

Investigation Manual

CHAPTER 1 - INTRODUCTION

TABLE OF CONTENTS

0101 Purpose

0102 Application

0103 Advisory Nature

0104 Standard of Competence

0105 Disclaimer

0106 Supplements

0107 Suggestions for Revisions

0108 Definitions

CHAPTER 1 - INTRODUCTION

0101 **PURPOSE:** The purpose of this manual is to set forth guidelines for the conduct of investigations by Department of the Navy (DoN) Inspector General (IG) personnel and others who perform IG investigations. It is intended for the official use of only those persons charged with the conduct and review of such investigations. Requests for release of all or part of this manual to anyone else should be referred to the Office of the Naval Inspector General (NAVINSGEN). Return to Chapter Table of Contents.

0102 **APPLICATION:** All Echelon II IG organizations assigned additional duty to the Naval Inspector General pursuant to SECNAVINST 5430.57F, "Mission and Functions of the Naval Inspector General," shall use this manual as a guide for IG investigations they conduct. This manual also shall be used as a guide for all investigations, at any level, conducted at the direction of NAVINSGEN. All other organizations and personnel conducting IG investigations are encouraged to adhere to its guidelines. Return to Chapter Table of Contents.

0103 **ADVISORY NATURE:** Although certain methods, techniques, and procedures should be followed in IG investigations, every investigation is unique. IG investigators therefore must exercise sound judgement in deciding how to

proceed in each investigation. Consequently, most of the information in this manual should be viewed as advisory in nature, even in those instances where use of the manual is required pursuant to paragraph 0102. Where mandatory requirements are discussed, they are clearly identified by use of bold underlining in conjunction with terms such as "shall" or "must." In most cases, the mandatory requirements mentioned in the manual are imposed by law, regulation, Department of Defense (DoD) directives or Naval instructions. Return to [Chapter Table of Contents](#).

0104 **STANDARD OF COMPETENCE:** Notwithstanding its advisory nature, the issuance of this manual establishes standards of competence and professionalism by which investigations may be judged. Should, for example, questions about the proper way to conduct an IG interview arise during a disciplinary proceeding, the IG investigator may observe government attorneys use the manual to support the manner in which the interview was conducted if the investigator followed its guidelines. Conversely, attorneys for the person being disciplined are likely to use the manual to attack the interview if the investigator did not adhere to its guidance. Hence, the prudent investigator should be familiar with the procedures discussed in this manual and be prepared to articulate sound reasons why they were not employed in a particular situation. Return to [Chapter Table of Contents](#).

0105 **DISCLAIMER:** This manual does not create, and shall not be construed as creating, any right or benefit, substantive or procedural, enforceable at law by any person against the United States, its agencies, its officers or employees, or any other person. Thus, for example, a person who complains of fraud, waste, or abuse within a DoN organization does not have the right to insist the allegation be investigated simply because this manual discusses the investigation of such allegations. Nor does that person have the right to insist that any of the techniques, methods, or procedures discussed in this manual be applied to a particular investigation conducted by a DoN IG organization. Return to [Chapter Table of Contents](#).

0106 **SUPPLEMENTS:** Supplements are permitted. Echelon II IG organizations intending to issue supplements shall submit drafts directly to the Naval Inspector General (attn: Director, Hotline Investigations Division) not less than 30 days in advance of the intended effective date; approval is implied unless objections are noted. All other IG organizations shall submit proposed supplements through the IG chain for approval by the Naval Inspector General. Return to [Chapter Table of Contents](#).

0107 **SUGGESTIONS FOR REVISIONS:** Suggestions for revisions and additions are encouraged. They should be sent to the Naval Inspector General (attn: Director, Special Inquiries Division). Return to [Chapter Table of Contents](#).

0108 **DEFINITIONS:** For the purpose of this manual, the terms and phrases in this paragraph mean the following:

1. "Admissions" are voluntary statements acknowledging involvement in a matter under investigation.
2. "Allegations" are statements offered for proof through an IG investigation. They usually take the form of unsupported accusations of wrongdoing. No presumption of veracity or accuracy attaches to an allegation unless some evidence tending to support the allegation is submitted with it or developed during the investigation. The investigator's job is to obtain evidence sufficient to sustain or refute the allegation or explain why it is not possible to do either.
3. "BCNR" means the Board for Correction of Naval Records.
4. "Complainants" are people who present allegations that trigger a decision to conduct an IG investigation.
5. "Confessions" are voluntary statements admitting acts or omissions that violate a federal or state law, rule or regulation, including DoD or DoN regulations, directives, instructions, or other written policy. Confessions may be oral or written, and usually provide details of the acts or omissions.
6. "Convening Authority" is a commissioned officer who is authorized to convene a court-martial to try a person subject to the Uniform Code of Military Justice (UCMJ). Only general court-martial convening authorities are authorized to grant formal immunity from prosecution under the UCMJ.
7. "Corrective action" is action taken to "fix the system" to minimize the likelihood undesirable activity identified during an IG investigation will reoccur. Establishment or augmentation of procedures, checks and balances, and training are typical corrective responses.
8. "Court-Martial" is the exercise of military jurisdiction over criminal offenses as prescribed by law and regulation. A court martial is a court of limited duration and jurisdiction consisting of a military judge, a panel of members, or both, or a single officer detailed as a summary court-martial. There are three types of courts-martial: general, empowered to impose any sentence prescribed by law, including death; special, empowered to impose lesser punishment, including not more than six months confinement; and summary, which may impose limited punishment, including not more than 30 days confinement. Conviction by a general or special court-martial creates a Federal criminal record. Conviction by a summary court-martial creates only an administrative record.
9. "Custodial interrogation" is interrogation conducted by a law enforcement officer after a person has been taken into custody or otherwise deprived of

freedom of action in a significant way. For the purpose of this definition, persons conducting IG investigations are law enforcement officers.

10. "Criminal prosecution" is the process by which persons charged with violating criminal provisions of the United States Code (including the UCMJ) or state law are tried for their alleged offenses in a United States district court, a state court, or a general or special court-martial.

11. "Disciplinary action" is action, short of criminal prosecution, taken against a person found to have engaged in wrongdoing, other than training, counselling or a performance-based action. Disciplinary action runs the spectrum from letters of censure to removal or dismissal, including such actions as: admonition, reprimand and other nonjudicial punishment; suspension; demotion or reduction in rank; and summary court-martial.

12. "DoDIG" means the Inspector General of the Department of Defense.

13. "DoN" means the Department of the Navy.

14. "EEOC" means the Equal Employment Opportunity Commission.

15. "DoN IG organization" means every organization formally assigned to perform IG functions on a regular basis within the DoN. It includes NAVINSGEN, Echelon II and III IGs, and any other organization, such as a command evaluation office, that performs IG functions as part of its normal duties. A list of DoN IG organizations appears in the appendix of this manual.

16. "FOIA" means the Freedom of Information Act.

17. "GCM" means general court-martial.

18. "Hotline caseworkers" are people who have initial contact with hotline complainants, in-person or over the telephone. Hotline caseworkers may be IG investigators, but in most cases are not the people assigned to perform the principal investigation.

19. "Improper (conduct)" is conduct (acts or omissions) found to violate an identifiable directive, instruction, policy, regulation, rule, statute, or other standard applicable to the DoN, without regard to knowledge, motive, or intent. Compare to "inappropriate conduct" and "misconduct" defined below.

20. "Inappropriate (conduct)" refers to action a reasonable person would consider likely to erode confidence in the integrity of the DoN, but which does not violate an identifiable directive, instruction, policy, regulation, rule, statute, or other standard applicable to the DoN. Sections 5 and 6 of Chapter 12 of DoD 5700.7-R, "Department of Defense Joint Ethics Regulation," provide guidance for

identifying inappropriate conduct. Note, however, that violation of the general principles set forth at 5 CFR 2635.101 (Office of Government Ethics Standards of Ethical Conduct) is improper conduct. Because inappropriate conduct involves questions of ethics about which reasonable people may differ, the ethical considerations that underlie a finding of inappropriate conduct must be set forth and discussed in the investigative report.

21. "Inquiry" is a general term used to refer to any form of examination into a matter, including inspections, investigations, area visits and surveys, but not including audits. Compare to "preliminary inquiry" defined below.

22. "Interview" is a controlled conversation conducted for the purpose of obtaining information from individuals who may be complainants, witnesses, subjects or suspects.

23. "Interviewing" is a specialized pattern of verbal communication conducted for the purpose of obtaining and furnishing information.

24. "Interrogation" is a demand for information, or the process of obtaining information by interview, from an unwilling or uncooperative person, usually for the purpose of obtaining admissions or confessions.

25. "Investigation" means any form of examination into specific allegations of wrongdoing. An investigation is one form of an IG inquiry.

26. "IG" means Inspector General.

27. "IG function" means any task or function that is customarily performed by an Inspector General, including those set forth in SECNAVINST 5430.57F, "Mission and Functions of the Naval Inspector General." However, for the purpose of this manual, an audit is not an IG function.

28. "IG office" is a generic term meaning any office that performs IG functions.

29. "JAGC" means the Judge Advocate General's Corps of the DoN.

30. "JAGMAN investigation" means a fact finding investigation convened and conducted pursuant to the Manual of the Judge Advocate General of the Navy (JAGMAN).

31. "Misconduct" is improper conduct undertaken (1) with the knowledge that the conduct violates a standard, or with wilful disregard for that possibility; (2) with the intention to harm another; or (3) for the purpose of personal profit, advantage, or gain. Gross negligence is misconduct under this definition; simple negligence is not.

32. "MSPB" means the Merit Systems Protection Board.
33. "NAVINGEN" means the Office of the Naval Inspector General. "The NAVINGEN" refers to the person who is the Naval Inspector General.
34. "NCIS" means the Naval Criminal Investigative Service.
35. "NJP" means non-judicial punishment.
36. "OGC" means the Office of the General Counsel of the DoN.
37. "OSC" means the Office of the Special Counsel.
38. "Other DoN IG organization" means every DoN IG organization except NAVINGEN.
39. "PA" Means the Privacy Act.
40. "Preliminary inquiry" means the initial phase of an IG investigation. See Chapter 4.
41. "Principal investigation" means the main phase of an IG investigation. See Chapter 5.
42. "Protected communication" means the transmission of information that may be disclosed under a whistleblower protection statute by a person the statute allows to transmit such information, provided the information is disclosed to someone authorized by the statute to receive it. Except for some communications of military personnel to an IG or member of Congress, protected communications must also be whistleblower communications (defined below). However, not all whistleblower communications are protected communications.
43. "Remedial action" is action taken to restore individuals who have been harmed by the wrongdoing of others, or injured by unintended consequences of "the system," to their prior circumstances.
44. "Responsible authorities" are people who have authority and responsibility to take corrective, remedial, or disciplinary action based on the findings of an IG investigation.
45. "Results of Interview" or "Memorandum of Interview" is a written record of what was said and what occurred during an interview, derived from notes and memory of the interviewer.
46. "SCM" means summary court-martial.

47. "SECNAV" means the Secretary of the Navy.
48. "SPCM" means special court-martial.
49. "Statement" is an oral or written account of an event.
50. "Sworn Statement" (Affidavit or Declaration) is a written or printed declaration or statement of facts made voluntarily. An affidavit is confirmed by the oath or affirmation of the party making it, before a person having authority to administer such oath. A declaration is made pursuant to 28 USC 1746 and need not be notarized before being introduced in an administrative or judicial proceeding.
51. "Subjects" are people against whom allegations of wrongdoing have been made. Used loosely, the term includes people accused of either criminal or non-criminal conduct. More precisely, subjects are those accused of non-criminal wrongdoing. Compare to suspects, defined below.
52. "Subject commands" are those organizations in which wrongdoing is alleged to have occurred.
53. "Suspects" are people against whom sufficient evidence has been developed to warrant the belief that criminal prosecution would be reasonable and appropriate under the circumstances. Because most IG investigations are conducted after appropriate authority has determined not to pursue criminal sanctions, IG investigations seldom involve suspects as so defined.
54. "Standard of Proof" means the degree of certainty necessary to decide that an allegation should be sustained when all of the credible evidence, pro and con, developed during the investigation is weighed together. For most IG investigations, the standard of proof is "preponderance of the credible evidence," meaning that it is "more likely than not" that an event occurred. This is sometimes quantified as a 51% or greater likelihood. This is the standard most often used in civil litigation. Compare to the standard of "proof beyond a reasonable doubt" used in criminal prosecution (approaching a "moral certainty" or a percentage in the high 90's). An intermediate standard that is applied in some instances, such as civilian employee whistleblower reprisal cases, is "clear and convincing evidence."
55. "Tasking authority" is that person who has the authority to direct an IG organization to conduct a particular investigation.
56. "UCMJ" means the Uniform Code of Military Justice.
57. "USC" means the United States Code. The USC is a topical, rather than chronological, compilation of US law.

58. "Whistleblowers" are those people who disclose information they reasonably believe is evidence of a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety.

59. "Whistleblower communications" are disclosures of information by people who reasonably believe the information they disclose is evidence of a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety.

60. "Witnesses" are those people selected for interview during an IG investigation because they may have information that tends to support or refute an allegation, or information that may lead to the discovery of such information.

61. "Wrongdoing" is a generic term for activity that may be the subject of an IG investigation, and includes misconduct, improper conduct, and inappropriate conduct. Return to [Chapter Table of Contents](#).