

## **MILITARY WHISTLEBLOWER REPRISAL INVESTIGATION ROI EXAMPLE**

### **NAVY HOTLINE COMPLAINT (200900000)**

1. Purpose. To conduct a Military Whistleblower Reprisal Investigation IAW DoD Directive 7050.06, SECNAVINST 5370.7C, and SECNAVINST 5370.5B.

#### 2. Introduction.

a. Complainant Name/Rank or Grade/Service:

(1) Name: James Smith

(2) Rank/Grade: YN3

b. Job Title/Duty Location/Current Contact Information:

(1) Job Position: Legal Yeoman

(2) Duty Location: Strike Fighter Squadron 147 (VFA 147) Naval Air Station (NAS),  
Lemoore, CA

(3) Contact Information: 123 Sanford Drive  
Lemoore, CA 12345  
PH: (619) 123-4567  
Email: JamesSmith@yahoo.com

c. On 20 August 2006 the complainant forwarded a Navy Hotline Complaint Intake Form to Commander, U.S. Pacific Fleet (COMPACFLT) Inspector General (IG) with allegations of reprisal.

d. On 23 August 2006 COMPACFLT IG Investigating Officials (IO) conducted an initial interview with the complainant to obtain necessary information for initiation of an advisement letter in accordance with 10 U.S.C 1034.

e. On 30 October 2006 a Preliminary Inquiry (P1) was completed into the allegations of reprisal submitted by the complainant and forwarded to NAVINSGEN for review on 15 November 2006. (Tab A (The PI is required to be part of the ROI supporting documents))

f. On 1 January 2007, NAVINSGEN directed COMPACFLT IG to conduct a Military Whistleblower Reprisal Investigation into the following allegations of reprisal:

(1) That CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) reprimanded against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by issuing a letter of reprimand (LOR) to YN3 Smith for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000.

(2) That CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) reprimanded against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by transferring YN3 Smith to First Lieutenant Division for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000.

(3) That LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147) reprimanded against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to issue an LOR to YN3 Smith for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000.

(4) That LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147) reprimanded against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to transfer YN3 Smith to First Lieutenant Division for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000.

(5) That LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147) reprimanded against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to issue an LOR to YN3 Smith for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000.

(6) That LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147) reprimanded against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to transfer YN3 Smith to First Lieutenant Division for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000.

**3. Background.** On 1 January 2006, YN3 Smith was assigned to Strike Fighter Squadron 147 (VFA 147) as the Legal Yeoman. On 1 June 2006, YN3 Smith made a Protected Communication (PC) with his Congressman, Honorable Phil Stenson, Texas, regarding YN3 Smith's concerns that some unsafe acts had taken place on the flight line during the week of 1 -7 May 2006, which were reported to the chain of command but never investigated. On 30 July 2006, YN3 Smith received an LOR allegedly for

providing information to an individual in the command regarding legal issues. On 30 July 2006, CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) transferred YN3 Smith to First Lieutenant Division. YN3 Smith believes both actions took place as a form of reprisal because of his contact with Congressman Stenson on 1 June 2006.

YN3 Smith made additional allegations or reprisal during his interview on 23 August 2006, with COMPACFLT IG IO's, but those allegations 1) did not meet the criteria for investigation because . . . . 2) were recommended closing on PI because there was an independent basis for the personnel actions (See Tab A). These recommendations were approved by NAVINSGEN on XX XXX XX.

#### 4. Protected Communications (PC):

a. On 15 May 2006, YN3 Smith informed LNC Justin Williams, Legal Officer, Strike Fighter Squadron 1 47 (VFA 1 47) that during the week of 1 -7 May 2006 . . . . . This communication between YN3 Smith and LNC Williams in which YN3 Smith communicated information the he reasonably believed evidenced a violation of a law or regulation was considered a protected communication by statute.

b. On 1 June 2006, YN3 Smith wrote a letter to Texas Congressman Phil Stenson and stated in the letter that during the week of 1-7 May 2006 . . . . . DOD 7050.6 defines a Protected Communication as any lawful communication with a Member of Congress, regardless of the subject matter, therefore this communication meets the criteria of a protected communication as defined under DOD Directive 7050.6, Military Whistleblower Protection Act.

c. On 20 August 2006, the complainant forwarded a Navy Hotline Complaint Intake Form to Commander, U.S. Pacific Fleet (COMPACFLT) Inspector General (IG) with allegations of reprisal. DOD 7050.6 defines a Protected Communication as any lawful communication with an Inspector General, regardless of the subject matter, therefore this communication meets the criteria of a protected communication as defined under DOD Directive 7050.6, Military Whistleblower Protection Act. This PC followed all alleged Unfavorable Personnel Actions (UPA) and will not be considered for this investigation.

d. On 23 August 2006, COMPACFLT IG Investigating Officials (IO) conducted an initial interview with the complainant to obtain necessary information for initiation of an advisement letter in accordance with 10 U.S.C 1034. DOD 7050.6 defines a Protected Communication as any lawful communication with an Inspector General, regardless of the subject matter, therefore this communication meets the criteria of a protected communication as defined under DOD Directive 7050.6, Military Whistleblower Protection Act. This PC followed all alleged Unfavorable Personnel Actions (UPA) and will not be considered for this investigation.

5. **Unfavorable Personnel Action(s) / Responsible Management Officials / Prior Knowledge:**

Date: Unfavorable Personnel Action(s) (UPA)	Responsible Management Official(s) (RMO)	RMO knowledge of PC(s) before taking UPA Ans : Yes, No, or Unk
On 30 July 2006, CDR Steve Jones issued a Letter or Reprimand (LOR) to YN3 Smith.	CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147) LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147)	Yes  Yes  Yes
On 30 July 2006, CDR Steve Jones transferred YN3 Smith to the First Lieutenant Division.	CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147) LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147)	Yes  Yes  Yes

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

YES/No

a. LOR The evidence established that the personnel action would have/would not have been taken if the protected communication had not been made.

(1) Using information from SKE and then citing the SKE at the end of each paragraph provide the evidence.

(2) Use this last paragraph to tie together Reason, Reasonableness, Motive, Consistency, and Procedural Errors and making the finding that . . . . .

b. Transferred to First Lieutenant Division. The evidence established that the personnel action would have/would not have been taken if the protected

communication had not been made.

(1) SAME AS ABOVE

(2) SAME AS ABOVE

7. **Conclusion.**

Date	Alleged Unfavorable Personnel Action	Alleged RMO	Action Would Be Taken Absent PC	Reprisal Yes/No
30 July 2 006	On 30 July 2006, CDR Steve Jones issued an LOR to YN3 Smith	<p>CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147)</p> <p>LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147)</p> <p>LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147)</p>	Yes	No
30 July 2 006	On 30 July 2006, CDR Steve Jones transferred YN3 Smith to First Lieutenant Division.	<p>CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (YFA 147)</p> <p>LCDR Rory Calhoun, Executive Officer</p>	Yes	No

a. That CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) reprimed against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by issuing an LOR to YN3 Smith for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000 **is not substantiated.**

b. That CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) reprimed against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by transferring YN3 Smith to First Lieutenant Division for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6,

Military Whistleblower Protection, dated 23 June 2000 **is not substantiated.**

c. That LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147) reprimed against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to issue a non-punitive letter of caution to YN3 Smith for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000 **is not substantiated.**

d. That LCDR Rory Calhoun, Executive Officer, Strike Fighter Squadron 147 (VFA 147) reprimed against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to transfer YN3 Smith to First Lieutenant Division for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000 **is not substantiated.**

e. That LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147) reprimed against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to issue a non-punitive letter of caution to YN3 Smith for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000 **is not substantiated.**

f. That LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147) reprimed against YN3 James Smith, Legal Yeoman, Strike Fighter Squadron 147 (VFA 147) on 30 July 2006 by influencing CDR Steve Jones to transfer YN3 Smith to First Lieutenant Division for contacting his Congressman on 1 June 2006, in violation of DoD Directive 7050.6, Military Whistleblower Protection, dated 23 June 2000 **is not substantiated.**

**8. RECOMMENDATION:** Recommend that this case be closed based on the fact that there is no violation of Title 10 U.S.C., Section 1034.

## **Sequence of Key Events YN3 Steve Smith, USN**

1. **1 January 2006**. YN3 Smith was assigned to Strike Fighter Squadron 147 (VFA147) as the Legal Yeoman.
2. **1-7 May 2006**. According to (document or testimony) an unsafe act (explain in detail) occurred on flight line.
3. **15 May 2006**. YN3 Smith informed LNC Justin Williams, Legal Officer, Strike Fighter Squadron 147 (VFA 147) that during the week of 1-7 May 2006...
4. **1 June 2006**. YN3 Smith wrote a letter to his Congressman, Honorable Phil Stenson, Texas, regarding YN3 Smith's concerns that some unsafe acts had taken place on the flight line during the week of 1 -7 May 2006, reported to the chain of command but never investigated.
5. **30 July 2006**. YN3 Smith received a Non-Punitive Letter of Caution (LOC) allegedly for providing information to an individual in the command regarding legal issues. (TAB X)
6. **30 July 2006**. CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (VFA 147) transferred YN3 Smith to First Lieutenant Division.
7. **20 August 2006**. YN3 Smith forwarded a Navy Hotline Complaint Intake Form to Commander, U.S. Pacific Fleet (COMPACFLT) Inspector General (IG) with allegations of reprisal. (TAB)
8. **23 August 2006**. COMPACFLT IG Investigating Officials (IO) conducted an initial interview with YN3 Smith.