegations:
 - a. Violations of established policy, Standing Operating Procedures (SOPs), and standards.
 - b. Violations of regulatory guidance (non-punitive).
 - c. Violations of law (UCMJ / USC) or of punitive standards within regulations.
2. **Criminal Allegations.** Inspectors General may investigate criminal allegations but normally not serious criminal offenses (defined as offenses punishable by fine or imprisonment) that traditionally fall into the category of felonies. However, certain violations of criminal law that criminal investigators typically do not investigate reflect on the credibility of the command. One example of a criminal allegation that only an IG Investigation can resolve is an allegation of Whistleblower Reprisal. See Part Two, Chapter 9, of this guide for further details.
3. **Administrative and Standards of Conduct Violations.** Violations of Standards of Conduct are among the most typical allegations investigated by IGs. The Joint Ethics Regulation (JER) is the standard for ethical conduct. The JER specifically charges DoD component IGs with investigating ethics matters within their respective components. All violations of punitive regulations are normally treated as criminal, although IGs frequently investigate them.
4. **Exceptions.** Inspectors General may investigate some UCMJ violations. Adultery and dereliction of duty are typical examples of allegations that CID or MPI do not normally investigate, even though they are criminal violations of the UCMJ. In most cases, the IG will refer such allegations to the command for resolution. However, in the event the IG is directed to conduct an Investigation into criminal allegations, the IG should coordinate with law enforcement officials and the SJA.

Section 2-8

Comparison of Investigations and Investigative Inquiries

1. **Overview.** While Investigations are formal and Investigative Inquiries are an informal fact-finding process, the two are actually very similar. In both approaches, the IG must analyze the situation at hand, decide if standards have been violated, determine what evidence must be gathered, gather the evidence, analyze the evidence, draw conclusions, and recommend appropriate action. The Directing Authority can authorize either an IG Investigation or an Investigative Inquiry. The difference between the two processes rests chiefly in the requirement for a signed Directive from the Directing Authority when initiating an Investigation. The IG may also start an Investigative Inquiry based upon a vocal Directive from the Directing Authority and then, if necessary, transition to an Investigation. If such a case occurs, the IG must craft an Action Memorandum and obtain a signed Directive from the Directing Authority.

a. **Purpose.** Inspector General Investigations and Investigative Inquiries are processes designed specifically to look at allegations of wrongdoing on the part of a specific person. Both provide a sound, factual basis for decision-making.

b. **Thoroughness.** Inspector General Investigations and Investigative Inquiries are equally thorough and appropriate. A common misperception is that Investigations are more thorough than Investigative Inquiries. The detail with which you gather and evaluate evidence is determined by the nature of the case, not the fact-finding process you select. Army Regulation 20-1 and the procedures in this guide require IGs to ensure that they are always thorough, fair, and impartial.

c. **Difficulty.** Some IGs believe that conducting Investigations is inherently more difficult than Investigative Inquiries. It is true that an Investigation entails a few more administrative details, e.g., one must prepare an Action Memorandum with a Directive. However, the documentation required for an Investigative Inquiry might be equally voluminous. Keep in mind that the Commander's authority, as evidenced by the signed Directive, "energizes" the command and can protect you from civil liability as long as you have not violated policy or doctrine.

d. **Directing Authority.** Only the Directing Authority may *direct* an IG Investigation or Investigative Inquiry, usually upon the recommendation of the IG. A Command IG or State IG may initiate an Investigative Inquiry only after receiving explicit or standing guidance from the Directing Authority to do so. Some IG offices may have a local policy (i.e., Commander's guidance) that outlines what types of allegations or misconduct the Directing Authority has specifically reserved for an IG Investigative Inquiry. As a reminder, all IG Investigations require a separate and distinct written Directive from the Directing Authority.

2. Personnel who can conduct an Investigation or Investigative Inquiry.

a. Only an IG may lead an Investigation or Investigative Inquiry. Assistant IGs routinely assist IGs in all phases of Investigations (normally two IGs are assigned to an Investigation). Assistant IGs may conduct interviews with the approval and supervision of the IG. The IG does not need to be present during the interview but should be aware of the interview and assist in

interrogatory development. An Acting IG may not conduct or assist in the conduct of interviews, administer oaths, or write reports. An Acting IG is limited to providing administrative support only for Investigative Inquiries and Investigations.

b. Outside experts such as medical doctors, psychologists, military or DA Civilian lawyers, Equal Opportunity staff officers, auditors, or contracting specialists may also be required to assist in Investigations or Investigative Inquiries. Normally, these types of individuals are called upon as expert witnesses or as subject-matter experts (SMEs). If they are needed to assist throughout the Investigation or Investigative Inquiry, they may be made Temporary Assistant IGs. Administer Temporary Assistant IGs the IG oath in accordance with Army Regulation 20-1, paragraph 2-6, and limit their duties to their areas of expertise.

3. **Evidence.** The same five categories of evidence used in Investigations apply to Investigative Inquiries. Inspectors General may receive statements as part of an Investigation or Investigative inquiry. However, for Investigations, IGs must take recorded testimony under oath for *all* interviews (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (4)(d)**). Inspectors General must transcribe the testimony into written form, and the investigating officer will verify the accuracy of the transcription (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (4)(e)**). There is nothing to prohibit an IG from receiving statements as part of an Investigation or Investigative Inquiry.

4. **Protections.** Investigation and Investigative Inquiries provide protection for subjects, suspects, witnesses, IGs, and the Army. These protections include administrative due-process, individual rights, confidentiality, the Freedom of Information Act (FOIA), the Privacy Act (PA), and immunity from civil liability. For IGs to be immune from civil liability, they must conduct Investigations in accordance with Army Regulation 20-1, remain within the scope and limits of their Directive, and provide individuals the administrative due-process and rights to which they are entitled. A written Directive helps establish an IG's authority for conducting an Investigation and, likewise, provides additional protection from civil suit. Inspectors General are provided protection by the Government, who will assume liability for an IG's actions as long as the IG was acting within the scope of his or her employment and Directive.

Section 2-9

Obtain Authority

1. **Overview.** Gaining authority for an IG Investigation or Investigative Inquiry is a simple but sometimes misunderstood process. Inspectors General do not conduct Investigations or Investigative Inquiries without first obtaining proper authority.

2. **Investigative Inquiries.** If the Command IG or the State IG recommends that an Investigative Inquiry is the appropriate fact-finding process, a written Directive is not required. This lack of a written Directive does not, however, relieve the IG of the responsibility to gain the Directing Authority's explicit permission to initiate the Investigative Inquiry. TIG, DTIG, or the IG's Commander are the only individuals authorized to direct an IG to conduct an Investigative Inquiry. The Directing Authority may provide this authority either as a written or an oral directive.

3. **Investigations.** Should the Command IG or the State IG recommend that an Investigation is appropriate, there are formal steps required to obtain the authority to begin. TIG, DTIG, or the IG's Commander are the only individuals authorized to "direct" an IG to conduct an Investigation. The IG's tool to obtain a Directive is the Action Memorandum. The IG assigned to conduct the Investigation will obtain the written Directive from the Directing Authority (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (2)(c)**).

a. **Action Memorandum.** After determining that an IG Investigation is appropriate, prepare an Action Memorandum for your Commander like the example shown below or another locally acceptable format. The Action Memorandum is an internal administrative document and must be included in the final ROI (ROI if appropriate). It defines the scope and limits of what you and your Commander decided to investigate. As a document prepared in conjunction with an IG Investigation, the Action Memorandum is Controlled Unclassified Information (CUI) and must be marked accordingly. It is also **pre-decisional** and protected from release under FOIA. The Action Memorandum:

- Forwards a Directive for the Commander's signature.
- Gives a brief background of how the allegations were received, who made the allegations, and against whom the allegations are made (since this memorandum is prepared for the Commander, it contains names and specific details.)
- Outlines the allegations requiring investigation.
- Contains a summary of your inquiry / preliminary analysis if appropriate.
- Summarizes the SJA's legal opinion for the Commander.
- Recommends that the Directive for Investigation be signed.

b. The **Directive for Investigation** is an IG's authority to investigate the specific allegations outlined in the Action Memorandum. While the Action Memorandum is very specific, the Directive is very general. **Do not disclose the names of individuals involved or the precise nature of the allegations in the Directive.** This lack of disclosure helps maintain confidentiality. The Directive is prepared by you, signed by your Directing Authority, and addressed to the Directing Authority's IG (you). If the initial Directive is issued orally, write a Memorandum for Record (MFR) that outlines your instructions and secure a signed Directive as

soon as possible. Ensure that the SJA concurs with your approach and recommendation for an IG Investigation.

c. An example Directive appears below (also found in Appendix A, Interview Prep Book) and:

- May protect you from civil liability by providing a historical record of authority to investigate (it becomes part of the ROI).
- Is used as the basis for notifications.
- Is shown to witnesses to establish your investigative authority.
- Is quoted in the formal read-in of witnesses.
- Gives you the authority to require the presence of military and DA Civilians at interviews and the authority to secure documents and other pertinent evidence.

4. The Directive and the Action Memorandum together define the scope and limits of the Investigation. The IG may not initiate, expand, or terminate an Investigation of his or her own volition. The Directive and Action Memorandum ensure that there is a clear, mutual understanding between the IG and Directing Authority concerning who and what should be investigated.

5. Any Commander who is authorized an IG may direct an Investigation. An Investigation pertaining to promotable Colonels; ARNG, USAR, and retired General Officers; PUSMAs; or SESs may only be directed by the Secretary of the Army; the Under Secretary of the Army; the Chief of Staff, Army; the Vice Chief of Staff, Army; or TIG. The State Adjutant General (TAG) may direct his or her active-duty IG to investigate items of Federal interest not pertaining to General Officers. You must report all allegations of misconduct by promotable Colonels, General Officers, SESs, and PUSMAs to DAIG's Investigations Division within **two working days** through IG communications channels after receipt of the complaint.

6. You should hand-carry the Action Memorandum and Directive to the Commander. Schedule time to provide the Commander a desk-side briefing on the allegations and issues and ask the SJA to be present. Do not send an Action Memorandum and Directive through normal distribution, and do not assume that the Secretary of the General Staff (SGS), Chief of Staff, or other members of the staff should be made aware of the Investigation.

EXAMPLE ACTION MEMORANDUM

CUI

MEMORANDUM FOR COMMANDER

SUBJECT: Action Memorandum

1. Purpose. To obtain a Directive to conduct an Inspector General Investigation.
2. Background. (Briefly describe what you plan to investigate. Include the source of the allegation(s), from whom you received it, and the full names and organizations of the subjects or suspects.)
3. Allegation(s). (State the allegation(s) you intend to investigate.)
4. Proposed Scope of the Investigation. (Outline the specific issues you intend to investigate.)
5. Discussion. (Provide other information such as the SJA's opinion.)
6. Recommendation. That you sign the Directive at Tab A.

Encl

ALBERT R. RIGHTWAY
LTC, IG
Inspector General

<p>CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567</p>

CUI

EXAMPLE DIRECTIVE

CUI

MEMORANDUM FOR THE INSPECTOR GENERAL

SUBJECT: Directive for Investigation

1. Investigate alleged improprieties by an Army official assigned to (Installation / Organization).
2. Submit your report to me as soon as possible, and protect the rights of all persons involved and ensure the Investigation is complete and accurate.

MOTTIN DE LA BLAME
Major General, U.S. Army
Commanding

<p>CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567</p>

NOTE: Do not use the name(s) of subjects or suspects in the Directive. Remember that you may show this document to the witness if necessary.

PROTECT CONFIDENTIALITY!

CUI

Section 2-10

Common Pitfalls

1. The greatest problem with IGPA is improperly developing allegations. Allegations are sometimes too broad in scope and combine two or more allegations. Standards used are frequently either the wrong standards or not dated commensurate with the time of the alleged impropriety.
2. Another common error is to use the wrong form of investigation for the nature of the allegations presented by the complainant. Specifically, ***when the allegations presented are criminal (or punitive) in nature, IGs should use a formal proceeding, an Investigation, in order to protect fully the suspect's rights.***
3. Inspectors General are sometimes reluctant to ask for a Directive from the Directing Authority to conduct an Investigation, which then improperly results in an Investigative Inquiry when an Investigation is most appropriate. Inspectors General sometime fail to follow up on other information or allegations that surface unexpectedly during an Investigation. When this situation occurs, the IG must also determine if the new information or allegations are related to those in the Action Memorandum or beyond the scope of the current Investigation. If an IG fails to reassess accordingly, then he or she may exceed the authority of the Directive.
4. Frequently, IGs receive complaints that generate multiple allegations against multiple individuals. The sheer volume of analysis can overwhelm you. In such situations, your best course of action is to break the allegations into small groups based upon the identity of the individual suspected of the misconduct and analyze each one separately. Although IGs can form allegations that contain multiple subjects or suspects that may have violated the exact same standard, the IG should consult with the SJA before going forward.
5. Given the requirement outlined in Army Directive 2018-01 (and now integrated into Army Regulation 20-1) to refer all command- appropriate allegations to the command, IGs may be tempted to engage in fact-finding efforts that go beyond IGPA as a means to assist the command's investigatory efforts. Despite the best of intentions, fact-finding beyond IGPA lends itself to investigating without authority. As a reminder, IGPA is limited to clarifying information and documents provided by the complainant and only enough research, analysis, and fact-finding necessary to craft a proper allegation. Upon developing a properly worded allegation, the IG must refer the command-appropriate allegation(s) to the command for resolution unless the Directing Authority elects the IG as his or her investigatory option.
6. Lastly, ***never conduct preliminary analysis of, or enter into IGARS, allegations against GOs, SES personnel, promotable Colonels or PUSMAs.*** Refer these cases to DAIG's Investigations Division (SAIG-IN) within **two working days** via the most secure and confidential means possible. Anytime someone with whom you are talking (in person or telephonically) makes an allegation or provides unfavorable information against a senior official, immediately clarify the allegation or unfavorable information and

the identity of the senior official prior to notifying DAIG's Investigations Division. ***Open an information IGAR to document the referral to Investigations Division, but do not name the senior official in the information IGAR -- and do not conduct IGPA!***

Chapter 3

Step Three, Initiate Referrals and Make Initial Notifications

Section 3-1 - Referring Allegations

Section 3-1-1 - Referring Allegations to the Chain of Command

Section 3-1-2 - Referral to Another IG

Section 3-1-3 - Referral to Other Agencies

Section 3-2 - Initial Notifications for an IG Investigative Inquiry / Investigation

Section 3-3 - Use of Command Products for an IG Investigative Inquiry / Investigation

Section 3-1-1

Referring Allegations to the Chain of Command

1. Overview. The chain of command has the responsibility and the authority to address allegations of impropriety. Inspectors General will always afford their Commanders / Directing Authorities or subordinate Commanders the opportunity to resolve allegations in command channels (**prescriptive provision in Army Regulation 20-1, paragraph 7-1i (3) (a)**).

Inspectors General will always encourage a complainant to discuss allegations with the Commander, chain of command, or supervisor as provided in Army Regulation 600-20. If the complainant does not wish to do so, IGs will formally refer all command-appropriate allegations to the chain of command for action, unless explicitly directed to do otherwise by the Directing Authority. During the Inspector General Action Process, an IG may discover that the command is aware of, and already addressing, the allegation(s) brought to the IG. The IG may discover this fact while receiving the IGAR; but, more likely than not, the IG will learn about it when he or she attempts to refer the case to the command. The IG should continue to follow the command-referral procedures outlined below if the discovery occurs as a part of the referral process. However, if the complainant informs the IG during the process of receiving the IGAR that the command has initiated some form of investigative action, then the IG should inform the complainant that the proper authority is addressing the allegation and close the case in IGARS as "Assistance." Further, if the complainant believes that the command did not resolve the allegation properly, he or she may return to the IG for a due-process review.

2. The IG will follow the procedures outlined below, in accordance with Army Regulation 20-1, paragraph 71i (3) and the IGAP, for referring allegations to the chain of command:

a. **Step 1 - Receive the IGAR.** Upon receipt of an allegation or allegations, the IG will complete an Electronic Case Form within the IGARS database, upload any accompanying DA Form 1559 (with any continuation sheets), and upload all documents or evidence provided by the complainant. The IG will follow procedures set forth in Part One, Section 2-2-6, of this guide for obtaining the complainant's consent or non-consent to the release of personal information or supporting documents to the command. As a reminder, the IG will not stamp or mark with the standard IG classification marking any documents or evidence that the IG may refer to the command. Additionally, the IG will ensure the complainant checks the appropriate consent boxes on DA Form 1559 and / or captures the complainant's elections within the IGARS database and case notes.

b. **Step 2 - Conduct Preliminary Analysis (PA).** The IG will conduct PA to identify and / or clarify the allegation(s) by using all of the supporting documents or evidence the complainant provided during Step 1. Preliminary analysis is limited to a complainant clarification interview, consultation with the SJA or other expert on applicable standards, and a review of documents readily available to the IG without requesting external assistance. For example, readily available information to the IG may include complainant-provided documents, a DoD Person Search, access to iPERMS, and access to the Defense Travel System. The IG will only engage in enough research

and analysis necessary to form an allegation (or allegations) in the correct four-part format (i.e. **who improperly** [unless the language from the standard indicates an inherently wrongful action] **did or did not do something in violation of a standard**) in accordance with Part Two, Section 2-2, of this guide. In the event the IG cannot clearly identify a violation of a standard without extending fact-finding efforts beyond the limits of the PA, then the IG should consider converting the complaint to an issue in order to resolve. Once the IG forms a proper four-part allegation, the IG will enter the subject(s) / suspect(s) into the IGARS database. Once confirmed as appropriate for the command to address, the IG will send an acknowledgement letter to the complainant. This acknowledgement letter will include a formal request, or confirmation of the complainant's previous election of consent or non-consent, for the release of any supporting documents to the command (see the samples contained within this section). The IG may obtain consent telephonically, via email, or in writing; however, the IG must annotate the complainant's election on the Electronic Case Form (part of the IGARS database) and in the IGARS case notes no later than seven (7) calendar days for active-component Army units and no later than 30 calendar days for Army Reserve or Army National Guard units from the date indicated on the acknowledgement letter. Inspectors General will consider complainants who fail to communicate within the prescribed time as electing not to consent to the release of their personal information and all documents to the command. By contrast, the IG will assume that anonymous complainants who have provided documents have granted consent to the release of those documents to the command or to any other agency the IG deems appropriate in order to resolve the allegation(s) or issue(s). Refer to Part One, Section 2-2-6, for specific requirements related to complainant consent elections.

c. Step 3 - Command-Referral Procedures.

(1) The IG will refer the allegation(s), any related issue(s), and all documentary evidence (with consent or provided anonymously), with the exception of the completed DA Form 1559, to the appropriate command echelon using a formal referral memorandum. All referrals sent to a Commander requesting an inquiry or investigation will include all allegations written in the correct four-part format. At a minimum, the referral must include the allegation(s) and any other related issue(s), a section outlining the requirement to provide the IG with a copy of the command product upon completion, a section annotating command receipt and acceptance / declination of the referral, and a list of documentary evidence enclosures. The IG will ensure that the IGARS case notes reflect the nature of the allegation received, the specific allegations referred, and the date of the command referral. Refer to the sample command-referral memorandum contained within this section.

In traditional organizations, IGs refer command-appropriate allegations to the most appropriate command level. However, there are some organizations where such a referral may not be feasible due to the organization's unique circumstances, such as its remote location, the fact that the Commander is junior in rank to those involved with the allegations, or the fact that the organization is assigned to a headquarters for the purposes of UCMJ authority only and the command is otherwise uninvolved with the organization. In those cases, the appropriate course of action is to refer the allegation to the Directing Authority. The Directing Authority must determine who can best address the allegations -- the IG, a subordinate commander, or a primary staff officer. When the Directing Authority chooses to refer allegations to a primary staff officer, the IG will draft the written referral memorandum for routing through the Directing Authority to the

primary staff officer and ensure the Directing Authority remains apprised of the referral. In the case of substantiated allegations, the written product and findings must come back to the Directing Authority so that he or she may select the most appropriate command authority to administer any adverse action.

Note: The Directing Authority should determine the method of inquiry or investigation. If there are questions, contact DAIG's Assistance Division for guidance.

(2) The Commander will complete and return a copy of the referral memorandum to the IG within 14 days of receipt for active component Army units and within 45 days of receipt for Army Reserve or Army National Guard units. If the command fails to return the signed memorandum, contact the responsible Commander to resolve the issue. In the event the responsible Commander becomes uncooperative, discuss and resolve the situation with the next higher Commander or the Directing Authority. Be aware that provisions in Chapter 5, Army Regulation 600-20, Army Command Policy, specifically outline the responsibility and expectation of Commanders, when apprised of complaints, to inquire into accusations and attempt a resolution. If the IG requests that the Directing Authority intervene, and the Directing Authority refuses, contact DAIG's Assistance Division for guidance.

(3) Situations may arise when the receiving command declines or is unable to conduct an inquiry or investigation into command-appropriate allegations referred by the IG. Reasons for declining to investigate may include a conflict of interest, lack of resources, or some other circumstance. The Commander will capture this decision and its associated reasoning on the referral memorandum and send it back to the IG. The IG may then either elevate the referral to the next higher command for resolution or consult with the Directing Authority for further guidance. If the Directing Authority does not require the command to investigate, the IG must clarify how the Directing Authority will address the allegation(s). If the Directing Authority elects to use the IG as the primary investigatory option, then the IG is responsible for resolving the allegation with an IG Investigative Inquiry or Investigation. If the Directing Authority does not direct some method of inquiry or investigation and does not want the IG to investigate the allegation(s) and / or related issue(s), contact DAIG's Assistance Division for guidance. If DAIG's Assistance Division confirms that the case is appropriate for the IG to investigate, Assistance Division will become the Office of Record and will further determine whether or not the local IG will investigate as the Office of Inquiry. If the local IG becomes the Office of Inquiry, the IG will not refer the allegation back to the command or to the Directing Authority, even if substantiation appears likely.

(4) Upon return of the referral memorandum to the IG, the IG will upload a copy into IGARS and ensure the IGARS case notes include the date of the command's acknowledgement, the command action taken, or any stated reasons for declination.

(5) Retain in IGARS all documentary evidence provided by the complainant, to include command products provided by the complainant, and any documents obtained during preliminary analysis while the case is open and after case closure. Do not destroy complainant-provided command products or documents.

d. Steps 3, 4, and 5 – Initial Notifications / Fact-Finding / Notification of Results. When the command elects to investigate, the command's appointed Investigating Officer (IO) will conduct all notifications and fact-finding. There is no

requirement for the IG to execute notifications to either the subject(s) or suspect(s) or to conduct independent fact-finding. If the IG does become the Office of Record or the Office of Inquiry and conducts the Investigation directly, then the IG will complete Steps 3 through 5 as outlined in this guide.

e. Step 6 – Follow up: Review the Command Product.

(1) Once the command completes an inquiry or investigation, the responsible Commander will promptly provide the IG with a copy of the command product in its entirety, to include a copy of the product's legal review (if applicable). The term *command product* refers to a written report or document that outlines the conclusions of the command's inquiry / investigative efforts. At a minimum, an acceptable command product is a formal written memorandum to the IG describing the command's inquiry / investigative effort and resulting conclusions. If the Commander refuses to provide the IG with a copy of a command product, explain to the Commander that in accordance with Army Regulation 20-1, paragraph 1-8a, the IG is authorized a copy of the inquiry or investigation. If you request that the Directing Authority intervene, and the Directing Authority refuses, contact DAIG's Assistance Division for guidance before proceeding.

(2) Upon receipt of the command product, the IG will review it to ensure that the command addressed all of the allegations and any related issues referred by the IG. The IG will review the command product to ensure that the command addressed the allegations and any related issues referred by the IG in a thorough and complete manner with findings supported by the evidence. The IG will avoid automatically conducting a due-process review (such reviews are the SJA's responsibility). However, should any glaring issues with the command product arise -- such as illogical conclusions, a failure or misapplication of the elements of proof, or a legal review contradicting the command's findings -- the IG will address those matters directly with the command using the procedures below. Ultimately, the IG's role is to verify that the command product addressed the nature of the allegation referred by the IG. Keep in mind that this approach may require some flexibility in thinking, since the command investigator may reframe the allegation based upon his or her own preliminary analysis. For example, the IG may refer an allegation of counterproductive leadership to the command, but the command may frame the allegation in the context of hazing and bullying. In another example, the IG may refer an allegation of adultery, and the command may reframe the allegation as an inappropriate relationship. In both cases, the command is addressing the nature of the allegation but in a more refined manner. These situations should still lead the IG to conclude that the command did in fact address the allegation that the IG referred.

(3) If the command inquiry or investigation appropriately addressed all referred allegations and related issues, the IG will annotate in the IGARS case notes the form of action the command took, such as an AR 15-6 investigation, Commander's Inquiry, etc. The IG will then annotate in Part 3 of the synopsis the results of the command product using the command product's terminology (including the subject's / suspect's name). After case closure, the IG will only delete the name of the subject / suspect from the subject / suspect field in IGARS as part of Step 7 (see sub-paragraph 1f, below). The subject's / suspect's name may continue to appear in the IG case notes and other IG work products or documents associated with the case.

(4) If the command inquiry or investigation did not address the allegations and related issues referred by the IG, or other issues with the command product, the IG will provide the responsible Commander the opportunity to resolve the unanswered issues or allegations. If the Commander still disagrees about whether or not he or she addressed all of the allegations and issues referred by the IG, the IG will present the matter to the next higher Commander for action. If the next higher Commander also disagrees, the IG will present the matter to the next higher Commander, as appropriate, until the IG reaches the Directing Authority's level. However, prior to presenting the matter to the Directing Authority, the IG should consult with the servicing legal office in an effort to confirm the IG's position that the command investigation did not address all allegations or issues. To assist in this effort, the IG should provide the legal office with a copy of the original referral memorandum, the command product received, and the command product's associated legal review. The IG may recommend that the Directing Authority investigate the matter using any investigatory resources available to him or her, including the IG. Keep in mind that IGs do not recommend specific forms of investigation to the Directing Authority.

(i) If the Directing Authority directs the IG to conduct an Investigative Inquiry or Investigation, the IG will follow the IG investigatory procedures outlined in this guide, conduct fact-finding, complete an ROI or ROII, and close the case in IGARS with a conclusion of "Substantiated" or "Not Substantiated."

(ii) If the Directing Authority determines that the investigating command did in fact address all issues and allegations, and the IG disagrees with the Directing Authority, then the IG will annotate in the case notes his or her concerns regarding the unanswered allegations and issues. The IG will then refer the matter to the next higher IG office for review and close the case in IGARS with a determination code of "C," *command referred*. The next higher IG will open a standard case in IGARS. If the next higher IG determines that the original command product addressed all allegations and issues, the next higher IG will close the case in IGARS with a determination code of "C," *command referred*. If the next higher IG agrees with the referring IG, the next higher IG should contact DAIG's Assistance Division for guidance.

(5) At any point during the process, any echelon of IG may contact DAIG's Assistance Division to facilitate resolving substantive disagreements between IGs of differing offices or IGs and their Directing Authorities. As outlined in Army Regulation 20-1, DAIG retains the right to dispose of matters brought to the IG and may investigate or direct an Investigation, on behalf of TIG, as the Office of Record.

f. **Step 7-Close the Case.** If the command addressed the allegations and related issues, then close the case in IGARS by performing the following actions:

(1) Use the determination code "C," *command referred*.

(2) Remove the name of the subject / suspect from the subject / suspect field.

(3) Remove any command products and other associated documents uploaded temporarily while the case was open. However, if the IG is serving as the Office of Inquiry or if the IG believes that the command did not answer the allegations referred by the IG, do not remove any command products that were uploaded

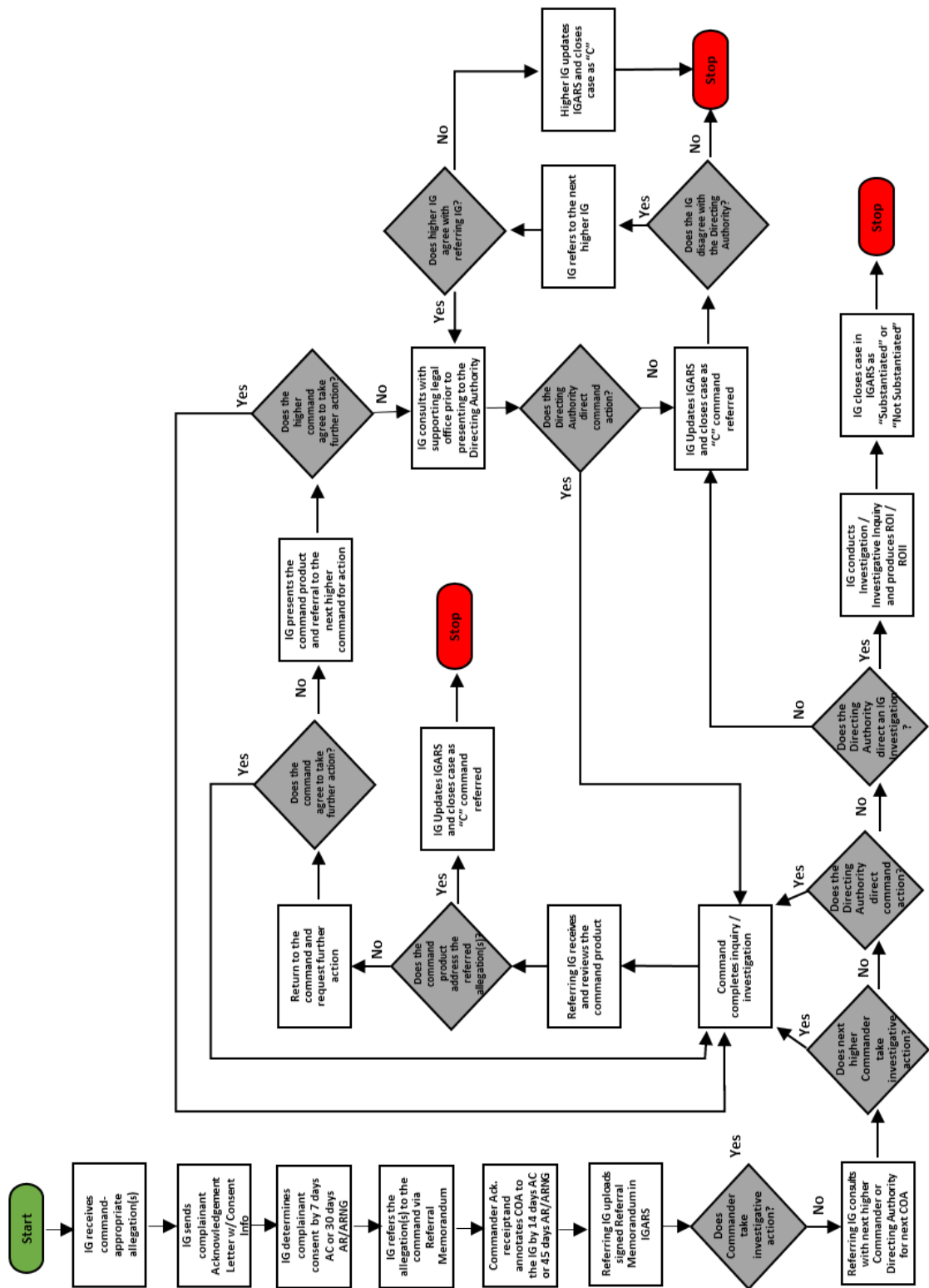
temporarily until the Office of Record or the next higher level command IG has the opportunity to review those products. When the case is closed at all levels, the Office of Record will send a final acknowledgement letter to the complainant. See page II-3-13 for a sample final response letter.

2. **Hotline Cases.** The procedures for command referrals also apply to cases received from DAIG's Assistance Division as part of DoD IG's Hotline program. However, IGs must also adhere to the distinctive requirements outlined in Army Regulation 20-1, paragraph 7-1i (3) (f). See Part Two, Chapter 10, for specific procedures on processing DoD Hotline Cases.

3. A flow chart of the command-referral process that outlines the steps explained above appears in Figure II-3-1, below.

FIGURE II-3-1

Command-Referral Process



Letter Format: Acknowledgment to Complainant (Injured Party) Not Previously Contacted Regarding Consent for a Case Referred to the Chain of Command

(Letterhead)

February 1, 2018

Office of the Inspector General

Captain John Doe (Complainant Name)
3030 Anywhere Lane
Anywhere, VA 22060

Dear Captain Doe:

We received your complaint to the Inspector General on January 31, 2018, regarding an allegation that **[state nature of the allegation presented by the complainant]**.

We are carefully reviewing the matters you presented. Accordingly, we may refer your complaint, to include all relevant supporting documents in un-redacted form, to **[name of command]** for appropriate action and adjudication in accordance with Army Regulation 20-1.

The IG will protect your confidentiality to the maximum extent possible with respect to your personal information and the documentary evidence you provided. However, confidentiality may be limited upon referral to the command. The IG will not presume consent to the release of your personal information or supporting documents unless you expressly provide such consent by contacting this office within seven (7) calendar days of the date on this notification [Active Component] within 30 calendar days of the date on this notification [Army Reserve / Army National Guard] via phone, email, or letter. Please note that if you do not consent to the release of the information and the documentation you provided, our ability to assist you will be limited, and your request for assistance may go unresolved.

When contacting this office, please refer to case number XX-XXXX.

Sincerely,

Richard Britton
Major, U.S. Army
Inspector General

Letter Format: Acknowledgment to Complainant (Injured Party) Previously Contacted Regarding Consent for a Case Referred to the Chain of Command

(Letterhead)

February 1, 2018

Office of the Inspector General

Captain John Doe (Complainant Name)
3030 Anywhere Lane
Anywhere, VA 22060

Dear Captain Doe:

We received your complaint to the Inspector General on January 31, 2018, regarding an allegation that **[state nature of the allegation presented by the complainant]**.

We are carefully reviewing the matters you presented. Accordingly, we may refer your complaint to **[name of command]** for appropriate action and adjudication in accordance with Army Regulation 20-1. The IG will protect your confidentiality to the maximum extent possible with respect to your personal information and the documentary evidence you provided. However, confidentiality may be limited upon referral to the command.

You informed this office on **[date consent given / denied]** that you consented to the release of **[your personal information]** and / or **[the relevant supporting documents you provided]** and / or withdrew consent to the release of **[your personal information]** and / or **[the relevant supporting documents you provided]**. Please note that if you did not consent to the release of the information and the documentation you provided, our ability to assist you will be limited, and your request for assistance may go unresolved.

When contacting this office, please refer to case number XX-XXXX.

Sincerely,

Richard Britton
Major, U.S. Army
Inspector General

Memorandum Format: Command Referral of Inspector General Allegations

CUI

OFFICE SYMBOL

1 February 2018

MEMORANDUM FOR Commander (unit referred for action)

SUBJECT: Command Referral of Inspector General Allegations

1. The Office of the Inspector General received complaints alleging misconduct by a member or members of your command. In accordance with Army Regulation 20-1 (Inspector General Activities and Procedures), we are referring the matters to your command for appropriate action.

2. Request that your investigation or inquiry address, at a minimum, the following allegations and issues: **(Make sure you identify all allegations and issues / complainant concerns in accordance with Army Regulation 20-1 standards.)**

a. Allegation 1: **[use the proper four-part format]**

Example: COL Robert E. Brown conducted an adulterous relationship in violation of Article 134, UCMJ.

b. Allegation 2: **[use the proper four-part format]**

Example: COL Robert E. Brown sexually harassed female employees in violation of AR 600-20.

3. In accordance with Army Regulation 20-1, we request that you provide a complete copy of your investigation / inquiry, and accompanying legal-sufficiency review, to this office when completed. Please read Army Regulation 600-20 (Army Command Policy), paragraph 5-11, as part of your inquiry, and follow the provisions of Army Regulation 600-8-2 (Suspension of Favorable Personnel Actions), as required.

4. Once appointed, the Investigating Officer should contact your local Staff Judge Advocate (SJA) and the IG point of contact listed below prior to beginning the investigation or inquiry in order to exchange relevant information and to discuss or clarify the allegations of concern.

5. This Inspector General document contains privileged information and requires protection in accordance with Chapter 3 of Army Regulation 20-1. You will restrict as

<p>CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567</p>

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OFFICE SYMBOL

SUBJECT: Command Referral of Inspector General Allegations

much as possible dissemination of this document consistent with your requirement to provide a reply to this office. Unauthorized retention or reproduction of IG documents is strictly prohibited.

6. Request that you acknowledge receipt in paragraph 8 of this memorandum below and indicate what specific form of command action you are taking or your reason for declination. Please return a copy of this memorandum to the point of contact listed below within 14 (Active Component) / 45 (Army Reserve / Army National Guard) days of receipt.

7. Your point of contact is (IG's name) at DSN (IG's phone #) or commercial (IG's phone #).

8. Command Action / Declination Reason: _____

COMMANDER'S NAME
Commander
Organization

(Date)

- 2 Encls
- 1. Hotel Receipt, 9 January 2018
- 2. Unit Leave Roster, 10 January 2018

ALBERT R. RIGHTWAY
LTC, IG
Inspector General

CUI

Letter Format: Final Reply to the Complainant

Letterhead

February 1, 2018

Office of the Inspector General

Captain John Doe (Complainant Name)
3030 Anywhere Lane
Anywhere, VA 22060

Dear Captain Doe:

This letter is a final response to your January 31, 2018, complaint to the Inspector General concerning the alleged misconduct of COL Robert E. Brown. We referred the allegation to the command for investigation. After receiving the resulting command product, we reviewed the document and determined that the command addressed the allegations.

This office will take no further action pertaining to these allegations.

Sincerely,

Richard Britton
Major, U.S. Army
Inspector General

Section 3-1-2

Referral to Another IG

After conducting preliminary analysis, if the IG determines that the case is not appropriate for his or her office's action but is appropriate for a higher, lower, or adjacent-level IG, refer the case to that office using IGARS. Once the IG on the other end accepts the case, the IG can close out the referral in IGARS. If the local IG is maintaining Office-of-Record status, keep the case open until the Office of Inquiry completes the report and forwards it to you for review, approval, and close-out.

Section 3-1-3

Referral to Other Agencies

When the IG elects to refer allegations to the appropriate agency on behalf of the complainant, the IG must review and follow all requirements of Army Regulation 20-1, Chapter 3, and Part Three of this guide regarding the release of IG records and confidentiality. Provide the necessary information to the agency and determine whether to monitor the action until completion. For example, if an individual alleges serious criminal activity, you should refer the information to the local CID field office and request that that office follow up with the individual and advise you of the results. The IG should retain a copy of the complaint. CID may not accept the allegation, so you may need to refer the allegation to MPI or to the chain of command for inquiry or investigation. If you refer the allegation to civil authorities, be mindful that they may choose not to comply with your request for action or for a copy of their investigation.

Section 3-2

Initial Notifications for an IG Investigative Inquiry / Investigation

1. Initial notifications are required when conducting an IG Investigative Inquiry or an Investigation. Inspectors General normally make notifications by telephone and document them using the formats at the end of this section. The IG must record these notifications in the IGARS case notes (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (3)(c)**). The subject / suspect has the right to know all allegations far enough in advance to exercise effectively his or her right to consult with an attorney. Failure to do so could allow subjects / suspects to allege that the IG did not afford them their due-process rights. Attach a copy of the record of notification to the ROI / ROII and document actions taken in IGARS case notes.

2. After obtaining authority for the Investigation or Investigative Inquiry, notify the subject / suspect's Commander / supervisor before contacting any other witnesses or gathering additional evidence (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (3)(b)**). Notification of the Commander involved promotes his or her cooperation and understanding. Normally, subjects or suspects are notified of the nature of the allegations prior to conducting interviews or taking statements. Under rare circumstances, such as the potential for reprisal or obstruction of witnesses, the subject or suspect can be notified later but always in sufficient time for the subject / suspect to exercise his or her right to consult with an attorney.

a. Command Notifications:

(1) **Chain of Command.** Normally, the IG will notify at least the first Commander or supervisor in the chain of command of the individual under Investigation. Use the notification formats at the end of this chapter to make these notifications. The IG, the Directing Authority, or someone designated by the Directing Authority may make these notifications. How much information to provide, how deep in the chain of command to notify, and whether or not to give the notified Commander the option to inform other members of the chain of command will vary. Consider the nature of the allegations, the Commander's guidance, and the personalities of the Commanders or supervisors involved. Sensitive cases may dictate that the IG provides very little detail except the fact that there is an ongoing Investigation. At other times, it may be appropriate to provide the names of subjects or suspects and specific allegations or some combination thereof to a Commander or supervisor. Also, consider the possibility of Commander involvement in the allegations or that the Commander has condoned the actions. For example, the Directing Authority directs the IG to investigate sensitive allegations against a Battalion Commander in 2nd Brigade Combat Team. The Directing Authority believes the Brigade Commander should be informed of the Investigation, but he or she is concerned that this notification may needlessly damage the Battalion Commander's reputation in the eyes of the Brigade Commander. Consider only providing the Brigade Commander with the general information contained in the Directive and not the specific name of the suspect. Should the facts indicate that the allegations will be substantiated and that the Brigade Commander was knowledgeable

and condoned the misconduct, the Brigade Commander may become a subject or a suspect.

(2) **Visited Commands.** The IG may have to visit organizations or staff sections to obtain information and interview witnesses when there are no individuals in that organization who have allegations against them. The IG must decide whether or not to notify the Commanders of those organizations. Normally, the IG only needs to provide other commands with the general information contained in the directive. An IG can establish and maintain positive working relationships with organizations by extending professional courtesies to the Commander or head of an organization and informing that individual that the IG will conduct fact-finding in his or her area.

(3) **Higher Commands.** Higher commands are not automatically notified of subordinate unit IG Investigations. Notify higher commands of an Investigation based on the nature of the Investigation, the rank or grade of the person under Investigation, or as requested by higher headquarters or directed by the Directing Authority. Use your judgment and your Commander's guidance to determine when to notify higher Commanders.

b. **Subject / Suspect Notification.**

(1) Inspectors General must notify the individuals against whom allegations are made when conducting an IG Investigative Inquiry or Investigation (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (3)(b)**). Failure to do so may jeopardize an individual's due-process rights. The person should be notified as either the subject or suspect. Determining the status of an individual is the IG's responsibility. Seek the assistance of your SJA and, if necessary, DAIG's Legal Advisor. The IG must make the proper distinction since the rights afforded vary with the individual's status. Suspects are afforded more rights than subjects. If the standard allegedly violated is criminal in nature, then the person is a suspect. To interview someone about criminal allegations without first informing that person of his or her Article 31 rights is a violation of the individual's rights and Army Regulation 20-1. This fact is true even if you decide to question the individual concerning only non-criminal matters. See the explanation of rights earlier in this guide and in Chapter 7 of Army Regulation 20-1. Remember, you must treat as suspects those military personnel who have criminal or punitive allegations leveled against them.

(2) **What do you tell the subject or suspect?** An IG Investigation is not an adversarial proceeding, but that fact doesn't mean the subject or suspect will not be adversarial or less than cooperative. Therefore, the IG does not have to notify the subject or suspect of the specific allegations at the time of initial notification. The IG can notify the subject or suspect that the Directing Authority has directed the IG to investigate him or her for alleged improprieties and that you will notify him or her later with the specific allegations. However, under most circumstances, IGs will inform the subject or suspect of the specific allegations at the time of initial notification. This approach is especially important for suspects, since they are more likely to seek the advice of a lawyer. Before deciding, consider whether or not informing the subject or suspect of the specific allegations would reveal the source of the complaint. You must avoid any act that may jeopardize confidentiality. You must be concerned with the possibility of retribution and a cover-up. The subject or suspect might talk to, or influence, the complainant or potential witnesses and thereby hamper your Investigation.

Do not tell the subject / suspect with whom you have talked (other than Commander / supervisor, if notified) or with whom you plan to talk.

(3) **Who notifies subjects or suspects when the case has been referred to the command?** The command's appointed IO conducts all notifications when the IG refers allegations and the command elects to execute an inquiry or investigation. See Part Two, Section 3-1-1, of this guide for further discussion.

c. **Who makes the Notifications?** Within the IG office, the person best positioned to make the notifications will depend upon unit SOP and will vary with the rank or grade of the person against whom the allegations are made. There are several advantages for the appointed IG Investigating Officer making the subject or suspect notification. This approach allows the IG to begin to develop rapport with the individual. Based on this conversation, the IG can anticipate whether that person will be cooperative and can prepare accordingly. Sometimes subjects or suspects ask questions of the IG when the IG is making notifications. Remember that the purpose of the notification is to inform the subject or the suspect of the allegations and nothing more. If the subject or suspect continues to inquire, then remind the person that he or she has the right to comment on the allegations but that, during initial notification, it is inappropriate for the IG to discuss details of the case.

d. **How do you make Initial Notifications?**

(1) Chain-of-command initial notifications made over the telephone are discreet and minimize disruption to the unit.

(2) Telephonic notification for the subject or suspect facilitates the administrative requirement for initial notification while it minimizes the possibility of engaging the individual in a discussion of the case. The IG should explain clearly the purpose of the call and the administrative procedure of reading a notification script. The IG should explain that the individual will have a future opportunity to respond to the allegations when it is both coordinated and appropriate to do so. The rights warning contained in the suspect initial notification format is not legally sufficient for questioning an individual suspected of a criminal offense. Therefore, the IG cannot properly take statements or engage in any discussion of the allegations. The IG may verbally or in writing communicate the allegations to the suspect's attorney. Experience has shown that interviewing the subject or suspect last is best. Inform the individual that although the IG will make an appointment to interview him or her, there is no set time when that interview will occur. The IG should remind the subject / suspect not to discuss the matters under Investigation with anyone other than an attorney as this would interfere with the Investigation. The IG must include the notification memorandums, which are IG records, in the ROI / ROII. Do not send the memorandum or give it to the individuals you notify. Avoid making notifications on a Friday afternoon. Burdening the subject or suspect with bad news just before the weekend is not a good way to build rapport.

e. **New Allegations / New Subjects / New Suspects.** During the Investigation, the IG may develop new allegations unrelated to the original allegations or unrelated to the subjects or suspects. Consult the SJA for advice on how to proceed. Brief or send a memorandum to your Directing Authority to request expanding the Investigation, referring it to the command, or initiating another Investigation by explaining the additional allegations and / or new subjects or suspects. Prior to completing the Investigation, the

IG must inform the subject or suspect and afford that person the opportunity to present his or her side of the story. If the allegations are against someone not originally defined as a subject or suspect, then the IG must notify and interview that person. Also, the IG will notify the subject / suspect of any unfavorable information included in the ROI / ROII and afford the subject / suspect the opportunity to comment.

CUI
COMMANDER / SUPERVISOR NOTIFICATION FORMAT

To: (Rank / Grade and Name) _____
Position and Organization: _____
Phone number: _____

(CHECK WHEN DONE)

1. () _____, this is _____
from the _____ IG office. I am calling to inform you that (Directing Authority)
_____ has directed this office to investigate / inquire into allegations
that: (as stated in Action Memorandum)*

*Note: Generally, Commanders need to know exactly what you are investigating, and you should state the allegations as written in the Action Memorandum. If you believe you should be less specific, use the more general language in the Directive.

2. () It may be necessary to interview members of your organization regarding these matters. _____ (Investigating Officer) from my office will arrange witness interviews.

3. () (You may / may not) (I will / will not) notify intermediate Commander(s) / supervisor(s).

4. () To help protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them, we ask that you not discuss this matter with anyone.

5. () _____ was (telephonically / personally) notified of the above at _____ (time) on _____ (date).

(Signature of Notifying Official)

CUI

CUI
SUBJECT NOTIFICATION FORMAT
(For Non-Punitive / Non-Criminal Allegations)

To: (Rank / Grade and Name) _____
Position and Organization: _____
Phone number: _____

(CHECK WHEN DONE)

1. () _____, this is _____ from
the _____ IG office. (Directing Authority) _____
has directed us to investigate / inquire into allegations that you: (as stated in Action
Memorandum)

2. () It will be necessary to interview you regarding these matters. (Choose a or b)
a. (Investigating Officer(s)) _____ or _____ will
contact you to make necessary arrangements; or
b. We want to interview you at (time) _____ on (date) ____ at (location)
_____. Our telephone number is _____.

3. () You are a subject in this Investigation / Investigative Inquiry. Although the
allegation(s) against you is / are non-criminal / non-punitive, you do not have to answer
any questions that may potentially incriminate you. The investigators will give you an
opportunity to respond to the allegation(s). You have the right to consult with an
attorney before questioning, but you do not have the right to have an attorney present
during the interview.

4. () _____ has been notified of this Investigation.

5. () We are required to protect the confidentiality of IG Investigations / Investigative
Inquiries and the rights, privacy, and reputations of all people involved in them. We ask
people not to discuss or reveal matters under Investigation / Investigative Inquiry.
Accordingly, we ask that you not discuss this matter with anyone without permission of
the investigating officers except your attorney, if you choose to consult one.

6. () _____ was (telephonically / personally) notified of the above at
_____ (time) on _____ (date).

(Signature of Notifying Official)

CUI

CUI
SUSPECT NOTIFICATION FORMAT
(Punitive / Criminal Allegations)

To: (Rank / Grade and Name) _____
Position and Organization: _____
Phone number: _____

(CHECK WHEN DONE)

1. () _____, this is _____ from the _____ IG office. (Directing Authority) _____ has directed us to investigate / inquire into allegations that you: (as stated in the Action Memorandum)

2. () It will be necessary to interview you regarding these matters. (Choose a or b)
a. (Investigating Officers) _____ or _____ will contact you to make necessary arrangements; or
b. We want to interview you at (time) _____ on (date) ____ at (location) _____. Our telephone number is _____.

3. () You are a suspect in this matter. Therefore, you do not have to answer any questions or say anything. Anything you say or do can be used as evidence against you in a criminal trial. You have the right to talk to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. The lawyer can be a civilian you arrange at no expense to the Government. (If the suspect is subject to UCMJ, add the following): or a military lawyer detailed for you at no expense to you, or both.

4. () _____ has been notified of this Investigation.

5. () We are required to protect the confidentiality of IG Investigations / Investigative Inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation / Investigative Inquiry. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney, if you choose to consult one.

6. () _____ was (telephonically / personally) notified of the above at _____ (time) on _____ (date).

(Signature of Notifying Official)

CUI

Section 3-3

Use of Command Products for an IG Investigative Inquiry / Investigation

- 1. Overview.** Inspectors General can and do use command products as evidence to resolve allegations of impropriety. All IG Investigations will generate only Reports of Investigation (ROI) or Reports of Investigative Inquiry (ROII). Existing policy is contained in Army Regulation 20-1, paragraph 1-7a, which allows IGs access to all documents and other evidentiary materials needed to discharge their duties.
- 2. Definition.** Command products include, but are not limited to, preliminary inquiries conducted under UCMJ Rule 303 and Army Regulation 15-6, as well as administrative investigations and boards of officers conducted under Army Regulation 15-6. Questions often arise pertaining to an IG's use of Army Regulation 15-6 investigation reports, particularly when the report is already completed before the IG receives a related Inspector General Action Request (IGAR). Inspectors General are free to use testimony, documents, and statements from Army Regulation 15-6 investigations as evidence in an IG ROI or ROII.
- 3. Why use Command Products in an IG Investigation or Investigative Inquiry?**
The use of command products avoids duplication of investigative effort. IGs can use a command product as a piece of evidence in resolving allegations. By regulation, command products used or considered by IGs to support IG findings, conclusions, recommendations, or resolution actions become part of the IG's record. In the case of Army Regulation 15-6 findings and reports, the Commander that initiated the investigation determines the release of any Army Regulation 15-6 report requested under FOIA.
- 4. Cautionary Note.** Command products are simply administrative tools used by Commanders to gather and assess evidence. Command products are not binding upon, nor do they limit, a Commander's actions. The Commander may use or reject the investigating officer's findings and recommendations in part or in full. Command products are pre-decisional, not subject to appeal, and have no remedy or redress -- although the Commander may use the product as a basis for action that is subject to appeal with remedy or redress. Because a command product does not afford due-process, an IG's review of a command product simply determines the extent to which the product addressed the issues and allegations and whether the product and process were fair and impartial.
- 5. IGs Can Use Command Products as Evidence to Resolve Allegations.** While a command product can be vital to the Inspector General Action Process (IGAP) and serve as a compelling piece of evidence, the IG must still gather additional evidence before concluding the Investigative Inquiry or Investigation. The IG is responsible for conducting all seven steps of the IGAP; furthermore, the IG must write an ROI or ROII and have it approved before entering a finding in the IGARS database.

6. Analysis of Command Products by an IG. Inspectors General must follow the Inspector General Action Process (IGAP) with each IGAR received, beginning with *preliminary analysis*, to determine IG appropriateness and the course of action. If the selected course of action is an IG Investigative Inquiry or Investigation, IGs will use command products most appropriately in the *fact-finding* phase of the IGAP. A command product, or portions of a command product, may serve as evidence available to the IG during fact-finding and may become evidence in the ROI or ROII. The IG will not conduct a due-process review or assessment of the command product, except to determine whether or not the product provides relevant information or evidence to support or refute the allegations the IG is investigating.

Chapter 4

Step Four, IG Fact Finding

Section 4-1 - Overview

Section 4-2 - Plan

Section 4-3 - Gather Evidence

Section 4-4 - Preparation for Interviews

Section 4-5 - Interview Types and Modes

Section 4-6 - Other Participants in Interviews

Section 4-7 - Status of Individuals Chart

Section 4-8 - Four-Part Interview and Interview Documents

Section 4-9 - Self-Incrimination and Rights Warning Procedure / Waiver Certificate

Section 4-10 - Break Procedures

Section 4-11 - Standard of Proof

Section 4-12 - Investigatory Tools

Section 4-13 - Report of Investigation and Report of Investigative Inquiry

Section 4-14 - Assisting Command Investigators

Section 4-15 - Obtain Approval

Section 4-16 - Actions if Directing Authority Disapproves ROI / ROII

Section 4-17 - Common Pitfalls

Section 4-1

Overview

1. **Plan.** As with all forms of intellectual endeavor, an IG Investigation or Investigative Inquiry requires significant forethought in order to resolve the issues and allegations brought forward by the complainant. Rarely can an IG jump into an Investigation without investing a significant amount of time and effort into planning. All Investigations, even the simplest Investigative Inquiries, should proceed from a written plan. Planning will maximize the likelihood of successfully completing the Investigation while concurrently minimizing the resources (time, materiel, and labor) consumed in the process.

2. **Gather Evidence.** Once the Command IG approves the plan, the IG can begin to gather evidence. Most evidence is testimonial or documentary. For documentary evidence, the IG needs to protect confidentiality when requesting documents. Ideally, the IG has access to personnel databases and doesn't have to request the documents. Interviewing is both an art and a science, and one will have to determine the techniques that work best for his or her personality. The rest is methodology and will be covered in detail later in this chapter.

3. **Evaluate Evidence.** As you gather evidence in your case, you must organize and evaluate it and, ultimately, determine if you have obtained a preponderance of credible evidence that is sufficient to allow you to draw a conclusion. This process is both complex and intellectual in nature. Your effectiveness depends upon your skill and experience, your knowledge of the categories and levels of evidence, the quantity of evidence you gathered, and your assessment of the credibility of each item of evidence. **After you evaluate the evidence, you must decide whether the allegations are substantiated or not substantiated.** You must then prepare a written report to document your findings, conclusions, and recommendations for your Directing Authority in a ROI or ROII.

Section 4-2

Plan

1. As in any military operation, planning is a critical element leading to the successful achievement of the objective. Formulate a plan of how you will obtain facts and information pertinent to the allegations you have received. The planning process for Investigations and Investigative Inquiries is the same. You must develop a written Investigative plan (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (4)(a)**) that includes, at a minimum, a witness list, the interview questions, and the itinerary for when and where interviews will take place. **Keep in mind that you must upload your written plan into the IGARS database as part of closing your case. Therefore, the plan must be legible and follow the format in this chapter.**
2. The planning process begins with your assessment of the facts you must gather to substantiate or refute the fact that a violation of a standard occurred as alleged. This assessment occurs through a careful examination of the standard violated and the essential elements of that standard (e.g., the elements of proof). Next, you must determine where you go to gather those facts. Generally, this step involves deciding whom you must interview (witnesses) to gather and corroborate those facts and the questions you must ask to elicit the required information. You then develop a logical sequence for conducting the interviews. At this point, you also assess what documentary or physical evidence might be available that would contribute to your investigation.
3. A certain amount of logistical planning (court-reporter availability, travel orders, hotel arrangements, etc.) is also necessary. When IGs must gather evidence from individuals overseas, especially from individuals serving in a hostile environment, the Investigation plan takes on all the requirements of an operations order, to include security, transportation, messing, billeting, administrative office space, computer support, copying and communications support, and contingency plans to account for unexpected changes. Obviously, this detailed planning requires extensive coordination by the IG office with all agencies and units providing support.
4. A suggested a plan format is located within this section. ***The plan should include a list of the witnesses (also complainant, subjects, and suspects) in the order you want to interview them, where you will interview them, and for how long.*** List the witnesses and documents needed for each allegation separately. This technique will prevent you from unexpectedly coming up short on evidence for a particular allegation. Items usually found in a good plan are:
 - a. **Background.** Keep a record of how you received the allegations, who has knowledge of them, and whom you should inform. This record may include a list of individuals, commands, or Commanders and supervisors. This list will help when writing a final report. Experienced IGs have found it helpful to develop and maintain a chronology of events.
 - b. **Specific Allegations / Issues.** List the specific allegations you have developed to this point (from your Action Memorandum).

c. **Evidence Required.** In order to plan an IG Investigation or Investigative Inquiry properly, you must have an understanding of the evidence required to establish the facts that will either substantiate or refute the allegation. For example, if you are investigating allegations of adultery, you must establish that the suspect had wrongful sexual intercourse, that either the subject or the other party was married to someone else, and that the conduct was either prejudicial to good order or discipline or discreditable. Under the Manual for Courts-Martial, these items address the elements of proof for the standard.

5. You should also have a feel for the evidence that you will realistically be able to gather in your case (as you see it at that point in time). For example, in the adultery case, documentary evidence might establish that one of the parties was married, but verbal statements would probably provide the bulk of the evidence regarding intercourse (and most might be circumstantial). It is not premature during planning to develop a sense of how much evidence will you need to establish a preponderance of credible evidence.

6. **Develop a Witness List** (includes complainants, subjects, and suspects). There are three areas on which you should focus: Whom are you going to interview? In what sequence are you going to conduct the interviews? What type of interview are you going to use?

a. **Whom are you going to interview?** Selecting whom you should interview can seem very difficult until you have had some practice. Plan to interview the minimum number of witnesses necessary to ascertain the facts in the case. Inspectors General are always concerned with confidentiality. There is no set rule for establishing the minimum number required; use your judgment to determine when you have reached a preponderance of credible evidence. Keep in mind that you want to verify all important facts and that you do not accept something as factual or true just because someone of a higher rank says it is so.

At a minimum, you should have at least two pieces of evidence that verify or corroborate a fact; for example, one person's testimony and one document. The IG must remain vigilant to the impact of conducting interviews and document research in unit areas. The simple presence of the IG may possibly risk IG confidentiality. When requesting official documents, the IG should consider calling the agency providing the documents and broaden the request in order to protect the identity of the actual people involved. For instance, if there was a complaint about a specific Civilian hiring action, then the IG could request from the CPAC supervisor all hiring packets processed over a 30-day period. The IG would then only focus on the specific packet in question and disregard all the others provided. When possible, use IG tech channels to get information.

Often the complainant (if known) will provide you names of witnesses, but do not limit yourself to what complainants provide. The IG must develop the witness list since the complainant is not likely to offer names of people who could provide all sides of the story. Although the IG has no obligation to interview all, or even any, of the witnesses identified by the complainant or the subject / suspect, the IG should consider all recommendations and make logical decisions as to why or why not to interview someone. Additionally, when working a very complicated or contentious case, the IG

should consider listing in the written report reasons for interviewing or not interviewing someone in order to answer any potential future challenge to the IG's conclusions.

b. In what sequence are you going to conduct your interviews? You will normally interview the complainant first followed by any expert witnesses, other witnesses, and the subject or suspect last. Under some rare circumstances, such as a vague or anonymous allegation, you might elect to interview the subject or suspect first. By interviewing the subject or suspect first, the IG may subsequently discover critical evidence or unfavorable information and then conduct a recall interview. To avoid this pitfall, gather any and all evidence possible before interviewing the subject or suspect.

c. What type of interview format will you use? Most interviews conducted in an Investigative Inquiry will likely be (but not exclusively) statements while those conducted during an Investigation will be testimonies taken under oath. However, you may choose the type of interview you plan to conduct based upon the nature of the case. If you believe the sensitivity of the interviews require the taking of testimony during an Investigative Inquiry, then do so. You can always summarize in writing the recorded testimony.

7. Additional Items. Additional items that you must include in your plan are the elements of proof from the standard. Consult your SJA to ensure you have the correct focus and interpretation of the standard. Also, list those areas requiring discussion with proponents or subject-matter experts. List the regulations and other publications necessary for the conduct of the Investigation, and make extracts for your report. Detail any other requirements such as travel arrangements and coordination required with external agencies. If you use an evidence matrix as an information-management tool, you can also use it as a planning tool to assist describing the information each witness or document may contribute to your Investigation of the allegations. The Evidence Matrix is discussed in more detail later in this chapter.

8. Itinerary. Schedule and interview the minimum number of witnesses consistent with thoroughness (i.e. to reach a preponderance of credible evidence). This minimum number of witnesses will protect the integrity of your Investigation. Additionally, ensure you interview all the witnesses provided by the complainant and the suspect / subject that have material evidence concerning the allegations or state clearly in the final report why you did not interview these witnesses. Consider these points when scheduling witnesses:

a. Provide the witness only with the information contained in the Directive. Avoid revealing the details of the allegations. Occasionally, you may need to provide a witness with additional information so that that person can prepare for the interview. For example, if you need a witness to bring documents related to a case to the interview, you will need to provide that person with enough information to identify the documents. Use caution. At times, you may need to ask for several documents of the same type to protect the identity of the individuals involved in the Investigation.

b. Protect the confidentiality of the witness and the confidentiality of others. Do not reveal the names of other witnesses, complainant, or subjects and suspects.

c. Follow the scheduling format except for answering administrative questions (like location and direction to interview location). During the scheduling call, the witness

may begin to provide information concerning the case. Do not engage in these discussions until the interview. However, on occasion you may decide to question a witness during the scheduling process to determine if that person is the correct witness. A witness whom you believe to have important information may try to convince you otherwise. It is often difficult to judge over the telephone whether a witness is misleading you to avoid being involved. Always prepare for such conversations by thoroughly assessing why the witness is important to the case, if there is another source to gather the same information, and what questions or issues may arise during the call.

d. Ask the witness not to discuss the Investigation with anyone, and explain the IG concept of confidentiality.

e. As the investigating officer, you will benefit from personally making the scheduling calls rather than having someone else make them for you. You are the most knowledgeable person concerning the case and why the witness is important to the fact-finding process. Use the Witness Notification Format located within this section.

f. Should a witness prove reluctant to participate, you are the most likely person to persuade him or her to cooperate. Do not attempt to compel (order) a witness (Soldier or Government employee) to participate. If a witness refuses to cooperate, contact the witness's supervisor or Commander; those individuals are in a position to order the individual to cooperate. This approach will maintain your IG impartiality. Remember, regardless of whether a person is required to cooperate or not, willing cooperation will yield the greatest benefit. On occasion, other IGs in tech channels or members of the witness's chain of command can schedule the interview for you. Ensure that you give the supporting IG specific instructions concerning confidentiality, location, and time of interview. If a witness is from another command, consider contacting that command's IG before you contact the witness or the witness's commander.

IG Investigation and Investigative Inquiry Plan Format Outline

CUI

MEMORANDUM FOR RECORD

SUBJECT: Investigation (or Investigative Inquiry) - (Case Name)

1. Mission. (Information should be similar to that stipulated in the first paragraph of the Investigation Directive.)

2. Facts bearing on mission.

a. Background and Allegations. (Information should be similar to that contained in the second paragraph of the Action Memorandum. However, the allegations should be specific enough to describe adequately the scope of the investigation. Note when the Directive was signed and by whom and refer to any relevant correspondence to or from VIPs.)

b. Applicable Regulations and Reference Publications. (List those applicable regulations / publications that apply to the allegation(s). For example, if the allegations pertained to procurement irregularities, the Federal Acquisition Regulation (FAR) would probably be a reference. Ensure the referenced regulation was in effect at the time of the alleged incident.)

c. Commands involved. (List the various commands that might be involved. For example, if the allegation pertained to an incident in a unit in Europe, the commands could include the specific division; corps; and, possibly, Headquarters, U.S. Army Europe.)

d. Staff Agencies Having Knowledge of Case. (Include any staff agencies made aware of the allegation(s) and how they were informed. Identify any staff agency that may be a proponent for regulations or guidelines that could be related to the allegation(s).)

3. Evidence and Data Required.

a. Witnesses. (From information available to you, list the names of witnesses that you want to interview for each allegation. Remember: the number of witnesses and, possibly, the allegations within the scope of the directive may change. You may not need to question all witnesses about every allegation.)

(1) Allegation 1: (State the specific allegation)

(a) Witness #1

CUI

CUI

SUBJECT: Investigation (or Investigative Inquiry) - (Case Name)

(b) ...

(2) Allegation 2: (State the specific allegation)

(a) Witness #1

(b) ...

b. Documents. (List documents and records you need to substantiate or not substantiate the allegation. These documents and records may include SOPs, training records, contracts, and more.)

c. Physical evidence. (List any required physical evidence).

4. Administrative Matters.

a. Itinerary: (When, where, and how you plan to conduct the Investigation. The list should include courtesy calls, transportation requirements, lodging requirements, interview locations, and witness interview sequence.)

b. Notifications. (Identify Commanders and Subject(s) / Suspect(s) who should be notified in accordance with this guide and the Directing Authority's guidance.)

(1) Command(s).

(2) Subject(s) / suspect(s).

c. Travel Requirements. (TDY orders, passports, car rentals.)

List of Enclosures
Interrogatories and
other relevant documents

INVESTIGATOR'S SIGNATURE

Remember that you must upload your written plan into the IGARS database as part of closing your case.

CUI

2

CUI
Witness Notification Format

To: (Rank and Name) _____
Position and Organization: _____
Phone number: _____
(CHECK WHEN DONE)

1. () _____, this is _____ from
_____ IG office. We have been directed by the
_____ to investigate the following allegations: (as stated in
Directive)*

*NOTE: Use the general wording from the Directive. If you need to be more specific, use the wording from the Action Memorandum, but don't tell the witness more than he or she needs to know.

2. () We do not suspect you of wrongdoing but believe you have information relevant to the Investigation and need to interview you as a witness. We would like to interview you at (time) _____ on (date) _____ at (location) _____ . The investigators are _____ and _____ . Our telephone number is _____ .

3. () _____ has been notified of the Investigation.
(Can omit for non-DoD civilians.)

4. () We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney, if you choose to consult one.

5. () _____ was (telephonically / personally) notified of the above at _____ (time) on _____ (date).

(Signature of Notifying Official)

CUI

9. Planning Tools. Aside from the use of the Investigation Plan format, there are tools that can aid you in both planning and resolving the Investigation. An evidence matrix can help organize your planning efforts. Similar to the tools used during an IG Inspection, this matrix provides the IG an organized record to cross-reference evidence gathered through interviews and document reviews as that evidence pertains to specific allegations. Annotate the category of evidence (direct, circumstantial, hearsay, or opinion) in order to assess later the credibility of each item of evidence. Listing the relevant and credible evidence on a separate Force-Field Diagram for each allegation will assist you in determining if the evidence leads you to substantiation or not-substantiation. The Force-Field Diagram is explained in detail in Section 4-13. Examples of both tools are shown in Figures II-4-1 and II-4-2.

Evidence Matrix

Witness	Allegation #1	Allegation #2	Allegation #3	Other	Due Outs
Mr. Smith (Complainant)				How did he become aware of the allegations? W5H2	
CPT Jones (Cdr, Co A)					
MAJ O'Reilly (Asst G-1)					
Documents	Hotel Receipts Vehicle Dispatch Log	DD Form 4072 for COL Brown	Any Government Contracts?		
COL Brown (Suspect)					

Timeline

EXAMPLES: DTS orders prepared "Events" occurred DTS travel claim Contract Let Complaint Received Documents Reviewed Interviews

CUI

Figure II-4-1

Force-Field Diagram CUI

Allegation #1: COL Brown committed adultery in violation of Article 134, UCMJ.

Elements of Proof: One or more parties were married. Wrongful sexual intercourse transpired. Conduct was detrimental to good order and discipline.

Substantiate	Not Substantiate
<ul style="list-style-type: none"> • Enter evidence here that would indicate the subject / suspect <u>did</u> perform the alleged impropriety • Summarize the evidence and indicate its category and level 	<ul style="list-style-type: none"> • Enter evidence here that would indicate the subject / suspect <u>did not</u> perform the alleged impropriety • Summarize the evidence and indicate the category and level

Key – (O) Opinion; (H/S) Hearsay; (C) Circumstantial; (D) Direct

Figure II-4-2

CUI

Section 4-3

Gather Evidence

The predominant category of evidence gathered by IGs is testimony obtained through oral statements. Interviews are the method used to gather oral evidence. In every interview, the IG has three major concerns:

1. The rights of the individual being questioned.
2. Maintaining confidentiality.
3. Obtaining the evidence needed.

The process used by IGs to conduct interviews is designed to protect rights and enhance confidentiality. The IG's preparations and skills as an interviewer affect the quantity and quality of the evidence gathered. In Investigations, the IG usually gathers transcribed and recorded testimony taken under oath by conducting formal interviews. In Investigative Inquiries, statements gathered via informal interviews are the norm.

Section 4-4

Preparation for Interviews

1. **Overview.** As with most activities, interview preparation is vital to success. Interview preparation falls into three areas: (1) witness scheduling, (2) administrative considerations, and (3) substantive issues. Determining the sequence in which you will conduct interviews is a key step in the planning process.

a. **Witness Scheduling.** Experience has shown that the best sequence is to interview the complainant first; then the subject-matter experts; then other witnesses; and, finally, suspects or subjects. The sequence of interviews may vary based on the nature of the allegations and on the availability of the witnesses, subjects, or suspects. Many inexperienced investigators try and resolve cases quickly by talking to subjects or suspects first. Avoid that pitfall by following the recommended sequence above that will:

- Give you information needed to ask the right questions of the subject or suspect.
- Enhance truth-telling (i.e., people are more likely to be truthful if they know you have done your homework).
- Enable you to challenge immediately statements that appear untrue or that are inconsistent with other evidence.
- Allow you to advise subjects or suspects of all unfavorable information against them and allow them an opportunity to comment. You may have more unfavorable information at the end of an Investigation than at the beginning. **Remember that you must allow the subject or suspect to comment on all unfavorable information that will appear in your final report.**
- Decrease the likelihood for a recall interview. An interview conducted too early in the investigative process increases the likelihood of the need for a recall interview and may unnecessarily consume more of your time.
- Protect the legal rights of all persons involved -- witnesses, subjects, and suspects. For example, as you become more knowledgeable about the case, you are less likely to interview someone as a witness when you should have treated that person as a subject or suspect.

You should also consider the order in which you will interview similar witnesses. Frequently, investigators will group witnesses by the evidence they are expected to provide. For example, you may interview sequentially all witnesses who observed a specific event.

b. **Out-of-Sequence Interviews.** There are circumstances that may cause you to interview the subject or suspect early in the Investigation or Investigative Inquiry. Examples of these circumstances are as follows:

- You have anonymous allegations and cannot readily identify any witnesses.
- You have vague or anonymous allegations that the subject may be able to clarify. The subject or suspect may provide you the names of witnesses.
- The subject or suspect has information not readily available elsewhere that you need early in the inquiry.
- The subject or suspect is about to retire or depart via permanent change of station (PCS) to a distant location and flagging is not appropriate.
- You believe this is one of those rare occasions when the need for speed justifies the risk.

c. **Administrative Preparation.** Ensure that you have the proper administrative details completed prior to the interview. These details include selecting the right interview guide from Appendix A and filling in the blank spaces with information from the Action Memorandum and Directive. If you are going to request a social security number, have a copy of the Privacy Act Statement available. If you are interviewing a suspect, complete the front side of a DA Form 3881. If recording, have a Testimony Information Sheet available. Each IG should have two digital audio recorders – one as a primary recorder and the other as a back-up recorder. Set up and test your recorder, and have extra batteries and a back-up recorder on hand. Use AC power whenever possible; use batteries only as a back-up power source. As a matter of routine, develop a local SOP to upload .wav files to the IGARS database, store a copy of the .wav file on a stand-alone computer in the IG office, and save the .wav file to a CD for transcription / summary purposes. Once you complete a case, erase the recordings on the recorder, destroy any CD copies, and maintain the .wav files in the IGARS database and the stand-alone computer as a part of the IGARS case file in accordance with Army Regulation 20-1.

(1) **Time Factors.** Another key planning consideration is the time needed to conduct each interview. There are no hard and fast rules -- some interviews move along quickly while others become lengthy. At a minimum, you should plan time for the following:

(a) Rapport Building. Set aside a minute or two to put the witness at ease before you begin your interview.

(b) Pre-brief or Introduction. Plan to spend 5-15 minutes covering the points of your pre-brief. You will need more time if you must execute a rights warning certificate.

(c) Questions and Answers. Always consider the possibility of unexpected issues or allegations arising during the interviews and allow a few extra minutes.

(d) Protect Confidentiality. Provide adequate time to allow one witness to leave and another to arrive without violating confidentiality. As a contingency, you should plan on what to do when you have a witness in your interview room and another waiting outside to be interviewed. Many IGs take a break and leave their

interviewee in the interview room while they move the person waiting outside to another location.

(e) **Administration.** Plan time for you and your partner to compare notes, prepare for the next interview, and take care of personal needs. Experience has shown that an interview that turns out being shorter than planned is far better than an interview that takes more time than scheduled.

(2) **Location Considerations.** You can conduct interviews almost anywhere. The major consideration in choosing a location is privacy. Some locations, however, offer other advantages as well.

(a) **Your IG office.** Experience has proven that an IG office is often the best place to conduct interviews. You control the environment. You can avoid interruptions such as ringing telephones and people entering unannounced. Your office personnel can control other witnesses who may come early for an interview. Should you sense that a witness is going to be difficult, you may be able to ask for assistance from a more experienced IG or an IG of a higher rank. Your office is most likely located away from the subject or suspect's workplace, so witnesses can discreetly visit your office. Conducting interviews at your office maximizes your efficiency. You do not have to spend time traveling, and you have your administrative support immediately available.

(b) **Witness's Workplace.** Another choice is to conduct the interview at the suspect's, subject's, or witness's office. The advantages are that the interviewee may be more at ease, more willing to cooperate, and more willing to share information. Often, your willingness to come to the witness's location for the interview can help establish rapport with a reluctant or defensive witness. The witness may also have ready access to information, records, or documents. The disadvantages are that many people at that office may find out that you are there, and rumors could result. Additionally, you have little control over privacy and probably cannot prevent unwanted interruptions. Subjects or suspects may want you to conduct the interview in their office because they feel more in control. If you have interviewed the proper witnesses, gathered the facts, and prepared for the interview, it will make little difference.

(c) **Hotel or Motel.** There will be times when you may need to travel, and you may have to conduct your interviews at a motel or hotel. You can conduct these interviews effectively if you plan ahead. When possible, arrange for a neutral interview location (ensure your orders allow you to rent a conference room, extra room, or business suite). When notifying someone that you will interview him or her at a motel, set up an initial meeting in a public place such as the lobby so you can properly identify yourself and make the interviewee more at ease. While you are not prohibited from interviewing someone by yourself, even if the interviewee is of the opposite sex, having a partner while interviewing may make the interviewee more comfortable and provide everyone involved with a measure of protection from possible allegations of misconduct.

(d) **Other Installations.** If you must travel to another installation, you can request that the local IG provide you an interview room. You need to ensure that the local IG is aware of your needs and requirements. Additionally, consider asking the local IG to make witness notifications for you. The local IG is known in the command, knows the local environment, and can possibly enhance the confidentiality of your Investigation

or Investigative Inquiry. Consider using a Reserve Center or National Guard Armory as an interview location if there is no installation nearby. Coordinate with the local IG.

(e) **Witness's Home.** At times you may have to interview a witness (usually a civilian) at his or her home. This situation can be undesirable because you lack control. Interviews conducted in a home are fraught with distractions. Additionally, the physical characteristics of the site may not be good. In all cases you want to ensure that your interview location is private enough to ensure that you can protect confidentiality of witnesses and preclude unnecessary disclosure of the details of the case.

d. **Substantive Issues.** Prepare an interrogatory (list of questions) for the interview. The process of building an interrogatory begins with the standards / elements of proof and your assessment of the evidence you believe the witness possesses. You then write questions to gather that evidence. War-game possible answers the interviewee might provide. The interrogatory provides you a road map for the interview and helps ensure that you do not forget to ask questions on all key points. If you plan to have the interviewee comment on documentary evidence, ensure that you have the documents on hand and in the order you plan to introduce them during the interview. (See Interviewing Techniques in Appendix B in this guide for additional information.)

2. **Pre-Interview Rehearsal.** Just like any other military operation, rehearsals are a key to success. You should plan and conduct rehearsals during your interview preparation. Set up all of your required materials in the location you plan to use for the interview. Ask for other IGs in your office to role-play the part of the witness. Test your recorders and telephone (if required) for sound quality while practicing your read-in and read-out procedures. Ask your role-playing witness the draft questions and refine your interrogatory. Good IG interviews don't just happen through wishful thinking. Some experienced IGs also find it helpful to develop a pre-interview checklist to ensure that they have the scripts, documents, and tools necessary to conduct the interview. Remember the old adage -- practice, practice, practice!

Section 4-5

Interview Types and Modes

1. **Interview Types.** There are three types of IG interviews for Investigations and Investigative Inquiries: Witness Interviews, Subject Interviews, and Suspect Interviews. Each interview type has its own unique set of considerations for planning and conduct and is addressed in this section and in Appendix B.

2. **Interview Modes.**

a. **Face-to-Face Interviews.** This method is the most efficient means of communication and is the ideal method for conducting IG interviews during both Investigations and Investigative Inquiries. Face-to-face interviewing allows you to observe the non-verbal reactions of the individual, enhancing your ability to establish and maintain rapport and ask effective follow-up questions. You should always attempt to interview your key witnesses and the subject or suspect face to face. Appendix B describes the non-verbal aspects of face-to-face interviews.

b. **Telephonic Interviews.**

(1) You may obtain both a statement and testimony over the telephone. A telephonic interview is an excellent time and money-saving method for interviewing witnesses who reside or work at a distant location. While you cannot observe the witness's non-verbal communications, you can often gain insights from the witness's inflection or tone of voice.

(2) Normally, you must contact witnesses in advance to schedule telephonic interviews. Many witnesses are not prepared to devote the required time to you when you first contact them. Also, you must be concerned about confidentiality. If you call them at work, they may not have the desired degree of privacy in their office. Always ask a telephone interview witness if he or she is in a location where he or she can speak freely and privately before conducting the interview. You should always strive to interview the witness in a location that provides a confidential setting in which the witness feels free to speak openly during the interview.

(3) Consider having a local IG at the witness's location and set a time for the interview. This approach may help put the witness at ease and establish your identity. The local IG may also provide a private location in his or her office for the witness to speak with you during the telephonic interview.

(4) Just prior to calling, have the IG at the witness's location conduct and record the read-in using the appropriate interview guide from Appendix A. Once the call is placed, the IG who administered the read-in script can verify the witness's identification and the fact that the witness has been properly placed under oath and advised of his or her rights. If you do not have an IG present at the witness's location, you may administer the oath and read-in over the telephone. Close the interview using

the script in the appropriate interview guide (witness / subject / suspect). Either IG can conduct the read-out.

(5) In some cases, you may want the local IG at the witness's location to remain in the room or even on the telephone with the witness. The IG can later provide you feedback on the non-verbal reaction of the witness to your questions. In other sensitive cases, you may want the IG to give the witness complete privacy for the interview.

(6) A detailed list of questions prepared in advance is essential for a successful telephone interview. Try to anticipate the witness's answers and have follow-on questions prepared. Having another IG participate in the interview using an extension telephone may prove helpful. Make sure you inform the witness of all parties on the telephone at your location.

(7) If you record a telephonic interview, you are not required to obtain consent but you must inform all parties that you are recording the call. Recording telephone conversations without the knowledge of all parties may violate Federal and / or State law. You can purchase simple devices through the supply system that allow your recorder to adapt to a telephone. You may also use a speaker telephone if available. This technology allows you to record the conversation and aids in the process when another IG is present. If the individual seems uncomfortable with the telephonic interview process, regardless of whether that person is required to cooperate, you have to rely on your rapport with the individual to set that person at ease to the best of your ability. Also, when recording a telephonic interview using a speaker telephone, ensure the microphone is not voice-activated. Voice-activated microphones will not record the first one or two words in a sentence, which could change the entire meaning of someone's testimony.

c. Interviews by Others. In some cases you may coordinate via tech channels for another IG to interview witnesses for you. You must provide the interrogatories and enough background information so that the IG can conduct informed interviews. Providing the IG with anticipated answers that you might expect from each witness can prove helpful. Also, provide the IG a copy of your Directive as well as copies of any documentary evidence he or she may need during the interview. After the interviews are completed, the assisting IG will send you the audio files or copies of the transcripts. After you have acknowledged receipt of the testimony, the assisting IG destroys all file material.

Section 4-6

Other Participants in Interviews

1. **Court Reporters.** If a court reporter not assigned to your IG office is used to record testimony, you must instruct the reporter on his or her duties and responsibilities. Caution the reporter about the privileged nature of the Investigation. Provide instruction for taking the testimony, and direct the reporter to make a verbatim record of the testimony. Have the court reporter set up the equipment neatly but inconspicuously. The court reporter should test any recording devices before you begin interviewing. Require the reporter to save notes and give them to you with the verbatim transcripts. At the beginning of the Investigation, administer the following oath to the reporter:

OATH: *“Do you, _____, solemnly swear (or affirm) that the testimony taken in the case under Investigation will be truly taken and correctly transcribed to the best of your ability; and that all knowledge of the case coming to you will be held in confidence; that all stenographic notes, carbon paper, spoiled sheets of testimony, or other papers, and all transcriptions thereof, will be carefully safeguarded and delivered into my hands, or otherwise disposed of as I may direct, so help you God?”*

2. **Interpreters.** If an interpreter is required, caution him or her on the privileged nature of the Investigation. You may administer to the interpreter the IG oath for a Temporary Assistant IG (see Army Regulation 20-1, paragraph 2-6). Immediately prior to the interpretation, administer the following oath at the beginning of the Investigation but do not repeat it for each witness:

OATH: *“Do you, _____, solemnly swear (or affirm) that you will interpret truly the testimony you are called upon to interpret, so help you God?”*

3. **Attorneys.**

a. Suspects have a right to have an attorney present during their interview. Remember, the purpose of a lawyer in an IG interview is only to advise the suspect. If the suspect indicates that he or she may, or will, have a lawyer present at the interview, the IG should speak with the lawyer prior to the interview if possible to discuss the following ground rules of an IG interview. Provide the lawyer a hard or soft (electronic) copy of Army Regulation 20-1 with Chapters 3 and 7 highlighted.

(1) Explain the IG process and answer all procedural questions in advance so that you don't waste valuable time during the recorded testimony. Explain that IG interviews are not legal proceedings and that there is no right to discovery or to confrontation. Explain that IGs respect attorney-client work products but that no one other than IGs and official transcribers are permitted to record testimony during IG interviews. Explain that the lawyer and his or her client may take notes during the interview to assist in answering IG questions but that notes taken in the presence of the IG must remain with the IG. If a lawyer demands to take and retain notes during an interview in order to advise his or her client properly following the interview, then the IG

must call a recess and stop the recording. The transcriber and the IGs must then leave the room to allow the suspect and the lawyer privacy or provide them another private space to confer. This discussion should help eliminate misunderstandings during the interview, help to build rapport with the lawyer and the suspect, and reinforce the fact that the IG is an impartial fact-finder.

(2) If the lawyer is not familiar with U.S. Army IG procedures, then the IG should answer whatever questions he or she can or direct the lawyer to the proper agency for answers.

(3) Do not engage the lawyer in any discussion of the evidence or merits of the case before, during, or after the interview.

(4) Explain that the lawyer may not answer questions for the suspect or otherwise interfere with the conduct of the interview.

(5) If there are difficulties with an attorney during an interview, then re-emphasize to the suspect that this is that person's opportunity to tell the IG his or her side of the story. If necessary, take a break and contact the SJA for advice. If the IG cannot resolve these difficulties, then the IG should consider re-scheduling or terminating the interview.

b. Witnesses and subjects have no right to have a lawyer present during an IG interview. Explain that IG interviews are not legal proceedings. Explain that the individual is not a suspect and does not have criminal allegations against him or her.

(1) The IG can call a recess during an interview so the individual can confer with a lawyer if necessary. Not allowing the witness to do so might make him or her defensive and reluctant to answer questions. Remember that the purpose of the interview is to gather credible evidence. If the individual is required by regulation to cooperate with the IG, then the IG should remind him or her of this fact as well, but the IG cannot order anyone to answer questions. Only an individual's Commander or supervisor can order compliance.

(2) The lead IG or the Command IG may allow the individual to have a lawyer present during the interview if it is in the best interest of the IG. Follow the same ground rules listed above if a witness or subject is granted permission to have a lawyer present during the interview.

c. The following briefing guideline will assist the IG in conducting a pre-interview briefing with the suspect's attorney to ensure that the attorney is aware of the IG's investigatory procedures and the role the attorney plays in the interview. **When filled in, add the proper CUI markings.**

To: **[Attorney Name]** _____

Attorney for **[Suspect's Name]**: _____

Phone number: _____

(CHECK WHEN DONE)

1. () This is Army **[Rank] [Name]** _____ from the **[Organization]** _____ Inspector General office.

[Indicate if you are on speaker phone; introduce any IG colleagues who may be present.]

I am calling concerning a client of yours, **[Suspect's Name]** _____. Are you still representing *him / her*?

I just wanted to contact you prior to the interview to go over some ground rules and to answer any questions you may have about the process. This way, we can save your time as well as your client's time at the interview.

2. () First, I would like to remind you that this is an administrative investigation, not a criminal investigation. However, please note that IGs resolve criminal and non-criminal allegations using the same process, so this is different from other legal proceedings you are familiar with. Army IG Investigations follow the rules and procedures outlined in Army Regulation 20-1. Are you familiar with that regulation? If not, we can send you a digital copy. Do you have a preferred email address that you would like us to send it to?

[Note the email address _____]

I'll send you a copy of the regulation as soon as we get off the phone.

3. () Although this is not a criminal investigation, the allegation against your client is a criminal one. Therefore, we will execute a DA Form 3881, which is the Army's Rights Warning Procedure and Waiver Certificate. We use this form to officially document our notification, to **[Suspect's Name]** _____, of the allegation(s) we are investigating, and of *his / her* Article 31 rights, including both the right to have an attorney present during questioning and the right to remain silent.

Since your client has the right to have counsel present, we will be asking your client if *he / she* will be willing to waive *his / her* right to remain silent. I can also send you a copy of the DA Form 3881.

These are the allegations that have been made against **[Suspect's Name]**:

[Read allegations verbatim from Action Memorandum]

This / these allegation(s) will be on the DA Form 3881 that we will send to you. I will also send you the *laws / regulations* that apply to those allegations.

4. () Now I would like to go over some ground rules with you. This is an opportunity for your client to tell *his / her* side of the story regarding *this / these* allegations, including providing any documents *he / she* may wish to present.

a. You cannot speak for your client or answer for your client during questioning. All answers to the questions that we ask of your client must come from *him / her*. If, at any time during the interview, you would like to confer with your client, we will take a

break and exit the room, or we will provide you with another private space to confer with your client.

b. This procedure also applies to note-taking and recordings. While IGs respect attorney-client and attorney work-product privileges, no one other than the IGs and official transcribers are permitted to record testimony during IG interviews. To put it another way, during an interview, you are not allowed to generate work product in our presence. Therefore, all recordings and notes taken during the interview must remain with the IG. If anyone, other than the IG or the recorder, wishes to make notes to keep after the interview, we must stop the interview, and the IGs must leave the room. Individuals may then make separate notes for personal retention. Do you have questions about these instructions?

5. () Since this is an administrative and not a legal proceeding, we do not follow the typical procedures that may be more familiar to you. There is no right to discovery or right to confrontation. Because of our rules regarding IG confidentiality as outlined in Army Regulation 20-1, we cannot provide you the identity of the complainant, a list of witnesses, or any evidence gathered during this investigation.

6. () Do you have any other questions? If you have no further questions, I'll send you Army Regulation 20-1, the DA Form 3881, and the applicable excerpts from **[the standards]**.

We'll see you and **[Suspect's Name]** on **[date & time of the interview]**:
 _____ . Thank you for your time. Good-bye.

7. () I, _____, telephonically briefed the above information to the suspect's lawyer at **[time]** _____ on **[date]**.

(Signature of Inspector General)

4. **Friends.** Persons being interviewed may request to have friends present. However, no one has a right to have a friend present. If the lead IG or the Command IG chooses to allow a friend to be present, the IG must advise the friend about IG interview procedures. The friend is there for the witness's moral support and may not speak for, or answer for, the witness. Inform the friend of confidentiality, and ask that he or she not reveal any information discussed during the interview.

5. **Union Representatives.** Some DA Civilian employees or reserve component military technicians (MILTECHs) may have the right to have a union representative from the installation present during their interviews. Others may request a union representative even if it is not their right if they are considered a member of the collective-bargaining agreement established between the union and the government. You are responsible for controlling a union representative at your interview, whether that person is there by right or with your permission. In most cases, the role of the union representative is to observe and advise the witness. Union representatives do have the right to comment on the record but may not speak for their represented employee. Check with SJA and CPAC regarding the collective-bargaining agreements at your installation.

Section 4-7

Status of Individuals Chart

The chart below, Figure II-4-3, summarizes the status, rights, non-rights, and interview guide formats to use during IG interviews.

Witness Interview Status, Rights, and Non-Rights

MILITARY STATUS AT TIME OF INTERVIEW	ROLE IN INVESTIGATION	SUBJECT TO UCMJ	REQUIRED TO TESTIFY	LAWYER PRESENT	UNION REPRESENTATION
ACTIVE ARMY	WITNESS	YES	YES	NO	NA
	SUBJECT	YES	NO (1)	NO	NA
	SUSPECT	YES	NO (1)	YES	NA
USAR ON ANY OFFICIAL STATUS	WITNESS	YES	YES	NO	YES (4)
	SUBJECT	YES	NO (1)	NO	YES (4)
	SUSPECT	YES	NO (1)	YES	YES (4)
ARNG TITLE 10 (IADT, OCONUS, AGR) (2)	WITNESS	YES	YES	NO	YES (4)
	SUBJECT	YES	NO (1)	NO	YES (4)
	SUSPECT	YES	NO (1)	YES	YES (4)
ARNG TITLE 32 (IDT, AT, AGR) (2)	WITNESS	NO	YES	NO	YES (4)
	SUBJECT	NO	NO (1)	NO	YES (4)
	SUSPECT	NO	NO (1)	YES	YES (4)
USAR & ARNG WHEN NOT ON DUTY	WITNESS	NO	NO	NO	NA
	SUBJECT	NO	NO	NO	NA
	SUSPECT	NO	NO	YES (3)	NA
DA CIVILIAN EMPLOYEES	WITNESS	NO	YES	NO	YES (4)
	SUBJECT	NO	NO (1)	NO	YES (4)
	SUSPECT	NO	NO (1)	YES (3)	YES (4)
CIVILIANS, INCLUDING STATE NG EMPLOYEES AND FAMILY MEMBERS	WITNESS	NO	NO	NO	NO (4 & 5)
	SUBJECT (5)	NO	NO	NO	NO (4 & 5)
	SUSPECT (5)	NO	NO	YES (3)	NO (4 & 5)

Figure II-4-3

NOTES:

(1) The duty of a subject or suspect to cooperate is offset by his or her right to remain silent on all matters that may incriminate him or her.

(2) The IG should check the Guardsman's orders to determine status. ADT / ADSW / AGR / MILTECH can be either Title 10 or Title 32.

(3) Must be civilian lawyer at own expense or as appointed by law.

(4) Includes ARNG and USAR MILTECH members. Only applicable if the Civilian employee's position is covered by a collective-bargaining agreement and if the event under investigation occurred when the member was in a MILTECH status. The employee does not have to be a member of a union.

(5) Normally, a civilian-civilian will not assume the role of either a subject or a suspect in an IG Investigation. Consult with your SJA.

Section 4-8

Four-Part Interview and Interview Documents

1. Depending on the nature of the allegations, sensitivity of the case, and location of witnesses, your interview may be anything from a very brief, informal telephone call (documented in an MFR summary) to a formal, recorded session lasting several hours.

a. Investigative Inquiry versus Investigation. Most interviews in an Investigative Inquiry are informal. Generally, the more serious the issue, the more formality is appropriate. Interviews given under oath are also useful in situations when you have conflicting evidence from different sources or when the allegations and issues are complicated. The verbatim transcript of testimony under oath will provide an accurate record of what was said. During Investigations IGs should take recorded testimony under oath that is later transcribed or summarized. There are circumstances, however, when recorded testimonies under oath are not required, such as interviews with reluctant civilian-civilian witnesses or with subject-matter experts.

b. Testimony. Formal interviews are conducted in four parts consisting of a pre-brief; a recorded read-in; recorded questioning; and a recorded read-out. Interview guides, the pre-brief, and all other documents necessary for the interview are listed in Appendix A, Interview Prep Book.

2. **Pre-brief Concept.** The pre-brief found in Appendix A is an informal briefing given by you to the interviewee. It familiarizes the witness with the interview process and helps to put him or her at ease (most witnesses have never been involved in an IG Investigation or Investigative Inquiry). A checklist ensures a thorough pre-brief, but reading a script during the pre-brief is counterproductive. The IG should rehearse the pre-brief in a mildly conversant manner. The pre-brief provides the IG an opportunity to establish a dialogue with the witness. A skillful interviewer uses the pre-brief to assess demeanor and to help the witness respond candidly to questions. Most importantly, the pre-brief explains key information, outlines administrative details, and answers any questions the interviewee may have concerning the interview process prior to recording, thus minimizing interruptions during the interview and saving transcription time and expense. The pre-brief includes:

- Advising the witness of the Privacy Act. (Required when you ask for personal identifying information such as the witness's identifying number, home address, or home telephone number.)
- Advising the witness of the Personal Electronic Device (PED) policy and that only the IG is authorized to make a recording of the interview.
- Advising the witness of the FOIA and that his or her testimony may be requested for unofficial purposes.
- Emphasizing confidentiality but not guaranteeing it. Witnesses must understand that their testimony can be used for official purposes.

- Advising suspects of their rights.

3. Pre-Brief Outline. Use the pre-brief outline as a guide, become familiar with the contents, and brief the witness in your own words. Ensure that you can explain the reasons for each item. This briefing comes more easily with experience and provides you the opportunity to establish rapport with the witness. The following paragraphs amplify the outline contained below.

a. Introduce yourself and show your credentials. Your credentials include a Letter of Identification and your ID card. An example of an IG Letter of Identification is at the end of this section. Many IGs reduce this letter to ID card size and laminate it.

b. Explain that you will conduct the interview in four parts (pre-brief, read-in, interrogatory, and read-out), and explain that the procedures are standard for all IG Investigations.

c. Explain your role as a confidential fact-finder and that you can accept both “hearsay” and “opinion” evidence as part of the testimony. You may have to define those terms for the person whom you are interviewing.

d. Explain how the IG system protects the confidentiality of the witness but that law or regulation may in some instances result in the release of the testimony. For example, a court may order the release of an IG record, or the Commander may want to use the case file for adverse action that would result in the release of the testimony to the suspect and the chain of command.

e. State that the interview will be conducted while the witness is under oath or affirmation and that it will be recorded. Do not ask the witness whether he or she wants to be recorded or take the oath. If the witness raises the question, explain the importance of taking recorded testimony under oath. If the witness is required to cooperate, then explain how and why it is his or her duty to do so. Remind the individual that he or she has the right not to self-incriminate but not to refuse to answer questions with which he or she may not agree, such as something embarrassing or incriminating to someone else.

f. Explain that in accordance with Army personal electronic device policy, no personal electronic devices (PEDs) are allowed in the interview. All PEDs must be secured outside the interview room or placed on the table with the power off. (Note: For telephonic interviews, the witness must acknowledge that PEDs are powered off.).

g. Explain that a prepared script is used during the read-in and read-out portions of the interview to ensure that the witness's rights are explained as required by law and regulation. These scripts are contained in the Interview Guides at Appendix A.

h. Explain that you will ask questions and give the witness time to respond.

i. Explain that at the end of the interview, you will again read from a prepared script, and the witness will be given an opportunity to present additional material that pertains to the Investigation.

j. Tell the witness that because the interview is recorded, all responses must be verbal; not to speak while anyone else is speaking; and to avoid actions such as tapping on the table, which might obscure words in the recording.

k. Caution the witness to identify the need to discuss classified information prior to revealing any such information and only to discuss classified information if necessary. Ask the witness to identify clearly any classified information given. Instruct the witness to ask you to turn off the recorder prior to discussing classified information so that you can determine whether the information is necessary to the case and for the transcript. If any portion of the recording contains classified information, then the entire recording must be appropriately classified. Likewise, if any classified information is used in the report, the report also must be classified and protected as appropriate. If you use court reporters, make sure they have the appropriate security clearance and are authorized access to the classified material in question. Administer the IG oath as a Temporary Assistant IG to the court reporters.

l. Explain that the final product of the Investigation will be a written report to the Directing Authority.

m. Explain that FOIA allows members of the public (anyone) to request any government record. These requests include IG records such as the transcript of the interview or the report of this Investigation. Should there be such a request, you will forward the entire record to DAIG because The Inspector General of the Army is the lowest level release authority for IG records for unofficial purposes (FOIA requests are unofficial). You should explain that while IG records are protected from unnecessary release, the records could be used for official purposes as necessary throughout the Federal government.

n. Provide the witness a copy of the Privacy Act Statement summary (attached at the end of this section) and allow the witness to read it. Ask if the witness has any questions. This procedure will save time after you start the interview. If there are questions, tell the witness that the purpose of providing the summary is to explain our authority to request personal information. This statement is not a consent to release to a third party and does not require a signature. Explain that you will refer to it during the read-in.

o. Have the witness verify or complete the applicable information on a Testimony Information Sheet (header sheet) (attached below). Explain that the header sheet is designed to assist whoever does the transcribing. During the interview, record the correct spellings of proper names and acronyms on this sheet. The person transcribing the testimony often has difficulty with those items. Include the header sheet with the final recording. This technique organizes your recordings and ensures the transcription is not attributed to the wrong witness's testimony.

p. Explain that you can turn off the recording devices and answer administrative questions but that everything said is considered on the record and may be used in the Investigation, even if the recorder is not switched on. Explain that you can turn the recorders off for any breaks as required, but anything said is still **on the record** and may be introduced later when recording has resumed.

q. Verify the status of the witness (Active Army, USAR, ARNG, AGR, Federal technician, State technician, Civilian, etc.) to determine the individual's rights and whether he or she is subject to the UCMJ (see above).

r. While not required, you may explain to Civilian Federal employees their right to have a union representative present as described previously in Part Two, Section 4-6 of this guide.

s. If you are interviewing a suspect, execute the DA Form 3881, Rights Warning Procedure / Waiver Certificate, during the pre-brief. Explain that you will refer to it during the read-in. If possible, ensure the SJA reviews the DA Form 3881 for legal correctness. Refer below and to Part Two, Section 4-9, of this guide for procedures related to the DA Form 3881.

(1) Use the DA Form 3881, Rights Warning Procedure / Waiver Certificate, to advise witnesses who incriminate themselves of their rights. Consult your SJA concerning its proper use. The general procedures are to have the suspect read the front side, Part I, which you must complete in advance. Ensure that the allegations are entered verbatim from the Action Memorandum, but do not show the Action Memorandum to the suspect. Then read the back of the form (Part II) aloud while the suspect reads a copy. Ask the suspect the four waiver questions. If the suspect chooses to waive his or her rights, have the suspect sign the waiver in Section B. You must also sign the appropriate block in Section B. Ensure that the name of any witness of the execution of the waiver appears in the appropriate block in Section B. If a witness self-incriminates, stop the interview and execute the Rights Warning Procedure / Waiver Certificate as described above. If the witness, now a suspect, waives his or her rights, continue the interview, but only proceed with the line of questioning for the allegation in which you have been directed to investigate. If he or she or she invokes those rights, record the time and end the interview. Do not ask any other questions, and do not conduct the scripted read-out.

(2) Should you have to execute a DA Form 3881 during an interview and you are not sure what to enter for allegations, take a break and call your SJA. If the SJA is unavailable, a general description of the allegations in your own words (i.e., failure to follow a regulation, misuse of government equipment, etc.) will suffice. If you question a suspect a second time on the same allegation(s) for which you already completed a DA Form 3881 (and that person waived his or her rights), you do not have to complete a new DA Form 3881. However, if you are questioning the suspect concerning new allegations, you must complete a new DA Form 3881 that includes any new allegations or suspected violations. Include the original DA Form 3881(s) with the suspect's testimony in the ROI / ROII.

4. Read-in Script. The read-in script is a formal script used to begin the interview. Appendix A contains initial and recall interview guides for witnesses, subjects, and suspects. Before an interview, select the correct interview guide and fill in the blank spaces with the correct personal data from the Investigation's Action Memorandum and Directive. If you are conducting an Investigative Inquiry and have no Action Memorandum or Directive, fill in the allegations about which you are inquiring.

(1) During the interview, complete the pre-brief, turn on the recorder, and read the read-in script verbatim. This technique ensures -- as a matter of record -- that

you fully and correctly advised the witness, subject, or suspect of the process and the individual's rights. The read-in and read-out scripts were carefully prepared and legally vetted to ensure that they are technically correct. Do not paraphrase the material in them. The only modifications you should make are if an individual advises you that he or she will neither swear nor affirm (you indicate that the testimony is not under oath) or if you are conducting a recall interview and the previous testimony was not sworn (add the oath to the recall read-in).

(2) Cleansing statement: To correct for the record an incorrect read-in, such as an incorrect status or for reading the witness script to a subject, contact the individual, explain the circumstances, and prepare a memorandum for record as an attachment to the interview testimony or summary.

5. Questioning. The questions are the substance of an interview. During preparation, develop an interrogatory (a set of questions) to elicit credible and relevant evidence from the witness. Once the interview begins, be flexible. You may have to alter the questions or the order in which you ask them based upon the topics introduced by the witness, the mood of the witness, and variances in the information actually presented. Listen to what the witness says. A detailed list of questions is essential for a good interview. Try to anticipate the witness's answers, and have follow-on questions prepared. Having another IG participate in the interview may prove helpful. Your partner should ensure the questions are answered clearly and completely. Do not ask previously prepared questions that the witness already has answered through his or her own narrative unless you require clarification of what he or she said. When that occurs, rephrase your question in a manner to demonstrate that you heard him or her previously. "Going back to the point you made earlier..." or "Let me see if I understood you when you said..." You must be prepared to ask difficult or embarrassing questions in a calm, forthright, and professional manner. The elements of proof from your standards will guide your question development. When interviewing a subject or suspect, you must ask questions that allow the subject or suspect to comment on the allegations and all unfavorable information that will appear in the report -- even if only to deny the allegations or to refute the unfavorable information.

6. Read-out Script. The read-out script is a formal script that closes the interview. Read-outs follow read-ins in the interview guides at Appendix A. Another key item is the admonition to the witness regarding confidentiality.

7. Statements. Informal interviews consist of three phases: An introduction, questioning, and a closing.

a. Introduction. The introduction is very similar to the pre-brief for taking testimony. In fact, you may wish to use all or part of the outline at Appendix A to guide your introduction when obtaining a statement. Using the standard outline helps to ensure that each witness gets the same information, that you cover all essential topics, and that your presentation is smooth and confident. At a minimum, you should discuss the IG Investigation / Investigative Inquiry process, the IG role, Privacy Act, FOIA, and rights warning (if required).

b. Questions. There is no difference between questioning when taking a statement and questioning when taking testimony. The evidence that you need to gather affects the questions you draft in your interrogatory. The information you receive

and the demeanor of the witness affects how you actually ask the questions. These factors are independent of the type of interview you conduct. Remember, questioning for both statements and testimony are equally thorough.

c. **Closing.** Once you complete your questioning, you must close out the interview. You should close out with some type of statement that allows the individual to know what to expect. Be candid. If you don't think you will ever contact the witness again, say so. If you sense that the witness fears retribution for cooperating with the IG, tell the witness to contact you or your office if he or she becomes the target of reprisal (IGs would treat that situation like any allegation we receive). When conducting an interview, do not speculate on the outcome of a case or commit yourself to a milestone for its completion. Finally, you should request that the individual not discuss the case with anyone except an attorney should he or she choose to consult one.

IG CREDENTIAL / DETAIL LETTER - EXAMPLE

CUI

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION (M)
FORT VON STEUBEN, VIRGINIA 22605

(DATE)

TO WHOM IT MAY CONCERN:

The officer whose signature is here presented, LTC Albert R. Rightway, is representing the Inspector General, 66th Infantry Division, Fort Von Steuben, United States Army, on duty with the Inspector General office at Fort Von Steuben, Virginia. His responsibilities include conducting Inspections, Assistance, and Investigations into matters for the Commanding General.

LTC Rightway is entitled to unlimited access to all information consistent with his security clearance in the execution of his mission.

/s/
MOTTIN DE LA BLAME
MG, USA
Commanding General

/s/
ALBERT R. RIGHTWAY
LTC, IG

CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567

NOTE: IG credentials are locally produced with specifications determined by the Directing Authority. IG credentials may be reduced in size and laminated or produced in a manner that is practical within local resource constraints.

CUI

PRIVACY ACT INFORMATION

DATA REQUIRED BY THE PRIVACY ACT OF 1974
PRIVACY ACT STATEMENT
FOR PERSONAL INFORMATION TAKEN DURING
INSPECTOR GENERAL WITNESS TESTIMONY

AUTHORITY: Title 10 US Code, Section 3020.

PRINCIPAL PURPOSE(S): Information is collected during an Investigation to aid in determining facts and circumstances surrounding allegations / problems. The information is assembled in report format and presented to the official directing the Investigative Inquiry / Investigation as a basis for Department of Defense / Department of the Army decision-making. The information may be used as evidence in judicial or administrative proceedings or for other official purposes within the Department of Defense. Your identifying number is used to further identify the individual providing the testimony.

ROUTINE USES:

- a. The information may be forwarded to Federal, State, or local law-enforcement agencies for their use.
- b. May be used as a basis for summaries, briefings, or responses to Members of Congress or other agencies in the Executive Branch of the Federal Government.
- c. May be provided to Congress or other Federal, State, and local agencies when determined necessary by The Inspector General.

MANDATORY OR VOLUNTARY DISCLOSURE AND THE EFFECT ON INDIVIDUALS FOR NOT PROVIDING THE INFORMATION:

For Military Personnel: Disclosure of personal information is mandatory, and failure to do so may subject the individual to disciplinary action.

For Department of the Army Civilians: Failure to disclose personal information in relation to your position or responsibilities may subject you to adverse personnel action.

For All Other Personnel: Disclosure of personal information is voluntary, and no adverse action can be taken against you for refusing to provide information about yourself.

TESTIMONY INFORMATION SHEET

CUI

INFORMATION FOR HEADING OF TESTIMONY TRANSCRIPT

To be completed in each interview, including recall witnesses.

Testimony of (Full Name): _____
(FIRST) (MI) (LAST)

Identification Number: _____ Rank/Grade: _____

Position / Title: _____ Organization: _____

Address: _____ Zip Code: _____ Phone: _____

XX

(Completed by IG)

Testimony taken at: _____, Date: _____

From: _____ (hrs), To: _____ (hrs).

By: _____ and _____

CUI

Section 4-9

Self-Incrimination and Rights Warning Procedure / Waiver Certificate

1. **Overview.** You must always be alert for the witness who, while testifying, implicates himself or herself as a suspect. The admission of possible *criminal* wrongdoing need not be related to the case you are investigating. This point also applies to subjects or suspects who may implicate themselves in an area outside the scope of your Investigation. If an individual implicates himself or herself in criminal activity: **Stop, execute the rights warning procedure and waiver on DA Form 3881, and continue the interview only if the individual waives his or her rights** -- but only proceed with the line of questioning for which you have been directed to investigate. **If the witness invokes his or her rights, then end the interview.**

2. **Procedures.** DA Form 3881 procedures are shown below (also found in Appendix A, Interview Prep Book). If you have any questions regarding the DA Form 3881 or encounter any difficulty when preparing or executing the warning / waiver, consult with your SJA. The following steps allow the IG to complete the form in the correct sequence.

Step 1. Complete the administrative data on the front side at the top of the DA Form 3881 prior to the interview. List the allegations verbatim as contained in the Action Memorandum in Part I of the form on the line at the top of Section A. If more room is needed, continue the allegations in Block 5 of Section A and, if needed, in the comments section at the bottom on the reverse side of the form. Ask the suspect to review the personal data and other information. Advise the suspect that you will formally advise him or her of his or her rights, explain his or her options, and then ask him or her if he or she is willing to waive his or her rights by signing the DA Form 3881. Also, inform the suspect that you will refer again to the rights warning / waiver when you conduct the read-in (if you are taking testimony while interviewing a suspect).

Step 2. Read the appropriate paragraphs in Part II on the back of the DA Form 3881 (THE WARNING) to the suspect verbatim (**this reading includes advising the suspect of the specific allegations**). Ensure that the suspect understands what you have read. Note that different paragraphs are applicable for military and Civilian personnel.

Step 3. Ask the suspect the first, third, and fourth questions in the second part of Part II on the back of the DA Form 3881 (THE WAIVER) verbatim. Ensure the suspect answers "yes" or "no" to the questions. Do not accept "I guess so" as an answer. The second question, "Have you ever requested a lawyer after being read your rights?" is not germane to IG Investigative Inquiries / Investigations. (Note: If the interviewee has a lawyer with him or her, you may have to adjust the verbiage of the fourth question to fit the situation.)

Step 4. If the suspect waives his or her rights, ask him or her to sign the front of the DA Form 3881 in Block 3 of Section B (SIGNATURE OF INTERVIEWEE). If the

suspect does not agree to waive his or her rights, have him or her check the appropriate block(s) and sign in Section C (NON-WAIVER). If the suspect brings an attorney, have him or her check the "I want a lawyer" block on line 1 of Section C and sign on line 2.

Do not recall a suspect who previously invoked his or her rights unless the suspect agrees to such a recall and has coordinated the interview with an attorney. He or she will be notified of unfavorable information in writing and advised that he or she has the right to comment on the information if he or she chooses.

3. See notes in the suspect read-in script in dealing with a witness or a subject who becomes suspected of knowingly making a false statement under oath or of having committed another criminal offense.

RIGHTS WARNING / WAIVER CERTIFICATE

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE			
For use of this form, see AR 190-30, the proponent agency is ODCSOPS			
DATA REQUIRED BY THE PRIVACY ACT			
AUTHORITY:		Title 10, United States Code, Section 3012(g)	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your Social Security Number is voluntary.	
1. LOCATION	2. DATE	3. TIME	4. FILE NO
5. NAME (Last, First, MI)		8. ORGANIZATION OR ADDRESS	
6. SSN	7. GRADE/STATUS		
PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE			
Section A. Rights			
<p>The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am suspected/accused: _____</p> <p>Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:</p> <ol style="list-style-type: none"> 1. I do not have to answer any questions or say anything 2. Anything I say or do can be used as evidence against me in a criminal trial 3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both <p style="text-align: center;">- or -</p> <p>(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.</p> <ol style="list-style-type: none"> 4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below. 			
5. COMMENTS (Continue on reverse side)			
Section B. Waiver			
I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.			
WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE			
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR	
Section C. Non-waiver			
1. I do not want to give up my rights. <input type="checkbox"/> I want a lawyer. <input type="checkbox"/> I do not want to be questioned or say anything			
2. SIGNATURE OF INTERVIEWEE			
ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2623) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED			

PART II - RIGHTS WARNING PROCEDURE	
THE WARNING	
<p>1. WARNING - Inform the suspect/accused of:</p> <ul style="list-style-type: none"> a. Your official position. b. Nature of offense(s). c. The fact that he/she is a suspect/accused. <p>2. RIGHTS - Advise the suspect/accused of his/her rights as follows: "Before I ask you any questions, you must understand your rights." <ul style="list-style-type: none"> a. "You do not have to answer my questions or say anything." b. "Anything you say or do can be used as evidence against you in a criminal trial." c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer </p>	<p>can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both "</p> <p style="text-align: center;">- or -</p> <p><i>(For civilians not subject to the UCMJ)</i> You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins "</p> <ul style="list-style-type: none"> d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate " <p>Make certain the suspect/accused fully understands his/her rights.</p>
THE WAIVER	
<p>"Do you understand your rights?" (If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question)</p> <p>"Have you ever requested a lawyer after being read your rights?" (If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice on whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question)</p>	<p>"Do you want a lawyer at this time?" (If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question)</p> <p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" <i>(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)</i></p>
SPECIAL INSTRUCTIONS	
<p>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p> <p>PRIOR INCRIMINATING STATEMENTS:</p> <ul style="list-style-type: none"> 1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions. 	<p>2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.</p> <p>NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p> <p>WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")</p>
<p>COMMENTS (Continued)</p> 	

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE			
For use of this form, see AR 190-30; the proponent agency is ODCSOPS			
DATA REQUIRED BY THE PRIVACY ACT			
AUTHORITY:		Title 10, United States Code, Section 3012(g)	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your Social Security Number is voluntary.	
1. LOCATION	2. DATE	3. TIME	4. FILE NO.
Inspector General, Fort von Steuben, VA 22605			OTR 05-009
5. NAME (Last, First, MI) Brown, Robert E.		8. ORGANIZATION OR ADDRESS Director of Personnel and Community Activities Fort von Steuben, VA 22605	
6. SSN	7. GRADE/STATUS COL / AD		
PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE			
Section A. Rights			
<p>The investigator whose name appears below told me that he/she is with the United States Army <u>Inspector General, 66th Infantry Division and Fort von Steuben</u> and wanted to question me about the following offense(s) of which I am suspected/accused: <u>COL Brown conducted an adulterous affair in violation of article 134, UCMJ; and (see comments below)</u></p> <p>Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:</p> <ol style="list-style-type: none"> I do not have to answer any question or say anything. Anything I say or do can be used as evidence against me in a criminal trial. <i>(For personnel subject to the UCMJ)</i> I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both. <p style="text-align: center;">- or -</p> <p><i>(For civilians not subject to the UCMJ)</i> I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.</p> <ol style="list-style-type: none"> If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below. 			
5. COMMENTS (Continue on reverse side) Sexually harassed female employees in violation of AR 600-20.//			
Section B. Waiver			
I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.			
WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print) Sonny Competent, MSG, IG			
b. ORGANIZATION OR ADDRESS AND PHONE Office of the Inspector General, 66th Infantry Division Fort von Steuben, VA 22605 (540)802-0601		4. SIGNATURE OF INVESTIGATOR	
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR Albert R. Rightway, LTC, IG	
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR Office of the Inspector General 66th Infantry Division	
Section C. Non-waiver			
1. I do not want to give up my rights <input type="checkbox"/> I want a lawyer <input type="checkbox"/> I do not want to be questioned or say anything			
2. SIGNATURE OF INTERVIEWEE			
ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED			

Step 1 {

Step 4 {

Step 2

Step 3

PART II - RIGHTS WARNING PROCEDURE	
THE WARNING	
<p>1. WARNING - Inform the suspect/accused of:</p> <ol style="list-style-type: none"> a. Your official position. b. Nature of offense(s). c. The fact that he/she is a suspect/accused. <p>2. RIGHTS - Advise the suspect/accused of his/her rights as follows:</p> <ol style="list-style-type: none"> a. "Before I ask you any questions, you must understand your rights." b. "You do not have to answer my questions or say anything." c. "Anything you say or do can be used as evidence against you in a criminal trial." d. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer 	<p>can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."</p> <p style="text-align: center;">- or -</p> <p>(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."</p> <ol style="list-style-type: none"> d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate." <p>Make certain the suspect/accused fully understands his/her rights.</p>
THE WAIVER	
<p>"Do you understand your rights?" (If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)</p> <p>"Have you ever requested a lawyer after being read your rights?" (If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)</p>	<p>"Do you want a lawyer at this time?" (If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)</p> <p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)</p>
SPECIAL INSTRUCTIONS	
<p>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p> <p>PRIOR INCRIMINATING STATEMENTS:</p> <ol style="list-style-type: none"> 1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions. 	<ol style="list-style-type: none"> 2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal. <p>NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p> <p>WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")</p>
<p>COMMENTS (Continued)</p>	

Section 4-10

Break Procedures

Taking Breaks. Should you or the witness need to take a break for any reason while recording testimony, state for the record the circumstances and time before shutting off the recorders. When ready to resume the interview, turn on the recorders and state the time and whether or not the people in attendance are the same. If someone has departed or someone new is present, give his or her name and briefly explain the reason for the change. Remember, during the pre-brief portion, you advised the witness that anything said during a break can and will be introduced on the recording.

Section 4-11

Standard of Proof

Preponderance of Credible Evidence. Inspector General Investigations and Investigative Inquiries make conclusions based on the **preponderance of the credible evidence available and *not* on proof beyond a reasonable doubt**. The investigating IG is responsible for assessing the credibility of all evidence, evaluating its relevance, and weighing it in the context of all other evidence gathered during the Investigation or Investigative Inquiry. Consult with other IGs or with your SJA if you have questions when you evaluate evidence.

You must use a finding statement of “**substantiated**” or “**not substantiated**” for each allegation addressed in your ROI / ROII.

Section 4-12

Investigatory Tools

1. **Overview.** When you are conducting an Investigative Inquiry, your evaluation of evidence may be a mental process -- particularly if the case is simple. For more complex Investigations, useful tools for evaluating evidence such as an evidence matrix and Force-Field Diagram (discussed in Section 4-2) will help you perform a mental evaluation of the evidence and reach a conclusion.

2. **Evidence Matrix.** The matrix organizes the evidence spatially and helps you determine whether you have enough credible evidence to support a conclusion. Remember that the IG must examine and discuss reasonably available evidence for both sides -- that which supports and that which refutes an allegation. Once you have enough credible evidence to conclude that an allegation is substantiated or not substantiated, you should interview the subject / suspect. The subject / suspect may introduce new evidence that you need to consider. However, if you cannot obtain a preponderance of credible evidence, you may have to conclude that the allegation was not substantiated. In complex investigations, the evidence matrix is a critical tool for navigating through Step Four, IG Fact-Finding. The matrix assists in crafting the witness list and the itinerary for interviews. Use the matrix to capture only the key evidence -- evidence tied directly to the elements of proof. Annotate the value or weight of that key evidence to facilitate preparation of interrogatories and writing the ROI / ROII.

3. **Timeline.** A timeline graphically depicts the relationship of events and summarizes evidence over a given period of time. The timeline can establish a frequency of occurrence, probable cause-and-effect relationships that demonstrate motive, or an inability to be at a specific place in time -- or perpetrate an improper act. It could be as simple as plotting a few dates so the IG can quickly internalize the key events in the case and the degree to which they are linked. The timeline could also be a complex chronology of protected communications and unfavorable personnel actions for a reprisal case.

4. **Force-Field Diagram.** A Force-Field Diagram (shown on the next page in completed form) is an invaluable tool for graphically depicting the weight of evidence, determining the facts, and measuring the preponderance of credible evidence. Begin by writing the allegation and the elements of proof at the top of the chart. Next, divide your evidence into two groups -- evidence that tends to support **substantiating** the allegation or evidence that tends to support **not substantiating** the allegation. Write this information on the chart. Indicate your value assessment levels of each piece of evidence (direct, circumstantial, hearsay, or opinion). Make a note that specifies if the oral evidence is a statement or testimony. Look for multiple citations in the evidence to establish any facts and then enter those facts as a separate line in either or both of the columns. You then weigh the resulting columns of evidence to determine a preponderance of credible evidence. Finally, assess the evidence as a whole and make a determination of substantiated or not substantiated.

5. **Translating the Force-Field Diagram into the ROI.** You can write directly into your ROI / ROII discussion paragraph the evidence entered into the Force-Field Diagram by

formatting specific subparagraphs that address evidence "supporting substantiation" and "not supporting substantiation." Formatting your discussion of the evidence in this manner clearly details a preponderance of evidence to your reader (Command IG or Directing Authority).

Force-Field Diagram CUI

Allegation #1: COL Brown committed adultery in violation of Article 134, UCMJ.

Elements of Proof: One or more parties were married. Wrongful sexual intercourse transpired. Conduct was detrimental to good order and discipline.

Substantiate	Not Substantiate
<ul style="list-style-type: none"> • (O) MAJ Jones stated COL Brown was having an affair. • (D) COL Brown DD 1172- was married to Diane Brown as of 2 June 1980. • (C) Mrs. Brown, wife of COL Brown, provided 7 love letters from unknown woman addressed to COL Brown expressing love for him. • (H/S) CPT Baker heard rumors that COL Brown was having an affair with Ms. Smith. Lost respect for COL Brown. • (D) Ms. Smith stated she had sexual intercourse with COL Brown on 4 January 2003. • (D) Ms. Smith provided photos of her having sexual intercourse with COL Brown on 4 January 2003. • Fact - COL Brown had wrongful sexual intercourse and was married. COL Brown's conduct was prejudicial to good order and discipline. 	<ul style="list-style-type: none"> • (O) COL Brown stated his relationship with Ms Smith was "Platonic." • (D) COL Brown refused to comment when asked about having sexual intercourse with Ms Smith on 4 January 2003.

Key – (O) Opinion; (H/S) Hearsay; (C) Circumstantial; (D) Direct

CUI
Figure II-4-4

Section 4-13

Report of Investigation and Report of Investigative Inquiry

1. **Documenting the Findings.** Once you have completed your Investigation or Investigative Inquiry, you must document the findings (**substantiated** and / or **not substantiated**) in an ROI / ROII. The ROI can contain multiple subjects / suspects if the allegations originated from the same complainant. The ROI / ROII format (found later in this section) provides a logical, disciplined approach for presenting the case to an uninformed reader such as the Directing Authority, the SJA, or another IG. Exceptions to using the standard ROI format exist for the following: The Hotline Completion Report (HCR) format is for DoD Hotline complaints, and the Military Reprisal Investigation format in Chapter 9 is for resolving allegations of Whistleblower Reprisal.

a. **Investigation.** As part of the formal investigation process, you must document your case by preparing an ROI. This section contains instructions for writing and formatting ROIs. Before you prepare an ROI, you should review previously prepared reports so that you can get a feel for the style and level of detail required in your command.

b. **Investigative Inquiry.** Use the ROI format to document an ROII for your Investigative Inquiry.

2. **Importance of the ROI / ROII.** The ROI / ROII is a very important document. It gives the Directing Authority the facts, the conclusions you drew from analyzing the facts, and your recommendations. The report provides the basis for the Directing Authority's decision in the case. It may affect the future of the person under Investigation or result in policy changes in your command. Your findings may also be subject to the personnel screening process for centralized selection boards, which can potentially impact a Soldier's career.

3. **The ROI / ROII as the Official Record of the Case.** The ROI / ROII is the official record of the case. It documents your authority to conduct the Investigation and the fact that the IG notified the subject or suspect of the allegations. The ROI / ROII also contains all pertinent testimony and evidence and makes provisions for the Directing Authority to approve the report. Keep the approved report with its exhibits on file in accordance with records disposition instructions. The summary transcribed into the IGARS database must be concise, complete, and able to stand alone long after the paper file is destroyed.

4. **Title.** The ROI / ROII is identified at the top of the first page by centering the title "REPORT OF INVESTIGATION" or "REPORT OF INVESTIGATIVE INQUIRY" with the case number centered below on the next line.

5. **Administrative Section.** The Administrative Section starts with the name and position of the subjects and suspects followed by the authority and the background.

The background section is only necessary when an introduction is not used. Begin this section directly after the header for the Executive Summary.

6. Executive Summary. The Executive Summary (EXSUM) is **optional** but is a useful addition to the ROI / ROII when presenting the Directing Authority a complex or lengthy report. The EXSUM is a separate, stand-alone document that incorporates the administrative section and provides a synopsis and finding for each allegation. The EXSUM offers the Directing Authority an alternative to reading the full report if he or she is under time constraints. A well-written EXSUM provides an abbreviated alternative that presents the results of your Investigation and why you are making the recommendations that you are making. The EXSUM contains administrative data such as the name and duty position of the subject / suspect; the authority for the Investigation; the background; and an abbreviated, but fully developed, synopsis detailing the logic behind the substantiated and the not-substantiated allegations.

7. Name and Position, Authority, and Background. After listing the name and duty position of the subject / suspect, the authority for the Investigation, and the background, begin presenting the allegations.

8. Present all substantiated allegations with their synopsis followed by any not-substantiated allegations and their synopsis followed by a discussion of any issues presented in the original complaint.

a. The synopsis consists of a reference to the allegation, the restated standard, a summary of the elements of proof from the standard, the key evidence on both sides of the question that led to the conclusion, the analysis that shows how the evidence either met or failed to meet the elements of proof from the standard, and the concluding statement. You should include mitigating evidence here as well. Failure to address evidence that supports an alternate position to your conclusion might create the appearance that the IG was not impartial. The synopsis resembles the analysis sub-paragraph within the discussion paragraph for the corresponding allegation in the body of the ROI but does not contain the same level of detail.

b. Example outline for framing the synopsis: "The IG, 66th Infantry Division, received a signed letter of complaint against the Commander, 3rd BCT, 66th Infantry Division (3 / 66 BCT). The letter of complaint was dated 14 April 2012, and the Inspector General received it on 15 April 2012. The complainant alleged that (who) (improperly) (did or failed to do) (something in violation of a policy, regulation, law). [Restated allegation] The elements of proof within the standard were (x, y, z...). [Restated standard] Although there was evidence (a, b, c...) [Evidence on one side] that indicates how (explain) he or she (did or did not do something) in violation of (standard), there was a weight of credible evidence (d, e, f...) [Evidence on the other side] that indicates how (explain), in relation to the elements of proof (a, b, c...) [Analysis], he or she in fact (did or did not do something) in violation of (standard). The preponderance of credible evidence indicated that (name) (did) or (did not) violate (the standard) [Conclusion.]"

9. Introduction. The Introduction is **optional**. Use it when the case is complex enough that the report would be difficult to understand without introductory information. The introduction can provide an overview of interrelated events; lay out a chronology; explain the history of fact-finding on a case conflicted by time, multiple agency involvement, personnel turnover, or other operational demands; or provide any other

information needed to facilitate understanding in a single, rapid reading. Omit the Background paragraph in the Administrative Section if using an Introduction, and capture the Background information in the Introduction. If using an EXSUM, the Introduction will start on a new page. Keep in mind that the EXSUM and the introduction are not required when the case is straightforward or so narrow in scope that restating the facts here would not prove beneficial for the Directing Authority.

10. Consideration of Allegations: Evidence.

a. Because each allegation is addressed separately, only present evidence that directly pertains to the allegation being discussed. Evidence concerning other allegations should be addressed separately in their respective sections. Key evidence forms the facts from which the conclusion is derived. This key evidence is tied directly to the elements of proof listed for, or derived from, the standard. Present each piece of evidence clearly and concisely. Present redundant evidence only to the extent necessary to establish a fact or corroborate other key evidence -- but keep it to a minimum. Include evidence that clarifies the gravity or egregiousness of the offense as well as mitigating information so decision-makers can make informed decisions. Key evidence may be two or three statements made by a witness during a 90-minute interview. Refrain from including additional, unnecessary information from the testimony that could confuse a reader. The transcript or the summarized testimony is attached to the ROI / ROII for the reader's review if he or she wants to examine the testimony in its entirety.

b. Testimony is difficult evidence to analyze and should not be analyzed in the evidence section. Reserve that analysis for the discussion paragraph. Witnesses' opinions are not facts, and only a few witnesses tend to provide key evidentiary testimony. You should validate testimony with other information. You might have to piece together fragments of information from various witnesses to present a picture of what took place and then explain this picture as analytical narrative in the discussion paragraph. You may summarize witness testimony, but be careful not to omit important points. Use care in summarizing the testimony of a witness who lacks knowledge of certain events; the lack of knowledge may be genuine, but it may also indicate that the witness was not candid. If the lack of knowledge is relevant, include it in the evidence section and then in the discussion. In complex cases (or those with many witnesses), it helps to develop a system for identifying what each witness said about each allegation. A matrix, an outline, or file cards may be helpful. Whatever system you use, reference the testimony so you can quickly find it in the transcript to recall the context. This technique also helps eliminate unneeded testimony. A sample of an evidence matrix is on page II-4-10, Figure II-4-1.

11. Consideration of Allegations: Discussion.

a. The Discussion section is the most critical part of the ROI. In this section, the IG brings together all of the evidence (standards, documents, and testimony) that supports substantiation and all of the evidence that supports not substantiation and analyzes it in relation to the elements of proof. The IG must present a comprehensive and logical argument to support his or her conclusions. The IG must explain clearly why he or she evaluated the evidence a certain way and afforded it a particular level of credibility. A certain amount of subjectivity is inevitable, because the IG evaluates the evidence in the context of his or her own experiences and personal belief systems. Most

importantly, do not rely on the reader to fill in blanks or to attribute evidence to one side of the argument or the other. The analysis in the Discussion section should lead an uninformed reader logically through all the evidence presented to clearly presented conclusions by weighing the evidence on both sides in relation to the standard. If the facts and evidence lead to obvious conclusions, the analysis in the discussion comparing the evidence to the elements of proof may be brief. Your Directing Authority will use your Discussion subparagraphs to understand why the evidence is important.

b. This section should start with a restatement of the allegation. ROIs are frequently lengthy documents, and they may contain several allegations. In many cases a subparagraph dedicated to restating the allegation helps focus the reader on exactly what the IG is focusing on during his or her discussion.

c. After restating the allegation, remind the reader of the standard and its elements of proof. This reminder is particularly helpful in cases with multiple allegations.

d. The IG must demonstrate that the Investigation was conducted in a fair and impartial -- yet thorough -- manner. The best way to explain this point is to present the evidence in two subparagraphs -- one subparagraph that recites the evidence supporting substantiation and another that supports not-substantiation. Separating the evidence in this way helps the reader understand the IG's logic and aids in writing the Analysis subsection. Remember, you must address all of the evidence presented in the ROI in the Analysis subsection of the Discussion section, and you must include the source of that information. If evidence is not needed for analysis, do not present it in Evidence. IGs often improperly introduce information in the Discussion section that they failed to present in Evidence, or they introduce new evidence in the Discussion.

e. Analysis should also address any conflicts within the evidence. An IG can identify witnesses who are not credible or who appear to be untruthful since the standard is the preponderance of *credible* evidence. An IG must balance conflicting opinions of multiple witnesses by considering what evidence supports the offered opinions. Be alert for witnesses presenting opinions (conjecture) as fact. Opinions without verification remain the weakest form of evidence. An analysis of the evidence requires the IG to consider carefully evidence that not only supports his or her conclusion but also to evaluate evidence that contradicts that conclusion. Avoid basing your conclusions solely on opinions; this approach will not meet legal sufficiency if corroborating evidence or facts existed but were not gathered during fact-finding. Remember, Investigations are a "dogged pursuit of the truth," not a cursory drill to satisfy a requirement. The key evidence that led to the conclusion, and the analysis that shows how the evidence either met or did not meet the elements of proof from the standard, must also be discussed in this section.

f. Example outline for framing the analysis: " The complainant alleged that (who) (improperly) (did or failed to do) (something in violation of a policy, regulation, law). [Restated allegation] There was a requirement for (subject or suspect) to (do something). The standard states (x, y, z...). [Restated standard.] Although there was evidence (a, b, c...) [Evidence on one side] that indicates how (explain), in relation to the elements of proof (a, b, c...) [Analysis], he or she (did or did not do something) in violation of (standard), there was a weight of credible evidence (d, e, f...) [Evidence on the other side] that indicates how (explain), in relation to the elements of proof (a, b, c...) [Analysis], he or she in fact (did or did not do something) in violation of (standard). The

preponderance of credible evidence indicated that (name) (improperly -- unless wrongdoing is clearly inherent in the language) (did) or (did not) violate (the standard) [Conclusion.]”

g. An IG who thinks the evidence is irrefutable and does not present the opposite position puts his or her impartiality at risk. The goal of an Investigation is to develop and report sufficient evidence to conclude that the allegation(s) was either substantiated or not substantiated. Therefore, an IG must gather evidence to support and refute the allegations with equal vigor. Experience has shown that an IG's unsupported opinion weakens a report because he or she loses impartiality. In general, an IG should avoid adjectives and adverbs when writing an ROI because they often exaggerate the nature of the evidence. And always avoid an inappropriate tone, such as righteous indignation or moralizing, since it decreases credibility and may anger the reader.

12. Conclusion.

a. The Conclusion must be consistent with the allegations, standards, evidence, and discussion. If the analysis is solid in the Discussion, the Conclusion logically follows and needs no further explanation. A substantiated allegation always indicates an impropriety. Most often, the Conclusion is one sentence that includes a verbatim restatement of the allegation.

b. Example format for conclusion: The allegation that (who) (improperly -- unless wrongdoing is clearly inherent in the language) (did) or (did not) violate (the standard) was (Substantiated or Not Substantiated).

c. **The only conclusions for allegations in an IG Investigation or Investigative Inquiry are “Substantiated” and “Not Substantiated.”** Do not use “partially substantiated” or “substantiated without impropriety.” If only part of the allegation is substantiated, the allegation is improperly framed and should be divided into several parts for separate analysis and discussion. An IG's authority does not extend to determining the gravity of the violation of a standard. Do not present that opinion in the conclusion.

d. IGs will use the conclusion of "closed without findings" only when the Investigation or Investigative Inquiry is terminated prior to conclusion under the following special circumstances:

(1) A legal process such as a court order or a settlement between the U.S. Government and a subject and / or complainant includes a requirement to terminate all ongoing Investigations or Investigative Inquiries. The IG will obtain a copy of the order or settlement, include it in the case file, and record the matter as "closed without findings."

(2) Directing Authorities may, at any time, request approval from TIG to terminate an IG Investigation or Investigative Inquiry that they directed. Upon TIG approval, process the IGAR in accordance with procedural guidance from DAIG's Assistance Division.

e. Conclusions must be complete. Sometimes there is more than one sentence pertaining directly to the allegation. Perhaps an individual's behavior did violate a

regulation, but extenuating or mitigating circumstances existed that the Directing Authority should know. Include evidence indicating these circumstances in the Evidence and Discussion sections, and address the circumstances in the conclusion as follows: "However, the evidence indicated that genuine concern for his (or her) subordinates, and not self-interest, motivated the suspect's actions."

13. Addressing Issues in an ROI / ROII. Issues brought forth by the complainant in conjunction with allegations are addressed separately in the ROI / ROII. Address these issues in the same format used for allegations. Issues are either "**Founded**" or "**Unfounded.**" The IG must describe the issue, state the standard and the elements of proof, present the evidence, compare the evidence to the standard, and draw a conclusion.

14. Other Matters.

a. Use this paragraph to present information about matters discovered during an Investigation that go beyond the scope of the Directive. This paragraph is not a license to reach beyond the scope of your Directive, so use it carefully. If unsure, seek guidance from your Command IG or Directing Authority.

b. An example of an Other Matter could be when an IG investigates allegations of improper command influence and becomes aware of poor vehicle maintenance, he or she discusses that fact in the "Other Matters" section of the ROI / ROII. Since vehicle maintenance is outside the scope of the original directive, the IG might recommend an IG Inspection or an examination by another staff agency. However, if the Investigation into improper command influence developed information about low unit morale because of this improper influence, then that issue / situation would be a related matter for Investigation within the scope of your Directive. You would then present the evidence and analysis leading to the conclusion of low morale in the body of the ROI / ROII.

c. Sometimes a witness presents, or an IG otherwise discovers, unfavorable information about the suspect or the subject during the investigative process. If this information is unrelated to the allegations or issues listed in the Action Memorandum, and is not corroborated by any other evidence but will appear in the final report (such as in the transcribed testimony of a witness), then the IG should include one of the following statements at this point in the final report: (1) The subject / suspect was informed of uncorroborated, unfavorable information and chose not to comment on it; (2) the subject / suspect was informed of uncorroborated, unfavorable information, and his / her comments are included in his / her statement / testimony in Exhibit B-#; or (3) the subject / suspect was informed of uncorroborated unfavorable information and provided a written response posted in Exhibit B-#.

15. Recommendations.

a. The IG must close the ROI with recommendations for action by the Directing Authority, i.e., that the report be approved and that the case be closed. **Do not make recommendations of any punitive, adverse administrative, or disciplinary action concerning the subject or suspect.** IGs do not recommend a specific type of command investigation, such as a preliminary inquiry, an AR 15-6 investigation, or Article 32 investigation. To do so compromises an IG's impartiality. However, administrative action to correct a mistake (for example, recovery of an improper TDY

payment) may be part of an IG Investigation recommendation. An IG may also recommend that allegations be turned over for investigation by another investigating officer or another criminal investigative agency (MPI / CID).

b. The Directing Authority, by approving the recommendation to close a case, implicitly directs the monitoring of any required actions taken such as implementing letters, forwarding the ROI / ROII to a higher headquarters, and closing the file without further referral. However, if the follow-up action appears inappropriate, you should advise the Directing Authority.

c. The IG must make recommendations that directly correct all systemic problems identified and noted in Other Matters. Identify what agency or individual is tasked with executing the necessary action.

d. Do not make any comments or recommendations related to uncorroborated, unfavorable information that appears in the report or on the subject's or suspect's response or lack of response to that unfavorable information.

Report Format: Report of Investigation / Investigative Inquiry**CUI****REPORT OF INVESTIGATION / INVESTIGATIVE INQUIRY
(Case #)****EXECUTIVE SUMMARY:**

(Optional) When used, the executive summary must be a stand-alone document. It should be concise and, when possible, limited to one or two pages. Do not assume the Directing Authority has any knowledge of the case. The header for the executive summary will precede the header for the name and position.

NAME / POSITION: Provide the name, grade, and duty positions of all subjects or suspects as of the date the improprieties allegedly occurred. NAME / POSITION is the first section in the report, regardless of whether or not you use an executive summary.

AUTHORITY: Cite the authority for the Investigation (usually the Directive). Include the date of the Directive and the names and organizations of the investigating officers. Cite any changes in the scope of the Investigation (e.g., new allegations) that may have occurred after the Directive was signed. Include a copy of your Directive and any changes to it as EXHIBIT A-1 of your ROI. For Investigative Inquiries, cite the Directing Authority, and briefly describe the scope. AUTHORITY is the second section in the report, regardless of whether or not you use an executive summary.

BACKGROUND: Briefly describe how the IG received the allegations. Identify the complainant (if known), unless the complainant explicitly requested anonymity. The complaint is summarized here and presented as evidence in the "Consideration of Allegations" section. Add any other information needed to understand the case. The Background is omitted if an Introduction is used. If an Executive Summary is included, it follows as shown. Otherwise, continue with the Consideration of Allegations (the body of the report).

SUBSTANTIATED ALLEGATION: State the first substantiated allegation. It should be worded exactly the same as in the Action Memorandum unless the IO received approval to modify it during the course of the Investigation.

SYNOPSIS: The synopsis should include a concise summary of the allegation, the restated standard, a summary of the elements of proof from the standard, the key evidence on both sides, and a comparative analysis of the evidence that logically

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demonstrates how the evidence met the elements of proof from the standard and led to the conclusion that the allegation was substantiated. Do not include all the details; these details are available in the ROI itself. Conclude the synopsis for the substantiated allegation with a finding statement that states, "The preponderance of credible evidence indicated that (name) did violate (the standard)."

(In succeeding paragraphs, list other substantiated allegations followed by synopses in the same format as above)

NOT SUBSTANTIATED ALLEGATION: State the first not-substantiated allegation. Word it exactly as in the Action Memorandum unless the IO received approval to modify it during the course of the Investigation.

SYNOPSIS: The synopsis should include a concise summary of the allegation, the restated standard, a summary of the elements of proof from the standard, the key evidence on both sides, and a comparative analysis of the evidence that logically demonstrates how the evidence met the elements of proof from the standard and led to the conclusion that the allegation was not substantiated. Do not include all the details; these details are available in the ROI itself. Conclude the synopsis for the not-substantiated allegation with a finding statement that states, "The preponderance of credible evidence indicated that (name) did not violate (the standard)"

(In succeeding paragraphs, list the remaining allegations that you did not substantiate each followed by its synopsis).

(Each page of the executive summary and the ROI must have as a header and footer "CUI." Number the pages beginning with page two. See Chapter 3 of Army Regulation 20-1 for further guidance).

INTRODUCTION:

1. **(Optional)** Begin the main body of the ROI on a new page. If used, include the Background as part of the Introduction instead of a separate Background in the Administrative Section. Use it to present extensive background or introductory material necessary for a reader to understand the case. Do not include evidence in the introduction, except as necessary to "connect the dots" for the reader.

CONSIDERATION OF ALLEGATIONS:

2. **Allegation 1:** Restate the allegation exactly as written in the executive summary. Should you have more than one allegation, the first allegation that you address in the body of your ROI / ROII need not be the first allegation in your Action Memorandum or the first allegation listed in you executive summary -- but ordering them in this manner makes your ROI / ROII more understandable.

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(Note: If you omit the introduction, the first allegation becomes paragraph one of the body of the ROI.)

a. **Evidence.** In the Evidence subparagraph for an allegation, introduce all the evidence pertaining to that single allegation. Normally, you will use succeeding subparagraphs for each item of evidence beginning with the allegation and followed by the standard or standards, documentary evidence, testimony, and statements (with the complainant's testimony first and the subject's or suspect's testimony last). Do not include evidence that does not pertain to the allegation considered, and do not analyze the complainant's testimony first and the subject's or suspect's testimony last). Do not include evidence that does not pertain to the allegation considered, and do not analyze evidence in this section. The ultimate purpose of this section is to present everything the IG considered in determining the preponderance of credible evidence.

(1) **Standard.** In this and succeeding subparagraphs, cite and describe the standards. Summarize (if the standard is longer than a paragraph) or quote verbatim the guidance contained in regulations, policies, or the UCMJ. The IG must cite the elements of proof contained in, or derived from, the standard. Attach extracts of the regulations, policies, or UCMJ to the report as exhibits. Ensure that the standards used in the ROI were in effect at the time the misconduct allegedly occurred, and indicate the standard's date. Personnel and travel regulations change frequently.

(2) **Documentary Evidence.** In succeeding subparagraphs, introduce each item of documentary evidence. The first item of documentary evidence is a description of the allegation initially made by the complainant. It can be the IGAR or letter signed by the complainant. Identify each item of documentary evidence by identifying the document and describe the evidence it contains. Example: "(n) DA 1351-2, Travel Voucher or Sub-voucher, Control # XXXXXXXX, dated 4 January 20XX, showed that COL Brown claimed reimbursement for 400 POC miles pursuant to official travel from XXXXX to XXXXX on 5 through 8 June 20XX." Append all documents to your ROI as exhibits.

(3) **Testimonial Evidence.** Conduct the complainant's interview early in the Investigation. Your complainant is often a primary source of evidence against the suspect. More importantly, the complainant is frequently able to identify other witnesses. The ROI will flow more easily if you introduce your complainant's evidence first. Introduce evidence provided by all witnesses for this allegation in separate subparagraphs -- one for each witness. There is no prescribed order for the witnesses or for the detail you must provide unless you interviewed a witness who is a subject-matter expert (SME). List the SME witness first because the SME often explains the policy, process, procedure, or standard involved in the case. Introduce the evidence in a manner that is logical and understandable for a reader who is not familiar with the details of the case. Normally, you paraphrase and summarize witnesses' testimony rather than quoting them directly. Quoting is recommended when it would be difficult and laborious to capture the substance and sentiment of that piece of key testimony.

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Quote sparingly, or it becomes a distracter. Append the transcripts or summarized testimony to the ROI / ROII as exhibits. When you interview the suspect or subject, you must provide him or her the opportunity to comment on all unfavorable information included in the ROI / ROII, which leads you to interview the subject or suspect after all witnesses or risk having to do a recall interview.

NOTE: As an exception to providing separate subparagraphs for each witness, and in the event that you have several witnesses who provided the same evidence, you may combine that evidence into a single subparagraph (e.g.; "(n) SSG Jones, SSG Smith, and SSG Taylor, squad leaders in 3rd Platoon, Company B, all testified..."). This approach is not frequently used.

(4) **Other Evidence.** Describe and / or enter physical evidence in this paragraph. Attach renderings (photographs, sketches, etc.) of physical objects if necessary when inclusion of an actual object into the ROI / ROII is impractical. Enter any IG observations here in MFR format. Address physical evidence, such as documentary evidence. Identify the object and describe its relevance. Since you will usually not maintain the object with the ROI / ROII, explain where it is stored. Frequently, you may have documentary evidence in lieu of physical evidence (e.g., an accident report instead of a damaged vehicle).

b. **Discussion:** The discussion paragraph contains five separate sub-paragraphs. As a whole, make sure evidence supports all analysis and that all conclusions flow logically from the discussion. Concisely evaluate the evidence supporting substantiation and the evidence supporting not substantiation. Make judgments regarding the credibility of the evidence. You must determine if the evidence satisfies or fails each element of proof. You must resolve discrepancies and contradictions (witnesses' recollections of events will rarely be the same). Finally, you must determine if the preponderance of credible evidence either substantiates or refutes the allegation.

(1) (*Restated Allegation*) The first sub-paragraph is the restated allegation.

(2) (*Summarized Standard*) The second sub-paragraph is a summary of the applicable standard and the elements of proof.

(3) (*Evidence Support Substantiation*) The third sub-paragraph is a summary of the key evidence that tended to substantiate the allegation.

(4) (*Evidence Supporting Not Substantiation*) The fourth sub-paragraph is a summary of the key evidence that tended to not substantiate the allegation.

(5) (*Analysis*) The analysis paragraph must clearly explain your finding for the allegation. The burden is upon the IG to lay out logically and clearly the evidence he or she gathered so that the Directing Authority will understand the case and draw the

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same conclusion. The IG must explain how the evidence supported or did not support the elements of proof leading to a conclusion in a logical, step-by-step method.

Reasoning, critical-thinking, and writing skills are crucial. The IG must remain impartial and tell all sides of the story. Focus the reader on the facts that the evidence revealed. **Tell the story of how and why the body of evidence you presented is credible and how that evidence led you to conclude if the allegation was substantiated or not substantiated.** Your judgment and *informed* opinion matter in this case. Conclude your discussion with a finding statement that states, "The preponderance of credible evidence indicated that (name) (did) or (did not) violate (the standard)"

c. **Conclusion:** The allegation that (who) (improperly -- unless wrongdoing is clearly inherent in the language) (did) or (did not) violate (the standard) was (Substantiated or Not Substantiated). The conclusion is a concise statement of your determination that it is more likely than not that the allegation did or did not occur. State the allegation exactly as written in the beginning of the paragraph and the executive summary (who, improperly, the alleged misconduct, and the standard) followed by ". . . was substantiated" or ". . . was not substantiated." Neither / nor conclusions are forbidden and indicate a failure in investigative analysis.

3. **Allegation 2:** State the next allegation followed by its evidence, discussion, and conclusion.

a. **Evidence:** Frequently, witnesses provide evidence on more than one allegation. You must sort through their testimony and enter the evidence where appropriate in the ROI / ROII. For clarity, you may cite specific pages where the evidence can be found. Example: "(n) SPC Jones testified that he and PFC McSpivit . . . (EXHIBIT B-7, p. 5-6, 11)." If evidence entered for a previous allegation is pertinent to this allegation, refer to it again in summary. Example: "(n) CPT Smith, as previously indicated, testified that... (EXHIBIT B-9, p. 7)"

b. **Discussion:** Discuss evidence entered for this allegation only within the prescribed five sub-paragraphs.

c. **Conclusion:** The allegation that (who) (improperly -- unless wrongdoing is clearly inherent in the language) (did) or (did not) violate (the standard) was (Substantiated or Not Substantiated).

4. **Issue 1:** If there are issues as well as allegations, address them after you address the allegations. State the issue as presented by the complainant.

a. **Evidence:** ...

b. **Discussion:** ...

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c. **Conclusion:** The issue that _____ was (Founded / Unfounded).

OTHER MATTERS:

5. During the course of IG Investigations, you will often uncover issues that, while not pertinent to the allegations, require your Directing Authority's attention. These situations may be systemic problems that require correction by a staff agency or perhaps an inspection by your own office.

a. Document these situations in separate paragraphs in the "Other Matters" paragraphs (one paragraph for each issue). For example, an "Other Matter" might read: "During the course of the investigation, we determined that XX Brigade was not following the procedures for verifying travel vouchers outlined in DA message XXXX. This situation was evident in the documents examined (EXHIBITS E-1 through E-17) and the testimony of LTC Smith and MAJ Doe (EXHIBITS B-3 and B-7)."

b. If uncorroborated, unfavorable information will appear in the final report, then the IG must indicate here that the subject or suspect was given the opportunity to know and to comment on that unfavorable information. If the subject or suspect did in fact comment, then indicate where to find the comment in the exhibits.

RECOMMENDATIONS:

6. The first recommendation for an ROI / ROII is as follows: "Approve the report and close the case."

7. Never recommend adverse action.

8. If you have documented other matters, **you must include** a recommendation for each of them. Do not make recommendations for matters not mentioned in the body of the paper, to include Other Matters. Ensure that your recommendations are appropriate for the issues that you raise. These recommendations are normally written like an IG Inspection report recommendation (what to fix, who will fix it, and how to fix it) found in The Inspections Guide. (Never comment on, or make recommendations related to, any uncorroborated, unfavorable information that appears in the final report.) Coordinate in advance with the agencies you specify in the recommendations (the proponents) as the ones you think should fix the problem as a professional courtesy. Remember, you may not release any part of the ROI / ROII for these purposes, and you must still protect confidentiality.

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CONCUR:

Inspector General's
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APPROVED:

Directing Authority's
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Date

Encl
Exhibit List

EXHIBITS:

1. Attach exhibits to your ROI / ROII, or include them in separate volumes if you have several exhibits. Identify exhibits by letter and arrange them in the order they appear in the report. The Directive for Investigation is normally EXHIBIT A-1, testimony is normally EXHIBIT B (with sub-numbers such as B-1, B-2, etc. for each witness), standards are EXHIBIT C, and documents are EXHIBIT D (with sub-numbers such as D-1, D-2, etc. for each document.) Other exhibits are marked alphabetically, continuing into double and triple letters as necessary (e.g. AA, AB, AC). If an exhibit is several pages long, but only one page pertains to the Investigation, consider including only that one properly identified page within the ROI / ROII. An exhibit list precedes EXHIBIT A. This list identifies each exhibit and its letter designation.
2. The testimony list (normally EXHIBIT B) should give the last name, rank, and title of the persons whose testimony is included in the ROI / ROII. The testimony should also include those whose testimony was summarized and those who provided statements.

Note: See Part Three, Chapter Two, of this guide for the required naming convention of case files uploaded into IGARS.

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STYLE NOTES:

1. The first time you refer to an individual, include his or her grade, full name, and position. Thereafter, simply refer to him or her by grade and last name. If an individual has changed grade, name (marriage, for instance), or duty position, you should indicate it in your report. (e.g.: "MAJ Jane Smith, Executive Officer, 37th S&T Battalion (formerly CPT Jane Jones, Commander, Company B, 37th S&T Battalion), testified...")
2. Spell out all acronyms the first time you use them. Abbreviate after that.
3. Use the word "alleged" in your report when referring to the matters under investigation. Use the word "testified" for anyone interviewed who took an oath of truthfulness, regardless of whether the person swore, affirmed, or called on a deity as a witness. Use the word "stated" for anyone interviewed who did not take an oath. Because of the special meanings of these two words in the context of an Investigation, the word "stated" will not be mixed with the word "testified."
4. Do not alter the text or verb tense of standards and elements of proof cited directly from the source text. Doing so increases the likelihood of unintentionally changing the meaning of the standard.
5. Write your report (and any summarized standards) in the **past tense**. The document is a "snapshot" of a particular time, and the situation may have changed.

CLASSIFICATION REQUIREMENTS:

1. Classify and safeguard ROI / ROIs that contain classified defense information in accordance with AR 380-5, Department of the Army Information Security Program.
2. Mark ROI / ROIs containing classified defense information as follows:
"Classified IAW AR 380-5. When Declassified, Document BECOMES Controlled Unclassified Information (CUI). Dissemination is prohibited except as authorized by AR 20-1."
3. Mark an ROI / ROI which does not contain classified defense information in accordance with AR 25-55, The Department of the Army Freedom of Information Act Program. Place "Controlled Unclassified Information (CUI)" in letters 3 / 16 of an inch high on the top and bottom of the front cover and on the outside of the back cover. Mark extracts of ROI / ROIs in a similar manner. (NOTE: Each page should have a header and footer marked "CUI"), and the first page (or cover) should have the CUI category box (see current DAIG interim guidance on CUI markings located on TIGS's website).
4. Handle and mark all ROIs transmitted outside IG channels in accordance with instructions contained in Chapter 3 of Army Regulation 20-1 and in DAIG's interim guidance on CUI markings located on TIGS's website.

ROI / ROII REVIEWS:

1. **Internal (Peer) Review.** While your ROI is in draft form, have as many IGs as practical review the document to ensure that it is complete, correct, and understandable. You will find that when you work directly on a case and write the ROI, you become so close and familiar with the issues that you will make mental connections that are not apparent to your reader. Your peers can point out these problems, as well as grammatical errors, faulty logic, and gaps in evidence. Use an IG who was not part of the Investigation or only had limited involvement. This IG can give the report a "cold read," unbiased by the actual conduct of the Investigation. Accept peer criticism in a positive manner, and do not be defensive. Evaluate all comments with an open mind. The IG should use a case review and closure checklist to assist in evaluating the ROI. Refer to the sample IG case review and closure checklist in this section.

2. **Command IG Approval.** Once the peer-review process is complete and the ROI assembled, you and your partner IG should sign and submit the report through your Command IG along with your case review and closure checklist. The Command IG can concur with your report and forward it or return it to you with recommended changes. The Command IG will want to know the SJA's opinion prior to sending the report to the Directing Authority. If the IG substantiates any allegations, then an SJA review is required.

3. **SJA Review.** Ask the SJA to review your report while in draft form (after an internal peer review but before you send it to your Command IG). This review allows you to correct any possible problems before you finalize the ROI. After the Command IG approves your ROI, formally refer the document to the SJA for a written legal review to determine if there are any legal objections and that a preponderance of the credible evidence supports your conclusion. Resolve any discrepancies or shortfalls identified by the SJA prior to finalizing the report. If there were major corrections or changes made to the report, you should send it back to the SJA for another review. Attach a copy of the SJA's final legal opinion to your ROI before presenting the ROI to the Directing Authority. You should also ask for your SJA's opinion concerning whether you have properly interpreted laws, regulations, and policy (this should have been done before you began and throughout the Investigation). The SJA should have agreed with your initial analysis of how to handle the case and should be pre-briefed before each update or decision briefing to the Directing Authority. An excellent tool for keeping the SJA abreast of the case is to use your evidence matrix. Depending on the nature of the allegations and whom the allegations are against, the SJA may want to accompany you when you brief the Directing Authority.

ROI / ROII COPIES:

The circumstances of each case and local SOP dictate the number of copies required.

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IG Case Review / Closure Checklist Example:

Case #: _____ Date: _____

- | | | | |
|--|-----|----|-----|
| 1. Was the correct report format used and the report signed? | YES | NO | |
| 2. Was an investigation plan completed? | YES | NO | |
| 3. Was the synopsis paragraph concise and complete? | YES | NO | |
| 4. Does the report address the entirety of the complaint? | YES | NO | |
| 5. Were all allegations and issues identified / addressed? | YES | NO | |
| 6. Was the correct standard(s) utilized to address the allegation(s) and any accompanying issues(s)? | YES | NO | |
| 7. Were the elements of proof clearly articulated? | YES | NO | |
| 8. Was evidence presented, content concisely summarized and referenced as exhibits? | YES | NO | |
| 9. Were appropriate witnesses interviewed? | YES | NO | |
| 10. Were notifications completed and included as exhibits? | YES | NO | |
| 11. Did each suspect sign a DA Form 3881? | YES | NO | N/A |
| 12. Was the evidence analyzed and were conclusions logical and supported by evidence? | YES | NO | |
| 13. Were all exhibits organized in accordance with the ROI List of Exhibits Format? | YES | NO | |
| 14. Was a legal review completed / uploaded to IGARS? | YES | NO | N/A |
| 15. File contents marked with IG protective marking? | YES | NO | |

 Comments:

Peer Reviewer:	A&I Deputy:	A&I Chief:	Admin Assistant:
Concur YES NO / Date:	Concur YES NO / Date:	Concur YES NO / Date:	Date Closed:

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Report Example: Report of Investigation / Investigative Inquiry**CUI****REPORT OF INVESTIGATION
(CASE OTR 05-0019)****EXECUTIVE SUMMARY: (not used)**

NAME/POSITION: Colonel (COL) Robert E. Brown, Director of Personnel and Community Activities (DPCA), Fort Von Steuben (FVS), Virginia (VA).

AUTHORITY: Commanding General, FVS, Directive, dated 15 December 2016. (EXHIBIT A-1)

BACKGROUND: An anonymous "concerned Employee" made allegations against COL Brown in a letter received by the Commanding General (CG) on 30 November 2016. (EXHIBIT A-2)

SUBSTANTIATED ALLEGATION: COL Brown conducted an adulterous relationship with his secretary in violation of Article 134, Uniform Code of Military Justice (UCMJ).

SYNOPSIS: An anonymous complainant alleged that COL Brown had an adulterous relationship with his secretary, Ms. Sallie Smith, Secretary, DPCA, FVS. Article 134, UCMJ, prohibited adultery. The elements of proof were [the incidence of] sexual intercourse, [one or both were] married, and the conduct [was prejudicial to] good order and discipline. Ms. Smith testified that she and COL Brown had an adulterous relationship during March and April 2016. Other witnesses testified they believed the two were having an adulterous relationship because they saw them kissing, because of their "unusually familiar" behavior and demeanor, and because they occasionally arrived at work together when COL Brown's wife was out of town. Motel receipts and registration slips indicated COL Brown registered for a double room at the Notel Motel in Lynchburg, VA, with "Mrs. Brown" on 21 March, 27 March, and 15 April 2016. A witness saw COL Brown with a woman in the motel lobby on those dates. COL Brown denied the allegation. COL Brown testified that his wife, Jenny Brown, was out of town during March and April 2016. COL Brown testified that he stayed in the motel occasionally to avoid the stress of being in his house by himself and that the registration slips with "Mrs. Brown" registered were a mistake. COL Brown testified that he had dinner with Ms. Smith on the occasions he stayed in the motel but no more. Ms. Smith's testimony that she had sexual intercourse with COL Brown on multiple occasions, supported by documentary evidence and corroborated by witness testimony, was more credible than COL Brown's denials. The preponderance of credible evidence indicated that COL Brown violated Article 134, UCMJ.

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NOT SUBSTANTIATED ALLEGATION: COL Brown sexually harassed female employees in violation of Army Regulation (AR) 600-20, Army Command Policy.

SYNOPSIS: An anonymous complainant alleged COL Brown sexually harassed female employees within the DPCA, 66th ID. AR 600-20 prohibited sexual harassment. The elements of proof were "unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature," to include "telling sexual jokes," that threatened the individual's job or career. No witnesses testified that COL Brown harassed them. One witness testified that he saw COL Brown harassing others, but that witness's testimony was not credible due to his personal grudge against COL Brown. Witnesses testified that COL Brown frequently used endearing terms ("Honey, Darling," etc.) to female employees but attributed this behavior to his age and background. Two female witnesses testified that they heard COL Brown tell a "mildly off-color" joke on one occasion, but they thought it was funny and appropriate for standing around the office coffee pot; they were not offended. COL Brown admitted that he had a habit of referring to women as "Honey" and "Darling" and once told a "dirty" joke in the office, which he admitted was a lapse in judgment. He denied harassing anyone. None of the women in the office, or any credible witness, objected to the use of the terms of endearment or to the joke. Moreover, these women did not feel that their jobs or careers were threatened. The preponderance of credible evidence indicated that COL Brown did not violate AR 600-20.

[Investigating Officer (IO) NOTE: The introduction was omitted because the report is easily understood without one.]

CONSIDERATION OF ALLEGATIONS

1. Allegation #1: COL Brown conducted an adulterous relationship in violation of Article 134 UCMJ.

a. Evidence:

(1) The IG, 66th Infantry Division and FVS, received an undated anonymous letter on 30 November 2016 from a "Concerned Employee." In the letter, the anonymous complainant alleged misconduct on the part of COL Brown. The anonymous complainant alleged that COL Brown conducted an adulterous relationship with Ms. Smith, his secretary, during March and April 2016. (EXHIBIT A-2)

(2) Article 134, UCMJ, Manual for Courts-Martial 2012, prohibited adultery. The stated essential elements of adultery were: "That the accused wrongfully had sexual intercourse with a certain person; at the time the accused or the other person was married to someone else; and that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces." (EXHIBIT C-1)

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(3) COL Brown's Officer Record Brief (ORB), verified by him on 23 January 2016, indicated that he was married to Mrs. Jennifer Coggins Brown. (EXHIBIT D-1)

(4) Registration entries and receipts for the Notel Motel, Lynchburg, VA, indicated Mr. Robert E. Brown and his wife were registered at the property on 21 March, 27 March, and 15 April 2016. The receipts were on a Visa card in the name of Robert E. Brown. (EXHIBIT D-2)

(5) SPC Jane A. Gray, Personnel Administrative Specialist, DPCA, testified on 4 January 2017 that she believed Ms. Smith and COL Brown were having an adulterous relationship because she saw COL Brown and Ms. Smith embracing and kissing in the coffee room in the spring of 2016. Ms. Smith confided in her that she (Ms. Smith) was having an "affair" with COL Brown and hoped to marry him once COL Brown divorced his present wife. COL Brown called her "Miss Smith" now. She lost respect for COL Brown after Ms. Smith confided in her, which made it hard for her to work for a while. Mr. Groom personally hated COL Brown and slandered him repeatedly. (EXHIBIT B-1)

(6) Mr. Thomas P. Groom, Budget Analyst, DPCA, testified on 8 January 2017 that he had believed COL Brown and Ms. Smith were currently having an adulterous relationship. They frequently went to lunch together in the spring of 2016 and seemed "unusually familiar," although COL Brown called her "Miss Smith" now. On several occasions during the spring of 2016, he saw their cars pull into the parking lot at the same time. This series of events seemed unusual to him because COL Brown normally preceded Ms. Smith to work by approximately 45 minutes. Mr. Groom testified that he hated COL Brown because he had not promoted him (Groom), was a sexual predator, abused his power, and had affairs with all of the women in the office. (EXHIBIT B-2)

[IO NOTE: Mr. Groom's demeanor during his testimony indicated he was biased against COL Brown to the point of being irrational.]

(7) Mr. Harold H. Hanson, desk clerk at the Notel Motel, testified on 9 January 2017 that he registered a Mr. and Mrs. Brown at the motel on 21 March, 27 March, and 15 April 2016. The two did not register together, but he saw them walking through the lobby and eating in the restaurant together. (EXHIBIT B-3)

[IO NOTE: Mr. Hanson identified COL Brown and Ms. Smith as Mr. and Mrs. Brown from photographs provided by the investigating officers.]

(8) Ms. Smith testified on 28 January 2017 that she and COL Brown had an "affair" and that COL Brown had promised to marry her once his divorce from his present wife was finalized. They (Ms. Smith and COL Brown) had engaged in sexual intercourse on seven occasions -- four times in her apartment when her roommate was

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away and three times at the Notel Motel in Lynchburg during March and April 2016. She provided photos of them having sexual intercourse. The "affair" ended in mid-April when COL Brown told her that he and his wife had "patched things up" and were not going to divorce. She testified that her work suffered after the relationship ended. She testified that Mr. Groom recently accused her of having an ongoing affair with COL Brown, and she further testified that Mr. Groom was a "dangerous lunatic" who would "say anything to anyone." (EXHIBIT B-4)

(9) Mrs. Tillie Ickes, Administrative Specialist, DPCA, testified on 24 January 2017 that Mr. Groom hated COL Brown because COL Brown did not promote him. Mr. Groom frequently said unpleasant things about COL Brown to the point that she was concerned about his well-being. (EXHIBIT B-5)

(10) SGM Conrad Mack, Noncommissioned Officer in Charge (NCOIC), DPCA, testified on 25 January 2017 that Mr. Groom had made baseless allegations against COL Brown in the past. Mr. Groom appeared to irrationally hate COL Brown because Brown did not promote him. (EXHIBIT B-6)

(11) COL Brown testified on 1 February 2017 that he did not have an adulterous relationship with any woman assigned to DPCA or anywhere else. His wife would leave him if she thought he had an adulterous relationship. He suggested that some people might think there was something between him and Ms. Smith since they were friends and had socialized earlier in the year. He acknowledged there had been problems in his relationship with his wife. He and his wife had undergone a trial separation in March and April, but they were now back together. On a few occasions during that time, he stayed in the Notel Motel to avoid the stress of being in his quarters by himself. He met Ms. Smith at the motel "once or twice" for dinner because she would cheer him up. He denied having spent any of those nights together with Ms. Smith. He denied ever having sexual intercourse with Ms. Smith. He believed he mistakenly registered at the motel as Mr. and Mrs. Brown out of habit. He recalled once giving Ms. Smith a "brotherly" hug in the coffee room, but he denied kissing her. He admitted referring to Ms. Smith as "Honey" and "Sweetie" but claimed he referred to all women in a similar manner; he called her "Miss Smith" at her request. He recalled no circumstances when he and Ms. Smith arrived to work at the same time; he normally preceded her by at least 30 minutes. (EXHIBIT B-8)

b. Discussion.

(1) (*Restated Allegation*) An anonymous complainant alleged that COL Brown had an adulterous relationship with his secretary in violation of Article 134, UCMJ.

(2) (*Summarized Standard*) Article 134, UCMJ, prohibited adultery. The elements of proof for this offense were [the incidence of] sexual intercourse, [one or both were] married, and the conduct [was prejudicial to] good order and discipline.

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(3) (*Evidence Supporting Substantiation*) Ms. Smith testified that her relationship with COL Brown was adulterous and that they had sexual intercourse on multiple occasions. Other witnesses supported Ms. Smith's testimony. Mr. Groom noted that there was something between the two by their "unusually familiar" behavior and demeanor toward one another and that at some point, COL Brown began calling Ms. Smith "Miss Smith." SPC Gray testified seeing COL Brown and Ms. Smith kissing in the coffee room. Hotel receipts and witness testimony placed COL Brown and Ms. Smith together at a local motel, where COL Brown registered as a couple when his wife was out of town. COL Brown's testimony that he was separated from his wife in March and April verified that he was married at that time. SPC Gray testified that knowledge of the relationship between COL Brown and Ms. Smith negatively impacted her work performance; Ms. Smith testified that her work performance suffered when COL Brown ended the relationship.

(4) (*Evidence Supporting Not Substantiation*) COL Brown testified that he socialized with Ms. Smith but denied ever having sexual intercourse with her or anyone else other than his wife. He stayed in the Notel Motel to avoid the stress of being in his quarters by himself. He met Ms. Smith at the motel "once or twice" for dinner because she would cheer him up. He believed he mistakenly registered at the motel as Mr. and Mrs. Brown out of habit. Multiple witnesses testified that Mr. Groom irrationally hated COL Brown and regularly made negative comments and allegations against him.

(5) (*Analysis of All Evidence*) Mr. Groom made multiple unsupported allegations against COL Brown, but numerous witnesses' testimony indicated that Mr. Groom was not a credible witness regarding COL Brown due to his (Mr. Groom's) irrational hatred of COL Brown. However, documentary evidence and witness testimony indicated that COL Brown's relationship with Ms. Smith went beyond the innocent social activity described by COL Brown. Witness testimony supported Ms. Smith's testimony that she and COL Brown had sexual intercourse and "an affair" from March to mid-April 2016 and that they kissed in the office, seemed unusually familiar, and were seen together at the Notel Motel on the nights in which COL Brown rented a hotel room for "Mr. and Mrs. Brown." COL Brown's testimony that he was separated from his wife during the period of March to April 2016 verified that he was married at the time Ms. Smith testified to their sexual relationship. SPC Gray's testimony that she lost respect for COL Brown as a direct result of his relationship with Ms. Smith, and Ms. Smith's testimony that she performed her duties improperly after the relationship ended, indicated that the relationship was detrimental to good order and discipline. The preponderance of credible evidence indicated that COL Brown violated Article 134, UCMJ.

c. **Conclusion:** The allegation that COL Brown conducted an adulterous relationship in violation of Article 134 UCMJ was substantiated.

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2. Allegation #2: COL Brown sexually harassed female employees in violation of AR 600-20.

a. Evidence.

(1) In the anonymous letter, the "Concerned Employee" alleged COL Brown created a hostile work environment for female employees in the DPCA by sexually harassing them. The anonymous letter writer stated that COL Brown used vulgar and abusive language; referred to women in demeaning and sexist terms; and, through innuendoes, solicited sexual favors from female subordinates. (EXHIBIT A-2)

(2) Paragraph 7, AR 600-20, dated 6 November 2014, Army Command Policy, referred to sexual harassment as a "form of gender discrimination. The elements of proof were unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" [linked to] "a term or condition of a person's job, pay, [or] career;" "career or employment decisions;" or "interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment." It cited "telling sexual jokes" as an example of sexual harassment. (EXHIBIT C-2)

(3) Mr. Groom testified that COL Brown sexually harassed all of the women in the office both through his use of endearments like "Honey" and "Darling" and through physical sexual contact. (EXHIBIT B-2).

(4) Mrs. Tillie Ickes, Administrative Specialist, DPCA, testified on 24 January 2017 that she did not know of COL Brown harassing anyone or if she had seen COL Brown harassing others. She once heard COL Brown tell a "mildly off-color" joke, laughed without reservation at the joke, and did not think anything of it later. She testified that Mr. Groom hated COL Brown personally and wanted to slander him. (EXHIBIT B-5)

(5) SGM Conrad Mack, Noncommissioned Officer in Charge (NCOIC), DPCA, testified on 25 January 2017 that COL Brown frequently used endearing terms with female employees but attributed this behavior to his age and background. Mr. Groom had made unfounded allegations against COL Brown in the past. (EXHIBIT B-6)

(6) CPT Megan O'Reilly, Chief, Officer Personnel Records, DPCA, testified on 26 January 2017 that she heard COL Brown tell a joke pertaining to male / female anatomy. She thought it was funny, appropriate for standing around the office coffee pot, and was not offended. She testified that Mr. Groom's personal feelings regarding COL Brown made his judgment suspect. (EXHIBIT B-7)

(7) Ms. Smith testified on 28 January 2017 that although she and COL Brown had an "affair," it was personal and kept separate from their working

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relationship. He never used his position as DPCA to influence her or coerce her. She always thought he was a "perfect gentleman" in the office. She never observed actions she considered to be sexual harassment. Mr. Groom was biased against COL Brown for personal reasons. (EXHIBIT B-4)

(8) COL Brown testified on 1 February 2017 that he admitted he had a habit of referring to women as "Honey" and "Darling" and once told a "dirty" joke in the office, which he admitted was as a lapse in judgment. He denied ever harassing anyone. (EXHIBIT B-8)

b. Discussion:

(1) (*Restated Allegation*) An anonymous complainant alleged that COL Brown sexually harassed female employees within the DPCA, 66th ID, in violation of AR 600-20.

(2) (*Summarized Standard*) AR 600-20, Army Command Policy, referred to Sexual harassment as a "form of gender discrimination. The elements of proof were unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" linked to "a term or condition of a person's job, pay, [or] career;" "career or employment decisions;" or "interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment." It cited "telling sexual jokes" as an example of sexual harassment.

(3) (*Evidence Supporting Substantiation*) Mr. Groom testified that COL Brown sexually harassed all of the women in the office through his use of terms of endearment and through physical contact. COL Brown admitted that he had a habit of referring to women as "Honey" and "Darling" and once told a "dirty" joke in the office, which he admitted was probably a mistake in judgment.

(4) (*Evidence Supporting Not Substantiation*) No witnesses other than Mr. Groom testified that COL Brown harassed them or that they had seen COL Brown harassing others. Multiple witnesses testified that Mr. Groom was virulently biased against COL Brown for personal reasons. Witnesses testified that COL Brown frequently used endearing terms like "Honey" or "Darling" to female employees but attributed this practice to his age and background. Female witnesses testified they heard COL Brown tell a "mildly off-color" joke on one occasion, but they thought it was funny, appropriate for the setting, and were not offended. Ms. Smith testified that COL Brown did not pressure or coerce her into their sexual relationship. COL Brown denied ever harassing anyone.

(5) (*Analysis of All Evidence*) Mr. Groom's testimony that COL Brown sexually harassed the women in the office lacked credibility because of his personal animus toward COL Brown and, most importantly, because no credible witness testified that COL Brown had sexually harassed any person. The female employees did not

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consider COL Brown's use of endearing personal pronouns and "mildly off-color" jokes as offensive. Credible and unbiased witness testimony indicated that COL Brown's alleged inappropriate behavior did not constitute sexual harassment because it did not interfere with anyone's work performance, did not create an intimidating or hostile work environment, or did link conduct of a sexual nature to work or pay. The preponderance of credible evidence indicated that COL Brown did not violate AR 600-20.

c. **Conclusion:** The allegation that COL Brown sexually harassed female employees in violation of AR 600-20 was **not substantiated**.

3. OTHER MATTERS:

a. A general lack of understanding of the concept of sexual harassment and unfamiliarity with Army Policy on the subject were evident among the witnesses. Several witnesses could not define the terms "sexual harassment," "sexual discrimination," or "gender discrimination" found in Army policies and regulations. Additionally, no witness could recall seeing or reading the CG's Policy Memorandum #3, Sexual Harassment.

b. In addition, witness testimony suggested a lack of knowledge among some Civilian members of DPCA regarding the policies and procedures for Civilian promotions and grade enhancements. This lack of awareness may have led to rumors within the workgroup that adversely affected morale.

4. RECOMMENDATIONS:

a. Approve the report and close the case.

b. Have the SJA brief sexual harassment policy as a topic of discussion in an upcoming Commander's call and redistribute the CG's policy memorandum on the subject.

c. Have CPAC conduct training with the Civilian members of DPCA (and possibly the entire installation) regarding the proper policies and procedures for Civilian promotions and grade enhancements.

BRUNO SHOULDER
MSG, IG
Investigator

RICHARD BRITTON
MAJ, IG
Investigator

CONCUR:

CUI

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ALBERT R. RIGHTWAY
LTC, IG
Inspector General

APPROVED:

MOTTIN DE LA BLAME
MG, U.S. Army
Commander

Date

Encl
Exhibit List

CUI

CUI**LIST OF EXHIBITS**

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	<i>Directive and Complaint</i>
A-1	<i>Directive</i>
A-2	<i>Complaint</i>
A-3	<i>Legal review</i>
B	<i>Testimony</i>
B-1	<i>SPC Gray</i>
B-2	<i>Mr. Groom</i>
B-3	<i>Mr. Hanson</i>
B-4	<i>Ms. Smith</i>
B-5	<i>Mrs. Ickes</i>
B-6	<i>SGM Mack</i>
B-7	<i>CPT O'Reilly</i>
B-8	<i>COL Brown</i>
C	<i>Standards</i>
C-1	<i>UCMJ, Article 134</i>
C-2	<i>AR 600-20</i>
D	<i>Documents</i>
D-1	<i>DA Form 4037, ORB, COL Brown</i>
D-2	<i>Notel Motel Receipts and Entries</i>
E	<i>Notifications</i>
E-1	<i>COL Brown</i>
E-2	<i>Supervisor</i>

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EXHIBIT A-1

OTR 05-0019

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION (M)
FORT VON STEUBEN, VIRGINIA 22605

MEMORANDUM FOR THE INSPECTOR GENERAL

SUBJECT: Directive for Investigation

1. Investigate alleged improprieties by an Army official assigned to Personnel and Community Activities, Fort von Steuben.
2. Submit your report to me as soon as possible, but protect the rights of all persons involved and ensure the investigation is complete and accurate.



MOTTIN DE LA BLAME
Major General, U.S. Army
Commanding

Exhibit A-1 (page 1 of 1)
OTR 05-0019

CUI (top and bottom)

EXHIBIT A-2

OTR 05-0019

To the 16-

Why is COL Brown, as an officer + soldier, not standing by the Army's code of ethics? Why is he having an affair w/ his secretary! I have seen him do a lot of things, like touch, + kiss her in the office that are very unprofessional. Other people have seen this too and are too scared to say anything - but they know too!

COL Brown touches + sexually harrasses the women in the department. His bad language makes it worse. He is vulgar and uses sexist language. He is always talking down to the women in the department and tries to solicit sex from his female subordinates with his filthy jokes.

Help us! Aren't Army officers supposed to be better than this?

A Concerned Employee

EXHIBIT A-3

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AFSV-JA (05-0019)

27 May 2016

MEMORANDUM FOR: Inspector General (AFSV-IG, LTC Rightway), Bldg T-1, Fort Von Steuben, VA 22605

SUBJECT: Legal Review of Report of Investigation, Case No. 05-0019

1. References.

- a. ARMY REGULATION 600-20, (6 November 2014) [herein after AR 600-20]
- b. ARMY REGULATION AR 20-1, (29 November 2010) [herein after AR 20-1]
- c. MANUAL FOR COURTS-MARTIAL, UNITED STATES pt. IV, [paragraph] 134 (2012) [hereinafter UCMJ art 134. Purpose. We have received the Report of Investigation (ROI) from case No. 05-0019 concerning the actions of COL Robert E. Brown regarding allegations of adultery and sexual harassment.

3. Law. AR 20-1, paragraph 7-1a, establishes the basis for Inspector General Investigations to resolve an allegation as either Substantiated or Not Substantiated.

a. General. The ROI must make a clear and concise statement of the evidence reviewed, what the IG found credible, and an analysis of how the IG arrived at his conclusion (substantiated or not substantiated). Negative findings are often appropriate, such as evidence that fails to support the allegation, as are assessments of the credibility of specific pieces of evidence and the weight assigned thereto.

b. Standard of proof. AR 20-1, paragraph 7-1a, establishes the IG standard of proof required (preponderance of credible evidence). This means that after considering all of the evidence gathered, the IG must weigh the credible evidence and make a determination whether it is more likely than not that the subject or suspect has violated the standard. If it is more likely than not that the standard was violated, then the allegation is said to be substantiated. If it is more likely than not that the standard was not violated, then the allegation is said to be not substantiated. The weight of credible evidence is not determined by the number of witnesses or the volume of evidence presented but by considering all of the evidence and evaluating such factors as the witness's demeanor, opportunity for knowledge, information possessed, ability to recall and relate events, and other indications of veracity.

4. Evidence relevant to Art 134 UCMJ.

- a. COL Brown's DA form 4037 showing his marriage to Jennifer Coggins Brown.
- b. Three receipts from the Motel Motel from March and April 2016.

Exhibit A-3 (page 1 of 3) *Editorial Note: Footers denoting Exhibit and case numbers should be on all subsequent exhibit pages.*

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c. Sallie Smith testified that she and COL Brown had sexual intercourse and "an affair" from March to mid-April 2016.

d. COL Brown testified that he and Ms. Smith had gone to dinner but that they had not had sexual intercourse.

e. SPC Gray testified that she lost respect for COL Brown as a direct result of his relationship with Ms. Smith, and Ms. Smith's testimony indicated that she performed her duties improperly after the relationship ended. SPC Gray further indicated that the relationship was detrimental to the good order and discipline of the organization.

5. Evidence relevant to AR 600-20.

a. Mr. Groom testified that COL Brown had sexually harassed women.

b. The IG interviewed several other witnesses. Those witnesses testified that female employees did not consider COL Brown's use of endearing personal pronouns and "mildly off-color" jokes as offensive. Witnesses testified that COL Brown's behavior did not interfere with their work, create an intimidating or hostile work environment, or link conduct of a sexual nature to work or pay.

6. Discussion.

a. The IG found the preponderance of credible evidence supported substantiating the allegation that COL Brown had an adulterous relationship with his secretary in violation of Article 134, UCMJ. The IG determined that in March and April 2016, COL Brown was married based on his DA Form 4037. Witness testimony from Ms. Smith and SPC Gray supported that COL Brown and Ms. Smith had sexual intercourse in March and April 2016. SPC Gray further testified that as a consequence of COL Brown's and Ms Smith's relationship, the organization's good and order and discipline was adversely affected. The IG did not find COL Brown's denial credible.

b. The IG conducted numerous interviews inquiring into the allegation that COL Brown sexually harassed female employees within the DPCA, 66TH ID, in violation of AR 600-20. After numerous interviews, the IG found no credible evidence of any incidence of sexual harassment. However, Mr. Groom did testify that COL Brown did sexually harass females in the workplace. The IG found his testimony not credible based on his personal feelings against COL Brown.

7. Conclusion. The IG appropriately evaluated the documentary and witness testimony and reached a legally sufficient conclusion. COL Brown was married during March and April 2016; and, during that time, he had sexual intercourse with a woman other than his wife, affecting adversely the good order and discipline in the organization. During the same time, COL Brown told off-color jokes in the workplace. Numerous witnesses

Exhibit A-3 (page 2 of 3)
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testified that the jokes did not offend them and that COL Brown's behavior did not interfere with their work, create an intimidating or hostile work environment, or link conduct of a sexual nature to work or pay.

8. POC for this action is MAJ John Bailiff, (540) 802-3401.

CONRAD E. BEAGLE
COL, JA
Staff Judge Advocate

Exhibit A-3 (page 3 of 3)
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EXHIBIT B-1

OTR 05-0019

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Note: All pages of the testimony must include this CUI header.

MSG Shoulder: The time is 1500. This recorded interview is being conducted on 4 January 2017 at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, SPC Jane A. Gray, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This investigation was directed by MG Mottin De La Blame, Commanding General of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority.

Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

SPC Gray: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today?

SPC Gray: No, Sergeant.

MSG Shoulder: Do you have any questions before we begin?

SPC Gray: No, Sergeant.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?"

SPC Gray: I do.

MSG Shoulder: You may lower your hand. Please state your name.

SPC Gray: Jane Ann Gray.

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Note: All pages of the testimony must include this CUI header and footer.

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MSG Shoulder: Rank and status?

SPC Gray: SPC, Active Army.

MSG Shoulder: Organization?

SPC Gray: Personnel Administrative Assistant, DPCA.

MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

SPC Gray: My home address is 123 Admin Way, Fort Von Steuben, VA, 12345.

MSG Shoulder: Telephone number? It can be home or office.

SPC Gray: My cell number is 555-098-9845.

MAJ Britton: This concludes the formal read-in. We'll start the questioning now,

SPC Gray: How are you feeling? Any questions for us yet?

SPC Gray: No, sir. I'm still confused as to what this is about.

MAJ Britton: That's OK. As we said before we turned on the recorders, we can't be very specific, but as you answer questions, you will probably figure a lot of things out. But we are not able to confirm or deny any guesses you make. Are you ready?

SPC Gray: Yes, sir.

MAJ Britton: How long have you worked at DCPA?

SPC Gray: About a year. I got here December a year ago.

MAJ Britton: And how long have you worked for COL Brown?

SPC Gray: For the whole time.

MAJ Britton: Can you tell me about working in the office? What is it like to work there? Do you work with other people in the office? How is COL Brown as a boss? Just kind of an overview of the office, please.

SPC Gray: Sure. I'm not sure why you had to ask me about it, but I like coming to work. It's a good group of people there. Everyone has their faults, but people try to treat each other right. I work with COL Brown, Ms. Smith, his secretary -- she's really sweet, and there is a whole bunch of people. Do you want me to name them?

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MAJ Britton: Yes, please.

SPC Gray: There is SGM Mack, CPT O'Reilly, Mrs. Ickes, Mr. Groom, as well as COL Brown's driver, PVT Speed.

MAJ Britton: COL Brown has a driver?

SPC Gray: Yes, sir. It was a "drug deal," a rehabilitative transfer that did not work. PVT Speed is being chaptered for drug use now, so if you need to talk to him, you had better do it soon.

MAJ Britton: Thank you. Please keep going about the office. How is it to work there? Do people enjoy coming there? What kind of a boss is COL Brown?

SPC Gray: He's pretty good. Very professional and polite. Not what I expected when I learned I would be working for a COL. I thought he would be, you know, sort of scary.

MAJ Britton: Does he ever use improper terms to you or anyone else? Have you ever seen him touch anyone in a way that you thought was wrong?

SPC Gray: What do you mean by touch? He's never touched me improperly, and I've never seen him touch anyone who was unwilling, if you know what I mean. He's always acted totally professionally to me. Sometimes he calls the other ladies in the office "Honey" or "Dear," but they don't mind. I'd be uncomfortable if he called me that, but he always addresses me properly. I like working for him. He's a good boss.

MAJ Britton: So he's never touched you improperly?

SPC Gray: No -- and I'd like to know who is telling that story. SGM Mack asked me about that too, this summer, and it makes me mad! That's the sort of rumor that can mess up my reputation.

MAJ Britton: Tell me about that "story." Did someone spread a rumor about you and COL Brown?

SPC Gray: This summer, someone told SGM Mack that he saw COL Brown and me kissing. It made me so mad when SGM Mack came into my office and asked if I was OK! I mean, I'm glad he checked on me and all, but that sort of a rumor could ruin my reputation and cause trouble for COL Brown. As if I'd be interested in a married man! I'd like to find out who said it, too. I'd let them have it!

MAJ Britton: SGM Mack told you about the rumor?

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SPC Gray: No. He talked to me to be sure I was not being sexually harassed or assaulted. If COL Brown was really putting the moves on a SPC, it would be really wrong. SGM Mack wouldn't stand for it. Like I said, I'm glad SGM Mack checked out the rumor, but I get really angry when I think about it.

MAJ Britton: OK -- thank you. We'll go back to COL Brown touching the willing -- that might be important. But how do you know that the ladies don't mind?

SPC Gray: Mr. Groom brought it up in the coffee room once. He was telling the women in the office that they should not put up with him, and they all laughed at him. Boy, did he get mad! (laughs) They told him that COL Brown was an older gentleman and would never change, that he did not mean anything by it, and they certainly did not mind. Basically, they shut him down. He's been trying to pick at COL Brown since he did not get promoted last summer, and we could tell he was looking for something.

MAJ Britton: And do you think if someone was uncomfortable with it, they could mention it to him?

SPC Gray: Oh, yes, sir. COL Brown is very approachable.

MAJ Britton: Even Mr. Groom could approach him?

SPC Gray: Oh, yes, sir. I don't think COL Brown knows how angry Mr. Groom is. He's seriously upset with COL Brown. But I don't think it's fair. The only person who thought he should be promoted was Mr. Groom. He says all sorts of mean things about COL Brown and has started being nasty about the other people in the office, too -- like the rumor about me kissing COL Brown. That's nasty, the COL is old and married, what sort of a stupid idiot would I be to be involved with my boss? Anyway, but Mr. Groom has been spreading gossip about Miss Smith and COL Brown, too, saying they used to eat lunch together so they must have been sleeping together. But then, he's also gone in to see SGM Mack about COL Brown supposedly having affairs with CPT O'Reilly and Mrs. Ickes, too. He doesn't know anything. He's just a jerk.

MAJ Britton: Can we go back to what you said earlier? Did you ever see COL Brown touching someone, even if that person was a willing participant?

SPC Gray: Yes, sir.

MAJ Britton: Can you tell me about that?

SPC Gray: Do I have to?

MAJ Britton: Yes.

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SPC Gray: Mmmmm. (sigh) Ummmmm. (sigh) About six months ago, I walked in on COL Brown and Ms. Smith kissing in the coffee room. I shut the door immediately, but I saw them kissing.

MSG Shoulder: Can you describe the kiss? Was it on the cheek, a brotherly kiss?

SPC Gray: Yuck -- I wouldn't want my brother to kiss me like that.

MAJ Britton: If you know anything more about their relationship, please tell me what you know.

SPC Gray: Oh, sir, this is not my business.

MAJ Britton: Please answer the question. I know it's difficult.

SPC Gray: Ms. Smith talked to me that afternoon, the afternoon of the day I walked in on them. She told me that she and COL Brown had a relationship and that it was more than "an affair." He was going to marry her after his divorce went through. She said that they were in love.

MAJ Britton: Did she tell you if kissing was as far as it had gone?

SPC Gray: Yes, sir. She just wouldn't stop talking; it was like she'd been holding onto a secret for a long time and had to tell someone.

MAJ Britton: What did she tell you?

SPC Gray: She said they went to the Notel Motel. And I told her that she was too young for him and that she shouldn't be doing that because he was married and that both of them should know better, but she said that when you are in love, nothing seems wrong. But I heard that Mrs. Brown came back after a few months, and COL Brown is going to marriage counseling, and she was really sad.

MAJ Britton: Did COL Brown ever mention anything like this to you?

SPC Gray: Oh, no, sir! The morning I saw them kissing, he told me she was upset by something at home, so he gave her a hug -- but that was all he ever said.

MAJ Britton: Is there anything else, anything at all that showed there was a relationship going on between the two of them?

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SPC Gray: No, um, they were always very business-like. Well, when he called her "Honey" or "Dear," it sounded like he meant it to me, and they went to lunch together a lot. I didn't think there was anything to it at the time. He and she talked to each other a lot at the time, but he hasn't been friends with anyone either before or since. Come to think of it, he calls her "Miss Smith" all of the time at work now. Maybe that's why she was crying.

MAJ Britton: Crying? When?

SPC Gray: Oh, off and on all through the summer. Less in the fall. She said it was allergies, but her eyes were red a lot.

MAJ Britton: So when did you see them kissing?

SPC Gray: Oh, I don't know ... ummmm ... springtime. Maybe after Easter? I remember there were Easter candies in the candy dish on my desk, and I put those out after the bunny bought too many for my kid's Easter basket ... you know what I mean.

MAJ Britton: So would that be late March or April?

SPC Gray: Uh, maybe April.

MAJ Britton: Did anyone else know? Was this common office gossip?

SPC Gray: Not that I know of. I've never told anyone except you -- and that's not because I wanted to tell! I've tried to forget it! No one's ever mentioned it around me, and I think they would have. COL Brown told a joke once, and everyone talked about it for days. He doesn't seem like the sort of guy who would do something improper. I think he's very worried about what other people think of him. (sigh) He should have been more worried. After I found out, I was so disappointed in him that it took me an effort to treat him professionally. That lasted for a few weeks, but he is a good man, and after he and his wife got back together, I was relieved that he wanted to do the right thing. But for that few weeks, it was hard for me to care about doing a good job for him. It made me angry that he was an officer and a hypocrite. But, like I said, he did the right thing by getting back with Mrs. Brown.

MAJ Britton: Will you tell me about the joke he told? Was it crude or insulting?

SPC Gray: I can't remember jokes, sir, but it was pretty lame. I've heard worse on *Seinfeld* reruns. Maybe CPT O'Reilly remembers it. I remember her laughing at it.

MSG Shoulder: What about COL Brown's relationship with CPT O'Reilly? Has it been proper?

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SPC Gray: As much as I know. He's never seemed to be close to anyone in the office except for Miss Smith -- and that ended last spring. He has what appears to be a professional relationship with everyone in the office.

MAJ Britton: Can you think of anything else we should have asked you regarding the matters we've talked about?

SPC Gray: No, sir, but I do want to be clear that COL Brown is a decent boss. Maybe he and Ms. Smith did the wrong thing, but they did not flaunt it or make anyone uncomfortable, and he's back with his wife now. It seems to me that this investigation could hurt more than it could help.

MAJ Britton: Thank you, SPC Gray. MSG Shoulder will do the read-out now.

MSG Shoulder: Do you have anything else you wish to present?

SPC Gray: No, Sergeant.

MSG Shoulder: Who else do you think we should talk to and why?

SPC Gray: Maybe Miss Smith. And CPT O'Reilly, SGM Mack, Mrs. Ickes, and Mr. Groom, as well as PVT Speed.

MSG Shoulder: Thank you. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one.

MSG Shoulder: Do you have any questions?

SPC Gray: No, Sergeant.

MSG Shoulder: The time is 1545, and the interview is concluded. Thank you.

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EXHIBIT B-2

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MSG Shoulder: The time is 0830. This recorded interview is being conducted on 8 January 2017 at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, Mr. Thomas P. Groom, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, commander of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority.

Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

Mr. Groom: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin?

Mr. Groom: No.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?"

Mr. Groom: I do.

MSG Shoulder: You may lower your hand. Please state your name.

Mr. Groom: Thomas Percival Groom.

MSG Shoulder: Rank?

Mr. Groom: GS-12.

MSG Shoulder: Organization?

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Mr. Groom: DPCA.

MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

Mr. Groom: Apartment 17B, 456 Livid Lane, Lynchburg, VA 12386.

MSG Shoulder: Telephone number? It can be home or office.

Mr. Groom: 555-804-3961.

MAJ Britton: This concludes the formal read-in. You mentioned that you have some information for us when we were conducting the pre-brief. Before we start our questions, why don't you go ahead and tell us what you said while the recorder was off?

Mr. Groom: I know you said you can't tell us who you are investigating or why, but I am willing to bet that you are here finally investigating COL Brown. He's the worst boss here on the post, and the worst officer I have ever seen. The way he acts in the office -- huh. It's like it is his own little palace, and all of the women in it are just there to make him happy. He's awful. Someone should do something about him.

MAJ Britton: You were more specific previously. What does he do that makes him so bad?

Mr. Groom: He's a tyrant, and everyone is afraid of him. He talks down to all the women, all of them, all the time. He doesn't call any of them by their names or by Mrs. or Miss, nothing but "Honey" this, and "Sweetheart" that. I tell you, it's demeaning! And when I tried to do something about it, the women are so afraid of him, they begged me to not challenge him or take it higher. He treats them like dirt, and they are living in a climate of fear!

MAJ Britton: So are you saying that the women in the office are so afraid of COL Brown that they have not told him to stop using terms of endearment?

Mr. Groom: That's exactly what I'm saying. Everyone's afraid of him. They saw what he did to me with my promotion, and they don't want him to do that to them, either.

MAJ Britton: What did COL Brown have to do with your promotion?

Mr. Groom: I did not get promoted, that's what he did. I should have. I'm the senior budget analyst and always get my work in on time. I wanted that promotion. In fact I told COL Brown that I wanted to be promoted, but I wasn't! And when I asked him why I wasn't promoted this year, he told me that there wasn't a space in DPCA for a GS-13.

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He could have made my billet a GS-13 billet if he wanted to, he just didn't want to. I've always known he didn't like me because I'm not some woman enthralled by him, but this proved it.

MAJ Britton: Did COL Brown promote anyone else? Bring in a budget analyst GS-13? Had he told you that there was a plan to promote you or someone in DPCA? Had he done something previously that made you think he did not like you? Help me understand the problem.

Mr. Groom: Nothing like that. The problem, like I said, is that I did not get promoted, and I should have. COL Brown has always had it in for me. If I was a woman, he could sweet-talk and rub up on, I'd be promoted by now.

MAJ Britton: We'll get to his actions in the office in a second, but right now, please tell me how "he'd always had it in for you."

Mr. Groom: Well, he had to have because he did not promote me.

MAJ Britton: But before that?

Mr. Groom: He hates me. You don't need any other proof other than I did not get promoted.

MAJ Britton: Did he counsel you about your promotion?

Mr. Groom: No, it's like he's oblivious to the fact that I should have been promoted.

MSG Shoulder: Does COL Brown inappropriately touch anyone in the office?

Mr. Groom: You bet he does.

MSG Shoulder: Can you please tell me about it?

Mr. Groom: Who knows exactly what COL Brown does; he's such a predator, but I know he does something.

MAJ Britton: When the recorder was off, you said you saw him touching someone. Please tell us about it.

Mr. Groom: I walked into the office a few weeks ago, and he had his arm around CPT O'Reilly. She was crying, probably because of him. He was embarrassed when I came in and then he had the gall to ask me to get a box of Kleenex. I was so angry that he was carrying on in the office, I did not know what to do, so I got him the Kleenex and

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got out before I punched him in the nose. CPT O'Reilly gave me some lame story later about her marriage problems and her falling apart in the office and asked me not to mention it to anyone, but whatever. It was COL Brown's chance to 'cop a feel,' and she was trying to protect him. And he tells inappropriate stories to the women in the office. They all laugh about it, but he knows better than to use that language around me. I won't stand for it.

MAJ Britton: We'll get to the jokes in a second. Where exactly was he touching CPT O'Reilly?

Mr. Groom: They were sitting at the table in the coffee room, side by side, and he had his arm around her shoulders, and she had her hands over her face, like this. She was boo-hooing. He'd probably just threatened or propositioned her.

MAJ Britton: What makes you say that?

Mr. Groom: What else could it be? I'm telling you, the man's a predator.

MAJ Britton: Did you ever see him kiss anyone at the office?

Mr. Groom: Yes, once. I saw him kiss SPC Gray. Well, I saw them reflected in the window, but I saw him kiss her. With my own eyes. This summer.

MAJ Britton: When this summer?

Mr. Groom: July or August.

MAJ Britton: Can you be more specific about the date? Any details that you remember that jog your memory?

Mr. Groom: It was hot. I was walking outside and saw them kissing in the reflection of a car window in the parking lot.

MAJ Britton: So they were kissing in the parking lot? In a car?

Mr. Groom: No, in the office, but they were reflected in the car window.

MAJ Britton: I see. Please describe this kiss -- was it on the cheek or lips?

Mr. Groom: On the lips. Like he meant it. She was a willing participant, too. You should talk to her about it. If I hadn't seen that with my own eyes, I would have never thought there was anything going on at all. SPC Gray is very professional -- I think he was making her because she'd never put up with that sort of thing. I tried to mention it to SGM Mack that afternoon, but he said I'd need to have some other information before he'd do anything about it.

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MAJ Britton: OK, let's talk about the jokes. Can you give me an example? Are these jokes racist or sexual or what?

Mr. Groom: I don't know. The women all thought it was funny that he told them an inappropriate joke, but it's a sick abuse of power.

MSG Shoulder: How often does he tell these sorts of jokes?

Mr. Groom: Well, I only can think of one time in particular, but I'm sure there are more. If he has the habit of telling dirty jokes, you know he'll tell more than one.

MJ Britton: Going back to his touching women in the office, are there any more examples that you can think of?

Mr. Groom: Ummmm, not at this moment, but I'll keep thinking about it. He recently went to lunch a few times with Mrs. Ickes. I warned her that she should keep her distance and that it looked bad, but she told me that he was helping her son work on his college applications. I've never heard such a lame excuse. Going to lunch with an employee is so inappropriate. And during the spring, he and Miss Smith arrived at work at the same time a few times. I noticed because they usually arrive about 45 minutes apart. I didn't think anything about it then, but recently I thought they might be having an affair. They went to lunch together a lot in the spring and seemed unusually familiar for a while, you know, really friendly. But I confronted Miss Smith with this lately, and she got really mad at me and told me I'd better not be spreading stories about her or she would go to EEO and the union about me, so I might have been mistaken.

MAJ Britton: Did you see anything else that supported this conclusion? What do you mean by 'unusually familiar?'

Mr. Groom: There wasn't much, but once he gave her a Kleenex and told her that her mascara was smudged. Nothing obvious, just a "vibe." No, but like I said, I did not think anything of it until a lot later. Since then, I've been watching, but I haven't seen anything. SGM Mack says Miss Smith is seeing his cousin, but that may be a cover up, too. I think they are all so afraid of COL Brown that they'll say anything to stay okay with him.

MAJ Britton: Has anyone from the office ever told you that they are afraid of COL Brown?

Mr. Groom: No, but I can tell. When I mention COL Brown, they tell me, "They don't want to talk about it anymore." Don't they know that I'm here to help? By the way, does the IG have any GS-13 jobs coming open?

MAJ Britton: Not currently. Even SGM Mack is afraid of him?

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Mr. Groom: He's his boss, right? I'm telling you, this office is terrified!

MAJ Britton: With whom do you think COL Brown is having an affair?

Mr. Groom: I thought he was having an affair with Ms. Smith, but now I'm not so sure. But it looked like he had something going on with Mrs. Ickes, too.

MSG Shoulder: And you've based this on ...

Mr. Groom: He calls Ms. Smith by "Miss Smith" but sexually harasses all of the other women. And what I told you about them coming in together and going to lunch. And I think he's stalking Mrs. Ickes.

MSG Shoulder: Did she tell you this? How does she get along with him?

Mr. Groom: Like I said, she's too afraid of him to say anything against him or to say no to him when he takes her to lunch. She's stuck and has to do what he says.

MSG Shoulder: Has she ever said she is afraid of him or that he is stalking her?

Mr. Groom: Not in so many words. But I can tell. Last month she told me that either I should go to EEO or that she would.

MSG Shoulder: Did you?

Mr. Groom: No...uuummmmm, I forgot the exact situation that I was going to discuss with them, so I did not.

MSG Shoulder: OK, how can you tell she is afraid of him or that he's stalking her?

Mr. Groom: Why else would she go out to lunch with him? If she wanted to go, she sure wouldn't use the lame excuse that he was helping her kid.

MAJ Britton: Can you tell us of any examples where COL Brown sexually harassed anyone? Beyond what you've just told us, I mean.

Mr. Groom: Isn't that enough? I go to EEO classes -- I know that use of terms of endearment and unwanted touching creates a hostile work environment. You don't need anything else. You should fire him.

MAJ Britton: Just so you know, sir, IGs do not have the authority to punish or recommend corrective actions. We simply gather the facts and present them to the Directing Authority. Can you define the terms "sexual harassment," "sexual discrimination," or "gender discrimination" as they are defined in Army policies and regulations?

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Mr. Groom: Sure I can. Just like everyone else can. I go to all of those classes.

MAJ Britton: Let's go over the definitions when the recorder is off, just to be sure, Mr. Groom. Also, have you read the CG's policy memorandum #3 on sexual harassment?

Mr. Groom: I didn't know there was one.

MAJ Britton: I'll give you a copy before you leave today, sir. Do you have any further information that you would like to share with us regarding your claim that COL Brown is having an affair with Ms. Smith or anyone else?

Mr. Groom: Nothing that I remember right off of the top of my head. Do you want me to ask around for you? See if I can find out anything else?

MAJ Britton: Thank you for the offer, Mr. Groom, but that won't be necessary. Are there any other questions that we should have asked you?

Mr. Groom: Nothing that I can think of yet.

MAJ Britton: Who else should we talk to and why?

Mr. Groom: Maybe CPT O'Reilly, since I saw him with his grubby paws on her. Mrs. Ickes because he was stalking her. Ms Smith probably won't talk to you -- she'll try to protect him. You could talk to SPC Gray too or PVT Speed, but they are too much in awe of COL Brown to say anything. SGM Mack might tell you the truth if you asked him, but he seems pretty loyal to COL Brown. Mrs. Brown might be able to tell you more about her husband's philandering.

MAJ Britton: I see. OK, MSG Shoulder will do the formal read-out now.

MSG Shoulder: Do you have anything else you wish to present?

Mr. Groom: No.

MSG Shoulder: Who else do you think we should talk to and why?

Mr. Groom: Only the people I already told you about.

MSG Shoulder: Thank you. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one. Do you have any questions? The time is 1000, and the interview is concluded. Thank you.

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EXHIBIT B-3

OTR 05-0019

CUI

MSG Shoulder: The time is 1000. This recorded interview is being conducted on 9 January 2017 at the Motel Office of the Motel Motel, Lynchburg, Virginia. Persons present are the witness, Mr. Harold H. Hanson, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, commander of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

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Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

Mr. Hanson: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information.

Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin?

Mr. Hanson: Nope.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?"

Mr. Hanson: I do.

MSG Shoulder: You may lower your hand. Please state your name.

Mr. Hanson: Harold Harry Hanson.

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MSG Shoulder: Rank?

Mr. Hanson: I am not affiliated with the military.

MSG Shoulder: Organization and position?

Mr. Hanson: Notel Motel owner, desk clerk, and chief cook and bottle washer

MSG Shoulder: An address where we can mail you something if necessary, understanding that whatever we send you will have the return address of the Fort Von Steuben IG Office.

Mr. Hanson: Here is fine. Care of the Notel Motel, Highway 1, Lynchburg, VA.

MSG Shoulder: And a phone number?

Mr. Hanson: 555-312-0035

MSG Shoulder: This concludes the administrative questions. MAJ Britton will begin the questioning now.

MAJ Britton: Mr. Hanson, are you ready?

Mr. Hanson: Sure am.

MAJ Britton: We're trying to determine if two people stayed here this springtime, around April-ish. You said you were willing to see if they had registered here during that time.

Mr. Hanson: I am indeed. Let me know who it is.

MAJ Britton: I'm looking for a man named Brown and a woman named Smith.

Mr. Hanson: Major, do you have any idea how many Mr. and Mrs. Browns and Mr. and Mrs. Smiths check into this place? If it wasn't for people doing what they shouldn't, we wouldn't have half of our business. (pause) Let's see. Yep, we have at least one of each every day in March and every day in April. (pause) And most of them were not the same couples every night ... although some of the people might have been the same. I'm just saying ...

MAJ Britton: Oh. Do you have anything for those months where they had to sign in or sign for a key?

Mr. Hanson: No, we're computerized now. But -- do you have pictures of the people in question?

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MSG Shoulder: That was last spring. You probably wouldn't remember.

Mr. Hanson: Don't be so sure. I have a photographic memory for people. If I see someone, I can remember that person for the rest of my life. Doubt it if you want to, but you two are not the first law enforcement officers or detectives I've talked to, if you get my drift. The name of the motel may be The Notel Motel, but I don't withhold information from the law.

MAJ Britton: If we can find their photos online, can you identify them?

Mr. Hanson: I can try.

MSG Shoulder: Let's give it a shot.

MAJ Britton: OK, let's take a pause and turn the recorder off.

MSG Shoulder: The time is 1015. We will resume in a moment.

MSG Shoulder: The time is 1100. This interview is a continuation of the interview with Mr. Hanson, MAJ Britton, and MSG Shoulder on 9 January 2017. Persons present are Mr. Hanson, MAJ Britton, and MSG Shoulder at the Notel Motel office, Lynchburg VA.

MAJ Britton: Mr. Hansen, we've pulled up a photograph of a unit picnic on the Fort Von Steuben Web site. There are seven people in the photo. Can you please tell me if you recognize any of the people in the photograph?

Mr. Hanson: Yes, I have seen two of these people here at the Notel Motel. I also recognize one of the people as a member of my church, but he's never been to this motel before.

MAJ Britton: Hmm, would you please indicate the two people you recognize as having been at the Notel Motel and tell me what their names are?

Mr. Hanson: This man and this woman. They were here a few times in March and April. Didn't see them before then and haven't seen them since. They signed in as Mr. and Mrs. Brown. Or, rather, he signed them in as Mr. and Mrs. Brown. She never came to the desk, but I saw her with him walking through the lobby and in the restaurant.

MAJ Britton: Let the record show that he indicated COL Brown and Ms. Smith.

Mr. Hanson: So they really are named Brown and Smith? Go figure.

MAJ Britton: So can you remember well enough to determine which days they were here?

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Mr. Hanson: Yes, and I can pull up his electronic signatures. You know, when you sign that little pad thingee.

MSG Shoulder: I thought you said you didn't have any signatures.

Mr. Hanson: It's not very good. At best it's an approximation.

MAJ Britton: I'll take it anyway. Maybe it'll be close enough that it can corroborate the dates. Can you match the credit card instead?

Mr. Hanson: Sure. Hang on. (pause) OK -- I think Mr. and "Mrs." Brown were here on the 21st and 27th of March and then later on, ummmm, 16 April? (pause) Oops, I was wrong. According to the credit-card number, a Visa, issued to Mr. Robert E. Brown, expiration date 12 / 06, they were here on March 21st, the 27th, and April 15th. I was off by a day in April. Must be getting old.

MSG Shoulder: That's amazing.

MAJ Britton: Is there anything else that you would like to tell us?

Mr. Hanson: Anything else you would like to know?

MAJ Britton: Did they stay the whole night?

Mr. Hanson: It appears so. He checked them out at 0700 the next morning every time.

MAJ Britton: When you saw them, what was their demeanor?

Mr. Hanson: They were enjoying each other's company, but they weren't like newlyweds. They weren't touching or crawling all over each other, but they were talking and laughing a lot. He was a little jumpy when he signed in, though.

MAJ Britton: Do you clean the rooms, or do you have a housekeeping staff?

Mr. Hanson: Maria and Noreen clean the rooms. Do you need to talk to them?

MAJ Britton: No, they won't remember, will they?

Mr. Hanson: No, but if your question is about beds, the "Browns" only stayed in single rooms with king-sized beds.

MAJ Britton: Thank you for that information. MSG Shoulder, is there anything that you would like to ask?

MSG Shoulder: Is there anything else that you think we should ask you?

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Mr. Hanson: Not that I can think of.

MSG Shoulder: Is there anyone with whom you think we should speak?

Mr. Hanson: Only Mr. and "Mrs." Brown.

MSG Shoulder: Thank you. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney, if you choose to consult one. The time is 1130, and the interview is concluded. Thank you.

CUI

EXHIBIT B-4

OTR 05-0019

CUI

MSG Shoulder: The time is 1007. This recorded interview is being conducted on 28 January 2017 at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, Ms. Sallie Smith, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, commander of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority. Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

Ms. Smith: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin?

Ms. Smith: No.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?"

Ms. Smith: I do.

MSG Shoulder: You may lower your hand. Please state your name.

Ms. Smith: Sallie Lunn Smith.

MSG Shoulder: Rank and duty position?

Ms. Smith: GS-9, Secretary.

MSG Shoulder: Organization?

Ms. Smith: DPCA.

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MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

Ms. Smith: Apartment C, Lonely Street, Lynchburg, VA 12388.

MSG Shoulder: Telephone number? It can be home or office.

Ms. Smith: 555-804-3232.

MAJ Britton: This concludes the formal read-in. You look nervous. Are you nervous?

Ms. Smith: Yes. But can we hurry? I want to go back to work.

MAJ Britton: OK, we understand. We just have a few questions. Can you define the terms "sexual harassment," "sexual discrimination," or "gender discrimination" like they are defined in Army policies and regulations?

Ms. Smith: Wow. Is this a test? Probably not perfectly, but I think I can get a pretty good guess.

MAJ Britton: Don't worry about it -- we can go over the definitions quickly after the interview is over. Have you read the CG's policy memorandum #3 about sexual harassment?

Ms. Smith: I didn't know he had one. I guess I should have read it, huh?

MAJ Britton: I'll get you a copy before you leave today. Not a problem. So let's talk about where you work. What's it like to work at DPCA?

Ms. Smith: It's a good place to work. People, most people, are nice. I usually like going to work.

MAJ Britton: How's COL Brown as a boss?

Ms. Smith: He's a good boss. I mean, people like him. He gets the job done. He treats people fairly.

MAJ Britton: Have you heard him use vulgar language. Does he sexually harass women who work for him?

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Ms. Smith: Oh, no. That's not him at all. He really likes the people in the office, all of them, and has nothing but the utmost respect for all of them.

MAJ Britton: Can you tell me about him using terms of endearment with the people in the office?

Ms. Smith: He calls all of the ladies "darling" and "sweetheart", except SPC Gray. He told me once that she shouldn't have to have a COL call her names because she might not be willing to tell him to stop.

MAJ Britton: Why doesn't he call you these names?

Ms. Smith: Because I asked him to stop. It made me uncomfortable. He said he understood and has called me "Miss Smith" ever since.

MAJ Britton: Why did it make you uncomfortable?

Ms. Smith: I wasn't his 'honey' or his 'darling,' so he shouldn't use those names for me. Everyone else is OK with it, and that's their business.

MAJ Britton: Can you tell me if he has ever, since you've worked for him, used his rank or his authority to force anyone in the office to have sex with him?

Ms. Smith: I can't imagine him doing that. He's not that sort of person at all. Whoever is making these claims does not know him very well.

MAJ Britton: And you've never heard him be vulgar or even tell a raunchy joke?

Ms. Smith: No. I imagine he would be pretty bad at telling a "raunchy" joke. He's pretty straight-laced. In fact, he's a perfect gentleman. I've never seen him do anything that anyone could consider sexual harassment.

MAJ Britton: Describe for me your relationship with him.

Ms. Smith: We are strictly business. He's my boss. I'm his secretary. We don't mingle after work. He's a good boss.

MAJ Britton: Do you go to lunch together?

Ms. Smith: No, we don't. We did in the past, but not lately.

MAJ Britton: About when was this?

Ms. Smith: Earlier this year, late winter to spring? There's nothing wrong with going to lunch, is there?

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MAJ Britton: Hmmmm ... does COL Brown normally go to lunch with people from the office?

Ms. Smith: Not really. Every now and then, but usually he works through lunch. We have a lot going on.

MAJ Britton: So why did you two go to lunch before?

Ms. Smith: It made sense at the time. We weren't so busy. He needed someone to talk to. He was having a lot of trouble at home, and I was one of his confidants.

MAJ Britton: Can you explain how you went from being a confidant to a "strictly business" relationship?

Ms. Smith: Things change, people change. You know ...

MSG Shoulder: Ms. Smith, I am not sure you are being candid. I would like to remind you that you are under oath.

Ms. Smith: I haven't forgotten. So far I haven't told you anything that is not true.

MSG Shoulder: Please describe your relationship with COL Brown during the time when you two were going to lunch. During that time when he and his wife were having problems.

Ms. Smith: Ummmmm. Hmmmm. Who will find out about this Investigation?

MAJ Britton: We encourage everyone who is part of it not to talk about it so we can maintain as much confidentiality as possible. We can't guarantee confidentiality, though. But as for the final product, MG De La Blame is the Directing Authority, so he will see it. Anyone who wants to read it after it is done has to submit a request under Freedom of Information Act. The suspect of the Investigation will have access to the information against him or her but not your testimony per se.

Ms. Smith: I see. And can I be punished for what I say?

MAJ Britton: You are not suspected of a crime. We are only talking to you as a witness. If you are going to confess to a crime, we'll read you your rights and then ask if you want to continue. Do you need me to read you your rights?

Ms. Smith: Noooo -- I don't think so. (pause) Do I have to talk to you, or can I talk to a lawyer first?

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MAJ Britton: Ma'am, you have to talk to me. And you are under oath. I do want to remind you that the IG is a fact-finder only, and we do not have the authority to punish or recommend punishment. In fact, IG records can't be used for punishment without the approval of The Inspector General of the Army. He does not give such approval very often.

Ms. Smith: Ummmmmmm. (pause ... sniffs loudly ... pause)

MAJ Britton: Is there something that you think you have to tell us? If it's going to be difficult, we can turn off the recorder. We'll get you a bottle of water and some Kleenex and talk about it off the recorder. However, we'll have to turn the recorder back on and go through it all over again since we are always on the record and you are still under oath, even if the recorder is off.

Ms. Smith: Could we do that please? I'd rather do that. (Loud sniffing)

MSG Shoulder: The time is now 1020 and the recorders are off.

MSG Shoulder: The time is now 1100 and the recorded interview with Ms. Sallie Smith on 28 January continues. Persons present are the witness, Ms. Smith, and the investigating officers, MAJ Britton and MSG Shoulder.

MAJ Britton: Ms. Smith, we discussed your previous relationship with COL Brown when the recorders were off. Please repeat what you said then.

Ms. Smith: All of it?

MAJ Britton: As much as you can remember. If you leave anything out, we'll remind you.

Ms. Smith: OK. When I came to work here two years ago, I was really happy. COL Brown was a good boss, and he still is. He asked my opinion on things, we talked about stuff other than work, and over about a year, I learned about how rough things were between Jenny and him. Their kids were off to college, and they'd realized they had nothing in common at all. Jenny was always nagging at him about stuff, and he felt like a failure because he did not know what would make her happy -- and because he did not make general. He'd been surprised to not make it and accepted this position because he was going to have to retire as a COL and was trying to get his head around not being a general and getting out of the Army ... and he was fighting with Jenny. I was a sounding board and, let's face it, I looked up to him, and I still believe that he should have been a general. Jenny was very open that she was glad that he was not going to be promoted any further, and he felt that she was being unfair and unsupportive. Anyway, it was hard for him -- he was run down, and I felt so sorry for him. I guess I fell in love with him over that first year, but I never said anything. He was a married man, and I knew from our conversations that he loved Jenny. And then she left him.

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Ms. Smith: It was just a trial separation but he was devastated. When she left him in early March, he came to work the next day like a zombie. I felt really bad for him, but some part of me was hopeful, you know? I didn't want him to get a divorce. I did not want to be responsible for his marriage falling apart, but I thought if she went away, maybe he'd realize that I was there for him.

Anyway, things went pretty quickly after that. We went out to dinner one night, and we went back to my place.

MAJ Britton: Who asked who out to dinner?

Ms. Smith: I can't remember. It was just supposed to be dinner. You know, to cheer him up, but he had a few drinks, and I had a few drinks, and then we went back to my apartment, and we made love.

MAJ Britton: I assume that means you had sexual intercourse?

Ms. Smith: Yes -- as of that moment, we went from being friends to committing adultery.

MSG Shoulder: Were you pressured into this? Did you feel that if you did not have sex with him, it would negatively impact your job? Did you feel that if you had sex with COL Brown, it would help your job?

Ms. Smith: Oh, no. It had nothing to do with work. It was completely mutual. And I thought he was happy about it, but he wasn't. Anyway, not to beat it to death, we had a relationship that lasted about two months. I was crazy in love; he said he would marry me next year after his divorce was final. Then, towards the middle of April, Jenny called him and said she wanted to try again, that she still loved him, that she was coming back. He told me that it was over. Just like that. He was very nice, very kind, but he said he had to patch things up with Jenny, that he owed her that. Just like that, the whole thing changed from something sweet and wonderful leading to a happy future to something wrong and bad. All of a sudden, she was back, and I wasn't going to marry the love of my life. Instead, I was the 'Other Woman,' the dirty secret; it wasn't love -- it was an affair. I felt like I'd been hit with a bucket of cold water. Every day.

MAJ Britton: How did he treat you after it was over?

Ms. Smith: He was still as professional as always. We'd been careful to hide what we were doing because it is a small office; we didn't want to cause any drama. I cried a lot over the next few months -- every time I drove into the parking lot, I'd tear up. I told everyone it was allergies and just trusted things would get better. It has. I've met someone else and am starting to date again. COL Brown looks like he is happy with Mrs. Brown, and I guess we'd all live happily ever after except this got stirred up again.

MSG Shoulder: Is that why you told him to call you Miss Smith?

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Ms. Smith: Yes. We agreed, that day when he told me Jenny was coming back, that he would always be COL Brown (I had called him Robert for two months), and I would be Miss Smith. We would put a wedge between us and never mention March and April again. We never did. That's not true -- I did tell someone once.

MAJ Britton: Who?

Ms. Smith: I went to confession. I'm a Catholic, and I went to confession. I had to tell someone. I had to have someone tell me that God didn't hate me for being an adulteress. (pause, sniffing)

MAJ Britton: So who else at your office knew about this?

Ms. Smith: No one. (pause) No, Jane knew.

MAJ Britton: Would that be SPC Gray? How would she know?

Ms. Smith: Yes. She walked in at one point when Ro -- COL Brown and I stole a kiss in the coffee room. It was the only time we'd done it; it was the only time, and she came walking in. I'll never forget the look on her face. COL Brown was so upset, he had to leave for the day, but I told him I'd talk to her and make up a story. I talked to her; I didn't make up a story but told her the truth. She told me I was crazy, but that was it. She keeps to herself anyway since she's a single mom and younger than anyone else in the office, so I didn't think she'd tell anyone. I don't think she did.

MAJ Britton: And she's the only one who knew? Has anyone ever said anything?

Ms. Smith: The only person who has ever said anything is Tom Groom. Last week he accused me of having an ongoing affair with COL Brown. I think he's crazy and would say anything to anyone. I'm willing to bet that you're here because he filed a complaint against COL Brown accusing him of anything from embezzlement to adultery to human trafficking. He's a dangerous lunatic. If Jenny, um, Mrs. Brown heard that COL Brown was having an affair, she'd have him for lunch. It would open all sorts of bad baggage that they're working through.

MAJ Britton: Do you think Mrs. Brown has heard anything?

Ms. Smith: I don't think so. She's always been nice to me. Talking to her, when she starts talking about counseling and growing closer, has been really painful, but she doesn't feel like she's being mean. She had a drinking problem that was a part of the problem, so part of her process is to talk about it. She's really trying to fix her marriage, and she talks about it with everyone.

MAJ Britton: Did any of this effect COL Brown's or your duty performance?

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Ms. Smith: I should get an Oscar for how I've acted at work. But I think my overall job performance was pretty poor for a few months after that, maybe about 75% competent. COL Brown had to learn DTS since I messed it up, and I think he missed a few meetings because I mis-scheduled things. I wasn't being vindictive; I was just a mess. But I think he knew that, and he felt bad, I think, so he was never mad at me or angry, so we made it work. And now, as I said, it isn't an issue. I don't even think about it. Much. But until this investigation, it was all going to be OK.

MSG Shoulder: Miss Smith, you've said the relationship lasted for two months. How often was it physical?

Ms. Smith: Right -- we talked about that when you didn't have the recorders running. We had sex a few times, not as often as I wanted to, but he was TDY a lot, my roommate was in and out, and we were trying to be discreet. The first time, the time that started everything, was 6 March. We made love at my apartment a few more times, three more I think, and a few times at the Notel Motel. That was more because it was funny, the name was funny, and because he couldn't stand to be in his empty house. He'd call and ask me to meet him there. We'd have dinner, talk, and, yeah... (sniffing)

MAJ Britton: Do you remember dates?

Ms. Smith: Not really. Oh, I remember 15 April because Jenny called him on his cell phone early the next morning, the 16th, and we ended it. I called in sick that day -- allergies. And he came over to my place on 1 April because he showed up wearing one of those arrow-through-the-head things -- it was April Fool's Day, and he was my April Fool. (sniffing)

MAJ Britton: Would you like another break?

Ms. Smith: No, let's get this over with. What else do you want to know?

MAJ Britton: Did the two of you arrive at work together?

Ms. Smith: No, never. Usually he gets to work before me. Maybe we arrived closer together when we stayed together ...? It never mattered to me, so I guess I never noticed.

MAJ Britton: How do the people in the office deal with COL Brown using terms of endearment with the female employees?

Ms. Smith: I told you before; they think it's just part of where and when he is from. No one seems to have a problem with it. They could tell him if they did -- he's not standoffish or scary.

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MAJ Britton: This may be painful, but has COL Brown ever been physical with anyone else in the office?

Ms. Smith: No, never. His relationship with me was a huge break in his character -- he said that once or twice.

MAJ Britton: MSG Shoulder, do you have any questions you would like to ask?

MSG Shoulder: No, sir.

MAJ Britton: Miss Smith, is there anyone else we should talk to?

Ms. Smith: No.

MAJ Britton: Are there any other questions we should have asked?

Ms. Smith: No.

MSG Shoulder: Thank you. We are required to protect the confidentiality of IG investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one. The time is 1120, and the interview is concluded. Thank you.

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EXHIBIT B-5

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MSG Shoulder: The time is 1100. This recorded interview is being conducted on 24 January 2017, at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, Mrs. Tillie Ickes, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, commander of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority. Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

Mrs. Ickes: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin?

Mrs. Ickes: No, not at all.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth so help you God?"

Mrs. Ickes: I do.

MSG Shoulder: You may lower your hand. Please state your name.

Mrs. Ickes: Matilda "Tillie" Marie Ickes.

MSG Shoulder: Rank and position?

Mrs. Ickes: GS-9, Administrative Specialist.

MSG Shoulder: Organization?

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Mrs. Ickes: DPCA.

MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

Mrs. Ickes: My home address is 7207 Park Terrace, Lynchburg VA 12379.

MSG Shoulder: Telephone number? It can be home or office.

Mrs. Ickes: My home number is 555-109-5341.

MAJ Britton: This concludes the formal read-in. Mrs. Ickes, we'll start the questions. You look a little nervous -- are you?

Mrs. Ickes: I am, a little. I've never done one of these before.

MAJ Britton: Well, remember that you're a witness and are not suspected of wrongdoing -- and we're grateful that you're helping us with this Investigation. Can you describe what it's like to work at DPCA?

Mrs. Ickes: Really? Oh, okay. It's not bad. It can be a lot of fun sometimes -- we are pretty tight. Conrad, SGM Mack, is my cousin, and he makes me laugh all of the time. I love Megan, CPT O'Reilly, although she can be a right mess, and Missy, what we call Miss Smith, is a sweetheart. We're always carrying on. We can buckle down and get the work done, and we get it done pretty well, too. But we enjoy ourselves, too. Other than Megan's divorce, and I think that was mostly her fault -- always looking for something extra from her poor husband, we haven't had much drama in the office ... well, at least among us, we haven't had much drama. So I usually like to go to work, and I like working at DPCA.

MAJ Britton: What do you mean by "at least among us?" Has someone been having "drama?" What do you mean?

Mrs. Ickes: Ugh. This is embarrassing since I don't like to talk bad about people. You know Tom Groom? He works with us, too?

MAJ Britton: Mmmmm?

Mrs. Ickes: Well, you aren't from around here, but he's part of the Grooms from up country. They get ideas and never let them go. He got it in his head that he should get a promotion -- I don't know where or why he thought that -- I tried to tell him that there wasn't anything to this idea of his, but he wouldn't listen. He saw COL Brown and told him about how much he wanted a promotion, and COL Brown tried to tell him that there

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wasn't a billet opening in DPCA. When he did not get promoted later, he got really nasty about COL Brown and DPCA. When he told COL Brown that he should have gotten a promotion, and was really upset, COL Brown told him again that it wasn't an option in DPCA and showed him on the computer how to apply for another job somewhere else that was a GS-12 position or even for a GS-13 position. That wasn't good enough, and Tom went to the union rep -- he was so mad. That's how I know all of this -- don't tell anyone I told you. The union rep is my sister-in-law, and she came and asked me if Tom is crazy. She came and talked to COL Brown, who told her everything he did, showed her the office line diagram, and showed her and Tom, again, where he could apply for GS-12 and 13 positions online. You know she had to support Tom in front of COL Brown, but she told me she wanted to smack him upside the head for wasting her time. Anyway, since this happened this summer, Tom's made the office a little less pleasant. He's always saying ugly things about COL Brown and talking about how he's been wronged. His work sort of dropped off, too, so that other budget analysts had to pick up the slack. When I talked to him about that, since I've been here the longest, I'm sort of the de facto leader, he started to get ugly and say nasty things, so I had to take him down a peg. It really bothered me; if he went around saying things like he was saying, someone could get hurt. My husband is a jealous man, and if he heard that someone was following me around, he could get stupid. The Ickes family members are known for their bad tempers and willingness to fight about anything.

MAJ Britton: I'm sort of confused. What happened after you talked to Mr. Groom about his work?

Mrs. Ickes: It was stupid and untrue and does not bear repeating. He's so ugly about COL Brown that he sees him as the boogey man -- no matter what the situation is. I went so far as to call Tom's wife, Charlotte, and ask if he was OK. She'd been worried about him, too, and she ...

MAJ Britton: Ma'am, please just tell me what Mr. Groom said.

Mrs. Ickes: He said that COL Brown was trying to get fresh with me! It was so stupid! He only said it because I was telling him something he did not want to hear, but what I was saying to him was true. He really was getting lazy, and I was tired of seeing the other folks doing his work!

MAJ Britton: What made him think that COL Brown was "trying to get fresh with you?" What did he mean?

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Mrs. Ickes: Who knows? At one point he was ranting about COL Brown calling me "honey" and "dear" and the next he was saying we were going on "dates." He really upset me -- that's the sort of thing that can ruin a reputation around here faster than the blink of an eye. And I could tell that Tom meant it -- he wasn't just mad and slinging verbiage -- he meant it! He's full of it and is just getting madder and madder and thinking things are terrible. And that stuff made me feel bad and made me really uncomfortable around him, especially when he starts talking about COL Brown. He's always got something bad to say. Yesterday, he was griping about how badly COL Brown was parked and was agitating that the Chief of DCPA shouldn't have a parking place. Anything to be ugly ... How did I end up talking about him?

MSG Shoulder: We were talking about the work environment at DCPA.

Mrs. Ickes: Oh, yeah, sorry. It would be great if Tom could get a job somewhere else or just retire. He's the only fly in our ointment.

MAJ Britton: So you don't think COL Brown has ever behaved improperly towards you?

Mrs. Ickes: Oh no. He's a fine old Southern gentleman. Everyone in the office was so happy when he and his wife got back together. They never should have been apart, and separating after so many years of marriage was so hard on him. You could look at him and see he was under a lot of stress. I swear he aged six years in those six months. He looks a lot happier now.

MAJ Britton: Are you friends with COL and Mrs. Brown?

Mrs. Ickes: Oh, no. That would be awkward, to work for a friend. No, he's just our boss, but I care about people as human beings. That's OK, isn't it?

MAJ Britton: Sure -- so why did Mr. Groom think you were meeting COL Brown for lunch?

Mrs. Ickes: Because he is not right in the head. He's looking for badness. I went to lunch with COL Brown and my son a few times this fall because COL Brown said he would help Ted, my son, with his college essays and college packets. Ted wants to be an engineer; he's got the brains for it -- my side of the family, thank you -- and wants to go to Virginia Tech. COL Brown is a Tech alumni and said he'd do what he could to help. I'm really glad -- neither Harry nor I have college degrees, and I was worried about helping Ted go through the process. I'm no dummy, and neither is Harry, but all of the forms and requests for grants and everything ... poor Ted was almost on his own! But COL Brown's daughter just went through all of this a year or two ago, and he offered to help Ted. Most of the time, Ted came here after school and before he went to work at McDonald's, but there were a few times the three of us met at lunchtime. It worked, too -- we'll always be grateful. Ted just found out he got picked up early decision from Virginia Tech. COL Brown is almost as happy as we are.

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MSG Shoulder: And that was it? Those were the only times you went to lunch with COL Brown?

Mrs. Ickes: Yup. He's not a friend of mine. In case it matters, I offered to pay for his lunch, but he wouldn't let me. But he did not pay for mine or Ted's.

MAJ Britton: Did he offer to help your son?

Mrs. Ickes: No, I asked him. It was Megan's idea. She knew he was a Tech alumni.

MSG Shoulder: Did you say he calls you "Honey" and "Dear?"

Mrs. Ickes: Yes, but he calls all of us that, and "sweetheart" and "darling" -- except Tom. Maybe that's Tom's problem -- maybe he's jealous? I'm joking, but that really bothers Tom. He's told us, in the coffee room, that we should file an EEO complaint and that COL Brown is sexually harassing us, but we've told him that we really don't pay him no mind. We know COL Brown doesn't mean anything by it -- he's just that way. I wouldn't waste anyone's time with an EEO complaint. If it bothered me, I would ask him to stop. He's the sort of man who would stop if he knew it bothered you. I've been to the EEO training, and I know my first responsibility if I am feeling harassed is to tell the person to stop -- and I don't feel that is necessary in this case.

MAJ Britton: How about the rest of the ladies with whom you work?

Mrs. Ickes: They think Tom is crazy, too.

MAJ Britton: Ummm...about COL Brown using terms of endearment?

Mrs. Ickes: No one cares. Maybe Missy cares. He just calls her "Miss Smith."

MSG Shoulder: Does he treat her differently in any other ways?

Mrs. Ickes: No, not really. He is always respectful and polite. But he's respectful and polite to all of us.

MAJ Britton: Have you ever seen him touching any of the women in the office?

Mrs. Ickes: No.

MAJ Britton: What's his relationship with CPT O'Reilly?

Mrs. Ickes: It's professional. If you are going to ask if he's having an affair with CPT O'Reilly, the answer is no. He's not having an affair with anyone at the office.

MAJ Britton: Does anyone think DPCA is a bad place to work?

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Mrs. Ickes: Tom. I wish that old rattlesnake would find a new job.

MAJ Britton: Does anyone else think COL Brown mistreats him or her? Is anyone afraid of COL Brown?

Mrs. Ickes: No, not really. He's our boss and a COL, but I'm not sure if anyone is afraid of him.

MAJ Britton: Do you like working at DCPA?

Mrs. Ickes: Yes, I do. There are a lot worse places to be.

MAJ Britton: Have you heard of anyone having an affair with a co-worker in your office?

Mrs. Ickes: No -- I think I made that clear. Oh, Tom accuses COL Brown of sleeping with everyone except Conrad, but we're small enough that I think I'd know if someone was. And none of us find any of the men in the office attractive. We've talked about it over the years, just girl talk, and neither of them are the right type. No, nothing that exciting happens in our little office, just Tom being angry sometimes and that's about it.

MAJ Britton: I think this is my last question. Is it possible that Ms. Smith could be seeing anyone in the office?

Mrs. Ickes: Again, no. Tom's gotten mean to her over the past few months, needling at her and insinuating she's having an affair with the COL ... wait a minute, I bet he called you guys. Look, if that's what this is about, there is nothing going on in DPCA except a bitter, crazy old man who wants to make trouble for people. I don't pay any mind to Tom's ugly rumors, and I've told him that he can't go around talking badly about a woman like that, or she can go to EEO about him. Before Christmas I told him that if he didn't shut up, I was going to report him to EEO for creating a hostile work environment. He's got a crazy hatred for COL Brown, and it's messing up our work environment.

MSG Shoulder: Ma'am, we cannot discuss what we are investigating or who made an allegation -- it's part of IG confidentiality. Did you ever hear COL Brown tell an offensive joke?

Mrs. Ickes: COL Brown? No. He told a mildly off-color joke once, but that was it. And I can't even remember the joke now. I laughed about it then and forgot it.

MAJ Britton: Is there anything else we should have asked you pertaining to the questions we've asked you?

Mrs. Ickes: No, nothing that I can think of?

MAJ Britton: Anyone else we should talk to and why?

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Mrs. Ickes: About what? You guys were all over the place.

MAJ Britton: What it's like to work at DPCA? Inter-office politics?

Mrs. Ickes: Well, we're a small office. These interviews are really going to cause a lot of stress for us. I know you've said you try to protect confidentiality, but the best thing you could do is talk to all of us. That way no one will be singled out. I know you've talked to Tom because I saw him in the parking lot. Talk to Conrad, Megan, and Missy. SPC Gray, too, but she does not hang out with anyone in the office. We're a little too old and settled for her. I don't know what she could add.

MAJ Britton: OK, ma'am. Oh, have you read the CG's policy letter on sexual harassment?

Mrs. Ickes: Nope.

MAJ Britton: We'll get you a copy before you leave the office today. Could you define the terms "sexual harassment," "sexual discrimination," or "gender discrimination?"

Mrs. Ickes: Not right here and now. I mean I could guess, but they'd be a guess. Probably be pretty close, too.

MAJ Britton: OK, we'll go over that when we turn the recorders off so you can help keep people straight at the office, OK?

Mrs. Ickes: All right, I guess.

MAJ Britton: MSG Shoulder will conduct the read out now.

MSG Shoulder: We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one. Do you have any questions?

Mrs. Ickes: No.

MSG Shoulder: The time is 1140, and the interview is concluded. Thank you.

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CUI

EXHIBIT B-6

OTR 05-0019

CUI

MSG Shoulder: The time is 1300. This recorded interview is being conducted on 25 January 2017 at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, SGM Conrad Mack, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, Commander of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority. Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

SGM Mack: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin?

SGM Mack: No at all.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?"

SGM Mack: I do.

MSG Shoulder: You may lower your hand. Please state your name.

SGM Mack: Conrad Leroy Mack.

MSG Shoulder: Rank?

SGM Mack: SGM.

MSG Shoulder: Organization and status?

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SGM Mack: DPCA and active Reserve.

MSG Shoulder: Position?

SGM Mack: NCOIC, DPCA.

MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

SGM Mack: 127 Cherry Blossom Rd, Lynchburg, VA 12347.

MSG Shoulder: Telephone number? It can be home or office.

SGM Mack: 555-804-3900.

MAJ Britton: This concludes the formal read-in. Have you done this before, SGM?

SGM Mack: Yeah. I'm good. Let's do this. I've got a good guess what this is about and who called you, but I'll keep my thoughts to myself.

MAJ Britton: Fine. As we said in the pre-brief, you're a witness, and we appreciate your being here. So how long have you worked at DCPA?

SGM Mack: For about two years.

MAJ Britton: Have you been in this office the whole time?

SGM Mack: Yes.

MAJ Britton: Please tell me about what it's like to work in the office.

SGM Mack: It's fine, a good atmosphere. I like everyone I work with, except Mr. Groom. He's a basket case, always accusing people in the office of crazy things with COL Brown. That man needs to go because he is disrupting the office, but it is so hard to fire a Civilian if he performs his duties -- and he does that. Yesterday, he told me that COL Brown and Ms. Smith were having an affair, and I had to tell him to just stop it -- he's the problem in the office, not COL Brown.

MAJ Britton: So you did not believe him?

SGM Mack: No. Everyone knows COL Brown is working through problems with his wife, but he's not the sort to sneak around. Besides, I know Ms. Smith has a boyfriend, even though she hasn't talked about him in the office.

MAJ Britton: How do you know this?

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SGM Mack: She's been dating my cousin, Ronnie, for the past two months. I introduced them at the Lynchburg High homecoming football game in October, and they've been dating since early November. I like her. She's very competent.

MSG Shoulder: SGM Mack, did you ever hear about COL Brown kissing SPC Gray or anyone else?

SGM Mack: Sure. And always from Mr. Groom. In August, he came to me with a story that he'd seen COL Brown and SPC Gray kissing each other. The problem is that the day he supposedly saw this, SPC Gray was on leave and wasn't at the office! I told him I needed more information than that, because I knew she wasn't there, and I just wanted the old coot to stop talking. Of course, I asked her about it later, you know, quietly and in private, if COL Brown was harassing her or if there was anything going on. She said there wasn't, so I chalked it up to Mr. Groom running his mouth again. He's going to destroy COL Brown's reputation with his constant lying.

MAJ Britton: OK -- changing subjects, what do you think about COL Brown as a boss?

SGM Mack: He's pretty good. The other people in the office, minus Mr. Groom, really like him. It takes me a while to warm up to people, so it took me a while, but he takes care of people and gets the mission done pretty well.

MAJ Britton: Does he demean anyone? Touch anyone improperly?

SGM Mack: Not him. I've never noticed anything.

MAJ Britton: How about his using terms of endearment for the women in the office?

SGM Mack: He calls them "honey" and "dear," but no one thinks anything about it. It's his age and background. It's not like he's calling me "honey" or "darling." I might have an issue with that, but none of the ladies do.

MAJ Britton: Can you talk to me about COL Brown telling off-color jokes?

SGM Mack: Never heard him cuss, much less tell an off-color joke.

MAJ Britton: Can you tell me anything about COL Brown's marriage?

SGM Mack: I know he's married. I talk to her when she comes around looking for him to go to counseling. She told me they were rebuilding their marriage, but I didn't ask any questions. He's told me they are going to counseling. They were high-school sweethearts and got married in college. When they separated last spring, he seemed to fall apart for a few months, but things got better when she came back.

MAJ Britton: Hmmmm, is there anything you would like to add?

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SGM Mack: No.

MSG Shoulder: SGM, is COL Brown having an affair with anyone in the office?

SGM Mack: Ummm ... No.

MSG Shoulder: Did he?

SGM Mack: At one point, during the spring, I started to think that there might be something between him and Ms. Smith but that was when he was separated and was not doing well in general. There probably wasn't anything there; if something started, it ended before it got anywhere, just what you'd expect.

MAJ Britton: Hmmm. OK. When did that happen?

SGM Mack: This spring, March? April? April. It was after Easter.

MAJ Britton: OK. Anyone else with whom I should speak about these issues?

SGM Mack: Not really. These are all rumors started by Mr. Groom.

MAJ Britton: Thank you, SGM Mack. MSG Shoulder, will you do the read-out now?

MSG Shoulder: We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one. Do you have any questions?

SGM Mack: No.

MSG Shoulder: The time is 1320, and the interview is concluded. Thank you.

CUI

EXHIBIT B-7

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MSG Shoulder: The time is 0900. This recorded interview is being conducted on 26 January 2017 at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, CPT Megan O'Reilly, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, Commanding General of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority. Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

CPT O'Reilly: Yes.

MSG Shoulder: You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today?

CPT O'Reilly: No.

MSG Shoulder: Do you have any questions before we begin?

CPT O'Reilly: No.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?"

CPT O'Reilly: I do.

MSG Shoulder: You may lower your hand. Please state your name.

CPT O'Reilly: Megan Brigit O'Reilly.

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MSG Shoulder: Rank and status?

CPT O'Reilly: CPT, Active Army.

MSG Shoulder: Organization and position?

CPT O'Reilly: DPCA and Chief, Officer Personnel Records.

MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

CPT O'Reilly: My home address is 007 Martin Rd, Lynchburg, VA 12346.

MSG Shoulder: Telephone number? It can be home or office.

CPT O'Reilly: My home number is 555-098-5431.

MAJ Britton: This concludes the formal read-in. CPT O'Reilly, we'll start the questions. Do you have questions for us yet?

CPT O'Reilly: I'm a little scared.

MAJ Britton: Don't be. You're a witness who might have some information that pertains to this case. How long have you worked at DCPA?

CPT O'Reilly: For about two years.

MAJ Britton: And how long have you worked for COL Brown?

CPT O'Reilly: About two years.

MAJ Britton: Please tell me about what it's like to work in the office.

CPT O'Reilly: It's a nice place to work. It's been good, usually fun. I've made some good friends there.

MAJ Britton: Do you ever feel uncomfortable or unhappy about going to work?

CPT O'Reilly: Who doesn't? That's why we all play the lottery. But usually I like going. Some days it's better than being home.

MAJ Britton: What do you think about COL Brown as a boss?

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CPT O'Reilly: Oh, he's a good boss. He's not setting the world on fire. He seems like he's just marking time to retire, but he's supportive and encouraging. We like him.

MAJ Britton: Does he call you demeaning names or put anyone down?

CPT O'Reilly: COL Brown? No way! Not him. He's more like everyone's dad ... wait a minute. I bet Mr. Groom made a complaint about how COL Brown calls the women in the office "honey" and "dear." I'm right, aren't it? I bet Mr. Groom filed a toxic-leadership complaint. He's such a jerk, and after everything COL Brown has done for him.

MAJ Britton: I cannot tell you with whom we have spoken or with whom we will speak. I really need you to not mention anything we discuss here outside of this interview.

CPT O'Reilly: OK, so let's not talk about Mr. Groom anymore. None of us mind when COL Brown calls us "honey" or "sweetheart." It's just the way he is, and he does not mean anything by it. He's as proper and nice as he can be and still be in charge. No one minds -- if we did, we would ask him to stop, and he probably would.

MAJ Britton: You think so?

CPT O'Reilly: Absolutely. He's very careful about making sure people treat each other right. Even PVT Speed. PVT Speed is getting chaptered for something, but COL Brown asked us to not mention it to him or gossip about it.

MAJ Britton: Can you talk to me about COL Brown telling off-color jokes?

CPT O'Reilly: I only know of one -- and I only remember it because I needed a laugh that day. It struck me as funny at the time, but I wouldn't have remembered it otherwise. We were all standing around the coffee pot, waiting for the next pot to brew, so it didn't strike me as inappropriate for the time and place. It was something about how men and women were built differently, you know, below the waist, and I didn't think anything about it other than being glad to have a laugh.

MAJ Britton: Do you remember what the joke was?

CPT O'Reilly: No. It was that forgettable. But COL Brown apologized for telling it, even though no one was offended.

MAJ Britton: Are you aware of COL Brown acting in an improper way at the office? Has he ever improperly touched anyone in the office that you know of? How about you?

CPT O'Reilly: No. Absolutely not. The only improper action I know of is Mr. Groom's witch hunt against COL Brown because he didn't get promoted. The only person who thinks Mr. Groom deserved that promotion was Mr. Groom, but he's held it against

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COL Brown since last February when he didn't get it. He just needs to leave the office. He's the biggest problem there!

MAJ Britton: So COL Brown never put his arms around you?

CPT O'Reilly: Not that I remember.

MAJ Britton: Anyone else in the office? Miss Smith? Mrs. Ickes? SPC Gray?

CPT O'Reilly: No. I've never seen anything or hear anything?

MAJ Britton: Can you tell me anything about COL Brown's marriage?

CPT O'Reilly: Only what everyone knows. He and the Mrs. have their problems, but they are working through them. It looks like they'll pull it together. He seems happier now than he's been in a long time. I wish my husband had been willing to go to counseling with me like COL Brown is going with his wife.

MAJ Britton: Well, you've heard the questions I'm asking. Is there anything you would like to add?

CPT O'Reilly: No. This is just all harassment by Mr. Groom. You should end the Investigation now.

MAJ Britton: Anyone else with whom I should speak about these issues?

CPT O'Reilly: You mean about the office? COL Brown as a responsible leader? Maybe Ms. Smith. And SPC Gray, maybe MSG Conrad, Mrs. Ickes, and PVT Speed. You won't get any sense from Mr. Groom.

MAJ Britton: Thank you, CPT O'Reilly. MSG Shoulder will do the read-out now. If you think of anything over the next few days, please give us a call.

CPT O'Reilly: OK.

MAJ Britton: Oh, if I asked you, could you define "sexual harassment," "sexual discrimination," or "gender discrimination?"

CPT O'Reilly: I could take a swing at it. I guess it's more that I recognize them and know what they mean opposed to really knowing what the book says.

MAJ Britton: OK, thank you for your candor. We can take a look at those definitions after we turn the recorder off. Now MSG Shoulder will read you out.

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MSG Shoulder: We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one. Do you have any questions?

CPT O'Reilly: No.

MSG Shoulder: The time is 0920, and the interview is concluded. Thank you.

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EXHIBIT B-8

OTR 05-0019

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MSG Shoulder: The time is 1300. This recorded interview is being conducted on 1 February 2017, at the IG Conference Room, Fort Von Steuben, Virginia. Persons present are the witness, COL Robert Brown, and the investigating officers, MAJ Richard Britton and MSG Bruno Shoulder. This Investigation was directed by MG Mottin De La Blame, Commanding General of Fort Von Steuben, and concerns allegations of impropriety by an Army official.

An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority.

Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. Do you understand it?

COL Brown: Yes.

MSG Shoulder: You are advised that you are suspected of the following allegations, about which we want to question you:

1. COL Brown conducted an adulterous relationship in violation of Article 134, UCMJ.
2. COL Brown sexually harassed female employees in violation of AR 600-20.

I previously advised you of your rights, and you signed a DA Form 3881 waiver certificate. Do you understand your rights?

COL Brown: Yes.

MSG Shoulder: Do you agree to waive your rights at this time?

COL Brown: Yes.

MSG Shoulder: Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful

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testimony today? Do you have any questions before we begin?

COL Brown: No to both questions.

MSG Shoulder: Please raise your right hand so that I may administer the oath. Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

COL Brown: I do.

MSG Shoulder: You may lower your hand. Please state your name.

COL Brown: Robert B. Brown.

MSG Shoulder: Rank?

COL Brown: COL.

MSG Shoulder: Organization and status?

COL Brown: DPCA and Active Army.

MSG Shoulder: Position?

COL Brown: Director, DPCA.

MSG Shoulder: Address? It can be home or office, but it should be an address where you would not mind receiving correspondence with a return address from the IG office.

COL Brown: 624 Springwood, Lynchburg, VA 12593.

MSG Shoulder: Telephone number? It can be home or office?

COL Brown: 555-804-3020.

MAJ Britton: This concludes the formal read-in. Sir, we'll begin with the questions.

COL Brown: OK, guys, anything you want to ask me. Go ahead.

MAJ Britton: OK, sir. Can you talk to me about how you interact with women in your office?

COL Brown: Professionally? We're pretty lucky with the folks in DPCA. We have a good group.

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MAJ Britton: Do you use terms of endearment when you talk to them?

COL Brown: Is that what this is about? Yes, I guess I do. And yes, I guess that's passé. I don't think about it. I sure don't mean anything by it. If it bothers anyone, I'd hope they'd tell me, so I could stop. Miss Smith, my secretary, told me that she did not like it when I called her "Honey" and "Sweetie," so I stopped, but she wasn't special. It's something I do all of the time, and I'd hope that if someone else was bothered that that person would say something. But I've never used a term of endearment with SPC Gray. As a SPC, she might be too afraid to tell an old gas-bag COL to stop.

MAJ Britton: Have you ever told jokes that were improper in the office?

COL Brown: Oh, no -- yes, yes I have. That I'm afraid I have done, and I wish I had not. I told a dirty joke one day in the coffee room and immediately wished I had not. It was inappropriate and unprofessional, and I apologized to everyone there. They all told me it was no big deal. In fact a few of them really thought it was funny -- CPT O'Reilly really got a kick out of it -- but I knew it wasn't the right the thing to do as soon as I did it. I haven't told another one.

MAJ Britton: What was the joke?

COL Brown: I can't remember. I'd heard it on television the night before and thought it was funny.

MAJ Britton: Have you ever observed anyone sexually harassing someone in DPCA?

COL Brown: I think twice. I've fired one supervisor for it and gave a negative counseling letter to a SFC who was misbehaving in CPT O'Reilly's office. She did the right thing to bring it to me when she did.

MAJ Britton: I mean within your office?

COL Brown: No. I've not seen anyone sexually harassing anyone in our office. I don't stand for that sort of thing.

MAJ Britton: So you've never sexually harassed anyone?

COL Brown: Good Lord, no. And I hope that anyone who thinks I have would come to me immediately and clear that up.

MAJ Britton: OK, what can you tell me about relationships in your office?

COL Brown: You are going to have to be a little more specific for me. I'm not sure what you are looking for.

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MAJ Britton: Sir, have you had an adulterous affair with anyone in your office?

COL Brown: No. And I haven't had one with anyone not in the office, either.

MAJ Britton: Please describe your relationship with Ms. Smith.

COL Brown: Strictly professional. When my wife and I were having some problems, Miss Smith and I went to lunch a lot; she listened to an old man moaning about his problems, so maybe some people might have come to the wrong conclusion and thought something was going on. In fact, I realized that it wasn't fair for her to have to listen to her boss's problems, so I brought that to a stop. But, no, never, I've never cheated on Jenny. If she thought I did, she'd leave me for good.

MAJ Britton: When did she leave before?

COL Brown: For two months in the spring. March and April. They were the worst months of my life. We've had our problems, but we are married and should be able to work through whatever problems we have.

MAJ Britton: During that time, did you ever meet Miss Smith at the Notel Motel? I have copies of the receipts for your room on 21 and 27 March and 15 April. You appear to have signed in as Mr. and Mrs. Robert E. Brown.

COL Brown: Yeah, that looks bad, but there is an explanation. During that horrible time when Jenny was gone, I hated to be at home, so sometimes when the house got too quiet and empty, I'd go stay at a motel. I was trying to save money. I didn't know what was going to happen next, and I have a kid in college. I was embarrassed by my marriage failing, so I did not want to stay in any place where someone might recognize me or that might cost too much. I think I stayed there a number of times, but I guess those were the times that I accidentally signed in as Mr. and Mrs. It's a habit, you know. Over 30 years of marriage and signing in as Mr. and Mrs. at motels and hotels around the world, and it's a habit. So I signed in as us.

MAJ Britton: Sir, we have a witness who says that you met Miss Smith at the Notel Motel on those dates. Can you explain that?

COL Brown: Of course I can. I called her once or twice and asked if she would join me for dinner. She came. We had dinner. She left. Stupid, but at that time I was not thinking very clearly.

MAJ Britton: Why would you ask her to dinner at the Notel Motel?

COL Brown: The times I went to stay at the Notel Motel were the worst days -- I could barely function I was so depressed. I called her and asked her to join me to cheer me up. Like I said, stupid, but I was so low that I could barely function. I kept telling her

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that she did not have to come, that I was not asking her to come as her boss. She felt sorry for me.

MAJ Britton: Did she spend the night with you?

COL Brown: No, never. I'd never ask her to do that.

MAJ Britton: How about if she volunteered?

COL Brown: No, never.

MAJ Britton: Have you ever had sexual intercourse with Ms. Smith?

COL Brown: No, never.

MAJ Britton: A witness says that you kissed Ms. Smith in the coffee room. Can you please explain that?

COL Brown: What's to explain? I gave her a brotherly hug once, in the coffee room, you know, where the copiers are, when she got a summons to appear in court over an unpaid traffic ticket. She was very upset.

MAJ Britton: Another witness says you were seen in the coffee room with CPT O'Reilly.

COL Brown: You are going to have to be more specific -- I've been in the coffee room with just about everyone at some time, to include SGM and Mr. Groom. What am I supposed to have been doing with CPT O'Reilly? Before we get any further, the answer is nothing. I've never done anything with, by, or to CPT O'Reilly.

MAJ Britton: So you never embraced CPT O'Reilly in the coffee room?

COL Brown: Not that I remember -- oh, yes. I sat with her one time while she cried after her husband sent her divorce papers. That was an ugly time for her. I had a hard time keeping my military composure because I certainly understood what she was going through. Someone came in during that episode and was kind enough to get her some Kleenex. I can't remember who. She had a hard time for a while -- I think she's still going through it.

MAJ Britton: Have you ever come to work with Ms. Smith?

COL Brown: Uh, no. We've never carpooled. I usually get to work about half an hour ahead of her.

MSG Shoulder: Did you help Mrs. Ickes's son with his college application? Can you talk to me about that?

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COL Brown: Yes -- Ted got accepted at Tech, too. Mrs. Ickes is really proud of him. He's a fine young man. I met him a few times at lunch. Mrs. Ickes and I would meet him to work on his application, but he was pretty squared away without my help. What does this have to do with anything?

MSG Shoulder: Sir, it is part of the Investigation we've been directed to perform. But that answers all of the questions I want to ask. MAJ Britton, do you have any more questions?

MAJ Britton: Just one. Sir, are you familiar with the CG's policy memorandum number three?

COL Brown: No, which one is that?

MAJ Britton: It's the policy memorandum regarding sexual harassment. We've got a copy for you, sir, to disseminate to your office since there may be some confusion regarding what sexual harassment is and what it isn't.

COL Brown: Thanks.

MAJ Britton: That's all I have. MSG Shoulder, if you would like to do the read-out now, that would be fine.

MSG Shoulder: Sir, do you have anything else you wish to present?

COL Brown: No.

MSG Shoulder: What other questions do you think we should have asked?

COL Brown: I have no idea.

MSG Shoulder: Who else do you think we should talk to and why?

COL Brown: No one. The fewer people who get brought into this, the better.

MSG Shoulder: OK, sir. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one. Do you have any questions?

COL Brown: No.

MSG Shoulder: The time is 1345, and the interview is concluded. Thank you.

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EXHIBIT C-1

OTR 05-0019

UCMJ 2012 Article 134—(Adultery) [EXCERPT]**62. Article 134—(Adultery)**

a. *Text of statute.* See paragraph 60.

b. *Elements.*

(1) That the accused wrongfully had sexual intercourse with a certain person;

(2) That, at the time, the accused or the other person was married to someone else; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *Nature of offense.* Adultery is clearly unacceptable conduct, and it reflects adversely on the service record of the military member.

(2) *Conduct prejudicial to good order and discipline or of a nature to bring discredit upon the armed forces.* To constitute an offense under the UCMJ, the adulterous conduct must either be directly prejudicial to good order and discipline or service discrediting. Adulterous conduct that is directly prejudicial includes conduct that has an obvious, and measurably divisive, effect on unit or organization discipline, morale, or cohesion, or is clearly detrimental to the authority or stature of or respect toward a service member. Adultery may also be service discrediting, even though the conduct is only indirectly or remotely prejudicial to good order and discipline. Discredit means to injure the reputation of the armed forces and includes adulterous conduct that has a tendency, because of its open or notorious nature, to bring the service into disrepute, make it subject to public ridicule, or lower it in public esteem. While adulterous conduct that is private and discreet in nature may not be service discrediting by this standard, under the circumstances, it may be determined to be conduct prejudicial to good order and discipline. Commanders should consider all relevant circumstances, including but not limited to the following factors, when determining whether adulterous acts are prejudicial to good order and discipline or are of a nature to bring discredit upon the armed forces:

(a) The accused's marital status, military rank, grade, or position;

(b) The co-actor's marital status, military rank, grade, and position, or relationship to the armed forces;

(c) The military status of the accused's spouse or the spouse of co-actor, or their relationship to the armed forces;

(d) The impact, if any, of the adulterous relationship on the ability of the accused, the co-actor, or the spouse of either to perform their duties in support of the armed forces;

(e) The misuse, if any, of government time and resources to facilitate the commission of the conduct;

(f) Whether the conduct persisted despite counseling or orders to desist; the flagrancy of the conduct, such as whether any notoriety ensued; and whether the adulterous act was accompanied by other violations of the UCMJ;

(g) The negative impact of the conduct on the units or organizations of the accused, the co-actor or the spouse of either of them, such as a detrimental effect on unit or organization morale, teamwork, and efficiency;

EXHIBIT C-2

OTR 05-0019

AR 600-20, Chapter 7 Prevention of Sexual Harassment [EXCERPT]**7-3. Policy**

a. The policy of the Army is that sexual harassment is unacceptable conduct and will not be tolerated. Army leadership at all levels will be committed to creating and maintaining an environment conducive to maximum productivity and respect for human dignity. Sexual harassment destroys teamwork and negatively affects combat readiness. The Army bases its success on mission accomplishment. Successful mission accomplishment can be achieved only in an environment free of sexual harassment for all personnel.

b. The POSH is the responsibility of every Soldier and DA civilian. Leaders set the standard for Soldiers and DA civilians to follow.

7-4. Definition

a. Sexual harassment is a form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature between the same or opposite genders when—

(1) Submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career.

c. Submission to, or rejection of, such conduct by a person is used as a basis for career or employment decisions affecting that person.

d. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

b. Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a Soldier or civilian employee is engaging in sexual harassment. Similarly, any Soldier or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is engaging in sexual harassment.

7-5. Categories of sexual harassment

a. Verbal. Examples of verbal sexual harassment may include telling sexual jokes; using sexually explicit profanity, threats, sexually oriented cadences, or sexual comments; whistling in a sexually suggestive manner; and describing certain attributes of one's physical appearance in a sexual manner. Verbal sexual harassment may also include using terms of endearment such as "honey", "babe", "sweetheart", "dear", "stud", or "hunk" in referring to Soldiers, civilian co-workers, or Family members.

b. Nonverbal. Examples of nonverbal sexual harassment may include staring at someone (that is, "undressing someone with one's eyes"), blowing kisses, winking, or licking one's lips in a suggestive manner. Nonverbal sexual harassment also includes printed material (for example, displaying sexually oriented pictures or cartoons); using sexually oriented screen savers on one's computer; or sending sexually oriented notes, letters, faxes, or email.

c. Physical contact. Examples of physical sexual harassment may include touching, patting, pinching, bumping, grabbing, cornering, or blocking a passageway; kissing; and providing unsolicited back or neck rubs. Sexual assault and rape are extreme forms of sexual harassment and serious criminal acts. When these acts occur, report them in accordance with the procedure outlined in chapter 8 and appendix H, of this regulation.

7-6. Types of sexual harassment

a. Quid pro quo. "Quid pro quo" is a Latin term meaning "this for that." This term refers to conditions placed on a person's career or terms of employment in return for favors. It includes implicit or explicit threats of adverse action if the person does not submit to such conditions and promises of favorable actions if the person does submit to such conditions. Examples include demanding sexual favors in exchange for a promotion, award, or favorable assignment; disciplining or relieving a subordinate who refuses sexual advances; and threats of poor job evaluation for refusing sexual advances. Incidents of "quid pro quo" may also have a harassing effect on third persons. It may result in allegations of sexual favoritism or general discrimination when a person feels unfairly deprived of recognition, advancement, or career opportunities because of favoritism shown to another Soldier or civilian employee on the basis of a sexual relationship. An example would be a Soldier who is not recommended for promotion and who believes that his or her squad

leader recommended another Soldier in his or her squad for promotion on the basis of provided or promised sexual favors, not upon merit or ability.

b. Hostile environment. A hostile environment occurs when Soldiers or civilians are subjected to offensive, un- wanted and unsolicited comments, or behaviors of a sexual nature. If these behaviors unreasonably interfere with their performance, regardless of whether the harasser and the victim are in the same workplace, then the environment is classified as hostile. A hostile environment brings the topic of sex or gender differences into the workplace in any one of a number of forms. It does not necessarily include the more blatant acts of “quid pro quo”; it normally includes nonviolent, gender-biased sexual behaviors (for example, the use of derogatory gender-biased terms, comments about body parts, suggestive pictures, explicit jokes, and unwanted touching).

EXHIBIT D-1

OTR 05-0019

CUI

DA Form 4037, Officer Record Brief, COL Robert Eugene Brown married to Ms. Jennifer Coggins Brown

Exhibit D-1 (page 1 of 1) *Editorial note: Original DA form 4037 redacted for instructional purposes.*
OTR 05-0019

CUI

EXHIBIT D-2

OTR 05-0019

CUI

**NOTEL MOTEL
LYNCHBURG'S FINEST!**

21 March to 22 March 2005

King Sized Bed, Single Room \$50.00

Charged to VISA #xxxx-xxxx-xxxx-
9827, Robert E. Brown, expiration
date 12-06

Signature 

Exhibit D-2 (page 1 of 2)
OTR 05-0019

CUI

CUI

**NOTEL MOTEL
LYNCHBURG'S FINEST!**

27 March to 28 March 2005

King Sized Bed, Single Room \$50.00

Charged to VISA #xxxx-xxxx-xxxx-
9827, Robert E. Brown, expiration
date 12-06


Signature 

Exhibit D-2 (page 2 of 2)
OTR 05-0019

CUI

EXHIBIT E-1

OTR 05-0019

CUI**SUSPECT NOTIFICATION FORMAT**
(Punitive / Criminal Allegations)To: (Rank / Grade and Name) COL Robert E. BrownPosition and Organization: Director of Personnel and Community Activities (DPCA)Phone number: 555-804-3020

(CHECK WHEN DONE)

1. (x) COL Brown, this is MAJ Richard Britton from the Fort Von Steuben IG office. (Directing Authority) MG De La Blame has directed us to investigate / inquire into allegations that you: (as stated in the Action Memorandum)

(1) COL Brown conducted an adulterous relationship in violation of Article 134 UCMJ.

(2) COL Brown sexually harassed female employees in violation of AR 600-20.

2. (x) It will be necessary to interview you regarding these matters. (Choose a or b)

a. (Investigating Officers) MAJ Britton or MSG Shoulder will contact you to make necessary arrangements; or

b. We want to interview you at (time) _____ on (date) _____ at (location) _____. Our telephone number is _____.

3. (x) You are a suspect in this matter. Therefore, you do not have to answer any questions or say anything. Anything you say or do can be used as evidence against you in a criminal trial. You have the right to talk to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. The lawyer can be a civilian you arrange at no expense to the Government. (If the suspect is subject to UCMJ, add the following): or a military lawyer detailed for you at no expense to you, or both.

4. (x) MG De La Blame has been notified of this Investigation.

5. (x) We are required to protect the confidentiality of IG Investigations / Investigative Inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation / Investigative Inquiry. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney, if you choose to consult one.

6. (x) COL Brown was (telephonically / personally) notified of the above at 1030 (time) on 21 December 2016 (date).

Richard Britton

(Signature of Notifying Official)

Exhibit E-1 (page 1 of 1)
OTR 05-0019**CUI**

EXHIBIT E-2

OTR 05-0019

CUI

COMMANDER / SUPERVISOR NOTIFICATION FORMAT

To: (Rank / Grade and Name) COL Madeleine Jones

Position and Organization: Garrison Commander

Phone number: 555-273-1101

(CHECK WHEN DONE)

1. (x) COL Jones this is LTC Albert Rightway from the Fort Von Steuben IG office. I am calling to inform you that (Directing Authority) MG De La Blame has directed this office to investigate / inquire into allegations that: (as stated in Action Memorandum)*

(1) COL Brown conducted an adulterous relationship in violation of Article 134 UCMJ.

(2) COL Brown sexually harassed female employees in violation of AR 600-20.

*Note: Generally, Commanders need to know exactly what you are investigating, and you should state the allegations as written in the Action Memorandum. If you believe you should be less specific, use the more general language in the Directive.

2. (x) It may be necessary to interview members of your organization regarding these matters. MAJ Britton (Investigating Officer) from my office will arrange witness interviews.

3. (x) (You may / may not) (I will / will not) notify intermediate Commander(s) / supervisor(s).

4. (x) To help protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them, we ask that you not discuss this matter with anyone.

5. (x) COL Jones was (telephonically / personally) notified of the above at 1115 (time) on 20 December 2016 (date).

//Albert R. Rightway//
(Signature of Notifying Official)

Exhibit E-2 (page 1 of 1)
OTR 05-0019

CUI

Section 4-14

Assisting Command Investigators

1. **How can the IG help a Department of the Army (DA) investigator?** In some cases, the Directing Authority may opt to conduct a command investigation into an allegation already investigated by the IG in order to pursue punishment without having to request that TIG release the IG record for that purpose. In these situations, the IG may provide the command's DA investigator with some basic guidance and information. The IG should ensure that the DA Investigator understands the allegations along with any related issues. Next, in accordance with Army Regulation 20-1, paragraph 3-5d (3) (a) through (c), the IG can provide limited information from the previously completed IG Investigation to the DA investigator. In fact, providing the DA investigator with this information in writing helps enable a better command investigation.

2. **Command investigators.** While criminal investigators are professionally trained, most AR 15-6 or command appointed investigating officers (IOs) (also known as DA investigators in the IG system) are appointed as an additional duty with little to no training or experience in how to plan or conduct an investigation. IOs are usually officers, warrant officers, or Department of the Army Civilians senior to the individual under investigation. Therefore, these IOs may have problem-solving experience and organizational skills but no specific investigative experience or training. All certified IGs are expertly trained at TIGS, and most have experience planning and conducting investigations and interviews, gathering evidence, and writing reports and findings. The IG can provide technical information to the DA Investigator on a proper investigative process and report writing. The IG should never provide legal advice or opinions on the actual merits of the IO's case. The IO must consult the SJA or the Commander directly on these matters.

Section 4-15

Obtain Approval

- 1. Investigative Inquiry.** The Directing Authority will approve the ROI in accordance with Army Regulation 20-1, paragraph 7-1b (4) (k). If the Investigative Inquiry substantiated the allegation(s), the IG must obtain a written legal review from the servicing SJA's office to ensure the IG conclusions receive a responsible level of scrutiny. At the IG's discretion, the IG should request a written legal review for ROIs with not-substantiated allegations. An independent legal review provides a reasoned and independent review. While not necessary in not-substantiated cases, it remains a good option. Generally speaking, SJA involvement improves the overall quality of the report.
- 2. Investigation.** Before taking the ROI to the Directing Authority, the IG must obtain a written legal review from the servicing SJA. The legal review must be in memorandum or letter format. Once the SJA has deemed the ROI legally sufficient, present the ROI to the Commander. Normally, the IG hand-carries the ROI to the Directing Authority for approval. If appropriate, give the Directing Authority a verbal decision briefing.
- 3. Actions by the Directing Authority.** The Directing Authority approves or disapproves the recommendations and directs any actions to be taken. The Directing Authority may not agree with either the conclusion or the recommendation. A Directing Authority, or other individual, should never compromise IG independence by suggesting that a particular conclusion or recommendation should appear in the report or that any conclusion should be changed. This kind of influence degrades the objectivity and independent nature of the Investigation. However, the Commander may request that the IG gather more evidence to support a finding. The Commander is not bound by the IG's findings, conclusion, opinions, or recommendations. See Section 4-17 below.
- 4. Actions by Higher Authorities.** Do not transmit ROIs from subordinate commands to a higher authority unless the Investigation is requested by, or is of interest to, a higher headquarters or involves other commands. If the higher authority requests the ROI, that authority reviews the conclusions and recommendations, monitors action taken by the subordinate command, and then determines if further action is required. Final approval rests with the Directing Authority of the IG office of record. If the case is referred to a higher authority because other commands are involved, that headquarters takes any necessary action only when the other commands are within its jurisdiction. If not, the case is referred to the next higher headquarters. Unless requested, exhibits are not normally transmitted with the ROI to the higher headquarters. In Whistleblower Reprisal investigation cases, the Directing Authority must concur or non-concur with the ROI. Using IG channels, the IG must send the Whistleblower Reprisal ROI, including all exhibits, through higher-level commanders in the chain of command for endorsement followed next by DAIG's Assistance Division and then to IG, DoD, for final approval (see paragraph 7-4b (3) (c), Army Regulation 20-1).

Section 4-16

Actions if Directing Authority Disapproves the ROI / ROII

1. **Disapproval.** There are several actions a Directing Authority can take with an ROI / ROII. The IG's conclusions or recommendations do not bind the Directing Authority, and the Directing Authority may approve or disapprove the report in part or in its entirety, to include modifying the IG's recommendations. If the Directing Authority agrees with the IG's conclusions and recommendations, then normally he or she will sign and approve the report.

2. **Investigative Inquiry.** An Investigative Inquiry – although less formal, still requires the Directing Authority to approve the report in accordance with paragraph 7-1b (4) (k) of Army Regulation 20-1.

3. **Investigation.** A formal Investigation requires the Directing Authority to approve the report in accordance with paragraph 7-1b (4) (k) of Army Regulation 20-1. A Whistleblower Reprisal case is an exception to this rule, since DAIG's Assistance Division (SAIG-AC) is the office of record and IG, DoD, is the final approving authority.

4. **Inspector General Response.** Responding to the disapproval of the recommendations is usually less difficult than resolving the disapproval of the conclusions. Common recommendations in the ROI / ROII include approving the report; filing and closing the case; and, if appropriate, a recommendation for a follow-on investigation or forwarding to a subordinate commander for action. The IG should never recommend punitive, adverse, or disciplinary action. To do so compromises the status as a fair and impartial fact-finder. There are several reasons why the Directing Authority may not agree with the IG's recommendation(s). For example, the IG may recommend in the report to forward the allegations to a subordinate Commander for appropriate action, but the Directing Authority may favor appointing a follow-on investigator himself or herself. Coordination with the SJA and a clear understanding of the Commander's guidance will help the IG in these cases. The key is to find out exactly why the Directing Authority disagrees with the recommendation(s). Resolving these differences in a face-to-face discussion with the Directing Authority when the IG submits or briefs the report is the best approach. If the report contains substantiated allegations, ensure that the SJA is available while briefing the Directing Authority. Allow the SJA to lead any discussion concerning the appropriate type of follow-on investigation.

5. **Additional Fact-Finding.** In some cases, the Directing Authority may disapprove the IG's recommendation to close the case if he or she feels that the IG did not include or consider certain documents or interview a key witness. The standard course of action in that case would be to conduct the additional fact-finding and update the report accordingly. Get a new legal review from the SJA, and re-submit the final report to the Directing Authority.

6. **Inspector General Conclusions.** What if the Directing Authority disapproves of the IG's conclusion of either substantiated or not substantiated? The Directing Authority should never compromise the IG's independence by suggesting that any particular conclusions appear in the report or that the IG change any conclusion. This kind of

influence degrades the objectivity of the Investigation. However, the Directing Authority may request that the IG gather more evidence to support a particular finding. Additionally, the Directing Authority may find that the discussion does not flow logically. IGs may find that when working directly on a case and writing the report, the IG becomes so familiar with the issues that the IG makes mental connections that are not apparent to the reader. A good IG peer review (from someone who did not work as closely on the case) will help. Peers can point out faulty logic, gaps in evidence, and grammatical errors. IG tech channels are another source for help, especially with complex cases. In any case, the IG's conclusions are not binding on the Directing Authority.

7. DAIG Can Help. Just as with the disapproval of IG recommendations, the key to dealing with the disapproval of an IG's conclusions is understanding why the Directing Authority disagrees, then taking appropriate action to resolve the issue. Once again, experience has shown that SJA involvement throughout the process and concurrence with the IG's conclusions prior to submitting the report will greatly enhance the likelihood that the Directing Authority will approve the IG's conclusion. If the IG and the Directing Authority are still unable to agree on the conclusion(s) (substantiated or not substantiated), then contact DAIG's Assistance Division (SAIG-AC). They will coordinate with DAIG's Legal Advisor and TIG, if necessary, to make the final determination of what goes in IGARS – a finding of ***Substantiated or Not Substantiated***.

Section 4-17

Common Pitfalls

- 1. Lack of Evidence to Support Conclusions.** You may not have provided sufficient credible evidence to support the conclusions that you reached. Continue to investigate in this situation. If the evidence does not exist, you may have to alter your conclusion. You may have gathered sufficient evidence to support your conclusion but did not introduce it in the evidence subparagraph. If this is the case, correct your report. Remember that the conclusions require the thorough and logical presentation of adequate, credible evidence to support the conclusion as well as adequate, credible evidence to demonstrate that no alternate conclusion is supported. If the logic and facts are sound, then the conclusion is also sound.
- 2. Inconsistent Conclusions.** You may draw incorrect conclusions by misreading or misinterpreting the evidence gathered, not wording allegations correctly, or by not having the fortitude to be candid. These issues will in turn adversely affect your recommendations, erode the integrity of the IG system, and subject you to an allegation of bias. A thorough peer review will help avoid this problem.
- 3. Recommendations Not Synchronized With the Conclusions.** In many cases, a conclusion -- or a conclusion that requires a recommendation -- lacks support in the ROI / ROII. All recommendations must be based on your conclusions.
- 4. Interjecting Investigating Officer (IO) Opinions.** You may use IO notes to clarify information for the reader in the evidence subparagraph of an allegation. You may also enter your personal observations as evidence if they are pertinent. Do not include your opinions in the evidence sections of your ROI. Naturally, you must exercise judgment as you evaluate evidence in the discussion subparagraphs of your ROI. You must write out the rationale for your judgments in a logical and cogent manner so that they transcend mere opinions. If you are in doubt regarding any aspect of your ROI, do not hesitate to use tech channels and call either DAIG's Assistance Division or the Investigations instructor at TIGS. They will discuss your case with you and maintain the confidentiality you require.
- 5. Failure to Consider and Analyze Evidence From Both Sides.** Part of presenting your conclusions in an impartial and unbiased manner is to ensure that you address and analyze all sides of the evidence. This approach means that you must acknowledge and thoroughly explain how opposing evidence meets or fails to meet the elements of proof, as well as how and why certain evidence outweighs other evidence presented. If the IG only discusses the evidence that supports the ROI's stated conclusion, then the IG risks appearing dismissive of credible evidence and appearing biased. In contrast, by presenting your analysis in clear and logically written manner, the reader is left with little doubt that you considered and weighed all evidence prior to arriving to your stated conclusion(s).

Chapter 5

Step Five, Make Notification of Results

1. **Overview.** The post-Investigation notifications (step 5 of the IGAP) are different from the initial notifications (step 3 of the IGAP). Normally, initial notifications of the subject or suspect and a Commander occur verbally using the sample notifications in Chapter 3 to document proper due-process. You will make post-Investigation notifications to the subject or suspect and Commander or supervisor in writing after you complete your case and the Directing Authority approves the report. The IG will notify the subject or suspect telephonically of any unfavorable information included in the ROI / ROII of which the IG didn't previously notify the subject or suspect (unfavorable information may come up if additional testimony or evidence surfaces after the subject / suspect interview). Final notification letter samples and a final notification format for unfavorable information appear on the following pages. The IG may use these letter and notification formats for both Investigations and Investigative Inquiries. Initial notifications are attached to the ROI / ROII, but final notifications can't be attached officially to the ROI / ROII because the ROI / ROII is approved before the final notifications are made. The IG will maintain all final notification records with the case file if the IG cannot attach the record to the electronic IGARS file (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (5)(f)**).

2. Disposition of Documents / Physical Evidence.

a. You should maintain and file the ROI / ROII as required by the appropriate regulations governing the maintenance of records and files. Consider carefully which case materials you keep beyond the ROI / ROII. You **should** maintain only case-related materials needed for factual documentation. As a general rule, eliminate any extraneous working papers such as draft reports, administrative notes, or other items not needed for your ROI / ROII and case file and return all other materials to their sources. Remember to dispose of all files in accordance with Army Regulation 25-400-2, The Army Records Information Management System (ARIMS). You are not authorized to keep any files beyond their destruction date. ***Substantiated ROIs and ROIs remain on file in the IGARS database for 30 years!***

b. When you have completed a case, you should purge your files of unnecessary notes, logs, internal memoranda, personal observations concerning the credibility of witnesses, etc. Your final action is to erase magnetic recording tapes used to record testimony once you have a transcript or summarized testimony and the case is closed. Keep in mind that once the case is closed, it is, by definition, no longer an open Investigation or pre-decisional action. All records related to the case are subject to FOIA release. Immediately upon notification that the case is closed, a subject, suspect, or witness -- or any other person for that matter -- may request any and all IG records related to the case. ***Remember that once a FOIA request is made, it is against the law to alter or to destroy any records requested. Therefore, if any IG has retained irrelevant emails, personal notes, working papers, or group "brain-storming" notes related to the case, these documents may all become subject to release***

under the FOIA. See Part Three, Chapter 2, for additional discussion on IG records disposition.

3. Persons Notified Pertaining to Results of an IG Investigation or Investigative Inquiry. The IG must notify the following individuals:

a. **Subordinate Commanders / Supervisors:** At the conclusion of an Investigation / Investigative Inquiry, formally notify the current Commanders or supervisors of the subjects and suspects (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (5)(c)**). If Commanders or supervisors have changed since you made the initial notification, then those individuals originally notified no longer have a need or a right to know the final results. Use the format below.

b. **Subjects / Suspects:** In an Investigation / Investigative Inquiry, formally notify the subject or suspect in writing after the case is completed and approved (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (5)(a)**). Type and underline the words "Exclusive For" on the envelope in accordance with Army Regulation 25-50. If the subject or suspect desires more information, he or she must request it under the provisions of the FOIA. In both Investigations and Investigative Inquiries, it is not appropriate for you to comment on actions contemplated by the command other than the appointment of a follow-on DA investigator.

NOTE: If the "Office of Record" is different from the "Office of Inquiry," the IG Office of Inquiry will forward a copy of the completed case to the IG Office of Record. The IG Office of Inquiry is not required to notify the subject / suspect that the Investigation / Investigative Inquiry has gone back to the IG Office of Record. However, if asked, the IG could tell the subject / suspect (verbally or in writing) that the final reply would come from another IG office.

4. Subject / Suspect Notifications of Previously Untold Unfavorable Information.

You must telephonically notify the subject / suspect of any unfavorable information included in the ROI / ROII of which the subject or suspect was not initially apprised. (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (5)(e)**). Use the notification format contained within this section.

5. Subject / Suspect Notification in a Command-Referred Case. When the IG refers an allegation to the command and the command elects to investigate, the command's appointed IO will conduct all notifications. There is no requirement for the IG to conduct any notifications to either the subject(s) or suspect(s). Part Two, Chapter 3, of this guide discusses command-referred cases in detail.

Letter Format: Subject or Suspect Final Notification of Results from an IG Investigation or Inquiry

(Letterhead)

March 23, 2014

Office of the Inspector General

Sergeant First Class (Subject's Name)
Address
Address

Dear Sergeant (Name):

The Inspector General received an allegation that you (improperly did something in violation of Army Regulation / Command Policy Letter [clearly state the allegation in accordance with the format in Army Regulation 20-1]). We conducted an Investigative Inquiry (or Investigation) and determined that the allegation against you was (or was not) substantiated. (Indicate your conclusion[s] for additional allegations, if any.)

The case is closed; however, under the provisions of Army Regulation 20-1 and Army Regulation 25-400-2, The Army Records Information Management System (ARIMS), the results will be maintained in the IG database.

If you would like to receive a redacted copy of the report of Investigative Inquiry (or Investigation), you may request a copy from the Department of the Army Inspector General under the Freedom of Information Act (FOIA). Specify that you want a copy of case number _____ (enter your case number) in which you were the subject / suspect. To initiate the process, send a written request to the following address: U.S. Army Inspector General Agency, ATTN: SAIG-JAR, 1700 Army Pentagon, Washington, D.C. 20310-1700. The phone numbers are: commercial 703-545-4591, DSN 865-4591, fax 703-545-4585.

Sincerely,

(Signature Block)*
Lieutenant Colonel, U.S. Army
Inspector General

*Normally the Command IG or Directing Authority.

NOTE: DO NOT include CUI markings on this letter.

**Memorandum Format: Commander / Supervisor Results of Investigation
Memorandum**

CUI

Office Symbol

3 May 2014

MEMORANDUM FOR Commander, 3rd Brigade, 66th Infantry Division,
Fort Von Steuben

SUBJECT: Results of Investigation

1. The 66th Infantry Division and Fort Von Steuben Inspector General completed the Investigation into allegations of impropriety against (name), a member of your command. The Investigation concluded that: (List all allegations and findings pertaining to the individual(s) in the command against whom the allegations were made)

a. The allegation that LTC Blank improperly used government transportation from domicile to duty in violation of The Joint Ethics Regulation was substantiated.

b. The allegation that LTC Blank ... was not substantiated.

2. The Inspector General completed the Investigation and will take no further action pertaining to these allegations.

(SIGNATURE BLOCK)*
LTC, IG
Inspector General

* Normally the Command IG or Directing Authority.

CONTROLLED BY: The Inspector General (SAIG-ZA)
CONTROLLED BY: 66th Infantry Division (AFVS-IG)
CUI CATEGORY: PRIIG / PRVCY
DISTRIBUTION/DISSEMINATION CONTROL: FEDCON
POC: LTC Albert R. Rightway (703) 123-4567

NOTE: Type and underline the words "Exclusive For" on the envelope per Army Regulation 25-50.

CUI

CUI

SUBJECT / SUSPECT FINAL NOTIFICATION FOR UNFAVORABLE INFORMATION FORMAT

To: (Rank and Name) _____
Position and Organization: _____
Phone number: _____

(CHECK WHEN DONE)

1. () _____, this is _____ from the _____ IG office. _____ (Directing Authority) has approved our report, and we are making final notifications. The approved report contained the following unfavorable information, and we are affording you the opportunity to comment (list all applicable unfavorable information as it appears in the ROI / ROII, continuing on the bottom of the page if necessary but without revealing the source of the unfavorable information). There is no requirement to respond.

_____.

2. () You may respond using any of the following options:

- a. Submitting to an interview by the IG.
- b. Providing a sworn, written statement.
- c. Submitting matters through the subject's / suspect's attorney.
- d. Requesting the IG consider certain documentary evidence.
- e. Requesting the IG consider certain physical evidence.
- f. Requesting the IG interview reasonably available witnesses with knowledge of the matter under Investigation.

Contact information for the investigating officers follows: _____, contact number _____, email _____ and _____, contact number _____, and email _____. Our mailing address is _____.

_____.

3. () Would you like to respond by any of these options at this time?

a. (If the subject or suspect requests an interview, choose 1 or 2.)

1. You will be contacted by (Investigating Officers) _____ or _____ to make necessary arrangements; or

2. We want to interview you at (time) _____ on (date) ____ at (location) _____. You have our contact information.

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Dissemination is prohibited except as authorized by AR 20-1.

b. If the subject or suspect wants to submit a sworn, written statement or comment through his or her attorney, read the following: To submit a sworn, written statement or to comment through your attorney, please use the email addresses or physical address provided. [Draw a line through the option not selected.]

c. Is there any documentary or physical evidence you would like us to consider at this time? Are there any reasonably available witnesses with knowledge on the matter that you would like to request that we interview? (Read the next sentence if applicable.) If so, please spell the names, provide the contact information, and explain what relevant knowledge each one has. I will be writing the information as you provide it. If you don't have all of the information at this time, or if the list is long, you can email or mail it to us.

_____.

If you choose not to coordinate for your response now, you will have until _____, five working days, to contact us with your response before we close the case in our database.

4. () _____ was (telephonically / personally) notified of the above at _____ (time) on _____ (date).

(Signature of Notifying Official)

CUI

Chapter 6

Step Six, Follow-Up

1. **Overview.** Follow-up ensures the IG thoroughly addressed all issues and / or allegations and the IG's responsibilities were fulfilled. Your actions do not end once you made your notifications at the completion of your case. If you refer corrective actions to a proponent staff agency, you will probably have to follow-up to ensure problems are fixed. The nature of the case drives your follow-up actions and are independent of the fact-finding process you used.

2. **Unfavorable Information.** You must ensure any responses from the subject / suspect regarding any unfavorable information that will appear in the ROI / ROII are attached to the electronic IGARS file. You must also ensure any notification of unfavorable information made to the subject / suspect is attached to the electronic IGARS file (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (6)**).

Chapter 7

Step Seven, Close the IGAR

1. **Provide Final Reply to Complainant.** In both Investigations and Investigative Inquiries, you must notify the complainant of the approved results of the Investigation or Investigative Inquiry in writing (as part of step 7 of the IGAP) -- but only for those issues and allegations that directly pertain to the complainant.

a. In most cases, you will only notify the complainant of the results if you deem the complainant to be personally wronged (the victim of adverse actions related to the alleged misconduct by the subject / suspect). Whether third-party or injured, notification to the complainant must occur in writing (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (7)**). If the complainant authorized the release of information pertaining to the results of the Investigation or Investigative Inquiry to a third party on a DA Form 7433, ensure that you make any additional notifications.

b. Third-party complainants (which includes spouses in adultery cases) are only entitled to know that the Investigation or Investigative Inquiry was completed and that the Commander will take appropriate action. See Army Regulation 20-1, paragraph 6-2c, for further guidance.

c. Sample final notification letters appear on the following pages of this section. Use these letter formats for both Investigations and Investigative Inquiries. Initial notifications are attached to the ROI / ROII, but final notifications can't be attached officially to the ROI / ROII because the ROI / ROII is approved before the final notifications are executed. IGs will maintain all final notification records with the case file if the IG cannot attach the record to the electronic IGARS file (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (5)(f)**).

d. For allegations referred to the command for investigative action, the Office of Record will send a final reply letter to the complainant. However, the letter will only confirm that the command addressed the allegations. The final reply will not disclose the results of the command product or action. See Part Two, Chapter 3, of this guide for further guidance and a sample letter format.

2. **Close the IGAR.** You must ensure that the IGAR is coded in accordance with Part One, Chapter 2, Sections 2-3-3 and 2-8-2, of this guide. Give special attention when deciding which codes are recorded. The function codes selected will identify the areas which the IG investigated. The case notes, at a minimum, should reflect those key actions by the investigating officer, such as notifications, interviews, important documents received, etc. The synopsis required in IGARS is not the same synopsis that appears in the ROI / ROII. The synopsis for the IGARS database captures the entire case, to include issues the complainant presented to the IG. The synopsis must be a clear, concise summary of the complaint; all the allegations and issues investigated; the evidence analyzed; the conclusion reached by the investigating officer; and the actions taken by the command. The IGARS synopsis must be a stand-alone document that can be retrieved from the IGARS database anytime in the future and understood by the IG reading it. It should answer the questions: Who, What, When, Where, Why, How, and How Many? Each allegation should be clearly written in the correct format

(Who improperly did what in violation of a standard) with the conclusion of **substantiated** or **not substantiated** clearly displayed for each allegation. See Part One, Section 2-8-2, for an example synopsis format. The determination codes (or SNA codes) should be indicated with an individual function code for each allegation. Lastly, the IG must upload into IGARS the investigative plan in the format described in Section 4-2 of Chapter 4.

Letter Format: Final Response Letter to Complainant (Injured Party)

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

December 21, 2018

Office of the Inspector General

Captain John Doe
3030 Anywhere Lane
Anywhere, VA 22060

Dear Captain Doe:

This letter is in response to your December 1, 2018, letter to the Inspector General concerning the alleged misconduct of Major Rodney Ward.

We conducted a thorough Investigation / Investigative Inquiry into your allegations. Our Investigation / Investigative Inquiry determined that the allegations were not substantiated. (If more than one allegation was provided, address it in the same order that the complainant listed it in his or her initial letter / phone call.)

This office will take no further action pertaining to the allegations.

Sincerely,

(Signature Block)*
Lieutenant Colonel, U.S. Army
Inspector General

* Normally the Command IG or Directing Authority.

NOTE: Type and underline the words "Exclusive For" on the envelope in accordance with Army Regulation 25-50.

NOTE: DO NOT include CUI markings on this letter.

Letter Format: Final response Letter to Complainant (Third Party)

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION
FORT VON STEUBEN, VIRGINIA 22605

May 25, 2018

Inspector General

Mr. Fredrick Von Steuben
1777 Valley Forge Dr
Lynchburg, VA 22025

Dear Mr. Von Steuben:

The 66th Infantry Division and Fort Von Steuben Inspector General has concluded an Investigation / Investigative Inquiry into an allegation you made against an officer assigned to the 66th Infantry Division, Fort Von Steuben, Virginia.

The Commander, 66th Infantry Division, approved the Report of Investigation on May 21, 2018, and will take action as he deems appropriate. My office will take no further action pertaining to the allegation at this time.

Sincerely,

(Signature Block)*
Lieutenant Colonel, U.S. Army
Inspector General

* Normally the Command IG or Directing Authority.

NOTE: Type and underline the words "Exclusive For" on the envelope in accordance with Army Regulation 25-50.

NOTE: DO NOT include CUI markings on this letter.

Chapter 8

Common Pitfalls, Issues, and Problems

1. **Overview.** Occasionally, IGs encounter problems when conducting Investigations or Investigative Inquiries. Some commonly encountered problems and possible courses of action are discussed below.

2. **Refusal of a Commander to Cooperate.** Commanders may not be fully cooperative. In most cases, the best course of action is for the investigating IG to explain to the Commander that it is in his or her interest to cooperate fully. Do not get argumentative with the Commander. If a Commander (subordinate to your Directing Authority) will not allow his or her subordinates to testify or make them available for interview, two courses of action remain:

a. Advise the Commander that you will refer the matter to the next higher Commander or to the Directing Authority. Frequently, the mere suggestion that you will notify the higher Commander is sufficient to persuade a Commander to cooperate.

b. Submit a written report to the senior IG or Directing Authority. Ensure the written report contains protective markings in accordance with Army Regulation 20-1, paragraph 3-2.

3. **Request to Have Others Present During an Interview.**

a. Allowing third-party individuals in the interview is not a preferred practice. These individuals are anyone other than the witness, the investigators, a stenographic secretary, court reporter or interpreter, union or collective-bargaining representative, and counsel when authorized. Third-party personnel include friends, spouses, assistants, physicians, nurses, and union representatives. Privacy promotes confidence; third parties do not. While the presence of third parties is discouraged, the final decision rests with the lead investigating officer or the Command IG, depending on local SOP.

b. In cases where the person being interviewed has requested the presence of an unauthorized observer or lawyer, weigh whether the presence of such a person will facilitate or inhibit communications. If the person's presence will make the interviewee more comfortable, consider making an exception. Indicate in the record the presence of all parties to an interview. If a witness requests the presence of another person, offer to have the other person located in a nearby room and admitted to the interview only if needed.

4. **Refusal of a Witness to Testify.**

a. Military members in a duty status and DA Civilians are required to answer all questions related to an Investigation, except for questions that may be self-incriminating or, in the case of military personnel, those that are privileged communications as defined in Section V, Rule 501-513, Military Rules of Evidence of the Manual for Courts-Martial. Lawyer-client, husband-wife, and certain communications with clergy members are privileged. The military doctor-patient relationship is not considered privileged

communication in the Army. However, the rules for each differ, and you should check with the SJA if a military witness claims one of the exemptions.

b. An IG cannot compel DA Civilians or military witnesses who improperly refuse to answer questions (Remember: Commanders or supervisors can order a witness to answer a question, but the witness cannot be compelled to incriminate himself or herself). The IG should inform the person refusing to provide oral evidence that his or her Commander will be notified so that the individual's continued access to classified material can be assessed. Allow the witness to explain why he or she should not be required to testify before you take action to require the person to do so. This approach provides a basis for determining how to proceed. An IG confronted with a military member or DA Civilian witness who improperly refuses to answer questions should consult with the SJA. The IG cannot order a witness to testify. The IG can remind witnesses that failure to cooperate is an offense punishable under applicable regulations. Possible punishments include dismissal from Federal service. The IG must notify DAIG's Assistance Division (SAIG-AC) within two working days of any witness, subject, or suspect who fails to answer a question or provide information during the course of an IG Investigation or Investigative Inquiry so that TIG may notify the Commander to assess the individual's continued access to classified material **(prescriptive provision in Army Regulation 20-1, paragraph 7-1b (4)(h))**.

c. If a civilian contractor witness is the employee of a business with a government contract, that person's supervisor may order him or her to answer. The investigator should contact the Contracting Officer or the Contracting Officer's Representative to gain the cooperation of the witness. Again, allow the witnesses to explain why they should not be required to testify before you take action to require them to do so.

d. A witness may also refuse to answer because the response may reveal classified information. If the IG involved does not have the proper clearance, he or she should obtain it or request assistance from an IG who does have the proper clearance.

e. The witness may not refuse to testify on the basis that the question is not relevant. The investigating IG alone determines if a question is relevant to the Investigation, and the IG should advise the witness accordingly.

f. If an IG encounters a reluctant witness whom the IG believes has information concerning a felony, the IG can familiarize the witness with Title 18, United States Code, Section 4, to convince him or her to consent to an interview. This law provides that any person having knowledge of a felony and who does not make this information known to civil or military authority is subject to a fine or imprisonment.

g. Civilian witnesses who are not DA employees may rightfully refuse to testify on the basis that IGs have no authority to make them do so. Personal appeals such as an appeal to the witness's sense of justice and fairness may help obtain the person's testimony. Title 18, United States Code, Section 4, is applicable. Realize, however, that the possibility of a civilian being taken to court for refusing to cooperate with an IG is remote. Be cautious about using this warning.

5. False Testimony by a Witness. False testimony knowingly given under oath by an individual subject to the Uniform Code of Military Justice constitutes false swearing. Likewise, false testimony knowingly given under oath by a civilian witness constitutes an

offense under Title 18, United States Code, Section 1001. Appropriate advisements that may be read to individuals who provide false testimony are contained in applicable read-in scripts. Remember that a false official statement made by someone subject to the UCMJ is a criminal offense.

6. Requests for Advice from an Investigating Officer. A witness may ask for or seek advice, but the IG cannot give the witness any advice except as to the rights, duties, and procedures regarding the interview. Do not advise witnesses whether or not they should consult with counsel.

7. Intimidation of Witnesses.

a. If the IG believes there has been tampering or interference with a witness, the IG should immediately report this information to the witness's Commander and request that these practices cease immediately. If the Commander does not cooperate, or if the Commander is suspected of being a party to this irregularity, advise the Directing Authority and request that appropriate action be taken. Make sure you make a full record of such action and that the pertinent details appear in the ROI / ROII.

b. Fear of retribution or reprisal for testifying about his or her superiors or supervisors may intimidate a witness. In the past, individuals called as witnesses did in fact give testimony that implicated their Commanders. Despite the investigator's assurances to these witnesses, reports have occasionally been forwarded to these very same Commanders for necessary action. Such referrals open the possibility of adverse or discriminatory action against the witnesses, effectively damaging witnesses' confidence in the integrity of the IG system. Therefore, IGs must remain sensitive to such situations and avoid such referrals whenever possible.

8. Request by Witness or Lawyer to Record an Interview. Persons providing testimony are not allowed to record interviews in order to preclude compromising testimony and other evidence (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (4)(d)**). Follow the procedures outlined below when you receive a request to record an interview.

a. **Military or DA Employee Witness.** Inform the witness that IG Investigation procedures prohibit the witness from recording the interview. If this advisement does not resolve the issue, then remind the witness of his or her right to review the testimony in the IG office. Also, upon proper request, the witness may make a FOIA request for a copy of his or her testimony after the ROI is approved (see Army Regulation 20-1, paragraph 3-6b). Both of these requests must be in writing. If the witness is uncooperative and refuses to testify because he or she has been denied permission to record the interview, the IG can request that the witness's Commander order the person to testify.

b. **Non-DA Civilian Witness.** If a civilian witness not affiliated with the Department of the Army puts a condition on his or her cooperation, such as refusing to testify unless allowed to record the session, you can attempt to persuade that person not to do so or simply forgo receiving his or her testimony. You cannot require a civilian witness to testify.

9. Request for a Copy of the ROI / ROII. Individuals involved in an IG Investigation or Investigative Inquiry will not receive access to the ROI / ROII. The ROI / ROII and accompanying testimony are released only as authorized by Army Regulation 20-1, Chapter 3.

10. New Allegations Received During an Interview. Receiving new allegations during an interview is not uncommon. If these allegations are related to your Investigation / Investigative Inquiry, include them in your case – but you may need to request an expansion of your Directive. If you are unsure, brief your Directing Authority. If an unrelated matter surfaces, take it through the seven-step IGAP process. The matter could result in a separate Investigation or Investigative Inquiry.

11. Off-the-Recording Discussions. If the witness appears to be withholding information or is uneasy talking about a subject, consider turning off the recording devices and discussing the apparent problem. Although the recorders are off, the discussion is still on the record and official. Address the witness's concerns, attempt to resolve the issues, and encourage the witness to allow you to record the information. While you can make an MFR of discussions not recorded, the witness may later contend that you modified or misunderstood what he or she said. The best approach is to have the witness personally answer in the recorded testimony. When you resume recording, ask the witness to summarize what he or she told you.

12. Refusal to Swear or to Affirm Testimony.

a. You cannot make individuals who are not subject to UCMJ or who are not DA employees testify under oath or affirmation. If a witness refuses to take an oath for testimony, let the record reflect his or her refusal and continue the interview.

b. You can require individuals subject to the UCMJ or DA employees to testify under oath or affirmation. If a witness refuses to be placed under oath, you may continue with an interview not under oath, or you may consult with a SJA and then ask the witness's Commander or supervisor to direct the witness to swear or affirm to the testimony.

13. Locating Civilian Witnesses. The first choice for locating hard-to-find witnesses is through IG technical channels. When not practical, sources such as the local Provost Marshal, local CID detachment, or the designated liaison official for the local police or other law-enforcement agency can be helpful.

14. Gifts and Social Activities. Do not accept gifts or be involved in any social activities that might give the appearance of a conflict of interest with anyone involved in your Investigation or Investigative Inquiry -- or any Investigation or Investigative Inquiry an IG is conducting in your office. If there is a situation where someone might question impartiality in an Investigation or Investigative Inquiry, consider relieving the affected IG from involvement in the Investigation or Investigative Inquiry and informing the senior IG or Directing Authority. Even if the IG believes he or she can be impartial, preserving the image and integrity of the IG system is imperative. If the IG in question is the senior IG, then referring the case to a higher IG may be appropriate.

15. Amending Directives. Directives may be inadequate for the Investigation either because the original information was misinterpreted or new information outside the

scope of the original Directive becomes available. If this situation occurs, amend the Action Memorandum and request that the Directing Authority expand the scope of the Directive. Do not confuse this situation with the discovery of matters that are not IG-appropriate. Refer those inappropriate matters to the agency having jurisdiction for action.

16. **Requests for Interim Reports.**

a. Inspector General Investigations often take several weeks or months to complete. An executive summary or interim report may keep the senior IG or the Directing Authority informed of the Investigation's progress. The executive summary must contain protective markings. Be careful not to speculate on the results of the Investigation too early in the investigative process because subsequent evidence and legal reviews may alter those premature conclusions.

b. Complainants may ask, write, or call the IG, the Commander, or a higher IG for the progress (or the results) of an Investigation before the results have been approved. Do not provide any information other than to state that their complaint has been received and appropriate action is being taken. Do not release any other information such as the tentative conclusions stated in an interim report. Even when the case is complete, only release to the complainant the information that applies directly to him or her.

c. Never fall into the trap of leading a subject or suspect to believe that the allegations will be not substantiated before your Directing Authority has approved the case. The weight of evidence may change, or the Directing Authority may disagree.

17. **Using IG (Technical) Channels.** Some things an IG office might ask of another IG from another headquarters are as follows:

a. Schedule and arrange locations for interviews.

b. Assist in gathering documents and other physical evidence.

c. Assist with, or conduct, interviews by being part of the interview team.

For example, during a telephonic interview, the local IG can assist by administering the oath; by conducting the pre-brief, read-in, and read-out to a witness; or by actually conducting the interviews.

18. **Courtesy Calls.** During Investigations IGs do not routinely make courtesy calls with Commanders. Because of the confidential nature of IG Investigations, IGs cannot normally discuss details of a case beyond what is provided in the Directive. This need for confidentiality applies to Investigative Inquiries as well. If a Commander desires a courtesy call, exercise tact and restraint. Limit your discussion to the minimum information the Commander needs to do his or her job -- usually the information in the Directive.

19. **Shifting from Investigative Inquiry to Investigation.** Frequently, IGs will begin an Investigative Inquiry and later determine that an Investigation is more appropriate. The information from your Investigative Inquiry is the basis for the background paragraph in your Action Memorandum. Once the Directing Authority signs the formal Directive and the IG continues investigating, formally notify the subject's chain of

command and the subject or suspect. The IG will use the evidence gathered during the Investigative Inquiry as evidence for the Investigation. IGs do not need to conduct formal interviews with witnesses previously interviewed informally. However, the IG should consider doing so to document the findings if the case is complex or if it contains conflicting evidence.

20. Restoring a Subject / Suspect's Good Name. As IGs we make every effort to maintain confidentiality to protect an individual's reputation and safeguard the integrity of the IG system. But we also know that word gets out when we are conducting an Investigation. The challenge becomes restoring what might be perceived as a blemish on a subject's / suspect's good name simply by virtue of being associated with an IG Investigation -- even if the Investigation resulted in a not-substantiated finding. Despite such situations, the IG must maintain confidentiality. But, as always, the initiative for release rests with the former subject / suspect. One possible course of action to restore an individual's good name is to advise the subject / suspect that he or she has the right to request that his or her commander / supervisor release a Memorandum for Record (MFR) explaining that the named individual was the subject or suspect of an IG Investigation and that the matter was resolved. The IG can make the individual and the Commander / supervisor aware of this course of action during the final notification if necessary. If the Commander has specific questions about how to proceed, then the IG should refer the Commander to the local SJA for advice. The named individual must specifically request and consent to this action, and the details released about the nature and outcome of the Investigation remain at the discretion of the former subject / suspect. However, the final decision on how to satisfy the individual's request remains with the Commander, not the IG.

21. Records Screening and Oversight. Inspector General records are used for post-board screening of subjects or suspects who have substantiated findings. DAIG's Records-Screening and Oversight Division will review the Report of Investigation / Investigative Inquiry for completeness, accuracy, and due-process. The IG is responsible for ensuring that all administrative and investigative matters are properly addressed before closing a case. Matters that might delay the screening and oversight process appear below.

a. **Ensure that all IGARS fields are filled out completely,** to include the subject's / suspect's full name (including both last names if the subject / suspect has two or has a hyphenated last name).

b. **Multiple standards and multiple allegations.** Choose one standard per allegation, and attempt to use Army regulations over the UCMJ whenever possible. Army regulations offer greater specificity and help IGs identify trends over time.

c. **Identify and ensure the case is IG appropriate in accordance with Army Regulation 20-1, paragraph 7-1i.** Refer all command-appropriate allegations to the command once a properly crafted four-part allegation exists. DO NOT attempt to execute preliminary analysis without the express authorization (Investigative Inquiry / Investigation) from your Directing Authority. Additionally, do not code a received allegation as "Assistance" unless the complainant tells you that the command is already executing some sort of investigative action. In such cases, allow the referral process to continue (as described in Part Two, Chapter 3).

d. Upload Documents. Ensure all documents used for the case are uploaded into the IGARS case file in accordance with Part Three, Chapter 2, of this guide.

(1) The complete ROI / ROII with all enclosures and documentation used by the IG to determine their findings.

(2) Legal review.

(3) ROI / ROII / EXSUM / Hotline Completion Report / Legal Reviews of all products, when applicable.

(4) Standard: Upload a copy of the standard used if it was a local policy, local standard, or general order.

(5) Notification Letters, to include subject / suspect Notification Letters. If the initial notification was done via telephone and a copy is not available, then include an MFR with the pertinent notification data. Ensure that the notification letter matches the allegation in IGARS.

(6) Copy of the investigative plan in the proper format.

e. Common Case Deficiencies.

(1) Lack of documents (ROII / ROI / Legal Review / Notification Letters).

(2) Incomplete or inaccurate data in the IGARS case file (i.e., the allegation and standard in IGARS does not match the Notification Letter).

(3) Case notes do not capture or reflect actions taken in the process of resolving the allegation(s), such as making a record of the subject / suspect notification.

(4) No legal review of substantiated allegations.

(5) Incorrect standard used or multiple standards used for one allegation.

(6) No evidence in IGARS that the subject / suspect was notified of the allegation, that they had opportunity to know and comment on the allegation or unfavorable information, or that a final notification was made.

(7) Allegations are improperly coded in IGARS (i.e. as "Assistance")

f. A legal review of the IG product should ensure that the case is legally sufficient and ensure that the subject / suspect was afforded due-process.

Chapter 9

Military Whistleblower Reprisal and Restriction Investigations

Section 9-1 – Overview

Section 9-2 – Whistleblower Primary Terms and Definitions

Section 9-3 – Whistleblower Reprisal Elements of Proof

Section 9-4 – Categories of Whistleblower Complainants

Section 9-5 – Military Whistleblower Reprisal / Restriction Investigations and the IGAP

Section 9-6 – Dismissal Recommendations

Section 9-1

Overview

1. **Purpose.** The purpose and intent of the Military Whistleblower Protection Act is to enhance good order and readiness by encouraging Soldiers to come forward in good faith with complaints of wrongdoing and other issues (protected communications). Soldiers are therefore protected under Title 10, United States Code, Section 1034 (10 U.S.C. 1034), "Protected communications; prohibition of retaliatory actions," and Department of Defense Directive (DoDD) 7050.06, "Military Whistleblower Protection," which states, "Service Members are free to make protected communications without fear of reprisal." As such, no person may take or threaten to take an unfavorable personnel action, or withhold or threaten to withhold a favorable personnel action, in reprisal against any Service Member for making, preparing to make, or being perceived as making or preparing to make, a protected communication." Additionally, no person will restrict a Service Member from making lawful communications to a member of Congress or an Inspector General (IG). Complainants must present allegations of reprisal or restriction to an IG in order to obtain the protections afforded under 10 USC 1034.

a. The Department of Defense (DoD) IG investigates and oversees, as the Office of Oversight, all DoD Component IG investigations into allegations of reprisal and restriction. As such, any military member may make a complaint of Whistleblower Reprisal to any Service Inspector General. Army IGs must be prepared to receive and accept all allegations of reprisal and restriction presented by any military member, regardless of component or Service. IGs will direct other reprisal complainants (such as Civilian employees, contractors, etc.) to the appropriate agencies listed in Army Regulation 20-1, paragraph 7-3c. See paragraph 5c (2) below for further explanation.

b. Because 10 USC 1034 requires an IG to investigate a reprisal or restriction complaint when presented to an IG, an IG may not refer the complaint to the command. However, Commanders shall not be considered as having failed to take appropriate action when they either inadvertently investigate an allegation of Whistleblower Reprisal because they believe it is in their authority to do so or investigate an allegation of Whistleblower Reprisal because the allegation was brought to their attention and not to the IG. However, it is the sense of Congress that IGs will serve as the investigative agent for Military Whistleblower Reprisal in order to afford the complainant an inquiry independent of the command. In the event a Commander investigates an allegation of Whistleblower Reprisal that is subsequently presented to an IG, the IG may use the command product as a piece of evidence in the IG Investigation, but the IG must inquire into and resolve the allegation.

c. Inspectors General will not initiate a Whistleblower Reprisal / Restriction (WBR) Investigation based on third-party or anonymous allegations of Whistleblower Reprisal; the affected Soldier must want the IG to address the allegation and be willing to cooperate with the IG. If you, as the IG, receive a third-party allegation, you may recommend to the third party that he or she encourage the affected Soldier to file a complaint personally. Should circumstances indicate it is appropriate (i.e., it is apparent that the complainant is speaking through a third party, such as a close Family member, or if the allegation is severe), IGs may reach out to the affected Soldier to determine if he or she wishes to pursue a WBR

complaint. While contacting an affected Soldier is an allowable provision, IGs should not use this approach in an effort to create an allegation but rather to avoid an obvious misunderstanding with respect to procedures and the desires of the affected Soldier. The IG must also remember that IG confidentiality provisions apply to all individuals involved, and IGs must also maintain these strictures.

NOTE: A third-party complaint is different from a third party "on behalf of the complainant" complaint, such as a Congressional complaint. Call Whistleblower Investigations and Oversight Branch (WIOB) at DAIG's Assistance Division for guidance or clarification if you have concerns or questions about such complaints.

2. Military Whistleblower Reprisal / Restriction Investigations Process.

Whistleblower Reprisal / Restriction Investigations follow the same IG investigative methodology outlined in the seven-step IGAP and Part Two of this guide. However, there are some significant exceptions with respect to authority, adverse action, timeliness, and cooperation. See Figures II-9-2 and II-9-3.

a. **Authority.** Because DoD IG is the Office of Oversight on all military reprisal allegations, any Army IG working a reprisal Investigation is doing so on behalf of, under the authority of, and with final approval from DoD IG. Since Whistleblower Reprisal / Restriction Investigations belong to DoD IG, processes are subject to frequent formatting and procedural changes as part of a continuous effort to expedite resolution in accordance with requirements established by statute. Inspectors General should anticipate updates or refinements to the framework, definitions, forms, and guidance regarding the Whistleblower Protection Act emanating from changes to the most recent National Defense Authorization Act, DoDD 7050.06, and DAIG publications. Any such updates will be forwarded immediately to all IGs and posted on IGNET.

b. **Adverse Action.** Unlike other IG Investigations, Whistleblower investigative records may be used as the basis for adverse action against individuals, military or Civilian, by Directing Authorities or Commanders if those records contain an approved substantiated finding of Whistleblower Reprisal (see Army Regulation 20-1, paragraphs 7-3 (b)(2)(d) and 7-3 (b)(2)(e)).

c. **Timeliness.** By statute, DoD IG is required to complete a Whistleblower Reprisal / Restriction investigative report within 180 days of initiating an Investigation as the approval authority. Therefore, DoD IG requires Service IGs to complete their Investigations and forward their reports to DoD IG within 150 days upon initiating an Investigation. If an IG cannot complete a Whistleblower Investigation within 180 days, the IG must prepare a letter for the complainant, the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), and DoD IG. The letter will articulate the reasons for the delay and an estimate of when the case will be complete. DAIG will prepare and submit the letters, but the Office of Inquiry managing the case must provide the appropriate reasons and completion estimate to the WIOB case manager. Keeping updated case notes will facilitate this process and may preclude direct communication, such as phone calls or emails.

NOTE: While the age of the case and efficient resolution is tracked from the date a case is opened in IGARS, statutory requirements for case resolution and complainant notifications, known as the 180-Day letter, begin when an Investigation is initiated, which is determined by either the date a

directive to investigate is signed or, should a Directing Authority not sign a directive, the date an IG action officer is assigned to the case.

d. **Cooperation.** Unlike other types of issues or allegations, IGs will not initiate an Investigation without the cooperation of the complainant (affected party). The identity and cooperation of the complainant is imperative to extending the protections of the statute and ultimately resolving the PA(s) taken in reprisal. A complainant's unwillingness to do so may result in a dismissal recommendation for lack of cooperation.

NOTE: On rare occasions, DAIG may direct the completion of an Investigation without the cooperation of the complainant if DAIG determines that the case is of interest to the Service or DoD.

Section 9-2

Whistleblower Primary Terms and Definitions

1. **Reprisal.** Reprisal is the taking of (or threatening to take) an unfavorable Personnel Action (PA), or the withholding (or threatening to withhold) of a favorable PA, because the Service Member made, was prepared to make, or was perceived to have made, a Protected Communication (PC).

2. **Retaliation.** Retaliation is action taken against a Service Member that includes reprisal; ostracism; or acts of cruelty, oppression, and maltreatment in response to, or in an effort to discourage, any person from reporting or planning to report a criminal offense or making or planning to make a protected communication. Acts of cruelty, oppression, and maltreatment, as described in Article 93, UCMJ, may include assault, improper punishment, and sexual harassment.

a. IGs must consistently apply and know the difference between the term **reprisal** under 10 USC 1034 and DoDD 7050.06 and **retaliation** in order to determine how best to address presented complaints. Complainants and others will often use these terms interchangeably. While retaliation is frequently used as an umbrella term to describe all acts of retaliation, inclusive of reprisal, retaliation and reprisal are in fact two separate and distinct allegations. The key difference between the two is that reprisal is a specific action taken or threatened against the complainant in the form of a Personnel Action (as defined in DoDD 7050.06 and in paragraph 2c below). A complaint of reprisal explicitly addressed in statute and tied to 10 USC 1034 affords the complainant protections; an IG must investigate the complaint when it is presented to the IG. With respect to a complaint of retaliation, the action taken against the complainant involves ostracism, acts of cruelty, oppression, or maltreatment; is tied to prohibitions set forth in Army Regulation 600-20, Army Command Policy, and the UCMJ; and is subject to independent command inquiry / investigation and punishment under the UCMJ. An example of an allegation of reprisal would be if a Soldier received an unfavorable OER (Personnel Action) for filing a complaint with the IG. By contrast, an example of an allegation of retaliation would be if a Soldier was subject to a physical training 'smoke' session or ridiculed at a unit formation for filing a complaint with the IG. However, if you receive a complaint and the Soldier wants a response under 10 USC 1034, initiate the notification process regardless of whether it fits the definitions stated above. When in doubt, contact WIOB.

b. Inspectors General investigate allegations of reprisal, whereas the complainant's chain of command or another appropriate investigative agency or organization should investigate (often by referral) allegations of retaliation. As a reminder, while the Directing Authority may task his or her IG to investigate an allegation of retaliation, unlike a reprisal case, any substantiated finding cannot be used to support adverse action without seeking approval from TIG in accordance with Army Regulation 20-1, paragraph 3-5.

NOTE: *Revisions to the most recent Manual for Courts-Martial (2019) added Article 132, Retaliation, as a punitive offense. While the language is reflective of 10 USC 1034, this revision serves as a Commander's tool, not the IG's. When presented with an allegation of reprisal, the IG will always use DoDD 7050.06 (representative of 10 USC 1034) as the applicable standard.*

3. Protected Communication (PC). There are two distinct categories of Protected Communications.

a. The first category of PC is any lawful communication, regardless of the content, with a Member of Congress (MoC) (including the member's staff) or an IG. Simply put, communications to a MoC or an IG does not need to disclose wrongdoing to be considered protected. The communication can address any content, whether it is related to the armed forces or not, and can be as simple as the greeting of the day rendered to an IG in the PX parking lot. Other examples of routine lawful communications include constituent correspondence, complaints about the chain of command, or testifying before Congress. By contrast, examples of unlawful communications include communications that the complainant knew to be untruthful at the time he or she made the communication, such as making threatening phone calls; shouting obscenities at the person during a public event; attending a political rally in uniform; or unauthorized disclosures of classified, Privacy Act-protected, or medical information. Each of these examples could violate standing statutes and / or regulations for personal conduct and may not be lawful.

b. The second category of PC is any lawful communication made to any of the following:

(1) A member of the DoD audit, inspection, investigation, or law-enforcement organization. (This provision is not limited to DoD-level elements only. It broadly applies to all Services and organizations under the DoD umbrella; i.e., a 15-6 investigating officer, an MP, an auditor for the Army Audit Agency, a Joint Munitions Command inspector, etc.)

(2) A person or organization in the complainant's chain of command. (This provision extends up to and includes the Commander-in-Chief and also includes the appropriate chain of supervision -- officer, NCO, or Civilian)

(3) A court-martial proceeding.

(4) A person or organization designated to receive such a complaint or report (e.g., Equal Opportunity Advisor, Safety Officer, SHARP or SARC representative, Patient Ombudsman, etc.).

c. Unlike the first category of PC, a communication to an authorized recipient in the second category (listed above) is only considered protected when a Service Member complains of, communicates evidence of, or reasonably believes any of the following:

(1) Providing testimony, or otherwise participating in, or assisting in, an investigation or proceeding related to a communication described below in (ii), (iii), or (iv).

(2) A violation of law or regulation, including those prohibiting rape, sexual assault, other sexual misconduct, sexual harassment, or unlawful discrimination.

(3) Gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety.

(4) A threat by another Service Member or employee of the Federal Government that indicates a determination or intent to kill or cause serious bodily injury to Service Members or Civilians or cause damage to military, federal, or civilian property.

(5) Filing, or causing to be filed, participating in, or otherwise assisting in a Military Whistleblower Reprisal action.

(6) For a detailed breakdown of all the elements to consider when determining whether or not there was a PC, refer to Figure II-9-1.

Protected Communications

Category:	Type of Communication:	Conditions on Protection:	When made to:
Category I	Any communication	Must be a lawful communication	A Member of Congress or IG
Category II	<p>Any communication in which a Service Member communicates information that he or she reasonably believes gives evidence of:</p> <ul style="list-style-type: none"> • A violation of law or regulation, including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violation of section 920 through 920c of Reference (c) (articles 120 through 120c of the UCMJ), sexual harassment or unlawful discrimination • Gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety • A threat that indicates a Service Member's or federal employee's determination or intent to kill or cause serious bodily injury to Service members or Civilians or damage to military, federal, or civilian property • Testimony, or otherwise participating in or assisting in an investigation or proceeding related to a communication as described above 	<p>A communication will not lose its protected status because:</p> <ul style="list-style-type: none"> • The communication was made to a person who participated in the activity of which the Service Member complained • The communication revealed previously disclosed information • The communication revealed the Service Member's motive for making the communication • The communication was not in writing • The communication was made while the Service Member was off duty • The communication was made during the normal course of the Service Member's duties 	<ul style="list-style-type: none"> • A Member of Congress • An IG • A member of a DoD audit, inspection, investigation, or law-enforcement organization • Any person or organization in the chain of command • A court-martial proceeding • Any other person or organization designated pursuant to regulations or other established administrative procedures to receive such communications

Figure II-9-1

d. Even if the complainant has already reported wrongdoing, an additional PC may be established if he or she reports the same information to a different person or

organization designated to receive PCs. For example, if a Soldier reports an equal-opportunity violation to the Equal Opportunity Advisor, and additionally reports the violation to his or her supervisor, then the Soldier has effectively made two PCs. Of note, a PC can also be made to a person involved in the reported activity. For example, if a Soldier confronts his or her supervisor regarding a violation committed by the supervisor, the communication is considered a PC, even though the subject of the violation is the recipient of the complaint.

e. An IG, a Commander, a regulatory body, or law-enforcement agency may investigate a PC that includes a report of wrongdoing. If the investigation, inquiry, or review ultimately determines that the alleged wrongdoing was not substantiated or was unfounded, it does not invalidate the original PC. All that is required to validate the PC is that the complainant reasonably believed that he or she was reporting wrongdoing, not whether or not the wrongdoing actually occurred. For example, if a Soldier made a complaint of gender or racial discrimination that an investigation later did not substantiate, it would not mean the original complaint was unlawful or an invalid protected communication.

4. Personnel Action (PA). A Personnel Action is any action taken on a member of the Armed Forces that affects, or has the potential to affect, that military member's current position or career. Such actions include a promotion; a permanently filed disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits, awards, or training; referral for mental-health evaluations under DoDI 6490.4; any significant change in duties or responsibilities inconsistent with the military member's grade; the conduct of a retaliatory investigation of a Service Member; or the failure of a superior to respond to any retaliatory action or harassment (of which the superior had actual knowledge) taken by one or more subordinates against a Service Member.

a. Unfavorable Personnel Actions (UPA). UPAs are administrative actions that typically result in an entry or document added to the affected member's personnel records that boards or supervisors could view as negative. Examples of common actions generally considered UPAs include:

- Permanent letter of reprimand, caution, or censure
- Unfavorable, non-competitive, adverse, or referred evaluation reports (unfavorable and non-competitive means unfavorable from the complainant's perspective)
- Relief for cause
- Removal from position
- Relief of command
- Return to service
- Separation from service
- Removal from promotion, school, or command list
- Entry-level separation
- Administrative reduction in rank or pay
- Bar to continued service
- Military occupational specialty reclassification
- Referral for mental-health evaluation

NOTE: *The Unfavorable Personnel Actions listed above do not represent a definitive list.*

b. **Favorable Personnel Actions.** In terms of PAs, IGs may be more familiar with UPAs as these actions clearly produce an "unfavorable" effect on a Service Member's career. But remember that the primary term and definition in statute is a Personnel Action (PA), which also includes actions that are considered favorable. IGs must examine PAs on a case-by-case basis and in context given their potential effect on a Service Member's current position or career. For example, if a Service Member received an Army Achievement Medal (AAM), you may not initially view the action in an unfavorable light. However, if the AAM was awarded instead of a more deserving Army Commendation Medal, then the withholding of the more favorable action could serve to affect the Service Member's career in a less favorable way. Consider any action's negative effect, if taken or denied, on a member's career, benefits, or competitiveness with his or her peers. Examples of favorable PAs that can be withheld or threatened to be withheld include:

- Evaluation
- Promotion recommendation
- Award
- Training (required)
- Assignment
- Attendance at school (PME; MOS-required training)
- Transfer

c. There are several types of actions or processes which may appear to fall in the PA / UPA spectrum but are not actually addressed as PA / UPAs, even though they may be related to personnel actions and processes. These actions can include additional duties; medical actions and processes, such as a Medical Evaluation Board (MEB) recommendation; administrative actions and processes, such as flagging actions, in-processing / out-processing requirements or checklists; readiness actions or processes, such as an ACFT, weigh-in, or qualification; or regulatory requirements, such as a Commander reporting unfavorable information to the central clearance facility (CCF) on a DA Form 5248-R as required by Army Regulation 380-67.

d. Other actions that typically do not constitute a PA under the statute include strictly local actions:

- Counseling (performance, periodic, event-oriented) unless the counseling is a means of notifying the Soldier of a recommended action initiated, taken, or threatened
- Local letters of reprimand or letters of concern (non-General Officer Memorandum of Reprimand (GOMOR))
- Summarized Article 15
- Verbal reprimands
- Non-Professional Military Education (PME) or non-Branch / MOS-producing training; PME for which the Soldier is not otherwise eligible, such as Airborne, Ranger, Air Assault; and other training when not required to perform duty

5. **Responsible Management Official (RMO).** Any person in a position to make a recommendation, determination, or decision -- or who can directly approve or disapprove an action for a PA -- may be an RMO. An RMO can be a Service Member, GS employee, or NAF employee. The status of the complainant as a Service Member, however,

determines the application of the Military Whistleblower statute, not the RMO's status. In some cases, there may be several RMOs with respect to one PA; therefore, you must consider the actions of each RMO independently in Whistleblower analysis, even if each one is responsible for the same PA / UPA (e.g., each member of the rating chain on a single evaluation). Because 10 USC 1034 is a punitive statute in federal law, RMO(s) are always suspects. Ensure that you treat all RMO(s) appropriately using IG procedures, such as conducting the suspect read-in when taking their testimony, executing a DA Form 3881, affording them the right to legal counsel, etc.

6. Restriction. Restriction is the act of attempting to prevent a Service Member from making lawful communications to either an MoC or an IG. The RMO's attempt at restriction does not have to be successful in order to substantiate such an allegation. Restriction could include statements made by the RMO designed to deter or produce a chilling effect on the complainant. Another form of restriction could include imposing unnecessary requirements to request, disclose, or report such communications to the RMO in an effort to interfere, limit, block, or dissuade the member. Of note, restriction has no associated timeliness standard specified within the statute. Also, protections pertaining to restriction under the statute only apply to communications made to an MoC and the IG (Category I) and NOT to other people or organizations, such as the chain of command, law enforcement, audit agencies, etc. (Category II). Allegations of attempting to restrict communications pertaining to Category II recipients are not covered or investigated as violations under the Military Whistleblower Protection Act, 10 USC 1034, or DoDD 7050.06. Instead, the complainant's chain of command should receive them as referrals and investigate them accordingly.

7. Inference of Causation. The phrase "inference of causation" describes a cause-and-effect relationship that specifically means to deduce or conclude that the cause of something is, or is likely to be, the result of something else. With respect to Whistleblower Reprisal, the phrase is used to indicate that the likely reason for the PA is because the complainant made a PC.

Section 9-3

Whistleblower Reprisal Elements of Proof

1. **Reprisal Elements of Proof.** There are **four elements of proof** that must be met in order to substantiate an allegation of reprisal. The IG must analyze each PA in relation to these **four elements of proof** in order to establish whether a PA was rendered as an act of reprisal. A 'yes' to elements 1 through 3 and a 'no' to element 4 indicates reprisal ('no' meaning the action would not have been taken absent a PC). A detailed chronology is critical for analyzing the elements. Element 4 is typically where most cases are determined; however, this element is the most challenging and, as a result, contains four additional variables to address in order to successfully satisfy the burden of proof.

a. **Element 1 - Protected Communication (PC):** Did the complainant make or prepare to make a PC or was the complainant perceived as having made or prepared to make a PC?

NOTE: Do not consider the complainant's motive or motivation for making a PC. The IG should not focus on any perception that the complainant made the PC in order to evade responsibility for his or her own performance or behavioral shortfalls. All Soldiers have the right to make a PC.

b. **Element 2 – Personnel Action (PA):** Was an unfavorable or adverse PA taken or threatened against the complainant, or was a favorable PA withheld or threatened to be withheld from the complainant after the PC?

NOTE: If the action presented by the complainant does not meet the definition of a PA, IGs must indicate how the action did not meet the criteria in DoDD 7050.06, in that it did not affect the Soldier's career. Bear in mind, however, that even if an action is not considered a PA by DoDD 7050.06, it may still serve as supporting evidence for other PAs or elements within your Investigation.

c. **Element 3 – Responsible Management Official (RMO) Knowledge:** Did the RMO(s) have knowledge of the complainant's PC(s) or perceive the complainant as making or preparing PC(s) before taking or threatening to take the PA?

d. **Element 4 - Causation:** Would the same PA(s) have been taken, withheld, or threatened absent the PC(s)? In other words, does the evidence establish that the PA(s) would have been the same if the PC had not been made or prepared (an independent basis)?

2. **Causation – Four Variables.** Within Element 4, analyze the following **four variables** with respect to each PA in order to establish whether or not the same PA would have been taken, withheld, or threatened absent the PC. **Focus your analysis and presentation on the RMO's actions and decisions, not on the complainant.** The four variables are:

a. **Reason** – Determine the RMO's stated reason for taking the action. This reason should be the first sentence when analyzing this variable. Examine, analyze, and explain the evidence supporting or refuting the RMO's stated reason for why he or she took, withheld, or threatened the PA.

(1) Ensure that you identify documentary or testimonial evidence that supports or refutes the RMO's reasons and cite the supporting exhibits. These reasons, along with relevant supporting evidence, are key to establishing whether there was an independent basis for the PA.

(2) Additionally, you should examine and explain whether or not the PA was appropriate and warranted given the RMO's perception of the complainant's performance, behavior, and conduct. A determination of whether a PA was *appropriate* or *warranted* is not an affirmation that you would have handled the situation in the same manner, even if you may personally agree with the RMO's chosen course of action, consider it too harsh or too lenient, or believe it was administratively flawless. Instead, this analysis involves an evaluation of the PA in relation to the circumstances and the standards in place at the time.

b. **Timing** – Evaluate the chronology and sequence of events surrounding the PC and the PA indicating a cause-and-effect relationship. The sequence of events normally does not begin with the making of a protected communication. Therefore, your analysis should start at the beginning of the entire sequence of events that bears on an action taken or threatened. A chronology captures the timing of the PC(s), PA(s), RMO knowledge, and the important dates (and sometimes hours) that may have influenced or triggered the PA(s). The importance of producing a thorough and accurate chronology is essential! Ensure that you capture all relevant actions and events in your timeline. In evaluating the timing, you should look for indicators that demonstrate a cause-and-effect relationship between the PC and the PA(s). Examine the amount of time transpiring between events and how each event may or may not have influenced an action, including reflected changes in perception, behavior, and treatment as a result of them. Specific things to consider include if and how closely the PA followed the PC or RMO's knowledge. A PA taken shortly after the RMO becomes aware of the PC supports the inference that the action may have been taken in reprisal. Other aspects to consider are whether the PC immediately followed an act of misconduct or inappropriate behavior that would normally result in an unfavorable action; what the RMO's perceptions of the complainant were prior to and following knowledge of the PC; and whether or not any favorable personnel actions were taken in between the PC and the PA.

c. **Motive** – Examine the effect of the PC on the RMO and whether or not the PC created or could have created a motive for reprisal. Testimony of an RMO containing a direct admission of a motive for reprisal is rare. Therefore, IGs should structure interrogatories and gather evidence that establishes whether the RMO suffered embarrassment or negative consequence arising from the PC; whether the PC reflected poorly on the RMO's organization; whether the RMO exhibited or expressed animosity toward the complainant for making the PC; or whether the RMO expressed animosity regarding the very idea of someone making a PC.

d. **Disparate Treatment** – Gather and evaluate evidence to determine whether the PA taken or threatened was consistent or disparate (fundamentally dissimilar) in comparison to other similarly situated personnel who did not make a PC. A similarly situated person would be one who engaged in the same conduct or whose performance was at a similar level to the complainant's. In other words, consider whether the RMO's action(s) against the complainant were consistent with action(s) taken against others whose performance or conduct were similar and, if not, why not? For example, if the RMO

administered a punitive action (such as a Field-Grade Article 15) against the complainant for misconduct in the same manner in which he or she administered punitive action against others who engaged in similar misconduct, then the evidence, with respect to this element, indicates that the RMO did not engage in reprisal. On the other hand, if the RMO disciplined the complainant more severely than others for similar misconduct, and the distinguishing difference is that the complainant made a PC whereas the others did not, then the evidence, with respect to this element, indicates that the RMO did engage in reprisal.

To effectively evaluate this element, you should gather comparative data or evidence in the form of documents, such as S-1 award logs, citations, evaluations, legal-action logs, etc. In reviewing this evidence, consider whether the PA was overly egregious compared to similar actions or unit norms. Look for similarities and variations not only of the PA itself but also the severity of its application. For example, while similarly situated individuals may have all received the same type of action for similar misconduct (such as Field-Grade Article 15 for a DUI offense), consider whether the resulting punishments varied in severity (verbal admonishment versus reduction in rank or pay) and if so, why? As a cautionary note, the IG may find actions that appear similar in circumstance but may not serve as an appropriate comparison. For instance, some actions (such as reduction or separation) vary in regulation and process given the Soldier's rank and status (i.e., reduction in rank of a junior enlisted Soldier versus a senior NCO versus an officer). While these actions may result in a similar end-state, the differences in processes and application render them dissimilar and unsuitable for proper analysis.

In some cases, the IG may not find any similar actions or comparators. However, just stating that there were no comparable actions does not necessarily support the conclusion that the RMO did not take an action in reprisal. A lack of comparative action could actually indicate the opposite. Therefore, you should examine why similar actions have not occurred previously. It helps to widen the scope of comparators as well. For example, if the RMO states that while this was the first time he or she rendered a certain type of action, it may be appropriate to ask whether he or she believes that his or her actions were similar or comparable to the actions taken by peers. Additionally, you should gather and analyze information that indicates how individuals or the how the organization as a whole routinely adheres to regulatory guidance. Ultimately, you must ensure that you describe comparators, or explain a lack thereof, in your analysis.

3. Restriction Elements of Proof. Allegations of restriction are not analyzed according to the elements of reprisal. Rather, the single element is whether the RMO restricted or attempted to restrict a military member from making a lawful communication to a Member of Congress or an IG (Category I). Accordingly, analysis of the evidence should focus on what was specifically said or done to restrict the member.

Section 9-4

Categories of Whistleblower Complainants

1. **Categories of Whistleblower Complainants.** There are four categories of Whistleblower complainants:

- a. Military members
- b. Non-appropriated Fund Civilians
- c. Appropriated Fund Civilians
- d. Department of Defense Contractor Employees

The IG must be aware of the category and status of the complainant in order to properly process the complaint or refer it to the appropriate investigative agency.

2. **Military Member Complaints.** A complainant's status as a military member determines if a reprisal / restriction complaint is a 'military complaint.' The DoD IG serves as the Office of Oversight on all military complaints (allegations) of Military Whistleblower Reprisal under Title 10 USC 1034 and DoDD 7050.06. As such, all military complaints of reprisal / restriction reported to an Army IG, regardless of the Service Member's component or branch of Service, must be reported through WIOB to DoD IG following the process outlined in this guide. DoD IG determines the appropriate Office of Record, which is usually the interested Service IG. The Office of Record determines the Office of Inquiry (IG office working the case). For example, an Airman could file a reprisal complaint to an Army IG office. The Service Member initiating the complaint with his or her local or servicing IG is preferable, but if the Airman wanted to file his or her complaint with an Army IG, the Army IG should report the complaint to WIOB, who in turn would report the complaint to DoD IG. Upon receipt, DoD IG might determine that the interested and most appropriate Service to conduct the Investigation is the U.S. Air Force, at which time the Secretary of the Air Force IG would become the Office of Record. Likewise, if an Army Soldier filed a complaint with an Army IG, the Army IG would report the complaint to WIOB. In turn, WIOB would report it to DoD IG, and DoD IG would most likely determine that the interested Service is the Army. At this point, DAIG's Assistance Division would become the Office of Record and subsequently determine which Army IG field office is best positioned to serve as the Office of Inquiry.

At times, the status of a military complainant may also dictate whether or not the individual is covered under the 10 USC 1034 reprisal statute and DoDD 7050.06. Typically, all military members operating under Title 10 USC (AC, USAR, ARNG) or Title 32 USC (ARNG) are covered under the statute as long as the PA in question pertains to the person's utilization, career, or benefits as a uniformed Service Member fulfilling a DoD requirement. On 29 April 2021, in a memorandum titled "Military Whistleblower Protection Act Coverage for Members of the National Guard," DoD IG broadened its interpretation of Federal nexus to include additional National Guard member activities performed in Title 32 status that share the same or similar Federal nexus as drilling or training status under Title 32 orders. However, three National Guard activities do not warrant protection under 10 USC 1034: (1) National Guard members on State Active Duty, under state orders, and under command of the governor and paid with state funds; (2) National Guard members training solely as State Militia, since this state duty and training lacks a Federal nexus (see

note below); and (3) National Guard technicians performing work as full-time civilian employees rather than as service members.

NOTE: The second example (underlined) is currently under review by the National Guard Bureau, since it conflicts with CNGBI 5500.01, dated 15 June 2017, "National Guard Interaction with State Defense Forces." In the United States, a State Militia, or state defense forces, are military units that operate under the sole authority of a state government. State defense forces are authorized by state and federal law and are under the command of the governor of each state. However, National Guard members, according to paragraph 4e in CNGBI 5500.01, may not serve as members of State defense forces. Further clarification on this specific point will be forthcoming.

For example, a reprisal complaint involving a reduction in rank (PA) of an ARNG Soldier operating under Title 32 is still covered under the Title 10 statute because the PA pertains to and affects the Soldier's career when activated in a Title 10 status. In other words, there is a linkage between the PA and Soldier's utilization in a Title 10 status. By contrast, military members are not covered under 10 USC 1034 when the PA impacts the person in a status other than Title 10. For example, a PA that negatively affects a Soldier's part-time employment at the post Fitness Center as a non-appropriated fund (NAF) Civilian would not be covered by 10 USC 1034. Likewise, a PA that negatively impacts a USAR or ARNG Soldier's career, benefits, or position solely within that person's employment as a Dual-Status or Non-Dual-Status Technician (as a Department of the Army Civilian) would not be covered by 10 USC 1034.

Dual-status and technician-related cases can be tricky when determining the application of the statute. Just because a person is not covered under 10 USC 1034, however, does not mean that that person is not covered under other reprisal statutes within U.S. Code or Executive Branch policies. Contact WIOB for guidance in instances when you are unsure whether or not you are dealing with a 'military complaint' or if the complainant is covered under the 10 USC 1034 statute. WIOB routinely coordinates with DoD IG and Secretary of the Air Force IG (SAF-IG) pertaining to members of the ARNG or Air National Guard to resolve questions of applicability and jurisdiction and to maintain consistency in case resolution.

3. Non-Military Complaints. Other complainants who are non-military may attempt to file an allegation of reprisal with an Army IG. Army IGs are not the appropriate recipient of non-military complaints of reprisal. While you will always execute Steps 1 and 2 of the IGAP, you should refer all non-military complainants to the appropriate agency for actionable reporting and processing. The IG should refer the complainants to the applicable agency:

a. **Non-Appropriated Fund (NAF) Civilian Complaints.** NAF Civilians are federal employees whose policies, procedures, and entitlements are different than Appropriated Fund (Civil Service) employees in that Congress does not appropriate monies used to pay NAF employees. Examples of NAF Civilian employees include Morale, Welfare, and Recreation (MWR) employees and Army Air Force Exchange Services (AAFES) employees. The applicable statute and policy that covers NAF employee reprisal is 10 USC 1587 and DoDD 1401.03. Refer all NAF Civilian employee Whistleblower Reprisal complainants to DoD IG's website www.dodig.mil, phone number (703) 604-8324, or to the following address: U.S. Department of Defense, Office of the Inspector General, 4800 Mark Center Drive, Alexandria, VA 22350-1500.

b. **Appropriated-Fund Civilian Complaints.** Appropriated-Fund Civilians are civil-service federal employees who are General Service (GS) / Wage Grade (WG) and whose funding is appropriated by Congress. The applicable statute and policy that covers Appropriated-Fund Civilian employee reprisal is 5 USC 2302(b)(8) and Presidential Policy Directive-19 (PPD-19), Change 3. Refer all Appropriated-Fund Civilian employee Whistleblower Reprisal complainants to the Office of Special Counsel (OSC) website, www.osc.gov, phone number (800) 572-2249 or (202) 653-9125, or to the following address: U.S. Office of Special Counsel, 1730 M Street, N.W., Suite 201, Washington, D.C. 20036-4505.

c. **Department of Defense Contractor Employee Complaints.** DoD Contractors are federally contracted employees. Although not a direct or permanent employee to the federal government, the applicable statute and policy that covers DoD contractor reprisal is 10 USC 2409 and the Defense Federal Acquisition Regulation (DFAR), Subpart 203.9. Refer all DoD contractor employee Whistleblower Reprisal complainants to DoD IG's website www.dodig.mil, phone number (703) 604-8324, or to the following address: U.S. Department of Defense, Office of the Inspector General, 4800 Mark Center Drive, Alexandria, VA 22350-1500.

NOTE: *While IGs should follow the guidance in the preceding paragraphs, if you are dealing with an insistent or problematic non-military complainant, contact WIOB for additional guidance.*

Section 9-5

Military Whistleblower Reprisal / Restriction Investigations and the IGAP

1. Step 1 – Receive the IGAR.

a. Complaint Intake Process. When a Service Member presents a complaint of Whistleblower Reprisal / Restriction, the receiving IG must execute a complaint intake. The complaint intake process includes the completion of (1) a DA Form 1559, (2) the Whistleblower Reprisal Questionnaire (WBRQ) with any supporting documentation, (3) the DA Form 7433 (Privacy Act Information Release Form), and (4) the Complainant Clarification Interview. This intake process and the completion of these documents helps to clarify and outline key aspects of the complaint. Of note, there may be times when a complainant mixes terms or fails to cite the governing statute of reprisal / restriction when expressing the nature of the complaint to the IG. While you must be cautious not to coach the complainant in your discussions, ensure the complainant understands the meaning of Whistleblower Reprisal / Restriction. Clarify the nature of the complaint presented and whether or not the complainant wishes to pursue or file a complaint of reprisal / restriction under 10 USC 1034 and DoDD 7050.06. If the complainant wants to proceed, then it is a reportable complaint.

(1) Whistleblower Reprisal Questionnaire (WBRQ). The WBRQ is designed to facilitate the complainant's understanding of the elements of reprisal, to focus the complaint on the elements in 10 USC 1034 and DoDD 7050.06, and to identify key information and details. The IG can assist the complainant with completing this questionnaire; but, at a minimum, the IG should provide a reasonable suspense (normally no more than two weeks or 10 working days) to complete and return the form to the IG with any relevant supporting documents. Inform the complainant that you will also seek official copies or similar relevant information and documents from unit / organizational sources. Ensure you record the date the complainant provided you with the completed questionnaire and supporting information in your IGARS case notes. The WBRQ document is located on the IGMET website.

(2) Privacy Act Information Release Form (DA Form 7433). The complainant must sign the Privacy Act Information Release form in order for the IG to move forward with resolving the complaint. Unlike other types of issues or allegations, IGs will not pursue or investigate anonymous or third-party complaints of reprisal / restriction. The identity and cooperation of the complainant is imperative to extending the protections of the statute and ultimately resolving the PA taken in reprisal. A complainant's unwillingness to do so may result in a dismissal recommendation for lack of cooperation.

(3) Complainant Clarification Interview (CCI). Either upon intake or following the complainant's return of the WBRQ, the receiving IG will review the information provided and conduct an informal Complaint Clarification Interview (CCI). The CCI is informal because it is not required to be under oath, recorded, or transcribed, although a CCI taken under oaths, recorded, or transcribed is also fine. During this CCI, it

is helpful to review the WBRQ and the supporting information provided by both the complainant and the unit in order to clarify the allegation(s) and gather sufficient detail to make a proper notification to WIOB. Ensure the complainant understands what Whistleblower Reprisal / Restriction is and is not, and ask why he or she perceives an inference of causation between the PCs and any UPAs taken, favorable PAs withheld, or a threat of either one. When reviewing the WBRQ with the complainant, clarify the appropriate PCs, PAs / UPAs, and RMOs. Complainants must identify any Category II recipients (Commanders, 1SG, etc.) of the PCs and that recipient's role. For instance, a complainant may make a lawful communication to a captain in his or her unit; however, that captain may not be a member in the complainant's chain of command. For example, a complainant reports a violation of law or regulation to a captain in the S-1, but the complainant is assigned to the S-4 shop. Therefore, this communication would not be classified as a PC and the communication would not be protected. In addition, complainants must identify the RMO(s) by name and articulate the role that they believe the RMO(s) played in the alleged reprisal. General terms such as "unit leadership," "the chain of command," or "the board members" do not appropriately identify the individual(s) involved. However, in the absence of information by the complainant, the IG will have to abide by the definition in DoDD 7050.06 and address everyone that falls within the definition. During the CCI, you should also gather and confirm dates sufficient enough to develop an initial chronology of relevant case events. The IG must prepare and include a summary of the CCI in a memorandum for record (MFR) if recommending a dismissal based on information in the WBRQ and this interview.

b. Senior Officials. As a reminder, if the complaint involves a Senior Official as defined in Army Regulation 20-1, follow procedures for notifying DAIG's Investigations Division (SAIG-IN) within two (2) working days as outlined in Part One, Section 3-2-1, of this guide. Be sure to provide SAIG-IN with the full complaint. As a reminder, do not enter Senior-Official information into IGARS. In the event that a complaint involves both Senior Officials and non-senior-official RMOs, do not attempt to split the case. Be sure to provide SAIG-IN with the full complaint; SAIG-IN and WIOB regularly work together to make case-management determinations in such instances. Be prepared to execute an Investigation on the non-senior-official RMOs if directed.

c. DoD / DAIG Military Complaint Referrals. Service Members may file a complaint of reprisal / restriction directly with a field IG office, DAIG, DoD IG, or a Member of Congress. As such, field IGs must also be prepared to receive military complaints of reprisal / restriction referred from DoD IG to DAIG and through the Army Command / Army Service Component Command / Direct Reporting Unit (ACOM / ASCC / DRU). When these referrals occur, they will include a referral memorandum from or through WIOB directing the IG to conduct an Investigation.

Note: The IG is not precluded from recommending dismissal if warranted, even if DAIG refers the complaint.

d. Complainant conduct. After making a reprisal or restriction complaint, complainants remain accountable for their own performance, behavior, and conduct. Whistleblower protection does not imply or grant the complainant immunity or prevent the command from taking appropriate actions, consistent with regulatory guidance and unit practice, based on the complainant's performance, behavior, and conduct. Further, the

statute does not interfere with the appropriate application of military authority, and it does not stop or suspend ongoing or impending actions concerning the Soldier.

2. Step 2 – Preliminary Analysis

a. Identify Issues / Allegations. Separate and address the reprisal / restriction allegation as an independent case and record in IGARS. If a complainant includes other assistance issues or allegations in conjunction with the complaint of reprisal / restriction, then follow the procedures set forth in this chapter pertaining to the allegations of Whistleblower Reprisal / Restriction. Address all other issues and allegations as you normally would under a different IGARS case.

Note: Although you will resolve other issues and allegations via a separate inquiry / investigation, the Whistleblower (WBR) ROI must annotate the status of any accompanying complaints and how they were resolved. Keep in mind that an accompanying complaint may also speak to one of the variables under Causation, specifically motive.

b. Determine IG Appropriateness – Any military allegation of Restriction and timely allegations of Whistleblower Reprisal are IG appropriate; but, as previously mentioned, these allegations belong to DoD IG and require immediate notification to DAIG. Field-level IGs receiving a complaint of reprisal / restriction are limited in their investigative activity outside of preliminary analysis until DAIG, as the Office of Record, formally refers the case to the appropriate ACOM / ASCC / DRU, who in turn may further refer and designate an appropriate subordinate IG as the Office of Inquiry.

With respect to timeliness, an allegation of Restriction has no associated timeliness standard specified within the statute. However, given the protections afforded by the statute, IGs will consider all complaints of restriction as IG appropriate regardless of Service-specified timeliness requirements. On the other hand, an allegation of Whistleblower Reprisal is considered untimely if the allegation is made more than **one year** after the complainant becomes aware of the PA. In the event the complaint may be untimely, direct the complainant to submit a letter or justification explaining why he or she did not file the complaint until this time. **Do not initiate notification to DAIG until the complainant provides this justification or the suspense to the complainant has passed.** Unless something prevented the Soldier from filing a complaint, or it is in the interest of the Service to document the matter or further investigate, the timeliness standard will likely not be waived.

c. Open Case in IGARS. The receiving IG must enter the complaint into the IGARS database as a standard IGAR. Enter each RMO(s) into IGARS under the Subject / Suspect tab along with at least one allegation for each individual. You must enter each RMO into IGARS at the time of the initial complaint, regardless of whether or not you believe the initial evidence will lead to a dismissal recommendation or to a complete Investigation, so that DAIG's Records Screening Division (SAIG-RSO) can accurately fulfill requirements established in other Army processes.

d. Reporting Requirements. Because of the unique statutory and DoD IG timeliness requirements associated with the processing and resolution of Whistleblower Reprisal / Restriction complaints, the receiving IG must report and execute a formal notification of any Whistleblower Reprisal / Restriction complaint to DAIG's WIOB within five (5) working days of receiving the intake documents. Open an IGAR and upload

intake documents, then send notifications to WIOB via email to usarmy.pentagon.hqda-otig.mbx.ignet-saig-ac-whistleblower-rep@mail.mil. Do not send documents in the email message. Rather, upload the documents in IGARS, including the Military Reprisal / Restriction Complaint – Notification (MR / RCN) Form (located on the IGMET website) and provide WIOB with the associated case number in the Subject line of the email message. The IG should copy (cc) his or her higher headquarters IG as well as the appropriate ACOM, ASCC, or DRU IG. The direct notification to DAIG is intended to facilitate rapid transmittal of the notification, not to exclude the ACOM, ASCC, or DRU from the process. The ACOM, ASCC, or DRU IG will review the notification for quality-control purposes prior to notifying WIOB. Upon receipt of the email notification, WIOB will: 1. Review the OOI's case, 2. Open a DIH case and refer the case to the ACOM, 3. Reply to the notification email requesting the ACOM / ASCC / DRU to accept the referral in IGARS and the OOI to link all associated cases to the case number they initially opened upon receipt of the IGAR. Once cases are linked in IGARS, WIOB will request a DCATS number from DoD IG and upload Acknowledgement Notifications (Complainant and ACOM / ASCC / DRU) in IGARS, then notify the ACOM / ASCC / DRU the acknowledgement is uploaded in IGARS and send an Acknowledgement Notification to the complainant.

(1) IGs should complete the complainant intake process and include a copy of the CCI and all supporting documentation as part of the notification; however, if you are at the five-day mark and still pending the completion of the CCI or collecting documents, execute the notification to WIOB with the minimum required documents and as much supporting documentation available at that point. Inform WIOB of the anticipated completion date of the remaining intake items. **DO NOT DELAY NOTIFICATION!**

(2) Notification of Special Circumstances. An accompanying notification (email or memorandum) attached to the MR / RC - Notification Form is necessary if the reporting IG must address special circumstances, provide background information, or recommend dismissal of the complaint on intake. Examples of such circumstances may include a potential relationship to a sexual-assault complaint or inquiry, a violation of PPD-19 (which pertains to security clearances and access to classified material), referral recommendations (who should serve as the Office of Inquiry based upon potential conflicts of interest), dismissal recommendations (discussed in Section 9-6 of this chapter), or any other significant factor of consideration with the complaint. As previously addressed in Part One, Section 3-1-5, if an Army IG receives an allegation of retaliation or reprisal from a sexual-assault victim as a result of reporting sexual assault, the IG will immediately contact WIOB for guidance. IGs will provide the same documentation (specifically the notification form) for these retaliation matters as they would for reprisal matters; do not delay reporting to compile the documentation. Per paragraph H-1a (3) (c) of Army Regulation 600-20, Army Command Policy, Assistance Division (WIOB) will notify DoD IG. In turn, DoD IG reserves the right to investigate these allegations but may refer them back to DAIG for resolution. WIOB will coordinate with DoD IG to determine who will address cases involving special circumstances.

e. Acknowledge Notification. Upon receipt of the DCATS number, WIOB will upload the acknowledgement notifications and email the ACOM / ASCC / DRU IG office. The acknowledgement memorandum will instruct the reporting IG to make a supported recommendation (dismiss or investigate) on the Military Reprisal / Restriction Complainant Determination (MRCD) Form (located on IGMET) within 30 days after the date of the notification. There is no requirement for the receiving field-level IG to formally acknowledge

receipt of the complaint to the complainant; WIOB will notify the complainant that DAIG has received the complaint.

f. Select a Course of Action (COA).

(1) There are two recommended COAs with respect to the handling of a Whistleblower Reprisal / Restriction complaint: Dismiss or Investigate. A dismissal recommendation is determined when a specific circumstance exists, either administratively or substantively, as demonstrated by supporting evidence, which in turn allows for resolution of the case without executing a full Investigation. There are a number of circumstances that can serve as the basis for a dismissal recommendation, and they are discussed in detail in Section 9-6 of this chapter. By contrast, the recommendation to investigate acknowledges that initial circumstances or a lack of evidence requires that an Investigation begin in order to properly determine whether or not the elements of proof are met.

(2) The receiving, and now reporting, field-level IG is **granted initial authority**, as an extension of the Office of Record (WIOB), to gather necessary evidence, conduct interviews (minus the RMO), and analyze elements of proof in order to **make a supported recommendation (dismiss or investigate). Submit the recommendation to the ACOM / ASCC / DRU IG for review and endorsement (memorandum) to WIOB within 30 working days of receiving the WBRQ.** Understand that a recommendation to WIOB is simply that, a recommendation. If the reporting IG is unable to meet this 30-day mark, the IG should contact WIOB. If, at the 30-day mark, there is insufficient information, evidence, or testimony to completely address the complaint as a dismissal, then the IG should recommend an Investigation as the preferred course of action. However, if the reporting IG is unable to meet this 30-day mark, WIOB may determine that an investigation is needed. If so, WIOB will issue the IG a formal tasking / referral memorandum to investigate.

(3) The recommended COA to WIOB is executed utilizing either the Military Reprisal Complaint - Determination (MRCD- Reprisal) Form or Military Restriction Complaint- Determination (MRCD - Restriction) Form, otherwise known as the 'Determination Form.' IGs must use the appropriate form based upon the type of complaint received -- be it reprisal or restriction. If the complainant alleged both reprisal and restriction, each respective form must be submitted. When recommending to Investigate, fill out the administrative data and Reprisal Elements sections 2 through 5 on the MRCD – Reprisal form. Provide a causation statement in Section 6 to identify the variables of causation. At this stage, a full analysis of causation is not required because the Causation Element will be addressed in the ROI. Upload the Determination form into IGARS and notify WIOB via email (**usarmy.pentagon.hqda-otig.mbx.ignet-saig-ac-whistleblower-rep@mail.mil**) that the case is ready for review. The Military Reprisal Complaint - Determination (MRCD - Reprisal) Form and the Military Restriction Complaint - Determination (MRCD - Restriction) Form are DoD IG (fillable PDF) forms that DoD IG routinely revises and updates and which are located on the IGET website. Use the appropriate form depending on what type of complaint you are addressing: reprisal or restriction.

(4) When recommending a dismissal, DO NOT close the IGAR. You will receive notification to update and close the IGAR when DAIG confirms the complaint is

closed as a dismissal. If DoD IG and DAIG concur with the dismissal recommendation, WIOB will retain and process the case for closure. Recommendations for dismissal made using the MRCD must be fully documented and thoroughly written so the form serves as a stand-alone document. Additionally, the recommendation should be written for a reader outside of the Army who may not be familiar with Army norms, practices, policy expectations, acronyms, or terms. If the case requires extensive explanation or a lengthy presentation, DAIG may require the IG to present the case with an accompanying written report using the Whistleblower Report of Investigation (WBR ROI) format. Be cautious when making a recommendation for dismissal -- IG opinion and supposition do not substitute for evidence. If WIOB receives a dismissal recommendation without sufficient evidence or analysis, or it fails to address the relevant reprisal elements, WIOB will likely refer the case back for a full Investigation and Whistleblower Reprisal / Restriction ROI. **An Investigating Officer's Checklist must accompany a recommendation for dismissal. A copy of the checklist appears at Enclosure 2.**

(5) When recommending an investigation, continue limited fact-finding efforts to reduce administrative lag time while WIOB prepares and issues a formal tasking / referral memorandum. At this point, the IG should NOT notify the RMO(s) or their Commanders / supervisors until an Investigation is directed or initiated. Inform WIOB if an RMO becomes aware of the complaint. WIOB will address the RMO accordingly.

(7) You can discuss the Whistleblower Reprisal / Restriction complaint with your Directing Authority. However, you should consider limiting the details or extent of the discussion if you believe that he or she may become involved in decisions or actions related to the complaint. Remember -- substantiated WBR cases can result in adverse action.

g. Obtain Authority. If an IG recommends Investigation, and DAIG or DoD IG ultimately agrees or determines that a complaint should be referred for Investigation, then WIOB, as the Office of Record, will forward a formal tasking memorandum (inclusive of all preliminary inquiry information and evidence associated with the case) and refer the case in IGARS to the appropriate ACOM, ASCC, or DRU IG to investigate as the Office of Inquiry. Unless otherwise specified, the ACOM / ASCC / DRU IG may further refer the case as well. If the reporting IG (field-level) is not designated as the Office of Inquiry, the reporting IG will pass all preliminary evidence gathered to the Office of Inquiry, note the update in IGARS case notes, and close the case in IGARS as Assistance. Whistleblower Reprisal / Restriction Investigations normally take place no less than one command echelon above the RMO responsible for the PA / UPA. For example, a division IG could investigate complaints from subordinate companies, battalions, and brigades; the division IG may investigate complaints from the division staff but should consider potential conflicts of interest. Therefore, the field-level IG receiving the complaint, conducting preliminary analysis, and ultimately making a COA determination may not become the Office of Inquiry.

Where IG jurisdiction is not clear, WIOB will refer the case to the ACOM / ASCC / DRU in the best position to address the complaint based on several variables. Generally, WIOB will refer the case to the IG most interested in the individuals involved, with the best access to evidence, and in the best position to address the complaint efficiently. There are also instances when WIOB may restrict the authority to refer a case to a specific office given potential conflicts of interest or other significant issues with a particular IG or IG office. The complainant's wishes do not drive this restriction, but WIOB carefully considers

it. Alternatively, WIOB may choose to retain a case for investigation or complete a dismissal recommendation at the Service level rather than referring the case back to a field IG office. Even when WIOB retains a case, field IGs are expected to support the inquiry as needed. If WIOB cannot obtain sufficient information from the local supporting IG, WIOB cannot effectively work the case, and it will likely be referred to the supporting IG for resolution.

Witnesses and RMOs often move out of the investigating IG's jurisdiction. Witnesses are not flagged as a result of an IG Investigation and RMOs are only flagged in conjunction with a required board screen, in which case the flag would be administered by the Army DCS G-1 / HRC. Therefore, these individuals are normally not prevented from permanent-change-of-station (PCS) moves or even from leaving the Service. As a result, the referral / tasking memorandum issued from the Office of Record (WIOB) to the ACOM / ASCC / DRU IG (or designated Office of Inquiry) additionally serves to grant authority to the investigating IG to expand the Investigation outside of his or her normal IG jurisdiction.

Despite receiving a tasking / referral memorandum from WIOB, the designated Office of Inquiry must still request a written directive signed by that office's Directing Authority to conduct an Investigation into allegations of Whistleblower Reprisal. You do not need a separate directive from each Directing Authority under whose authority the witnesses or the RMO(s) now fall. However, it is prudent, and a basic professional courtesy, to ensure that you coordinate with those organizations' IGs before contacting people within their organization. While direct coordination between IG offices is encouraged, WIOB can facilitate when necessary.

NOTE: DAIG (WIOB) will normally only refer a case down to the ACOM / ASCC / DRU IG level. The ACOM / ASCC / DRU IG may retain Office-of-Inquiry status or further refer it down to the field-level IG. While WIOB remains accessible for technical support, the designated Office of Inquiry must submit all recommendations (dismiss / investigate) and subsequent investigative products (WBR ROI / Summary ROI) to WIOB through the referral IG chain (ACOM / ASCC / DRU IG).

3. Step 3 – Notifications and Referrals. When a case is not dismissed on intake or retained at DAIG, WIOB will formally refer the case for Investigation via a formal referral memorandum to the appropriate ACOM / ASCC / DRU IG, who may further refer it to the subordinate IG identified as the Office of Inquiry. Once a case is opened with DoD IG, the case cannot be closed until DoD IG approves an investigative report (WBR ROI or dismissal recommendation). The Office of Inquiry will execute the notification process as outlined in the IGAP if and when an Investigation is initiated. No prior notifications are authorized until the Office of Inquiry is formally established.

4. Step 4 – Fact finding

a. Investigative Plan and Checklist. The IG will develop a written investigative plan at the initiation of the Investigation. In addition to the minimum requirements outlined in Part Two, Section 4-2, of this guide, the investigative plan should focus on collecting and assessing evidence in terms of witnesses, documents, and chronology needed to resolve the elements of proof. The investigating IG should track milestones and timeliness requirements needed to complete the Investigation within 150 days at the Office-of-Inquiry level. Additionally, the IG must complete the Investigating Officer Checklist to ensure IG quality standards. A copy of the IG's Investigative Plan and Investigating Officer Checklist must accompany the ROI or Dismissal recommendation to WIOB as an exhibit (typically

cataloged under “Exhibit A”). See Enclosure 1 of this chapter for an Investigative Plan template and Enclosure 2 of this chapter for the Investigating Officer Checklist.

b. Gather / Evaluate Evidence.

(1) *Interview the complainant.* The IG should interview the complainant first and formally under oath. This interview may occur during the CCI; however, if the CCI was informal, then the IG must execute the formal interview at some point during Preliminary Analysis or Fact-finding for an Investigation. Frequently, follow-up interviews are needed to review new evidence or information gathered during the Investigation and to clarify ambiguities or conflicts in testimony. When interviewing complainants, be specific as to exactly who, by name, did what for each PA. Ask the complainant why he or she attributed the RMO’s actions to reprisal. Additionally, ask the complainant to address how his or her own performance, conduct, and behavior could, would, or did influence the RMO’s actions.

(2) *Interview witnesses.* Generally, the role of witnesses is to corroborate or refute either the complainant and / or an RMO’s testimony or other evidence. The IG must address all witnesses recommended either by the complainant or RMO(s) in the ROI. However, each witness’s role or knowledge dictates whether the IG should actually interview the individual. For example, if a complainant were to ask you to interview his high-school teacher or hometown minister as character witnesses, you would not need to interview either if they had no actual knowledge of the facts or circumstances related to the complaint. Additionally, if a witness’s role would be to corroborate or refute a specific point already resolved by other evidence, you would not need to interview that witness, either. However, you do need to state in your ROI, normally in the scope paragraph, why you did not interview each of the witnesses recommended by the complainant or RMO. You must pinpoint how a witness has knowledge pertinent to the Investigation. If the person’s knowledge is based on what he was told by either the complainant or RMO, it would be hearsay rather than direct knowledge, and you should weigh the testimony appropriately in your analysis.

(3) *Interview RMOs.* Under current guidance, interview RMOs as suspects since substantiated allegations are forwarded for command action and may be addressed via punitive or administrative action. You normally interview RMOs last; however, should circumstances indicate otherwise, you may interview RMOs early or even first. As a reminder, an RMO has the procedural right to know and comment on any unfavorable information presented about him or her. Therefore, if you interview witnesses after you interview the RMO, and unfavorable information is presented about the RMO, you should execute a RMO recall interview so that the RMO has the opportunity to comment on the information. When interviewing RMOs, ensure you address each element of proof and each of the four variables addressed under Causation.

(4) *Individuals authorized a Special Victim Counsel (SVC).* If an individual, usually a complainant, is a sexual assault victim who is authorized an SVC (lawyer), an IG must allow the SVC’s presence during an interview. However, complainants must answer for themselves during the interview. Since this is a sensitive area, coordination with WIOB is encouraged, particularly should a complainant or SVC be less than fully cooperative with the investigating IG.

(5) *RMO Additions / Deletions*. The IG will add RMOs based on who the complainant alleges took, threatened, or influenced an action in reprisal. The IG must ask the complainant specific questions to identify or address who he or she believes should be an RMO. During the course of Preliminary Analysis, or more likely during IG Fact-finding, **the IG may add additional RMOs to the case**. If you believe an RMO or PA should be added, no formal notification to WIOB is required; add the additional RMOs and allegations in IGARS. Contact WIOB for guidance on adding the RMOs or PAs to an existing Investigation or IGARS when interviews have been completed or if the case is over 180 days. Adding RMOs or PAs to an ongoing investigation may incur additional time to complete the Investigation because follow-up or new RMO interviews may need to be conducted. However, if you determine an RMO should be removed and there is a time-sensitive reason to remove that individual prior to completing the WBR ROI, you will need to submit a memorandum with appropriate supporting evidence or documentation to WIOB indicating the reason for removing the specific RMO. Unless there are urgent circumstances that indicate the RMO's removal is in the Service's best interest, prepare a single product (ROI) that addresses the complaint. You may only remove an RMO with concurrence from WIOB and if the evidence you collected and analyzed demonstrates that the RMO should not have been considered an appropriate RMO in the first place. An example of this situation would be if the Battalion S-1 NCOIC was originally included in the complaint but the evidence demonstrated that the NCOIC's role was administrative only; he or she only forwarded an unfavorable evaluation through the personnel system but was not a member of the rating chain and did not make a recommendation to influence the rating-chain members. When in doubt, keep the person in the case as an RMO and address his or her role, or lack thereof, in your final product. Of note, removing an RMO is not the same as determining that the RMO is Not Substantiated. At this point, you may not make a Substantiated or Not Substantiated determination on any RMO.

c. ROI. All Whistleblower Reprisal / Restriction Investigations are resolved with the completion of a written Report of Investigation (ROI). The Whistleblower Reprisal ROI format varies slightly from the ROI format designated in Part Two, Chapter 4, of this guide for the purposes of meeting DoD IG requirements. See Enclosure 3 at the end of this chapter for the format and an example of a Whistleblower Reprisal ROI. For cases that are straightforward and do not require complex analysis, IGs may also produce an abbreviated version of the Whistleblower Reprisal ROI called the "Summary WBR ROI." See Enclosure 4 at the end of this chapter for the Summary WBR ROI format. A "Whistleblower Restriction ROI" also differs slightly from the WBR ROI in that the questions and elements of proof vary. See Enclosure 5 at the end of this chapter for the Whistleblower Restriction ROI format.

(1) Write all Whistleblower products for a reader outside of the Army who may not be familiar with Army organizational norms, practices, policy expectations, acronyms, or terms. Do not assume that DoD IG is intimately familiar with elements of Army-specific regulations and policies. If your analysis is predicated on a particular policy or regulatory citation, include an extract as part of your evidence. Do not include copies of 10 USC 1034 or DoDD 7050.06 with your case; they are not necessary. If organizational culture, norms, or practices are part of your analysis, ensure that you provide context and a full explanation. Avoid jargon and colloquialisms. Use doctrinally sound terminology, such as "involuntary separation" rather than "chapter," since all separations – be it voluntary, involuntary, favorable, and unfavorable – are a "chapter" in the regulation. Of note, these products are also routinely monitored and reviewed by external agencies, such as the

Under Secretary of Defense (Personnel and Readiness), the Government Accountability Office, and MoCs. Therefore, these cases require a high degree of documentation and, whether they are addressed with a dismissal recommendation or a broader Investigation, must be conducted to investigatory standards outlined in Army Regulation 20-1 and this guide.

(2) *Recommendations.* If an IG recommends substantiating an allegation of reprisal, the ROI or amendment must include a recommendation for corrective action. This requirement is a unique aspect of Whistleblower Reprisal / Restriction Investigations and WBR ROIs. With respect to an RMO, the IG will not recommend a specific action but will recommend: "Forward the approved WBR ROI to the appropriate Commander to consider for appropriate action." DO NOT recommend a specific action. The specific action is the Commander's decision with the advice of his or her supporting Staff Judge Advocate. Additionally, concerning the complainant, recommend correcting the record for the PA(s) administered in reprisal; again, DO NOT recommend a specific action. For example, in the case of an evaluation, it would be inappropriate to recommend removal of the evaluation from the Soldier's file. Rather, you could recommend the Soldier appeal to the Army Board for Correction of Military Records (ABCMR) to correct the record or seek appropriate relief. The WBR ROI should be clear and specific as to what part of the evaluation was included or administered in reprisal to inform the reviewing agency. For example, if a specific comment on an evaluation was included in reprisal but the evaluation was otherwise an accurate representation of the Soldier's performance, the IG might state, "Although the senior rater's characterization of CPT X's performance and conduct was otherwise accurate and appropriate, the Investigation found that the senior rater entered the following comment in reprisal for the Soldier making a PC to the IG. He inappropriately provided sworn statements, which accused the chain of command of wrongdoing."

d. Legal Review. All completed WBR ROIs, regardless of recommended determinations, must have an accompanying legal review prior to submission to WIOB.

e. Obtain Approval.

(1) The investigating IG will obtain the Directing Authority's concurrence or non-concurrence with the conclusions and recommendations of the Investigation per Army Regulation 20-1 and Part Two, Section 4-16, of this guide. However, while the intent is for the Directing Authority to be engaged and approve WBR ROIs, should the Directing Authority decline to do so, WIOB will accept the Command IG's approval and signature. This is not an attempt to circumvent the Directing Authority but rather a recognition that some Directing Authorities do not choose to directly engage with, sign, or approve such reports. Once approved, upload and forward the WBR ROI, with legal review and all supporting evidence, in IGARS to the next higher IG. The ACOM, ASCC, or DRU IG will review the ROI and address any quality control issues before submitting the report in IGARS ["request review" in IGARS (Blue Flag)] to the WIOB Oversight Action Officer.

(2) If the review by DAIG or the ACOM / ASCC / DRU IG determines that the WBR ROI is insufficient, the determining IG office may elect to return the WBR ROI to a subordinate IG for additional work, revision, or amendment or for a written addendum that addresses the identified shortfalls. However, the higher echelon IG office may prepare an addendum where the higher echelon IG agrees with the recommendation but determines the Investigation or WBR ROI requires additional analysis, focus, or evidence to support the

recommendation. Should the higher IG not concur with the recommendation or adds allegations not previously addressed, the higher IG may prepare an amendment to add an allegation or overturn a subordinate IG's determinations. If WIOB requires additional information, the same steps will be taken as noted above; however, WIOB will identify what is required or missing when returning a case to the ACOM / ASCC / DRU or OoI IG. Any change to a determination requires a new review for legal sufficiency before forwarding the case to WIOB for final review. Once WIOB sends the report to DoD IG, and DoD IG approves the findings, WIOB will then inform the ACOM, ASCC, or DRU IG, who will further inform the subordinate referral chain and Office of Inquiry.

5. Step 5 – Notification of Results.

a. Once DoD IG approves the findings, WIOB will send final notifications to the ACOM / ASCC / DRU IG, the suspects, and the complainant prior to closing the case. The Office of Inquiry IG should inform the Directing Authority and the RMO's Commander / Supervisor of the approved outcome, if previously notified. However, as the Office of Inquiry, DO NOT inform complainants, witnesses, or RMOs of your findings and recommendations. Since WBR cases go through several reviews, the initial WBR ROI findings and recommendations may be different from the final approved finding. Informing complainants and suspects in advance of the approved finding creates false expectations and potential problems. Instead, RMO(s) and the complainant are formally notified of the results by DAIG's Assistance Division directly. Additionally, DAIG will inform the complainant on procedures for applying for a correction of injustice with Army Board for Correction of Military Records (ABCMR) if the complainant is involved in a substantiated WBR case.

b. If DoD IG approves a report containing substantiated allegations, the report will be forwarded, on behalf of the Secretary of the Army, to the appropriate Commander to consider corrective action. TIG has additionally authorized, through Army Regulation 20-1, release of the report to the suspect's General (or Special) Court-Martial Convening Authority (GCMCA), via the DAIG Records Release / Legal Advisor and through the Command SJA, for consideration and possible use in adverse or other action as may be appropriate. IGs must recognize that consideration for any adverse actions is a command, not an IG, responsibility. Should a Commander have questions for the IG regarding these actions, the IG may provide appropriate feedback about the WBR process and procedure but must clearly understand the limitations of his or her involvement in decisions on command action in accordance with Army Regulation 20-1. When considering what or if any action should be taken, the Commander should seek the advice of his or her supporting SJA. Of particular note, if the appropriate authority, normally the GCMCA, elects to take no action, the Service Secretary must notify the Secretary Defense of that decision.

6. Step 6 - Follow Up.

a. Military members have the right to appeal the Investigation results directly to the Secretary of Defense in accordance with DoDD 7050.06. However, the field-level IG may receive requests for reconsideration from either a complainant or an RMO for a substantiated allegation. Since DoD IG approves WBR cases, the Army cannot revise or amend an approved finding without approval from DoD IG.

b. Generally, an IG receiving an inquiry about how to submit a request for reconsideration should inform the individual to submit a request to DoD IG using the interactive link on the DoD IG website (www.dodig.mil). The IG should inform the individual that he or she should submit new information not previously considered; letters or recommendations from individuals with no knowledge of the facts or circumstances under investigation have no value. For requests submitted to DoD IG, DoD IG will review the submission and determine if the new information could or would have an effect on the final determination. If DoD IG determines the new information would or could affect the determination, DoD IG will likely refer the case to the Army IG to address, in which case the Army IG will have to provide a formal response. Specific facts / circumstances will determine the form of the response and may range from a complete WBR ROI, an amendment, or a memorandum documenting a review depending on the specific facts considered. While WIOB has generally retained these cases for action in-house, they could be referred for resolution by a subordinate IG as well.

c. Should an office in the investigative chain receive or become aware of new information not previously considered that they perceive indicates an approved finding was not correct, that IG may also recommend further review of the case and should contact WIOB for guidance. Any amendment to the finding requires an amendment or revised ROI with supporting documentation. Remember, until such time as DoD IG approves a revised finding, the finding of record remains as approved by DoD IG.

7. Step 7 – Close the IGAR. Once DoD IG has approved the case, the Office of Inquiry can close the case at the field level. As long as an associated case remains open with a higher level IG in the referral chain, including DAIG, a subordinate IG may close and re-open the IGAR in the IGARS database to make corrections or revisions. However, once the case is closed at the Office of Record (DAIG), subordinate IGs may revise select items, such as case notes or the synopsis, but other actions will be locked. When closing out the IGAR in the database, the IGAR must be closed in sequence from lower (Office of Inquiry) to higher (Office of Record).

The final determination for all linked cases in IGARS must reflect the same findings for each and must be the approved determination by DoD IG. IGs should enter one allegation per RMO per PA as alleged by the complainant with the appropriate determination code of S for substantiated, N for Not Substantiated, or D for allegations dismissed. You may only use S or N where there is a completed and DoD-approved WBR ROI complete with legal review.

Section 9-6

Dismissal Recommendations

1. **Dismissal Recommendations.** A dismissal recommendation is appropriate if the documentary evidence, in conjunction with either a formal or informal complainant interview, indicates the Whistleblower complaint fails for one or more of the four elements of proof. A dismissal recommendation is also appropriate if the complaint was untimely, the complaint is withdrawn, or the complainant is uncooperative (and there was no other reason to pursue reprisal allegations). A DISMISSAL IS NOT A SHORTCUT. A dismissal requires the same supporting evidence, analysis, and documentation as any other investigative product and must include an interview with the complainant. See the below paragraphs regarding the basis for dismissal recommendations.

Be aware that if the evidence indicates that a PC was followed by a PA, that the complaint was timely, that there is an inference of causation, and that RMO interviews are required, then the IG should conduct an Investigation. Dismissal is appropriate when documentary evidence, in conjunction with the complainant's input (which includes the WBRQ, CCI, or formal interview), indicates the complaint does not meet one of the four elements of proof, to include Causation. If the readily available evidence and analysis does not lead to an *expeditious* determination that a dismissal recommendation is warranted, then an Investigation yielding Not-Substantiated allegations is always *preferable* to a dismissal. However, launching an Investigation is not an irrevocable decision. You may revert to a dismissal later if circumstances warrant. However, you must first contact WIOB for guidance before shifting from an Investigation to a dismissal recommendation.

Dismissal recommendations do not require a legal review. However, a legal review may be prudent, particularly if your evidence review and analysis differs with the findings of a command product that you include as an exhibit. Dismissal recommendations do require an accompanying Investigating Officer's Checklist in order to ensure quality standards and that the IG fully addressed the complaint before concluding that a dismissal was appropriate.

Once a case is opened at DoD IG and an Investigation has been directed, parts of the complaint may still be dismissed if the circumstances support dismissal. However, these recommendations will require full review and oversight as part of the final report. If the investigating IG requests that only specific parts of a Whistleblower complaint be dismissed, the IG will include the recommendation in the WBR ROI along with the appropriate supporting information.

2. **Types of Dismissal Recommendations.** There are two types of dismissal recommendations: (1) an Intake Dismissal and (2) a Referred Case Dismissal.

a. An Intake Dismissal recommendation is a case where the complaint originated with a field IG office and a notification was passed up to DAIG and DoD IG. These cases are normally very simple because there is either no PC, no PA (taken, threatened, withheld), no RMO knowledge, or the PA preceded the PC. If a recommendation for

dismissal is made to DAIG (WIOB) on intake, or before a formal referral for Investigation comes from DAIG (WIOB), the case is an Intake Dismissal. An informal CCI, supported by documentary evidence, may be sufficient when preparing an Intake Dismissal recommendation. Most importantly, when submitting an Intake Dismissal Recommendation, the documentary evidence, in conjunction with the CCI, must be sufficient to fully support the recommendation with no need for additional formal RMO or witness interviews taken under oath. For Intake Dismissals, the IG must prepare both the MR / RC - Notification and the MR / RC – Determination Forms with supporting documentation, including the Investigating Officer’s Checklist. If you believe an Intake Dismissal is appropriate, but have not finished gathering information or preparing the MR / RC - Notification Form within the five-day window allotted, do not delay notification. Indicate your intention to recommend dismissal on intake in your email notification.

b. A Referred Case Dismissal is a case that either began as a referral from DoD IG or DAIG to a field IG office or a case that started with a field IG but has since been formally referred to an Office of Inquiry for Investigation by DAIG (WIOB). While referred cases are generally screened for evidence indicating reprisal, evidence or circumstances following the receipt of the referral may indicate that dismissal is warranted. For a Referred Case Dismissal, the IG must prepare the MR / RC – Determination Form with supporting documentation, including the Investigating Officer’s Checklist. Since Referred Case Dismissals are generally more complex than an Intake Dismissal, the IG, at a minimum, should conduct a formal complainant interview (recorded under oath) to ensure the complaint is adequately addressed.

3. Basis for a Dismissal Recommendation. There are 10 total circumstances, broken into two categories, Administrative and Substantive, under which a Dismissal Recommendation can be made.

a. Administrative. If the complainant wishes to withdraw the complaint, is unresponsive and / or does not cooperate with the IG Investigation, or makes an untimely reprisal complaint based on 10 USC 1034, then you may recommend administrative closure for an Intake or Referred Case Dismissal.

(1) *Withdrawal*. Use the MR / RC - Determination Form with supporting documentation to submit a recommendation based on withdrawal if the complainant wishes to freely withdraw his or her reprisal complaint. Be certain to document the withdrawal request. Use either a written request from the complainant; a confirmation email from the IG to the complainant with his or her response; or, in circumstances where the Office of Inquiry cannot obtain either one, an MFR signed by the investigating IG. If you use an MFR, include an explanation of why there is no direct request or response from the complainant. A verbal statement from the complainant, documented in an MFR, is acceptable as a last choice but may be challenged later. Some type of auditable communication from the complainant is always best.

(2) *Unresponsive / Uncooperative Complainant*. Submit an MR / RC – Determination Form with a memorandum of explanation if a complainant becomes unresponsive or uncooperative. Timely cooperation by the complainant is critical to a thorough and appropriate Investigation into allegations of Whistleblower Reprisal / Restriction. If the complainant becomes unresponsive during intake or during the

Investigation, DoD IG has set a baseline of at least three communication attempts, after which you can recommend dismissal.

You must make at least three attempts to contact the complainant and use all available modes of communication, such as home / cell telephone, duty phone, personal email, .mil email, letter, etc. This requirement does not mean three separate attempts using each separate method. After you make at least three attempts to reach the complainant, and if the complainant remains unresponsive, then you will advise the complainant in writing (fourth attempt) that it will not be possible to investigate the alleged reprisal without the complainant's cooperation and that the case will be closed unless a response is received within 10 days. After allowing a minimum of 10 days for the complainant to respond, if no response is received, then you may recommend to dismiss the case for lack of cooperation. Ensure that all communication attempts are added to case notes, uploaded to IGARS, and articulated in the MRCD-Determination Form and accompanying memorandum.

(3) *Untimely Complaint.* DoD Directive 7050.06 allows a complainant to make a reprisal complaint up to one year after he or she first became aware of the adverse or unfavorable PA, a withheld favorable PA, or a threat of either. Occasionally, the complainant's first awareness of a PA may not always coincide with the actual PA itself. For example, a Soldier was verbally counselled on 2 February for lost equipment. The Soldier was informed that the loss would reflect poorly in the Responsibility and Accountability section of his NCOER. On 17 February, the Soldier was presented with a draft NCOER containing working verbiage for the bullets. The final evaluation, with slightly different wording in the final Responsibility and Accountability bullets, was signed on 22 March. The complainant's one-year window to make the reprisal complaint began on 22 March -- when he became aware of the approved, final determination.

NOTE: *The complainant's name, grade, DoD identification number, unit assignment, address, and phone number are required for DoD IG to approve a dismissal based on timeliness.*

b. Substantive. Dismissal recommendations based on substantive circumstances include the remaining seven circumstances and are predicated on the contents of the case itself. If these substantive circumstances exist, you may recommend administrative closure for an Intake or Referred Case Dismissal.

(1) *No PC.* Was there a PC? You must be technically sound and consider all possible forms and categories of PCs. Additionally, you must consider RMO speculation, rumors, or attribution. When you cannot demonstrate with certainty that there was no PC, default to the complainant's perspective. Not all communications are protected under 10 USC 1034. For example, discussing a security violation with peers during a smoke break is not an appropriate substitute for a person designated to appropriately receive such a complaint or report. Similarly, communication with an IG or MoC that is not lawful, such as a threat, is not a covered PC. However, analyze this element of proof from the complainant's perspective.

(2) *No PA.* Was there a PA? You must be technically sound and consider all possible forms and categories of PAs covered by 10 USC 1034. Remember, the definition does not say "adverse"; consider an action unfavorable if taking or denying a PA will have a negative effect on the complainant's career (e.g., selection for career-enhancing

training or assignments, promotion, etc.). However, analyze this element of proof from the complainant's perspective.

(3) *PA Preceded the PC.* Was a PC followed by a covered PA, a favorable PA withheld, or either of these two threatened? If the PA or threat preceded the PC, the reprisal statute does not cover the complaint. Note that what matters most is when the PA was initiated or threatened, not the date of an action or the conduct that led to the PA. For example, the Soldier is once again late to work on Monday, makes a PC on Wednesday, and the Commander executes an Article 15 on Friday for the Soldier's repeated tardiness. In this example, the PA (Article 15) *appears* to have occurred on Friday, after the PC (Wednesday). However, if the Soldier was informed Monday afternoon that the command initiated the Article 15, then the PA actually preceded the PC, even though it was not executed until after the PC.

(4) *No RMO Knowledge of the PC.* At the time of the PA or threat, did the RMO know that a PC was made or prepared, or did the RMO perceive that a PC was made or prepared? You must be able to demonstrate that the RMO was unaware that the PC was made or prepared, or perceived to have been made or prepared. The sequence of PC—PA—RMO knowledge does not support a Whistleblower Reprisal complaint. Lack of RMO knowledge must be obvious if it forms the basis to recommend dismissal. If lack of RMO knowledge is not clearly obvious, or requires the RMO or other witness testimony taken under oath, a recommendation of dismissal would not be appropriate. A full Investigation and a complete WBR ROI will be necessary.

(5) *No Inference of Causation.* Look at the information provided by the complainant and the complainant's unit or organization to determine if there is an inference of causation. If the complainant's input during the CCI or formal interview, as well as any documentary evidence, clearly indicates no causal nexus between a PC and PA, or that the PA occurred independently of a PC, you may submit a Dismissal Recommendation.

The key to recommending a dismissal based on no Inference of Causation is a thorough analysis of the four key variables: (1) Reason(s), (2) Timing, (3) Motive, and (4) Disparate Treatment. Sufficient documentary and / or testimonial evidence must support recommendations based primarily on these variables. Of these four variables, timing and disparate treatment will be most important to the recommendation. Sometimes the RMO's reason(s) are articulated in the documentary evidence, such as in a GOMOR recommendation memorandum, Article 15 DA Form 2627, a relief-for-cause memorandum, or a written counseling statement. However, deeper analysis of an RMO's reasons and motive usually require a formal interview of the RMO or other witnesses. Should a formal RMO interview be required, a recommendation of dismissal would not be proper. Instead, an Investigation would be the appropriate course of action. While reasons and motive may be a factor, they will not likely be the main factors in determining whether a Dismissal Recommendation is appropriate. Additionally, it is always easier to indicate what did cause an action to occur than what did not. Therefore, you should clearly indicate, and support with evidence, the actual causal impetus (reason) for the PA(s).

(6) *Complainant not covered by 10 USC 1034 or DoDD 7050.06.* As previously discussed, complainants are not covered by 10 USC 1034 when the PA in question impacts the person while he or she is operating in other possible statuses. If this discovery was not made during the intake process, and the complainant was not referred

to the proper agency based upon his or her status, you may submit a Dismissal Recommendation.

(7) *No restriction as defined by 10 USC 1034 or DoDD 7050.06.* A Dismissal Recommendation may be appropriate if you can demonstrate that the RMO did not restrict, or attempt to restrict, the Soldier from communicating with an IG or MoC. If the complainant reports, or the evidence demonstrates, that an RMO prevented, or attempted to prevent, communication through another channel of address, such as a Commander / 1SG / CSM, an EOA, unit safety officer, or patient ombudsman, then restriction under 10 USC 1034 is not the appropriate standard to use. A complaint or allegation of this type is more than likely appropriate for further address as an abuse of authority or similar personal conduct standard. Additionally, consider dismissal if the complainant reports, or the evidence demonstrates, that an RMO prevented, or attempted to prevent, a Soldier from making an IG or MoC communication that was not lawful, such as a threat.

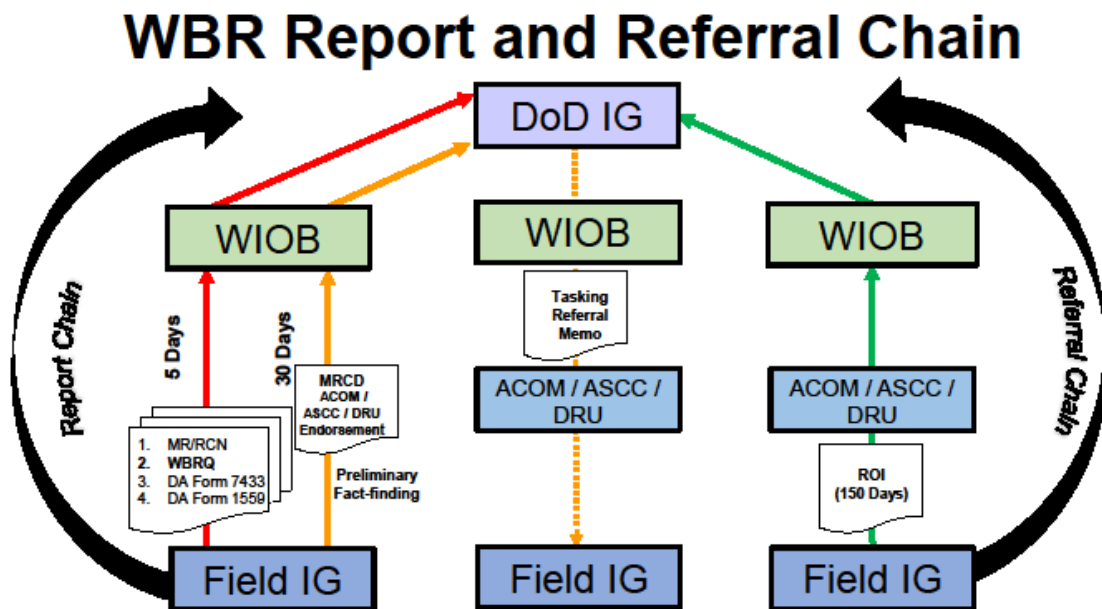


Figure II-9-2

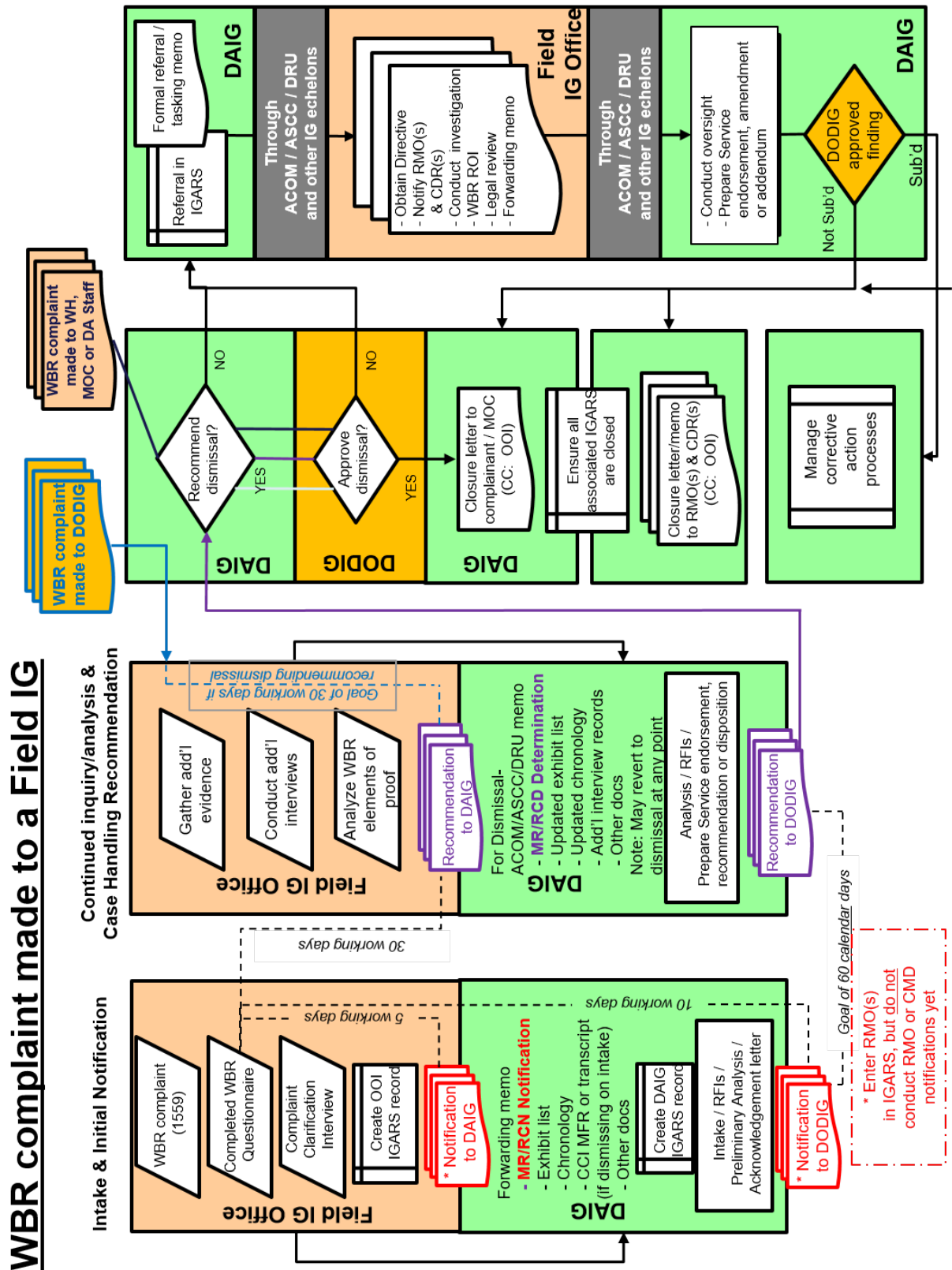


Figure II-9-3

Enclosure 1: WBR Investigative Plan

Military Reprisal Investigative Plan as of [Date]

Case Number:	
Investigator:	
Supervisory Investigator:	
Case Summary:	

Complainant(s):			
[Rank]	[Name]	[Service]	[Title]

Subject(s):			
[Rank]	[Name]	[Service]	[Title]

Allegations:		
Alleged Subject	Allegation	Result
[Name]	REPRISAL / MILITARY	TBD
	Description: [Example: Complainant alleged that RMO gave him an adverse fitness report on 11 March 2013, in reprisal for telling his chain of command that RMO was a toxic leader in 2010.]	

Protected Communication(s):				
Date	PC	To	Protected?	If No, Why?
7/24/2012	[Type of PC]			
	Description:			

Personnel Action(s):				
Date	PA	By Whom?	Covered?	If No, Why?
	Description:			

Documentary Evidence:			
Document Description	Source	Date Requested	Date Received

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Witnesses:						
Person			Interview Dates		Transcript Dates	
Name	Duty Position	Type	Scheduled	Completed	Submitted	Received

TDY Location and Dates:					
Description	Personnel	Destination	Departure Date	Return Date	Cost

Investigative Milestones:		
Event	Milestone Date	Date Accomplished
Notification(s) sent		
IP Approval		
Etc.		

Enclosure 2: Investigating Officer Checklist

Investigating Officer Checklist
Military Whistleblower Protection Act-10 U.S.C. 1034

XXXXXXX - XXXXXX - CASE - XX

Investigator Independence

I attest that:

- a. I am outside the immediate chain of command of both the complainant and all subjects or at least one organization higher in the chain of command than the organization of the complainant and all subjects;
- b. I am free of personal, financial, or other interests that could influence or be perceived as influencing my handling of this investigation;
- c. No one has interfered with or unduly influenced my handling of this investigation; and
- d. I have not had a conflict of interest with any witness, the complainant, or any subject during the conduct of this investigation.

IO Name		IO Signature	
---------	--	--------------	--

Investigator Qualifications

Have you received entry-level investigative training? Yes No Date Provider

Have you received periodic investigative refresher training? Yes No Date Provider

(most recent)

Elements of Reprisal

YES	NO
-----	----

- | | | | | | | | | | | | | | | | | | |
|---|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <p>1. Making or preparing to make a protected communication, or being perceived as having made a protected communication:</p> <ul style="list-style-type: none"> a. Were all of the protected communications alleged by the complainant identified? b. Were the dates of the protected communications identified? c. Were the recipients of the protected communications identified? d. Were the alleged protection communications analyzed to determine whether they were covered under 10 U.S.C. 1034 and DoDD 7050.06? <p>2. Unfavorable personnel actions taken or threatened against Complainant, or favorable personnel actions withheld or threatened to be withheld from Complainant:</p> <ul style="list-style-type: none"> a. Were all of the alleged personnel actions identified? b. Were all of the alleged personnel actions analyzed to determine whether they were covered under 10 U.S.C. 1034 or DoDD 7050.06? <p>3. Knowledge or perception of responsible official(s) of Complainant’s protected communication(s) or preparation of protected communication(s):</p> <ul style="list-style-type: none"> a. Were all of the RMOs identified? b. Was it determined whether or not each RMO were aware of or perceived that each protected communication took place or was planned? | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><input type="checkbox"/></td> <td style="width: 50%;"><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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OIG Investigating Officer Checklist

4. Causation: Did you analyze all factors in determining whether the same personnel action(s) would have been taken, withheld, or threatened absent the protected communication(s):
- a. Reason stated by the RMO for taking, withholding or threatening the action
 - b. Timing between the protected communications and the personnel actions
 - c. RMO's motive for taking, withholding, or threatening the personnel actions, including animosity toward the protected communication
 - d. Disparate treatment of the complainant as compared to other similarly situated individuals

Analyzing Restriction Allegations

N/A YES NO

5. Did you gather and analyze evidence relevant to the question of whether the responsible management official restricted or attempted to restrict a military member or members from making or preparing to make a lawful communication to a member of Congress or an Inspector General?

Adherence to Council of the Inspectors General on Integrity and Efficiency Quality Standards

YES NO

6. Did you accurately summarize the complaint in the report?
7. Did you accurately cite and apply the statute or standard that *applied at the time*
8. Did you identify each underlying allegation or other issues, and were they addressed or referred for handling? ? N/A YES NO
9. Did you prepare an investigative plan?
10. Did you gather all relevant evidence by:
- a. Interviewing the complainant?
 - b. Interviewing the responsible management official(s)?
 - c. Interviewing relevant witnesses?
11. For any key witnesses not interviewed, does the report explain why interviews were not conducted? N/A YES NO
12. Did you apply the facts to each element of reprisal or to the standard for restriction?
13. Did you apply the appropriate standard of proof
14. Does the evidence support the investigative findings?
15. Did you retain all evidence relied upon in the report and include it with the report for review?

OIG Investigating Officer Checklist

	N/A	YES	NO
16. If the case has been open over 180 days after receipt of the allegation, have all required notifications been made? USD(P&R), DoD IG, the Secretary of the Military Department concerned, and the complainant?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Did the report reach a conclusion for each allegation?		<input type="checkbox"/>	<input type="checkbox"/>
18. If substantiated, did the report recommend appropriate remedy for the complainant?		<input type="checkbox"/>	<input type="checkbox"/>
19. If substantiated, did the report recommend corrective action for the subject(s)?		<input type="checkbox"/>	<input type="checkbox"/>
20. Did the report receive legal sufficiency review?		<input type="checkbox"/>	<input type="checkbox"/>
21. Did the legal review find the report legally sufficient?		<input type="checkbox"/>	<input type="checkbox"/>
22. Does the report include the WRI case number as well as the Service case number?		<input type="checkbox"/>	<input type="checkbox"/>
23. Is the investigative information organized in a logical and easily retrievable manner?		<input type="checkbox"/>	<input type="checkbox"/>

Enclosure 3: Whistleblower Reprisal Report of Investigation Format (Add the appropriate CUI markings to the ROI using the sample located on the IGNUET website.)

CUI
WHISTLEBLOWER RESPRISAL INVESTIGATION
TITLE / RANK COMPLAINANT'S NAME
AGENCY / SERVICE
LOCATION

I. EXECUTIVE SUMMARY

We conducted this investigation in response to allegations that **[list RMO information here – name(s) with title / rank, Service / agency, and location]** did **[describe the personnel action(s) here to Complainant's name]** in reprisal for communicating **[to whom]**.

We found that **[concisely summarize the factual findings related to the elements of reprisal]**.

We **[substantiated]** the allegation that **[RMO name did describe the personnel action]** in reprisal for Complainant's protected communication(s), in violation of Title 10, United States Code, Section 1034 (10 U.S.C. 1034), "Protected communications; prohibition of retaliatory personnel actions," as implemented by DoD Directive 7050.06, "Military Whistleblower Protection."

- or -

We **[did not substantiate]** the allegation that **[RMO name]** did not **[describe personnel action]** in reprisal for Complainant's protected communication(s).

We recommend **[state what you recommend and to whom; in cases where you did not make any recommendations, state: We did not make any recommendations in this matter]**.

II. BACKGROUND

Include the complainant's name, duty position, work address, work phone number, home address, and home phone number. Include the date the complainant made a protected communication as well as the date the complainant alleged reprisal. Describe previous or current Investigations of the reprisal allegations by any other agency (if applicable).

CUI

CUI**III. SCOPE**

This section should describe the scope of the Investigation in summary terms, leading with a statement of the timeframe addressed by the Investigation followed by key witnesses interviewed and crucial documents reviewed. Do not list every witness or every type of document. Include subject-matter experts if their testimony was crucial to the outcome of the Investigation.

IV. STATUTORY AUTHORITY

The **[insert your organization]** IG conducted this Whistleblower Reprisal Investigation pursuant to Title 10, United States Code, Section 1034 (10 U.S.C. 1034), "Protected communications; prohibition of retaliatory personnel actions," which is implemented by DoD Directive 7050.06, "Military Whistleblower Protection."

V. FINDINGS OF FACT

In chronological order, briefly summarize the timeline with exhibit references to relevant documents and testimony. Clearly identify each PC and PA, specifying when and to whom each was made. Include the disposition of the PCs by addressing the resolution or action taken on each PC mentioned below. Include supporting documents, such as an Army Regulation 15-6 investigatory report or other command investigation with supporting exhibits.

VI. ANALYSIS

The elements of reprisal are protected communication; knowledge of the protected communication on the part of the responsible management official; a personnel action taken, threatened, or withheld; and a causal connection between the protected communication and the personnel action. The causal connection is resolved by answering the question in paragraph d, below. If the evidence does not establish that the personnel action would have been taken, threatened, or withheld absent the protected communication, then the complaint is substantiated. Conversely, if the evidence establishes that it would have been taken, threatened, or withheld absent the protected communication, then the complaint is not substantiated. Below, we analyze each of the elements.

a. Did the Complainant make or prepare to make a protected communication, or was the Complainant perceived as having made or prepared to make a protected communication? YES or NO

2

CUI

II - 9 - 42

CUI

List the date, the PC, and to whom the PC was made.

<u>DATE</u>	<u>PROTECTED COMMUNICATION</u>	<u>TO WHOM</u>
1 Mar 14	LTC X reported a violation	COL Hardnose
15 Apr 14	LTC X reported a violation	Local IG

Describe and synthesize the facts related to each protected communication in subparagraphs to determine whether or not the communication was protected.

b. Was an unfavorable personnel action taken or threatened against the Complainant, or was a favorable personnel action withheld or threatened to be withheld from Complainant? YES or NO

List in chronological order each alleged PA with enough detail to establish when the action was taken, who the RMO was, and whether there was an independent basis for action.

c. Did the responsible management official(s) have knowledge of the Complainant’s protected communication(s) or perceive the Complainant as making or preparing a protected communication(s)? YES or NO

Summarize, citing relevant exhibits, when and how each RMO came to know or suspect the complainant having made a PC. Based on key witness interviews, did the Responsible Management Official(s) know about the protected communication before he or she took, or threatened to take, the adverse personnel action or withheld a favorable personnel action? **(*Warning: Treat RMOs as suspects.)**

d. Would the same personnel action(s) have been taken, withheld, or threatened absent the protected communication(s)? YES or NO

State the IG determination as to whether the RMO would have taken the PA(s) against the complainant absent the complainant’s PC(s). Analyze each PA (and RMO) in terms of the four questions, and determine if there was any impact on the Responsible Management Official(s) directly related to the alleged acts of reprisal. If questions 1 through 3 were already addressed in detail, the answer should be a yes or no with a one- or two-sentence summary. When it makes sense, you may bundle related allegations for analysis. When the allegations are not related, do not group them together but instead analyze them independently.

Personnel Action # 1: (Identify the PA here), RMO: COL Hardnose. YES or NO
(Include supporting documents for each PA)

CUI

Reason stated by each RMO for taking, withholding, or threatening action:

Timing between the PC(s) and PA(s):

Motive on the part of the RMO(s) for deciding, taking, or withholding the PA:

Disparate treatment of complainant as compared to other similarly situated individuals who did not make PCs:

VII. DISCUSSION

This portion is the investigating IG's analysis of the evidence for each PA. Clearly explain how you resolved inconsistencies or conflicts and your rationale for substantiating or not substantiating the allegations pertaining to each PA (and each RMO).

VIII. CONCLUSION

Re-state each allegation for each RMO for each PA. For example, Allegation 1, that COL Hardnose rendered an unfavorable OER in reprisal for a protected communication in violation of DoDD 7050.06, Military Whistleblower Protection, was / was not substantiated.

IX. OTHER MATTERS

Identified concerns (not allegations), if any.

X. RECOMMENDATIONS

a. Concur with the conclusions above substantiating the allegation against COL Hardnose and forward the completed report to **[his / her]** command for appropriate corrective action.

b. Refer the issue in Other Matters to (agency) for appropriate action.

c. Forward the case to DoD IG for final approval.

*(Legal reviews are **required** for all Whistleblower Reprisal cases and must be in a separate memorandum.)*

CUI

Encl
Exhibit List

APPROVED:

MOTTIN DE LA BLAME
MG, U.S. Army
Commander

Date

BRUNO SHOULDER
MSG, IG
Investigator

RICHARD BRITTON
MAJ, IG
Investigator

CONCUR:

ALBERT R. RIGHTWAY
LTC, IG
Inspector General

This is a recommended exhibit list. This list illustrates the evidence normally required to adequately resolve the case and meet requirements for DoD IG to approve the report.

LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Directive and Complaint
A-1	Directive and Referral
A-2	Legal review
A-3	Complaint (with supporting documentation)
A-4	Investigative Plan
A-5	Investigating Officer Checklist
B	Protected Communications
B-1	PC 1 Communication to (IG, MoC, EO, Chain of Command, etc.) (If PC is verbal, reference exhibit (i.e. testimony, complaint)
B-2	Resolution of PC 1 (Army Regulation 15-6, Commander's Inquiry, Congressional Response, IG inquiry – complete with exhibits)
B-3	PC 2, as above
C	Personnel Action
C-1	Personnel Action 1 with supporting documentation (i.e. Article 15 with supporting evidence, OER / NCOER with drafts and referral memorandums)
C-2	PA 2, as above
D	Documentary Evidence
D-1	Introduce other documentary evidence, such as counseling file, awards log, legal log, applicable regulatory requirements, etc.
E	Testimony
E-1	Complainant Testimony
E-2	RMO 1 Testimony
E-3	RMO 2 Testimony
E-4	Witness 1 Testimony
F	Standards Extracts
F-1	DoDD 7050.06
F-2	As Required
G	Notifications
G-1	Supervisor Notification
G-2	Subject / Suspect Notification

Enclosure 4: Whistleblower Reprisal Summary Report of Investigation Format (Add the appropriate CUI markings to the ROI using the sample located on the IGMET website.)

CUI
WHISTLEBLOWER RESPRISAL INVESTIGATION
TITLE / RANK COMPLAINANT'S NAME
AGENCY / SERVICE
LOCATION

SUMMARY REPORT

I. ALLEGATION. Title / Rank Complainant's Name **[Complainant]** alleged that [RMO name] [took what personnel actions] in reprisal for communicating [what] to [whom].

II. RESPONSIBLE MANAGEMENT OFFICIAL'S RESPONSE. [RMO name] denied reprisal against **[Complainant]** and responded that **[Complainant]** received / did not receive **[what personnel action]** as a direct result of **[reason]**. Specifically, **[Complainant]** **[did what]**. Further, **[RMO]** noted **[other reasons / factors]**. *(Succinctly summarize the RMO's key points raised in response to the allegation of reprisal.)*

III. SCOPE. This investigation covered the time period from **[Date through Date]**, the date on which Complainant [received what PA]. We interviewed the Complainant, the responsible management official, and relevant witnesses. We also examined documentary evidence including **[briefly summarize the types of documents examined, e.g., personnel records]**.

(In a Summary Report, the Scope section must convey IG thoroughness. For example, if the IG conducted multiple interviews in the case, include the number of interviews: The Investigating Officer conducted 13 interviews including ... The Scope section can also be used to briefly explain why certain complaint allegations were not analyzed further (for example, untimely allegations or other issues falling outside the scope of our investigation).)

IV. STATUTORY AUTHORITY. Title 10, United States Code, Section 1034 (10 U.S.C. 1034), "Protected communications; prohibition of retaliatory personnel actions," as implemented by DoD Directive (DoDD) 7050.06, "Military Whistleblower Protection," 17 April 2015.

CUI

CUI**V. FINDINGS AND ANALYSIS.**

In chronological order, briefly describe the minimum background information needed to understand the report. Clearly identify each PC and PA, specifying when and to whom each was made. Include the disposition of the PCs by addressing the resolution or action taken on each PC mentioned below. Include supporting documents, such as an Army Regulation 15-6 investigatory report or other command investigation with supporting exhibits. Describe how the evidence supports the RMO's stated reasons for taking the action against the Complainant.

VI. CONCLUSION

Re-state each allegation for each RMO for each PA. For example, Allegation 1, that COL Hardnose rendered an unfavorable OER in reprisal for a protected communication in violation of DoDD 7050.06, "Military Whistleblower Protection," was / was not substantiated.

VII. OTHER MATTERS

Identified concerns (not allegations), if any.

VIII. RECOMMENDATIONS

- a. Concur with the conclusions above not substantiating the allegation against **[RMO name]** and take no further action.
- b. Refer the issue in Other Matters to (agency) for appropriate action.
- c. Forward the case to DoD IG for final approval.

CUI

Encl
Exhibit List

APPROVED:

MOTTIN DE LA BLAME
MG, U.S. Army
Commander

Date

BRUNO SHOULDER
MSG, IG
Investigator

RICHARD BRITTON
MAJ, IG
Investigator

CONCUR:

ALBERT R. RIGHTWAY
LTC, IG
Inspector General

LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Directive and Complaint
A-1	Directive and Referral
A-2	Legal review
A-3	Complaint (with supporting documentation)
A-4	Investigative Plan
A-5	Investigating Officer Checklist
B	Protected Communications
B-1	PC 1 Communication to (IG, MoC, EO, Chain of Command, etc.) (If PC is verbal, reference exhibit (i.e. testimony, complaint)
B-2	Resolution of PC 1 (Army Regulation 15-6, Commander's Inquiry, Congressional Response, IG inquiry – complete with exhibits)
B-3	PC 2, as above
C	Personnel Action
C-1	Personnel Action 1 with supporting documentation (i.e. Article 15 with supporting evidence, OER / NCOER with drafts and referral memorandums)
C-2	PA 2, as above
D	Documentary Evidence
D-1	Introduce other documentary evidence, such as counseling file, awards log, legal log, applicable regulatory requirements, etc.
E	Testimony
E-5	Complainant Testimony
E-6	RMO 1 Testimony
E-7	RMO 2 Testimony
E-8	Witness 1 Testimony
F	Standards Extracts
F-1	DoDD 7050.06
F-2	As Required
G	Notifications
G-1	Supervisor Notification
G-2	Subject / Suspect Notification

Enclosure 5: Whistleblower Restriction Report of Investigation Format (Add the appropriate CUI markings to the ROI using the sample located on the IGMET website.)

CUI
WHISTLEBLOWER RESTRICTION INVESTIGATION
 TITLE / RANK COMPLAINANT'S NAME
 AGENCY / SERVICE
 LOCATION

I. EXECUTIVE SUMMARY

The **[organization]** IG conducted an investigation in response to allegations that **[list RMO information here – name(s) with title and rank, agency / service, and location]** restricted (or attempted to restrict) **[Complainant's name]** from making or preparing to make a lawful communication to communicating with a Member of Congress or an Inspector General. *(This first paragraph must include the RMO's and Complainant's names).*

The investigation found **[concisely summarize the factual findings related to the alleged restriction. For example, "The IG found that CPT Smith told the complainant via email on 1 January 2018 that if she contacted the IG again, there would be consequences."]**

For substantiated allegations, state: The **[organization]** IG concluded that **[RMO's name]** did **[describe the restriction]** in violation of Title 10, United States Code, Section 1034 (10 USC 1034), "Protected communications; prohibition of retaliatory personnel actions," as implemented by DoD Directive 7050.06, "Military Whistleblower Protection."

- or -

For allegations not substantiated, state: The **[organization]** IG concluded that **[RMO's name]** did not **[describe the restriction]** in violation of Title 10, United States Code, Section 1034 (10 USC 1034), "Protected communications; prohibition of retaliatory personnel actions," as implemented by DoD Directive 7050.06, "Military Whistleblower Protection."

(If there are multiple RMOs each with different findings, summarize them separately as in the paragraph above; however, if they collectively took the actions, summarize them together.)

State what you recommended and to whom. In cases where you do not make any recommendations, state: We did not make any recommendations in this matter.

CUI

CUI**II. BACKGROUND**

This section should provide information about the organizations, command relationships, and key individuals involved in the Investigation. Give a brief overview of events that led to the protected communication and personnel action. It may also be used to provide a very brief chronology or synopsis of key events **leading up to** the matters under Investigation but generally not the matters **directly** under Investigation. Do not include detailed narratives of the facts of the case that are presented in the Findings-of-Fact section of the report.

III. SCOPE

This section should describe the scope of the Investigation in summary terms, leading with a statement of the **timeframe** addressed by the Investigation followed by **key** witnesses interviewed and **crucial** documents reviewed. Do not list every witness and every type of document. Include subject-matter experts if their testimony was crucial to the outcome of the Investigation.

IV. STATUTORY AUTHORITY

The [organization] IG conducted this Whistleblower Restriction Investigation pursuant to Title 10, United States Code, Section 1034 (10 U.S.C. 1034), "Protected communications; prohibition of retaliatory personnel actions," as implemented by DoD Directive 7050.06, "Military Whistleblower Protection."

V. FINDINGS OF FACT

In chronological order, briefly summarize the timeline with exhibit references to relevant documents and testimony.

VI. ANALYSIS

Did the responsible management official (RMO) restrict or attempt to restrict the Complainant from making or preparing to make a lawful communication to a Member of Congress or to an Inspector General? YES or NO

Consider and analyze all of the evidence relating to the RMO's restriction or attempt to restrict the Complainant's communication with a Member of Congress or an Inspector General.

CUI

VII. DISCUSSION

VIII. CONCLUSION

The allegation that **[RMO's name]** **[stated allegation]** **[was or was not]** substantiated.

IX. OTHER MATTERS

Identified concerns (not allegations), if any.

X. RECOMMENDATIONS

a. Concur with the conclusion above substantiating the allegation against **[RMO name]** and forward the completed report to **[his / her]** command for appropriate corrective action.

- or -

Concur with the conclusion above not substantiating the allegation against **[RMO name]** and take no further action

b. Refer the issue in Other Matters to (agency) for appropriate action.

c. Forward the case to DoD IG for final approval.

3
CUI

CUI

Encl
Exhibit List

APPROVED:

MOTTIN DE LA BLAME
MG, U.S. Army
Commander

Date

BRUNO SHOULDER
MSG, IG
Investigator

RICHARD BRITTON
MAJ, IG
Investigator

CONCUR:

ALBERT R. RIGHTWAY
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A-4	<i>Investigative Plan</i>
A-5	<i>Investigating Officer Checklist</i>
B	<i>Attempted Protected Communications (if any evidence)</i>
C	<i>Restrictive Action (if any evidence)</i>
D	<i>Documentary Evidence</i>
D-1	<i>Introduce other documentary evidence, such as counseling file, award log, legal log, applicable regulatory requirements, etc.</i>
E	<i>Testimony</i>
E-9	<i>Complainant Testimony</i>
E-10	<i>RMO 1 Testimony</i>
E-11	<i>RMO 2 Testimony</i>
E-12	<i>Witness 1 Testimony</i>
F	<i>Standards Extracts</i>
F-1	<i>DoDD 7050.06</i>
F-2	<i>As Required</i>
G	<i>Notifications</i>
G-1	<i>Supervisor Notification</i>
G-2	<i>Subject / Suspect Notification</i>

Chapter 10

DoD Hotline Cases

Section 10-1 – DoD Hotline Case Overview

Section 10-2 – DoD Hotline Case Inquiries / Investigations and the IGAP

Section 10-3 – Hotline Completion Report (HCR)

Section 10-4 – Quality Assurance Review and File Maintenance

Section 10-1

DoD Hotline Case Overview

1. **Purpose:** This purpose and intent of the Department of Defense (DoD) Hotline Program is to establish a confidential and reliable method of contact for individuals to report fraud, waste, and abuse; violations of law, rule, or regulation; mismanagement; classified information leaks involving DoD; and threats and danger to the public health and safety of the DoD and the United States. Anyone can submit a complaint through the DoD Hotline Program.

a. The DoD IG, via the DoD Hotline Director, directs, coordinates, and oversees the execution of the DoD Hotline Program in accordance with Department of Defense Directive (DoDD) 7050.01, "DoD Hotline Program." To facilitate timely inquiries and responses, each service has an established DoD Hotline Coordinator to receive, process, and resolve referrals from the DoD Hotline Office.

b. At DAIG, the established DoD Hotline Coordinator serves as the Branch Chief of the DAIG Hotline Branch (DAIG Hotline). The DAIG Hotline Branch is not a separate Hotline operation, but rather a branch within DAIG's Assistance Division that is responsible for receiving, processing, and responding to DoD Hotline case referrals. The DAIG Hotline Branch further refers Hotline cases to the appropriate ACOM, ASCC, DRU, or Army Staff principal for either information or action.

NOTE: *DAIG's Hotline Branch does not directly receive or operate a hotline telephone number or website. To be classified as a "Hotline" case, the complaint must originate through the DoD Hotline telephone number or website.*

2. **Hotline Case Overview.** DoD Hotline cases follow the same IG investigative methodology outlined in the seven-step IGAP and Part Two of this guide. However, there are some significant exceptions with respect to authority, terms, IG appropriateness, timeliness, reporting requirements, and annotations in IGARs.

a. Authority. Because DoD IG is the Office of Oversight on all DoD Hotline cases, any Army IG working a Hotline referral is doing so on behalf of, under the authority of, and with final approval from DoD IG. Since referred Hotline cases belong to DoD IG, processes are subject to frequent formatting and procedural changes as part of a continuous effort to expedite resolution in accordance with DoD requirements. Inspectors General should anticipate updates or refinements to the framework, definitions, forms, and guidance regarding the Hotline case completion emanating from changes to DoDD 7050.01 and DAIG publications. Any such updates will be forwarded immediately to all IGs and posted on IGMET. DAIG's Hotline Branch is responsible for receiving and referring DoD Hotline complaints for information or resolution. Once referred, only DAIG retains the authority to further transfer cases between ACOMs, ASCCs, DRUs, or Army Staff principals.

b. Types of Hotline Cases. Hotline cases are categorized in to two types: Action-Referral and Information-Referral. The DoD IG Hotline Director makes an initial determination of the case category and, depending on that category, requires specific reporting and follow-up action.

(1) Action-Referral Cases. Action-Referral cases require an inquiry or investigation into the referred complaint and conclude with a formal response back to DoD IG utilizing a Hotline Completion Report (HCR). Refer to Section 10-3 for information regarding the HCR. Of note, even if the matters referred are considered not appropriate for IG action, the IG must address all matters presented in an Action-Referral case with findings supported by the evidence.

(2) Information-Referral Cases. Information-Referral cases do not initially require a formal response or report of findings (HCR) back to DoD IG. However, the designated Office of Record (OoR) must process the Information-Referral as if the complaint was locally received, resolve the complaint utilizing the most appropriate IG course of action in accordance with this guide, and fully document the determination or resolution within the IGARS case file.

Note: *If an inquiry or investigation pertaining to an Information-Referral complaint results in a substantiated allegation or founded issue, then the IG working the case must complete an HCR, and the case will subsequently convert to an Action-Referral case. See Part One, Chapter 10, for a discussion about how Army IGs handle issues received for DoD's Hotline.*

c. Case Priority Disposition. The DoD Hotline Office assigns one of three Priority designations to all Hotline Referrals: Priority 1 – Emergency / Expedited Referral; Priority 2 – Prompt Referral; and Priority 3 – Routine.

(1) Priority 1 Case. There are two types of Priority 1 cases: Emergency and Expedited.

(a) Priority 1 – Emergency. Emergency cases require immediate action due to an immediate threat to life, physical harm to a person, significant property damage, or threat to national security. Based on the urgency of the matter, the DoD Hotline Office will establish a suspense (24 hours, 48 hours, etc.) in which DAIG must provide initial feedback or an interim response. Emergency cases are worked to the exclusion of everything else upon receipt.

(b) Priority 1 – Expedited Referral. Expedited cases require a referral within one (1) working day of receipt. These cases may involve a danger to public health, safety, or national security.

(c) Interim Response Requirements. Priority 1 cases may require interim responses to the DoD Hotline Office. Upon receipt of a Priority 1 case, DAIG Hotline will immediately notify the projected recipient of the referral (via telephone and / or email). DAIG Hotline Branch will further coordinate what information is needed and the time frame of the interim response. In the absence of a requirement by DoD to provide an interim response, Priority 1 cases will be processed with an urgency level determined by DAIG Hotline.

NOTE: *In some cases, the DoD Hotline Office will convert the category of the complaint from Action-Referral to an Information-Referral based on the information provided in the interim response. In such cases, DAIG Hotline Branch will inform the field IG (Office of Inquiry) and further assign the field IG as the Office of Record.*

(2) Priority 2 Case – Prompt Referral. Priority 2 cases involve matters of heightened concern. Generally, Prompt-Referral cases require a referral within three (3) working days and generally involve, but are not limited to:

- (1) Politically sensitive issues with possible media interest.
- (2) Unauthorized disclosure of the identity of an IG information source.
- (3) Non-reprisal complaints associated with Whistleblower Reprisal complaints.
- (4) Misconduct by an Army Inspector General.

(2) Priority 3 Case – Routine. Routine cases involve all other allegations and issues not previously covered above. Routine cases are referred within 10 working days of receipt.

d. Terms of Reference. DoDI 7050.01 (17 October 2017) defines the term “**allegation**” as follows:

*“A statement of wrongdoing or impropriety and generally includes one or more of the following elements: who, what, when, where, how or why. Allegations may be made against persons or **processes**. Allegations are resolved by inquiries and result in findings of substantiated or not substantiated.”*

DoD IG does not require an allegation to identify a specific person or ‘who.’ As stated in DoD’s definition of an allegation, complaints against processes are also considered ‘allegations.’ Similarly, DoD IG does not recognize the Army IG terms of “issue,” “founded,” or “unfounded.” As a result, IGs will treat all inquiries or investigations into what the Army IG system considers to be an “issue” as though it were an “allegation” – but in the HCR only. Furthermore, in the HCR only, a finding of “founded” will be replaced with “substantiated” and a finding of “unfounded” will be replaced with “not substantiated.” The terms “issue,” “founded,” and “unfounded” will still be used in IGARS, ROIs, and ROIs in accordance with Army Regulation 20-1 and this guide.

e. Timeliness. The DoD Hotline Office requires an HCR for all Action-Referral cases within 180 calendar days. Action-Referral cases referred by DAIG’s Hotline Branch require an HCR submitted to Hotline Branch within **150 calendar days**. This 30-day offset from DoD’s suspense allows DAIG’s Hotline Branch time to conduct a final review prior to submitting the HCR to DoD’s Hotline Office. Information-Referral cases do not have a suspense date, even if the case is later converted to an Action-Referral.

If an IG cannot meet DAIG’s HCR suspense, the Office of Inquiry (Ool) will submit an Extension Request (ER). The Ool should submit ERs as soon as the IG working the case knows that the suspense will not be met. An ER must contain an accurately projected completion date and adequately address the reason for the delay. The Ool will upload the ER into IGARS and notify the DAIG Hotline Branch action officer via email or phone call. DAIG’s Hotline Branch will forward the ER request to the DoD Hotline Office for approval. The ER is not approved until DoD formally approves it. In general, DoD will grant two extension requests given appropriate justification.

NOTE: *The established DoD suspense date is reflected on the Hotline (HL) Form 1, box 5. See Section 10-2 and Enclosure 1 for information pertaining to the HL Form 1. The established DAIG Hotline Branch suspense date will be entered in the "Internal Suspense" Block on the Case Information page in IGARS. It will also appear on DAIG Hotline's referral memorandum to the field IG.*

Section 10-2

DoD Hotline Case Inquiries / Investigations and the IGAP

1. Step 1 – Receive the IGAR.

a. A DoD Hotline case is a result of an individual filing a complaint directly to DoD IG via the DoD Hotline website, phone, fax, or mail. Army IGs receive Hotline cases as referrals from DoD IG to DAIG and, further, through the Army Command / Army Service Component Command / Direct Reporting Unit (ACOM / ASCC / DRU). DAIG Hotline Branch will not refer issues or allegations with specific handling requirements as outlined in Army Regulation 20-1, such as allegations pertaining to senior officials, Whistleblower Reprisal, or serious criminal misconduct. Additionally, only DAIG's Hotline Branch can transfer referred cases from one ACOM / ASCC / DRU to another.

b. DoD Hotline case referrals are annotated and referred on a Hotline (HL) Form 1 with the complaint attached. The HL Form 1 serves in the place of the DA Form 1559. See Enclosure 1 to this chapter for an example of HL Form 1. Additionally, DAIG's Hotline Branch will prepare an accompanying referral memorandum to the ACOM / ASCC / DRU.

c. The DoD Hotline Office assigns a 14- to 16-digit primary case number (i.e., HL 20180105-724858-01). The case number convention starts with the first eight numbers indicating the date the case began in year, month, and day format (yyyymmdd); the next six numbers are unique to the case; and the last two numbers are added in circumstances of multiple referrals. For example, a complaint may contain allegations of online misconduct and sexual assault. DoD would refer case 20180105-724858-01 to DAIG for the online misconduct allegation and case 20180105-724858-02 to Criminal Investigation Command (CIDC) for the sexual assault allegation because of the allegation's criminal nature.

d. Information-Referral Cases. Information-Referral cases may not require an inquiry or investigation but should be treated similarly as a case received from other means. DoD's Hotline Office closes Information-Referral cases after DAIG's Hotline Branch confirms receipt. DAIG's Hotline Branch will refer Information-Referral cases to the appropriate ACOM / ASCC / DRU as Office of Record (OoR). In turn, the OoR may further refer and designate an appropriate subordinate IG as the OoR. During preliminary analysis, if the IG concludes that an investigation, inquiry, or subsequent referral to a subordinate IG office or command is not warranted, then the IG will document his or her rationale in the IGARS case file.

Note: All DAIG Hotline Information-Referral cases will have a 9000-series case number, such as DIH 18-9001 (or 7000-series for overflow).

e. Action-Referral Cases. Action-Referral cases require an inquiry or investigation with findings reported in the form of an HCR. DAIG's Hotline Branch will refer Action-Referral cases to the appropriate ACOM / ASCC / DRU as the Office of Inquiry (Ool). In turn, the Ool may further refer and designate an appropriate subordinate IG as the Ool.

Note: All DAIG Hotline Action-Referral cases have an 8000-series case number, such as DIH 18-8001.

2. Step 2 – Preliminary Analysis

a. Identify Issues / Allegations. The IG will conduct PA in the same manner as any other IGAR. The IG must identify and clarify the issue(s) and / or allegation(s) by using all of the supporting documents and evidence the complainant provided. Despite the fact that DoD IG does not recognize the term “issue” as previously discussed in Section 10-1, the IG must still appropriately analyze and annotate the nature of the complaint in the IGARS database as described in this guide. It may be prudent to contact the complainant (if known) to clarify the complaint.

b. Determine IG Appropriateness – Unlike receiving other IGARs, all matters referred in a DoD Hotline case are considered IG appropriate in the sense that the IG must address, evaluate, and report the resulting inquiry / investigation’s findings. This requirement does not mean that the IG cannot refer the issue(s) / allegation(s) to the command or an appropriate agency to investigate or resolve (with the exception of CIDC), but rather that the IG cannot close the case in the IGARS database until an investigative product, supported by the evidence, establishes credible findings reviewed by the IG and recorded in the IGARS database (in the IGARS Allegations tab) along with a submitted, and subsequently approved, HCR (if required).

c. Open Case in IGARS. The IG must enter the complaint into the IGARS database as a standard IGAR. If the IG office uses its own case numbers for tracking, the IGAR must include the DoD Hotline and DAIG Hotline case numbers as well, i.e., 20180105-724858-01 and DIH 18-8657. Use the case-label block in the IGARS Case Information page to document this information. If the nature of DoD Hotline case allegation warrants a referral to the command or other agency, the allegation will be captured in the Allegations tab in IGARS (not the Command Referred Allegations tab) regardless of the final determination.

d. Reporting Requirements. Depending on the case priority designation, DAIG’s Hotline Branch may require the Ool to provide an interim response. Upon referral of such a case, DAIG’s Hotline Branch will notify and coordinate with the designated ACOM / ASCC / DRU what information is needed and the time frame of the interim response.

e. Acknowledge Receipt. There is no requirement for the receiving field-level IG to formally acknowledge receipt of the complaint to the complainant (if known). Instead, DoD’s Hotline Office acknowledges receipt to the complainant (if known).

f. Select a Course of Action (COA). Depending on the nature of the complaint, be it an issue or an allegation, the IG will pursue the appropriate course of action as designated in Part One, Section 2-3-5, or Part Two, Section 2-6, of this guide.

As a cautionary note, Army IGs **will not** refer DoD Hotline cases to the Criminal Investigation Division Command (CIDC). If an IG believes that a Hotline case requires referral to CIDC due to a matter within the Hotline case that is criminal in nature, the IG should contact DAIG’s Hotline Branch immediately. DAIG’s Hotline Branch will coordinate with DoD’s Hotline Office for a formal referral to CIDC. Additionally, no CIDC findings of any type (target analysis, inquiry, or investigation) will be recorded in an HCR as the official record or response from any Army IG.

g. Obtain Authority. When an IG determines a course of action for the Hotline case, the IG should following the appropriate procedures outlined in this guide for obtaining fact-finding or investigative authority.

3. Step 3 – Notifications and Referrals.

a. Referrals. If the nature of the issue or allegation warrants a referral to the command or other agency, the IG will follow referral procedures set forth in Part One, Section 2-4-1 (issues), or Part Two, Chapter 3 (allegations), of this guide. The HL Form 1 is approved for release to the command or other official / agency within DoD to facilitate Hotline inquiries and investigations. There is, however, a DoD warning statement on the form indicating that the form may contain information that identifies an IG source. The identity of an IG source must be protected, and access to the documents is limited to persons with the need to know for the purpose of providing a response to DoD IG. The documents cannot be released, reproduced, or disseminated (in whole or in part) outside of the DoD without the prior written approval of DoD IG or an authorized designee. Subjects, suspects, witnesses, or others cannot receive, review, or make copies of the HL Form 1. As a reminder, the IG may not release a DA Form 1559 or Electronic Case Form.

b. Initial Notifications. If allegations are referred to the command, and the command elects to investigate, then the command's appointed Investigating Officer (IO) will conduct all notifications. By contrast, if the IG conducts the investigation, then all notifications are executed by the IG.

4. Step 4 – Fact-finding.

a. The command, other official / agency, or the IG will execute fact-finding in accordance with the applicable regulatory requirements established for the specific type of inquiry or investigative action pursued in order to address the matters presented in the Hotline complaint. If the IG is conducting an IG Inquiry or Investigation, the IG will follow procedures outlined in Part One, Section 2-5, or Part Two, Chapters 3 and 4, of this guide.

b. Review the Command Product. The IG will conduct a review of all command products submitted to support the HCR findings. Specifically, the IG will ensure that the command addressed all issues and allegations referred to the command in the command product. The IG will ensure that the evidence supports the command's findings and that corrective actions (if applicable) and security clearance actions (if applicable) are annotated.

Should any glaring issues with the command product arise -- such as illogical conclusions, a failure or misapplication of the elements of proof, or a legal review contradicting the command's findings -- the IG will address those matters directly with the responsible Commander. If the command fails to address the deficiencies, the IG will follow procedures set forth in Part Two, Chapter 3, of this guide for elevating the matter to the Directing Authority's level. If the Directing Authority determines that the command did in fact address all issues and allegations, and the IG disagrees with the Directing Authority, then the IG will annotate in the case notes his or her concerns regarding the unanswered allegation(s) and issue(s) and contact the next higher IG or DAIG's Hotline Branch for assistance. DAIG's Assistance Division may direct an IG Inquiry or Investigation if necessary.

If the IG determines that the command product is sufficient, then the IG will execute the following actions depending on the case category:

(1) Information-Referral cases that DO NOT result in substantiated allegations or founded issues. There is no requirement to produce an HCR for Information-Referral cases whose findings do not result in substantiated allegations or founded issues. In such cases, the Information-Referral is simply processed for closure in the same manner as if the complainant reported the allegations or issues directly to the local IG office.

(2) Information-Referral cases that result in substantiated allegations or founded issues. The IG must complete an HCR with an accompanying legal review for any Information-Referral case that results in a substantiated allegation or founded issue. Upon completion of the HCR, the IG must initiate notification, through the ACOM / ASCC / DRU, to DAIG's Hotline Branch. After confirming the validity of the findings, **DAIG's Hotline Branch will subsequently convert the Information-Referral case to an Action-Referral case**, open a new case in IGARS, reconfigure how the cases are linked in IGARS, designate DAIG as the Office of Record, and submit the HCR to DoD's Hotline Office for final closure and processing. All associated cases will remain open until DAIG's Hotline Branch provides notification that the case is approved for closure.

(3) Action-Referral cases. The IG must complete an HCR for all Action-Referral cases, regardless of the findings.

c. Should additional issues or allegations emerge during the course of the inquiry or investigation, the Office of Inquiry should document the additional issue(s) / allegation(s) in IGARS and immediately inform the Office of Record through the ACOM / ASCC / DRU if necessary. The additional issue(s) or allegation(s) will not be included on the HCR. An HCR will only address the original issue(s) / allegation(s) annotated on the original DoD HL Form 1 complaint.

d. HCR Legal Review. Per Army Regulation 20-1, paragraph 7-3a (1), the IG will obtain a written legal review of the HCR in memorandum or letter format if the report contains substantiated findings and founded issues. **NOTE: If the accompanying command product already has a legal review, and the IG agrees that the evidence supports the findings, then the IG does not have to obtain a separate legal review.** HCRs that do not contain substantiated findings do not require legal reviews. As a reminder, on the HCR only, all issues are reflected as 'allegations' and all findings are reflected as 'substantiated' or 'not-substantiated.'

e. Upon completion of an HCR with substantiated findings, the IG will upload into the IGARS database all related command products, all case documents, all exhibits upon which the HCR is based, a copy of the HCR legal review, and the case findings. Although the HCR reflects all Hotline complaint matters as allegations, the IG will correctly record the findings as either founded or unfounded issues and / or substantiated or not-substantiated allegations in the IGARS database. **In the event that the finding of an allegation is substantiated as recorded in the HCR, but there is no subject (for instance, it is a process violation), the IG will record the impropriety as a founded issue in IGARS.** In a departure from procedures outlined in Part Two, Chapter 3, of this guide, the IG will maintain the command product in the IGARS database as well as include the appropriate determination code of 'S' for substantiated and 'N' for not-substantiated.

f. Obtain Approval. Because all cases in the referral chain are linked in IGARS, all echelons must complete an Electronic Case Form, including their written concurrence / non-concurrence of the contents of the HCR within case notes. Upon completion of the HCR and accompanying legal review, the Office of Inquiry will notify the ACOM / ASCC / DRU IG that the HCR is ready for review. Upon concurrence, the ACOM / ASCC / DRU IG must notify DAIG's Hotline Branch that the HCR is ready for review. In instances where concurrence is not reached between IG echelons within the referral chain, DAIG's Assistance Division will make the final determination.

5. Step 5 – Notification of Results.

a. Information-Referral cases (not-substantiated). When the command investigates, the command will provide notification of results to subject(s) or suspect(s). If the IG, as the Office of Record, conducts an IG Investigative Inquiry or Investigation, then the IG will formally notify the subject(s) or suspect(s) in writing after the case is completed and approved (**prescriptive provision in Army Regulation 20-1, paragraph 7-1b (5)(a)**).

b. Action-Referral cases (regardless of findings). Once DoD IG approves the findings of the HCR, the Office of Record (DAIG) will send final notifications to the ACOM / ASCC / DRU, the suspects, and the complainant prior to closing the case. The Office of Inquiry (field level) should inform the Directing Authority and subject / suspect's Commander / Supervisor of the approved outcome. However, as the Office of Inquiry, DO NOT inform complainants, witnesses, subject(s), or suspects(s) of the Action-Referral case findings. Since DoD Hotline cases go through several reviews, the initial findings may be different from the final approved findings. Informing complainants and suspects in advance of the approved finding creates false expectations and potential problems. Instead, subject(s) and suspect(s) are formally notified of the results directly by DAIG's Assistance Division. To assist DAIG's Assistance Division with notification, the Office of Inquiry should include the mailing address of the subject(s) / suspect(s) in the Fourth Part of the Synopsis.

6. **Step 6 - Follow Up**. If the IG receives a request for reconsideration of a DoD Hotline case's findings, the IG receiving the request will refer the requestor to the DoD IG interactive website at www.dodig.mil. The IG should also contact and inform DAIG's Assistance Division of the request.

7. Step 7 – Close the IGAR.

a. Final Notification to the Complainant.

(1) Information-Referral Cases. In cases where the DoD Hotline Office referred an Information-Referral case that resulted in an unfounded issue or a not-substantiated allegation, the Office of Record will provide final notification to the complainant in accordance with this guide under Part Two, Section 10-2, page II-10-7 for command-referred allegations and page II-10-18 for IG Investigations.

(2) Action-Referral Cases. When an Action-Referral case is closed at DoD, the DoD Hotline Office will notify the complainant that he or she may submit a FOIA request to DoD IG to learn the findings via www.dodig.mil/foia. Although the FOIA request is submitted to the DoD Hotline Office, only DAIG may approve the release of Army records. As the Office of Record

(OoR), DAIG's Assistance Division will also provide a final reply to the complainant with the findings of the case that pertain directly to that complainant in accordance with this guide under Part Two, Section 10-2, page II-10-17 for command-referred allegations and II-10-18 for IG Investigations.

b. Closing the IGAR (Action-Referral Case). Once DoD IG has approved the case, DAIG Hotline Branch will inform the ACOM / ASCC / DRU IG, who will in turn instruct the Office of Inquiry to close the case. Note that as long as an associated case remains open with a higher level IG in the referral chain, to include DAIG, a subordinate IG may close and re-open the IGAR in the IGARS database to make corrections or revisions. However, once the case is closed by the Office of Record (DAIG), subordinate IGs may revise select items, such as case notes or the synopsis, but other actions will be locked. When closing out the IGAR in the database, the IGAR must be closed in sequence from lower (Office of Inquiry) to higher (Office of Record).

Enclosure 1: DoD Hotline Form 1

DOD HOTLINE CASE REFERRAL			
1. FROM:	2. TO	PRIORITY DISPOSITION	3. HOTLINE CASE NO.
Department of Defense Hotline The Pentagon Washington, DC 20301 - 1900 Fax: (703) 604-8567, DSN 664-8567 HOTLINE: 1-800-424-9098	Agency: ARMY Sub-Agency: ARMY IG	<input type="checkbox"/> Priority 1 <input type="checkbox"/> Priority 2 <input type="checkbox"/> Congressional <input checked="" type="checkbox"/> Priority 3	20180116-123456-CASE-01
			4. REFERRAL DATE
			01/17/2018
			5. SUSPENSE DATE
			07/17/2018
6. INDEPENDENCE			
In all matters relating to investigative work, the investigative organization must be free, both in fact and appearance, from impairments to independence, must be organizationally independent, and must maintain an independent attitude. This standard places upon agencies; audit, inspection, and investigative organizations; and individuals assigned to conduct inquiries the responsibility for maintaining independence, so that findings, judgments, conclusions, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. If your organization's independence is impaired, in fact or appearance, take no investigative actions and contact the DoD Hotline Point of Contact for this Referral (Item 10 below) immediately.			
7. ACTION REQUIRED			
X	a. ACTION REFERRAL. The attached complaint is referred to your Component for ACTION. Conduct an inquiry and provide this office a DoD Hotline Completion Report by the suspense date in Item 5 above. If more time is needed, submit a written extension request to the DoD Hotline Point of Contact for this Referral (Item 10 below) before the suspense date stating the reason for the delay and the anticipated completion date.		
	b. INFORMATION REFERRAL. The attached complaint or disagreement is referred to your Component for INFORMATION. The DoD Component Hotline Coordinator is required to examine the referral to determine if an inquiry is warranted; however, a DoD Hotline Completion Report is not required unless your Component conducts an inquiry and that inquiry results in corrective action.		
8. ADDITIONAL INFORMATION			
	a. SUPPLEMENT. Supplement to previous referral under this case number.		
X	b. IDENTITY OF THE SOURCE. <input checked="" type="checkbox"/> Anonymous source. <input type="checkbox"/> The source did not consent to the disclosure of his or her identity. If you need the source's help during an investigation, <u>contact</u> the DoD Hotline Point of Contact for this Referral (Item 10 below).		
X	c. REPRISAL COMPLAINT. This case is NOT being sent to you for the reprisal matter. For questions about reprisal contact WhistleblowerReprisalQueries@dodig.mil .		
	d. DOD SENIOR OFFICIALS. This case is NOT being sent to you for the senior official matter. In the event you develop a credible allegation of senior official misconduct, you must notify DoD IG Directorate for Investigation of Senior Officials, IAW DoDD 5505.06.		
9. DOD HOTLINE REMARKS (If more space is needed, use HL FM 3, Continuation Sheet for Hotline Forms.)			
Case 02 was referred to Whistleblower Investigations Oversight Branch.			
10. DOD HOTLINE POINT OF CONTACT FOR THIS REFERRAL			
a. NAME	b. TELEPHONE	c. E-MAIL ADDRESS	
Mr. DoD IG	703-123-4567	first.last@dodig.mil	

FOR OFFICIAL USE ONLY

The attachments are Department of Defense Inspector General (DoD IG) documents and may contain information that could identify an IG source. The identity of an IG source must be protected. Access to the attached documents is limited to persons with the need-to-know for the purpose of providing a response to the DoD IG. Do not release, reproduce, or disseminate the attached documents (in whole or in part) outside DoD without the prior written approval of the DoD IG or designee. Do not permit subjects, witnesses, or others to receive, review, or make copies of attached documents.

**Enclosure 2: Example DoD Hotline Action-Referral Case Memorandum
CUI**

S: 1 March 2020

SAIG-AC

1 October 2019

MEMORANDUM FOR **Inspector General, Office Address, Fort Von Steuben, Virginia 22060**SUBJECT: DoD Inspector General Hotline Action-Referral Case [**DoD Hotline 20#####-#####-0# / DIH ##-####**]

1. Correspondence in Enclosure 1 (DoD Hotline 20#####-#####-0# / DIH ##-####) is referred to you as the Office of Inquiry for action (inquiry / investigation). Should you find that any of matters presented in the referral do not fall under the purview of your command / agency, immediately contact the undersigned at DAIG's Assistance Division. Only DAIG can redirect Hotline referrals, in whole or in part, to another organization. This memorandum is not a directive to conduct of an Inspector General investigation. The proper Directing Authority must sign such a directive.
2. Should your preliminary analysis discover allegations against a Colonel, General Officer, or Senior Executive Service (SES) Civilian, immediately report the information to this office. When making your report, provide complete identification information (name, DoD ID number, grade / rank, unit / agency).
3. Use the Hotline Completion Report (HCR) format in Enclosure 2 to present the results. Write the HCR based on the information contained in the command and / or IG investigative report(s). For HCRs based completely on an IG investigative report, submit the HCR with the "Quality Standards for Hotline Inquiries" (QSHI) (Enclosure 3) signed by the IG Investigating Officer (IO). No QSHI is required for cases relying in whole or in part on a command investigative report. Since for HCR reporting purposes an "allegation" is defined as a wrongdoing or impropriety that can be made against a person or a process (i.e., an issue), all matters reported in an HCR will be crafted strictly as "allegations," with final determinations documented as "substantiated" or "not-substantiated." For command-determined substantiated allegations, include information in the HCR on corrective and security clearance actions (per Army Regulation (AR) 380-67, paragraph 8-2), to include reporting if the command took no action on these matters. Commands should consult with their respective S2 / G2 to ensure compliance with AR 380-67 reporting requirements. Additionally, submit a separately prepared legal review, in memorandum format, for substantiated allegations made against a subject / suspect. For IG-determined substantiated allegations, the IG will not release adverse subject / suspect

<p>CONTROLLED BY: Department of Defense IG CONTROLLED BY: DAIG (SAIG-AC) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Dean A. Eyegee (703) 123-4567</p>

CUI

SAIG-AC

SUBJECT: DoD Inspector General Hotline Action-Referral Case

information in order to comply with AR 380-67 reporting requirements. Initial notification of subjects / suspects will be the responsibility of the organization (command and / or IG) conducting the inquiry / investigation.

For assistance in completing Hotline cases, refer to the Hotline Branch IGMET website or contact the undersigned.

4. Complete the HCR by the suspense date noted above and notify DAIG's Hotline Branch via email when the report is ready for review. If the suspense cannot be met, complete and submit an Extension Request (ER) to DAIG's Hotline Branch found in Enclosure 4. The ER will reflect the date that DAIG can expect to receive the HCR. DoD Hotline will not grant an extension without an ER.
5. This office will notify you when the HCR is approved. The date of the memorandum will mark the beginning of the countdown period for file retention by the Office of Inquiry. As the Army Office of Record, this office will provide final notification to the subject(s) / suspect(s), and complainant.
6. Point of contact at this office is the undersigned at 703-###-#### or DSN 865-####.

- 4 Encls
1. HL Form 1
 2. HCR
 3. QSHI
 4. ER

DEAN A. EYEGEE
LTC, IG
Inspector General

2
CUI

Enclosure 3: Example DoD Hotline Information-Referral Case Memorandum**CUI**

SAIG-AC

1 October 2019

MEMORANDUM FOR **Inspector General, Office Address, Fort Von Steuben, Virginia 22060**SUBJECT: DoD Inspector General Hotline Information-Referral Case [**DoD Hotline 20#####-#####-0# / DIH ##-####**]

1. Correspondence in Enclosure 1 (DoD Hotline 20#####-#####-0# / DIH ##-####) is referred to you as the Office of Record *for information*. Should you find that any of the matters presented in the referral do not fall under the purview of your command / agency, immediately contact the undersigned at DAIG's Assistance Division. Only DAIG can redirect Hotline referrals, in whole or in part, to another organization.
2. Should your preliminary analysis discover allegations against a Colonel, General Officer, or Senior Executive Service (SES) Civilian, immediately report the information to this office. When making your report, provide complete identification information (name, DoD ID number, grade / rank, unit / agency).
3. As the Office of Record, you should process the referral as if it were a locally received complaint, exercising all of the options available to you in processing such cases. Should you decide to close the case because preliminary analysis revealed an investigation, inquiry, or subsequent referral to a subordinate IG office or command was not warranted, you must document the rationale used to do so in the IGARS case file. If the case is not closed outright, the Office of Inquiry will refer the complaint and evidence contained in the DoD Hotline referral to the command or other appropriate official / agency for information or action.
4. When either the command and / or the IG investigate matters presented in an information-referred complaint, the Office of Record will ensure they are addressed in accordance with Army Regulation 20-1 and provisions contained in The Assistance and Investigations Guide. For Information-Referral cases that are investigated and result in not-substantiated allegations, there is no requirement to complete a Hotline Completion Report (HCR). The IG office retaining Office-of-Record status will document in IGARS who resolved the matters. Additionally, the IG will ensure proper notification of results in accordance with The Assistance and Investigations Guide and close the case.

CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567
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CUI

CUI

SAIG-AC

SUBJECT: DoD Inspector General Hotline Information-Referral Case

For HCRs based completely on an IG Report of Investigation, submit the HCR with the "Quality Standards for Hotline Inquiries" (QSHI) (Enclosure 3) signed by the IG Investigating Officer (IO). No QSHI is required for cases relying in whole or in part on a command investigative report. Since for HCR reporting purposes an "allegation" is defined as a wrongdoing or impropriety made against a person or a process (i.e. an issue), all matters

5. For Information-Referral cases are investigated and result in substantiated allegations, you must complete an HCR (Enclosure 2) based on information contained in the investigative report(s) and contact DAIG's Hotline Branch. DAIG will subsequently convert the Information-Referral to an Action-Referral case, become the Office of Record, and submit the HCR to DoD's Hotline Office.

reported in an HCR will be crafted strictly as "allegations," with final determinations documented as "substantiated" or "not-substantiated." For command-determined substantiated allegations, include information in the HCR on corrective and security clearance actions (per Army Regulation (AR) 380-67, paragraph 8-2), to include reporting if the command took no action on these matters. Commands should consult with their respective S2 / G2 to ensure compliance with AR 380-67 reporting requirements. Additionally, submit a separately prepared legal review, in memorandum format, for substantiated allegations made against a subject / suspect. For IG-determined substantiated allegations, the IG will not release adverse subject / suspect information in order to comply with AR 380-67 reporting requirements. Initial notification of subjects / suspects will be the responsibility of the organization (command and / or IG) conducting the inquiry / investigation.

6. If an HCR is prepared, notify DAIG's Hotline Branch when it is ready for review. After confirming the report is sufficient, DAIG will further coordinate with your office to complete the conversion process and close the case in IGARS. This office will notify you when the HCR is approved. The date of the memorandum will mark the beginning of the countdown period for file retention by the Office of Inquiry. As the new Office of Record, this office will provide final notification to the subject(s) / suspect(s), and complainant.

7. Point of contact at this office is the undersigned at 703-####-#### or DSN 865-####.

3 Encls

1. HL Form 1
2. HCR
3. QSHI

DEAN A. EYEGEE
LTC, IG
Inspector General

2

CUI

Enclosure 4: DoD Hotline Extension Request (ER) Format

CUI

DoD Hotline Extension Request
as of (xx Month 20xx)

1. Applicable DoD Component: Army
2. Hotline Control No: DoD HL (Number) / DIH XX-8XXX / Office-of-Inquiry Number
3. Date Referral Initially Received: (enter the date that Assistance Division received the case from the DoD Inspector General)
4. Status:
 - a. Name of organization conducting examination:
 - b. Type of examination conducted: Assistance Inquiry, Investigative Inquiry, or Investigation.
 - c. Reasons for delay: If more time is needed, then explain why (i.e., additional testimony is required, documentation is still under review, inquiry is completed but more time is needed to write the completion report, etc.).
5. Expected Date of Completion: Enter your best estimate of when the Hotline Completion Report is likely to reach DAIG's Assistance Division. (DO NOT simply insert what ends up becoming a recurring 30-day interval as the projected HCR-submission date).
6. Action Agency Point of Contact:

NAME
LTC, IG
Inspector General

CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567
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CUI

Section 10-3

Hotline Completion Report

1. **Purpose.** This purpose of this section is to describe the guidelines for preparing a Hotline Completion Report (HCR).
2. **General Guidance for the Preparation of HCRs.** The HCR is a summary report, crafted in DoD terms, that addresses the “allegations” raised in a DoD Hotline complaint and explains the subsequent investigative findings. The HCR, whose format is prescribed by DoDI 7050.01, can be found under the Hotline Branch page on IGMET (contains drop-down items) and in Enclosure 5 of this chapter. As reminder, all matters reported in the HCR are crafted strictly as “allegations” (even if they are issues or process complaints) and further documented as “substantiated” or “not-substantiated.”
 - a. Due to the volume of cases processed by the DoD Hotline Office, no attachments to the HCR are allowed with the exception of the ‘Quality Standards for Hotline Inquiries (QSHI) Form’ discussed below. Rather, the HCR must serve as a standalone document that provides a complete and succinct representation of the case.
 - b. A subject or suspect with more than one allegation or issue associated with him or her will have the allegations listed separately in the HCR. Similarly, if more than one subject / suspect is alleged to have violated the same allegation, then the additional subject(s) / suspect(s) will be addressed in separate allegations in the HCR (see Enclosure 5).
 - c. If there are two or more subjects / suspects associated with the same allegation, then the analysis section of the HCR for the second and subsequent subject / suspect may contain the entry: “See Analysis for Allegation X” (number of initial allegation with full analysis included).
 - d. During the course of the investigation or inquiry, if additional allegations or issues surface that are not a part of the DoD Hotline complaint, address those matters separately, but do not report them in the HCR.
 - e. If the command chooses not to take corrective action for a substantiated allegation or founded issue, the HCR must state this decision and the justification.

Note: *Additional HCR training and products are available on the IGMET Hotline Branch website.*

3. **Investigator’s Statement.** DoDI 7050.01 establishes standards of conduct for inquiries and investigations into DoD Hotline complaints based on the Council of the Inspectors General on Integrity and Efficiency (CIGIE) policies and procedures. As a result, the IG must certify the HCR with an investigator’s statement that the investigation met the quality standards for Hotline inquiries.

- a. For an HCR based solely on an IG Report of Investigation, the IG who served as the action officer (AO) / investigating officer will make / select the following investigator’s statement on the HCR template: “The IG, as the AO, will sign the Investigator’s statement and include the statement as an attachment to the HCR.” The IG must then additionally submit the ‘Quality Standards for Hotline Inquiries (QSHI) Form’ signed by the IG investigating officer. The QSHI Form is available on IGMET under the Hotline Branch page and in Enclosure 6 of this chapter.

b. For an HCR based either solely or in part on a command or other agency investigative report, the IG will make / select the following investigator's statement on the HCR template: "The DAIG Hotline Coordinator reviewed this matter and deemed the command inquiry / investigation met the Quality Standards for Hotline Inquires outlined in DoDI 7050.01." There is no need for the IG to submit a QSHI Form. The IG will still review the command product for quality and completeness. However, the DAIG Hotline Coordinator will assume the responsibility, per the IG's review, that the command / agency executed the investigative effort and resulting product to standard.

4. **Security Actions.** The HCR must address whether or not the subject / suspect of an allegation has a security clearance and what action(s) were taken to notify the Central Adjudication Facility (CAF). Notification to the CAF, however, depends on who (the command or the IG) executed the inquiry / investigation.

Army Regulation 380-67, Personnel Security Program, paragraph 8-2, requires all Commanders to immediately report credible derogatory information (non-IG generated) when obtained on a member of their command using DA Form 5248-R addressed to the Commander, Central Adjudication Facility (CAF). Army Regulation 380-67, paragraphs 2 through 4, outlines what items a Commander must report. Army Regulation 380-67 additionally requires that the Commander provide the CAF with the final investigative report in addition to reporting what actions the command took to resolve the issue and any subsequent recommendations concerning the person's security clearance.

For substantiated allegations resulting from a command investigation, the IG must include information on the HCR pertaining to what corrective and security clearance actions the command took per Army Regulation 380-67.

For substantiated allegations resulting from an IG inquiry / investigation, the IG **will not** release adverse subject / suspect information in order to comply with Army Regulation 380-67 reporting requirements. Instead, the IG must indicate in the HCR that information pertaining to the security clearance of the subject / suspect was not referred to the CAF due to release restrictions outlined in Army Regulation 20-1. The Directing Authority has the ability to report the substantiated allegation to the command if there is a violation of Army Regulation 380-67 or DoDM 5200.02, Procedures for DoD Personnel Security Program. However, the Directing Authority does not have the authorization to release the IG ROI / ROII to the CAF without permission from TIG.

When preparing the HCR, the IG must choose one of the following three options from the drop-down menu on the HCR template:

- No Violation of DoD Manual 5200.02 -- The command was notified by the Security Manager, and it was deemed that the substantiated allegation was not in violation of DoDM 5200.02; therefore the substantiated allegation was not reported to the CAF.
- Violation of DoD Manual 5200.02 -- The Security Manager notified the command, and the substantiated allegation was reported to the CAF in accordance with DoDM 5200.02.
- Not Substantiated -- Due to the allegation being Not Substantiated, there is no requirement to report the finding to the Central Adjudication Facility.

Enclosure 5: DoD Hotline Completion Report TemplateDoD Hotline Completion Report
Date of final completion

1. DoD Hotline case number. *(This number is found in box 3 of the HL Form 1)*
2. DoD Component case number. *(This number is the DAIG case number (DIH))*
3. Allegation.
 - a. Allegation 1 *(Select from drop-down menu)*
 - (1) Name, rank, and organization of the subject. Name, rank, and organization of the subject.
 - (2) Description of the violation.
 - (3) Date when the violation occurred.
 - (4) Where the violation occurred.
 - (5) Law, rule, or regulation violated.
 - (6) Findings. *(Select from drop-down menu - Substantiated or Not Substantiated)*
 - (7) Analysis. Describe how the evidence supports the findings.
 - (8) Security clearance actions. *(Select from drop-down menu)*
 - (9) Corrective actions. Include disciplinary actions, judicial actions, recoveries, regulatory or procedural changes, and management actions taken, as applicable.
4. Location of report of inquiry or working papers. *(Your IG office's address)*
5. Investigating officer identification data. *(Name, rank, organization, duty location, telephone number, and email address.)*
6. Investigator's statement. *(Select from drop-down menu)*
7. DoD Hotline Coordinator. *(Current DAIG Hotline Branch Chief Name, Rank), SAIG-AC, Pentagon, (703) 545-6881, (Current DAIG Hotline Branch Chief email address).*
8. Information security requirements. Controlled Unclassified Information.

If another allegation is required, click within the Allegation section if not done already, then click the "+" to the right. To delete an allegation, right-click on the allegation section and select "Delete Allegation."

Use proper CUI markings per DAIG's interim guidance.

DoD Hotline Completion Report
(31 January 2019)

DoD Component case number: This number will always be the DAIG DIH number.

1. DoD Hotline case number. 20180101-051234-01
2. DoD Component case number. DIH 190000
3. Allegation(s)

This is the four-part allegation (with the location added) broken out into separates:
WHO (1)- Name, rank, and organization of the subject.
IMPROPERLY committed the **ALLEGED ACTS** (2)-
Description of the violation:
 Describes the improper act or inaction of the subject.
STANDARD VIOLATED (5) - Law, rule, or regulation violated:
 Provides the standard that was violated.
 It is important to list the date associated with the regulation and ensure that it is aligned with the time period or date of the allegation.
 Ensure that the correct information is inputted into the correct section.
 Only put what is requested.

a. Allegation 1

- (1) Name, rank, and organization of the subject. Dudley Du'Wrong, LTC, 5th Squadron, 15th Cavalry Regiment, 66th Infantry Division (ID), Fort Von Steuben, Virginia.
- (2) Description of the violation. Failed to treat subordinates with dignity and respect.
- (3) Date when the violation occurred. 16 September 2018.
- (4) Where the violation occurred. Fort Von Steuben, Virginia.
- (5) Law, rule, or regulation violated. Army Regulation 600-20: Army Command Policy, 6 November 2014..

Date when the violation occurred: Provides the approximate date or time period the violation occurred (ex. 15 May 2017, on or about May 2017, or spring 2017). The date should be aligned with the date

(6) Findings. Substantiated

(7) Analysis. The command received an allegation of failing to treat subordinates with dignity and respect and appointed an AR 15-6 Investigating Officer (IO). The IO interviewed 14 witnesses and examined a command climate survey dated 18 November 2018. Given, the Report of Investigation (ROI) from the AR 15-6, the preponderance of creditable evidence found that LTC Du'Wrong failed to treat subordinates with dignity and respect by openly disrespecting troop commanders and their First Sergeants, calling them derogatory terms, at a Squadron formation. The investigation addressed all allegations referred, and was legally sufficient by the Brigade Judge Advocate; no additional or supplemental IG investigation is necessary.

Security clearance actions: A drop-down selection that indicates whether actions were taken to notify the Central Adjudication Facility of the substantiated allegation; only one of three answers will be used.

1. No Violation of DoD Manual 5200.02: This selection indicates that the allegation was substantiated and that the security did **NOT** believe that the allegation was reportable to the CAF.
2. Violation of DoD Manual 5200.02: This selection indicates that the allegation was substantiated and that the security manager believed that the allegation was reportable to the CAF.
3. Not Substantiated: This selection indicates that there is no requirement to report to the CAF.

(8) Security clearance actions. Violation of DoD Manual 5200.02 - The command was notified by the Security Manager and the substantiated allegation was reported to the CAF IAW DoDM 5200.02.

(9) Corrective actions. The Commanding General (CG) directed the following corrective action:

1. LTC Du'Wrong is removed from command and will receive a referred Officer Evaluation Report.
2. LTC Du'Wrong received a General Officer Memorandum of Record (GOMOR) filed in his permanent file.
3. The 5th Squadron, 15th Cavalry Regiment will receive 40 hours of ethics training.

Corrective actions: Provides actions taken to appropriately address the violation of a standard; includes judicial and non-judicial methods, technical changes, and administrative procedures, as applicable.

 Must be annotated on a command document signed by a commander with UCMJ authority over the subject.

DoD Hotline Completion Report
(31 January 2019)

b. Allegation 2

(1) Name, rank, and organization of the subject. Dudley Du'Wrong, LTC, 5th Squadron, 15th Cavalry Regiment, 66th Infantry Division (ID), Fort Von Steuben, Virginia.

(2) Description of the violation. Failed to foster a healthy command climate.

(3) Date when the violation occurred. June 2017 through January 2018.

(4) Where the violation occurred. Fort Von Steuben, Virginia.

(5) Law, rule, or regulation violated. Army Regulation 600-100: Army Profession and Leadership Policy, 5 April 2017.

(6) Findings. Substantiated

(7) Analysis. The Investigating Officers analysis of credible evidence found that LTC Du'Wrong failed to foster a healthy command climate by creating an unsuitable state of morale and degrading the level of satisfaction of the organization, through unprofessional behaviors. The preponderance of testimony showed that LTC Du'Wrong frequently degraded subordinates (Command Sergeant Major, Troop Commanders and staff) by "using derogatory language directed at anyone who seemed to want the spotlight."
LTC Du'Wrong failed to set an initial expectation with subordinates as "He never provided an initial counseling or brought in all the leaders to set command expectations." The Squadron CSM advised LTC Du'Wrong to formally counsel him (the CSM) and the Troop Commanders but he continually responded with "I don't have time for paper, unless you piss me off." This attitude led to an atmosphere that lacked subordinate development. LTC Du'Wrong refused to verbally or formally counsel rated noncommissioned officers or officers, on how they are doing until it is quarterly counseling time, and then condemn the subordinates for shortcomings or mistakes.

(8) Security clearance actions. Violation of DoD Manual 5200.02 - The command was notified by the Security Manager and the substantiated allegation was reported to the CAF IAW DoDM 5200.02.

(9) Corrective actions: The Commanding General (CG) of the 3ID directed the following corrective action:

1. LTC Du'Wrong is removed from command and will receive a referred Officer Evaluation Report.
2. LTC Du'Wrong received a General Officer Memorandum of Record (GOMOR) filed in his permanent file.
3. The 5th Squadron, 15th Cavalry Regiment receive 40 hours of ethics training.

2

Selecting the 2nd allegation: A drop-down selection allows the IG to select the allegation number associated.

2nd Analysis: The first analysis has provided the method the evidence was gathered, so it is unnecessary to provide the entirety of the same information.

Adding additional allegation: If another allegation is required, click within the Allegation section if not done already, then click the "+." To delete an allegation, right-click on the allegation section and select "Delete Allegation".

DoD Hotline Completion Report
(31 January 2019)

4. Location of report of inquiry or working papers. The Fort Von Steuben / 66th ID Office of the Inspector General, Building 1777, Augustin Avenue, Fort Von Steuben.

5. Investigating officer identification data. Brian Rightway, COL, 3ID, 66th ID, Fort Von Steuben, 912-224-2245, brian.a.rightway.mil@mail.mil.

6. Investigator's statement. The DAIG Hotline Coordinator reviewed this matter and deemed the command inquiry/investigation met the Quality Standards for Hotline Inquires outlined in DOD 7050.01.

7. DoD Hotline Coordinator. LTC Peter Caggiano, SAIG, AC, Pentagon, (703) 545-6881, peter.a.caggiano.mi@mail.mil.

8. Information security requirements. **Controlled Unclassified Information**

Investigating officer identification data:
Provides the: name, rank, organization, duty location, telephone number, and email address of the command or IG investigation.
1. If the investigator listed is an IG, the "IG, as the AO, will sign..." The Quality Standards for Hotline document must be attached (this corresponds with paragraph 6).
2. If the investigator is **NOT** an IG, use the "DAIG Hotline Coordinator..." statement will be used.
Investigator Statement:
The statement shown must be present if the HCR is based on a command product.

DoD Hotline Coordinator:
Provide the name of the current Hotline Branch Chief is for Department of the Army Inspector General's Assistance Division

Enclosure 6: Quality Standards for Hotline Inquiries (QSHI)

1. **Qualifications.** The organization conducting the Hotline inquiry must ensure that the personnel who conduct the activities collectively possess the knowledge, skills, abilities, and security clearances to perform the required tasks.
2. **Independence.** In all matters relating to investigative work, personnel and organizations conducting the inquiry must be independent, both in fact and appearance. Individuals assigned to conduct and review the Hotline inquiry must be:
 - a. Outside the immediate chain of command (as established under DoD Component regulations) of both the individual submitting the allegation(s) and the individual(s) accused of wrongdoing; or
 - b. At least one organization higher in the chain of command than the organization of the individual submitting the allegation and the individual or individuals accused of wrongdoing.
3. **Due Professional Care.** All cases must be handled with due professional care, including preparing HCRs and resolving matters contained in Hotline referrals. This standard requires:
 - a. **Thoroughness.** All cases must be handled in a diligent and complete manner and reasonable steps taken to ensure that relevant matters are sufficiently resolved; and to ensure that all appropriate criminal, civil, contractual, or administrative remedies are considered.
 - b. **Legal Requirements.** Hotline inquiries conducted under this section must be:
 - (1) Initiated, conducted, and reported in accordance with all applicable laws, rules, and regulations; applicable guidelines from the Department of Justice and other prosecuting authorities; and internal DoD Component policies and procedures.
 - (2) Conducted with respect for the rights and privacy of those involved.
 - c. **Appropriate Techniques.** Specific methods and techniques used in each case must be appropriate for the circumstances and objectives.
 - d. **Impartiality.** All cases must be handled in a fair and equitable manner, with the perseverance necessary to determine the facts.
 - e. **Objectivity.** Evidence must be gathered, analyzed, and reported in an unbiased and independent manner in an effort to determine the validity of an allegation, including inculpatory and exculpatory information.
 - f. **Standard of Proof.** The preponderance of evidence is the standard of proof used to substantiate or not substantiate allegations.
 - g. **Ethics.** The actions of Hotline personnel and the investigative organization must conform to all applicable standards of ethical conduct.

h. Timeliness. Hotline inquiries must be conducted and reported within the timelines established. This factor is especially critical given the impact inquiries have on the lives of individuals and mission of a DoD Component. Therefore, the effectiveness of an inquiry depends, in part, on the promptness of finished work products.

i. Accurate and Complete Documentation. The case file must contain documentation that supports the findings and conclusions contained in the HCR. This information includes:

- (1). DoD Hotline referral or complaint made to the DoD Component Hotline.
- (2). The HCR.
- (3). Actions taken to determine the facts and make findings.
- (4). The complete identity of all witnesses, their contact information, and the date of all information relayed during interviews.
- (5). Specific details and locations of all documents reviewed during the inquiry.
- (6). A description of any other actions taken by the DoD Component or other legal authority as a result of the Hotline inquiry.
- (7). Evidence relied upon in making a final determination, including:
 - (a) Documents gathered during the inquiry.
 - (b) Transcripts or summaries of interviews conducted.
 - (c) Inquiry reports.
 - (d) Final legal reviews.

I certify that I complied with the Quality Standards of Hotline Inquiries in DoD Instruction 7050.01 as they apply to my participation in this case.

Print Name / Signature

Date

Section 10-4

Quality Assurance Review and File Maintenance

1. **Purpose.** This section describes the Quality Assurance Review (QAR) and file maintenance process.

2. **General.** The DoD Hotline Office conducts formal and periodic QARs of selected Hotline cases completed by service IGs in order to verify compliance with the quality standards for Hotline referrals and inquiries in accordance with DoDI 7050.01.

3. **Quality Assurance.** All Hotline case inquiries, investigations, and IG products will adhere to the following guidelines to ensure a quality product for possible inclusion in the QAR:

a. **Timeliness.** Adherence to the established Hotline suspense is essential. When an IG cannot meet an established suspense, the office must submit an interim Extension Request (ER) to DAIG's Assistance Division requesting a new suspense date and the reasons for the delay.

b. **Independence and Objectivity.** Inspectors General must remain independent, objective, and impartial fact-finders. Inspectors General must guard against the perception of intimidation or influence by any official seeking to effect the findings or outcome of an inquiry or investigation.

c. **Adequacy.** Consider the following to determine if the completed report is adequate:

- (1) Was the Examining Official independent and qualified?
- (2) Were all the allegations and issues in the initial Hotline complaint addressed?
- (3) Was the examination timely?
- (4) Were all the key individuals interviewed?
- (5) Were all the relevant questions asked?
- (6) Was all the relevant documentation collected and reviewed to support the conclusions?
- (7) Was a legal or technical review requested when necessary?
- (8) Did the Examining Official demonstrate common sense in the approach to answering the allegations and issues?
- (9) Are the findings and conclusions accurately reflected in the report?
- (10) If appropriate, was corrective action taken and reported?

(11) Army Requirements: Was an Electronic Case Form in IGARS completed, and did the appropriate higher echelon IG office concur prior to the form's arrival to Assistance Division?

4. **File Maintenance.** Maintaining adequate documentation to support the case findings and conclusions in IGARS is essential. Additionally, the case file should include the complete identity of all witnesses' the date and specific information relayed during interviews, specific details and locations of all documents reviewed during the examination, and a description of any other actions the Army took as a result of the inquiry. At a minimum, the following items must be included:

- a. A copy of the DoD Hotline complaint (referral).
- b. A copy of the command and / or IG products (ROI / ROII).
- c. A copy of the Hotline Completion Report, if generated.
- d. Investigator notes.
- e. Case-generated memoranda and correspondence.
- f. Description of all other evidence collected.
- g. All other documents used to support the findings in the HCR.

Appendix A

Interview Prep Book

- 1 - Pre-brief Outline (page A-2)
- 2 - Credentials (page A-4)
- 3 - Directive (page A-5)
- 4 - Privacy Act Information (page A-6)
- 5 - Testimony Information Sheet (Header Sheet) (page A-7)
- 6 - Rights Warning Procedure / Waiver Certificate - DA Form 3881 (page A-8)
- 7 - Witness Interview Script (page A-12)
- 8 - Witness (Recall) Interview Script (page A-16)
- 9 - Subject Interview Script (page A-19)
- 10 - Subject (Recall) Interview Script (page A-23)
- 11 - IG Briefing to Attorney Script (page A-26)
- 12 - Suspect Interview Script (page A-29)
- 13 - Suspect (Recall) Interview Script (page A-33)
- 14 - Sample Interview Pre-Execution Checklist (page A-36)

PRE-BRIEF OUTLINE

See the discussion paragraph 3 of this section of the guide. This is an outline and not a script, so use your own words -- but address each item below.

1. Introduction

1a. Telephonic

- Are you still available? Can you speak freely and privately?
- Introduce the IGs present.
- We're on a speaker phone, so we can record and take notes. We'll tell you when we start recording. We use standardized scripts for portions of the interview.

1b. Face-to-face

- Identify yourself as the Investigator(s) -- Show military ID and IG credentials.
- Show the Directive.

2. Explain the Investigative Procedure - "This is a four-part interview..."

1. Pre-brief (we are doing this now).
2. Formal read-in. (A formality designed to ensure that the rights of the individual are fully explained, legal requirements are met, and the oath is administered to obtain your pledge to provide truthful testimony. Unless you prefer the word "affirm," we will use the word "swear." Do you have a preference? Do you have an objection to the phrase "so help me God?").
3. Questioning.
4. Formal read-out.

3. Explain IG investigator's role - "IGs are..." or "We are..."

- Confidential fact-finders for the Directing Authority.
- Collect and examine all pertinent evidence.
- Make complete and impartial representation of all evidence in the form of a written report.
- No authority to make legal findings, impose punishment, or direct corrective action.
- Dual role of the IG:
 - Protect best interests of U.S. Army.
 - Determine whether the preponderance of credible evidence establishes that allegations are substantiated or not substantiated. If not substantiated, our report will serve to clear a person's good name. Anyone can make allegations.
- IG confidentiality:
 - Protect the confidentiality of everyone involved but do not guarantee that protection.
 - Will not reveal sources of information.
 - Will not tell you with whom we have talked.
 - Will not tell you specific allegations we are investigating (except for subjects and suspects).
 - Explain that although much of the IG interview process may seem repetitive, the purpose of these redundancies is to ensure fairness and objective due-process for all individuals.

4. Explain the Interview ground rules

- We normally take recorded testimony under oath and later transcribe it. Recorders improve accuracy. (Ask if the witness objects to swearing; some people would prefer to affirm).

- All answers must be spoken. The recorder cannot pick up nods or gestures.
- Classified information: This interview is unclassified. Do not discuss any classified information without requesting permission first. If it is necessary to discuss classified information, we must turn off recorders before proceeding.
- Break procedures: We can stop the recording at any time, but...
- We never go off the record.
- Ask if there is anything that would prevent the witness from providing truthful and accurate testimony, e.g. medications, medical conditions, or other impairments.
- AR 20-1 allows only the IG to make a record of the IG interview.

Therefore, all notes taken during the interview must remain with the IG. If anyone other than the IG or the recorder wishes to make notes to keep after the interview, then the IG must stop the interview, and the recorder and the IGs must leave the room. Individuals may then make separate notes for personal retention.

- No personal electronic devices (PEDs) are allowed in the interview. All PEDs must be secured outside the interview room or placed on the table with the power off. (For telephonic interviews, the witness must acknowledge that PEDs are powered off).

5. ***Privacy Act of 1974** (Privacy Act pertains to U.S. citizens only, unlike FOIA, which applies to the world).

- Describes authority to ask for personal information.
- Please read the Privacy Act. We will refer to it during the formal read-in.

6. ***Testimony Information Sheet (Header Sheet)**

- Individual fills out first four (4) lines (name, rank, address, phone, DoD identification number).
- Used by investigators for notes, acronyms, proper names, etc.
- Aids in preparing an accurate transcript.

7. **Confirm Current Status (AC, RC, NG, AGR, MILTECH, etc.)**

8. ***Rights warning / waiver**

- Execute DA FORM 3881 (when appropriate, such as during a suspect interview). (See also Section 4-10).

9. **For subjects only**

- While you are not suspected of any criminal violation, you have the right not to incriminate yourself on any matter. Refusal to answer any question that could incriminate you will not reflect unfavorably on you.

10. **Transitioning to the Read in**

- This is an administrative procedure and not a court of law.
- We can accept and use hearsay and opinion.
- We protect everyone's confidentiality but *do not guarantee* confidentiality.
- To keep this case as confidential as possible, we ask that you not discuss your testimony with anyone except your attorney, if you choose to consult with one, without our permission.

* Provide interviewee with appropriate document.

IG CREDENTIAL LETTER - EXAMPLE

DEPARTMENT OF THE ARMY
HEADQUARTERS, 66TH INFANTRY DIVISION (M)
FORT VON STEUBEN, VIRGINIA 22605

(DATE)

TO WHOM IT MAY CONCERN:

The officer whose signature is here presented, LTC Albert R. Rightway, is representing the Inspector General, 66th Infantry Division, Fort Von Steuben, United States Army, on duty with the Inspector General office at Fort Von Steuben, Virginia. His responsibilities include conducting Inspections, Assistance, and Investigations into matters of interest and concern for the commanding general.

LTC Rightway is entitled to unlimited access to all information, consistent with his security clearance, in the execution of his mission.

/s/
MOTTIN DE LA BLAME
MG, USA
Commanding General

/s/
ALBERT R. RIGHTWAY
LTC, IG

NOTE: IGs produce credentials locally with specifications determined by the Directing Authority and signed by the Directing Authority. A common, universal credential letter does not exist. IGs traditionally shrink a copy of the signed letter to the size of a common-access card and laminate it.

EXAMPLE DIRECTIVE

MEMORANDUM FOR THE INSPECTOR GENERAL

SUBJECT: Directive for Investigation

1. Investigate alleged improprieties by an Army official assigned to (Installation / Organization).
2. Submit your report to me as soon as possible, but protect the rights of all persons involved and ensure the Investigation is complete and accurate.

MOTTIN DE LA BLAME
Major General, U.S. Army
Commanding

NOTE: Do not use the name(s) of subjects or suspects in the Directive. Remember, this is the document you will show the witness. PROTECT CONFIDENTIALITY.

PRIVACY ACT INFORMATION

DATA REQUIRED BY THE PRIVACY ACT OF 1974
PRIVACY ACT STATEMENT
FOR PERSONAL INFORMATION TAKEN DURING
INSPECTOR GENERAL WITNESS TESTIMONY

AUTHORITY: Title 10 US Code, Section 3020.

PRINCIPAL PURPOSE(S): Information is collected during an Investigation to aid in determining facts and circumstances surrounding allegations / problems. The information is assembled in report format and presented to the official directing the Inquiry / Investigation as a basis for Department of Defense / Department of the Army decision-making. The information may be used as evidence in judicial or administrative proceedings or for other official purposes within the Department of Defense. Disclosure of Social Security Number, if requested, is used to further identify the individual providing the testimony.

ROUTINE USES:

- a. The information may be forwarded to Federal, State, or local law-enforcement agencies for their use.
- b. The information may be used as a basis for summaries, briefings, or responses to Members of Congress or other agencies in the Executive Branch of the Federal Government.
- c. The information may be provided to Congress or other Federal, State, and local agencies when determined necessary by The Inspector General (DAIG).

MANDATORY OR VOLUNTARY DISCLOSURE AND THE EFFECT ON INDIVIDUALS FOR NOT PROVIDING THE INFORMATION:

For Military Personnel: The disclosure of your DoD Identification Number is not voluntary. Disclosure of other personal information is also mandatory, and failure to do so may subject the individual to disciplinary action.

For Department of the Army Civilians: The disclosure of your DoD Identification Number is not voluntary. Failure to disclose other personal information in relation to your position or responsibilities may subject you to adverse personnel action.

For All Other Personnel: The disclosure of personal information is voluntary, and no adverse action can be taken against you for refusing to provide information about yourself.

TESTIMONY INFORMATION SHEET

INFORMATION FOR HEADING OF TESTIMONY TRANSCRIPT

To be completed in each interview, including recall witnesses.

Testimony of (Full Name): _____
(FIRST) (MI) (LAST)

DoD Identification Number: _____ Rank/Grade: _____

Position/Title: _____ Organization: _____

Address: _____ ZIP: _____ Phone: _____

XX

(Completed by IG)

Testimony taken at: _____, Date: _____

From: _____ (hrs), To: _____ (hrs).

By: _____ and _____

RIGHTS WARNING / WAIVER CERTIFICATE

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE			
For use of this form, see AR 190-30, the proponent agency is ODCSOPS			
DATA REQUIRED BY THE PRIVACY ACT			
AUTHORITY:		Title 10, United States Code, Section 3012(g)	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your Social Security Number is voluntary.	
1. LOCATION	2. DATE	3. TIME	4. FILE NO
5. NAME (Last, First, MI)		8. ORGANIZATION OR ADDRESS	
6. SSN	7. GRADE/STATUS		
PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE			
Section A. Rights			
<p>The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am suspected/accused: _____</p> <p>Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:</p> <ol style="list-style-type: none"> 1. I do not have to answer any questions or say anything 2. Anything I say or do can be used as evidence against me in a criminal trial 3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both <p style="text-align: center;">- or -</p> <p>(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.</p> <ol style="list-style-type: none"> 4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below. 			
5. COMMENTS (Continue on reverse side)			
Section B. Waiver			
I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.			
WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE			
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR	
Section C. Non-waiver			
<ol style="list-style-type: none"> 1. I do not want to give up my rights. <input type="checkbox"/> I want a lawyer. <input type="checkbox"/> I do not want to be questioned or say anything 2. SIGNATURE OF INTERVIEWEE 			
ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2623) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED			

PART II - RIGHTS WARNING PROCEDURE	
THE WARNING	
<p>1. WARNING - Inform the suspect/accused of:</p> <ul style="list-style-type: none"> a. Your official position. b. Nature of offense(s). c. The fact that he/she is a suspect/accused. <p>2. RIGHTS - Advise the suspect/accused of his/her rights as follows: "Before I ask you any questions, you must understand your rights." <ul style="list-style-type: none"> a. "You do not have to answer my questions or say anything." b. "Anything you say or do can be used as evidence against you in a criminal trial." c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer </p>	<p>can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both "</p> <p style="text-align: center;">- or -</p> <p><i>(For civilians not subject to the UCMJ)</i> You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins "</p> <ul style="list-style-type: none"> d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate " <p>Make certain the suspect/accused fully understands his/her rights.</p>
THE WAIVER	
<p>"Do you understand your rights?" (If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question)</p> <p>"Have you ever requested a lawyer after being read your rights?" (If the suspect/accused says "yes," find out when and where. If the request was recent (<i>i.e., fewer than 30 days ago</i>), obtain legal advice on whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question)</p>	<p>"Do you want a lawyer at this time?" (If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question)</p> <p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (<i>If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.</i>)</p>
SPECIAL INSTRUCTIONS	
<p>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p> <p>PRIOR INCRIMINATING STATEMENTS:</p> <ul style="list-style-type: none"> 1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions. 	<p>2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.</p> <p>NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p> <p>WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")</p>
<p>COMMENTS (<i>Continued</i>)</p>	

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE			
For use of this form, see AR 190-30; the proponent agency is ODCSOPS			
DATA REQUIRED BY THE PRIVACY ACT			
AUTHORITY: Title 10, United States Code, Section 3012(g)			
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.			
ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.			
DISCLOSURE: Disclosure of your Social Security Number is voluntary.			
1. LOCATION Inspector General, Fort von Steuben, VA 22605	2. DATE	3. TIME	4. FILE NO. OTR 05-009
5. NAME (Last, First, MI) Brown, Robert E.	8. ORGANIZATION OR ADDRESS Director of Personnel and Community Activities Fort von Steuben, VA 22605		
6. SSN	7. GRADE/STATUS COL / AD		
PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE			
Section A. Rights			
<p>The investigator whose name appears below told me that he/she is with the United States Army <u>Inspector General, 66th Infantry Division and Fort von Steuben</u> and wanted to question me about the following offense(s) of which I am suspected/accused: COL Brown conducted an adulterous affair in violation of article 134, UCMJ; and (see comments below)</p> <p>Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:</p> <ol style="list-style-type: none"> I do not have to answer any question or say anything. Anything I say or do can be used as evidence against me in a criminal trial. <i>(For personnel subject to the UCMJ)</i> I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both. <p style="text-align: center;">- or -</p> <p><i>(For civilians not subject to the UCMJ)</i> I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.</p> <ol style="list-style-type: none"> If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below. 			
5. COMMENTS (Continue on reverse side) Sexually harassed female employees in violation of AR 600-20.//			
Section B. Waiver			
I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.			
WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print) Sonny Competent, MSG, IG			
b. ORGANIZATION OR ADDRESS AND PHONE Office of the Inspector General, 66th Infantry Division Fort von Steuben, VA 22605 (540)802-0601			
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR Albert R. Rightway, LTC, IG	
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR Office of the Inspector General 66th Infantry Division	
Section C. Non-waiver			
<ol style="list-style-type: none"> I do not want to give up my rights <input type="checkbox"/> I want a lawyer <input type="checkbox"/> I do not want to be questioned or say anything SIGNATURE OF INTERVIEWEE 			
ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED			

Step 1

Step 4

Step 2

Step 3

PART II - RIGHTS WARNING PROCEDURE	
THE WARNING	
<p>1. WARNING - Inform the suspect/accused of:</p> <ol style="list-style-type: none"> a. Your official position. b. Nature of offense(s). c. The fact that he/she is a suspect/accused. <p>2. RIGHTS - Advise the suspect/accused of his/her rights as follows:</p> <ol style="list-style-type: none"> a. "Before I ask you any questions, you must understand your rights." b. "You do not have to answer my questions or say anything." c. "Anything you say or do can be used as evidence against you in a criminal trial." d. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer 	<p>can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."</p> <p style="text-align: center;">- or -</p> <p>(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."</p> <ol style="list-style-type: none"> d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate." <p>Make certain the suspect/accused fully understands his/her rights.</p>
THE WAIVER	
<p>"Do you understand your rights?" (If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)</p> <p>"Have you ever requested a lawyer after being read your rights?" (If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)</p>	<p>"Do you want a lawyer at this time?" (If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)</p> <p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)</p>
SPECIAL INSTRUCTIONS	
<p>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p> <p>PRIOR INCRIMINATING STATEMENTS:</p> <ol style="list-style-type: none"> 1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions. 	<ol style="list-style-type: none"> 2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal. <p>NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p> <p>WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")</p>
<p>COMMENTS (Continued)</p>	

WITNESS INTERVIEW SCRIPT

(BEGIN READ-IN. DO NOT USE YOUR OWN WORDS.)

1. The time is _____. *This recorded interview is being conducted on (date) _____ at (location) _____ (if telephonic, state both locations).* **Persons present are the witness (name) _____, the investigating officers _____, _____, _____ (court reporters, attorney, union representative, others) _____.** *This (Investigation / Investigative Inquiry) was directed by _____ and concerns allegations against a member assigned to _____.*

NOTE: If the Investigation concerns classified information, inform the witness that the report will be properly classified, and advise the witness of security clearances held by the IG personnel. Instruct the witness to identify classified testimony.

2. An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority.

3. Since I will ask you to provide your personally identifying information to help identify you as the person testifying, I provided you a Privacy Act Statement. (If telephonic, it may have been necessary to read the Privacy Act Statement.) **Do you understand it?** (Witness must state yes or no)

4. You are not suspected of any criminal offense and are not the subject of any unfavorable information.

5. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin? Please raise your right hand so that I may administer the oath.

“Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?”

NOTE: The witness should audibly answer "yes" or "I do." If the witness objects to the oath, the word "swear" may be changed to the word "affirm," and the phrase "so help me God" may be omitted.

6. Please state your: (as applicable)

- Name**
- Rank (Active / Reserve / Retired)**
- Grade / Position**
- Organization**
- DoD Identification Number** (if applicable)
- Address** (home or office)
- Telephone number** (home or office)

(END READ-IN)

XX

7. Question the witness.

NOTE: (1) If, during the interview, the witness suggests personal criminal involvement, advise the witness of his or her rights using DA Form 3881, Rights Warning Procedure / Waiver Statement. Unless the witness waives his or her rights, the interview ceases. During the interview, if you believe the witness has become a subject,

advise him or her that he or she need not make any self-incriminating statements.

NOTE: (2) During the interview, if it becomes necessary to advise a witness about making false statements or other false representations, read the following statement to the witness as applicable:

7a. For active duty or USAR / ARNG personnel subject to UCMJ:

I consider it my duty to advise you that any person subject to the UCMJ who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing the same to be false, may be subject to action under the provisions of UCMJ, Article 107. Additionally, under the provisions of the UCMJ, Article 134, any person subject to the UCMJ who makes a false statement, oral or written, under oath, believing the statement to be untrue, may be punished as a court-martial may direct. Do you understand? (Witness must state “yes” or “no.”)

7b. For USAR / ARNG and Civilian personnel not subject to UCMJ:

I consider it my duty to advise you that under the provisions of Section 1001, Title 18, United States Code, whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies; conceals; or covers up by a trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both. Additionally, any person who willfully and contrary to his or her oath testifies falsely while under oath may be punished for perjury under the provisions of Section 1621, Title 18, United States Code. Do you understand? (Witness must state “yes” or “no.”)

XX

(BEGIN READ-OUT)

8. Do you have anything else you wish to present?

9. Who else do you think we should talk to and why?

10. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one.

NOTE: Others present should also be advised against disclosing information.

11. Your testimony may be made part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony and any and all documents that you provided to the IG may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony and documents.

12. Do you have any questions? The time is _____, and the interview is concluded. Thank you.

XX

(END READ-OUT)

WITNESS (RECALL) INTERVIEW SCRIPT

(BEGIN READ-IN. DO NOT USE YOUR OWN WORDS.)

1. The time is _____. *This recorded recall interview is being conducted on (date) _____ at (location) _____ (if telephonic, state both locations).* **The persons present are the witness (name) _____, the investigating officers _____, _____, (court reporter, attorney, union representative, others) _____.** *This is a continuation of an interview conducted on (date) _____ as part of an (Investigation / Investigative Inquiry) directed by _____ concerning allegations against a member assigned to _____.*

NOTE: If the Investigation concerns classified information, inform the witnesses that the report will be properly classified, and advise the witnesses of security clearances held by IG personnel. Instruct the witnesses to identify classified testimony.

2. You were previously advised of the role of an Inspector General, of restrictions on the use and release of IG records, and of the provisions of the Privacy Act. Do you have any questions about what you were previously told? (Witness must state "yes" or "no.")

3. You were also informed you are not suspected of any criminal offense and are not the subject of any unfavorable information. During the previous interview, you were put under oath before giving testimony and were reminded that it is a violation of Federal law to knowingly make a false statement under oath. You are still under oath.

4. For the record, please state your: (as applicable.)

Name

Rank (Active, Reserve, Retired)

Grade / Position

Organization

DoD Identification Number (if applicable)

Address / Telephone (home or office)

(END READ-IN)

5. Question the witness.

NOTE: During this interview, if the witness suggests personal criminal involvement, advise the witness of his or her rights using DA Form 3881, Rights Warning Procedure / Waiver Statement. Unless rights are waived, the interview ceases. During the interview, if you believe the witness has become a subject, advise him or her that he or she need not make any self-incriminating statements. See Witness Read-In Script for dealing with false statements.

XX

(BEGIN READ-OUT)

6. Do you have anything else you wish to present?

7. Who else do you think we should talk to and why?

8. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one.

NOTE: Advise others present against disclosing information.

9. In our first interview, I advised you that your testimony and any documents that you provided to the IG may be made part of an official Inspector General record and that, while access is normally restricted to persons who clearly need the information to perform their official duties, any member of the public could ask the Inspector General for a copy of these records.

10. Do you have any questions? The time is _____, and this recall interview is concluded. Thank you.

(END READ-OUT)

XX

SUBJECT INTERVIEW SCRIPT

(BEGIN READ-IN. DO NOT USE YOUR OWN WORDS)

1. The time is _____. *This recorded interview is being conducted on (date) _____ at _____ (location) _____ (if telephonic, state both locations).*

Persons present are (subject's name) _____, the investigating officers _____, _____, _____ (court reporters, attorney, union representative, others) _____. *This (Investigation / Investigative Inquiry) was directed by _____ and concerns allegations against a member assigned to _____.*

NOTE: If the Investigation concerns classified information, inform the subject that the report will be properly classified, and advise the subject of security clearances held by IG personnel. Instruct the subject to identify classified testimony.

2. An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority.

3. Since I will ask you to provide your personal information to help identify you as the person testifying, I provided you a Privacy Act Statement. (If telephonic, it may be necessary to have read the Privacy Act Statement.) **Do you understand it?**

4. While you are not suspected of a criminal offense, we have information that may reflect unfavorably on you. We are required to give you the opportunity to comment on these matters. However, you do not have to answer any question that may tend to incriminate you. The information is that: (Refer to

the allegation(s) from the Action Memorandum, but do not show the subject the Action Memorandum).

5. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin? Please raise your right hand so I may administer the oath.

“Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth so help you God?”

NOTE: The subject should audibly answer "yes" or "I do." If the subject objects to the oath, the word "swear" may be changed to the word "affirm," and the phrase "so help me God" may be omitted.

6. Please state your: (as applicable)

- Name***
- Rank*** (Active, Reserve, Retired)
- Grade / Position***
- Organization***
- DoD Identification Number*** (if applicable)
- Address / Telephone*** (home or office)

(END READ-IN)

XX

7. Question the subject.

NOTE: (1) During the interview, if the individual suggests personal criminal involvement, advise the individual of his or her rights using DA Form 3881,

Rights Warning Procedure / Waiver Statement.
Unless the subject waives his or her rights,
the interview ceases.

NOTE: (2) During the interview, if it becomes
necessary to advise a subject about making false
statements or other false representations, read the
following statement to the subject:

7a. For active duty or USAR / ARNG personnel subject to UCMJ:

I consider it my duty to advise you that any person subject to the UCMJ who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing the same to be false, may be subject to action under the provisions of UCMJ, Article 107. Additionally, under the provisions of UCMJ, Article 134, any person subject to the UCMJ who makes a false statement, oral or written, under oath, believing the statement to be untrue, may be punished as a courts-martial may direct. Do you understand? (Subject must state “yes” or “no.”)

7b. For USAR, ARNG, and Civilian personnel not subject to UCMJ:

I consider it my duty to advise you that under the provision of Section 1001, Title 18, United States Code, whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies; conceals; or covers up by a trick, scheme, or device, a material fact, or makes any false, fictitious, or fraudulent statement or representation, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both. Additionally, any person who willfully and contrary to his or her oath testifies falsely while under oath may be punished for perjury under the provisions of Section 1621, Title 18, United States Code. Do you understand? (Subject must state “yes” or “no.”)

XX

(BEGIN READ-OUT)

8. Do you have anything else you wish to present?

9. Who else do you think we should talk to and why?

10. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one.

NOTE: Others present should also be advised against disclosing information.

11. Your testimony may be made part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony and any and all documents that you provided to the IG may be released outside official channels. Individual members of the public, who do not have an official need to know, may request a copy of this record, to include your testimony and documents.

12. Do you have any questions? The time is _____, and the interview is concluded. Thank you.

(END READ-OUT)

XX

SUBJECT (RECALL) INTERVIEW SCRIPT

(BEGIN READ-IN. DO NOT USE YOUR OWN WORDS.)

1. The time is _____. *This recorded recall interview is being conducted on (date) _____ at (location) _____; (if telephonic, state both locations).*
The persons present are (subject's name) _____, the investigating officers _____, (court reporter, attorney, union representative, others) _____. It is a continuation of an interview conducted on (date) _____ as part of a (Investigation / Investigative Inquiry) directed by _____ concerning allegations against a member assigned to _____.

NOTE: If the Investigation concerns classified information, inform the subject that the report will be properly classified, and advise the subject of security clearances held by IG personnel.
Instruct the subject to identify classified testimony.

2. You were previously advised of the role of an Inspector General, of restrictions on the use and release of IG records, and of the provisions of the Privacy Act. Do you have any questions about what you were previously told? (Subject must state "yes" or "no.")

3. You were also informed you are not suspected of any criminal offense. I do want to remind you that you do not have to answer any question that may tend to incriminate you. You are reminded it is a violation of Federal law to knowingly make a false statement under oath.

4. Since our previous interview, our Investigation has developed unfavorable information about which you have not yet had the opportunity to testify or present evidence. The unfavorable information is: (Unfavorable information).

5. Earlier, we placed you under oath. You are advised that you are still under oath.

6. For the record, please state your: (as applicable)

Name

Rank (Active, Reserve, Retired)

Grade / Position

Organization

DoD Identification Number (if applicable)

Address / Telephone (home or office)

(END READ-IN)

XX

7. Question the subject.

NOTE: See notes in Subject Read-In Script for dealing with false statements and Suspect Read-In Script for dealing with suggested criminal involvement.

XX

(BEGIN READ-OUT)

8. Do you have anything else you wish to present?

9. Who else do you think we should talk to and why?

10. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers, except your attorney if you choose to consult one.

NOTE: Others present should also be advised against disclosing information.

11. In our first interview, I advised you that your testimony and any and all documents that you provided to the IG may be made part of an official Inspector General Record and that any member of the public could ask the Inspector General for a copy of these records.

12. Do you have any questions? The time is _____, and this recall interview is concluded. Thank you.

(END READ-OUT)

XX

IG BRIEFING TO SUSPECT'S ATTORNEY

To: **[Attorney Name]** _____

Attorney for **[Suspect's Name]**: _____

Phone number: _____

(CHECK WHEN DONE)

1. () This is Army **[Rank] [Name]** _____ from the **[Organization]** _____ Inspector General office.

[Indicate if you are on speaker phone; introduce any IG colleagues who may be present.]

I am calling concerning a client of yours, [Suspect's Name] _____ . Are you still representing him / her?

I just wanted to contact you prior to the interview to go over some ground rules and to answer any questions you may have about the process. This way, we can save your time as well as your client's time at the interview.

2. () First, I would like to remind you that this is an administrative investigation, not a criminal investigation. However, please note that IGs resolve criminal and non-criminal allegations using the same process, so this is different from other legal proceedings you are familiar with. Army IG Investigations follow the rules and procedures outlined in Army Regulation 20-1. Are you familiar with that regulation? If not, we can send you a digital copy. Do you have a preferred email address that you would like us to send it to?

[Note the email address _____]

I'll send you a copy of the regulation as soon as we get off the phone.

3. () Although this is not a criminal investigation, the allegation against your client is a criminal one. Therefore, we will execute a DA Form 3881, which is the Army's Rights Warning Procedure and Waiver Certificate. We use this form to officially document our notification to [Suspect's Name] _____ of the allegation(s) we are investigating, and of his / her Article 31 rights, including both the right to have an attorney present during questioning and the right to remain silent.

Since your client has the right to have counsel present, we will be asking your client if he / she will be willing to waive his / her right to remain silent. I can also send you a copy of the DA Form 3881.

These are the allegations that have been made against [Suspect's Name]:

[Read allegations verbatim from Action Memorandum]

This / these allegation(s) will be on the DA Form 3881 that we will send to you. I will also send you the laws / regulations that apply to those allegations.

4. () Now I would like to go over some ground rules with you. This is an opportunity for your client to tell his / her side of the story regarding this / these allegations, including providing any documents he / she may wish to present.

a. You cannot speak for your client or answer for your client during questioning. All answers to the questions that we ask of your client must come from him / her. If, at any time during the interview, you would like to confer with your client, we will take a break and exit the room, or we will provide you with another private space to confer with your client.

b. This procedure also applies to note-taking and recordings. While IGs respect attorney-client and attorney work-product privileges, no one other than the IGs and official transcribers are permitted to record testimony during IG interviews. To put it another way, you are not allowed to

generate work product in our presence. Therefore, all recordings and notes taken during the interview must remain with the IG. If anyone, other than the IG or the recorder, wishes to make notes to keep after the interview, we must stop the interview, and the IGs must leave the room. Individuals may then make separate notes for personal retention. Do you have questions about these instructions?

5. () Since this is an administrative and not a legal proceeding, we do not follow the typical procedures that may be more familiar to you. There is no right to discovery or right to confrontation. Because of our rules regarding IG confidentiality as outlined in Army Regulation 20-1, we cannot provide you the identity of the complainant, a list of witnesses, or any evidence gathered during this investigation.

Do you have any other questions?

6. () If you have no further questions, I'll send you Army Regulation 20-1, the DA Form 3881, and the applicable excerpts from [the standards].

We'll see you and [Suspect's Name] on [date and time of the interview]: _____.

Thank you for your time. Good-bye.

7. () I, _____, telephonically briefed the above information to the suspect's lawyer at [time] _____ on [date] _____.

(Signature of Inspector General)

SUSPECT INTERVIEW SCRIPT

(BEGIN READ-IN. DO NOT USE YOUR OWN WORDS)

1. The time is _____. *This recorded interview is being conducted on (date) _____ at _____ (location) (If telephonic, state both locations).* **Persons present are (suspect's name) _____, the investigating officers _____,**
_____,
 (court reporters, attorney, union representative, others)
_____. *This (Investigation / Investigative Inquiry) was directed by _____ and concerns allegations against a member assigned to _____.*

NOTE: If the Investigation concerns classified information, inform the suspect that the report will be properly classified, and advise the suspect of security clearances held by IG personnel.
 Instruct the suspect to identify classified testimony.

2. An Inspector General is an impartial fact-finder for the Commander. Testimony taken by an IG and reports based on the testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons, such as the subject of an action that may be taken as a result of information gathered by this Investigative Inquiry / Investigation, may be required by law or regulation, or may be directed by proper authority.

3. Since I will ask you to provide your personal information to help identify you as the person testifying, I provided you a Privacy Act Statement. (If telephonic, it may have been necessary to read the Privacy Act Statement.) **Do you understand it?** (Suspect must state "yes" or "no.")

4. You are advised that you are suspected of the following allegations, which we want to question you about:

(Advise the suspect of all allegations made against him or her. Refer to the Action Memorandum, but do not show the suspect the Action Memorandum.)

5. I previously advised you of your rights, and you signed a DA Form 3881 waiver certificate.

“Do you understand your rights?” (Suspect must state “yes” or “no.”)

If the suspect has a lawyer present: **“Do you agree to waive your right not to answer questions at this time?”** (Suspect must state “yes” or “no.”)

If the suspect does not have a lawyer present: **“Do you agree to waive your right to have a lawyer present with you during questioning?”** (Suspect must state “yes” or “no.”)

6. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Is there anything that would prevent you from giving truthful testimony today? Do you have any questions before we begin? Please raise your right hand so that I may administer the oath.

“Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?”

NOTE: The suspect should audibly answer "yes" or "I do." If the suspect objects to the oath, the word "swear" may be changed to the word "affirm," and the phrase "so help me God" may be omitted.

7. Please state your: (as applicable)

Name

Rank (Active / Reserve / Retired)

Grade / Position

Organization

DoD Identification Number (voluntary)

Address / Telephone number (home or office)

(END READ-IN)

XX

8. Question the suspect.

NOTE: During the interview, if it becomes necessary to advise the suspect about making false statements or other false representations, read the following statement to the suspect as applicable.

8a. For active duty or USAR / ARNG personnel subject to UCMJ:

I consider it my duty to advise you that any person subject to the UCMJ who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing the same to be false, may be subject to action under the provisions of UCMJ, Article 107. Additionally, under the provisions of UCMJ, Article 134, any person subject to the UCMJ who makes a false statement, oral or written, under oath, believing the statement to be untrue, may be punished as a court-martial may direct. Do you understand? (Suspect must state “yes” or “no.”)

8b. For USAR / ARNG and Civilian personnel not subject to UCMJ:

I consider it my duty to advise you that under the provisions of Section 1001, Title 18, United States Code, whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies; conceals; or covers up by a trick, scheme, or device, a material fact, or makes any false, fictitious, or fraudulent statement or representation, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both. Additionally, any person who willfully and contrary to his or her oath testifies falsely while under oath may be punished for perjury under the provisions of Section 1621, Title 18, United States Code. Do you understand? (Suspect must state “yes” or “no.”)

NOTE: During the interview, if the IG suspects the individual of having committed an additional criminal offense, re-advise the suspect of his or her rights concerning the additional offense. The suspect and the investigator(s) will annotate and initial DA Form 3881.

XX

(BEGIN READ-OUT)

9. Do you have anything else you wish to present?

10. Who else do you think we should talk to and why?

11. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers except your attorney if you choose to consult one.

Note: Others present should also be advised against disclosing information.

12. Your testimony may be made part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony and any and all documents that you provided to the IG may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony and documents.

13. Do you have any questions? The time is _____, and the interview is concluded. Thank you.

XX

(END READ-OUT)

SUSPECT (RECALL) INTERVIEW SCRIPT

(BEGIN READ-IN. DO NOT USE YOUR OWN WORDS)

1. The time is _____. *This recorded recall interview is being conducted on (date) _____ at (location) _____ (if telephonic, state both locations). The persons present are (suspect's name) _____, the investigating officers _____, _____, (court reporter, attorney, union representative, others) _____.* **It is a continuation of an interview conducted on (date) _____ as part of a (Investigation / Investigative Inquiry) directed by _____ concerning allegations against a member assigned to _____.**

NOTE: If the Investigation concerns classified information, inform the suspect that the report will be properly classified, and advise the suspect of security clearances held by IG personnel.
Instruct the suspect to identify classified testimony.

2. You were previously advised of the role of an Inspector General, of restrictions on the use and release of IG records, and of the provisions of the Privacy Act. Do you have any questions about what you were previously told?

3. During our previous interview, you were advised that you were suspected of:

You were warned of your rights, and you signed a DA Form 3881 in which you consented to answer questions. I will show you that DA Form 3881 now. You are reminded that it is a violation of Federal law to knowingly make a false statement under oath.

NOTE: Show DA Form 3881 to the suspect.

4. Since our previous interview, I have obtained new information about which you have not yet had the opportunity to comment.

NOTE: If new information is criminal, re-advise the suspect of his or her rights and annotate / initial the DA Form 3881. If new information is unfavorable, advise the suspect that he or she does not have to answer any question that may incriminate him or her.

5. Earlier, we placed you under oath. You are advised that you are still under oath.

6. For the record, please state your: (as applicable)

- Name**
- Rank**
- Grade / Position**
- Organization**
- DoD Identification Number** (if applicable)
- Address / Telephone** (home or office)

(END READ-IN)

XX

7. Question the suspect.

XX

(BEGIN READ-OUT)

8. Do you have anything else you wish to present?

9. Who else do you think we should talk to and why?

10. We are required to protect the confidentiality of IG Investigations and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under Investigation. Accordingly, we ask that you not discuss this matter with anyone without permission of the investigating officers, except your attorney if you choose to consult one.

NOTE: Others present should also be advised against disclosing information.

11. In our first interview, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony and any and all documents that you provided to the IG may be made part of an official Inspector General record and that any member of the public could ask the Inspector General for a copy of these records.

12. Do you have any questions? The time is _____, and this recall interview is concluded. Thank you.

(END READ-OUT)

SAMPLE INTERVIEW PRE-EXECUTION CHECKLIST

1. Prepare interview notebook ____
 - a. Copy of appointment memorandum ____
 - b. Copy of Directive ____
 - c. Privacy Act Statement ____
 - d. Header sheet (or Testimony Information Sheet)
 - e. Rights and Warning Procedure / Waiver Certificate (completed or blank) ____
 - f. Appropriate read-in script ____
 - g. Documents for inquiry ____
 - h. Interview exhibits (redacted if necessary) ____
2. Recorders
 - a. Batteries ____
 - b. Back-up recording method ____
3. Cautionary notes
 - a. Do not have the Action Memorandum in the room ____
 - b. Do not have any evidence in the room that is not essential to this interview ____

Appendix B

Interviewing Techniques

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Overview

1. Successfully resolving allegations of impropriety through IG Investigations often relies upon intelligent, careful questioning. Effective questioning requires skill, preparation, and experience. The nature of IG business involves dealing with perceptions and the reason why things occurred. Therefore, IGs normally conduct interviews as a question-and-answer session rather than taking written statements. Part Two focused on the **process** of conducting interviews. This appendix focuses on the **art** of interviewing.

2. The quality of a good IG interview is directly related to the amount of planning and rehearsal put into it. IGs must clearly focus on obtaining facts directly pertinent to the matters under Investigation. What are the issues and allegations? What standards are you using against which to compare your evidence? What events have transpired up to the point of the interview? What evidence do you already possess, and what evidence do you still require? Have you constructed your interrogatory while keeping the above questions under consideration? Have you consulted with your Staff Judge Advocate? If you have considered the above, you will be mentally ready for the interview.

3. Aside from the administrative considerations (interview location, recorder acquisition and preparation, and necessary paperwork) and the preparation of the interrogatory, most IGs still feel unprepared for the actual interview. The art of facing another human being and having to ask the hard questions has the potential to create apprehension and angst. You are no exception. How can you quickly and pleasantly begin, and then conduct, the interview? This chapter will discuss the tactics and techniques used during IG interviews used to gather testimony.

Formulating Questions

1. **The Interrogatory.** The goal of an interrogatory is to gather the information needed to answer the elements of proof or the applicable standards as they apply to the allegations under investigation. A well-thought-out interrogatory is one of the keys to a successful interview. The elements of proof and / or the applicable standard will establish the framework within which you will develop your questions and determine what you ask, how you ask it, and how you react to the responses.

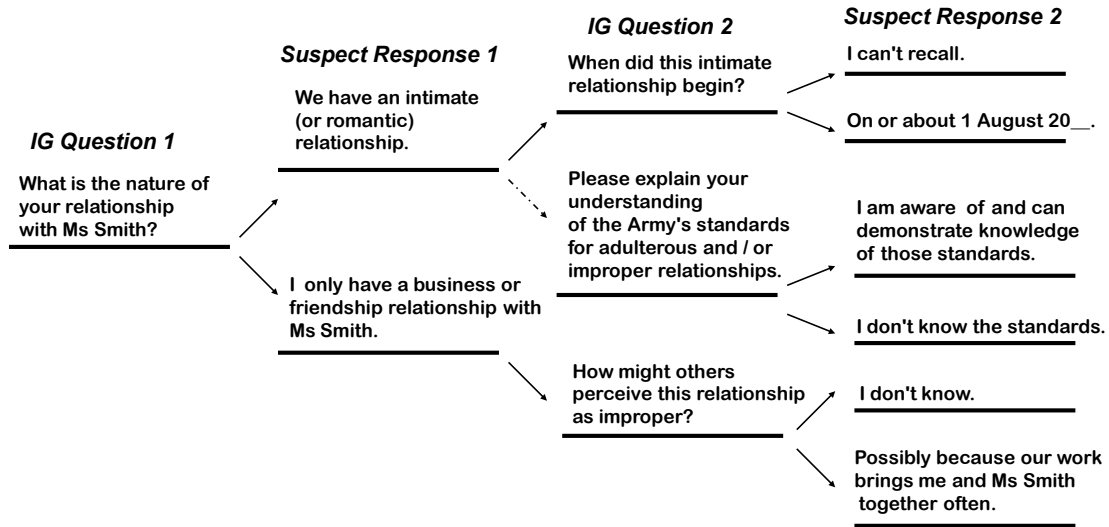
Use care when determining the order of your questions. If you are investigating multiple allegations, then order the questions to address one allegation at a time and in a logical sequence that will allow you to arrive at the information you need to help substantiate or not substantiate the allegation. Your interrogatory **must** include a range of possible anticipated answers. If you cannot anticipate the answer, be ready to follow-up with other prepared questions. Avoid being surprised, but don't let surprises upset you. Do not hesitate to take a break to think your way around surprises or develop changes in your line of questioning. Remember that you are on a fact-finding mission, and be prepared to explore and ask probative questions when new information arises. A well-thought-out question is better than a reactive question. Keep in mind that you will be interviewing three categories of individuals: subjects, suspects, and witnesses. Based on the nature of the allegations and the questions you must ask, these people will exhibit varying degrees of reluctance, cooperation, and even hostility. The questions you craft should anticipate their possible attitude at the moment of questioning, allowing you to soften the language you use or adjust your approach in other ways (see the section on Rapport).

The best way to develop an interrogatory is through a graphic representation that allows you to map out a question with anticipated responses and follow-up questions to those anticipated responses. The diagram on the next page provides an example that begins with an open-ended question.

Developing an Interrogatory

Allegation: Adulterous relationship

Preliminary data: Marital status. If suspect is not married, then this line of questioning ends.



Graphic Portrayal of an Interrogatory with Anticipated Responses and Follow-On Questions

Note that any preliminary data such as obtained during the pre-brief portion of the interview such as marital status (one of the elements of proof) may preclude the need to follow one or more of the planned lines of questioning. The follow-on questions developed by anticipating planned responses should continue until you gather the information you need. Keep "drilling down" until you feel that you have the answers you need. Once you have the information required, stop the line of questioning. Do not develop questions that "fish" or probe for other types of wrongdoing, but remain alert and listen carefully to what the person says. If the subject, suspect, or witness intimates additional wrongdoing not related to the allegation under investigation, you must address those matters directly through additional questioning (keep in mind that self-incrimination may require you to read the person his or her rights). Any information gathered in these cases may result in your Directing Authority expanding the current Investigation or directing another Investigation.

2. Phrasing Questions. Phrase your questions so the information comes from the witness. Providing too much information in your question may identify your sources. Avoid questions that the interviewee can answer with a yes or no response (otherwise known as a close-ended question). For example, if you want to know if the witness was at a certain place on a particular day, do not ask that person if he or she was there. Instead, ask where that person was that day. Open-ended questions allow the subject, suspect, or witness to engage more in a conversation than in a question-and-answer

session. More importantly, open-ended questions keep you from inadvertently putting words into the interviewee's mouth. If possible, let the interviewee tell a story (a narrative response) so that the information you need comes out naturally and in the context of what the individual believes happened or knows to be true. This approach generally facilitates recall and allows the interviewee to experience some sense of control in the interview, which helps with rapport. Do not try to force the conversation to adhere strictly to your interrogatory, but be certain to get the information you need. Avoid frequent interruptions. Your sequencing of questions may not follow how the interviewee remembers events. Ask any "clean-up" questions after the person is finished speaking. As long as you get the information you need, let the interviewee do most of the talking.

3. Be Methodical. Ask one question at a time, and then patiently wait for the answer. If the witness hesitates, don't immediately start rephrasing the question; he or she simply may need time to think. In many instances, a witness starts to answer a question and one or both investigators interrupt with another question for clarification before the witness has completed answering the original question. Write a note, and ask the question when the witness finishes the answer. Usually, if a witness does not understand a question, he or she will ask for clarification.

4. Avoid Leading Questions. Human beings are easily swayed by the power of suggestion. Avoid questions that suggest an answer or that can be seen as "leading." Don't make detailed statements followed by, "Is that correct?" For example, the following leading question suggests both a response and puts words in the person's mouth:

"So you showed up at the bar, saw Mrs. White standing near the jukebox, approached her, and began to say unkind things to her in front of two of her friends? Is that correct?"

Another example of putting words into the mouth of a witness is as follows: "You really didn't use the Government sedan to go hunting, did you?" However, it may be appropriate to summarize to the witness what you think he or she said. You can say, "Let me get this straight. You are telling me that the Government sedan was inoperable on the day you were alleged to have been out hunting?" Your ultimate purpose is to gather the information that the subject, suspect, or witness can provide and not create responses that somehow match your own expectations. Stay fair and impartial!

You should also avoid questions that suggest that the answer is 'no.' For example, "You don't know his name, do you?" The likely response will be what you seem to expect: 'no.' Likewise, overly polite phrasings of questions can also make it easy for the interviewee to say 'no.'

5. Language Usage. Use language that the witness understands; but, if possible, gently try to persuade the witness to avoid jargon or slang. If jargon, slang, or acronyms surface, clarify them during the interview. Never "talk down" or in a condescending manner to anyone during an interview. Rephrase the question if the answer you receive is incomplete or not to the point. Don't allow vulgar and inappropriate language to dominate the conversation, since, in most cases, you will be interviewing Soldiers and Civilians who remain bound by the Army's professional ethic. Summarizing the person's statement for clarification purposes but without using the vulgar language

can send an indirect signal to the interviewee that such language is not appropriate. When necessary, remind the interviewee of the formality of the interview. If the individual is a military member or government Civilian, you can also remind the person of his or her duty to maintain dignity and respect.

6. Ask Simple Questions. Do not ask compound questions (more than one question at a time). Compound questions elicit incomplete answers, and determining later which question the witness answered can be difficult.

7. Sketches and Diagrams. If you ask about locations or positions, allowing the witness to draw a rough diagram or sketch can be helpful. This diagram or sketch can be entered into the ROI as an exhibit that can later help a reader understand the testimony.

8. Getting to the Point. At the appropriate time during the interview, you must directly address the issues and allegations. Asking the hard questions at the correct time is a genuine art form. With a witness you may need to establish background information and put the witness at ease before getting into difficult areas that could cause the person to become defensive. The best approach is to begin by asking background questions that are pertinent but not controversial and then work your way toward the more difficult topics. You should develop your interrogatory with this approach in mind. A defensive witness may not want to answer your questions, and a defensive suspect may invoke his or her right not to incriminate himself or herself. Conversely, when interviewing the subject or suspect, waiting too long can appear to be "beating around the bush" or "fishing," which can be just as bad. In most cases the subject / suspect will want to tell his or her side of the story, so let the person do it. **Remember that when interviewing a subject or suspect, you must ask questions that allow that person to comment on the allegations and all adverse information that will appear in the report -- even if only to deny the allegations.**

Establishing Rapport

1. **Barriers to Communication.** The goal of all IG interviews is to gather evidence from people via oral statements. However, most people feel intimidated and nervous when talking to an IG. You face a daunting task in removing this barrier to effective communications during your interview.

Part of the art of interviewing is your ability to use rapport as a way to bring about desired changes in ways of thinking, feeling, and acting in the individuals whom you interview. Establishing rapport aids greatly in achieving a more open environment and is vital in conducting an IG interview.

Barriers can also be physical, so avoid distancing yourself too much from the interviewee by sitting on the other side of a large table or desk; by contrast, smaller tables can create an uncomfortably close proximity. Finding the physical middle ground that will work for you and the interviewee is essential -- even if you must rearrange your prepared interview room's set-up to accommodate the interviewee's needs. Be attentive to the temperature of the room, the lighting, ambient noise, glare from the sun, etc. Remind all those present to turn off personal electronic devices (PEDs) unless there is a compelling reason to keep them on. Have tissues available because some interviewees may get emotional. A pitcher of water and cups may help as well. Have all necessary and required forms but only that evidence necessary for the interview. Be aware of the interview room's appearance and cleanliness. Morale, Welfare, and Recreation (MWR) posters; interoffice correspondence; or other fliers may prove distracting to some people.

2. **Techniques.** Rapport-building is a key and essential building block in interviewing and an ongoing process that should continue throughout the interview. Remember that the IG must work to establish a positive rapport from the moment of initial notification or when coordinating for the interview. Rapport conditions the person to talk to you and establishes a behavioral baseline. You can put the person at ease by preparing and then asking background questions first in order to establish rapport. Always greet the subject, suspect, or witness warmly and with appropriate military courtesy. Begin with some casual conversation prior to going into the pre-brief outline to set the person at ease. Potential topics can include the following:

- a. Family (be careful of what areas to focus on and what areas to avoid).
- b. Hobbies (discuss if common but listen if unknown).
- c. Medical issues (demonstrate concern by the IG).
- d. Education (degree level or maybe even a former IG).
- e. Perception of the Army (helps determine values and view about career).
- f. Units and deployments (another potential for common ground with the IG).

Establish rapport from the onset by clearly stating your name, your title, and the purpose of the interview. Ensure that the person whom you are interviewing understands that an

allegation has been made, that anyone can make allegations, and that IGs inquire into allegations for the Commander. The pre-brief outline is designed to help build rapport.

3. **Application.** The interviewee has to believe that the IG is truly concerned with what he or she has to say, so **your efforts to build rapport must appear to be genuine and not contrived, or it will be counterproductive to your goal of enabling your subject / suspect / witness to answer your questions freely.** Furthermore, rapport offers you the opportunity to discern what is important to the subject, suspect, or witness and to determine the most effective interviewing and questioning strategy or style to employ. Rapport can sometimes be nothing more than a firm handshake, a smile, professional demeanor, or even the smooth and controlled way you explain procedures during the pre-brief. Rapport sets the conditions and tone for the subject, suspect, or witness to speak with the IG and establishes a secondary, non-verbal method of communication.

Active Listening

- 1. Importance.** As your subject, suspect, or witness discusses matters under Investigation with you, employ good active-listening skills. Active listening is an important interviewing skill and a good technique for improving communication skills in any context. But active listening is critical for interviewing because you do not always have the opportunity to interview key subjects, suspects, or witnesses a second time. Active listening is much more than simply concentrating on what the other person is saying, because it frequently requires you to test the accuracy of your own perceptions. **Listen carefully for the answers you receive from your questioning, because these answers are your evidence.**
- 2. Techniques.** Active listening begins by putting subjects, suspects, or witnesses at ease and letting them know that what they say is important. Good IGs minimize their own speaking while reacting positively to subject, suspect, or witness comments. Head nods; body language that suggests interest; and brief statements like “yes,” “I see,” “go on,” etc. allow subjects, suspects, or witnesses to know that you understand what they are saying and consider it important. These techniques encourage them to keep speaking.
- 3. Questioning for Clarification and Feedback.** Paraphrasing, or putting into your own words what the other person seems to be communicating to you, is the central skill in active listening. This technique enables subjects, suspects, or witnesses to know whether or not their point is getting through, or whether you have misunderstood and need further explanation. Paraphrasing minimizes the potential for the subject, suspect, or witness to take exception to your subsequent record of the interview.
- 4. Know your Witness.** You must remember that most subjects, suspects, or witnesses have not developed the skill of active listening and may misinterpret what you are asking them, even when you skillfully phrase the question. Consequently, subjects, suspects, or witnesses often give an answer that does not respond to the question. Unfortunately, IGs who are not good active listeners do not realize that they never received an answer to their question until they try to write a synopsis of the interview. Non-responsive answers can be important and useful because they may reveal what truly concerns the subject, suspect, or witness and provide a useful basis for follow-up questions. However, you must also be sure to get the answer to the question.
- 5. Keep an Open Mind.** To be able to paraphrase effectively, the IG must keep an open mind and avoid making assumptions or judgments, both of which are distracting. Active listening tests your own ability to perceive accurately what the person says and demonstrates that you must share in the responsibility for the communication.
- 6. The Two-Person Rule.** The proper interpretation of a subject's, suspect's, or witness's body language is an important part of the skill of active listening and is another reason why, when possible, two people should conduct interviews. While one person takes notes, the other concentrates on watching the subject, suspect, or witness to ensure that the person's body language (non-verbal communication) is consistent with what the individual is saying. Body language may reveal that a verbal denial is really a silent admission. Your eyes can tell you how to listen. But be careful: the two-person rule can potentially be very distracting or intimidating to the interviewee, so the IG team

must not appear to 'gang up' on the person by rapidly shifting from one IG to the other to ask questions or to attempt anything that might resemble the familiar theatrical mode of 'good cop, bad cop.' Such contrived efforts can (and usually will) fall flat quickly and will scuttle the interview.

Non-Verbal Communications and Body Language

1. **Overview.** IGs use their eyes to listen. Non-verbal communications (i.e., the body language displayed by a subject, suspect, or witness) can reveal much about what a person is attempting to convey to you. Most people can control their verbal communications better than their non-verbal ones. We may think before we talk, but our non-verbal communications, or body language, may say more about what we really mean. This fact is particularly true during interviews. For example, some subjects, suspects, or witnesses will hesitate or pause before or during a response to certain questions in order to think about and formulate the answer. Such hesitation may indicate an attempt to think of a deceptive answer, but it also could be an attempt to give a controlled response to a sensitive question or area of concern. During the pause in the verbal communication, the subject, suspect, or witness may engage in patterns of non-verbal communications that are unconscious and therefore uncontrolled. These spontaneous reactions generally are more reliable indicators than the verbal response that accompanies or follows the body language. Thus, the good IG reads body language to give context to verbal communication.

a. Eye gaze, eye movement, pupil constriction / dilation, touching, and distance or spacing are all part of non-verbal communication. You need to know how to use these concepts in the interview to reduce or increase tension in a subject, suspect, or witness; to gain rapport; and to enhance cooperation.

b. Likewise, you must be aware of the subject's, suspect's, or witness's non-verbal behavior to evaluate credibility properly. Is the subject, suspect, or witness withholding information? Lying? Unfortunately, there is no one single non-verbal indicator that magically tells whether the individual is being deceptive. Most people will exhibit some signs of stress when they are omitting or falsifying information. However, the stress may be induced by a variety of unrelated issues or problems, and all individuals have favored verbal and non-verbal behavior that is normal for them. The person's education, experience, intelligence, sense of social responsibility, and degree of maturity may also affect stress.

2. **How to Read Body Language.** There are a number of general observations about mood and veracity that you may draw from specific body-language responses. A few of them appear in the following paragraphs.

a. Failing to exhibit any facial expression or exhibiting fear may indicate deception. By contrast, an expression of anger probably indicates truthfulness. A defiant expression, especially when coupled with crossed arms and / or legs, indicate deception as does an expression of acceptance (sad expression, eyes dropped, or hand across the mouth). Indications of pleasure (including cocky or challenging attitudes) are typical expressions of deception (an exception may apply to juveniles).

b. Changes in facial color may be revealing. Blanching, an indication of fear, may also indicate deception. Blushing is more likely to mean embarrassment than deception.

c. Normal eye contact is maintained 30 to 60 percent of the time between two persons engaged in conversation. IGs have greater freedom in maintaining or breaking

eye contact than the subject, suspect, or witness, and a long gaze by that individual may be interpreted as a challenge. Truthful persons look at you longer during the interview than do deceptive persons. Truthful eyes are direct, but not overly so; are open with a good portion of the whites showing; and are attentive and looking at you. Deceptive subjects, suspects, or witnesses tend to avert their gaze and avoid direct eye contact. They range from evasive to a cold stare; they may appear tired or have a glassy look.

d. A body movement such as shifting the torso shows internal conflict when the movement is consistently in time with the questioning. Deceptive people unconsciously retreat from a threatening situation. In those cases, the individual actually moves his or her chair away from you or toward a door or window.

e. Body posture for subjects, suspects, or witnesses is characterized as either truthful or deceptive. The chart below summarizes body posture attributes.

Truthful Body Posture	Deceptive Body Posture
Open, upright, and comfortable	Slouched in chair, preventing the IG from getting close
Aligned frontally to face the IG directly	Unnaturally rigid
Leaning forward with interest	Lacking frontal alignment
Relaxed or casual, with some nervousness or excitement	Tending to retreat behind physical barriers
Smooth in its changes with no pattern	Erratic in its changes (can't sit still)
	Closed (elbows close to sides, hands folded in their lap, legs and ankles crossed)
	A "runner's position" (one foot back ready to push off)
	Exhibiting head and body slump

f. Supportive and symbolic gestures may indicate:

- **Sincerity**, with open arms, palms up;
- **Disbelief**, with hands to chest (who me?);
- **Denials**, by head shaking;
- **Accusation**, by pointing a finger (usually by a truthful person);
- **Threats**, by pounding or slamming the fist (usually by a truthful person);
- **Disgust**, by turning the head away and sighing (indicative of an untruthful person);
- **Agreement**, by nodding the head and dropping eye contact, to indicate an admission;
- **Lack of interest**, with head or chin in hand and head cocked;
- **Interest**, with head or chin in hand and head straight;
- Closed posture (**deception**) by crossing of arms, legs, and ankles; or by hiding hands, feet, mouth, or eyes.

g. Grooming gestures are exhibited because the body needs stress and tension relievers. Grooming gestures keep the hands busy and allow the subject, suspect, or witness to delay answering questions. These gestures usually occur when the

individual is lying and are inappropriate for the situation. Grooming gestures include tie straightening, sleeve or skirt tugging, head or hair combing or scratching, clothes sweeping, etc.

h. Some general observations of verbal patterns indicating truthful and deceptive persons may include the following:

- **Deceptive** persons tend to deny their wrongdoing specifically while the truthful person will deny the problem in general.
- **Deceptive** persons tend to avoid realistic or harsh language while truthful people do not.
- **Truthful** persons generally answer specific inquiries with direct and spontaneous answers. The answers are on time with no behavioral pause.
- **Deceptive** persons may fail to answer or delay answers. They may ask to have the question repeated or repeat the question asked. This tactic allows them time to think of an answer. “Could you repeat the question?”
- **Deceptive** persons may have a memory failure or have too good a memory. “I don’t remember the specifics of that.” “I don’t recall.”
- **Deceptive** persons tend to qualify their answers more than truthful persons. “I was not involved in an adulterous relationship in December of 2003.”
- **Deceptive** persons may evade answering by talking off the subject. “Hey, enough of this stuff. How about those Yankees?”
- **Deceptive** persons may support their answers with religion or oaths. The truthful rarely employ this tactic. “May God strike me dead...”
- **Deceptive** persons tend to be overly polite, and it is more difficult to arouse their anger.
- **Deceptive** persons may feign indignation or anger initially but will quit as the interview continues. “Is that all you have on me – this trivial issue?”

3. **A Note of Caution.** It is important that you identify both verbal and non-verbal communication throughout the interview. You must read clusters of behavior and not rely on a single observation. Limitations and exceptions to the use of body language are based on factors such as emotional stability; cultural variations and the age of the subject, suspect, or witness; outside influences, such as drugs or alcohol; and the intelligence of the subject, suspect, or witness (the higher the level of intelligence, the more reliable the behavioral symptoms as an indicator of truth or deceit).

4. **Further Caution:** Effective use and interpretation of body language requires training and practice. IGs should be wary of making decisions about subject, suspect, or witness veracity based only on their interpretation of that person’s body language.

a. As an IG, you conduct interviews as part of an administrative proceeding – not a court of law. However, the people you interview typically have misconceptions about the proceedings. Consequently, most subjects, suspects, or witnesses tend to exhibit psychological traits that the IG can exacerbate if he or she is not cognizant of the stress levels that the interview can generate.

b. There are a number of psychological factors that have a direct bearing on interviewing techniques and influence the reliability of the information obtained. The IG should ascertain the existence of such factors in the subject, suspect, or witness and,

in some cases, reduce or heighten them. Some of the more important emotional factors are anger, fear, and excitement. Such factors are readily recognizable through their physical and verbal manifestations.

- Subjects, suspects, or witnesses who become angry may resist the IG emotionally. In most cases, the IG must suppress this anger. In some cases, however, anger may cause the subject, suspect, or witness to make truthful admissions that he or she might have otherwise withheld. IGs must always keep their own anger in check.

- Fear is aroused through any present or imagined danger. The fear associated with interviews is not fear of physical danger but of psychological danger associated with job and financial security. This emotion may be beneficial when interviewing a hostile subject, suspect, or witness. When attempting to elicit information from a friendly subject, suspect, or witness, IGs should attempt to minimize its influence.

- Excitement tends to heighten perception and may leave false impressions. However, neutral excitement means the subject, suspect, or witness is merely prepared to meet whatever may arise and may also affect the perception of the subject, suspect, or witness. This neutral excitement could develop into fear or anger with their attendant changes in mental attitude. Usually, neutral excitement is aroused when people are aware of a potential danger not specifically directed at them as would be the case in a subject, suspect, or witness interview. IGs may eliminate the supposed danger by adequate assurances to the individual that the situation is not a threat to that person. Tell the person that you are interviewing him or her because he or she may have pertinent information to the matter under investigation or that he or she is not the target or subject of the investigation or Investigative Inquiry.

5. **A Final Caution:** IGs are impartial fact-finders, not interrogators. Unless you are formally trained in the use of body-language assessment, your observations should only be used to facilitate more in-depth questioning. Do not enter your observations of a subject's, suspect's, or witness's body language into an ROI / ROII unless you are fully trained, certified, and authorized to make such an assessment.

Interview Guidelines and Witness Control

As a general rule, the following guidelines should be followed during IG interviews:

- **Greet** the interviewee in an appropriate manner
- **Create and define the space within which the interview will take place** -- avoid large barriers (such as a big table or desk) that can overly separate the IGs from the interviewee, but also avoid situations that are too close for comfort
- Open the interview in accordance with Army Regulation 20-1 and The Assistance and Investigations Guide
- **Define or state the purpose** of the interview
- Establish and maintain **rapport**
- **Maintain control** -- don't let the subject, suspect, or witness interview you
- **Remember** -- the interviewer controls the interview
- **Don't argue** with each other or with the subject, suspect, or witness
- Try to **evaluate each piece of information or allegation on its own merit**; the subject, suspect, or witness may present many allegations that are patently untrue but may also make an allegation that has great significance or importance (IGs who stop listening will miss the latter)
- **Refrain from trying to impress the subject, suspect, or witness** unless such action is specifically used as an interviewing technique
- **Maintain strict impartiality** and keep an open mind, receptive to all information regardless of its nature – **be a fair and impartial fact-finder**
- **Listen before taking action**
- Take your time -- **don't hurry**
- **Be a good listener**
- **Accept the subject's, suspect's, or witness's feelings**
- Ensure you **understand** what **the speaker** is trying to convey
- Use **appropriate questioning techniques** based upon the subject's, suspect's, or witness's demeanor
- **Make perception checks** to ensure you understand what the subject, suspect, or witness means

- **Use silence** when it is appropriate to elicit a response
- **Do not try to solve the problem during the interview**, but do mention the types of subject-matter experts (personnel specialist, counsel, etc.) that may be of assistance
- **Review your notes** and information to ensure **you and the subject, suspect, or witness agree on what was said**
- **Ask what the complainant or subject, suspect, or witness expects or wants to happen** as a result of the information provided
- **Allow your IG peer to ask questions**
- **Make no promises**
- **Ask** if there are **any other issues or information the IG should know** or anything else the subject, suspect, or witness would like to add. It is also helpful to remind the person that he or she can contact the IG investigator if he or she thinks of something important to add after the interview.
- Set up time for continuation, if necessary. **When in doubt, don't punt – HUDDLE!**
- **Extend your appreciation**
 - Close the interview in accordance with Army Regulation 20-1 and The Assistance and Investigations Guide.

Interviewing Civilian-Civilians

1. You do not have the authority to require the appearance or testimony of non-DA civilian witnesses. Your techniques in dealing with civilian-civilians will frequently determine if you can gain their cooperation and testimony. Consider these techniques when dealing with civilian witnesses.

a. Adopt an objective, empathetic attitude.

b. Explain the procedures that you will follow and the rationale behind those procedures, because some civilians may not understand your role or may view the Investigation more as an inquisition. Anticipate potential problems. Do not use military jargon and acronyms.

c. Attempt to conduct all interviews at your location. If the witness does not agree to this request, then conduct the interview at a neutral place such as a hotel or motel conference room. If the witness still refuses, you may conduct the interview where the witness suggests. However, make sure you take appropriate measures to avoid the appearance of impropriety. Be aware of the impact you and your partner have, as IGs, when you go to a person's place of business or some other public location to conduct an interview. There may be rumors that adversely affect the witness. If you make witnesses aware of these potential problems, they will often change their minds about interviewing at the place of work. Civilian clothes could be appropriate when interviewing civilian witnesses at their home or work place.

d. Explain the IG concept of confidentiality and the methods used to protect the rights of all those involved in the investigative process.

e. Should the witness be reluctant to participate in a formal interview, explain the emphasis on the IG process of recorded and transcribed testimony taken under oath. If the witness remains reluctant to cooperate, then continue the interview without recording the session. Complete a written summary of the information provided immediately following the interview.

2. Consider other alternatives if there is continued reluctance to testify after repeated explanations. For example, if a witness refuses to give oral testimony, ask for a written statement. Ask yourself if this witness's testimony is critical to your Investigation. Can you obtain this information from another source? A decision not to interview a reluctant witness is sometimes best.

Interviewer Observations

IG observations are of value when developing follow-on questions and may be of value when weighing the evidence or credibility of a witness. During the questioning, continuously evaluate the mannerisms and emotional state of the witness. Hesitation, evasive answers, body movements, and fidgeting may indicate the witness is not telling the truth or is concealing information. Such behavior may only mean that the witness is nervous with the interview process. Your ability to put the witness at ease becomes very important in these instances. You are better able to judge when a specific question causes the witness obvious discomfort.

Rephrasing the question may be worthwhile, or it may be appropriate to direct your question to the person's discomfort. For example, "I sensed a change in your voice when I asked that question. Why?" When appropriate, write a Memorandum For Record that describes physical mannerisms. Use caution, however, in interpreting physical mannerisms, and avoid attaching undue or unfounded significance to them.

Memorandum For Record

1. A Memorandum For Record (MFR) is a suitable way to record your observations, to identify exhibits, or to record other information important to the Investigation. You may also use an MFR to document a summary of a witness's testimony. **Remember that when you include an MFR with your observations in your report, you also become a witness in your case.**
2. Prepare MFRs while the matters are fresh in your mind. Take a few minutes after the interview to make either notes on the testimony transcript information sheet or dictate your observations on the recording immediately after the recorded testimony.
3. The MFR should contain:
 - a. What was observed (who, what, when, where, and how, if applicable).
 - b. Why the action was recorded.
 - c. What was found.
 - d. Explanatory notes, comments, or comparisons.
 - e. The signature of at least one investigating officer.

Polygraph Use

The polygraph, commonly known as a lie detector, is not an appropriate method for gathering evidence in an IG Investigative Inquiry or Investigation. An Investigation that requires the use of the polygraph has gone beyond the scope of what is appropriate for an IG. If an IG receives a command product that used a polygraph examination as the primary piece of evidence in the command investigation, the IG will not use the command product to resolve the IG allegation. The command product must rely on a strong balance of other evidence, such as testimony, documentation, etc. Therefore, the IG must investigate the allegation and form a conclusion based upon the preponderance of credible evidence. If a command product uses the results of the polygraph examination as one of the many pieces of evidence in the investigation, the IG will view the polygraph results in the same context as a subject-matter expert providing an expert opinion. Moreover, the IG must achieve a superiority of weight of all available evidence to support the conclusion. If the IG has any questions on this matter and the use of this kind of evidence in the conduct of an Investigative Inquiry or Investigation, the IG should call the Investigations instructor at the U.S. Army Inspector General School.

Common Pitfalls

1. Successful IGs use their personal traits but must be able to adjust their own dispositions to harmonize with the traits and moods of the subject, suspect, or witness. There are many errors that an IG can make while making this adjustment. Some of the most blatant are:

- **Showing personal prejudice** or allowing prejudice to influence the conduct of the interview (destroys IG objectivity and credibility);
- **Lying** destroys the IG's credibility and encourages similar behavior from the subject, suspect, or witness;
- **Hurrying** encourages mistakes and omissions and leads to the IG improperly evaluating the veracity of the information provided;
- **Making assumptions**, drawing unconfirmed inferences, and jumping to conclusions may result in important information not being requested or may allow false or unverifiable information to be introduced into the Investigation;
- **Making promises you can't keep** destroys the IG's credibility and reputation and may cause the subject, suspect, or witness to react negatively to other investigative personnel in the future (Note: The only promise IGs legitimately can make to a person involved in wrongdoing is, "I will bring your cooperation to the attention of the appropriate officials");
- **Looking down at, or degrading, the subject, suspect, or witness**, or showing a contemptuous attitude, may anger subject, suspect, or witness and encourage unnecessary emotional barriers;
- **Placing too much value on minor inconsistencies** allows the interviewee and the IG to get 'hung up' on minor or irrelevant issues;
- **Bluffing** destroys the IG's credibility and may allow the subject, suspect, or witness to take charge of the interview;
- **Anger** results in control of the session reverting to the subject, suspect, or witness; it serves as a relief to the subject, suspect, or witness and is a distraction from the information-gathering process; and
- **Underestimating the mental abilities of subject, suspect, or witness**, especially by talking down to him or her, antagonizes the person and invites him or her to trip up the IG.

2. **Summary.** Army Regulation 20-1 stresses a procedurally correct IG subject, suspect, or witness interview. **However, the ultimate goal of the proceeding is to capture the information, facts, and subsequent evidence you need from that person.** IGs set the stage for success through detailed planning and careful interrogatory development. They build upon this planning during the interview by establishing and maintaining rapport with the subject, suspect, or witness; by

understanding and compensating for psychological factors; and by practicing active listening by using both verbal and non-verbal means. Use these techniques when you conduct your interviews. Your interviews will benefit greatly from these techniques, and you will gather the evidence you need to resolve the allegation (or allegations) in question.

Appendix C

Adverse Personnel Actions

1. **Adverse Action.** Army Regulation 20-1 describes adverse actions as any administrative or punitive action that takes away an entitlement, results in an entry or document added to the affected person's personnel records that could be considered negative by boards or supervisors, or permits the affected person to rebut or appeal the action. Adverse action includes "unfavorable information" as described in Army Regulation 600-37, UCMJ action, or with regard to Civilian employees, "personnel action" as defined in 5 USC 2302, (see Glossary, Section II, of Army Regulation 20-1 for a definition of adverse action).

2. **Criminal and Administrative Actions.** Listed below are some of the adverse personnel actions for which a right of confrontation (a right to see the evidence) is required in some measure. If Inspector General reports or records are used as the basis for these actions, those IG records or applicable portions of the records may be made available to the individual against whom the adverse action is directed. This list is not complete and is provided to help further define an "adverse action." Your local Staff Judge Advocate (SJA) can provide further guidance. Contact your SJA or DAIG's Legal Advisor in all instances involving the potential use of IG records for possible adverse action.

3. **Criminal Actions.**

- General Courts-Martial
- Special Courts-Martial (empowered to adjudge a Bad Conduct Discharge)
- Special Courts-Martial
- Summary Courts-Martial
- Field Grade Article 15
- Company Grade Article 15

4. **Administrative Actions.**

a. **Rank Indiscriminate.**

- Revocation of Security Clearance (AR 380-67)
- Letter of Reprimand (AR 600-37)
- Financial Liability Investigations of Property Loss (AR 735-5)
- Line of Duty Investigation (AR 600-8-4)

- Conscientious Objection (AR 600-43)
- Academic Evaluation Report (AR 623-3)

b. Officer Personnel.

- Special Adverse OER (Chapter 3, AR 623-3)
- Relief for Cause (Chapter 2, AR 600-20)
- Elimination from Service (AR 600-8-24)
- Resignation (AR 600-8-24)
- Removal from Promotion, School, or Command List

c. Enlisted Personnel.

- Separation for Alcohol / Drug Abuse (Chapter 9, AR 635-200)
- Separation for Unsatisfactory Performance (Chapter 13, AR 635-200)
- Discharge in Lieu of Trial by Court-Martial (Chapter 10, AR 635-200)
- Entry-Level Separation (Chapter 11, AR 635-200)
- Separation for Misconduct (Chapter 14, AR 635-200)
- Administrative Reduction (AR 600-8-19)
- Bar to Reenlistment (Chapter 8, AR 601-280)
- Military Occupational Specialty Reclassification (Chapter 6, AR 611-1)
- Adverse Non-Commissioned Officer Evaluation Report (AR 623-3)
- Removal from School or Promotion List (AR 600-8-19)

d. Civilian Personnel Actions.

- Removal (5 USC 7512, 7532)
- Involuntary Resignation
- Suspension (5 USC 7503, 7512, 7532)
- Reduction in Grade (5 USC 7512)
- Reduction in Pay (5 USC 7512)

- Reclassification (5 USC 5362)

In addition, other adverse or grievance actions may be set out in local bargaining agreements. These bargaining agreements may establish procedural requirements, and IGs must be familiar with them. When necessary, consult the SJA about the bargaining agreements that pertain to the personnel within your jurisdiction.

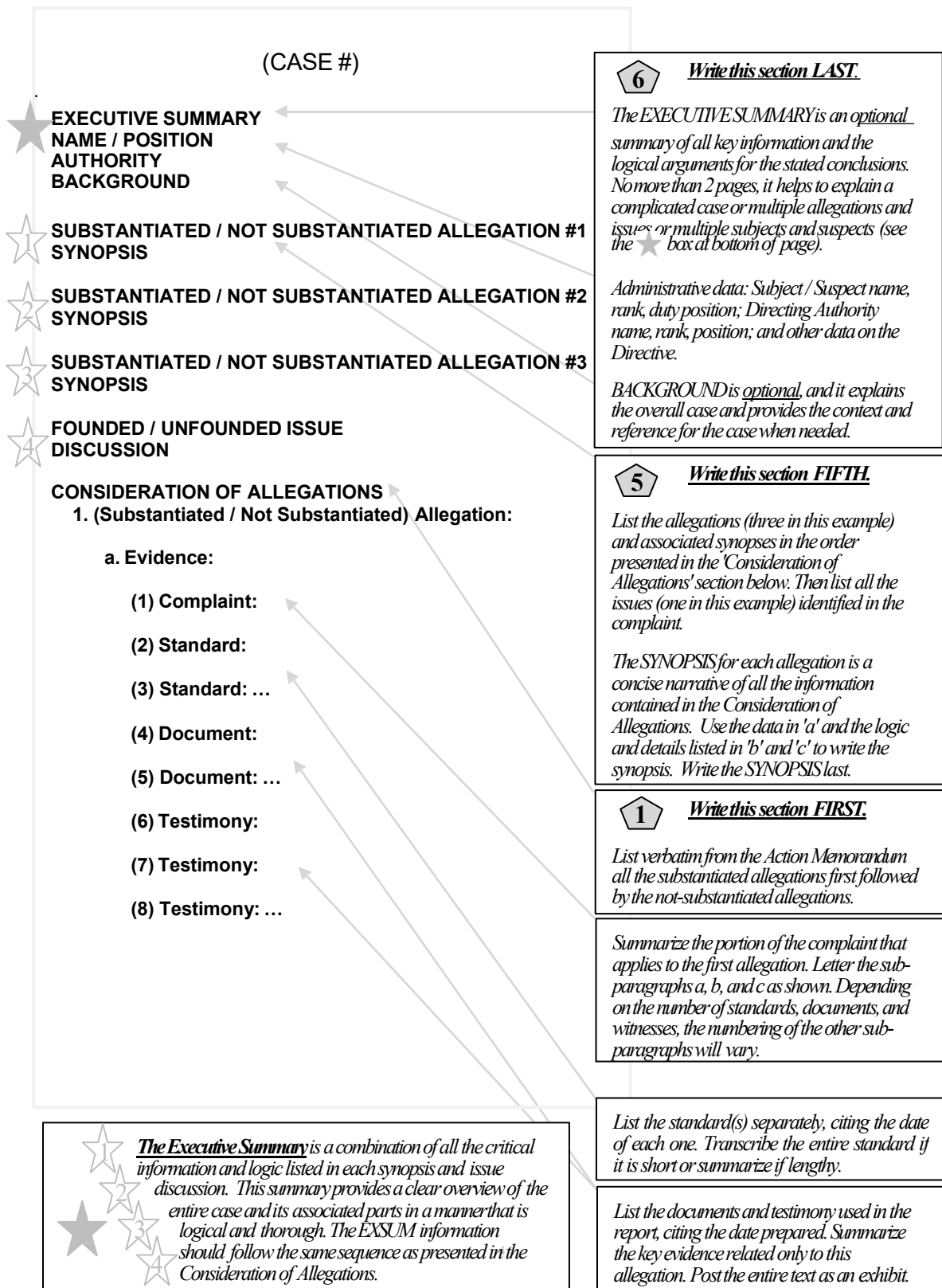
Appendix D

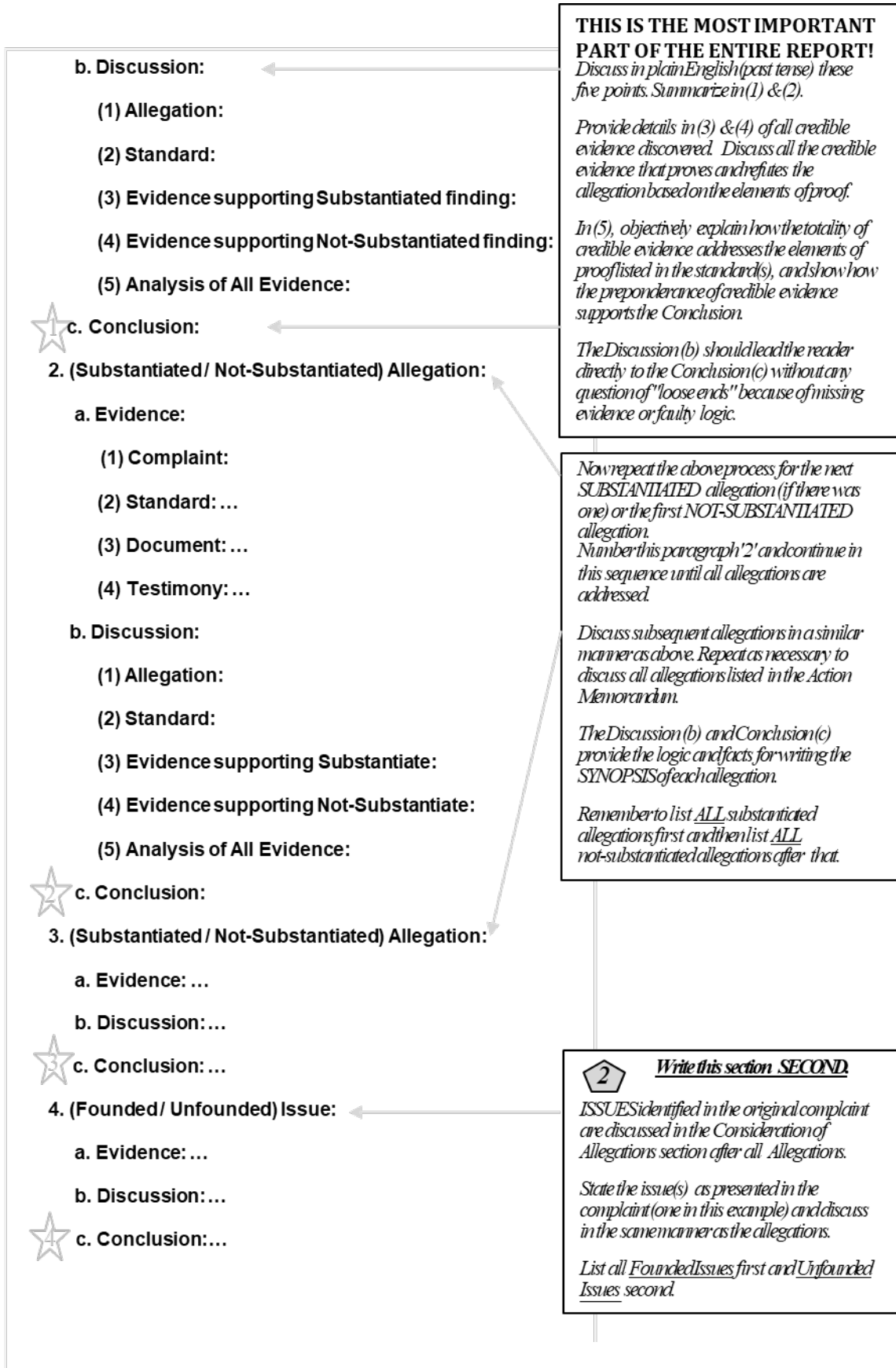
Quick-Reference Guide for Writing the ROI / ROII

Introduction

1. On the following pages are suggestions for how to prepare, organize, and write the final report for IG Investigations and Investigative Inquiries. Remember that this is only a guide and is not prescriptive. IGs may modify this format to meet any special instructions or particular guidance received from their Directing Authorities.
2. This guide provides an example of how to meet all requirements for legal sufficiency and all prescriptive measures from Army Regulation 20-1. It also assists in the logical preparation of ROIs and ROII. The report format is normally read from top to bottom in paragraph and subparagraph sequence. But writing the report out of sequence helps to capture all required information in a discussion that flows logically. When done effectively, this method of writing ensures that the report clearly details how the conclusions and recommendations are supported.
3. This guide shows the report in its final format to the left and explanatory comments in boxes to the right. The numbered pentagons correspond to the recommended sequence for writing the report. Read through this guide once or twice before attempting to use it. Following the recommended sequence for writing the sections will assist in creating a report that thoroughly examines and documents all aspects of the investigation. A properly written ROI / ROII will tell the entire story of the Investigation so that any reader will clearly understand and agree with the conclusions and recommendations.

[PROPERLY MARK THE ENTIRE ROI / ROII IF IT CONTAINS ANY CONTROLLED UNCLASSIFIED INFORMATION (CUI) OR CLASSIFIED INFORMATION.]





<p>5. Other Matters:</p> <p>a. (First matter): _____</p> <p>b. (Second matter): _____</p> <p>c. (Third matter): ... _____</p> <p>d. Unfavorable information: Notification and comment.</p> <p>6. Recommendations:</p> <p>a. Approve the report and close the case.</p> <p>b. (Action, if required, to address issue in paragraph 5a above).</p> <p>c. (Action required to address issue in paragraph 5b above).</p> <p>d. (Action required to address issue in paragraph 5c above).</p> <p>e. (Action required to address issue in paragraph 5d above).</p> <p>[signature block(s)] Investigator(s)</p> <p>CONCUR:</p> <p>[signature block] Inspector General</p> <p>APPROVED:</p> <p>[signature block] Commander _____</p> <p>Date _____</p> <p>Encl EXHIBIT LIST</p>	<p>3 <u>Write this section THIRD.</u></p> <p><i>OTHER MATTERS discusses the details and evidence related to ISSUES (3 in this example) identified during the conduct of IG fact-finding BUT are not related to the allegations or issues identified in the complaint. These are NEW MATTERS that require action or heightened awareness by the Directing Authority.</i></p> <p>Unfavorable Information: List the unfavorable information discovered during fact-finding AND listed in this report that is UNRELATED to the allegations and issues. List the notification date and whether or not the suspect / subject commented on the unfavorable information in his or her testimony, in a statement, or in a separate document.</p>
	<p>4 <u>Write this section FOURTH.</u></p> <p>FIRST RECOMMENDATION IS ALWAYS: "Approve the report and close the case."</p> <p><i>If there is an issue discussed in Other Matters (one in this example), then a recommendation is possibly required to identify who must address or correct the issue.</i></p> <p><i>Subsequent recommendations must specifically address each of the items listed in OTHER MATTERS (four in this example).</i></p> <p>*EXCEPTION: Do not make any recommendations based on any 'unfavorable information' comments.</p>

EXHIBIT	DESCRIPTION	
A	Directive and Complaint	<p><i>Attach these entire documents to the report.</i></p> <p><i>(NOTE: Do not attach Action Memorandum: this document is pre-decisional and protected from release by Exemption 5 of the FOIA.)</i></p>
A-1	Directive	
A-2	Complaint	
A-3	Legal review	<p><i>For substantiated cases, the SIA must review the ROI/ROI for legal sufficiency and due process; the review should not agree or disagree with the findings and conclusions of the IO.</i></p>
B	Testimony	
B-1	Witness (rank/title last name)	<p><i>Attach the transcribed testimony of each witness separately. Identify the date and time of the testimony as well as the name of the person who transcribed it. If the witness provided a statement (not under oath), then include the entire statement. If the IO summarized a witness statement(s), then annotate this with an IO Note.</i></p>
B-2	Witness	
B-3	Witness	
B-4	Witness	
	.	
	.	<p><i>Attach the entire text verbatim of the standard(s) used. Fully identify the standard to the section or paragraph level, as well as the name and the date of the publication.</i></p>
C	Standards	
C-1	UCMJ, Article XX, dated ...	
C-2	DoDD7050.06, Joint Ethics Regulation (JER), dated ...	<p><i>Attach ALL documents gathered and used as evidence in this report. Do not include IG 'work-product' or other extraneous information not used in, and not relevant to, the report.</i></p>
C-3	AR XXX-XXX, The, dated ...	
	.	<p><i>Attach ALL documents gathered and used as evidence in this report. Do not include IG 'work-product' or other extraneous information not used in, and not relevant to, the report.</i></p>
	.	
	.	
D	Documents	<p><i>Attach ALL documents gathered and used as evidence in this report. Do not include IG 'work-product' or other extraneous information not used in, and not relevant to, the report.</i></p>
D-1	DA Form 4037, ORB, COL Joseph P. Smith, dated ..	
D-2	4BCT, Command Open Door Policy Memorandum, dated ...	
D-3	DA Form 67-9, OER, MAJ Jane W. Jones, dated ...	<p><i>Attach ALL documents gathered and used as evidence in this report. Do not include IG 'work-product' or other extraneous information not used in, and not relevant to, the report.</i></p>
E	Notifications	
E-1	.	<p><i>Attach ALL documents gathered and used as evidence in this report. Do not include IG 'work-product' or other extraneous information not used in, and not relevant to, the report.</i></p>
E-2	.	
	.	<p><i>Attach ALL documents gathered and used as evidence in this report. Do not include IG 'work-product' or other extraneous information not used in, and not relevant to, the report.</i></p>
	.	

Part Three

Inspector General Records

Chapter 1

IG Records

Section 1-1 – Overview

Section 1-2 – Use of IG Records for Adverse Action

Section 1-3 – Official Use of IG Records within DA

Section 1-4 – Release of IG Records for Official Purposes Outside DA

Section 1-5 – Release of Records for Unofficial (Personal) Use

Section 1-6 – Release of Information to DA Investigating Officers

Section 1-7 – Release of Transcripts

Section 1-8 – Media Requests

Section 1-9 – Response to Subpoena or Court Order

Section 1-10 – Requests Under the Privacy Act to Amend IG Records

Section 1-11 – Working with IG Records Outside the Normal Place of Duty

Section 1-12 - IG Access to Command Climate Assessments and Medical Information

Section 1-13 - Marking IG Records

Section 1-1

Overview

All IG records, including USAR and ARNG IG records pertaining to Federal matters, are the property of the Secretary of the Army (SA). IG records are maintained by TIG for the SA. These records frequently contain sensitive information and advice. Inspectors General frequently receive requests for information and IG records. You must be thoroughly familiar with the procedures for safeguarding IG information as there is a potential to compromise confidentiality should you inappropriately release IG records. Provisions for handling such requests are covered in Chapter 3, Army Regulation 20-1; refer to it when you receive requests for information. This section discusses the most common situations you will face. If you are ever unsure or have any questions regarding the handling or release of IG records, consult with DAIG's Records-Release Office.

Section 1-2

Use of IG Records for Adverse Action

1. Inspector General records are not normally used for adverse action. A Commander wishing to use IG records to support an adverse action must request TIG approval for release of the record. Requests must state why a follow-on command investigation would be unduly burdensome, disruptive, or futile. In those cases where there is a follow-on investigation in progress and the command has a bonafide need for IG records, the investigating officer may submit a request to DAIG's Records-Release Office. While IG records are not normally used for adverse action, Army Regulation 20-1 does provide for the use of IG records for adverse action against a non-senior-official when there is a DoD IG-approved ROI or ROII containing a substantiated allegation of Whistleblower Reprisal in violation of 10 USC 1034. Army Regulation 20-1, paragraph 3-8, outlines the procedures for release of Whistleblower Reprisal ROIs and ROII's to complainants and to general court-martial convening authorities for potential adverse actions.
2. Send or email the records-release request to DAIG's Records-Release Office in accordance with the procedures outlined in paragraph 3-5 of Army Regulation 20-1. Describe precisely what IG records are required, why they are required, and the adverse action that is contemplated. As a rule, only the minimum records required are released. Normally, the released records consist of selected transcripts and documentary evidence.

Section 1-3

Official Use of IG Records within the Department of the Army

1. Many requests for IG records and information are for official use within DA. IG records and information can be used, without redaction, within DA for official purposes (other than adverse actions). Consult Chapter 3 of Army Regulation 20-1 for more information.
2. Restrictions regarding the release of IG documents and information appear in Chapter 3 of Army Regulation 20-1 and include the following:
 - a. IG records may not be used for adverse action without TIG approval. TIG has granted blanket general release through Army Regulation 20-1 for substantiated Whistleblower Reprisal case records to be used for possible adverse or other action as the command may deem appropriate. Whistleblower Reprisal case records technically belong to DoD IG, and DoD IG requires the services to make substantiated reports available to Commanders for possible adverse action against the suspect.
 - b. IG records are not to be used to compare commands or Commanders.
 - c. IG records are not to be cited in evaluation reports, performance appraisals, award recommendations, or other evaluations maintained in personnel records.
 - d. IG records released for official purposes are not to be converted to personal use or further distributed without the authorization of the IG office of record.
 - e. The contents of a ROII / ROI are not to be released to subjects, suspects, or witnesses named in the report (except for their own testimony as discussed below).
 - f. IG records must be safeguarded and marked in accordance with Army Regulation 20-1.

Section 1-4

Release of IG Records for Official Purposes Outside the Department of the Army

The release authority for records outside DA is TIG, who has further delegated this authority to DTIG, the Director of Army Inspections (DAI), DAIG's Legal Advisor, and the Deputy Legal Advisor. IGs will forward requests for IG records from other Federal Government agencies for official purposes along with **one copy** of the requested information, or a reference to the IGARS case number, to DAIG's Records-Release Office (SAIG-JAR). Coordinate telephonically with DAIG's Records-Release Office prior to sending the records. Investigators from IG, DoD; Defense Investigative Service; GAO; Office of the Special Counsel; or the Merit Systems Protection Board may have an official need for IG records if they are relevant to one of their ongoing investigations or audits. Requests from these agencies for copies of your records must be submitted in writing (including email requests) and include the reason the copies are required. Forward these requests to DAIG's Records-Release Office. DAIG's Records-Release Office must approve the release of the copies to these agencies.

Section 1-5

Release of Records for Unofficial (Personal) Use

1. Requests for release of records for unofficial or personal purposes are made under provisions of the Freedom of Information Act (FOIA). The FOIA allows individuals (anyone) to request government records for private purposes. Inspectors General commonly receive FOIA requests from subjects or suspects against whom they substantiate allegations. It is important that you understand how to process requests for information that are made under the FOIA.
2. Requesters must make their request in writing and must reasonably identify the actual records being sought. No specific format exists; a simple letter will suffice. The request should describe the desired records as accurately as possible and may include a monetary limit on how much in FOIA fees the requester is willing to pay. The request should also furnish as many clues as possible regarding the requested records such as the time, place, persons, events, or other details that will help the DAIG Records Release Office respond to the request. The requester should send the request to **Headquarters, Department of the Army (SAIG-JAR), 1700 Army Pentagon, Washington, D.C. 20310-1700**. The FAX number is commercial (703) 545-4585. Alternatively, an Inspector General who receives a FOIA request verbally will direct the requestor to the DAIG Web Site (<https://www.daig.pentagon.mil/foia.aspx>) so he or she can submit the request using the following email address: usarmy.pentagon.hqda-otig.mbx.saig-zxl@mail.mil.
3. If someone submits his or her records request directly to your office instead of DAIG Records Release Office, respond to the requester in writing that you received the request and that you have referred it to the Records Release Office for search and direct reply. Simply acknowledge receipt of the request. **Do not inform the requester that you have the records and are forwarding them to DAIG.** The intent is not to divulge the existence of the records to a deceptive requester fishing for data without any specific knowledge of the record's existence. For example, a stranger says, "I need records for a case involving LTC NoGood. Can you give me the case number so I can FOIA them?" If the requester has specific knowledge from being involved in the case, use common sense and explain the procedures for a FOIA request.
4. **Forward the original FOIA request, one copy of the requested records, and a forwarding memorandum to DAIG Records Release Office within two working days** in accordance with Army Regulation 20-1, paragraph 3-7f. Advise DAIG of any concerns you or your Commander have concerning the release of the records and indicate the source of any non-IG records being forwarded. Once a FOIA request is received, the file is frozen and you cannot purge your files. Purging your files after a FOIA request is received is a violation of Federal law. When you receive a FOIA request, forward all requested documents to DAIG's Records-Release Office for their review (even if the files are potentially embarrassing to you or your command).
5. DAIG's Records-Release Office processes the requested records. They review the records, apply FOIA exemptions, redact exempted information, coordinate with the

requester regarding processing fees, obtain the necessary approval for release, and then mail or email the released records to the requester.

Section 1-6

Release of Information to DA Investigating Officers

1. Your Directing Authority may choose to resolve allegations reported to the IG with a different investigatory option, such as an AR 15-6 investigation, Rule 303 investigation, CIDC / MPI, or Financial Liability Investigation of Property Loss. Review and follow procedures in Army Regulation 20-1, paragraph 3-4g, for permissible releases of Inspector General records to follow-on DA investigating officers. In general, you may provide a DA investigator with the following:

a. An oral briefing or written summary of the nature of allegations or matters the IG office examined. Be careful to avoid revealing your findings, conclusions, or recommendations. You want the DA investigator to conduct an unbiased investigation -- don't prejudice him or her with your opinions.

b. Readily available documents. Release evidence readily available to any Army investigator not received by you in confidence. Under this category, you may release documents such as vehicle dispatches, personnel and pay records, travel documents, hotel receipts, etc. that DA personnel can obtain in the course of normal duties. Documents provided to the IG by a complainant are considered to be documents obtained in confidence -- unless the complainant states otherwise. An IG may release a document provided by the complainant to a follow-on investigator with the complainant's express consent as annotated on the DA Form 1559 or the Electronic Case Form.

c. Identify witnesses, the witnesses' contact information, and explain their relevance to the case. You can provide a written or verbal list of witnesses and a brief synopsis of their testimony. Do not copy and paste any part of the transcript when providing a brief synopsis. Instead, provide a summarized list of the key evidence obtained from each witness (i.e., bullet comments). If necessary, identify the complainant as a witness and not as a complainant.

2. Do not allow a DA investigator to read your transcripts. Limit the information you release to the minimum the investigator needs to complete his task -- readily available documents and a summary. The most important facet of your communications to a DA investigator is ensuring that you preserve the impartiality of the investigator. Be careful not to be judgmental about the allegations, the credibility of the witnesses, or to reveal your findings. Communicate only the facts to the DA investigator.

Section 1-7

Release of Transcripts

1. **Records-Release Requests.** Witnesses, as well as subjects or suspects, commonly request copies of their testimony. Individuals who provided statements or testimony must submit a FOIA request to the IG office of record to obtain a copy of their own testimony. Upon receipt of the written FOIA request, the IG office of record must forward one collated copy of the requested records to Headquarters, Department of the Army (SAIG-JAR), 1700 Army Pentagon, Washington, D.C. 20310-1700, for action. The FAX number for the records-release office is commercial (703) 607-5865. Inspector General records are only released after case closure.

2. **Transcript Review by Witnesses.** You may allow witnesses, subjects, or suspects to read their transcript or summarized testimony in your office while the case is in progress. It is in your best interest to allow persons to review their own testimony. You can be open and forthright with the individual. The threat to the confidentiality of your case is low since these individuals already know the questions you asked and the answers provided. Additionally, they may remember new details when they are reviewing their testimony. If someone indicates a desire to change or add to his or her testimony, you can conduct a recall interview on the spot. A word of caution: if you prepared a MFR summarizing an interview, ensure that it contains only the evidence the witness provided. Ensure that any opinions or observations you have about the witness or witness's credibility are contained in a separate MFR (since the MFR is internal IG information, do not show it to the witness).

Section 1-8

Media Requests

Do not discuss specific investigations or investigative inquiries with media representatives. **Refer them to your local Public Affairs Office.** Neither confirm nor deny that a specific individual or topic is under investigation or inquiry. Should media representatives request IG records, advise them of the FOIA.

Section 1-9

Response to Subpoena or Court Order

1. **IG Records and Subpoenas.** Procedures regarding a subpoena of IG records are discussed in Army Regulation 20-1, paragraph 3-9d. Should you receive a subpoena, a court order, or have reason to believe either is imminent, immediately consult with your local SJA and DAIG's Legal Advisor.

2. **Responding to a Subpoena or Court Order.** Do not ignore a subpoena or court order. Advise individuals requesting records that they must specifically state in writing what information they desire and why they want it. You should further advise them that DAIG is the release authority. Ensure the requester gives you the original subpoena (or copy of the original if sent electronically) for DAIG records. The attested copy is the requestor's copy. Send the subpoena / court order and responsive records to DAIG's Legal Division.

Section 1-10

Requests Under the Privacy Act to Amend IG Records

Consult Army Regulation 20-1, paragraphs 3-11 and 3-12, for procedures to amend IG records. The authority that directed the record's creation, usually the Command IG or Directing Authority, may approve amending facts in a record, such as a misspelled name, an incorrect identification number, or an updated address. Only TIG can amend records pertaining to findings such as IG opinions, conclusions, and recommendations. Contact DAIG's Assistance Division (SAIG-AC) with any questions.

Section 1-11

Working with IG Records Outside the Normal Place of Duty

1. **Overview.** IG records contain sensitive material and often Personally Identifiable Information (PII) that must be safeguarded in accordance with DoDI 5400.11, dated 29 January 2019.
2. **Personal E-Mail.** DoDI 1035.01 (Subject: Telework Policy), April 4, 2012, Enclosure 3, paragraph f (2) (c), provides that "[t]he use of personal e-mail accounts for PII transmission is strictly prohibited." Army Regulation 25-1, Army Information Technology, echoes this prohibition. This prohibition does not mean that complainants cannot communicate from a commercial email to an IG using their own PII. However, IGs should minimize the use of personal e-mail accounts when possible.
3. **Loss of IG Records Containing PII.** IG records containing PII that are lost or stolen are subject to the same reporting requirements as any other PII document as prescribed in Memorandum, Office of the Secretary of Defense, June 5, 2009, Subject: Safeguarding Against and Responding to the Breach of Personally Identifiable Information, found at www.rmda.army.mil/privacy.
4. **Accessing the IGARS Database from a Personal Computer.** IGs should not use personal computers to access IGARS. Personal computers present a threat of transferring viruses or other malware into the IGARS database. Further, accessing IGARS from a personal computer increases the chance of transferring PII onto a personal computer. PII should never be transferred to a personal computer.

Section 1-12

IG Access to Command Climate Assessments and Medical Information

- 1. Purpose.** This section describes the processes for how IGs can gain access to Command Climate Assessments (CCAs) and medical information to use as evidence in an IG Investigative Inquiry or Investigation or for the purposes of an Assistance Inquiry.
- 2. IG Access to Information.** Paragraph 1-8 in Army Regulation 20-1 provides IGs with unrestricted “access to all documents, records, and evidentiary materials needed to discharge their duties.” But in the cases of CCAs and medical information, IGs must follow certain procedures to obtain that information. All IGs will follow the processes outlined below to gain access to this information.
- 3. Procedures for Obtaining Command Climate Assessments:** Paragraph E-1g (2) in Army Regulation 600-20, Army Command Policy, specifies that IGs who are conducting Investigations and who require CCA information as evidence must follow a well-defined process to procure that data. The local IG conducting the Investigation must submit a written request on official letterhead to the Military Equal Opportunity (MEO) professional at the Army Command (ACOM), Army Service Component Command (ASCC), and Direct-Reporting Unit (DRU) level (DAIG-level investigators must submit the request to the MEO Policy Branch). The request must include justification and the organization’s name; the survey report number and / or survey window; the requesting IG officer’s rank, first name, and last name; and a copy of the IG’s credentials and directive. If the request for this information is denied, the IG will contact DAIG’s Records-Release Office (SAIG-JAR) the ACOM / ASCC / DRU Command IG for assistance.
- 4. Procedures for Obtaining Medical Records and Information:** IGs who believe they may require medical records in order to complete an Assistance Inquiry or resolve an allegation must contact the U.S. Army Medical Command’s (MEDCOM’s) IG staff section for technical-channel assistance. MEDCOM IG will assist the requesting IG in determining if a medical record (in part or in whole) is in fact the actual record required. MEDCOM IG often discovers that the medical record itself is not the best document to provide the required information and will advise the requesting IG on what other documents are preferable. If MEDCOM IG and the requesting IG agree that the medical record is the correct document needed, then MEDCOM IG will advise the IG of the limitations for using that document specific to the IG case in question.

Section 1-13

Marking IG Records

1. **Purpose.** This section consolidates and clarifies marking requirements for IG records.
2. **What is an IG Record?** Chapter 3 of Army Regulation 20-1, paragraph 3-1b, states that: "Inspector general records are documents that IGs produce through the performance of IG duties or documents given to an IG in confidence, such as in the course of submitting an IG complaint."
3. **How Marked.** IGs will mark Inspector General records in accordance with current DAIG guidance for Controlled Unclassified Information (CUI). This guidance is available on TIGS's website. In short, that guidance requires the acronym "CUI" to appear in the header and footer of affected documents. Selected documents will have a CUI category box in the lower right-hand corner of the document (or first page of a document packet). An example CUI category box appears below and is *only* an example. The categories change based upon the content of the document.

CONTROLLED BY: The Inspector General (SAIG-ZA) CONTROLLED BY: 66th Infantry Division (AFVS-IG) CUI CATEGORY: PRIIG / PRVCY DISTRIBUTION/DISSEMINATION CONTROL: FEDCON POC: LTC Albert R. Rightway (703) 123-4567
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For documents created in a word-processing program, use the header and footer functionality to properly mark the record. Another less-desirable option is to use a commercially procured stamp to mark the record manually.

For offices that often use scanned documents, Adobe for Portable Document Format (PDF) files may be a third option. Open Adobe and under the 'Select a Task' column, select 'Edit PDF.' Adobe will prompt the IG to select a file. Select the file for which you want to affix the IG footer. After the file opens, select the "Header & Footer" option under the "Edit PDF" option. Select "Add." In the 'Center Footer Text' block, you can type the CUI header and footer, The 'Preview' functionality will show you how your header and footer will appear when printed. The IG can then save the document with the header and footer.

4. **When to Mark IG Records.** Inspectors General should properly mark and protect IG records as soon as practical. For documents created in a word-processing program, the IG should generate the header and footer simultaneously. When the IG receives documents that are not readily available and given in confidence to the IG, the IG should promptly affix either a stamp or PDF-generated marking.

Use DA Form 7433 permissions from the complainant or the complainant's consent elections annotated on DA Form 1559 to release further documents as necessary.

5. **"Complainant / Witness Provided."** While not prescriptive, IGs should take an additional step in marking provided files. When a complainant or witness (to include subject

/ suspect) provides the IG with documents, the IG should document in the case notes how the IG received the documents and from whom. As an extra step, the IG should physically mark these records as "Complainant Provided" or "Witness Provided" (even going so far as to put the name of the witness on the document for clarity. When any one of these individuals comes back to the IG to obtain a copy, the local IG is not authorized to release these documents. The requestor must follow the procedures for requesting IG records from DAIG's Records-Release Office (SAIG-JAR). Marking the original files as mentioned above will assist the Records-Release Office in expediting the Freedom of Information Act (FOIA) process.

The tables below outline examples of records mentioned within Army Regulation 20-1, Inspector General Activities and Procedures, and The Assistance and Investigations Guide. The table is not all-inclusive but presents common records that IGs will use while performing the Assistance and Investigations functions.

Table 1 - IG Records with CUI Header / Footer (Yes)

<i>IG Record</i>	<i>CUI Header / Footer</i>	<i>AR 20-1 Reference</i>	<i>A&I Guide Reference</i>
IGARS Reports (Electronic Case Form, Standard, Statistical, Man-hours / Days Open, Referral, Ad Hoc)	Yes (Note 1)	3-1b and 3-2a	Part One, Section 1-3-2 (1559); Section 2-8-4
Hotline Completion Report	Yes	3-1b and 3-2a	Part Two, Chapter 10
Hotline Extension Request	Yes	3-1b and 3-2a	Part Two, Chapter 10
Morale Assessments	Yes	3-1b and 3-2a	Part One, Chapter 5
Investigation Reports (ROI, ROII)	Yes	3-1b and 3-2a	Part Two, Section 4-13
Exhibits to ROI / ROII / MROII	Yes and No (Note 2)	3-1b and 3-2a	Part Two, Section 4-13
Investigation Reports (WBR)	Yes	3-1b and 3-2a	Part Two, Chapter 9
WBR Acknowledgement	Yes	3-1b	Part Two, Chapter 9
WIOB Tasker	Yes	3-1b	Part Two, Chapter 9
Investigation Plan Outline	Yes	3-1b	Part Two, Section 4-2
Action Memorandum	Yes	3-1b	Part Two, Section 2-9
Allegation Referral Memo to Command	Yes	7-1i (3) (b)	Part Two, Section 3-1-1
Notification Documents	Yes	3-1b	Part Two, Section 3-2
Evidence Matrix	Yes	3-1b and 3-2a	Part Two, Sections 4-2 and 4-12
Transcribed Testimony	Yes	3-1b and 3-2a	Part Two, Sections 4-3 and 4-6
Force-Field Diagram	Yes	3-1b and 3-2a	Part Two, Section 4-2 and 4-12

Testimony Info Sheet	Yes	3-1b and 3-2a	Part Two, Section 4-8
Subject / Suspect Final Notification for Unfavorable Information (Documentation of Verbal notification)	Yes	3-1b and 3-2a	Part Two, Chapter 5
Non-Readily Available Documents given in confidence to the IG	Yes (Note 4)	3-1b and 3-2a	Part Two, Section 3-1-1

Table 2 - IG Records without Header and Footer (No)

<i>IG Record</i>	<i>CUI Header / Footer</i>	<i>AR 20-1 Reference</i>	<i>A&I Guide Reference</i>
DA Form 1559	Yes and No (Note 5)	3-1b and 3-2a	Part One, Sections 1-3-1 and 2-2-6
DA Form 3881	Yes and No (Note 5)	3-1b and 3-2a	Part Two, Section 4-9
DA Form 7433	Yes and No (Note 5)	3-1b and 3-2a	Part One, Section 2-3-4-2
Acknowledgment to Complainant	No	3-2d	Part One, Section 2-3-4-1
Initial and Final Notification Letters to Complainant	No	3-2d	Part One, Sections 2-3-4-1 and 2-8-1; Part Two, Chapter 3
List of Witnesses	No	3-2a and 3-2d	Part Three, Section 1-6
Directive	No	3-2d	Part Two, Section 2-9
Exhibits to ROI / ROII	Yes and No (Note 2)	3-1c and 3-2a	Part Two, Section 4-13
Final notification to Subject / Suspect (Written)	No	3-2d	Part Two, Chapter 5

Table 3 - Non-IG Records

<i>Non-IG Records</i>	<i>CUI Header / Footer</i>	<i>AR 20-1 Reference</i>	<i>A&I Guide Reference</i>
Command Products (with exhibits)	No (Note 6)	3-1c and 3-2a	Part Two, Section 4-15
Legal Review	No (Note 3)	3-1b	Part Two, Sections 4-13 and 4-15
Readily Available Documents	No	3-1c and 3-2a	Part Three, Section 1-6
Complainant-Provided Documents Given to the IG <u>NOT</u> in Confidence	No (Note 4)	3-2a and 3-2	Part One, Section 2-2-6 Part Two, Section 3-1-1

Complainant-Provided Documents Given to the IG in Confidence	Yes (Note 4)	3-2a	Part Three, Section 1-13
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Note 1. IG Reports Generated in IGARS. As a rule, all Inspector General reports generated from IGARS data are the product of IG work and should be marked in accordance with current DAIG guidance for CUI. If not in effect yet, IGARS will soon automatically prints all reports with the standard CUI header and footer. However, some reports do not necessarily contain IG sensitive information that warrant such protections. For example, the Man-Hours / Days Open and Referrals reports contain no PII, no findings, no case topics, etc. On the opposite side of the spectrum, the Electronic Case Form, when filled out in IGARS, contains IG sensitive data. The IG must afford these reports full protections in accordance with Army Regulation 20-1. As a general rule, only IGs should see the Electronic Case Form.

The Statistical Report does not contain PII or identify specific units unless the IG has access to the data of multiple IG offices. The IG would not present the Statistical Report in its raw form to the Directing Authority. The Assistance and Investigations Guide, Part One, provides examples of how the IG can present data from these reports. The Statistical Report does, however, present trends and systemic issues that the reader could attribute to a particular staff section in broad terms. As such, the IG should exercise caution when presenting this data to the Directing Authority and remind the Directing Authority that IG records cannot be used to compare units (or sections).

The Standard report often contains PII and presents IG sensitive information. These reports should receive full protections by the IG handling these reports. In the raw report format, the data is not useful outside of IG channels for Directing Authority consumption. A review of open Investigations with the Directing Authority is certainly warranted. However, the details of every Assistance Inquiry may not be appropriate -- and certainly specifying complainant names may not be appropriate. If disclosure of a complainant's name is necessary, the IG should use caution in order to minimize the potential for reprisal allegations against the Directing Authority.

The Ad Hoc Query can contain PII or present IG sensitive information depending on the output fields selected and the filters applied. Additionally, the IG can run an Ad Hoc Query based on individual units within the command if the IG has elected to use the UIC Code functionality when inputting IGARS. Sharing the Ad Hoc Query report with the Directing Authority opens the Directing Authority to the potential for comparing commands. Therefore, the Ad Hoc Query requires additional protections.

Note 2. Exhibits to ROI / ROII. The marking of exhibits to the ROI / ROII will depend on the source and nature of the exhibit. The IG should not mark exhibits of regulations or policies that do not have any IG notes or markings. Command products that the IG attaches as exhibits that do not have any IG notes on them do not require marking. However, exhibits to the ROI / ROII that originated from the IG, such as transcribed testimony, must be marked.

Note 3. Legal Reviews. Legal reviews are pre-decisional and have protections much like the Action Memorandum generated by the IG. In the course of an Investigation, the IG may receive a legal sufficiency review for the command product and then one for the ROI / ROII.

While Legal Reviews for sufficiency contain references to confidential IG information, the reviews are not IG-generated records, so IGs will not mark them with the CUI category indicating IG records. Legal reviews are instead protected from disclosure under the attorney-client privilege. Regardless, IGs must safeguard these documents even though they are not marked with the standard CUI header and footer.

Note 4. Documents Given to the IG in Confidence. In accordance with The Assistance and Investigations Guide, Part One, Section 2-2-6, the complainant must provide express consent to the release of documents provided to the IG. An IG may release a document provided by the complainant to a follow-on investigator with the complainant's consent. If the complainant does not consent to the release of his or her provided document(s) to a follow-on investigator, the IG will mark, per DAIG's interim guidance, the complainant-submitted documents with the CUI category box indicating IG records prior to uploading them into IGARS. In contrast, if the complainant does consent to the release of his or her provided document(s), the IG will not stamp any complainant-submitted documents other than the DA Form 1559.

Note 5. Department of the Army Forms. Department of the Army forms, such as DA Forms 1559, 3881, and 7433, contain IG information when completed for or by the IG. However, they do not receive a CUI header and footer until they are entered into the IGARS database as part of the official case file. The complainant may have a copy of his or her DA Form 1559, and the subject / suspect may have a copy of his or her DA Form 3881 prior to entry in the IGARS database. The IG will stamp or mark IG-generated or complainant-provided (in confidence) DA forms with the standard IG classification prior to uploading them into IGARS.

Note 6. Command Products. When the Inspector General refers a complaint or allegation to the command, the IG will not mark those products that the command provides back to the IG with a CUI category box that indicates IG records. When requested, the documents generated by the command are processed through the local command FOIA office, not DAIG's Records-Release Office. These documents are not IG-generated.

Chapter 2

IG Files Management

1. **Purpose:** A standardized file-management system is critical for ensuring IG records are maintained as required and are accessible. The Inspector General Action Request System (IGARS) -- and the ability to upload word, pdf, and other files into that system -- not only increases the accessibility of IG records but also assists in efficient case management. In addition to the use of IGARS as a basic repository for all assistance and investigations cases worked in response to an action request, it is the database by which local IG offices conduct trends analysis and through which DAIG fulfills all Records-Release and Personnel-Screening requirements. As such, this section provides guidance for standardizing IG file management within all IG offices and, most notably, within IGARS.
2. **Document Marking / Identification:** Currently, Army Regulation 20-1, paragraph 3-2, requires the marking of all IG records with the following footer: "For Official Use Only (FOUO). Dissemination is prohibited except as authorized by AR 20-1." However, Department of Defense document marking policy has superseded that requirement with the establishment of Controlled Unclassified Information (CUI) markings. IGs will use the interim DAIG CUI marking guidelines available on TIGS's website until the Department of the Army publishes final guidance in the next year or so. Despite this change in marking requirements, closure letters, as part of final replies and notifications to subjects, suspects, and complainants, are not marked CUI. Furthermore, if handling classified records, IGs must follow Army Regulation 380-5, Department of the Army Information Security Program for additional marking and storage requirements. Required markings only apply to those documents that will ultimately become a part of the final case file. Do not upload classified documents into IGARS.
3. **Case File:** Individual case files help IGs organize and manage the numerous documents gathered and created when conducting assistance inquiries, investigative inquiries, or investigations.

a. IGARS Case File:

(1) **IGARS Case File Attachments.** Attachments to cases in IGARS must be labeled and organized in a way that allows users with no knowledge of the case to identify and review attachments containing specific documents for a variety of uses. At a minimum, documents listed below must be uploaded into IGARS prior to closing a case. Using the file-naming method illustrated below ensures that files are sequenced in an organized and logical manner as they are loaded. Inspectors General may expand the number of files and labeling structure based on the complexity or needs of the case. Keep in mind that this naming convention is not prescriptive and is not meant to align with the IGAP; it just needs to be organized and logical.

- Doc 1 - The complaint (preferably the hard-copy DA Form 1559 with the complainant's information, contact information [unless anonymous], request, and background information).
- Doc 2 - Directive (for formal investigations)
- Doc 3 - Notifications and Referrals (if done in writing; use letters to indicate more than one, i.e. Doc 2a, Doc 2b, etc.)

- Doc 4 - Evidence (Investigation) / Supporting documents (Assistance)
 - Doc 4a - Standard
 - Doc 4b - Documentary evidence (4b(1)_Complainant letter; 4b(2)_DA31; etc.). If the investigation or investigative inquiry determination relied upon medical quality-assurance documents, ensure these documents are clearly marked prior to uploading as follows: "QUALITY ASSURANCE PROTECTED DOCUMENT - DO NOT RELEASE OUTSIDE OF THOSE ARMY IGS WITH A NEED TO KNOW." If the investigation or investigative inquiry determination relied upon sensitive law enforcement documents, ensure these documents are clearly marked prior to uploading as follows: "LAW ENFORCEMENT SENSITIVE PROTECTED DOCUMENT - DO NOT RELEASE OUTSIDE OF THOSE ARMY IGS WITH A NEED TO KNOW."
 - Doc 4c - Testimony (same format as above)
 - Doc 4d - Report (ROI, ROII, MROII, or Hotline Completion Report)
 - Doc 4d(1) - Command product (if an MROII is generated)
 - Doc 4e - Legal review (required for substantiated allegations)
 - Doc 4f - DoD review (for Whistleblower Reprisal cases; DAIG will upload this review)
- Doc 5 - Final Notifications (required for investigative inquiries and investigations)

(2) **Documents to Upload.** Certain documents warrant immediate upload into the IGARS database. For example, the IG must promptly upload the DA Form 1559 for the original complaint; notification memorandums; referral memorandums; and DA Form 3881 or DA Form 7433, if executed. These documents will not necessarily change in the course of the IG addressing the complaint. By uploading these documents as the IG receives them, higher level IG offices can readily view the case notes and uploaded documents if necessary.

(3) **IGARS Case Notes.** IGs must update the case notes in IGARS within a reasonable time from any action the IG takes to address any aspect of the case. If IGARS is not available, the IG should document the properly formatted case notes in a Word document until IGARS is available. The IG should encrypt and safeguard any files uploaded to the computer. When IGARS is unavailable, the local IG should print a copy of the case notes with the proper footer and file a copy in the hard-copy file until the IG can upload the notes into IGARS. These hard-copy procedures allow other IGs in the office to review the case if there are questions and the action officer is not available. However, there is no expectation for an IG to print an Electronic Case Form every time the IG makes an entry into IGARS and file those notes in the hard-copy file. The intent behind maintaining a hard copy file is to maintain documents and case notes the IG has not uploaded to IGARS.

b. Hard-copy Case File:

(1) **Hard-Copy File Requirements.** There is no prescriptive requirement within Army Regulation 20-1 or The Assistance and Investigations Guide to maintain a hard-copy file for IG cases. The Assistance and Investigations Guide notes that hard-copy files are not required for Information IGARS; however, the guide does not preclude the local IG office from keeping a hard-copy file for any IGAR the IG receives. The general intent behind maintaining a hard copy file for cases is so that other IGs in the office can continue working the case if the assigned IG suddenly becomes unavailable. This hard-copy file may include documents not yet loaded or necessary for upload.

There is no prescriptive guidance on how the local IG office organizes the hard-copy files maintained in its office. However, the local IG office should develop a Standing Operating Procedure (SOP) to clearly standardize the files within the office. If local IG offices maintain hard-copy files, the office must maintain the files in accordance with AR 25-400-2, The Army Records Information Management System (ARIMS) and retention periods for IG records.

Inspectors General should keep IGARS up to date with documents pertaining to a particular case. However, in the course of fact-finding, IGs will collect many hard-copy documents that may not be relevant to the case. If the IG uploads all the documents received, whether they are relevant to the case or not, the case file can become cluttered with needless data and therefore hard to navigate. Maintaining a file for these hard-copy documents is a better solution. Thus, if the document becomes relevant to the case, the IG can then upload that document. If the assigned IG is not available, another IG can review the IGARS case notes and files and then the hard-copy file in order to take over the case.

(2) **Miscellaneous documents:** After closing a case, IGs should not retain any documents beyond those specified in this chapter unless, in the rare case, that the document retention is deemed absolutely necessary. During the course of an assistance inquiry or investigative inquiry / investigation, IGs often collect, obtain, and create various miscellaneous documents and information that help them resolve the matter. Prior to closing a case, IGs will transcribe all pertinent notes into the IGARS file case notes and then shred the non-pertinent data in the case file like the investigating officer's personal comments, stick-on notes (like Post-it notes), duplicate documents, or other extraneous documents that are not required as indicated above or necessary for reasons of clarity, etc. Otherwise, if there is a records-release request, the IG can no longer delete or destroy any notes; the entire record, including every one of the stick-on notes, has to be scanned and sent to DAIG's Records-Release Office. Including such information as part of the release has the potential to confuse the recipients because much of that information will only make sense to the IG who generated it.

(3) **Electronic Mail.** Inspectors General may receive relevant information from different sources for a case through email. Cutting and pasting the entire email into IGARS is not the best approach. Instead, the IG should summarize the relevant content of the email in a case note or even quote specific passages that are directly relevant to the case. The IG can print and properly footnote the email and file it in the hard-copy file, allowing all IGs in the office to review the source document for the case note if necessary. If the email eventually serves as a primary-source document for the case, the IG can upload the entire email into IGARS as a separate document.

For this same purpose, the assigned IG should also maintain a hard-copy file for documents that the IG received electronically but which the IG does not upload into IGARS. If the assigned IG is not available, another IG will not have access to the files stored digitally on the assigned IG's system. By maintaining hard copies of electronic documents not loaded into IGARS, the IG overcomes this obstacle, and a fellow IG has access to all the same information.

(4) **File Folder Labeling and Filing:** File folder labeling is described in AR 25-400-2, The Army Records Information Management System (ARIMS). According to ARIMS, the office may arrange records to best meet the needs of that particular office, i.e. by case number, case label, date opened, etc. The case label, also per local office SOP, can be unit and issue / allegation, the topic of an inspection, or combinations of the two. However, do not label files

using personal identifiers such as names, identification numbers, dates of birth, etc. Furthermore, ARIMS requires labels to distinguish between records managed entirely within the office and records that will eventually be transferred to another location. Army Regulation 25-400-2 addresses these requirements in detail. The IG can manually type file labels or go to <https://www.arims.army.mil> for automated electronic file labels.

All IG records must be stored in a secure place. Since non-IG personnel such as building coordinators, maintenance, or custodial support often have access to offices, IGs should consider ensuring that their offices have filing cabinets with locks where only IGs have the keys. Furthermore, IGs should consider instituting a clean-desk policy in place to secure IG records (paper copies, CDs, tapes with recorded testimonies, and external drives) whenever all IGs leave the office -- even if it is just for lunch. See paragraph 1-7k in Army Regulation 20-1 regarding IG requirements for office space and records security guidelines.

(5) **File Folder Retention / Destruction:** The retention period to maintain a file depends on the type of record. The ARIMS website normally posts this type of guidance. Since case files (with all required documents) are required to be uploaded into IGARS, Army IG offices are no longer required to maintain hard-copy case files once a case is closed. However, as a general rule, before destroying the hard-copy files and closing the case, the IG must upload all relevant documents into IGARS that a future IG will need to read and understand in order to arrive at the same determination. The National Archives Records Administration (NARA) has agreed that IG cases with substantiated allegations can be permanently stored within IGARS. The decision to do so and how (keep entire hard-copy file that matches the IGARS file, burn a CD of the IGARS file, etc.) is left to the local IG office. For assistance and investigations records, destruction is **three years** from case closure if the case was assistance or contained not-substantiated allegation(s) and **30 years** if the case contained a substantiated allegation. There is a **15-year** hold before destruction for senior-official cases with not-substantiated allegations; however, these records should only be found at DAIG's Investigations Division and not at any of the local IG offices. Also, IGs need to maintain files that contain certain sensitive topics such as prisoner abuse or other subjects considered of historical value. If in doubt, check with DAIG's Assistance Division (especially if the case was linked / referred to Assistance Division) and with DAIG's Record-Release Office prior to destruction. DAIG's Information Resource Management Division (IRMD) will ensure that IGARS case files are purged or retained in accordance with the requirements stated above. Local IG offices are responsible for the proper disposal of any hard-copy case files they choose to retain. Contact DAIG's Information Resource Management Division (IRMD) for more information.

4. **References:** The following is a short (but not all-inclusive) list of records-management references that prescribe record access, maintenance, storage, and destruction.

- Army Regulation 20-1, Inspector General Activities and Procedures
- Army Regulation 25-1, Army Knowledge Management and Information Technology Management
- Army Regulation 25-400-2, The Army Records Information Management System (ARIMS)
- DA PAM 25-403, Guide to Recordkeeping in the Army
- Records Management and Declassification Agency: <https://www.rmda.army.mil>
- Army Records Information Management System: <https://www.arims.army.mil>

Glossary of Key Abbreviations

ACOM	Army Command
AO	Action Officer
ASCC	Army Service Component Command
CIDC	Criminal Investigation Division Command
CIGIE	Council of Inspectors General on Integrity and Efficiency
CUI	Controlled Unclassified Information
DAIG	Department of the Army Inspector General Agency
DoD	Department of Defense
DRU	Direct Reporting Unit
ER	Extension Request
FOIA	Freedom of Information Act
FOUO	For Official Use Only
HCR	Hotline Completion Report
HL	Hotline
IG	Inspector General
IGAP	Inspector General Action Process
IGAR	Inspector General Action Request
IGARS	Inspector General Action Request System (database)
IGNET	Inspector General Worldwide Network
IGPA	Inspector General Preliminary Analysis
IO	Investigating Officer or Intelligence Oversight
MFR	Memorandum For Record
MC	Member of Congress
MP	Military Police

MPI	Military Police Investigator
MRCD	Military Reprisal Complaint Determination or Military Restriction Complaint Determination
MR / RCN	Military Reprisal / Restriction Complaint Notification
NSPS	National Security Personnel System
OOI	Office of Inquiry
OoO	Office of Oversight
OoR	Office of Record
PA	Privacy Act or Preliminary Analysis or Personnel Action
PC	Protected Communication
QSHI	Quality Standards for Hotline Inquiries
RMO	Responsible Management Official
ROI / ROII	Report of Investigation or Investigative Inquiry
RSO	Records Screening Office
SAIG	Office Symbol for DAIG
SARC	Sexual Assault Response Coordinator
SES	Senior Executive Service
SHARP	Sexual Harassment / Assault Response and Prevention
SJA	Staff Judge Advocate
SO	Senior Official
TIG	The Inspector General
UPA	Unfavorable Personnel Action
USAAA	U.S. Army Audit Agency
WBR	Whistleblower Reprisal
WIOB	Whistleblower Investigations and Oversight Branch

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