

**OFFICE OF THE
NAVAL INSPECTOR GENERAL**



**IG INVESTIGATIONS
Workbook & Case Study
AUGUST 2007**

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Exercise 1:

Analyzing the Complaint
Drafting the Allegation

Analyzing the Complaint & Drafting the Allegation

The following pages contain sample hotline complaints. This exercise is designed to provide you with the opportunity to review and analyze actual complaints. After reading the complaint, determine whether the matter is appropriate for the IG and, if not, what action you would take if you received the complaint.

The second part of this exercise is drafting the allegations. For each complaint that is tasked for investigation, you will draft the allegation.

Common Hotline Complaint Issues

| | |
|---|--|
| Abuse of Title/Position | Misuse of Government Equipment/Manpower/Resources |
| Adultery | Other |
| Antideficiency Act | Pay/Payroll Allowances & Entitlements |
| Appearance of Impropriety | Procurement Issues |
| Conflicts of Interest | Prohibited Personnel Practices/Nepotism |
| Criminal Issues | Quality of Life/Morale & Personal Affairs |
| Dependent/Domestic Affairs & Support | Recruiting/Retirement/Discharges |
| EEO – Race/Sex/Religion | Reprisal |
| Ethics | Safety/Environmental |
| False Official Statements/Claims | Security/Intelligence |
| Financial Obligations | Sexual Harassment |
| Fraternization | Time and Attendance |
| Management/Organization Oversight | Travel Abuses |
| Medical/Dental Issues | UCMJ/Navy Regulation Violations |

Matters Appropriate for an IG Investigation

| |
|--|
| Abuse of Title/Position |
| Bribes/Kickbacks/Acceptance of Gratuities |
| Conflicts of Interest |
| Ethics Violations |
| False Official Statements/Claims |
| Fraud |
| Gifts (Improper Receipt or Giving) |
| Improper Referral for Mental Health Evaluations |
| Mismanagement/Organization Oversight (Significant Cases) |
| Misuse of Official Time, Gov't Property, Position and Public Office |
| Political Activities |
| Purchase Card Abuse |
| Reprisal (Military Whistleblower Protection) |
| Safety/Public Health (Substantial/Specific) |
| Systemic Problems |
| Time and Attendance (Significant Violations) |
| Travel Card Abuse |
| Travel Fraud (TDY and TAD) |
| Waste (Gross) |

Complaint # 1

Anonymous complainant alleged accounting fraud and other improprieties at Naval Aerospace Medical Research Laboratory.

Specific allegations include:

1. NAMRL maintains two sets of accounting books and the XO, Comptroller, and Department Head are covering up major fraud.
2. Money is being funneled outside of NAMRL with no oversight.
3. The XO has covered up fraud, waste and abuse as well as inappropriate actions by the Department Heads.
4. The XO has created a hostile working environment.
5. The Department Head is putting out false information on the status of NAMRL devices.

Complaint #1

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint #2

My name is Jim Jones and I am writing this letter to inform your agency of the unethical and compromising actions that took place during a contract bidding process aboard MCAS Cherry Point NC, at VMAT-203. I worked for DynCorp/CSC on the maintenance contract.

The current contract was scheduled to end on April 31, 2005 and the contract was in the process of being re-bid. On Weds. 23 March 2005, I asked SSgt Smith if he had heard any thing regarding the contract re-bid. He told me MSgt Davis told him it was a done deal. The next afternoon I noticed the Maintenance Material Control Officer's office with the door closed. I have never seen a civilian employee in the Captain's office with the door closed during my almost twelve years at VMAT-203. When he came outside I asked John what was going on and why was he in Captain Swanson's office. He kept telling me "I can't tell you". Finally he told me, "The Captain had him submit a resume to a certain company". He said, "I am not sure of the company name, it was like L3, or 3L's". He also told me 3 or 4 times "that the situation had been tearing him up". During the previous re-bid when a company was seeking a person to fill a position, the Maintenance Material Control Officer announced it to all qualified personnel, not just to the one he favored.

On Friday, 25 March 2005 I filed my 1st online complaint to the Station Inspector's office aboard Cherry Point which stated my only concern was to try and make sure our contract re-bid was fair and legal. The first complaint was dismissed because of a misunderstanding of when things occurred. So on April 2, 2005 I submitted a 2nd complaint to the Station Inspector's Office via the online hotline. I submitted this complaint to clarify when things occurred. This 2nd complaint was investigated with both the Captain and John denying any wrongdoing. Because they both denied the allegations the Station Inspector notified me on April 11, 2005 that the matter had been investigated with negative results and would be considered a closed issue.

I then learned that the new maintenance contract at VMAT-203 had been awarded to L3 Communications, with John as the area manager. I immediately sent a 3rd complaint to the Station Inspector's Office. I then received a letter from L3 offering me a job. Then around the 21st of Sept, the Station Inspector sent me an email to let me know John had been found not qualified for the area manager job. They told me it would be dealt with appropriately. I don't think anything was done because he is still working on the new contract even after lying on his resume which the application states is grounds for dismissal. I am sure that because I cost John his job as area manager, the Captain and L3 decided to retaliate against me and withdraw my offer of employment. I know nothing has happened to the company L3, or to John. It just doesn't seem right that after I brought this to their attention that I don't have a job and John is still working with L3.

Complaint #2

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 3

To Whom It May Concern,

I reported a problem to my boss, LT Allan Brian, who later gave me a bad evaluation. In June 2004, I complained to the LT that the contractor who was working with us was stealing government supplies. Later, he called me into the office and asked me questions about the complaint. The Master Chief was there and was a witness. We talked about an hour and I told him everything I knew. The contractor, Witworth Systems, had some employees that were stealing supplies, like paper and other stuff.

About three weeks later I got my eval and the LT gave me a 3.0 in performance. On the last eval, I got a 4.0. So for reporting fraud, waste and abuse I got retaliated against!

GMG3 Edward Badeval
USS Boxer
Weapons Department

Complaint #3

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 4

I have tried to find the local IG with no success. The individual that answered the phone had no idea what an IG complaint was to include the Office of the Staff Judge Advocate. I received the information on how to file a complaint through Senator John McCain's office. I have spoken to the service member's Chief and he is aware of the ongoing collection of BAH w/ dependents and non support of said dependent. His comment was "we can advise the service member to take care of the situation but we can not order him to support the dependent."

Additionally, this command is also aware that said service member slammed a 14 year old boy to the floor, handcuffed him for an unknown period of time then told an 18 year old girl she was next. Said service member again attacked the 14 year old for not getting dressed fast enough causing bruising to the chest and shoulder which lasted for several weeks. Said member had guardianship of minor at the time. No police report was filed at the time of the assault for fear of retaliation toward the service member's spouse, who had been a victim of domestic violence for 10 months. Shortly after the handcuff incident, the 18 year old girl fled home to another state out of fear. A police report has since been filed. I believe this to be several violations of the UCMJ Article 128. The command is aware but has taken no disciplinary action. When requesting counseling from Fleet and Family Support, spouse was referred to Family Advocacy who agreed to an appointment for counseling. The morning of the appointment spouse was in contact with Family Advocacy and at that time was told no appointment was available because the advocacy office had spoken to the command and due to confidentiality they could not say what the command said but the only help available was referral to civilian agencies. Where was the confidentiality of the victim of domestic violence?

The Navy to date had refused to assist this spouse in receiving counseling in regards to the domestic violence and the service member's Chief refers to the spouse as the "**one who committed adultery.**" The service member in question is **Stanley Steamer, E-4**, stationed at NSA XYZ. **Specific wrong doing:** Non-support of dependent while receiving BAH with dependents, In violation of Volume 7A, Chapter 26, February 2002, Section 260406 Support of Dependent General subsection B. **Specific Dates and Times:** From October 11, 2005 through August 17, 2006, spouse was living in another state to complete High School Education, and August 2006 to present. A check for the amount of \$150.00 was received the last week of October, no additional monies have been received to date.

The total amount for the 14 months in question is \$2016. Subtracting the single payment of \$150 the total loss to date is \$2001. The service member is continuing to draw BAH at the with-dependent rate therefore the amount of loss will continue to rise. **Why and how:** The service member was aware at the time of application that his spouse would not be joining him until August of 2006. Spouse was on Food Stamps during the times in question. As to the question why, in my opinion he feels entitled to the money so he can continue to increase his collection of swords, knives, and firearms. Any assistance you can give to rectify these matters would be appreciated.

Thank you.

Sally Jones

Complaint #4

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 5

Anonymous complaint

Mr. Sam Smith, Naval Surface Warfare Center, falsified test reports on batteries supplied the Navy for the DSRV, a critical underwater program. This involves highest management, production supervisors, QA, inspection, shipping and contracts. Over the past 20 years they have submitted false test data and certificates of conformance to Navy Weapons Depot. This resulted in the Navy having accepted batteries that did not meet specifications. Contract administrators have quit the company rather than become parties to the fraud when they learned the facts.

Complaint # 5

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 6

Anonymous complainant

On January 24, 2006, I observed the Line Supervisor, Ship to Shore Division, Public Works, Norfolk Naval Air Station, cutting cable ends on Pier 14 & 15. The complainant alleged there is a high overtime rate in this shop, and the subject was cutting cables to cause more overtime for his crew and himself. The complainant refused to give any further information regarding date or time of the incident.

Complaint # 6

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 7

Anonymous complainant

Abuse of Position and Waste of Government Funds. I want to report a really bad situation and waste of govt funds. Admiral Ripper, Commander Navy Base, used his car and driver to take him and his wife to the baseball game on August 22, 2004.

First, the driver had to pick up his wife at their home about 3 miles from his headquarters and then go get the Admiral somewhere on base. Then they went downtown to the ball park. The driver had to hang around till the ball game was over and then drive them both back to his house at about 9:30 at night.

I think this should be investigated and brought to the attention of higher ups. An Admiral should know better.

Complaint # 7

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 8

I would like to lodge a personal complaint on how poorly my Reserve demobilization process was handled by the Norfolk staff recently. I was a mobilized Reservist with the Defense Threat Reduction Agency and my check-in/out was through the NMPS at Norfolk. I mobilized on 02DEC04 and demobilized on 02JUN05. I completed a deployment to Iraq during this timeframe. I received no assistance in answering questions on medical transition benefits, and generally the NMPS staff could not answer a single question on any other benefits that I might have had a right to while transitioning from this 180 day recall. I have found out now that a demobilized reservist is required (by Congressional mandate) to have a full medical physical examination. I spent 5 minutes with the medical PA. I was supposed to have a dental exam. The dental staff signed the checkout sheet without even looking at me. I needed to sign up for the Reserve Component Transitional Assistance Medical Plan (TAMP), and no one told me that (I now have a 10 day gap for my family of six without any medical insurance until July 1).

Am I responsible for my own welfare – Yes. As a senior officer, it was my responsibility to ask the right questions. But, unfortunately this time I didn't know all the right questions. Shame on me. But you know what, shame on the NMPS for not taking care of a reservist properly that deployed to a war zone and twice almost got killed by mortars.

I have high praise for the PSD group at the base that handled my pay, travel claims, and DD-214. They did a great job.

I have to ask that if an O-5 is getting this type of service, what is happening to a junior enlisted reservist in the system.

CDR Demob

Complaint # 8

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 9

Dear Mr. Inspector General,

I want to report discrimination. My name is Linda Elderly and I'm a GS-11 that works for the Naval Sea Systems Command. I'm 58 years old; just four years from retirement.

My Supervisor, Ms. Suzy Ono, told me last week that I was getting an unsatisfactory evaluation. I asked her why and she told me I couldn't perform the work.

Everyone knows that Suzy wants to hire the daughter of a friend of hers and is just trying to get rid of me. She plays favorites all the time. Everyone in the office has left over the past five years and there's nothing but young people in the office now. Suzy is about 35 years old. I think this is clearly age discrimination and I want someone to investigate.

Linda Elderly
NAVSEASYSCOM

Complaint # 9

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 10

Anonymous complainant

I am a federal employee with 29 years of service and am currently working at Naval Station Nowhere in the public works department steam production and distribution branch. I am currently, as my position in the boiler plants requires, semi-involved with two significant projects directly related to my shop. My only involvement is information input - no decision making authority.

My concern is that the engineering and contract and design departments are going to spend much too much on one and not have enough for the other. The first project is a fuel oil tank storage/feed system for our very inefficient main boiler plant (due to lack of commitment by management over the years to maintain and repair vital components and systems required for efficiency), Bldg 589. They have decided on an elaborate, expensive, environmentally questionable system, instead of a simpler, safer, less expensive, and proven system, as I and members of my shop have asked for.

The other is an environmental project involving another one of our boiler plants, Bldg 626. The system in question has been failing for a number of years and has been discussed numerous times but never acted upon. It is also violating state regulations pertaining to it and the State has told this facility of its required repair or replacement, still nothing has been done. The same people who are going to spend too much on one project now say the Bldg. 626 project is too costly. I want them to apply common sense, among other things and make adjustments to enable both projects to be completed. Both projects are still in planning and design phases, so it is not too late to do the right thing.

Please look into this. Thank you.

Complaint # 10

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 11

Subject: Naval Base Northwest fundraiser ethics

The Northwest Officers Wives Club has been, from what I understand in existence here at Northwest for many years and it's primary mission is to raise money for the Dolphin Scholarship Fund that gives scholarships to Submariners children.

They have sole use of a store in the area of the NEX for which to raise funds for this Scholarship which does not serve all of the military communities. They also run a very profitable auction every year to donate to this scholarship and the way I am understanding, the spouses send flyers out to each of the commands and the commands, under direction of the CO's, actively contribute to this fund.

It is not uncommon for them to raise in excess of \$30,000 per auction. I did not feel that going to the local IG would help because this has been such a hugely publicized event for years and is supported by Navy Region. Please take a look at how this wives club is conducting its fund raisers. When I take a look at this Scholarship Funds Website it looks as if they have many wives clubs operating in a similar fashion and in speaking with submariners they confirm this. Please investigate as this Scholarship Fund seems to be taking some political liberties with our military installations and wives clubs. Please investigate.

I am remaining anonymous out of fear of being stoned to death by angry spouses and submariners.

Complaint # 11

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 12

Confidential complainant

DoD civilian employees who are not Active Duty, Active Reservists or Retired members of the Armed Forces employed by Naval Station, Newport, RI are permitted to use the Navy Exchange Gas Station on the Naval Station to fill up their vehicles at a cheaper rate than most places in Rhode Island.

This is a violation of DoD requirements that individuals using DoD military stores, gas stations, etc. must be members of the Armed Forces, Active Duty Reservists or Retirees or authorized dependents. I have personally observed two individuals who are employed at the Navy Exchange Gas Station at Naval Station Newport, RI filling their automobiles. They are Suzy Smith and a co-worker of hers by the name of Heather. They are not connected with the military in any way. When I reported to a clerk at the gas station on one occasion of Suzy Smith filling her vehicle that she was not an authorized patron, I was told that there is no procedure to prevent that and that the Exchange and Commanding Officers don't have a problem with it.

I earned my right to use these facilities and consider it fraud and mismanagement on the part of the Commanding Officer and Exchange Officers that this is permitted to continue. Perhaps we can keep these privileges that have been earned by myself and other active, reservist and retired military members from being lost due to abuse.

Complaint # 12

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 13

Anonymous complainant

MCAS Miramar Golf Course Cafe is run by ABC,Inc. and had a fire in Jan 2006 that closed the cafe. It has been 10 months and Miramar staff states they have to find liability between USMC MCCA or ABC,Inc. **before they can reopen the cafe!** This is Bull!

This cafe averages over \$2,000/day in sales. The cafe is vital to the business and morale at the golf course. Golf course membership is down by half (loosing money!), golf course activities/tournament attendance is down by half (loosing money!) and most importantly, the morale of the active and retired service members is greatly affected!

Is there anything HQMC can do to expedite the reopening of the cafe? We do not have a place to eat or socialize at the golf course and Miramar MCCA says they cannot do anything until late 2006! This inaction by Miramar staff is another black eye for theUSMC!

Complaint # 13

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 14

Confidential complainant

Organization: H&HS MCAS Beaufort SC Home Telephone:

This is a complaint against the MCAS Bft MCCA director, Mr. Elmer Smith. He has been using the Navy govt vehicle for personal use. I have witnessed him on numerous occasions (approx 5 times) using the vehicle for coffee/breakfast at the MCCA eatery.

Specific days are 04 and 09 March 2005 at 0705. There were 3 more times in Feb. but I did not record the days. I do not go to the eatery everyday, but every time I have been there, he has also been there. He does not speak with the employees other than to order his coffee/breakfast, so I know he is not conducting MCCA business. I believe his MCCA admin offices open at 0730, and this takes place before that. I know this is not a real big deal, but it is a very poor example when the MCO states that gov't vehicles will not be used for personal business and Marines see him drive up in his vehicle to get breakfast. It is kind of hard to get any savings at the MCCA stores if they have to pay for gas for the director to get coffee.

Complaint # 14

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 15

Anonymous complainant

We seem to have folks that “bend/break” the rules at every opportunity because they have “rank/Position”. I am referring to CAPT John Martinek, Commanding Officer for the base

1. His daughter (sometimes he calls her his niece — odd situation), lives here, age 21, but DOES NOT go to school. My daughter, who is also 21 and who is in dire need of financial assistance from us, cannot live here as she does NOT want to go to college. She must go to college full time and this is in accordance with base instructions. No where in the instruction does it say that the daughter has a waiver, yet the CAPT is allowed to break the instructions/regulations. Why isn't he held to the same standards as the “common” folks are? Is this abuse of authority or what?
2. In addition; it is quite common knowledge that the Martinek family does not have the proper documentation to get in and out of the country (i.e., passports or birth certificates). Yet, he manages to get them in and out. We have had travelers literally stopped from departing or coming in due to no documents. Again, abuse of authority or what? Why does anyone have to have documentation if his family is exempt?
3. The CAPT/wife was observed traveling to catch a flight on 26 November, but did NOT use the ferry as the “common folks” do. What regulation allows him and his FAMILY members to travel on the fast boat/gig for personal pleasure (he is on leave from what I hear, not travel)

I would think that after all of the illegal things the former CO did that the Region/Navy IG/CNI IG would be “watching” this base to ensure that those character flaws were not adopted but I guess that is not the case. So as it stands, we have a boss who openly flaunts all of his illegal activities and assumes we will all just bow down to his rank, as the previous CAPT expected us to do.

Any investigation of the above would be wonderful as we expect the same treatment for everyone. Abuse of authority does not sit well with us regular folks.

Complaint # 15

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 16

VADM Route, At the retirement ceremony for ADM Church last year ADM Mullen called the Navy Inspector General “the conscience of our Navy.” Therefore, I am writing to you, trusting you will apply that function to my concern.

Several months ago while training in Norfolk, I stayed the week at the Navy Lodge where I was surprised to find the Navy Lodge providing pornography to its guests via HBO EAST. I found this disturbing on several levels: with respect to the young men and women, their families and their children who use the Navy Lodge, and with respect to the efforts of Navy Leadership in “teaching ethics and standards of exemplary conduct”, teaching personal “integrity”, “principle over expediency” and “taking thought for what is noble in the sight of all”; these are the sentiments of ADM Mullen. I also, who have served the Navy in Civil Service for 16 years, am concerned that these same qualities be taught to our service members. When the Navy promotes pornography, what are we saying? What are we saying to Navy women?

I sent e-mail correspondence to the Director Navy Lodge Program. In his response, he deftly nullifies the whole issue. He’s a subscriber. And has no say so in programming. And, he will continue to offer pornography. I think ADM Mullen’s sentiment above, promoting “principle over expediency”, is wanting. The Navy’s Core Value of Courage is also wanting; its description reads, “to make decisions in the best interest of the Navy”, and further, to “adhere to a higher standard of personal conduct and decency”.

Can there be a Navy policy that permits making pornography available to Navy Lodge guests? It seems clear to me that this practice can only help to frustrate stated leadership objectives and help to corrode the building of good working relationships between Navy men and Navy women. Moreover, where does the obligation come from to provide a vice on base that can be easily gotten off base by those who want it? I await hearing from you and to know if you think this issue of pornography is important to the Navy. Thank you, Admiral, for your time and attention in dealing with my concern.

Very Sincerely Yours,
Richard T. Petty

Complaint # 16

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 17

My name is Talman Jones and I am an Ensign stationed aboard the USS IDAHO home ported in Ingleside, TX. I was unable to determine who the local inspector general is, so I am hoping that someone can help me. I am writing to inform of my dissatisfaction with the organization since checking onboard in February.

To begin with, I am 6'5" and the ship has a very low overhang. I have repeatedly hit my head on practically every structure throughout the ship and it has caused me severe pain, insomnia, and numbness. I reported this to my corpsman who referred me to the squadron doctor. He told me that I could cause no damage to my body by hitting my head repeatedly and to not worry. For treatment, they gave me shots of painkillers and a bottle of Tylenol to take every time I hit my head. I followed up by saying that the pain kept returning and has interfered with my inability to sleep and that I needed further evaluation. Upon further consultation several months later, a neurologist started me on anti-depressant medications to help me sleep. However, our corpsman, HMC instructed me to not take the medication on nights when I have a watch or have to be up early in the morning. Since I checked in with the engineering department, the department has been working anywhere from 80-100 hours per week in port. It has become impossible to work cycling these medications. The command also put out an order to attend all wardroom functions that occur off base outside of working hours. I brought it up that due to my constant pain that I need time at home to recover and rest. Again, the executive officer, dictated that these functions were mandatory and no good reason could be given for missing them.

These medications also caused me to experience mood fluctuations. During a steering evolution, I was standing a watch on the bridge. I had missed an order because I was coming off the medication from the night before. Afterwards, I was yelled at by the executive officer and told to be more responsible. I said I was being given too many medications and .could not concentrate. Because of this, the captain, sent me to mental health. After I was seen, the doctors determined that there was nothing psychologically wrong with me and I was experiencing posttraumatic symptoms due to being overworked, hitting my head, and overmedicated. Also, during the entire time it took me to be seen by all of the doctors, I was forced to use my personal leave not convalescent leave that took me a long time to build up. The captain told me he did not have time to deal with everything at once and it was my fault I was in pain. This has caused even more stress and irritation. I was threatened that when I return from leave, I would receive punishment in the form of a captain's mast for my actions relating to the bridge incident and my mood fluctuations and that my security clearance would be taken away. I feel I have been severely mistreated and now am being punished for trying to do a good job.

Complaint # 17

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complainant #18

It is one year plus since I departed USNA and have decided to seek readmission. It has come to my attention that the Navy Inspector General does investigations surrounding midshipmen resignations. I found this in the National Defense Authorization Act Fiscal Year 2004 Section 525. Specifically, subsection C: "otherwise suffered an injustice that contributed to the resignation of the midshipmen." I have spoken with the Admissions Office and my request was forwarded to CAPT Hank Fonda, JAGC, USN. He determined the legitimacy of the bill, and passed along your contact information.

I resigned as a result of two issues. I was put up on a honor charge and my sister was diagnosed with leukemia. The honor charge is obviously what takes issue, specifically the actual allegation. I was an Mechanical Engineering major, taking Thermodynamics when a group of 3rd class mids were put up on honor offenses. All were separate instances, I was graded along with one other mid. We were both accused of collaborating. I didn't have issue with that so much, as there is no denying it, we did in fact work together. The issue was the professor, a Navy Commander and course coordinator, gave us permission to work together through Phase 3 of the project. Furthermore, the professor implicated to me before the actual charge that he did not believe I committed an honor offense, but that there needed to be counseling done because his department chair was making him do it. The counseling was submitted to the Honor Chairman, who overturned it and it became a case pending an honor board. My case carried on for five months.

Over Christmas leave, my sister was diagnosed with leukemia, which made matters even worse. I tried to work through the stress and did make the Honor Board, but was overwhelmed by my professor's testimony. He played the part as accuser and I was found in violation of the honor concept. I tried other routes to resolve the situation, such as JAG. I went home on spring break, and with my sister's condition deteriorating, I made the decision that I needed to be with my family. I returned to Annapolis the following week, ready to tender my resignation, only to find out that I was going to be given a new honor board. Because of a technicality, the recording of my professor's testimony was lost – probably to cover up evidence of perjury. I still decided to leave. Dealing with something like this for five months is just awful. I donated bone marrow for my sister, saving her life. I also spent more time with my dad before he died this summer.

I wouldn't take anything back... I'm glad the way things worked out, even as bad as it was. It was my dream to go the Naval Academy and having it stripped away from me deserves some attention. Ownership of the Honor Concept shouldn't just involve midshipmen, it should be by faculty and staff as well. Making loose allegations is devastating for a mid, especially by faculty and staff. I have all sorts of information, such as e-mails from the professor and course documents. I believe this story rates an investigation. I am more than willing to come to Washington to present all the facts.
Ronald Howard

Complaint # 18

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 19

Complainant is (please choose one): Anonymou Confidential

Nature of complaint:

(1) Who is the subject and which command/activity?

BM2 Darrell Greene
Complainant has known subject for 2 years

(2) What is the alleged wrongdoing?

Originally this complaint was transferred to me as a call of national terrorism. When I spoke with the complainant, her allegations were against BM2 Greene and his wife for holding her pets, a horse and goat, hostage. She said that BM2 Greene and his wife demanded \$800 by noon

(3) When did it occur?

4/3/06 at 11:30 pm

(4) Are there any witnesses?

The boyfriend of Ella Henry

(5) Who else have you informed about this matter?

Jefferson County Police

(6) Have you tried to address the issue within the chain of command? If not, why?

The complainant does not know where BM2 Greene

(7) What would like the IG to do?

Investigate BM2 Greene

Complaint # 19

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Complaint # 20

This is being reported anonymously for fear or reprisal

The HRO Site Director, Mr. Smith, is suspected of maintaining a romantic relationship with a subordinate employee, HR Assistant, Mrs. Jones. Since Mrs. Jones started employment with this office, she has not been held accountable for performing any work or for misuse of government equipment and abuse of government time.

Her poor performance has been brought to the attention of her Team Lead and the Site Director on numerous occasions by several specialists, assistants, and on a few instances by serviced customers. However, her performance has not been addressed and she is allowed to conduct personal business while on government time, she has also been allowed to take at least three days off without having to take any type of leave. Several HR Specialists have addressed Mrs. Jones directly regarding her performance and attendance yet she has not made any improvements.

Mrs. Jones has also been making out of state long distance phone calls using government phone lines to the point where the person receiving the phone calls called Mr. Smith to complain and asked that she stop calling her home. Even after this complaint, Mr. Smith ignored the situation and did not take disciplinary action. On several occasions, Mrs. Jones has boasted about her relationship with the site director and claims that because of her relationship she doesn't have to perform any work or worry about discipline. She has received personal greeting cards from Mr. Smith to her Navy email account and claims that while in his office he tells her that he is infatuated with her and that she is his favorite. This conduct is inappropriate and unacceptable, especially coming from the HR Site Director.

Office morale is low, Mrs. Jones is receiving preferential treatment, she is misusing government equipment and abusing government time but nothing is being done. Management has ignored the situation and now Mrs. Jones claims this is due to a romantic relationship with Mr. Smith.

Complaint # 20

Is this a matter for the IG?

What standards may be involved, i.e., misuse of a government vehicle, misuse of official time, etc.

If the issue is a matter for the IG, write the allegation(s).

_____ improperly did _____

in violation of _____.

Exercise 2:

IG INVESTIGATIONS CASE STUDY

Exercise 2: Case Study

1. Telephone Complaint
2. Investigation Plan
3. Command In-briefing Guide
4. Complainant Interview Guide
5. Privacy Act Statement
6. Complainant Interview Questions
7. Complainant Re-Interview Guide
8. Witness Interview Guide
9. Witness Interview Questions
10. Witness Re-Interview Guide
11. Subject Interview Guide
12. Subject Interview Guide
13. Subject Interview Questions
14. Subject Re-Interview Guide
15. Suspect Interview Guide
16. Suspect Re-Interview Guide
17. Interviewee Closing Guide
18. Command Out-briefing Guide

CASE STUDY - CDR "BIG" DEAL

**TELEPHONE INTAKE HOTLINE COMPLAINT FORM
NADEP, JACKSONVILLE**

Date of call: December 17, 2003

Subject: Abuse of Authority at Naval Aviation Depot, Jacksonville, FL.

1. Do you wish to remain anonymous? (circle one)

Yes (If yes, do not identify yourself below)

No

2. If no, do you want confidentiality? (circle one)

Yes (If yes, identify yourself below. We will not release your name without your consent.)

No

Complainant's name: YN2 Pat Simon

Contact information (if applicable):

Mailing Address: 402 South Street

Address Line 1: Apt 103

City: Jacksonville

State: FL

Zip code: 32214

E-Mail Address: psimon@nadepjax.navy.mil

Phone number with area code

Home Telephone: 904.543.3341

Work Telephone: 904.542.5555; DSN 942

3. Are you willing to be interviewed? (circle one)

Yes

No

4. What is the nature of your complaint? What is the alleged wrongdoing?

CDR Deal is abusing her authority. Thornbird does favors for her and I just don't think it's right. I've never done any favors like picking up her medication at the clinic, and I think it's inappropriate for people to do favors for their bosses.

5. Who is the subject and which command/activity?

Commander Linda Deal, Admin Asst, NADEP Jacksonville

6. When did it occur?

4 or 5 times in the last year or so.

7. Are there any witnesses?

You should probably talk to YN2 Dale Thornbird and YN1 Sammie Johnson.

8. Who else have you informed regarding this matter?

I mentioned it to our Division LPO, YN1 Sammie Johnson, but I haven't talked to anyone else about it.

9. Have you tried to address this issue within the chain of command?

- a. No – Why not?
- b. Yes – Who and when and what was the response

Like I said, I told YN1 Johnson.

10. What would you like the IG to do?

I'd just want to know if she can have Thornbird run errands for her because I don't think it's right.

| | | |
|--|---|--------------------------|
| 2. BACKGROUND | | |
| a. RELEVANT STATUTES/DIRECTIVES/REGULATIONS/POLICIES: | | |
| Rule/Regulation | Topic | Elements of Proof |
| U.S. Naval Regulations Chapter 10 Precedence, Authority and Command Section 2. Authority | 1023. Abuse of Authority. Persons in authority are forbidden to injure their subordinates by tyrannical or capricious conduct, or by abusive language. | |
| Code of Federal Regulations Title 5, Volume 3 5 CFR 2635.705 | PART 2635--STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH, Subpart G - Misuse of Position, §2635.705; Use of official time. (a) Use of an employee's own time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under 5 U.S.C. 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties. (b) Use of a subordinate's time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation. | |
| | | |
| | | |
| b. PREVIOUS INVESTIGATIONS: | | |

c. Origin of the Complaint.

| 3. EVIDENCE: | | | |
|--------------------------|----------|---------------|----------|
| a. DOCUMENT LIST: | | | |
| Document | Location | Date Obtained | Comments |
| | | | |
| | | | |
| | | | |

| b. INTERVIEW LIST | | | | | |
|--------------------------|------------------|-------|----------|------------------|----------|
| Name | Command/Position | Phone | Category | Date Interviewed | Comments |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| c. INTERVIEW SEQUENCE PLAN: | | | | |
|------------------------------------|--------------------|-----------------|--------------------|------------------|
| ORDER | INTERVIEWEE | CATEGORY | ALLEGATIONS | QUESTIONS |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |

d. PHYSICAL EVIDENCE:

4. ADMINISTRATIVE MATTERS

a. ITINERARY:

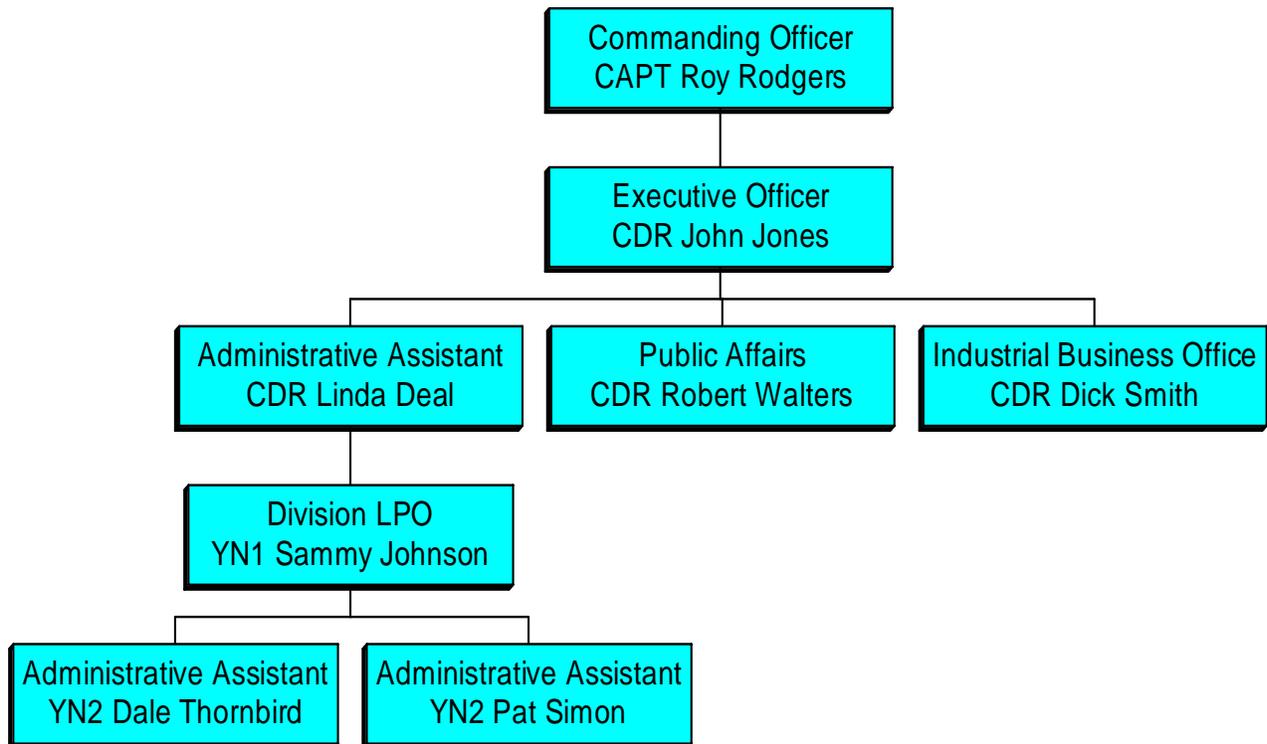
b. EXPECTED COMPLETION DATE:

c. NOTIFICATIONS:

5. Other items

CASE STUDY

NADEP ORGANIZATIONAL CHART



COMMAND IN-BRIEFING GUIDE

(Sample Handout for Commander, CO, XO, OINC, etc.)

What to tell your officers/chiefs/supervisors, etc.:

- We are here from the COMNAVAIRSYSCOM Inspector General's office to investigate a hotline complaint.
- We anticipate we will be conducting interviews for about 3-4 days and will primarily limit our discussions to (civilians and/or military). At this time, we do not anticipate questioning (officers or enlisted and/or civilian personnel).
- We are not, and neither should you be, interested in determining or knowing the identity or motive of the complainant. As a reminder, complainants are protected from reprisal under 5 U.S.C. 2302 (b8) and 10 U.S.C. § 1034, the civilian and military Whistleblower Protection Act.
- We understand this is an inopportune time for an investigation and that the process is intrusive and disruptive, but we will complete the interviews as soon as possible.
- As in any IG investigation, we have access to all persons, files, records, notes, etc. We will arrange our own interviews. If we contact anyone for an interview, we request they cooperate with us. As a reminder, do not discuss information about this interview with others without our permission.
- Also, you should not infer anything if we call someone for an interview. We will interview numerous people to gather background information and they may or may not be questioned about the allegations in the complaint.

COMPLAINANT INTERVIEW GUIDE YN2 Pat Simon

Have ready: *Privacy Act Statement*
List of documents from interviewee (complaint, supporting documents)
Investigative Plan
List of allegations
List of questions
Copies of all documents you plan to show to the complainant

Establish Rapport.

- Identify yourself and show ID or Appointing Letter.

- I/we are here as investigators on behalf of (command) to gather information concerning a hotline complaint. When our investigation is complete, we will file a report.

- We act as impartial fact finders. Our job is to collect and examine all pertinent information and then make an impartial presentation.

- This is an administrative proceeding. We have no authority to impose punishment or to direct any corrective action. Our goal is to establish the truth of allegations or establish that allegations are not true and therefore clear a person's good name.

General Brief.

- Access to the information we gather is restricted to persons with a need to know to perform their official duties; usually investigators, attorneys, etc.

- Management officials may also see the report, but only if corrective action is required. If a commander or management official elects to pursue disciplinary action, then the subject has the right to all evidence, including your statement. Accordingly, under such circumstances, your identity will be known by the subject. Therefore, we cannot guarantee absolute confidentiality. Other than those types of circumstances, we protect your privacy and identity.

- Also, under FOIA & the PA, individuals may request and may be given redacted copies of your statement. That is, they may be given your statement, but identifying information such as your name, address, title, etc., will be omitted.

- As a reminder, all military and federal employees are required to cooperate with official investigations and to answer questions truthfully. So I would like to remind you of the importance of presenting truthful and candid statements. And, I would like you to give me information I need to know, even if I don't ask a specific question.

- I can accept hearsay evidence and opinion from you, but please identify information of that nature when you relate it to me.

For the purpose of this interview, hearsay is information you give me that is based on what others have told you, rather than what you know personally.

Opinions are your thoughts and beliefs about facts you know personally or have heard from others. The conclusions you draw from facts are a form of opinion evidence.

- Also, with respect to making a statement, you are protected from retaliation by the Whistleblower Protection Act.

- Please advise me if your statement contains classified information.

Privacy Act - Before we begin, I want to discuss and have you sign a Privacy Act statement. Since I will be asking you to furnish personal information about yourself, the Privacy Act of 1974 requires that I inform you of the authority for this requirement (hand statement to interviewee, explain and have them read and sign).

Tape Recording

- Our interviews are tape recorded for accuracy. But before I turn on the recorder, I want to ask if you have any questions.

- I want to record some information that will aide me in preparing an accurate transcript.

Your name: _____ Title _____

Your command: _____ Rank/Grade _____

Your phone number: _____ Email _____

I will turn on the tape recorder, record some information and then place you under oath.

- The tape recorder is on. My name is _____, assigned as an investigator for _____.

I am here with my colleague _____ . The date is _____ and time is _____. This is NAVIG case number _____ (and local number _____). I am interviewing (name, grade, command) _____.

- Please state your name.

- I will now administer the oath. Please raise your right hand. "Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief."

- Do you acknowledge that you are being tape-recorded?

Question the Complainant

Note: If you show documents, number them and attach them to the ROI, Sworn Statement, etc.

- May we identify you as the complainant in this case?

- **(confidential complainants only)** You have two options when you request your identity to remain confidential: 1) You may release your identity to the IG (that's me) with the understanding that it will not be released to the investigator, or 2) you may identify yourself with the understanding that only the IG and the investigator will know who you are. Which would you like?

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, U.S. Code, Sections 5014 and 5030

PURPOSE: To determine the facts and circumstances surrounding allegations or complaints against Naval personnel and/or Navy/Marine Corps activities. To present findings, conclusions, and recommendations developed from investigations and other inquiries to the Secretary of the Navy, CNO, CMC, or other appropriate Commanders. Disclosure of Social Security Account Number is voluntary, and if requested, is used to further identify the individual providing the information.

ROUTINE USES: The information is used for the purpose set forth above and may be:

- Forwarded to Federal, State, or local law enforcement agencies for their use;
- Used as a basis for summaries, briefings, or responses to Members of Congress or other agencies in the Executive Branch of the Federal Government;
- Provided to Congress or other Federal, State, and local agencies, when determined necessary.

MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING 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 Navy Civilians: Failure to disclose personal information in relation to individual's position responsibilities may subject the individual to adverse personnel action.

For All Other Personnel: Disclosure of personal information is voluntary and no adverse action can be taken against individuals for refusing to provide information about them.

ACKNOWLEDGMENT

I understand the provisions of the Privacy Act of 1974 as related to me through the foregoing statement.

Signature: _____

Date: _____

COMPLAINANT INTERVIEW QUESTIONS
YN2 Pat Simon

1. Please identify yourself. (See Complainant Interview Guide)

Your Name: (no nicknames please)

Rank or Grade: (if applicable)

2. Have you submitted this complaint to your command or supervisor? If so, who? When? Was any action taken?

3. Have you submitted this complaint to any other agency, your congressman, the Secretary, etc.?

4. What is the nature of your complaint?

5. Who is involved? Include everyone's first and last names, rank/pay grade, and duty station/place of employment.

Subject(s): Who performed the wrongdoing?

Witness(es): Who are the witnesses?

6. What did the subject do or fail to do that was wrong?

7. What rule, regulation or law do you think the subject(s) violated?

8. In your complaint you alleged CDR Deal '...had been abusing her authority by getting her subordinates to do personal tasks for her during the past year.' You've mentioned the portion concerning personal tasks and before we continue I want to ask about the phrase abuse of authority.

Abuse of authority for military personnel as discussed and defined in U.S. Navy Regulations, Article 1023, is an arbitrary or capricious exercise of power by a military member, federal official or employee that injures or adversely affects the rights of a subordinate by tyrannical, careless or capricious conduct or continuous and/or severe abusive language.

When you submitted the complaint, did you mean to convey that CDR Deal behaved in such a manner to get her subordinates to perform personal tasks? Did you mean to say that CDR Deal is abusive?

Answer:

9. When did the incident occur? Provide dates and times or "Early 2005," etc

10. Where did the incident take place? What location, command etc.?

11. Why do you think the incident took place?

12. What do you think of your supervisors? On a scale of 1 – 10, what would you rate your supervisor(s)?

13. How have you tried to resolve the problem?

Have you contacted your chain of command?

Have you contacted your local Inspector General?

Have you tried to resolve your complaint using an established process such as Bureau of Corrections of Naval Records, Informal Resolution System, EO/EEO or legal system?

14. What do you want the IG to do?

15. Additional information you wish to provide.

COMPLAINANT RE-INTERVIEW GUIDE

Conclude the interview:

- REVIEW AND/OR SUMMARIZE THEIR STATEMENT.
- Is there anyone else I should talk to and why?
- Are there any other documents that I should review?
- Is there anything we haven't discussed that I should know about?

- We are required to protect the privacy of IG investigations and the rights and reputations of all people involved in them. Accordingly, **do not** discuss this matter or reveal information about our discussion.

- Earlier, I advised you that while access is normally restricted to persons with a need to know. However, 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, under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony, but not your personal identifying information, such as name, home address, or home phone number, outside of official channels?

- What do you want the IG to do for you?
- You will be notified whether we decide to investigate.

You may contact me at: _____

Thank you for your assistance.

WITNESS INTERVIEW GUIDE

Have ready: *Privacy Act Statement*
List of documents from interviewee
Investigative Plan
List of allegations
List of questions
Copies of all documents you plan to show to the witness

Establish Rapport.

- Identify yourself and show ID or Appointing Letter.
- First, you are not suspected of any wrongdoing and are not the subject of the investigation.
- We were given your name as a witness since someone thought you might be able to help us.
- I/we are here as investigators on behalf of (command) to gather information concerning a hotline complaint. When our investigation is complete, we will file a report.
- We act as impartial fact finders. Our job is to collect and examine all pertinent information and then make an impartial presentation.
- This is an administrative proceeding. We have no authority to impose punishment or to direct any corrective action. Our goal is to establish the truth of allegations or establish that allegations are not true and therefore clear a person's good name.

General Brief.

- Access to the information we gather is restricted to persons with a need to know to perform their official duties; usually investigators, attorneys, etc.
- Management officials may also see the report, but only if corrective action is required. If a commander or management official elects to pursue disciplinary action, then the subject has the right to all evidence, including your statement. Accordingly, under such circumstances, your identity will be known by the subject. Therefore, we cannot guarantee absolute confidentiality. Other than those types of circumstances, we protect your privacy and identify.
- Also, under FOIA & the PA, individuals may request and may be given redacted copies of your statement. That is, they may be given your statement, but identifying information such as your name, address, title, etc., will be omitted.
- As a reminder, all military and federal employees are required to cooperate with official investigations and to answer questions truthfully. So I would like to remind you of the importance of presenting truthful and candid statements. And, I would like you to give me information I need to know, even if I don't ask a specific question.
- I can accept hearsay evidence and opinion from you, but please identify information of that nature when you relate it to me.

For the purpose of this interview, hearsay is information you give me that is based on what others have told you, rather than what you know personally.

Opinions are your thoughts and beliefs about facts you know personally or have heard from others. The conclusions you draw from facts are a form of opinion evidence.

- Please advise me if your statement contains classified information.

Privacy Act

- Before we begin, I want to discuss and have you sign a Privacy Act statement. Since I will be asking you to furnish personal information about yourself, the Privacy Act of 1974 requires that I inform you of the authority for this requirement (hand statement to interviewee, explain and have them read & sign).

Tape Recording

- Our interviews are tape recorded for accuracy. But before I turn on the recorder, I want to ask if you have any questions.

- I want to record some information that will aide me in preparing an accurate transcript.

Your name: _____ Title _____

Your command: _____ Rank/Grade _____

Your phone number: _____ Email _____

I will turn on the tape recorder, record some information and then place you under oath.

- The tape recorder is on. My name is _____, assigned as an investigator for _____. I am here with my colleague _____ . The date is ____ and time is _____. This is NAVIG case number ____ (and local number ____). I am interviewing (name, grade, command) _____.

- I will now administer the oath. Please raise your right hand. "Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief."

- Do you acknowledge that you are being tape-recorded?

- Please state your name and command.

Question the Witness

Note: If you show documents, number them and attach them to the ROI, Sworn Statement, etc.

Criminal Involvement and False Statements

- (Witness Criminal Involvement). If during this interview, the witness suggests personal criminal involvement, the witness must be advised of his/her rights. Unless rights are waived, the interview ceases. If during the interview you believe the witness has become a subject, advise the witness that he/she need not make any statement that may incriminate them.

- (Witness False Statement Warning). If during the interview it becomes necessary to advise a witness about making false statements or other false representations, read the following statement to the witness, as applicable:

Military 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, Art. 107. Additionally, under the provisions of the UCMJ, Art. 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?

Military 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 5 years, or both. Additionally, any person who willfully and contrary to his 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 INTERVIEW QUESTIONS
YN1 Sammy Johnson

1. What is your name?

2. What is your rank?

3. How long have you been in the Navy?

4. What are your official duties?

5. How long have you worked at NADEP?

6. What are your work hours? Are your working hours constant, i.e., 8-5, 6-3?

7. Who is your supervisor(s)?

8. Have you ever been asked or directed to do personal favors by any of your supervisors?

9. If so, what kind of tasks?

10. How often?

11. When? During lunch hours? After work?

12. Do you feel pressured to perform these tasks?

13. Do you know anyone else who has been asked to do favors? If so, who?

14. Do you like working at NADEP? Is the working environment good/bad?

15. What do you think of your supervisor?

16. Do you feel overworked or abused?

17. Do you think it is inappropriate to run personal errands for supervisors?

18. On a scale of 1 – 10, what would you rate your supervisor(s)?

**WITNESS INTERVIEW QUESTIONS
YN2 Dale Thornbird**

1. What is your name?
2. What is your rank?
3. How long have you been in the Navy?
4. What are your official duties?
5. How long have you worked at NADEP?
6. What are your work hours? Are your working hours constant, i.e., 8-5, 6-3?
7. Who is your supervisor(s)?
8. Have you ever been asked or directed to do personal favors by any of your supervisors?
9. If so, what kind of tasks?
10. How often?
11. When? During lunch hours? After work?

12. Do you feel pressured to perform these tasks?

13. Do you know anyone else who has been asked to do favors? If so, who?

14. Do you like working at NADEP? Is the working environment good/bad?

15. What do you think of your supervisors?

16. Do you feel overworked or abused by either one of them?

17. Do you think it is inappropriate to run personal errands for supervisors?

18. On a scale of 1 – 10, what would you rate your supervisor(s)?

WITNESS RE-INTERVIEW GUIDE

Introduction

- Start recorder. The time is _____. This tape recorded re-interview is being conducted on (date) _____ at (location) _____. The persons present are the complainant/witness (name) _____ and (state others present) _____.

- This is a continuation of an interview conducted on (date) _____ as part of DoD/Navy Hotline Investigation, local # _____ concerning (subject) _____.

- You were previously advised of the role of an inspector general, of restrictions on the use of release of IG records, and of the provisions of the Privacy Act. Do you have any questions about what you were previously told?

- **(witness only)** You were also informed that you are not the subject of the investigation.

- During the previous interview, you were put under oath before giving testimony. You are reminded that you are still under oath and it is a violation of Federal law to knowingly make a false statement under oath.

Question the Witness

SUBJECT INTERVIEW GUIDE

Have ready: *Privacy Act Statement*
List of documents from interviewee
Investigative Plan
List of allegations
List of questions
Copies of all documents you plan to show to the subject

Establish Rapport.

- Identify yourself and show ID or Appointing Letter as required.
- I/we are here as investigators on behalf of (command) to gather information concerning a hotline complaint. When our investigation is complete, we will file a report.
- We act as impartial fact finders. Our job is to collect and examine all pertinent information and then make an impartial presentation.
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General Brief.

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- Also, under FOIA & the PA, individuals may request and may be given redacted copies of your statement. That is, they may be given your statement, but identifying information such as your name, address, title, etc., will be omitted.
- As a reminder, all military and federal employees are required to cooperate with official investigations and to answer questions truthfully. So I would like to remind you of the importance of presenting truthful and candid statements. And, I would like you to give me information I need to know, even if I don't ask a specific question.
- **Military Subject.** Although you are not suspected of a criminal offense, we have information that may be unfavorable to 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: (advise subject of general nature of all allegations against him/her).
- **Non-military Subject:** [Bargaining Unit Members only: Civilian employees who are members of a collective bargaining unit (i.e. a union) may have the right to union representation when interviewed during an investigation. Additionally, bargaining unit employees may seek counsel with a union representative after an IG investigation interview. The IO should consult with the IG and Judge Advocate to clarify the specifications of the respective local bargaining agreement that may apply to each given investigation.]

Although you are not suspected of a criminal offense, we have information that may be unfavorable to 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: (advise subject of general nature of all allegations against him/her).

- Please advise me if your statement contains classified information.

Privacy Act

- Before we begin, I want to discuss and have you sign a Privacy Act statement. Since I will be asking you to furnish personal information about yourself, the Privacy Act of 1974 requires that I inform you of the authority for this requirement (hand statement to interviewee, explain and have them sign).

Tape Recording

- Our interviews are tape recorded for accuracy. But before I turn on the recorder, I want to ask if you have any questions.

- I also want to record some information that will aide me in preparing an accurate transcript.

Your name: _____ Title _____

Your command: _____ Rank/Grade _____

Your phone number: _____ Email _____

- I will turn on the tape recorder, record some information and then place you under oath.

- The tape recorder is on. My name is _____, assigned as an investigator for _____ . I am here with my colleague _____ . The date is ____ and time is ____ . This is NAVIG case number ____ (and local number ____). I am interviewing (name, grade, command) _____.

- I will now administer the oath. Please raise your right hand. "Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief."

- Do you acknowledge that you are being tape recorded?
- Please state your name and command.

- I will first discuss the allegation(s) with you and then provide you an opportunity to comment on these matters.

Question the Subject

Note: If you show documents, number them and attach them to the ROI, Sworn Statement, etc.

- Is there anything you want us to know about why you did something or took some particular action?
- Is there anything you wish to offer that may mitigate the circumstances?

Criminal Involvement and False Statements

- (False Statement Warning). If during the interview it becomes necessary to advise a witness about making false statements or other false representations, read the following statement to the witness, as applicable:

Military 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, Art. 107. Additionally, under the provisions of the UCMJ, Art. 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?

Military 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 5 years, or both. Additionally, any person who willfully and contrary to his 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 INTERVIEW QUESTIONS
CDR LINDA DEAL**

1. What is your rank and name?

2. How long have you been in the Navy?

3. How long have you worked at NADEP?

4. What are your official duties?

5. Who do you supervise?

6. Have you ever asked or directed anyone in your office to do personal favors for you such as run errands?

7. What kind of tasks?

8. How often?

9. When? During lunch hours? After work? Did they use a gov't vehicle?

10. Have you asked anyone else to do favors? If so, who?

11. Do you like working at NADEP? Is the working environment good/bad?

12. What are your working hours? Are your working hours constant, i.e., 8-5, 6-3? Do you feel overworked?

13. Do you think asking staff members to perform personal tasks is appropriate?

SUBJECT RE-INTERVIEW GUIDE

Introduction

- Start recorder. The time is _____. This tape recorded re-interview is being conducted on (date) _____ at (location) _____. The persons present are the witness (name) _____ and (state others present) _____.

This is a continuation of an interview conducted on (date) _____ as part of DoD/Navy Hotline Investigation # _____ concerning (subject) _____.

- You were previously advised of the role of an inspector general, of restrictions on the use of release of IG records, and of the provisions of the Privacy Act. Do you have any questions about what you were previously told?

- You were also informed that you are not suspected of any criminal offense. During the previous interview, you were put under oath before giving testimony. I do want to remind you that you do not have to answer any question that may tend to incriminate you. You are reminded that you are still under oath and it is a violation of Federal law to knowingly make a false statement under oath.

- Since our previous interview, I have obtained new information about which you have not yet had the opportunity to comment **OR** 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: (advise subject of general nature of all allegations against him/her).

Question the witness

SUSPECT INTERVIEW GUIDE

Have ready: *Privacy Act Statement*
List of documents from interviewee
Investigative Plan
List of allegations
List of questions
Copies of all documents you plan to show to the suspect

Establish Rapport.

- Identify yourself and show ID or Appointing Letter.
- I/we are here as investigators on behalf of (command) to gather information concerning a hotline complaint. When our investigation is complete, we will file a report.
- We act as impartial fact finders. Our job is to collect and examine all pertinent information and then make an impartial presentation.
- This is an administrative proceeding. We have no authority to impose punishment or to direct any corrective action. Our goal is to establish the truth of allegations or establish that allegations are not true and therefore clear a person's good name.

General Brief.

- Access to the information we gather is restricted to persons with a need to know to perform their official duties; usually investigators, attorneys, etc. Management officials may also see the report, but only if corrective action is required. Therefore, we cannot guarantee absolute confidentiality. Other than those types of circumstances, we protect your privacy and identify.
- Also, under FOIA & the PA, individuals may request and may be given redacted copies of your statement. That is, they may be given your statement, but identifying information such as your name, address, title, etc., will be omitted.
- As a reminder, all military and federal employees are required to cooperate with official investigations and to answer questions truthfully. So I would like to remind you of the importance of presenting truthful and candid statements. And, I would like you to give me information I need to know, even if I don't ask a specific question.
- You do not have to answer any question that may tend to incriminate you.
- **Military Suspect.** Our investigation has determined that you may have committed an offense. During this interview, you may comment on this information and give your side of the story. You may also show me evidence to contradict or explain the allegation(s).

Under Article 31 of the UCMJ: You may remain silent, that is say nothing at all; any statement you make, oral or written, may be used as evidence against you in a trial by court-martial or in other judicial or administrative proceedings; you have the right to consult a lawyer and to have a lawyer present during this interview; you have the right to military legal counsel free of charge; in addition to military counsel, you are entitled to civilian counsel of your own choosing at your own expense; you may request a lawyer at any time during this interview; if you decide to answer questions without a lawyer present, you may stop the questioning at any time.

Do you understand your right?

Do you want a lawyer?

Are you willing to answer questions?

Civilian Suspect. See your legal counsel or NCIS for guidance.

- Please advise me if your statement contains classified information.

Privacy Act

- Before we begin, I want to discuss and have you sign a Privacy Act statement. Since I will be asking you to furnish personal information about yourself, the Privacy Act of 1974 requires that I inform you of the authority for this requirement (hand statement to interviewee, explain and have them sign).

Tape Recording

- Our interviews are tape recorded for accuracy. But before I turn on the recorder, I want to ask if you have any questions.

- I also want to record some information that will aide me in preparing an accurate transcript.

Your name: _____ Title _____

Your command: _____ Rank/Grade _____

Your phone number: _____ Email _____

- I will turn on the tape recorder, record some information and then place you under oath.

- The tape recorder is on. My name is _____, assigned as an investigator for _____ . I am here with my colleague _____ . The date is _____ and time is _____ . This is NAVIG case number _____ (and local number _____). I am interviewing (name, grade, command) _____.

- I will now administer the oath. Please raise your right hand. "Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief."

- Do you acknowledge that you are being tape recorded?
- Please state your name and command.

- You are suspected of the following allegations, which we want to question you about: (advise subject of general nature of all allegations against him/her).

- I previously advised you of your right. Do you understand you right? Do you have any questions? Do you agree to waive them at this time?

Question the Subject.

Note: If you show documents, number them and attach them to the ROI, Sworn Statement, etc.

- Is there anything you want us to know about why you did something or took some particular action?
- Is there anything you wish to offer that may mitigate the circumstances?

Criminal Involvement and False Statements

- (False Statement Warning). If during the interview it becomes necessary to advise a witness about making false statements or other false representations, read the following statement to the witness, as applicable:

Military 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, Art. 107. Additionally, under the provisions of the UCMJ, Art. 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?

Military 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 5 years, or both. Additionally, any person who willfully and contrary to his 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 RE-INTERVIEW GUIDE

Introduction

- Start recorder. The time is _____. This tape recorded re-interview is being conducted on (date) _____ at (location) _____. The persons present are the witness (name) _____ and (state others present) _____.

This is a continuation of an interview conducted on (date) _____ as part of DoD/Navy Hotline Investigation # _____ concerning (subject) _____.

- You were previously advised of the role of an inspector general, of restrictions on the use of release of IG records, and of the provisions of the Privacy Act. Do you have any questions about what you were previously told?

- During the previous interview, you were put under oath before giving testimony. You are reminded that you are still under oath and it is a violation of Federal law to knowingly make a false statement under oath.

I do want to remind you that you do not have to answer any question that may tend to incriminate you.

- Since our previous interview, I have obtained new information about which you have not yet had the opportunity to comment **OR** 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: (advise subject of general nature of all allegations against him/her).

Question the witness

Criminal Involvement and False Statements

- (False Statement Warning). If during the interview it becomes necessary to advise a witness about making false statements or other false representations, read the following statement to the witness, as applicable:

Military 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, Art. 107. Additionally, under the provisions of the UCMJ, Art. 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?

Military 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 5 years, or both. Additionally, any person who willfully and contrary to his 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?

INTERVIEWEE CLOSING GUIDE

Conclude the interview:

- REVIEW AND/OR SUMMARIZE THEIR STATEMENT.
- Is there anyone else I should talk to and why?
- Are there any other documents that I should review?
- Is there anything we haven't discussed that I should know about?

- We are required to protect the privacy of IG investigations and the rights and reputations of all people involved in them. Accordingly, **do not** discuss this matter or reveal information about our discussion.

- Earlier, I advised you that while access is normally restricted to persons with a need to know. However, 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, under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony, but not your personal identifying information, such as name, home address, or home phone number, outside of official channels?

Complainant only.

- What do you want the IG to do for you?
- You will be notified whether we decide to investigate.

You may contact me at: _____

Thank you for your assistance.

COMMAND OUT-BRIEFING GUIDE

(Sample Handout for Commander, CO, XO, OINC, etc.)

What to tell your officers/chiefs/supervisors, etc.:

We have concluded this portion of our inquiry and are departing. There are not findings in the case since we have to conduct additional interviews and review more documents. We anticipate 2-3 weeks to complete our investigation and write the report.

After we write the report, we will submit it to the IG and staff legal for review. Following the review, the IG will approve the report and release it for distribution on a need to know basis. At that time, we can discuss the report.

We would like to remind you of the importance of not discussing the case because rumors can damage a person's reputation.

Exercise 3:

EVALUATING AN INVESTIGATION REPORT

EXERCISE 3: EVALUATING AN INVESTIGATION REPORT

This exercise is designed to assist you in critiquing investigations and Investigative Reports. You will use both the complaint and the Investigative Reports to evaluate whether the investigation met the four standards for conducting an investigation. You should also be able to recognize formatting deficiencies in the report.

SAMPLE INVESTIGATION REPORT

**DOD/NAVY HOTLINE INVESTIGATIVE REPORT
9 September 2004**

1. Investigator(s) and Identifying Information and Location of Working Papers

a. Investigator(s) and Identifying Information

(1) LCDR Johnny Jones, USN, Air Operations, U.S. Naval Air Pacific Repair Activity Detachment Okinawa (NAVAIRPRA Det Okinawa), Tel: DSN 315-264-3182; e-mail: jones.johnny@napra.navy.mil

(2) LT Sonny Cisco, USN, Supply Department, U.S. Naval Air Pacific Repair Activity Detachment Okinawa (NAVAIRPRA Det Okinawa), Tel: DSN 315-636-2629, e-mail: cisco.sonny@napra.navy.mil

b. Location of Working Papers. Commander, Naval Air Systems Command, Office of the Inspector General, Attn: AIR-00G, 22145 Arnold Circle, Unit #7, Bldg 404, Suite 100, Patuxent River, MD 20670-1541

2. Background and Summary

a. Hotline control #s and Origin of Complaint

(1) NAVINSGEN # 20040666 – NAVINSGEN received the complaint on 4 May 2004 and tasked COMNAVAIRSYSCOM on 14 May 2004.

(2) NAVAIRSYSCOM Case # H04-077 – NAVAIRSYSCOM received the NAVINSGEN tasking letter and complaint on 14 May 2004 and tasked to the IO on 18 May 2004.

(3) NAVAIRPRA Det Okinawa received the case on 20 May 2004 and opened the investigation on 25 May 2004.

b. Summary of the Complaint. An anonymous complainant faxed the complaint to the Navy Hotline on 4 May 2004 and stated that from November 2003 to early January 2004 personnel at NAVAIRPRA Det Okinawa made long distance personal telephone calls costing taxpayers \$2,000. The complainant further alleged that, to date, no one had repaid the government for the improper calls.

c. Additional Information. We conducted a Preliminary Inquiry and found that NAVAIRPRA Det Okinawa had received the identical complaint in January 2004 and had assigned CDR Mark Konoto, JAGC, to conduct a JAGMAN investigation. The investigation concluded several employees made personal phone calls using government telephones and had not paid for the calls. Based on these findings, the

command recouped \$1,282.00 from the seven employees who were responsible for the improper calls.

d. Summary of the Outcome of Investigation. The allegation that the subjects misused government telephones to make long distance calls was substantiated. The allegation that the command employees who improperly used the phones did not repay the amount is unsubstantiated. All of the seven employees had repaid the money when it was brought to their attention as a result of the JAGMAN investigation and each received a letter of caution.

3. First Allegation. That government employees at Naval Air Pacific Repair Activity Detachment Okinawa improperly made personal overseas telephone calls in November 2003 and January 2004 at government expense in the amount of \$1,282 in violation of DOD 5500.7R, Joint Ethics Regulation, Chapter 2, Paragraph 2-301, Use of Federal Government Resources. Substantiated.

a. Facts

(1) The allegation that command personnel improperly used government telephones to make private calls was previously addressed in a JAGMAN investigation completed by CDR Mark Konoto on 22 April 2004. A copy of the JAGMAN investigation is included in the NAVAIRPRA Det Okinawa investigation file related to this investigation.

(2) The Joint Ethics Regulation, DOD 5500.7R, paragraph 2-301, Use of Federal Government Resources, states:

“Official use includes emergency communications and communications that the DoD Component determines are necessary in the interest of the Federal Government.”

Authorized purposes include brief communications made by DoD employees while they are traveling on Government business to notify family members of official transportation or schedule changes.

(3) The JAGMAN stated that seven government employees assigned to the Naval Air Pacific Repair Activity Detachment Okinawa made 56 telephone calls at government expense totaling \$1,282.00. The calls were made between 23 November 2003 and 6 January 2004, when the command first learned of the complaint.

(4) The JAGMAN investigation stated that the employees thought it was okay to make long distance calls starting around Thanksgiving 2003. The investigation determined that the Morale, Welfare and Recreation Committee had donated \$2,500.00 for command members to make calls home during the Thanksgiving and Christmas Holiday period. The established policy for these calls was that they could be made from certain designated MWR telephones in the command. Each member could make two

calls home for 30 minutes each. The MWR committee paid for the calls from 22 November 2003 through 6 January 2004 or until the money was used up. These designated telephones were deactivated on 7 January. .

(5) The report documented that the seven civilian personnel did not know about the designated MWR telephones and were under the impression that they could make calls home over the holidays from their offices/desks. A review of the calls made by these employees showed they were all personal calls to private residences. We interviewed each of the seven employees. Most said they heard from other employees that it was okay to make long distance calls since it was command approved. None of them had heard about the MWR offer to pay for calls during the holidays or indicated any knowledge of the designated MWR phone lines.

b. Analysis/Discussion/Conclusion

(1) As stated in, DOD 5500.7R, paragraph 2-301, "...calls made from government phones must be for official use only which includes emergency communications and communications that the DoD Component determines are necessary in the interest of the Federal Government." The JAGMAN determined the employees did **not** use the phones designated by MWR to make the 30 minute calls during the specific time period, but instead used their office/desk phones.

(2) CDR Mark Konoto stated each individual was very helpful and cooperative during his investigation. Each helped to identify the calls they had made. He added that all of them expressed regret and stated that they were sorry. While the confusion surrounding the use of the phones is understandable, the employees' misuse of the telephones is a violation. The onus is on the employee to be cognizant of the rules and regulations prior to making long distance calls from a government phone.

(3) Based on the JAGMAN findings, we concluded this allegation is substantiated.

c. Recommendation(s). None.

d. Disposition.

(1) The responsible NAPRA Det Okinawa employees signed a Voluntary Repayment Agreement for Unauthorized Telephone Calls and agreed to pay the full amount. Each employee prepared a DD Form 2481 and the first deduction from their pay occurred 1 April 2004.

(2) Following the completion of the JAGMAN investigation and repayment by each employee, the NAVAIRPRA Commanding Officer forwarded each of the seven employees a Letter of Caution regarding the misuse of government property. Also, the Commanding Officer directed ethics training for the entire command.

3. **Second Allegation.** That government employees at Naval Air Pacific Repair Activity Detachment Okinawa did not repay the amount owed for personal overseas telephone calls in the amount of \$1,282 made at government expense between November 2003 and January 2004 in violation of DOD 5500.7R, Joint Ethics Regulation, Chapter 2, Paragraph 2-301, Use of Federal Government Resources.

a. Facts

(1) The Facts stated in paragraph 3a. (1) - (5) apply to this allegation and will not be repeated.

(2) As a result of the findings of the JAGMAN investigation, Letters of Notification to Collect for Unauthorized Telephone Calls along with letters of Voluntary Repayment Agreement for Unauthorized Telephone Calls were sent to all the seven employees. As a result, a DD Form 2481 was generated for each employee to repay the government. The employees and amount of phone calls made were: Mr. Sam Tanuti (\$145), Mr. Jim Estee (\$117), Mr. Mike Unitas (\$189), Mr. Harold Dickies (\$174), Mr. Judy Goody (\$196), Mr. Anna Wolf (\$214), and Mr. Hamilton Kennedy (\$247). Each employee prepared a DD Form 2481 and the first deduction from their pay occurred 1 April 2004.

b. Analysis/Discussion/Conclusion

(1) The JAGMAN determined the employees improperly used their office/desk phones vice those designated by MWR to use for limited minutes during a specific period of time. When this matter was brought to the employee's attention, they repaid the money owed.

(2) Accordingly, we concluded this allegation is not substantiated since all of the money was repaid beginning in April of 2004 - prior to receipt of the hotline complaint.

c. Recommendations. None.

d. Disposition. None.

4. Interviews and Documents. (All interviews conducted in person unless otherwise noted.)

a. Documents Reviewed

(1) JAGMAN Investigation conducted by CDR Mark Konoto dated 22 April 2004.

(2) BATELCO phone bills for numbers 9416833, 9417579, 9417581, 9417583, and 9418432, from November 2003 to March 2004

(3) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Sam Tanuti in the amount of \$145.00

(4) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Harold Dickies in the amount of \$174.00

(5) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Jim Estee in the amount of \$117.00

(6) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Judy Goody in the amount of \$196.00

(7) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Anna Wolf in the amount of \$214.00

(8) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Hamilton Kennedy in the amount of \$247.00

(9) DD Form 2481 (REQUEST FOR RECOVERY OF DEBT DUE THE UNITED STATES BY SALARY OFFSET) for Mr. Mike Unitas in the amount of \$189.00

(10) Email from Kirky Kirkland to Mr. Sam Tanuti, Mr. Jim Estee, Mr. Mike Unitas, Mr. Harold Dickies, Mr. Judy Goody, Mr. Anna Wolf, and Mr. Hamilton Kennedy dated 5 March 2004 (Unofficial Telephone calls)

(11) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Sam Tanuti on 15 March 2004

(12) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Harold Dickies on 13 March 2004

(13) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Jim Estee on 14 March 2004

(14) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Mike Unitas on 13 March 2004

(15) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Judy Goody on 15 March 2004

(16) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Anna Wolf on 12 March 2004

(17) U.S. Naval Air Pacific Repair Activity Detachment Okinawa Memorandum dated 13 March 2004 (NOTIFICATION TO COLLECT FOR UNAUTHORIZED TELEPHONE CALLS) with enclosed VOLUNTARY REPAYMENT AGREEMENT FOR UNAUTHORIZED TELEPHONE CALLS signed by Mr. Timothy Kennedy on 14 March 2004

(18) U.S. Naval Air Pacific Repair Activity FY96 Detachment Okinawa Personnel Payroll Ledger

(19) Email from Mr. Kirky Kirkland, Budget Analyst, NAVAIRPRA Det Okinawa, to LT LCDR Johnny Jones dated 31 March 2004 (Salary Offset for Unofficial Telephone Use)

b. Persons Interviewed

(1) Mr. Sam Tanuti, Mr. Jim Estee, Mr. Mike Unitas, Mr. Harold Dickies, Mr. Judy Goody, Mr. Anna Wolf, and Mr. Hamilton Kennedy (subjects) assigned to NAPRA Det Okinawa

(2) CDR Mark Konoto, JAGMAN Investigating Officer, NAPRA Det Okinawa

(3) Mr. Kirky Kirkland, Budget Analyst, NAPRA Det Okinawa

(4) LT Howard Dolf, Legal Officer, NAPRA Det Okinawa

Exercise 4:

Evaluating Letter Reports

Exercise 4: Evaluating Letter Reports

These sample letter reports acquaint you with the letter outline. As you will see, although they all conform to the basic outline, they vary in content and style. We have purposely kept the outline and structure of the format simple because we focus more on content than form.

The purpose of the letter, like the Investigative Report, is to:

- Document whether the allegation(s) were substantiated or unsubstantiated.
- Organize the information so that anyone can read and understand the report without reference to enclosures or other material (stand alone).
- Document the findings in an impartial and accurate manner and provide the responsible authority with information to assist in making a determination whether to take corrective, remedial, or disciplinary action

SAMPLE LETTER REPORT #1

5041/200xxxxx
Ser N6x/

From: (command)
To: (command)

Subj: DOD HOTLINE COMPLAINT xxxxx (200xxxxx); COMPLETION REPORT

Ref: (a) DoD Memo of 6 May 03
(b) NAVINSGEN Investigations Manual (July 1995)
(c) NSHS Bethesda Instruction 1520.1
(d) CME Program Guidebook
(e) DoD Financial Management Regulation
(f) United States Code, Title 31
(g) Joint Travel Regulations

1. Reference (a) forwarded an anonymous DoD complaint that alleged two violations. Per reference (b), we reviewed the complaint and conducted an investigation to determine the truth in the matter. Subsequently, we concluded that the facts in this case were unequivocal and undisputed and that no further investigation was warranted.

a. Investigator(s) and Identifying Information.

Ms. Dorothy James, GS-13, Bureau of Medicine & Surgery (BUMED), 8901 Wisconsin Ave, Bethesda, MD 20889-5615, telephone: (301) 295-9010, e-mail: djames@us.med.navy.mil.

Mr. Harry Phillips (subject matter expert), GS-13, Auditor, BUMED Comptroller Department, 8901 Wisconsin Ave, Bethesda, MD 20889-5615, telephone: (301) 295-8884, e-mail: hphillips@us.med.navy.mil.

b. Location of Working Papers. Inspector General, Bureau of Medicine & Surgery (BUMED), 8901 Wisconsin Ave, Bethesda, MD 20889-5615.

c. The hotline control numbers are:

DoD Hotline #xxxxx – Received complaint 10 June 2003
NAVINSGEN #200xxxxx – Received complaint on 5 July 2003
BUMED received complaint on 16 Jul 2003

Subj: DOD HOTLINE COMPLAINT xxxxx (200xxxxx); COMPLETION REPORT

2. The first allegation alleged that Captain (CAPT) John Grant, a physician assigned to the Naval Operational Medicine Institute, Pensacola, Florida, improperly attended some medical conferences in Canada and Florida during 2002-2003 for personal gain. By

attending the conferences, the complainant added that Captain Grant obtained continuing education credits for his medical profession; was trying to become a Certified Medical Investigator; and was establishing or continuing his medical license in various states. Second, the complainant alleged that Captain Willard Rogers, the Chief Staff Officer, abused his authority by improperly approving Captain Grant's travel orders that authorized him to drive rather than fly to these conferences. The BUMED database did not reveal any previous complaints or investigations concerning either subject. Our data base indicated no previous complaints regarding either subject. We found both allegations were unsubstantiated. Based on the evidence, we concluded the complaint was unfounded and that the TAD orders were properly authorized and executed in accordance with current directives. No action is required.

3. First Allegation. That Captain Grant wasted government funds by improperly attending medical conferences in Canada and Florida during 2002-2003, in violation of NSHS Bethesda Instruction 1520.1, Navy Medical Corps Continuing Medical Education (CME) Program. **Unsubstantiated**.

a. We reviewed references (c) and (d), which outline the Bureau of Medicine and Surgery's (BUMED) and the Naval Medical Education and Training Command's (NMETC) Continuing Medical Education (CME) Program. These programs strongly support continuing education for medical personnel to foster on-going professional growth. They generate an academic environment at medical departments by involving medical personnel in continuous education. Moreover, the programs provide accreditation in the latest medical practices.

b. A review of CAPT Grant's TAD orders from 1 January 2002 through 1 June 2003 showed eight sets of orders. Of these, three involved schools under the BUMED Program. CAPT Grant attended two schools in the local area on no-cost orders and another at Naval Air Station Meridian, MS, on funded orders. While attending training at Meridian, he was authorized a Privately Owned Conveyance (POC). None of the schools were in Canada; however, one set of TAD orders to Ottawa, Canada was present and determined to be operational rather than educational in nature. All of the operational orders directed the use of government air.

c. A review of the command's order writing/approving process showed Dr. John Straight, the Director of the Medical Education Command, approved the 3 sets of orders and verified they involved educational programs and fell within the scope of the CME criteria. Also, CAPT Rogers, the Chief Staff Officer, reviewed each CME request and set of orders for the command. He was authorized by the Commanding Officer to sign and approve TAD orders as an Accountable Official per reference (e) and act as a Certifying Officer to verify travel vouchers per reference (f).

d. We concluded that CAPT Grant's three sets of CME orders were properly submitted and reviewed by Dr. Straight to qualify under the program. Also, they were properly submitted and approved by CAPT Rogers as an Accountable Official for authorizing TAD orders and as a Certifying Officer for approving completed travel

vouchers. We did not find any violation of a rule or regulation after reviewing the references and comparing the standards with the facts.

4. Second Allegation. That CAPT Rogers abused his authority as Chief Staff Officer by improperly approving Captain Grant's travel orders, which authorized him to drive rather than fly to Meridian, MS to attend training in November 2003, in violation of the Joint Federal Travel Regulations, Volume 1, Uniformed Service Personnel, Ch. 3 - Transportation, Accompanied Baggage, and Local Travel, and Ch. 4 - Temporary Duty Travel TDY DoD Financial Management Regulation, and Volume 5, Disbursing Policy and Procedures, Chapter 33, Accountable Officials and Certifying Officers ; and United States Code, Title 31, Money and Finance. **Unsubstantiated**.

a. We reviewed CAPT Grant's TAD orders, receipts and Defense Finance and Accounting System (DFAS) Travel Voucher Summary for training in Meridian, MS. He was authorized the use of his Privately Owned Conveyance (POC) to attend the training and authorized one day of travel to drive to/from Meridian per reference (g). CAPT Rogers approved the travel orders per references (e) and (f).

b. Reference (g) authorizes the use of a POC when executing TAD orders as long as it "...is more efficient, or economical,... [or] 2. there is no practicable commercial transportation [available...." We contacted the local SATO Office and determined transportation by government air was available at a cost of \$670.00. A review of CAPT Grant's summary showed the cost of his POC travel was \$218.45.

c. We concluded the set of TAD orders for CAPT Grant to attend CME training in Meridian was properly submitted, authorized and liquidated in accordance with current directives. We did not find any violation of a rule or regulation after reviewing the references and comparing the standards with the facts. Also, we determined that the use of a private vehicle was the most economical use of government funds.

5. (Command) considers this case closed.

(name of official)
By direction

SAMPLE LETTER REPORT #2

5041/200xxxxx
Ser N6x/

From: (command)
To: (command)

Subj: NAVY HOTLINE COMPLAINT 200xxxxx; COMPLETION REPORT

Ref: (a) (hotline complaint)
(b) NAVINSGEN Investigations Manual (July 1995)

1. Reference (a) forwarded a complaint that alleged the Commanding Officer, Naval Air Station (NAS) Oceana, Virginia was wasting government funds. Per reference (b), we reviewed the complaint and conducted a Preliminary Inquiry to determine the facts in the matter. Subsequently, we concluded that the facts in this case were unequivocal and undisputed and that no further investigation was warranted.

a. Investigator(s) and Identifying Information. Ms. Dorothy Adams, GS-13, Commander, Navy Region Mid-Atlantic Region, Inspector General Office, 1510 Gilbert Street, Norfolk, VA 23511, telephone (757) 322-2785, e-mail: dadams@navy.mil.

b. Location of Working Papers. Commander, Navy Region Mid-Atlantic Region, Inspector General Office.

c. The hotline control numbers are:

NAVINSGEN #200xxxxx – Received complaint on 5 July 04
Mid-Atlantic Region IG received complaint on 16 Jul 04

2. First Allegation. That Commanding Officer, Naval Air Station (NAS) Oceana, Virginia wasted government funds by authorizing an excessive number of emergency vehicles to service a small base population in violation of U.S. Navy Regulations, Chapter 8, Responsibility of the Commanding Officer. **Unsubstantiated.**

a. U.S. Navy Regulations, Chapter 8, Section 1, Commanding Officers, Article 802, Responsibility, paragraph 1, states: 'The commanding officer shall be responsible for economy within his or her command. To this end the commanding officer shall require from his or her subordinates a rigid compliance with the regulations governing the receipt, accounting and expenditure of public money and materials, and the implementation of improved management techniques and procedures.'

b. We interviewed the complainant on 22 July 2004. He stated that he thought the Commanding Officer was wasting government funds by having four ambulances and the required manning to serve a naval base with only about 1500 personnel assigned.

c. Our inquiry revealed that NAS Oceana has a Level II community hospital and local Emergency Medical Service (EMS) support for the local community. A Branch Medical Clinic without an Emergency Room covers the base.

d. The primary ambulance is kept at the firehouse and is manned by one Emergency Medical Technician (EMT) from the base Fire Department and one EMT from the medical clinic for each duty shift. Two Corpsmen from the clinic man the back-up ambulance, stationed at the medical clinic. A third ambulance, a 4x4, is stationed at the firehouse and is dedicated for flight line and remote emergencies. The ambulances serve an active airfield and air training base as well as two separate housing tracts with a population of 1200 active duty and 1200 dependents. In addition, they serve a transient population of up to 3000 when a Carrier Air Wing is training and humanitarian support for the surrounding isolated area.

e. The 2003 records showed that the primary ambulance responded to 143 requests and the secondary ambulance responded to 15. The secondary ambulance was also used for eight days of EMT training, 15 days of Emergency Vehicle Operator Course training, 37 days of gun range coverage, and six days of base events coverage.

f. We discussed this issue with BUMED and reviewed their requirements for authorizing and establishing emergency services at naval bases. They agreed that four vehicles were authorized and that the current funding restraints would prohibit replacing the vehicle that was recently decommissioned. They hoped to provide a fourth vehicle in FY2007. They stated with the active airfield, training program, emergency training, gun range support, isolated location, and population size, the air station has more than adequate justification and need for three ambulances. The fourth ambulance was decommissioned and removed three to four months ago. As mentioned, there will be no replacement vehicle.

g. We concluded that the base had an appropriate number of emergency vehicles to service this size base. We did not find any violation of a rule or regulation after reviewing the references and comparing the standards with the facts.

5. We recommend you close the case.

(name of official)
By direction

Report Formats, Checklist & Other Forms

TELEPHONE INTAKE FORM

Complainant is anonymous/confidential (please circle one)

Contact information (if applicable):

Address _____

e-mail _____

Phone number with area code

Nature of complaint:

(1) Who is the subject and which command/activity

(2) What is the alleged wrongdoing

(3) When did it occur

(4) Are there any witnesses

(5) Who else have you informed regarding this matter

(6) Have you tried to address this issue within the chain of command

c. No – Why not?

d. Yes – Who and when and what was the response

(7) What would you like the IG to do

Date of Complaint:

Complaint taken by:

Referred

to: _____

Navy Hotline Number assigned: _____

HOTLINE INVESTIGATION REPORT FORMAT
(Date)

1. Investigator(s) and Identifying Information and Location of Working Papers

a. Investigator(s) and Identifying Information.

b. Location of working papers.

2. Background and Summary

a. Hotline Control #s and Origin of Complaint.

b. Summary of Complaint.

c. Additional Information (Optional).

d. Summary of outcome of investigation.

e. List of allegations (Optional).

3. First allegation.

a. Facts.

(1)

(2)

(3)

b. Analysis/Discussion/Conclusion.

(1)

(2)

(3)

(4)

c. Recommendation.

d. Disposition.

4. Interviews and Documents

a. Interviews conducted. (All interviews were conducted in person unless otherwise noted.)

(1)

(2)

(3)

b. Documents reviewed.

(1)

(2)

(3)

INVESTIGATION REPORT OUTLINE W / EXPLANATION

(Date)

Section 1. Investigator(s) and Identifying Information and Location of Working Papers

a. Investigator(s) and Identifying Information. (Name, Rank/Grade, Title, Organization, Telephone # and E-mail address)

b. Location of Working Papers.

Section 2. Background and Summary

a. Hotline control #s, Dates of Receipt and Tasking Dates.

b. Summary of the Complaint. (Brief summary of allegations in the IO's own words)

c. Additional Information (Optional). (This section helps the reader understand the case, i.e., outcome of previous, related investigations, results of Preliminary Inquiry, and if any allegations were referred to the command or other process for investigation).

d. Summary of Outcome of Investigation. (Brief summary of outcome to include # of allegations, # of substantiated allegations and disposition (for substantiated allegations, if action has been taken).

e. List of Allegations (Optional).

Section 3. First Allegation (State the allegation to include criminal/regulatory violations and whether it was **Substantiated** or **Unsubstantiated**)

a. Facts. (Derived from testimony, documents and physical evidence; includes standards, i.e., rules/regulations/statutes)

b. Analysis, Discussion, and Conclusion. (Weigh evidence, resolve conflicts, state opinions, include mitigating factors w/explanation and explain the rationale for the conclusion. The last paragraph in this section should state your conclusion; i.e., "Based on their testimony, we concluded that Ms. Chase did not return to the Conference on the afternoon of 3 March nor was she present on Thursday, 4 March for the entire day.")

c. Recommendation(s). (General, such as administrative changes or "take appropriate action to hold subject accountable" – not specific punitive, disciplinary, adverse administrative)

d. Disposition. (Corrective or Administrative Action taken as a result of substantiated allegation)

Section 4. Second Allegation (if applicable)

Section 5. (or last Section) Interviews and Documents

LETTER REPORT OUTLINE

5041/200xxxxx
Ser N6x/
(date)

From: (command)
To: (command)

Subj: COMMAND, NAVY or DOD HOTLINE COMPLAINT 200xxxxx; INVESTIGATION REPORT

Ref: (a)(DoD/Navy/command tasking letter)
(b) NAVINSGEN Investigations Manual (July 1995)
(c)(as applicable)

1. **Administrative Section.** Reference (a) forwarded a (DoD/Navy/command) complaint from an anonymous/confidential) complainant that alleged (insert #) violations. Per reference (b), we reviewed the complaint and conducted a (Preliminary Inquiry or investigation) to determine the truth in the matter. Subsequently, we concluded that the facts in this case are unequivocal and undisputed and that further (inquiry or investigation) is unwarranted.

a. **Investigator(s) and Identifying Information.**

b. **Location of Working Papers.**

c. **Hotline Control Numbers.**

2. **Background and Summary Section (Optional).**

3. **First Allegation.**

4. **Second/Third/Fourth, etc. Allegation(s).**

5. (command) considers this case closed.
(signed)

LETTER REPORT FORMAT W/EXPLANATION

5041/200xxxxx
Ser N6x/
(date)

From: (command)
To: (command)

Subj: NAVY HOTLINE COMPLAINT 20040xxx; COMPLETION REPORT
or
DOD HOTLINE COMPLAINT xxxxx (20040xxx); COMPLETION REPORT
or
(command) HOTLINE COMPLAINT xxxxx; COMPLETION REPORT

Ref: (a) (DoD/Navy/command tasking letter)
(b) NAVINSGEN Investigations Manual (July 1995)
(c)(as applicable)

1. (Administrative Section) Reference (a) forwarded a (DoD/Navy/command) complaint from an (anonymous/confidential) complainant that alleged (insert #) violations. Per reference (b), we reviewed the complaint and conducted a (Preliminary Inquiry or investigation) to determine the truth in the matter. Subsequently, we concluded that the facts in this case were unequivocal and undisputed and that no further (inquiry or investigation) was warranted.

a. Investigator(s) and Identifying Information.

(List the investigator(s) and identifying Information to include name, rank/grade, title, organization, telephone # and e-mail address)

b. Location of Working Papers. (Indicate where the investigative files are maintained with the address)

c. Hotline Control Numbers.

(list all HL control numbers)

2. Background and Summary Section (Optional). This paragraph includes general information and overview of the complaint, to include:

(add subparagraphs to discuss the following, as applicable)

- how and when the complaint was received;
- a brief discussion of the allegation(s);

- any background information that may help the reader to understand important issues or to set the stage; and,

- the Findings for the allegation(s).

3. First Allegation. (State the allegation to include criminal/regulatory violation and Findings followed by **Substantiated** or **Unsubstantiated**).

4. Second/Third/Fourth, etc. Allegation. Discuss the allegation(s) in subsequent paragraphs, as applicable, to include criminal/regulatory violations and the findings for each.

5. (command) considers this case closed.

(signed)

PROGRESS REPORT FORMAT

(Date)

1. **Applicable DOD Component:** Department of the Navy

2. **Hotline Control Number(s):**

DoD Hotline #

Navy Hotline #

3. **Date Referral Initially Received:**

4. **Status**

a. Name of organization conducting investigation.

b. Type of investigation being conducted.

c. Results of investigation to date (summary).

d. Reason for delay in completing investigation.

5. **Expected Date of Completion:**

6. **Action Agency Point of Contact (POC) and Organization**

MILITARY WHISTLEBLOWER REPRISAL LEGAL REVIEW FORM

MEMORANDUM FOR THE NAVAL INSPECTOR GENERAL

From: Special Assistant for Legal and Legislative Matters

Subj: LEGAL REVIEW OF MILITARY WHISTLEBLOWER REPRISAL INVESTIGATION IN THE CASE OF _____, USN

- 1. Synopsis.
- 2. Background.
 - a.
 - b.
- 3. Procedural History.
- 4. Timeliness of Reprisal Complaint.

| Date of Action | Action | +60 Days | Date of Complaint | Comments |
|----------------|--------|----------|-------------------|----------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

5. Review and analysis of the "four questions." _____ communications and _____ personnel actions were identified and analyzed in the Reprisal Report

a. Did the military member make or prepare a communication protected by statute?

- (1)
- (2)
- (3)
- (4) Summary of Communications:

| Date | Communication | Protected Status |
|------|---------------|------------------|
| | | |
| | | |
| | | |

b. Was an unfavorable personnel action taken or threatened, or was a favorable action withheld or threatened to be withheld following the protected communication?

(1)

(2)

(3)

(4)

(5)

(6) Summary of Personnel Actions:

| Date | Action | Unfavorable Status | Responsible Management Official (RMO) |
|------|--------|--------------------|---------------------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

c. Did the official(s) responsible for taking, withholding, or threatening the personnel action know about the protected communication(s)?

| Action | Communication #1 | Communication #2 | Communication #3 |
|--------|------------------|------------------|------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

d. Does the evidence establish that the personnel action would have been taken, withheld or threatened if the protected communication had not been made?

(1)

(2)

(3)

(4)

(5)

6. Conclusion. The evidence legally supports _____ conclusions. A summary of those conclusions follows:

| Action | Reprisal Conclusion |
|--------|---------------------|
| | |
| | |
| | |
| | |
| | |

7. Relief. The following relief is recommended . . .

| Action | Relief |
|--------|--------|
| | |
| | |
| | |
| | |
| | |

MILITARY WHISTLEBLOWER REPRISAL LEGAL REVIEW SAMPLE

? September 200??

MEMORANDUM FOR THE NAVAL INSPECTOR GENERAL

From: Special Assistant for Legal and Legislative Matters

Subj: LEGAL REVIEW OF MILITARY WHISTLEBLOWER REPRISAL
INVESTIGATION IN THE CASE OF , USN

1. Synopsis. LCDR -----, alleges that CDR --- gave him two unfavorable fitness reports, prevented him from receiving an end-of-tour award, and wrote two negative letters to LCDR ----- new command, all in reprisal for various communications LCDR ---- - made that were critical of CDR -----.

2. Background.

a. CDR ----- was the OIC of -----, Detachment -----, during the relevant period for this investigation. LCDR ----- was assigned to ---- Det ----- and reported to CDR -----.

b. LCDR -----h alleges that 5 unfavorable personnel actions were taken against him: 1) Lowered marks in his 31 Oct 2000 FITREP; 2) Much lower marks in his 1 Feb 2001 FITREP; 3) Not recommended for an end-of-tour award; 4) Letter to CO USS ----- - alleging he had submitted fraudulent travel claim appeal; 5) Letter to CO USS ----- - alleging he has submitted fraudulent ----- Homestead application.

3. Timeliness of Reprisal Complaint.

| Action | Date of Action | +60 Days | Date of Complaint | Comments |
|---|-----------------------|-----------------|--------------------------|-----------------|
| Lowered marks in the 31 Oct 00 fitrep | 21 Nov 00 | 20 Jan 01 | 1 Aug 01 | Untimely |
| Much lowered marks in the 1 Feb 01 fitrep | 1 Feb 01 | 2 Apr 01 | 1 Aug 01 | Untimely |
| Not recommended for end of tour award | 1 Feb 01 | 2 Apr 01 | 1 Aug 01 | Untimely |
| Letter to CO USS -- --- re travel claims | post 23 Apr 01 | | 1 Aug 01 | Untimely |
| Letter to CO USS -- -- re --- homestead application | post June 01 | | 1 Aug 01 | Timely |

LCDR ----- submitted an explanation for his untimely complaint. The decision to investigate the complaint in light of LCDR ---- explanation seems reasonable and is not legally objectionable.

4. Review and analysis of the "four questions."

a. Did the military member make or prepare a communication protected by statute?

- *A protected communication is:*

i. Any lawful communication to a Member of Congress or an IG.

ii. A communication in which a member of the Armed Forces communicates information that the member reasonably believes evidences a violation of law or regulation, including sexual harassment or unlawful discrimination, mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety, When such communication is made a any of the following:

- A member of congress, an IG, or a member of a DOD audit, inspection, investigation, or law enforcement organization.

- Any other person or organization(including any person or organization in the chain of command) designated under component regulations or other established administrative procedures to receive such communications.

(1) Anonymous Complaint to IG. This was a protected communication. Although the complaint was not actually made by LCDR ----, there is sufficient evidence to support a finding that CDR ----- believed LCDR ----- may have made the complaint.

(2) Communication to CO re ---- class and hiring issue. The CO qualifies as an individual in the chain of command who may receive a protected disclosure. In this case, however, I disagree with the investigating officers' finding that the communication disclosed a "violation of law or regulation, including sexual harassment or unlawful discrimination, mismanagement, a gross waste of funds or other resources . . ." (DOD Dir 7050.6). In the first communication LCDR ----- questioned the wisdom of conducting a ---- class when less than 10 students were enrolled and the usual class size exceeded 50. CDR -----'s response was that his staff needed to get BUPERS to get more students for the class, and that he was not prepared to cancel the class when he thought the problem was correctable. There is no indication that CDR ----- intended to ignore the fact that the class size was smaller than normal. The second disclosure was that CDR ----- attempted to negatively influence the hiring of a civilian ---- instructor.

As the OIC it was appropriate for him to be involved in hiring decisions. There is no evidence presented that would indicate he violated any civilian personnel law or regulation in connection with this hire. Other communications mentioned involved criticism of CDR -----'s leadership skill and did not rise to a disclosure of a "violation of law or regulation . . . "

(3) Command Assessment Survey. LCDR -----'s survey was anonymously submitted along with others from the command. CDR ----- admitted he recognized LCDR ----- as the author of that survey. Although the emphasis of the survey was pointing out perceived deficiency in CDR -----'s leadership skill, there was sufficient mention of inappropriate conduct to warrant characterizing the survey as a disclosure of an abuse of discretion. In any event, retaliation for being frank in a command assessment is wrong and should be remedied.

(4) Statement to Sexual Harassment Investigator. There is insufficient information to completely evaluate this communication. Since it was determined that CDR ----- had no knowledge of this communication, for the sake of efficiency I will assume it did qualify as a protected communication.

(5) Summary of Communications:

| Date | Communication | Protected Status |
|----------------|---|---|
| Aug 2000 | Anonymous hotline complaint to the Naval IG | Protected |
| 18-19 Oct 2000 | Communication to CO re OIC conducting ---- class, and role in hiring action. LCDR -----also indicated he made several critical remarks about CDR -----'s leadership skills. | Not Protected (IO found this to be protected) |
| Nov 2000 | Command Assessment Survey | Protected |
| Dec 2000 | Interviewed in connection with a sexual harassment investigation against OIC | Protected |

b. Was an unfavorable personnel action taken or threatened, or was a favorable action withheld or threatened to be withheld following the protected communication?

- A personnel action is any action on a member of the Armed Forces that affects or has the potential to affect that member's current position or career. Such actions include a promotion; a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits,

awards, or training; referral for a mental health evaluation under DOD Directive 6490.1; and any other significant change in duties or responsibilities inconsistent with the military member's rank.

(1) The investigating officers' analysis is legally sound.

(2) Summary of Personnel Actions:

| Date | Action | Unfavorable Status | Responsible Management Official (RMO) |
|----------------|---|--------------------|---------------------------------------|
| 21 Nov 00 | Lowered marks in the 31 Oct 00 fitrep | Unfavorable | CDR ----- |
| 1 Feb 01 | Much lowered marks in the 1 Feb 01 fitrep | Unfavorable | CDR ----- |
| 1 Feb 01 | Not recommended for end of tour award | Unfavorable | CDR ----- CDR ----- |
| post 23 Apr 01 | Letter to CO USS ----- re travel claims | Not Unfavorable | |
| post June 01 | Letter to CO USS ----- re homestead application | Not Unfavorable | |

c. Did the official(s) responsible for taking, withholding, or threatening the personnel action know about the protected communication(s)?

CDR ----- was aware of all of the communications with the exception of the statement to the Sexual Harassment Investigator. CDR ----- was aware of the statements made during his October 2000 visit.

d. Does the evidence establish that the personnel action would have been taken, withheld or threatened if the protected communication had not been made?

The investigating officers' analysis is legally sound. Even though I do not concur with the finding that the October 2000 communications qualify as protected, the analysis concerning the final fitness report is supported by the other protected communications and the investigating officers' determination that there was reprisal is legally justified.

6. Conclusion. The evidence legally supports the investigating officers, conclusions.

7. Recommend that should LCDR ----- submit a BCNR petition to have his final fitness report from CDR ----- remove, it should be granted.

Signed
CAPT _____, JAGC, USN

NOTE TO REVIEWING AUTHORITY

This investigation inquired into allegations of misconduct, improper conduct, or inappropriate conduct,¹ and either SUBSTANTIATED or UNSUBSTANTIATED the allegations. The administrative standard used to reach a conclusion in an IG investigation is a preponderance-of-the-evidence.² Such a conclusion is the investigating officer's opinion as to whether or not the alleged conduct occurred. A SUBSTANTIATED or UNSUBSTANTIATED conclusion is not a finding of guilt or innocence for purposes of discipline or accountability. It may, however, have binding effect on whether or not the alleged misconduct is reported to higher authority as "adverse material" for purposes of promotions, assignments, and retirement.

One of the purposes of this investigation is to assist a reviewing/disciplinary authority determine the issue of accountability. This investigation considers only facts and evidence bearing directly on all allegations raised. This investigation does not attempt to weigh the relative egregiousness of each allegation; nor does it ignore allegations that could be considered relatively minor. Moreover, no attempt has been made to consider these issues in a broader context (e.g. – the subject's career performance). However, these considerations are certainly within the purview of the reviewing authority in making a determination in this case.

In actually imposing discipline, the relevant authority should bear in mind the standard of proof applicable in IG investigations and that a subject may not have had an opportunity to review the report of investigation. In this particular investigation, it should be noted that:

--The subject has/has-not been advised of his/her right to remain silent (Art 31, UCMJ, if applicable).

--The subject was/was-not advised of the allegations prior to IG interview:

--The subject has/has-not been afforded an opportunity to review a copy of the report of investigation or the underlying statements and documentary evidence upon which it is based. (If exceptions, list them).

--While the subject may have a fairly good idea of the allegations contained herein, he has/has-not been afforded an opportunity to review the list. Furthermore, he has/has-not been informed which ones were substantiated and which ones were not.

--The subject has/has-not been afforded an opportunity to confront the witnesses against him.

It should be noted that the subject is not entitled to the above due process privileges as a matter of right during the course of an IG investigation to this point. Failure to afford the subject the opportunities listed does not render the investigation defective. The reviewing/disciplinary authority is free to extend the subject such privileges prior to holding the subject

¹ **Misconduct:** Generally conduct undertaken with the knowledge the conduct violates a punitive standard set forth in a law, regulation, or order; or undertaken with willful disregard for that possibility. Not all misconduct requires knowledge or intent to constitute misconduct; ignorance of the law is not always a defense to misconduct.

Improper conduct: Conduct that violates a directive, instruction, policy, regulation, rule, statute, or other standard without regard to whether directive, etc., is punitive, and without regard to knowledge, motive, or intent.

Inappropriate conduct: Actions a reasonable person would consider likely to erode confidence in the integrity of the U.S. Navy, but that do not violate a specific standard.

² Preponderance of the evidence: Greater weight of credible evidence supports the conclusion. Also expressed as: More likely than not that the alleged event occurred or did not occur.

accountable. An SJA and, where civilians are involved, an OGC and the Office of Civilian Human Resources should be consulted prior to taking disciplinary or significant personnel action, since the subject may then be entitled to various rights that were not afforded during the investigation.

The reviewing/disciplinary authority is hereby permitted to provide the subject with an unredacted, for-official-use-only copy of the report of investigation, prior to taking action that might affect a right, privilege, or benefit of the subject based upon the report of investigation.³ If a copy is provided, the subject should be advised against taking any actions that could be viewed as reprisals against witnesses and/or complainants.

The purpose of the investigation and this note is to assist in arriving at a fair and just resolution of this matter. If the Investigating IG can be of further assistance, please contact _____ at (phone).

³ 5 U.S.C. § 552a(k)(2) limits access to the investigatory record to the extent it would reveal a “confidential” source.

POST INVESTIGATION CHECKLIST

| | | | | | |
|---|--|----------------------------|---------------------|------------------------|----------------------|
| Subject of Complaint: | | Date: | | HOTLINE NUMBERS | |
| | | Type of Report: | | DoD | <input type="text"/> |
| | | Recommended Action: | | Navy | <input type="text"/> |
| | | | Ech 2 | <input type="text"/> | |
| | | | Ech 3/4 | <input type="text"/> | |
| Timeliness | | | If not, why? | | |
| 1 | IO submitted Report to tasking authority within 90 days? | | | | |
| 2 | IO used Progress Reports to request due date extension(s)? | | | | |
| Independence of Investigating Officer | | | If not, why? | | |
| 3 | IO included name, rank/grade, position, organization, telephone # and any other identifying information to assist the tasking authority to ascertain independence? | | | | |
| 4 | IO was independent, i.e. free from bias, free from command influence and senior to subject? | | | | |
| Completeness of the Investigative Report | | | If not, why? | | |
| 5 | IO addressed all tasked and emerging allegations? | | | | |
| 6 | IO interviewed the complainant (mandatory if complainant is named)? | | | | |
| 7 | IO interviewed the subject(s)? | | | | |
| 8 | IO interviewed key witnesses? | | | | |
| 9 | IO collected all evidence including documents (cited title, originator, date) and interviews (name, grade, position, and method of interview)? | | | | |
| 10 | IO wrote allegations in the proper format? | | | | |
| 11 | IO clearly cited and discussed the rules, regulations and statutes? | | | | |
| 12 | IO supported conclusions with evidence? | | | | |
| 13 | IO discussed mitigating circumstances, if applicable? | | | | |
| 14 | IO obtained legal review (mandatory for significant cases)? | | | | |
| 15 | IO followed Investigative Report format and included all mandatory sections? | | | | |
| 16 | Investigative Report stands alone, i.e. all relevant information is included and discussed in the body of the report with no reference to enclosures? | | | | |
| 17 | Investigative Report is balanced and fair to all parties? | | | | |

POST INVESTIGATION CHECKLIST

Continued

| | | | |
|---|---|------------------------|--|
| Subject of Complaint: | | Date: | |
| | | Type of Report: | |
| Accountability | | If not, why? | |
| 18 | IO correctly documented disposition, i.e., for unsubstantiated allegations, "no further action necessary"; for substantiated allegations, "forwarded to higher authority for appropriate administrative and/or corrective action" or "corrective action completed" (include type of action, who directed and date)? | | |
| 19 | IO submitted Disposition Report to tasking authority within 30 days? | | |
| Case Summary (Discuss allegation(s) and finding(s)), e.g., 2 of 4 allegations substantiated or other comments: | | | |
| | | | |
| Comments (Reason for Recommended Action or other significant information): | | | |
| | | | |

Routing Chain

| Name/Signature | Code | Date Reviewed | Comments |
|----------------|------|---------------|----------|
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