INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202–4704

MAR 24 2003

MEMORANDUM FOR THE SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Preliminary Recommendations Relating to Allegations of Sexual Assault and Related Leadership Challenges at the Service Academies

Pursuant to concurrent requests from the Chairman of the Senate Armed Services Committee and from both the Chair and Ranking Member of the Senate Governmental Affairs Committee (Attachments 1 and 2, respectively), I have initiated an independent review of allegations that "the U.S. Air Force Academy apparently has failed to take appropriate action in response to reports of sexual assault against women cadets." Pursuant to Section 8(e)(9) of the Inspector General Act of 1978, as amended, which mandates that the Inspector General of the Department of Defense (DoD IG) "give particular regard to the internal audit, inspection, and investigative units of the military departments with a view towards avoiding duplication and insuring effective coordination and cooperation," and pending the findings and recommendations of my already underway independent review, I respectfully provide the following preliminary recommendations:

1. Continue cooperation with the various DoD IG assets already engaged to "answer the mail" in Chairman Warner's March 17, 2003, admonition to the undersigned that leadership challenges associated with sexual assault and rape allegations at the United States Air Force Academy -- and similar allegations, if any, at the other service academies -- "go to the very heart and soul of our Armed Forces."

2. Focus on the leadership training missions of the service academies, "Core Values," and constructive service-specific solutions to the "root causes" not only of sexual assaults, but also of any associated leadership shortcomings (e.g., alleged "turning a blind eye" to sexual assault allegations and reprisal against sexual assault whistleblowers); avoid comparisons to civilian colleges and universities, whose missions do not include the recruitment and development of the future commissioned leaders of our Armed Forces.

3. Although service IG's and the DoD IG will proactively make independent and objective findings and recommendations pursuant to our traditional role as "an extension of the eyes, ears and conscience of the commander" (see Journal of Public Inquiry article (Attachment 3)), each service needs ultimately to resolve these leadership challenges -- and needs not wait for final IG reports to make necessary and timely leadership decisions.

4. Review the effectiveness of and consider improving service-specific implementing regulations for any applicable congressionally enacted "Rules for the Government and Regulation of the land and naval Forces" (U.S. Const., Art. I, Section 8),

including but not limited to the 1997 "Exemplary Conduct" amendments to Title 10 (10 U.S.C. §§ 3583, 5947, & 8583; see, e.g., DoD IG Policy Memorandum, titled "Office of the Inspector General Leadership Standards" (Attachment 4)).

5. Develop a common service academy definition of "sexual assault" for sensitizing not only cadets and midshipmen, but also commissioned leadership of each academy, professors, IG's, MP's, and investigators associated with the service academies; the common definition should take into consideration, among other things, sexual harassment and fraternization issues unique to the service academies.

6. Whenever possible, conduct interviews within IG channels to maximize protection of the identity of whistleblowers, and to minimize the risk of actual or perceived whistleblower reprisal. See DoD IG Policy Memorandum of March 21, 2003, titled "IG Act Duty of the Inspector General to Protect the Identity of Whistleblowers (Attachment 5).

7. Continue promoting individual moral decisions based on "Core Values," along with the recruitment, development, and commissioning of officers committed to these "Core Values," as the ultimate metrics for success.

for Joseph E. Schmitz

Attachments:
As stated

United States Senate

WASHINGTON, DC 20510

February 27, 2003

The Honorable Joseph E. Schmitz
Inspector General
Department of Defense
400 Army Navy Dr.
Arlington, VA. 22202

Dear Inspector General Schmitz:

It has come to our attention that a number of former and current cadets may have allegedly been sexually assaulted and possibly raped while serving at the United States Air Force Academy. We have sent previous letters to the Department of Defense requesting an investigation. Upon receiving our letters, we understand the Air Force's General Counsel under the direction of Secretary James E. Roche has launched an investigation to evaluate and improve the system by which support and assistance is provided to these cadets. This investigation per our request will contribute to an overall effort designed to address this serious issue at the Academy.

We remain gravely concerned about these alleged cadet cases. In many of these cases, cadets have complained of missing evidence, a lack of information and support, and punishment for reporting the sexual assaults and possible rapes.

We request that you review the work being done by the Air Force and others and provide your findings and conclusions to us at the appropriate time. We also would ask you to be prepared to counsel us and other members of the Committee on your findings and conclusions.

We appreciate your prompt response to this request and look forward to receiving the results of your investigation.

With kind regards, we are

Sincerely,

John Warner
Chairman

Wayne Allard
United States Senator

SUSAN M. COLLINS, MAINE, CHAIRMAN

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JOYCE A. RECHTSCHAFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

February 24, 2003

The Honorable Joseph E. Schmitz
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, Virginia 22202-4704

Dear Mr. Schmitz:

We are deeply concerned about allegations that the U.S. Air Force Academy apparently has failed to take appropriate action in response to reports of sexual assault against women cadets, and we are, therefore, writing to request that your office immediately and thoroughly investigate these complaints.

During the past few weeks, several current and former women cadets have charged that they were raped or otherwise sexually assaulted while attending the U.S. Air Force Academy in Colorado Springs, Colorado. These individuals assert that Academy officials failed to investigate these charges properly and failed to prosecute the perpetrators. In some cases, the cadets reportedly experienced retaliation for reporting the attacks.

Secretary James Roche has announced the creation of a special panel to review sexual assault policies in the U.S. Air Force, with emphasis on the Air Force Academy. While we commend the Secretary for taking action in response to the allegations, we believe it is imperative that an independent investigation be conducted. The Inspector General's office is best suited to undertake such an investigation. A thorough investigation needs to be conducted as quickly as possible for, even if only a portion of the allegations are true, such behavior is intolerable, and corrective actions are required immediately.

If you have any questions concerning my request or if we can provide any additional information, please call Chairman Collins or have your staff contact Kim Corthell or Claire Barnard with Chairman Collins's staff at 202-224-4751, or David Berick with Ranking Member Lieberman's staff at 202-224-2627.

Sincerely,

Susan M. Collins
Chairman

Joseph I. Lieberman
Ranking Member

JOSEPH E. SCHMITZ

Inspector General, Department of Defense

The Enduring Legacy of Inspector General von Steuben

According to one 20th Century Army historian, "the military services of two men, and of two men alone, can be regarded as indispensable to the achievement of American Independence. These two men were Washington and Steuben. . . . Washington was the indispensable commander. Steuben was his indispensable staff officer."[1]

When Benjamin Franklin recruited Baron von Steuben in 1777 from the latter's post-Prussian Army position as "Hofmarschall" (Lord Chamberlain) of a small Hohenzollern principality in what is now Southern Germany, how could anyone have envisioned the enduring legacy of this first effective American Inspector General: "integrity, knowledge, and loyalty to conscience"?[2] The Steuben family motto, *Sub Tutela Altissimi Semper*[3] (translated, Under the Protection of the Almighty Always), might have foreshadowed the legacy of this German-American patriot whose monument graces the park across from the White House, along with Generals Lafayette, Rochambeau, and Kosciuszko: all four of whom "testify to the gratitude of the American people to those from France, from Poland, and from Prussia

[1] John Palmer, General von Steuben 1 (Yale University Press, 1937).

[2] Joseph Whitehorne, "Von Steuben's Legacy," The Inspectors General of the United States Army, 1903-1939, at 4 (Office of the Inspector General & Center of Military History, United States Army, 1998).

[3] Henning-Hubertus Baron von Steuben, *Chronik der Familie von Steuben* 4 (1998).

who aided them in their struggle for national independence and existence."[4]

Ever since the Revolutionary War, the military Inspector General in America has served as *an independent extension of the eyes, ears, and conscience of the Commander.*[5] Still today, all Inspectors General in the Department of Defense, including the military departments, are trained to serve in this role; as such, the military Inspector General is always a paradigm of military leadership—the only issue is whether he or she is a good paradigm.

While today's Army Inspector General is the modern day personification of the enduring legacy of General von Steuben, it is also clear that General von Steuben is much more than the founding father of the Army Inspector General system. He is, of course, that. Not only is the first lesson plan of the Army Inspector General School devoted to General von Steuben, the entire 3-week course is permeated with the "Von Steuben Model." He is the enduring prime role model for every one of the 239 principal Army Inspectors General, a veritable "IG-Network" of senior officers serving full time in assistance, inspection, non-criminal investigation, and "teach & train" functions at every major command around the world.

Modern day military Inspectors General serve in a variety of uniforms: the 239 principal Army IGs mentioned above; 150 senior Air Force IGs and an additional 2,000 counterintelligence and criminal investigative professionals report to the Air Force Inspector General; the Navy and Marine Corps together deploy more than 70 IGs in similar functions. All three service Inspectors General are three-star flag and general officers; the Marine Corps IG has two-stars. By statute, however, "No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense"[6]—a Senate-confirmed civilian officer responsible for approximately 1,250 professional auditors, inspectors, and investigators, including 30 uniformed military officers.

Inspector General von Steuben is also a role model for the 30 Presidentially-appointed civilian Inspectors General who comprise the President's Council on Integrity and Efficiency (PCIE) and another 27 agency head-appointed civilian Inspectors General who comprise the Executive Council on Integrity and Efficiency (ECIE). (See http://www.ignet.gov.) According to the PCIE/ ECIE *Progress Report to the President* for FY 2001, this "community of nearly 10,000 employees has accounted for over $28 billion in saved and recovered funds and was instrumental in over 7,600 successful prosecutions, suspensions or debarments of nearly 8,800 individuals or businesses, and more than 2,000 civil or personnel actions."[7] In addition to the Federal PCIE/ECIE community, a robust "Association of Inspectors General" caters to a multitude of "Inspectors General at all levels of government [who] are entrusted with fostering and promoting accountability and integrity in government."[8]

How is it that this historical paradigm of military leadership has become the modern professional role model for civilians? As explained below, the answer is not just in the title. Although he is most known for military training, discipline, and accountability, General von Steuben is also known for his integrity and aversion to fraud and waste: "Prolonged study of his official correspondence and other military papers shows them to be models of veracity and scientific precision."[9]

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[4] William Howard Taft, "Address of the President of the United States," reprinted in Proceedings Upon the Unveiling of the Statue of Baron von Steuben, Major General Inspector General in the Continental Army During the Revolutionary War 49 (Joint Committee on Printing, 1912).

[5] Army Regulation 20-1, *Inspector General Activities and Procedures* 5 (Department of the Army, 2002).

[6] Inspector General Act of 1978, as amended, Section 8.

[7] PCIE/ECIE Press Release, December 10, 2002.

[8] Association of Inspectors General, Principles and Standards for Officers of Inspector General 3 (May 2001) (http://www.inspectorsgeneral.org).

[9] Palmer, General von Steuben, *supra*, at 5.

According to the official history of the Army Inspectors General, "Steuben, beginning work as an advisor to [General] Washington, proclaimed the money department 'a mere farce,' and said that paying quartermaster agents a commission according to what they spent was a prescription for waste."[10]

Integrity & Efficiency. "Although Maj. Gen. Friedrich W. A. von Steuben was preceded briefly by three Inspectors General, he is credited with establishing the high standards desired by Washington—integrity, knowledge, and loyalty to conscience—that have been the measure of the inspection system ever since."[11]

According to the recently published chronicle of the Steuben family, the 13 years Baron von Steuben served Prince Joseph Wilhelm von Hohenzollern-Hechingen "were the most difficult times of his life."[12] The modern day Baron von Steuben concludes that his namesake's service as Hofmarschall "strongly shaped his attitudes": "Because the Prince was a spendthrift, Steuben tried everything financially to save the principality. . . . This experience shaped his understanding of honesty, probity, efficiency and truthfulness. These principles he later brought to the American Army, above all to his training of its military commanders."[13]

In his own writing, approved by Congress in March 29, 1779, as "invariable rules for the order and discipline of the troops,"[14] General von Steuben admonished that "the commanding officer of a regiment must preserve the strictest discipline and order in his corps, obliging every officer to a strict performance of his duty, without relaxing in the smallest point; punishing impartially the faults that are committed, without distinction of rank or service."[15]

Training. General von Steuben's most well known legacy, "Military Instruction," is enshrined on his monument in Lafayette Park. Upon arrival at Valley Forge in 1778, he confronted an American Army, simply stated, in disarray. His first task was to train General Washington's own guard. Having proved his value as a military trainer to his Commander-in-Chief, Steuben's acumen for training soon spread to the entire army. According to the U.S. Army's official history of the Inspectors General, "Steuben shocked American officers by personally teaching men the manual of arms and drill, but his success helped to convince them. . . . With Washington's support, Steuben set out to involve officers in training, making the subordinate inspectors—a body of officers drilled by Steuben—his agents."[16]

According to President William Howard Taft, "The effect of STEUBEN'S instruction in the American Army teaches us a lesson that is well for us all to keep in mind, and that is that no people, however warlike in spirit and ambition, in natural courage and self-confidence, can be made at once, by uniforms and guns, a military force. Until they learn drill and discipline, they are a mob, and the theory that they can be made an army overnight has cost this Nation billions of dollars and thousands of lives."[17]

Discipline. According to the 1902 Proceedings in Congress, "[General von Steuben] made

[10] David Clary and Joseph Whitehorne, The Inspectors General of the United States Army, 1777-1903, 37 (U.S. Government Printing Office, 1987).

[11] Whitehorne, "Von Steuben's Legacy," The Inspectors General, 1903-1939, *supra*, at 4.

[12] Henning-Hubertus Baron von Steuben, *Chronik der Familie von Steuben*, *supra*, at 73.

[13] Henning von Steuben, Translated E-mail to Joseph E. Schmitz, December 1, 2002.

[14] "In Congress, 29th March, 1779," reprinted in Baron von Steuben's Revolutionary War Drill Manual: A Facsimile Reprint of the 1794 Edition A2 (New York, Dover Publications, 1985).

[15] Frederick William Baron von Steuben, Revolutionary War Drill Manual: A Facsimile Reprint of the 1794 Edition, *supra*, at 128.

[16] Clary and Whitehorne, The Inspectors General, 1777-1903, *supra*, at 40.

[17] Proceedings Upon the Unveiling of the Statue of Baron von Steuben, *supra*, at 50.

the patriotic army a disciplined and effective force—the drilled corps that ultimately won the war for freedom. He worked incessantly to do this under the greatest difficulties and the credit for it is all his own."[18] When the Pentagon commissioned its "Soldier-Signers of the Constitution Corridor" in 1986, the following signage accompanied the central oil painting of Washington at Valley Forge, surrounded by his mounted staff and tattered soldiers: "During the coming months they would suffer from shortages of food and clothing, and from the cold, but under the tutelage of Washington and Major General Frederick Steuben [sic] would gain the professional training necessary to become the equal of the British and Hessians in open battle."

Accountability. Parallel with his emphasis on training and drilling the troops, General von Steuben maintained that his inspectors "must depart from purely military inspection and must also examine financial accounts."[19] Inspector General von Steuben himself described what he encountered on arrival at Valley Forge in 1778, and how he established a system to eliminate wasteful losses of muskets, bayonets, and other Revolutionary War "accouterments":

> General Knox assured me that, previous to the establishment of my department, there never was a campaign in which the military magazines did not furnish from five thousand to eight thousand muskets to replace those which were lost . . . . The loss of bayonets was still greater. The American soldier, never having used this arm, had no faith in it, and never used it but to roast his beefsteak, and indeed often left it at home. This is not astonishing when it is considered that the majority of the States engaged their soldiers for from six to nine months. Each man who went away took his musket with him, and his successor received another from the public store. No captain kept a book. Accounts were never furnished nor required. As our army is, thank God, little subject to desertion, I venture to say that during an entire campaign there have not been twenty muskets lost since my system came into force. It was the same with the pouches and other accouterments, and I do not believe that I exaggerate when I state that my arrangements have saved the United States at least eight hundred thousand French livres a year.[20]

The original state of affairs upon his arrival at Valley Forge, according to a Congressional publication, indicated "[t]here were 5,000 muskets more on paper than were required, yet many soldiers were without them. Steuben's first task was, therefore, to inaugurate a system of control over the needs and supply of arms, and, in course of time, he succeeded in carrying this control to such perfection that, on his last inspection before he left the Army, there were but three muskets missing, and even those were accounted for."[21]

The Constitution ratified by Congress after the successful conclusion of the Revolutionary War still requires that "a regular Statement and Account of the Receipts and Expenditure of all public Money shall be published from time to time."[22] Moreover,

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[18] United States Congress, "Proceedings in Congress Relating to Baron Steuben," July 1, 1902, reprinted in Proceedings Upon the Unveiling of the Statue of Baron von Steuben, *supra*, at 154.

[19] Clary and Whitehorne, The Inspectors General, 1777-1903, *supra*, at 37.

[20] Friedrich Kapp, The Life of Frederick William von Steuben, Major General in the Revolutionary Army 117 (New York, Mason Brothers, 1859) (quoting "Steuben, MS. Papers, vol. xi.").

[21] "Address of Hon. Richard Bartholdt" ("Author of the Steuben Statue Legislation"), reprinted in Proceedings Upon the Unveiling of the Statue of Baron von Steuben, *supra*, at 22-23.

[22] U.S. Constitution, Article I, Section 9.

as explained in the 1789 Preamble to the Bill of Rights, the first ten Amendments were designed "to prevent misconstructions or abuse of its power,"[23] *i.e.*, to prevent abuses of "powers . . . delegated to the United States by the Constitution."[24]

Congress subsequently codified these same constitutional principles—200 years after confirming Baron von Steuben as George Washington's Inspector General—in the Inspector General Act of 1978, which created "independent and objective units" in most major Federal agencies "to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of; and (B) to prevent and detect fraud and abuse."[25]

So, the next time an Inspector General knocks on someone else's figurative door, only to encounter a panic or curse (or both), the Inspector General (or the IG's representative) might remind his or her "customer" that the Inspector General, whether civilian or military, serves as an extension of the *Commander's Conscience*, guarding a Revolutionary War legacy of: integrity; training and discipline; preventing and detecting fraud, waste, abuse, and mismanagement; and ensuring constitutional accountability ultimately to "the People of the United States"[26]—*sub tutela Altissimi semper.*

[23] Bill of Rights, Preamble.
[24] U.S. Constitution, Amendment X.
[25] Inspector General Act of 1978, as amended, Section 2.
[26] U.S. Constitution, Preamble.

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

JAN 21 2003

MEMORANDUM FOR CIVILIAN AND MILITARY PERSONNEL EMPLOYED BY AND ASSIGNED TO THE OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Office of Inspector General Leadership Standards

As civilian and military personnel employed by and assigned to the Office of the Inspector General of the Department of Defense, we have been entrusted with important and special obligations. These include the obligation to understand and adhere to standards established for all those who serve in federal offices of inspector general. The basic premise for these standards, as articulated by the President's Council on Integrity and Efficiency, is that:

> "Public office carries with it a responsibility to apply public resources economically, efficiently, and effectively. The offices of Inspector General carry an additional public responsibility. The nature of their activities creates a special need for high standards of professionalism and integrity." [Quality Standards for Federal Offices of Inspector General (1986)]

Because we have a special responsibility for oversight of statutes, directives and policies critical to the national defense and to the welfare of soldiers, sailors, airmen, marines, and civilian employees of the Department of Defense as we carry out the national defense, we are further obligated to adhere to high standards in our personal conduct. These standards are best articulated in the standards of exemplary conduct Congress has prescribed for the Armed Forces:

> "All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under this command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge." [10 United States Code § 5947 - similar provisions at 10 U.S.C. § 3583 (Army) and 10 U.S.C. § 8583 (Air Force)]

My intent in issuing this memorandum is not to establish new standards for our conduct but rather to clarify existing standards – leadership standards I expect every individual employed by or assigned to the Office of the Inspector General to make a concerted effort to honor. Meeting these standards is essential to the credibility of our investigations into allegations of misconduct within the Department of Defense, as well as our advisory reports to the Services, the Defense Agencies, the Secretary of Defense, and the Congress. Failing to meet them will disserve both our institutional commitment and our personal obligation to the Secretary of Defense, the Congress, the Constitution, and our fellow Americans.

Joseph E. Schmitz

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

MAR 21 2003

MEMORANDUM FOR CIVILIAN AND MILITARY PERSONNEL EMPLOYED BY AND ASSIGNED TO THE OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: IG Act Duty of the Inspector General to Protect the Identity of Whistleblowers

References: (a) Inspector General Act of 1978, as amended
(b) Inspector General Policy Memorandum of February 10, 2003, "Inspector General Act Implementation and Office of Inspector General Policy Guidance"

Purpose: To provide specific guidance on Section 7 of Reference (a), consistent with the general guidance promulgated in Reference (b).

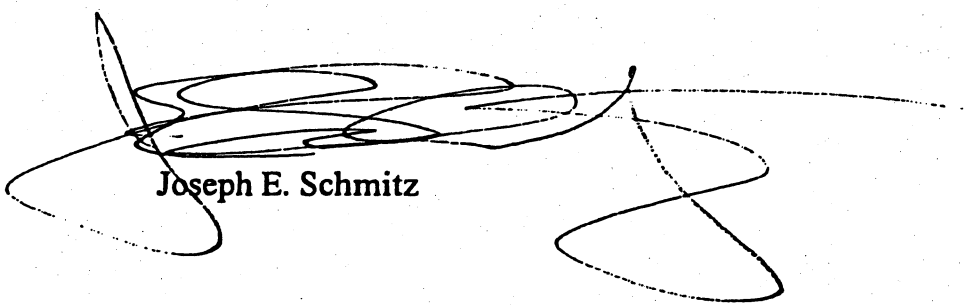
Statutory Duty: Section 7 of Reference (a), entitled "Complaints by employees; disclosure of identity; reprisals," provides, *inter alia*, that "The Inspector General shall not, after receipt of a complaint or information from [a DoD] employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation," and "Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or threaten to take any action against an employee as reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with knowledge that it was false or with willful disregard for its truth or falsity."

Policy Guidance: It is the policy of the Office of Inspector General to carry out the letter and the spirit of the Inspector General's explicit duty under Section 7(b) of Reference (a), "after receipt of a complaint or information from an employee," not to "disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation."

DoD Employees, including members of the Armed Forces, who provide information to the Inspector General of the Department of Defense, or to any representative of the Inspector General, should understand that Reference (a) envisions circumstances wherein the Inspector General may determine that disclosure of their identity is unavoidable. Specifically, Reference (a) requires the Inspector General either to "report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law" (Section 4(d)), or to "expeditiously report suspected or alleged violations of chapter 47 of Title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense" (Section 8(d)).

Pending completion of an ongoing, more deliberate review of all current guidance on whistleblower protection and statutory reporting duties within the Office of Inspector General, it is the general policy of the Inspector General to delegate the reporting duties in Sections 4(d) and 8(d) of Reference (a) only in a form that includes guidance consistent with the letter and spirit of Section 7 of Reference (a), and any and all other applicable whistleblower protection laws.

Effective Date: This Policy Memorandum is effective immediately.



Joseph E. Schmitz