
Naval Inspector General Hotline Training Program



Investigating Military Whistleblower Reprisal
Complaints Workshop

Student Y [!\ à[[\

2009

Naval IG
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Preface

This Student Workbook is a training aid used for Naval Inspector General Hotline training. It is intended to help students work through the different phases of resolving and investigating Military Whistleblower Reprisal, Improper Referral for Mental Health Evaluation and Restriction complaints as required by title 10 USC 1034. The material contained in this workbook contains simulated complaints and case studies to be used in the training environment.

TAB 1

Clarification Procedures

1. Contact complainant within 2 days of receiving complaint.
2. Administer oath, record interview.
3. Explain who you are and what you are doing (clarification interview, tell them it will take 15 minutes, keep them focused. This includes explaining that the IG does not inject itself in disciplinary/administrative processes. Also explain that the process for redress may involve the complainant petitioning the BCNR.
4. Update administrative information for the file (address, telephone numbers, email, etc). You may want to ask if they are pending a transfer or deployment.
5. Ask the complainant if they have reviewed the applicable regulations regarding reprisal. Read/explain the definition of reprisal, Responsible Management Official (RMO), Protected Communication (PC), and Unfavorable Personnel Action (UPA).
6. Obtain information needed to complete notification form (RMO, PC, and UPA).
7. Inform complainant that you will review information and contact them regarding the status of their complaint (within 5 working days of receiving guidance from NAVINSGEN to conduct a preliminary inquiry or not).
8. Notify NAVINSGEN within 5 working days (regardless of whether the complaint meets the criteria of DODD 7050.06).

Reprisal Complaint Notification Template

Date:

From: (Originating IG Office) Inspector General
To: Naval Inspector General (Attn: N621)

Subj: Report of Reprisal Allegations – Navy Hotline Number YYYYNNNNN

Ref: (a) DODD 7050.06, Military Whistleblower Protection
(b) SECNAVINST 5370.7C

1. In accordance with references (a) and (b), the following notification is provided:

2. Date complaint of reprisal received: (MM/DD/YYYY)

3. Complainant:

Full Name and Rank

Duty Title:

Organization (including location):

4. Subject:

a. Full Name and Rank

Duty Title:

Organization (including location):

b. Full Name and Rank

Duty Title:

Organization (including location):

c. Full Name and Rank

Duty Title:

Organization (including location):

5. Protected communication (s):

a.

b.

6. Personnel Action(s):

a.

b.

7. The (Command Name) IG point of contact for this notification is (Enter POC Name) at (222) 555-1212.

Reprisal Complaint Notification Example – LCDR White

Date:

From: PACFLT Inspector General

To: Naval Inspector General (Attn: N621)

Subj: Report of Reprisal Allegations – Navy Hotline Number 200801234

Ref: (a) DODD 7050.06, Military Whistleblower Protection

(b) SECNAVINST 5370.7C

1. In accordance with references (a) and (b), the following notification is provided:

2. Date complaint of reprisal received: 6 Feb 2007

3. Complainant:

Lieutenant Commander (LCDR) William J. White

Duty Title: Supply Officer

Organization (including location): TACRON Forty Two, Naval Air Station (NAS)
North Island, San Diego, CA

4. Subject:

(1) Captain (CAPT) Michael J. Milligan

Duty Title: Commander

Organization (including location): TACRON Forty Two, Naval Air Station (NAS)
North Island, San Diego, CA

b. Commander (CDR) Bruce Lee

Duty Title: Department Head

Organization (including location): TACRON Forty Two, Naval Air Station (NAS)
North Island, San Diego, CA

5. Protected communication (s):

a. On December 19, 2006, LCDR White complained about contract mismanagement and illegal hiring practices by his chain of command to the NAS North Island Inspector General.

6. Personnel Action(s):

- a. CAPT Milligan and CDR Lee issued LCDR White a Letter of Reprimand for substandard performance on December 26, 2006.
- b. CDR Lee cancelled LCDR White's TAD orders to a professional development class on January 20, 2007.
- c. CAPT Milligan relieved LCDR White from his duties as Supply Officer on February 5, 2007.

7. The PACFLT IG point of contact for this notification is Sue Joseph at (222) 555-1212.

TAB 2

Record of Preliminary Inquiry w/ Explanation

Hotline #

Complainant Name/Rank or Grade/Service:

Name

Rank

Job Title and Duty Location:

Job Position

Unit

Base or City, State

(position when allegations were made)

Protected Communications (PC):

- List only what are actual PCs under 10 U.S.C. 1034 (Must mention disposition in either a footnote or a separate disposition document, not SKEs)
- If you determine the complainant has not made a PC as defined by 10 U.S.C. 1034, then insert the following: None.

If complainant alleges other communications resulted in unfavorable personnel actions, but are not PCs as defined by 10 U.S.C. 1034, mention them in a separate paragraph in this section. You must state reason for not considering, i.e., not to designated official under 10 U.S.C. 1034, disagreement with leadership and not gross mismanagement, does not evidence FWA, etc.

Do not list PCs after last unfavorable personnel action.

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

Only UPAs as determined by the investigator should be placed in the table.

Add any allegation of an UPA that does not meet the criteria under 10 U.S.C. 1034 under the UPA box.

Analysis:

Unfavorable Action (Use for each UPA with separate recommendation section for each UPA)

- If there is no PC, insert the following statement, “Absent a protected communication, there is insufficient evidence to warrant further investigation under 10 U.S.C. 1034.”
- Bullets will reference facts in the SKE to provide justification either for or against investigating the case. Information included in the analysis must be corroborated by testimony or documentation. You may use information gleaned from previous

investigations, official personnel files, previous congressional responses, and other official correspondence (email, separations packages).

- Do not cut and paste info from SKE. Combine items such as counseling sheets, Letters of Reprimand, documented incidents, etc. [SKE 2, 4, 6]
- Any additional significant information that might influence the determination of whether the allegations warrant investigation or closure. Questions below are only ticklers and should not be included as written in your final sheet.
 - Did the adverse personnel action occur within a short time following the PC? Or, a long time after the PC? (Any triggering event?)
 - Was the content of a PC critical of an RMO and did the RMO receive any negative action? (If so, explain.)
 - Prior to the PC, did the complainant have a good performance history in the same command? (If so, briefly describe and include dates.)
 - Prior to the PC, did the complainant receive negative counseling (written or oral) regarding performance or conduct issues? (If so, briefly describe and include date.)
 - Did the complainant receive written or oral counseling for “going outside the chain of command?” (If so, explain any significance and include date.)
 - Are there any prior investigations or congressional responses regarding the complainant’s reprisal allegations or the UPAs at issue? (If so, briefly explain.)
 - Were the allegations contained in the PCs properly investigated?

Recommendation:

Cite the reasons why you believe the alleged UPA warrants/does not warrant an investigation.

Hotline number 20XXXXXXXX

Final Recommendation:

Close case/refer for investigation/close specific allegations as mentioned in separate recommendations for each UPA above.

Be specific in tasking other issues to the Service component or the Defense Hotline.

Investigator: _____
Name Date

Team Leader: _____
Name Date

Sequence of Key Events w/ Explanation **(Complainant's Rank/Name/Service)**

The purpose of the sequence of events is to chronologically tell the story (clearly and concisely) and document the facts as identified in the preliminary process (documents and complainant interview). The bullets may contain more information than the Record of Preliminary Inquiry (RPI). This document should be referenced in your RPI as you analyze each unfavorable action. Style is as follows:

1. On date, such and such. (Facts must be supported by documents or testimony. Previous official statements (ie. investigation into PC) may be used as facts if the statements were officially recorded.)
2. According to xx, such and such. (Statements by the complainant or witnesses must be identified as such. Statements should demonstrate or support a fact, not an opinion.)

Record of Preliminary Inquiry – Bruce Lee

Complainant Name/Rank or Grade/Service:

Lieutenant (LT) Bruce Lee, USN (Industrial Hygienist)

Job Title and Duty Location:

**Department Head
Occupational Health Department
Naval Branch Medical Clinic (BRMEDCLINIC)
Jacksonville, Florida**

Protected Communications (PC):

- In September 2005 LT Lee was interviewed by the Naval Inspector General (NAVINSGEN) during an Area Visit to BRMEDCLINIC.¹ [SKE 5, 7]

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
January 31, 2006: Unfavorable Fitness Report (FITREP) (January 7, 2005 – January 31, 2006	Captain (CAPT) Nathan Watson, Commanding Officer, United States Naval Hospital (USNH), Jacksonville, Florida	Yes
May 17, 2006: Denied End-of-Tour Award	CAPT Watson	Yes

LT Lee testified that he was passed over for promotion by the Fiscal Year 2006 Lieutenant Commander (LCDR) Promotion Board based on the ratings on his February 2006 FITREP. In this case the actions of the promotion board are not appropriate for investigation under Title 10, United States Code, Section 1034.

¹ NAVINSGEN was conducting a command climate inspection and inquiring about complaints of unfair treatment and threatening behavior by Lieutenant Commander (LCDR) Karen Worth. Following the visit, LCDR Worth was relieved as the Officer-in-Charge (OIC), BRMEDCLINIC Jacksonville, FL.

Analysis:

Unfavorable FITREP (January 31, 2006)

- On March 30, 2005, LCDR Worth, Officer-In-Charge (OIC) for BRMEDCLINIC Jacksonville, presented LT Lee with two written counseling sheets for insubordination and failure to accomplish an assigned task.² [SKE 4]
- In September 2005 NAVINSGEN visited the BRMEDCLINIC to assess the command climate after receiving complaints from members of the unit regarding unfair treatment and threatening behavior from LCDR Worth. NAVINSGEN interviewed LT Lee and he provided them a Memorandum for Record (MFR) that he previously gave to his chain of command on April 1, 2005, detailing problems in the clinic. NAVINSGEN determined that “poor command leadership resulted in lack of oversight and mentoring of junior officers.” CAPT Watson subsequently relieved LCDR Worth. [SKE 4, 5, 6, 8]
- On March 9, 2006, CAPT Watson emailed LT Lee his FITREP for the period January 5, 2005 – January 31, 2006. LT Lee received a “3.0” (Meets Standards) for Military Bearing/Character and a “3.0” for Mission Accomplishment. LT Lee’s member trait average was “3.50” for the entire FITREP and the summary group average was “3.81.” CAPT Watson rated LT Lee as “Promotable.” LT Lee signed the FITREP assuming it would be filed in his Official Military Personnel File (OMPF).³ [SKE 13, 17]
- On June 20 2006, CAPT Watson presented LT Lee his FITREP for the period February 1 – June 21, 2006. LT Lee received a “4.0” Member Trait Average and an “Early Promote” promotion recommendation. The narrative comments were all positive. [SKE 16]
- According to LT Lee, on August 22, 2006, while reviewing his OMPF following his non-selection for promotion, he discovered the FITREP he signed on March 9, 2006, was never filed in his OMPF. Instead, his OMPF contained a FITREP CAPT Watson signed on February 15, 2006. CAPT Watson rated LT Lee “2.0” (Progressing) for Military Bearing/Character and “4.0” (Above Standards) for Mission Accomplishment. All the other ratings and promotion recommendation were consistent with the FITREP LT Lee received on March 9, 2006. However, LT Lee testified he had no knowledge of the FITREP for February 2006; he did not sign this FITREP and was never provided a copy of it. [SKE 13, 17]

² LT Lee could not produce the two Counseling Sheets, but testified to their substance and content.

³ For this reporting period, CAPT Watson rated 35 LTs and rated 7 for “Early Promote,” 25 as “Must Promote,” and 3 as “Promotable.” LT Lee’s ranking placed him in the bottom 3 of 35 personnel rated during this period.

Recommendation:

Further investigation required. The linkage between LT Lee's PC to NAVINSGEN and the UPA can not be resolved without further interviews. LT Lee received a signed FITREP from CAPT Watson in March 2006. This was almost one month after CAPT Watson had submitted a downgraded FITREP for the same observation period and not provided LT Lee with a copy. Subsequent to both FITREPs, CAPT Watson wrote LT Lee a good FITREP in June 2006 while performing the same duties.

Denied End-of-Tour Award (May 17, 2006)

- LT Lee received 3 FITREPS as Department Head at BRMEDCLINIC prior to the February 2006 FITREP. LT Lee's member trait average was higher than the summary group average and LT Lee received an "Early Promote" on each of these FITREPs. Additionally, in June 2006 CAPT Watson wrote LT Lee a FITREP with a member trait average of "4.0" and marked the promotion recommendation "Early Promote." [SKE 2, 12, 13, 16]
- On April 21, 2006, Commander (CDR) Slayback, OIC, BRMEDCLINIC Jacksonville, nominated LT Lee for a Navy Commendation Medal (NCM). CAPT Lucas, Director of Branch Clinics, endorsed the nomination. The Awards Board recommended approval for a NCM on May 16, 2006. [SKE 15]
- On May 17, 2006, CAPT Watson disapproved the award for LT Lee. CAPT Watson noted, "No award as per personal knowledge of work habits." According to LT Lee, three lieutenants, who were not department heads, departed and received end-of-tour awards. [SKE 15]

Recommendation:

Further investigation required. The linkage between LT Lee's PC to NAVINSGEN and denied award can not be resolved without further interviews.

Final Recommendation:

Refer for investigation.

Investigator: _____ Date _____
Reviewer: _____ Date _____

Hotline number 20XXXXXXX

Sequence of Key Events Lieutenant (LT) Bruce Lee

3. In May 2003 LT Lee reported to Naval Branch Medical Clinic (BRMEDCLINIC), Jacksonville, Florida, as the Occupational Health Department Head. He also served as the Executive Assistant to Lieutenant Commander (LCDR) Karen Worth, Officer-In-Charge (OIC), Branch Medical Clinic.
4. On February 23, 2005, LCDR Worth wrote LT Lee a Fitness Report (FITREP) for the period of October 9, 2004 – January 6, 2005. The member trait average was “4.33” and the summary group average was “3.63.” LT Lee received the only “Early Promote” recommendation out of 5 LTs rated during the same period by LCDR Worth.⁴
5. According to LT Lee, in March 2005 he met with LCDR Worth regarding the rapidly deteriorating clinic staff morale. LT Lee stated the conversation reached an “impasse” and he noticed their relationship began to take “an unprofessional downturn.”
6. According to LT Lee, on March 30, 2005, LCDR Worth presented him 2 Counseling Sheets. LCDR Worth counseled LT Lee for insubordination and failure for not accomplishing an assigned task.
7. On April 1, 2005, LT Lee wrote a Memorandum for Record (MFR) addressed to the OIC, Director of Branch Clinics, the Executive Officer (XO), and the Commanding Officer (CAPT Watson, U.S. Naval Hospital Jacksonville, Florida), requesting “assistance for the OIC, myself, and the other officers.” Specifically, LT Lee outlined his duties, accomplishments, and the two counseling sheets that LCDR Worth wrote him. LT Lee admitted that when confronted at the Department Head meeting he displayed frustration and “outward irritation” toward LCDR Worth. He added that the poor communication within the clinic was causing it to “run aground.” LT Lee requested LCDR Worth replace him with a more senior officer as her assistant and assign a full-time Administrative Chief.

According to LT Lee, CAPT Watson took no significant action and said he “was a good officer for letting them know,” but contradicted himself when he told LCDR Worth that he [LT Lee] was a “dirt bag” for writing the letter.

⁴ The individual trait average is calculated by adding up the numerical values for each performance trait and dividing by the total number of categories marked. The individual traits are rated, in ascending value, from “1.0” to “5.0.” The promotion recommendation ranges from two non-promotable categories to “Promotable,” “Must Promote,” and finally the highest recommendation, “Early Promote.”

8. In June or July 2005, the Joint Commission Accreditation on Healthcare Organizations (JCAHO) and the Bureau of Medicine and Surgery (U.S. Navy) Inspector General (BUMED IG) conducted an inspection of BRMEDCLINIC, Jacksonville.
9. In September 2005 the Navy Inspector General (NAVINSGEN) visited the clinic to investigate allegations of unfair treatment, a poor command climate, and threatening behavior by LCDR Worth. LT Lee spoke with the IG and gave them a copy of the April 1, 2005, MFR he had previously given his chain of command. NAVINSGEN determined that poor command leadership resulted in lack of oversight and mentoring of junior officers.⁵
10. In October 2005 CAPT Watson relieved LCDR Worth for cause. Following her relief, LT Lee requested CAPT Lucas, Interim OIC, review and evaluate the negative actions taken against him [LT Lee] by LCDR Worth. CAPT Lucas arranged for follow-up inspections of LT Lee's department.
11. According to LT Lee, in November 2005 he received a verbal "thumbs-up" from U.S. Naval Hospital Jacksonville personnel following their inspection of his department. LT Lee stated they did not provide a written report.
12. According to LT Lee, when he voiced his concerns to CAPT Lucas in December 2005 regarding his upcoming FITREP closing on January 31, 2006, CAPT Lucas told LT Lee, "not to worry about it, you'll be fine."
13. In January 2006 Commander (CDR) Tracy Slayback replaced LCDR Worth as OIC, Occupational Health Department.
14. On February 15, 2006, CAPT Watson signed LT Lee's FITREP for the period January 5, 2005 – January 31, 2006. LT Lee received a "2.0" (Progressing) for Military Bearing/Character and a "4.0" (Above Standards) for Mission Accomplishment. Overall, LT Lee's member trait average was "3.5" and the summary group average was "3.81." LT Lee's promotion recommendation was marked "Promotable." There were no negative narrative comments on LT Lee's FITREP. LT Lee's signature was not on the FITREP.⁶

⁵ LT Lee documented several former and current clinic staff members who contacted the IG to file complaints. LT Lee noted he had not contacted the IG prior to their visit in September.

⁶ CAPT Watson rated 35 LTs during this rating period and he awarded the following promotion recommendations: 7 "Early Promotes," 25 "Must Promotes," and 3 "Promotable." LT Lee's rating of "Promotable" placed him in the bottom 3 out of the 35 rated personnel.

According to LT Lee, CAPT Watson never presented the FITREP to him and he was unaware of its existence until he failed selection to LCDR. MRI confirmed that the FITREP submitted to Navy Bureau of Personnel (BUPERS) and entered into LT Lee's Official Military Personnel File (OMPF) was the February 2006 FITREP.

15. On March 9, 2006, CAPT Watson emailed LT Lee a FITREP for the period of January 5, 2005 – January 31, 2006. This FITREP was nearly identical to the one CAPT Watson signed on February 15, 2006. However, LT Lee received a “3.0” (Meets Standards) in Military Bearing/Character and Mission Accomplishment. CDR Slayback debriefed LT Lee about this FITREP and, according to LT Lee, CDR Slayback was “shocked by the severely downgraded marks” when compared to LT Lee’s previous reporting seniors at the same command.⁷
16. On April 21, 2006, CDR Slayback nominated LT Lee for an end-of-tour award.
17. On May 17, 2006, CAPT Watson disapproved LT Lee’s end-of-tour award. The U.S. Naval Hospital Jacksonville Awards Board had previously approved the award. CAPT Watson wrote on the award routing sheet, “No award as per personal knowledge of work habits.”
18. On June 20, 2006, LT Lee signed a FITREP for the period February 1 – June 21, 2006. LT Lee’s member trait average was “4.0” and the summary group average was “4.0.” LT Lee was the only LT rated during this period and received an “Early Promote” recommendation from CAPT Watson.
19. According to LT Lee, on August 22, 2006, he discovered the FITREP CAPT Watson submitted to the Bureau of Personnel (BUPERS) in February 2006 was not the same one that CAPT Watson presented to him in March 2006. [SKE 12]
20. On November 16, 2006, after being contacted by BUPERS, CAPT Watson submitted a request to change LT Lee’s January 2006 FITREP. CAPT Watson upgraded the “2.0” in Military Bearing/Character and downgraded the rating in Mission Accomplishment from “4.0” to “3.0.” Consequently, the member and summary group averages remained the same. [SKE 12]

⁷ LT Lee’s 3 previous FITREPS as Department Head at BRMEDCLINIC Jacksonville were marked “Early Promote.” Additionally, LT Lee’s Member Trait Average on those FITREPS was higher than the Summary Group Average for the same reports.

Hotline number 20XXXXXXX

Naval Hospital Jacksonville, FL

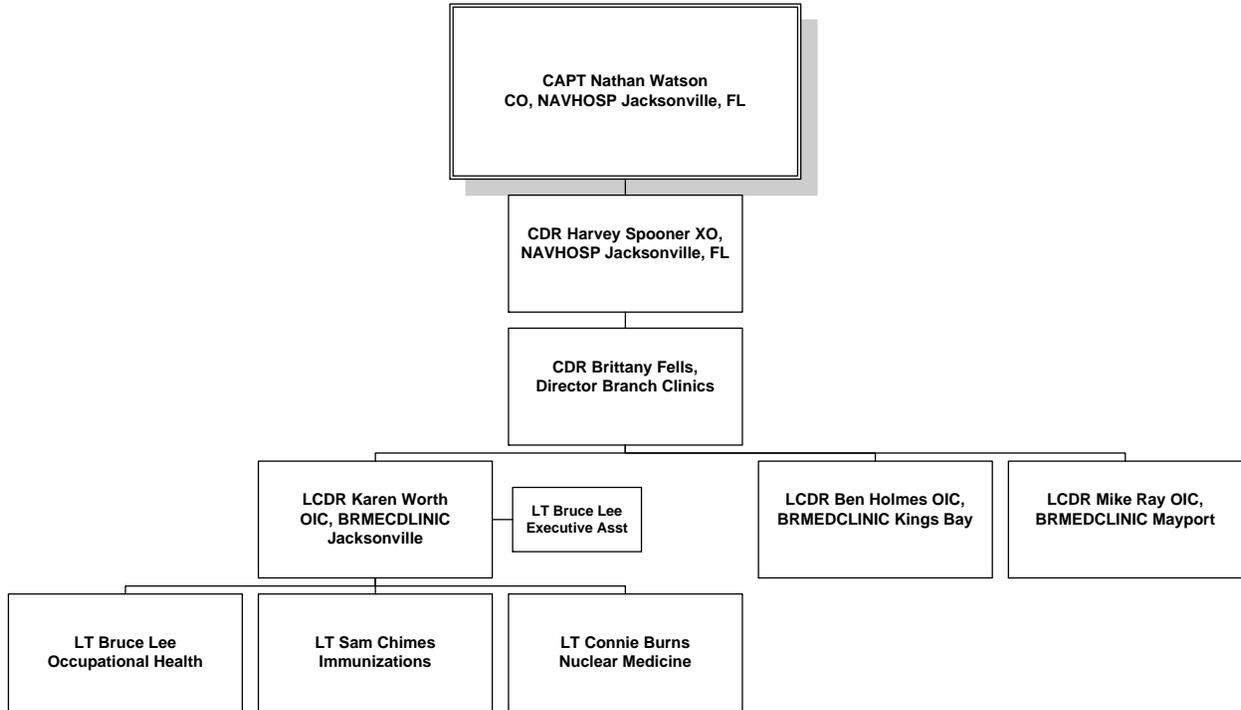


Figure 1: Naval Hospital Org Chart

Hotline number 20XXXXXXX

TAB 3

Hotline number 20XXXXXXX

Sequence of Key Events LT Clovis Goldbrick

1. In August 1992 LT Goldbrick underwent exploratory abdominal surgery at the Naval Academy after complaining of abdominal pain. No cause for his pain was found.
2. In December 1992 LT Goldbrick again experienced abdominal pain and underwent surgery. Adhesions from the first surgery were removed and the pain subsided.
3. In 1999 at Naval Air Station, Pensacola, LT Goldbrick's abdominal pain resurfaced. He was referred to a civilian gastroenterologist (GI) who did not find the source of LT Goldbrick's pain. LT Goldbrick was subsequently referred to a GI surgeon who was also unable to find the reason for his pain.
4. In July 2001 LT Goldbrick visited the Fleet Forces Command, Inspector General (IG) regarding lost medical records. Senior Chief I.M. Good located LT Goldbrick's medical records at Naval Air Station, Pensacola. The medical records were sent to the Fleet Forces Command IG on or about November 13, 2001.
5. On November 20, 2001, LT Goldbrick contacted Congressman I. Wanna Help regarding his concerns related to the military health care system. LT Goldbrick did not pose any specific allegations or ask Congressman Help to respond to his concerns; rather he congratulated him on his recent victory and thanked him for his strong support of the military.
6. On November 21, 2001, LT Goldbrick contacted the Fleet Forces Command Commander's Action Line regarding the base hospital TRICARE administration. LT Goldbrick alleged TRICARE was not responsive to his needs in rescheduling a referral appointment to a civilian provider.
7. On December 9, 2001, CAPT Dallas Holland, Commander, Naval Hospital Portsmouth, responded to LT Goldbrick's Action Line complaint. CAPT Holland informed LT Goldbrick that "the TACRON 23, together with Navy Medicine East, has very successfully arranged for consultations and treatments with multiple specialists for a variety of illnesses and injuries to meet your needs over the past 14 months since your arrival to Fleet Forces Command." Additionally CAPT Holland invited LT Goldbrick to attend the quarterly Healthcare Consumer Advisory Council meeting the following month.
8. On December 10, 2001, LT Goldbrick contacted Senators Louis Cheatum and Steve Howe requesting their assistance regarding his ongoing medical issues. LT Goldbrick asked the Senators the following:
 - a. Why do I have to wait 3 months to be seen by a specialist;

- b. Why was I not allowed immediate access to the Green Mountain Medical Clinic;
 - c. Why are there continuing problems finding 100% of my missing records;
 - d. Why active duty members are denied urgent care through the TRICARE healthcare system for known service-connected illnesses;
 - e. Why did the NAVY lose my complete medical records for over 1 year; and
 - f. Why is the NAVY Medical System having a hard time diagnosing my illness?
9. On January 30, 2002, Commander David Boothe, Deputy Chief, Congressional Inquiry Division, Office of Legislative Liaison, responded to Senators Cheatum and Howe. CDR Boothe answered all questions posed by LT Goldbrick in his congressional complaint.
 10. On April 30, 2002, LT Goldbrick emailed Congressman David Dewey and Senators Cheatum and Howe regarding dissatisfaction with the Navy response to his former inquiry. According to LT Goldbrick, the Navy “did not, in any fashion, answer the question that was asked of them.” He asked the Members of Congress to “try again.”
 11. Beginning in 2002 LT Goldbrick was seen numerous times by medical providers for abdominal pain. LT Goldbrick complained that activity and being upright made the pain worse. He also complained that the pain was worse in the afternoon. Several tests and studies were conducted, but all with negative results. LT Goldbrick’s primary care manager, CDR (Dr.) Warren Lamborn, granted quarters frequently to LT Goldbrick and in April 2002, he was placed on a profile restricting his physical activity, and restricting him to work half-days.
 12. On June 6, 2002, CAPT Angela Lucas, Commander, TACRON 23, responded to the Office of the Navy Surgeon General, Congressional and Public Affairs Division, regarding LT Goldbrick’s April 2002, complaint. CAPT Lucas gave a detailed account of LT Goldbrick’s medical history to include his recent profile of limiting his work to half-days. CAPT Lucas addressed and answered all concerns posed by LT Goldbrick in his congressional complaint.
 13. In late 2002 Dr. Lamborn initiated a medical evaluation board.
 14. On April 23, 2003, CAPT Angela Lucas, Commander TACRON 23, provided a memorandum to the Informal Physical Evaluation Board (IPEB) stating that LT Goldbrick is “absent from work and under military physician-prescribe quarters regularly. He works an unpredictable and sporadic schedule, and is able to work on average only 2 partial-days per week. It is not uncommon for Clovis to miss months

of work at a time due to his physical ailments. The most recent example of this was his absence from work in February and March 2003.”¹

15. On June 7, 2003, the IPEB determined LT Goldbrick was unfit for continued military service and recommended Discharge with Severance Pay with a 20% disability rating in accordance with Department of Defense (DoD) and Veterans Administration Schedule for Ratings Disabilities (VASRD) guidelines.
16. On June 17, 2003, LT Goldbrick contacted congressional representatives Dewey, Cheatum and Howe alleging the IPEB improperly employed the VASRD diagnostic codes in determining the extent of his disability. According to LT Goldbrick, the IPEB failed to adhere to federal laws, military directives/instructions, and VA guidance. Additionally, LT Goldbrick alleged that while the Navy “failed to recognize the cause and effect relationship between the military malpractice and LT Goldbrick’s long-term disability, it also failed to adequately and properly maintain his military medical records.” LT Goldbrick also alleged delays in scheduling appointments with civilian specialists were a “conscious decision” by TACRON 23.²
17. In June 2003 CDR Martha Bell, XO, TACRON 23, became LT Goldbrick’s first line supervisor and rater³. CDR Bell was aware of LT Goldbrick’s ongoing medical problems and his medical evaluation board. CDR Bell prepared a memorandum to the IPEB stating that prior to June 2003, LT Goldbrick was placed on medical quarters by his physician for nearly 2 months, his condition required complete rest and recuperation, undisturbed at his home, and his medical condition prohibited him from working at home or in the office. From June to September 2003, LT Goldbrick was in the office sporadically. CDR Bell documented that because of LT Goldbrick’s sporadic schedule and pending retirement, she did not assign him specific duties; rather, LT Goldbrick worked on short-term projects.
18. On September 27, 2003, a formal physical evaluation board (PEB) determined LT Goldbrick was unfit for continued military service and recommended Discharge with Severance Pay with a 20% disability rating. LT Goldbrick appealed the board’s findings.
19. In October 2003 LCDR (Dr.) Catherine LaFountain became LT Goldbrick’s primary care manager. LT Goldbrick requested Dr. LaFountain provide a memorandum to the appeal board indicating he had chronic diarrhea. Dr. LaFountain continued LT

¹ Information provided from investigation of UCMJ charges preferred against LT Goldbrick on Aug 10, 2004.

² Disposition of LT Goldbrick’s June 17, 2003, Congressional Inquiry is unknown.

³ CAPT Lucas is LT Goldbrick’s Senior Rater.

Goldbrick on a profile limiting his physical activity and duty-time at work to one-half days.

20. On October 29, 2003, Dr. LaFountain provided additional information for LT Goldbrick's medical board indicating he had "generalized abdominal distress/pain, clinically significant diarrhea of unexplained origin" and "chronic diarrhea and chronic abdominal pain." Additionally, Dr. LaFountain included information provided from an occupational therapist that evaluated LT Goldbrick and assessed, "it is not likely for LT Goldbrick to be efficient or effective in completing any type of work at this point in time."
21. In November 2003 LT Goldbrick applied for and was hired as a ski school instructor at Wintergreen Ski Resort, Wintergreen, VA. LT Goldbrick completed employee paperwork including a form where he described his physical fitness and health. LT Goldbrick indicated that he did not "currently have any physical problems which limited or hindered his activity or job performance."
22. From December 2003 – February 2004, LT Goldbrick worked as a ski school instructor at Wintergreen. Wintergreen fired LT Goldbrick in late February 2004 for "tardiness, failure to report when scheduled, and 'goofing off' while on the job."
23. On January 3, 2004, a formal PEB found LT Goldbrick 50% disabled and recommended medical retirement.
24. On February 7, 2004, LT Goldbrick contacted the Fleet Forces Command Commander's Action Line, Subject: Medical Group, Failure to transmit test results/records. LT Goldbrick was concerned about his pending medical retirement and ongoing medical needs he faced as a retiree. LT Goldbrick alleged the TACRON 23 failed to provide him adequate, timely medical care or coordination with civilian providers at the Green Mountain Medical Clinic.
25. On February 8, 2004, LT Goldbrick received Disability Retirement Orders, effective date March 16, 2004.
26. In February 2004 Master Chief I. Gotcha, TACRON 23, informed CAPT Lucas of LT Goldbrick's off-duty employment as a ski school instructor. CAPT Lucas immediately reported this information to the Naval Criminal Investigative Service (NCIS) and sought advice from the Judge Advocate (JAG).
27. On February 22, 2004, LT Goldbrick was placed on administrative hold pending the results of an NCIS investigation of LT Goldbrick's off-duty employment at Wintergreen.

28. On February 24, 2004, CAPT Lucas requested Dr. LaFountain consult with LT Goldbrick regarding his medical issues. LT Goldbrick indicated that part of his physical therapy consisted of hydrotherapy and skiing on well groomed slopes. Dr. LaFountain contacted LT Goldbrick's physical therapist who stated she was aware LT Goldbrick was skiing, but it was not part of his therapy. She told Dr. LaFountain that LT Goldbrick could do his hydrotherapy and still go to work. Dr. LaFountain placed LT Goldbrick on a profile ordering that he may work a full day, but must be near a bathroom and wear loose fitting clothing (BDU's). LT Goldbrick informed Dr. LaFountain that if he worked a full day, he would be back in the clinic because of the abdominal pain.
29. On February 25, 2004, LT Goldbrick returned to Dr. LaFountain's office complaining of abdominal pain. Dr. LaFountain placed him on 3-days quarters.
30. On February 28, 2004, LT Goldbrick requested extension of his quarters authorization. Dr. LaFountain refused.
31. On February 28, 2004, CAPT Angela Lucas, Commander, TACRON 23, responded to LT Goldbrick's February 7, 2004, Action Line complaint. CAPT Lucas informed LT Goldbrick that he [Goldbrick] did not specify when the civilian provider needed his lab/test results. They were faxed on February 7, 2004, the day LT Goldbrick had a scheduled appointment. Additionally, CAPT Lucas informed LT Goldbrick of the personnel he needed to speak with regarding his medical benefits as a retiree.
32. On March 31, 2004, LT Goldbrick saw Dr. LaFountain regarding his abdominal pain. Dr. LaFountain placed LT Goldbrick on a profile allowing him to work half-days.
33. On April 15, 2004, NCIS completed their investigation of LT Goldbrick's off-duty employment at Wintergreen Ski Resort. NCIS determined that LT Goldbrick had not obtained proper approval or authorization from anyone in his chain of command to engage in off-duty employment. Additionally, neither LT Goldbrick's supervisor nor commander was aware that he worked at Wintergreen Ski Resort until February 2004.
34. On April 25, 2004, LT Goldbrick's medical retirement order was rescinded by CAPT Lucas.
35. On August 10, 2004, CAPT Lucas referred charges against LT Goldbrick.
 - g. Charge I: Violation of the UCMJ, Article 92, alleged that LT Goldbrick, did, at TACRON 23, between on or about November 1, 2003 and or about November 26, 2003, violate a lawful general order, to wit: paragraph 1.3, Navy Instruction 51-201, dated December 15, 2003, by wrongfully failing to

obtain approval to engage in off-duty employment prior to beginning such off-duty employment.

- h. Charge II: Violation of the UCMJ, Article 115, alleged that LT Goldbrick, did, at or near TACRON 23, from on or about November 27, 2003 to on or about February 24, 2004, for the purpose of avoiding his duties, feign abdominal pain.

36. On August 16, 2004, LCDR Arnie Armstrong was appointed as investigating officer. LCDR Armstrong notified LT Goldbrick's defense attorney of an August 19, 2004, Article 32 hearing. The date was subsequently changed to September 26, 2004.

37. On October 4, 2004, LCDR Armstrong finalized his report. LCDR Armstrong determined there was no evidence that LT Goldbrick obtained approval from his supervisor to engage in off-duty employment, as required by regulatory guidance. LCDR Armstrong further determined there was reasonable belief that LT Goldbrick was feigning abdominal pain. LT Goldbrick's off-duty employment as a ski school instructor appeared incompatible with the symptoms he constantly complained about. Additionally, during the time LT Goldbrick worked as a ski school instructor, he did not request any quarters authorization. Before and after he quit his employment at Wintergreen, the complaints of pain and requests for quarters reoccurred.

A court date was established for April 2005.

38. On December 1, 2004, CDR Bell presented LT Goldbrick an adverse FITREP for the period October 12, 2003 – October 11, 2004. LT Goldbrick was marked "Below Standards" in the Military Bearing, Leadership, and Teamwork sections. Additionally, CDR Bell commented, "LT Goldbrick's off-duty employment without permission caused his integrity to come into question and negatively impacted his leadership." LT Goldbrick refused to sign the referral memorandum acknowledging receipt of the FITREP. Additionally, he was given 10-days to submit statements and refute the FITREP; however LT Goldbrick refused to indicate whether he would submit any rebuttal paperwork.

39. On December 13, 2004, LT Goldbrick requested an extension until the week of January 17, 2005, to submit a rebuttal. CDR Bell denied LT Goldbrick's request because he exceeded the 10-day period specified in the referral memorandum.

40. On April 28, 2005, a General Court-Martial, Judge Only trial convened. LT Goldbrick was found guilty on Charge I, violating a lawful general order by wrongfully failing to obtain approval to engage in off-duty employment prior to beginning such off-duty employment and not guilty on Charge II, feigning abdominal pain for the purpose of avoiding duty. He was sentenced to be reprimanded and fined \$6,000.00 to be paid

Hotline number 20XXXXXXX

in 6 months. Admiral Dan Burton, Commander, Fleet Forces Command, approved the sentence and reprimanded LT Goldbrick.

Reprisal Notification Worksheet – Goldbrick

Date:

From: (Originating IG Office) Inspector General

To: Naval Inspector General (Attn: N621)

Subj: Report of Reprisal Allegations – Navy Hotline Number YYYYNNNNN

Ref: (a) DODD 7050.06, Military Whistleblower Protection

(b) SECNAVINST 5370.7C

1. In accordance with references (a) and (b), the following notification is provided:

2. Date complaint of reprisal received: (MM/DD/YYYY)

3. Complainant:

Full Name and Rank

Duty Title:

Organization (including location):

4. Subject:

a. Full Name and Rank

Duty Title:

Organization (including location):

b. Full Name and Rank

Duty Title:

Organization (including location):

c. Full Name and Rank

Duty Title:

Organization (including location):

5. Protected communication (s):

a. _____

Hotline number 20XXXXXXX

b. _____

c. _____

6. Personnel Action(s):

a. _____

b. _____

c. _____

7. The (Command Name) IG point of contact for this notification is (Enter POC Name) at (222) 555-1212.

Record of Preliminary Inquiry Worksheet – Goldbrick

Complainant Name/Rank or Grade/Service:

Lieutenant (LT) Clovis Goldbrick
United States Navy

Job Title and Duty Location:

Air Traffic Controller
Tactical Air Control Squadron (TACRON) 23
Virginia Beach, VA

Protected Communications (PC) and Disposition:

1. _____

(Disposition)_____
2. _____

(Disposition)_____
3. _____

(Disposition)_____
4. _____

(Disposition)_____
5. _____

(Disposition)_____
6. _____

(Disposition)_____

TAB 4

Preliminary Inquiry Checklist

Complainant: _____

Case Number: _____ (NIGHTS Case #)

Investigator: _____

Below is a checklist of basic investigative steps required to complete preliminary inquiries. After completing each step, initial and include the date (if noted).

- | | |
|-----------|--|
| | Case initiation letter (acknowledgement) sent to complainant. |
| Init/Date | |
| | Complaint clarification interview conducted with complainant. |
| Init/Date | |
| | Obtained documentation of each protected communication. (Note: for oral PCs, obtained corroborating documents.) |
| Init/Date | |
| | Verified disposition of each protected communication. |
| Init/Date | |
| | Obtained official documentation of each personnel action at issue. (Note: info document exists, obtained corroborating evidence.) |
| Init/Date | |
| | Obtained copy of any prior investigation/inquiry related to PCs and/or personnel actions at issue. |
| Init/Date | |
| | Prepared the Sequence of Key Events. |
| Init/Date | |
| | Prepared a case fact book of relevant documents, tabbed as follows: |
| Init/Date | |
| | <ul style="list-style-type: none"> A. chronology of statement of facts B. documentation supporting the protected communications C. documentation of personnel actions at issue D. previous investigation/inquiry E. incoming complaint F. case initiation letter (acknowledgement) to complainant G. transcript or MFR of interview with complainant H. for other relevant documents (add additional tabs if needed) |

MRI Investigator

Date Completed

Interview Read-In (10 USC 1034 Investigations)

- 1) Before I begin to record our conversation, I'd like to review several items and answer any questions you might have.
- 2) According to your hotline complaint, individuals within your chain of command reprisal against you after you made a protected communication. Title 10, Section 1034 of the United States Code, protects individuals from reprisal when they disclose certain information. The code also prescribes the statutory requirements for reprisal. One thing we do during our preliminary inquiry is to determine whether your complaint meets these requirements. Therefore, I want to review how the code defines the terms reprisal, protected communication and personnel action:
 - a) **Reprisal** is taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making or preparing to make a protected communication.
 - b) A **Protected Communication** is defined as any lawful communication to a Member of Congress or an IG. A communication in which a member of the Armed Forces communicates information that he or she reasonably believes evidences a violation of law or regulation, including sexual harassment or unlawful discrimination, gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety when such communication is made to any of the following: A member of Congress, an IG, or a member of a DoD audit, inspection, investigation, or law enforcement organization, or any other person or organization (including any person or organization in the chain of command) designed under regulations to receive such communications.
 - c) A **Personnel Action** is any action taken on a member of the Armed Forces that affects or has the potential to affect that military member's current position or career. Such actions include a promotion; a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits, awards or training; referral for mental health evaluations under DoD Directive 6490.1 (reference (e)); and any other significant change in duties or responsibilities inconsistent with the military member's rank.

We need to keep these definitions in mind because they establish the criteria we use to determine whether to conduct a full investigation of your complaint.

- 3) This is an administrative inquiry. Mr. Gambino and I are impartial fact finders and we are gathering information from various sources to determine whether to proceed with a full investigation.
 - 4) We recently sent you a copy of the Privacy Act. Do you have any questions about it?
 - 5) You cannot tell us anything off the record.
 - 6) Please define any abbreviations or acronyms that you use.
 - 7) When you refer to individuals, please provide their full name and position and spell their last name the first time you refer to them.
 - 8) This will be a sworn taped testimony.
 - a) After I turn the tape recorder on, I will make several opening remarks and then place you under oath. By the way, when I administer the oath, would you prefer to say that you “swear” to tell the truth or that you “affirm” to tell the truth?
 - b) We will then ask you to summarize your complaint of reprisal and we will ask questions to ensure we understand the facts.
 - c) Finally, I will make several closing remarks and then turn off the tape recorder.
 - 9) Do you have any questions before we start? Ok, give me a moment to set up the tape recorder.
-

We are now recording this conversation.

- 1) Today is **Day, Date**, and the time is **HH.MM.EST**.
- 2) My name is **XXXXXXXXXX**. I am an investigator with the Naval Inspector General. With me is **XXXXXXXXXX**, also an Investigator. We are located at the Washington Navy Yard, DC. We are conducting a telephonic interview of **Name** who is located at **Location**.
- 3) We are conducting this interview as part of our preliminary inquiry into **Name's** allegation that individuals within his/her chain of command reprised against him/her after he/she made a protected communication.

- 4) Before I turned the tape recorder on, I informed **Name** that we are conducting an administrative inquiry, that he/she cannot say anything off the record and that this would be a sworn taped interview. We also defined the terms reprisal, protected communication and personnel action.
 - 5) **Name**, please acknowledge that you know I'm recording our conversation.
PAUSE... Would you also acknowledge that you have a copy of the Privacy Act and that we gave you an opportunity to ask questions about it before we started to record our conversation?
 - 6) **Name**, I'll now place you under oath – would you please raise your right hand and verbally acknowledge that you have done so.
 - a) Do you solemnly affirm (swear) that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth (so help you God)? Thank you.
 - 7) For identification purposes:
 - a) Please state your full name and spell your last name
 - b) What is your home address and telephone number that we can use to contact you in the future?
 - c) Finally, what is your rank and current assignment?
 - 8) Begin questions...
-

Read Out

Before closing, let me remind you that this is an official IG inquiry and that it is important to safeguard the integrity of the inquiry and the IG process. Therefore, we ask that you do not talk to anyone about anything we've discussed during this interview, or other facts relating to this case, without first getting permission from me or someone else in this office.

If anyone approaches you about your testimony, or in anyway asks you for information concerning this inquiry, please inform them that you are not at liberty to discuss it.

If anyone persists in asking you about your testimony or any other information relating to this case, or if you feel that you are threatened in any manner because you provided testimony, please contact me.

Please contact me if you remember anything else that pertains to your complaint. The time is now **HH.MM.EST** and this concludes our interview. Thank you for your time. Please remain on the line as I turn off the tape recorder.

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) reprimed 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) 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.

(3) 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 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) 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.

(5) 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 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) 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.

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	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	No
30 July 2 006	On 30 July 2006, CDR Steve Jones transferred YN3 Smith to First Lieutenant Division.	CDR Steve Jones, Commanding Officer, Strike Fighter Squadron 147 (YFA 147) LCDR Rory Calhoun, Executive Officer	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.

Record of Preliminary Inquiry IMHE/Investigation¹

Hotline #

Complainant Name/Rank or Grade/Service:

Name

Rank

Job Title and Duty Location:

Job Position

Unit

Base or City, State

(position when allegations were made)

Action(s) / Responsible Management Officials:

Date: IMHE	Responsible Management Official(s) (RMO)

Analysis:

Bullets will reference facts in the SKE to provide justification either for or against investigating the case (or for substantiating the allegation). Information included in the analysis must be corroborated by testimony or documentation. You may use information gleaned from previous investigations, official personnel files, previous congressional responses, and other official correspondence (email, separations packages).

Do not cut and paste info from SKE.

Any additional significant information that might influence the determination of whether the allegations warrant investigation or closure.

¹ If it is clear during the document grab that there is a procedural violation of DODD 6490.1 this format may be used to substantiate the allegation.

Recommendation:

Cite the reasons why you believe the alleged IMHE does not warrant an investigation.

Final Recommendation:

Close case/refer for investigation

Investigator: _____
Name Date

Reviewer: _____
Name Date

Sequence of Key Events (IMHE) **(Complainant's Rank/Name/Service)**

The purpose of the sequence of events is to chronologically tell the story (clearly and concisely) and document the facts. The bullets may contain more information than the Record of Preliminary Inquiry (RPI). This document should be referenced in your RPI as you analyze each unfavorable action. Style is as follows:

1. On date, such and such. (Facts must be supported by documents or testimony. Previous official statements (ie. investigation into PC) may be used as facts if the statements were officially recorded.)
2. According to xx, such and such. (Statements by the complainant or witnesses must be identified as such. Statements should demonstrate or support a fact, not an opinion.)

TAB 5

Training Scenario -- Document #1 – 1st Letter to Congress

Jan 5, 2005

Mrs. Betty White
324 Smith St
San Diego, CA 65423

Dear Senator Boxer,

I am writing to you in hopes that you can help my husband, LCDR Bill White. For the past few months, my husband has been overworked and under appreciated. His new boss, CAPT Mike Milligan, has created an environment of abuse and favoritism. Bill continually tells me that there is nothing he can do, and to just wait it out.

My husband has been working at 42 Electric Combat Squadron, North Island, San Diego, for over a year and a half. CAPT Milligan became my husband's supervisor in August of 2004, and since then our quality of life has been terrible. Bill thought it would be okay in the beginning, but then he began to notice that CAPT Milligan just enjoyed being an O-6 and was just "putting in time" before retirement. CAPT Milligan was more interested in picking out his new office furniture and running around with his new "hand-picked" secretary than working. Can you believe he spent over \$10,000 to redo his office! And it was just remodeled right before he checked in last year.

Before CAPT Milligan's arrival, Bill never had to work late or on weekends. Now it is the norm. He is constantly covering for CAPT Milligan at staff meetings and given work to do at the last minute. My husband's career is hanging in the balance. Bill has a flawless record and is constantly striving to do the best he can, but his desire to excel has driven him into depression. He hates going to work and the only thing that keeps him going is the thought of transferring in July. When I bring this up with my husband, he just tells me to "stop worrying, it will all be okay."

I am very proud of my husband and his career in the Navy, but I am afraid that CAPT Milligan is taking advantage of Bill's professionalism. He even had to work on Christmas Day. Please look into this matter. I can be reached at home at (565) 879-2384.

Sincerely,

Betty White

Training Scenario -- Document #2 – 2nd Letter to Congress

Mar 5, 2005

Mrs. Betty White
324 Smith St
San Diego, CA 65423

Dear Senator Boxer,

I am writing to ask you to intervene on my husband's behalf. After your office contacted my husband's Command, he has been abused and I fear that irreparable damage is being done to his career.

When I wrote to you previously, I stated that my husband, LCDR Bill White, was being overworked and abused by his boss, CAPT Mike Milligan. My letter to you has just about ruined his career. As soon as the Command received the tasking from the Congressional Liaison Office, CAPT Milligan found out that I was the one that complained. They supposedly are doing an investigation into the fraud, waste, and abuse, but my issue is that the other people in the office instantly ostracized Bill and told him to "watch out" for CAPT Milligan.

On March 3, 2005, CAPT Milligan called Bill into his office and yelled at him for an hour about loyalty and jumping the chain of command. CAPT Milligan ended the "counseling session" by telling my husband that since I said that he was so depressed, CAPT Milligan made an appointment for my husband to "get his head examined." Bill was ordered to the hospital to see a doctor the next day. I am afraid that they are trying to drive him out of the Navy.

Bill also told me that CAPT Milligan has been talking to his assignment team about orders to Guam. This concerns me greatly. Please help. I can be reached at home at (565) 879-2384.

Sincerely,

Betty White

Training Scenario – Document #3 - Letter to IG

June 2, 2005

LCDR Bill White, USN
324 Smith St
San Diego, CA 65423

Navy Inspector General (Attn: CAPT Help),

I am writing to you to make a complaint of reprisal under the Military Whistleblower Act. I am currently stationed in San Diego, CA. My supervisor, CAPT Mike Milligan, has been trying to ruin my career ever since my wife contacted Senator Barbara Boxer on January 5, 2005. Her original letter concerned fraud, waste, and abuse, and my poor working environment. Well, to make a long story short, CAPT Milligan has been doing everything in his power to make my life a living hell.

It all started when CAPT Milligan assumed command in August 2004. CAPT Milligan was coasting along waiting for the right job to come up so that he could retire. Well, that placed a lot of stress on me because I had to do all his work for him. All he did was sit in his office looking at office furniture catalogs and surfing the internet. I was constantly filling in for him at meetings with little or no notice, publishing his mandatory reports, and endorsing all the paperwork that he was supposed to be looking at. I was fine with this, but my wife was upset because I had to work long hours and weekends to get all the work done. I knew that I would only have to do this for about a year as I was selected to be a Reserve Officer Training Corps (ROTC) instructor. Those orders were the result of many long years of superior performance and I deserved to go. CAPT Milligan even thought so before my wife's letter.

When CAPT Milligan found out about the letter my wife wrote he went ballistic. I stood at attention in his office for over half an hour on March 3, 2005, hearing him talk about loyalty, chain of command, and what a horrible officer I am. He even went so far as to order me to get a mental health evaluation. I don't know the process, but it didn't seem right. He just yelled, "I made an appointment for you at the Psych Ward for tomorrow. I hope the doctors can figure out what's wrong with you." I left his office feeling overwhelmed, and I am sure just about everyone in the building knows what happened. People have stopped talking to me in fear of CAPT Milligan. It has gotten so bad that I can't do my job. In addition, CAPT Milligan called my assignment team and told them to cancel my ROTC orders. All this is in retaliation for my wife's complaint. He even told me "...you just couldn't leave it alone, you want some attention. Well, now you've got it!"

My new orders just came out and I am going to Guam. Probably the worst place possible for my career and family. My career is over. CAPT Milligan also told me that I

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will never get promoted with the fitness report I am going to get. He has taken this too far. I am still preparing to move next month, where I am going I guess will be up to you. Please help me. Thank you. I can be reached at home at (565) 879-2384.

Bill White
LCDR USN

Training Scenario – Document #4 - 1st Endorsement

14 Oct 04

FIRST ENDORSEMENT on LCDR Bill J. White, USN, ltr of 11 Oct 04

FROM: Commander, 42 Electronic Combat Squadron
TO: Commander, Naval Bureau of Personnel, Millington, TN
Attn: Special Duty Assignments

Subj: RECOMMENDATION FOR RESERVE OFFICER TRAINING CORPS
(ROTC)
LCDR BILL J. WHITE, USN

Ref: (a) BUPERSINST 123.4

1. Forward, with my strongest possible personal recommendation!
2. LCDR White possesses impeccable leadership and managerial skills. Always my “go to guy!” Hand selected for the most challenging missions and always performs with the cool confidence of an officer of many more years experience. He has deployed for two different assignments, and since my arrival has been an integral part in supporting me. A natural leader that other officers gravitate to. His personal integrity and professionalism are contagious. Our squadron will not be the same with out him. He is clearly one of the best aviators and leaders that I have had the privilege to serve with. Based on his proven performance, I believe he is the right officer to mold our next generation of leaders.
3. LCDR White is confident, capable, and the ultimate professional officer and aviator. His performance speaks for itself, and he has shattered all the qualification goals set for him. A model officer and a well-rounded leader, LCDR White’s selection is essential to the future of the Navy and the officer corps.

M. J. MILLIGAN

Training Scenario – Document #5 – 2nd Endorsement

11 Apr 05

SECOND ENDORSEMENT on LCDR Bill J. White, USN, ltr of 11 Oct 04

FROM: Commander, 42 Electronic Combat Squadron
TO: Commander, Naval Bureau of Personnel, Millington, TN
Attn: Special Duty Assignments

Subj: REVOCATION OF ENDORSEMENT FOR RESERVE OFFICER
TRAINING CORPS (ROTC) ICO LCDR BILL J. WHITE, USN

Ref: (a) 42 ECS ltr of 14 Oct 04

1. Reference (a) is rescinded, effective immediately.
2. As a result of observed non-professional behavior and questionable character, LCDR White should no longer be considered for a Special Duty assignment as an ROTC instructor. As of late, his poor judgment and over reaction to several incidents in the squadron have caused me to lose confidence in his ability to be an officer in the Navy. He is currently grounded due to mental health issues and his reaction to this decision was less than professional.
3. LCDR White received verbal notification on 10 Apr 05, of my decision to no longer support his application to be an ROTC instructor. I apologize for any inconvenience that this decision has created.
4. LCDR White is still immediately available for orders. Recommend accompanied remote tour.

M. J. MILLIGAN

Copy to:
LCDR White

Training Scenario – Document #6 - Chronology

Chronology

Lieutenant Commander (LCDR) Bill White

1. March 2003 – LCDR White assigned to 42 ECS, NAS North Island, San Diego, CA.
2. August 2004 – Captain (CAPT) B.M. Gardner, 42 ECS Commanding Officer, writes a Change of Reporting Senior Fitness Report (FITREP) covering the period from 1 Nov 03 to 31 Jul 04. Favorable comments and ratings with “Early Promote.”
3. August 2004 – New 42 ECS Commanding Officer, CAPT M.J. Milligan, assumes command.
4. October 11, 2004 – LCDR White requests consideration for Special Duty Assignment as an ROTC Instructor.
5. October 14, 2004 – CAPT Milligan endorses LCDR White’s request – “my strongest possible personal recommendation!”
6. January 5, 2005 – LCDR White’s wife, Betty White, wrote a letter to Senator Barbara Boxer, U.S. Member of Congress, State of California. Mrs. White complained that CAPT Milligan is taking advantage of her husband’s professionalism and abusing the privilege of his rank and position. Mrs. White also alleged:
 - CAPT Milligan was creating an environment of abuse and favoritism
 - CAPT Milligan spent \$10,000 on refurbishing his office, although the office was just remodeled
 - CAPT Milligan was “running around with his ‘hand-picked’ secretary”
 - CAPT Milligan required her husband to work late and on weekends (including Christmas Day), but CAPT Milligan went home on time
7. January 10, 2005 – CAPT Milligan signed LCDR White’s annual FITREP for the period from 1 Aug 04 to 31 Dec 04. The FITREP contained high ratings and very favorable comments with “Early Promote.”
8. March 3, 2005 – According to LCDR White, CAPT Milligan harshly counseled him about “loyalty and jumping the chain of command” while referencing the contents of his [LCDR White] wife’s letter.
9. March 4, 2005 – According to LCDR White, he had a mental health evaluation at the psych ward as ordered by CAPT Milligan.
10. March 5, 2005 – Mrs. White wrote a second letter to Senator Boxer requesting her intervention. Mrs. White wrote:
 - Her husband [LCDR White] has been abused and CAPT Milligan is causing irreparable damage to his career due to her January 5, 2005, letter.
 - CAPT Milligan made an appointment for her husband, “to get his head examined,” and ordered him to the hospital the next day (March 6, 2005).
 - CAPT Milligan has been calling her husband’s assignment team to cancel his orders for ROTC instructor duty.
11. April 10, 2005 – CAPT Milligan notified LCDR White that he could “no longer support his application to become an ROTC instructor.”

12. April 11, 2005 – CAPT Milligan sent written notification to the Bureau of Personnel indicating that he no longer supports LCDR White for ROTC instructor duty.
13. June 2, 2005 – LCDR White contacted the Navy IG, Washington Navy Yard, Washington, D.C., and alleged he was reprimed against for his wife's letters to a Member of Congress. LCDR White wants protection under the Military Whistleblower Protection Act. In his letter, LCDR White detailed his complaint as follows:
 - CAPT Milligan found out about his wife's letter to Senator Boxer and "went ballistic."
 - CAPT Milligan counseled him on March 3, 2005, and talked about loyalty, chain of command, and said LCDR White was a horrible officer.
 - CAPT Milligan ordered him to get a mental health evaluation (MHE).
 - CAPT Milligan no longer supported his application to become an ROTC instructor
 - CAPT Milligan threatened him with an FITREP that would end his chances at promotion.
14. October 10, 2005 – IG interviewed Commander (CDR) Jim Rhodes, LCDR White's assignment officer:
 - CDR Rhodes testified that in early March 2005 he received a message from someone (not identified) about the ROTC selection boards for instructors and commanders.
 - According to the CDR Rhodes' logbook, CAPT Milligan called on March 7, 2005, and said that he no longer supported LCDR White and he should not be considered for the ROTC instructor position.
 - Based on CAPT Milligan's phone call, CDR Rhodes removed LCDR White from the list. LCDR White was subsequently assigned to Guam.
 - LCDR White called CDR Rhodes on April 10, 2005, to discuss his options and during the conversation said, "...his career was over. All over a damn letter."
 - CDR Rhodes did not recall CAPT Milligan saying anything about an MHE or a congressional.