### TABLE OF ISSUANCES AND REVISIONS/CHANGES

<table>
<thead>
<tr>
<th>NAVINSGEN Investigations Manual</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manual Issuance</td>
<td>1995</td>
</tr>
<tr>
<td>Revision 1</td>
<td>May 2016</td>
</tr>
<tr>
<td>Revision 2</td>
<td>November 2016</td>
</tr>
</tbody>
</table>

### APPENDICES LIST

<table>
<thead>
<tr>
<th>Appendix Addition/Removal/Revision History</th>
<th>Date</th>
</tr>
</thead>
</table>
# TABLE OF CONTENTS

## CHAPTER 1 – INTRODUCTION

1.1. PURPOSE ............................................................................................................... 1
1.2. PROFESSIONAL STANDARDS AND PRINCIPLES FOR INVESTIGATORS ........ 1

## CHAPTER 2 – INTAKE AND ANALYSIS

2.1. SOURCES OF CONTACTS/COMPLAINTS .......................................................... 10
2.2. CONTACT/COMPLAINT CLARIFICATION ....................................................... 10

## CHAPTER 3 - PLANNING INVESTIGATIONS

3.1. INVESTIGATIVE PLAN ....................................................................................... 15
3.2. ON-SITE FIELDWORK .................................................................................... 17
3.3. INVESTIGATIVE TOOLS .................................................................................. 18

## CHAPTER 4 - CONDUCTING INVESTIGATIONS

4.1. INTRODUCTION ................................................................................................. 21
4.2. PROFESSIONAL QUALITY STANDARDS ....................................................... 24
4.3. ELEMENTS OF THE IG INVESTIGATION PROCESS ....................................... 25
4.4. ACCESS TO RECORDS ..................................................................................... 26
4.5. DOCUMENTARY EVIDENCE .......................................................................... 27
4.6. EXPERTS AND OTHER SOURCES OF ASSISTANCE .................................... 30
4.7. ON-SITE FIELD WORK .................................................................................. 31
4.8. EVALUATING EVIDENCE .............................................................................. 32

## CHAPTER 5 – INTERVIEWS

5.1. INTRODUCTION ................................................................................................. 35
5.2. INTERVIEW PROCESS ..................................................................................... 35
5.3. RIGHTS AND OBLIGATIONS OF PARTICIPANTS ........................................... 37
5.4. WITNESS CONFIDENTIALITY ........................................................................ 39
5.5. AUTHORITY TO ADMINISTER OATHS .......................................................... 40
5.6. SWORN RECORDED TESTIMONY .................................................................. 40
5.7. DOCUMENTATION OF NON-RECORDED INTERVIEWS ............................... 44
5.8. INTERVIEW TECHNIQUES .............................................................................. 44
5.9. PRIVILEGES .................................................................................................... 45

## CHAPTER 6 – FINAL REPORTS

6.1. INTRODUCTION ................................................................................................. 47
6.2. PROFESSIONAL STANDARDS GUIDELINES .................................................. 47
6.3. PREPARING REPORTS ..................................................................................... 48
6.4. TENTATIVE CONCLUSION LETTER (TCL) ...................................................... 50
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.5. INVESTIGATION QUALITY ASSURANCE REVIEW</td>
<td>51</td>
</tr>
<tr>
<td>6.6. REPORT REVIEW AND APPROVAL AT NAVINSGEN</td>
<td>51</td>
</tr>
<tr>
<td>6.7. ISSUANCE OF THE REPORT</td>
<td>52</td>
</tr>
<tr>
<td>CHAPTER 7 - CASE CLOSURE</td>
<td>53</td>
</tr>
<tr>
<td>7.1. INTRODUCTION</td>
<td>53</td>
</tr>
<tr>
<td>7.2. CASE CLOSURE PROCESS</td>
<td>53</td>
</tr>
<tr>
<td>7.3. CLOSURE CORRESPONDENCE</td>
<td>53</td>
</tr>
<tr>
<td>CHAPTER 8 - INVESTIGATIVE OVERSIGHT</td>
<td>60</td>
</tr>
<tr>
<td>8.1. OVERSIGHT AUTHORITY</td>
<td>60</td>
</tr>
<tr>
<td>8.2. QUALITY ASSURANCE REVIEWS</td>
<td>60</td>
</tr>
<tr>
<td>APPENDIX A: QUALITY STANDARDS</td>
<td>A-1</td>
</tr>
<tr>
<td>GENERAL STANDARDS</td>
<td>A-1</td>
</tr>
<tr>
<td>QUALITATIVE STANDARDS</td>
<td>A-2</td>
</tr>
<tr>
<td>APPENDIX B: NAVAL IG NON-DISCLOSURE AGREEMENT</td>
<td>B-1</td>
</tr>
<tr>
<td>APPENDIX C: PRIVACY ACT STATEMENT</td>
<td>C-1</td>
</tr>
<tr>
<td>APPENDIX D: IMPORTANCE OF PRESENTING TRUTHFUL TESTIMONY (CIVILIAN)</td>
<td>D-1</td>
</tr>
<tr>
<td>APPENDIX E: IMPORTANCE OF PRESENTING TRUTHFUL TESTIMONY (MILITARY)</td>
<td>E-1</td>
</tr>
<tr>
<td>APPENDIX F: WARNING STATEMENT CONCERNING ACTS OF REPRISAL</td>
<td>F-1</td>
</tr>
<tr>
<td>APPENDIX G: WITNESS READ-IN (CIVILIAN AND MILITARY)</td>
<td>G-1</td>
</tr>
<tr>
<td>APPENDIX H: AUDIO RECORDING SCRIPT: WITNESS/COMPLAINANT</td>
<td>H-2</td>
</tr>
<tr>
<td>APPENDIX I: SUBJECT READ-IN (CIVILIAN)</td>
<td>I-1</td>
</tr>
<tr>
<td>APPENDIX J: SUBJECT READ-IN (MILITARY)</td>
<td>J-1</td>
</tr>
<tr>
<td>APPENDIX K: AUDIO RECORDING SCRIPT (SUBJECTS)</td>
<td>K-1</td>
</tr>
<tr>
<td>APPENDIX L: INTERVIEW CLOSING NOTES</td>
<td>L-2</td>
</tr>
<tr>
<td>APPENDIX M: HILLEN FACTORS</td>
<td>M-1</td>
</tr>
<tr>
<td>APPENDIX N: GARRITY WARNING</td>
<td>N-1</td>
</tr>
<tr>
<td>APPENDIX O: KALKINES WARNING</td>
<td>O-1</td>
</tr>
<tr>
<td>APPENDIX P: ESTABLISHED REDRESS AND RESOLUTION PATHS</td>
<td>P-1</td>
</tr>
</tbody>
</table>
APPENDIX Q: MATTERS APPROPRIATE FOR IG INVESTIGATION ..................... Q-1
APPENDIX R: TENTATIVE CONCLUSION LETTER POLICY .......................... R-1
## LEGAL AND POLICY REFERENCES

<table>
<thead>
<tr>
<th>Reference</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title 10 U.S. Code § 5020</td>
<td>Naval Inspector General</td>
</tr>
<tr>
<td>Title 10 U.S. Code § 1561</td>
<td>Complaints of sexual harassment: investigation by Commanding Officers</td>
</tr>
<tr>
<td>DoDI 7050.01</td>
<td>Defense Hotline Program</td>
</tr>
<tr>
<td>DoDD 5505.06</td>
<td>Investigations of Allegations Against Senior DoD Officials</td>
</tr>
<tr>
<td>DoDD 5205.07</td>
<td>Special Access Program (SAP) Policy</td>
</tr>
<tr>
<td>DoDD 5106.01</td>
<td>Inspector General of the Department of Defense (IG DoD)</td>
</tr>
<tr>
<td>SECNAV M-5510.36</td>
<td>DON Information Security Program</td>
</tr>
<tr>
<td>SECNAV M-5510.30</td>
<td>DON Personnel Security Program</td>
</tr>
<tr>
<td>SECNAVINST 5430.57G</td>
<td>Missions and Functions of the Naval Inspector General</td>
</tr>
<tr>
<td>SECNAVINST 5370.5B</td>
<td>DON Hotline Program</td>
</tr>
<tr>
<td>SECNAVINST 5430.92B</td>
<td>Assignment of Responsibilities to Counteract Acquisition Fraud, Waste, and Related Improprieties within the Department of the Navy</td>
</tr>
<tr>
<td>NAVINSGENINST 5510</td>
<td>NAVINSGEN Security Program</td>
</tr>
<tr>
<td>Title 10, U.S. Code, § 831 (“Article 31”)</td>
<td>Uniform Code of Military Justice, Article 31(b), Compulsory Self-Incrimination Prohibited</td>
</tr>
<tr>
<td>Title 5 U.S. Code § 7513</td>
<td>Adverse Actions, Cause and Procedure</td>
</tr>
<tr>
<td>Reference</td>
<td>TITLE</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>Title 10, U.S. Code, § 5014</td>
<td>Office of the Secretary of the Navy</td>
</tr>
<tr>
<td>NAVINSGEN Policy Memo 2016-001</td>
<td>Tentative Conclusion Letters</td>
</tr>
<tr>
<td>SECNAV 5210.8D</td>
<td>Department of the Navy Records Management Program</td>
</tr>
<tr>
<td>DoDI 5015.2</td>
<td>DoD Records Management Program</td>
</tr>
<tr>
<td>NAVINSGEN Policy Memo 2015-002</td>
<td>Subject Notification Letters</td>
</tr>
</tbody>
</table>
# COMMONLY USED ACRONYMS

<table>
<thead>
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<th>Acronyms</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
<tr>
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<td>Code of Federal Regulations</td>
</tr>
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<td>CIGIE</td>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
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</tr>
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</tr>
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</tr>
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</tr>
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<td>For Official Use Only</td>
</tr>
<tr>
<td>FWA</td>
<td>Fraud, Waste and Abuse</td>
</tr>
<tr>
<td>HCR</td>
<td>Hotline Completion Report</td>
</tr>
<tr>
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<td>Human Resources</td>
</tr>
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<td>Inspector General</td>
</tr>
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</tr>
<tr>
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</tr>
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<td>Investigations Of Senior Officials</td>
</tr>
<tr>
<td>LSR</td>
<td>Legal Sufficiency Review</td>
</tr>
<tr>
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<td>Memorandum for the Record</td>
</tr>
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<td>Military Air</td>
</tr>
<tr>
<td>MSPB</td>
<td>Merit Systems Protection Board</td>
</tr>
<tr>
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<td>Military Whistleblower Reprisal Investigation</td>
</tr>
<tr>
<td>NAVAIR</td>
<td>U.S. Naval Air Systems Command</td>
</tr>
<tr>
<td>NAVAL IG</td>
<td>Naval Inspector General (the Flag Officer)</td>
</tr>
<tr>
<td>NAVAUDSVC</td>
<td>Naval Audit Service</td>
</tr>
<tr>
<td>Acronyms</td>
<td>Subject</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td>NAVINSGEN</td>
<td>Office of the Naval Inspector General</td>
</tr>
<tr>
<td>NCIS</td>
<td>Naval Criminal Investigative Service</td>
</tr>
<tr>
<td>NIGHTS</td>
<td>Naval Inspector General Hotline Tracking System</td>
</tr>
<tr>
<td>OGC</td>
<td>Office of General Counsel</td>
</tr>
<tr>
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<td>DON Office of Legislative Affairs</td>
</tr>
<tr>
<td>OPNAV</td>
<td>Office of the Chief of Naval Operations</td>
</tr>
<tr>
<td>OPNAVINST</td>
<td>Office of the Chief of Naval Operations Instruction</td>
</tr>
<tr>
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<td>Office of Special Counsel</td>
</tr>
<tr>
<td>PD</td>
<td>Position Description</td>
</tr>
<tr>
<td>PI</td>
<td>Preliminary Inquiry</td>
</tr>
<tr>
<td>PII</td>
<td>Personally Identifiable information</td>
</tr>
<tr>
<td>POC</td>
<td>Point of Contact</td>
</tr>
<tr>
<td>PPP</td>
<td>Prohibited personnel practice</td>
</tr>
<tr>
<td>QAR</td>
<td>Quality Assurance Review</td>
</tr>
<tr>
<td>ROI</td>
<td>Report of Investigation</td>
</tr>
<tr>
<td>SAP</td>
<td>Special Access Program</td>
</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
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<td>Secretary of the Navy Instruction</td>
</tr>
<tr>
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<td>Senior Executive Service</td>
</tr>
<tr>
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<td>Secret Internet Protocol Router Network</td>
</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
<td>SOP</td>
<td>Standard Operating Procedures</td>
</tr>
<tr>
<td>TAD</td>
<td>Temporary Additional Duty</td>
</tr>
<tr>
<td>TCL</td>
<td>Tentative Conclusion Letter</td>
</tr>
<tr>
<td>UCMJ</td>
<td>Uniform Code of Military Justice</td>
</tr>
<tr>
<td>VTC</td>
<td>Video Teleconference</td>
</tr>
</tbody>
</table>
CHAPTER 1 – INTRODUCTION

1.1. PURPOSE

1.1.1. This Investigations Manual provides guidance to members of the Office of the Naval Inspector General (NAVINSGEN), personnel who conduct investigations on behalf of NAVINSGEN, and personnel who conduct or oversee investigations in the Department of the Navy. This guidance ensures that investigators and IG investigations meet the Quality Standards for Investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) as adopted by NAVINSGEN. The CIGIE standards are set forth in Section 1.2 of this chapter and detailed further in Appendix A.

1.1.2. This manual establishes standards of competence and professionalism by which investigations will generally be judged and applies to all personnel who conduct inspector general (IG) investigations. Should questions arise regarding the proper way to conduct an aspect of an IG investigation, the investigator should refer to this manual to support the manner in which he or she conducted the investigation. Conversely, if investigative participants (e.g., witness or subject) and/or their attorneys object to an investigator’s conduct during an investigation, they also may be referred to this manual. Investigators should be prepared to articulate to participants and their representatives the reasons for deviations from the guidance in this manual when participants or their representatives challenge such deviations. Hence, a prudent investigator should be familiar with the procedures discussed in this manual and be prepared to articulate sound reasons for deviations from them during the course of an investigation.¹

1.2. PROFESSIONAL STANDARDS AND PRINCIPLES FOR INVESTIGATORS

1.2.1. Qualitative Standards. Investigators conducting IG investigative functions within the DON shall abide by the highest professional standards. All investigators shall adhere to the professional principles in The Inspector General Reform Act of 2008 (IG Reform Act). Those standards are detailed further in the CIGIE “Quality Standards for Investigations,” which set forth the professional standards and principles for investigators of the federal offices of inspectors general. Those standards that are particularly relevant are summarized below.

1.2.1.1. Planning. Investigative divisions and organizations should establish organizational and case specific priorities and develop objectives to ensure that individual case tasks are performed efficiently and effectively.

1.2.1.2. Execution. Investigative divisions and organizations should conduct investigations in a timely, efficient, thorough, and legal manner. The investigator is a fact-gatherer and should not allow conjecture, unsubstantiated opinion, or bias to affect work. He or she also has a duty to be receptive to evidence that is exculpatory, as well as incriminating.

¹ In addition, IG personnel serving in overseas billets should consult counsel regarding whether host nation legal requirements and the applicable status of forces agreement may take precedence over the provisions of this manual.
1.2.1.3. **Reporting.** Reports must thoroughly address all relevant aspects of the investigation and be accurate, clear, complete, concise, logically organized, timely, and objective.

1.2.1.4. **Information Management.** Investigative divisions and organizations shall store investigative data in a manner that allows effective retrieval, reference, and analysis, and that ensures the protection of sensitive data.

1.2.2. **General Standards**

1.2.2.1. **Qualifications.** Individuals assigned to conduct the investigative activities of NAVINSGEN must possess professional competency for the tasks required.

1.2.2.2. **Character.** Each investigator must possess and maintain the highest standards of conduct and ethics, including unimpeachable honesty and integrity.

1.2.2.3. **Independence.** In all matters relating to investigative work, the investigative organization must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude.

1.2.2.3.1. **Personal.** Personal impairments can include personal or financial relationships, preconceived biases, or prior involvement in the entity or program being investigated.

1.2.2.3.2. **External.** External impairments can include interference in the exercise of investigative responsibility, restriction on funds or resources, authority to overrule or to influence the investigation, or the denial of access to records or sources of information.

1.2.2.3.3. **Organizational.** The investigative organization must be located outside the staff or the line management of the individual under investigation.

1.2.2.4. **Due Professional Care.** Investigators should use due professional care in conducting investigations and in preparing related reports.

1.2.2.4.1. **Thoroughness.** All investigations must be conducted in a diligent and complete manner, and reasonable steps should be taken to ensure pertinent issues are sufficiently resolved.

1.2.2.4.2. **Legal.** Investigations should be conducted in accordance with all applicable laws, rules and regulations, and with due respect for the rights and privacy of those involved.

1.2.2.4.3. **Impartiality.** All investigations must be conducted in a fair and equitable manner, with the perseverance necessary to determine the facts.
1.2.2.4. **Objectivity.** Evidence must be gathered and reported in an unbiased and independent manner in an effort to determine the validity of an allegation or to resolve an issue.

1.2.2.5. **Ethics.** At all times, the actions of the investigator actions and investigative organization shall conform to generally accepted standards of conduct for government employees.

1.2.2.6. **Timeliness.** All investigations must be conducted and reported with due diligence and in a timely manner. This is especially critical given the impact investigations have on the lives of individuals and activities of organizations.

1.2.2.7. **Documentation/Evidence.** The investigative report findings and investigative accomplishments must be supported by adequate evidence, whether testimonial, documentary, and/or physical.

1.2.2.8. **Policies and Procedures.** To facilitate due professional care, NAVINSGEN codes and command organizations performing IG functions may establish written standard operating procedures (SOP), as necessary, to establish particular investigative policies and procedures within their respective divisions and organizations.

1.2.3. **Overview of the NAVINSGEN Hotline Investigations Model**

1.2.3.1. **Purpose of the Hotline.** The purpose of the DON Hotline is to “receive allegations of fraud, waste, and mismanagement when the chain of command has been unresponsive, or the complainant fears reprisal resulting from the submission of his or her allegations.” per SECNAVINST 5370.5B, “DON Hotline Program.”

1.2.3.2. **Three-Phase Hotline Process.** The NAVINSGEN Hotline process comprises three phases: (1) intake and analysis; (2) fact-finding; and (3) case closure.

1.2.3.3. **Phase One – Intake and Analysis**

1.2.3.3.1. **Purpose.** The purpose of phase one is to determine the best course of action to address a hotline contact, including identification of those complaints that warrant a preliminary inquiry or full investigation. Absent unusual circumstances, the IG at the command where the alleged action took place should determine and effect the final course of action to address a complaint, including investigating or inquiring into the matter, as appropriate.

1.2.3.3.2. **Process.** Within thirty (30) days of receipt of a contact, the cognizant IG office shall:

- Review the contact
- Enter the contact into the NAVINSGEN case management system
- Determine whether another IG has cognizance over the contact
- Conduct a case search to determine whether a duplicate contact exists
• Interview the complainant (as required)
• Identify potential improper conduct that may warrant investigation
• Identify whether the issues in the contact may be addressed by existing avenues of redress, including the chain of command
• Research and analyze applicable standards (as appropriate)
• Discreetly review available records (as appropriate)
• Upload all documents and testimony, as received
• Confer with counsel (as appropriate)
• Input periodic case notes into the NAINVSGEN case management system (at least weekly and upon significant changes in case status; investigators are encouraged to use investigator notes to document their progress on a step-by-step basis)
• Determine a course of action
• If investigation is not warranted, close the case and advise the complainant of the case closure

1.2.3.3. Courses of Action (COA)

• **Transfer.** The contact/complaint is transferred to the appropriate Command IG for action as deemed appropriate. Transfers keep contacts/complaints within the NAVINSGEN system. Transfer is an interim COA that does not result in case closure. The receiving IG shall determine a final COA, listed below.

• **Discard.** The contact/complaint is identical to another contact/complaint within the NAVINSGEN Case Management System, i.e., same complainant and same contact/complaint.

• **Dismiss.** The information presented does not allege any wrongdoing, violation of law, policy, procedures, or regulation; is not timely;\(^2\) or is without merit, frivolous, and cannot be referred.

• **Refer.** Refer when the allegations do not fall under the jurisdiction of the IG to resolve or could be more appropriately handled by a command, organization, or agency outside the IG System.

• **Assist.** Assistance is appropriate when an alternate process is available to remedy the problem. The complainant is provided contact

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\(^2\) As a general matter, complaints submitted within one year of the alleged wrongdoing are timely. However, IG personnel should consider the facts and circumstances surrounding a complaint when determining whether its untimeliness warrants dismissal. Relevant factors include the amount of time that has transpired since the issues in the complaint occurred, when the complainant first became aware of the issues, the potential (or actual) harm or loss to the government caused by the issues, the significance of the issues raised in the complaint, and whether the issue complained of was a discrete occurrence or an ongoing matter.
information for people, offices, or agencies that can address his or her concerns.

- **Conduct Preliminary Inquiry/Investigation.** A complaint may warrant IG investigation, including a preliminary inquiry and/or full investigation, when: (1) the complaint alleges improper conduct (i.e., conduct that violates an identifiable standard), (2) the alleged improper conduct is appropriate for IG investigation, and (3) other, more appropriate, avenues of relief are not available to address the complaint.

1.2.3.3.4. **Improper Conduct, Inappropriate Conduct, and Misconduct.**

- **Improper Conduct.** Conduct (an act or omission) that violates an identifiable directive, instruction, policy, regulation, rule, statute, or other standard applicable to the DON, without regard to knowledge, motive, or intent. Complaints that allege improper conduct may be appropriate for IG investigation.

- **Inappropriate Conduct.** Conduct (an act or omission) that a reasonable person would consider likely to erode confidence in the integrity of the DON, but which does not violate an identifiable directive, instruction, policy, regulation, rule, statute, or other standard applicable to the DON. Complaints that allege inappropriate conduct are typically best referred to the command for action.

- **Misconduct.** As defined by NAVINSGEN, improper conduct undertaken (1) with the knowledge that the conduct violates a standard, or with willful disregard for that possibility; (2) with the intention to harm another; or (3) for the purpose of personal profit, advantage, or gain. Gross negligence is misconduct under this definition; simple negligence is not. Complaints that allege misconduct may be appropriate for IG investigation.

1.2.3.3.5. **Matters Appropriate for IG Investigation.** Matters that are appropriate for IG investigation include, but are not necessarily limited to, violations of law or policy that pertain to the following:

- Abuse of Title or Position
- Bribes/Kickbacks/Acceptance of Gratuities
- Conflicts of Interest
- Ethics Violations
- False Official Statements/Claims
- Fraud

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3 The NAVINSGEN definition of “misconduct” for purposes of this manual may differ from the definition used by the Merit Systems Protection Board and other authorities.
• Gifts (Improper receipt or giving)
• Mismanagement/Organization Oversight (Significant Cases)
• Misuse of Official Time, Gov’t Property, Position and Public Office
• Political Activities
• Purchase Card Abuse
• Reprisal (Military Whistleblower Protection)
• Safety/Public Health (Substantial/Specific)
• Systemic Problems
• Time and Attendance (Significant Violations)
• Travel Card Abuse
• Travel Fraud
• Waste (Gross)⁴

1.2.3.3.6. **Other Avenues of Relief.** Numerous existing resolution processes are available to complainants for matters that are not appropriate for IG investigation. Examples include other investigative agencies, the administrative and negotiated grievance processes, the Equal Employment Opportunity or Equal Opportunity complaint processes, and the chain of command. Those processes are too numerous to list here and are subject to changes in law and policy. Accordingly, IG personnel should endeavor to stay abreast of existing complaint resolution processes. Appendix P contains a non-exhaustive list of existing avenues of redress and resolution.

1.2.3.4. **Phase Two – Fact-Finding.** If the cognizant IG office determines a preliminary inquiry or investigation is warranted, the investigator will transition to Phase Two – Fact-Finding.

1.2.3.4.1. **Purpose – Preliminary Inquiry.** The purpose of a preliminary inquiry is to determine whether a full investigation is warranted. Many allegations may be resolved by discreetly consulting subject matter experts, obtaining and reviewing records, and/or limited witness interviews, without interviewing the subject. The preliminary inquiry allows an investigator to gather facts in a way that minimizes the disruption and stress that an IG investigation may cause a subject and his/her command.

1.2.3.4.2. **Process – Preliminary Inquiry.** Within thirty (30) days of receipt⁵ of a complaint, the cognizant IG office shall:

• Interview the complainant if identified and available
• Develop an investigative plan

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⁴ For purposes of determining whether an allegation is significant, substantial, or gross, investigators should consider, among other things, the potential financial loss to the government caused by the violation, the potential non-financial impacts of the violation, the positions of the personnel involved (including their seniority and duties), the public interest, and whether the conduct at issue was allegedly intentional or not.

⁵ Receipt is defined as the date the complaint enters the NAVINSGEN system (i.e., the date it is received by any IG office within the cognizance of NAVINSGEN).
• Develop an outline of proof (best practice)
• Confer with counsel and determine what legal and/or policy standards may apply
• Discreetly review records
• Consult subject matter experts, if needed
• Conduct limited witness interviews, if needed
• Upload all documents and testimony, as received
• Confer with counsel
• Input periodic case notes into the NAINVSGEN case management system (at least weekly and upon significant changes in case status; investigators are encouraged to use investigator notes to document their progress on a step-by-step basis)
• Complete a preliminary inquiry report that recommends whether full investigation or case closure is warranted
• Advise the complainant (if known) if the case will be closed at this point; consider advising the complainant of a decision to proceed to a full investigation

1.2.3.4.3. Purpose – Full Investigation. The purpose of a full investigation is to determine whether allegations are substantiated or not substantiated, to recommend corrective actions, and to identify root causes and systemic issues.

1.2.3.4.4. Process – Full Investigation. Within ninety (90) days of receipt of a complaint, the cognizant IG office shall:

• Input periodic case notes into the NAVINSGEN case management system (at least weekly and upon significant changes in case status; investigators are encouraged to use investigator notes to document their progress on a step-by-step basis)
• Notify the command and subject of the investigation
• Develop (or update) the investigative plan and outline of proof
• Collect documentary and physical evidence
• Upload all documents and testimony, as received
• Interview witnesses (including subject matter experts, as needed)
• Interview subjects
• Complete a report of investigation (ROI)
• Consult counsel
• Provide to the subject a tentative conclusion letter (TCL) if any allegation is substantiated, review the subject’s response, and update the ROI, as required
• Obtain a legal sufficiency review (LSR)
• Submit the draft ROI to NAVINSGEN for review (via the cognizant case manager)
• Finalize the ROI
1.2.3.5. **Phase Three – Case Closure**

1.2.3.5.1. **Purpose.** The purpose of the case closure process in a full investigation is to conduct a quality assurance review of the investigation and notify stakeholders of the results of the investigation.

1.2.3.5.2. **Process.** The cognizant IG office shall:

- Conduct quality assurance review using the post-investigation checklist (ideally, the investigator’s supervisor should conduct this review, although this may not be possible in those IG offices with smaller staff sizes)
- Ensure all documentation was properly uploaded into the NAVINSGEN case management system
- Update subject dispositions to include corrective actions
- Transfer to NAVINSGEN for final review and case closure
- Notify complainant, subject, and subject’s command of the results of the investigation (unless such notifications were previously provided)

<table>
<thead>
<tr>
<th>Complaint Analysis (Phase 1)</th>
<th>Preliminary Inquiry (Phase 2)</th>
<th>Full Investigation (Phase 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Purpose:</strong> Determine the best course of action to address a complaint</td>
<td><strong>Purpose:</strong> Determine whether further investigation is warranted</td>
<td><strong>Purpose:</strong> Determine whether allegations are substantiated or not substantiated; identify root causes and systemic issues</td>
</tr>
<tr>
<td><strong>Suspense:</strong> 5 days of receipt of a contact</td>
<td><strong>Suspense:</strong> 30 days from receipt of a contact</td>
<td><strong>Suspense:</strong> 90 days from receipt of a contact</td>
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<tr>
<td><strong>Includes:</strong></td>
<td><strong>Includes:</strong></td>
<td><strong>Includes:</strong></td>
</tr>
<tr>
<td>- Receive and review complaint</td>
<td>- Investigative plan</td>
<td>- Notify the command and subject</td>
</tr>
<tr>
<td>- Complainant interview (as required)</td>
<td>- Outline of proof (best practice)</td>
<td>- Periodic case notes</td>
</tr>
<tr>
<td>- Research and analyze standards</td>
<td>- Consult counsel</td>
<td>- Investigative plan</td>
</tr>
<tr>
<td>- Discrete review of available records</td>
<td>- Discrete review of records</td>
<td>- Outline of proof</td>
</tr>
<tr>
<td>- Consult counsel (as required)</td>
<td>- Consult subject matter experts (no attribution)</td>
<td>- Collect evidence</td>
</tr>
<tr>
<td>- Determine a course of action</td>
<td>- Interviews of a limited nature (SMEs/Witnesses – no attribution)</td>
<td>- Interview witnesses and subjects</td>
</tr>
<tr>
<td>- Notify complainant</td>
<td>- Interview complainant (if possible)</td>
<td>- Report of investigation</td>
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<td></td>
<td></td>
<td>- Consult counsel</td>
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<tr>
<td></td>
<td></td>
<td>- Tentative conclusion letter</td>
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<tr>
<td></td>
<td></td>
<td>- Legal sufficiency review</td>
</tr>
</tbody>
</table>

*Table 1-1, Comparison of the Complaint Analysis, PI, and Investigative Processes*
CHAPTER 2 – INTAKE AND ANALYSIS

2.1. SOURCES OF CONTACTS/COMPLAINTS

2.1.1. Hotline Regulatory Authority. DoD Instruction 7050.01, “Defense Hotline Program,” establishes the authority of the Inspector General of the Department of Defense (IG DoD) to task DoD Components to inquire into and resolve Defense Hotline complaints through appropriate means, and provide the Defense Hotline with the results in a Defense Hotline Completion Report (HCR). SECNAV Instruction 5370.5B, “DON Hotline Program,” implements the DoD Hotline Program within the DON and assigns the Under Secretary of the Navy overall responsibility for the program and NAVINSGEN and Deputy Naval Inspector General for Marine Corps Matters (DNIGMC) responsibility for implementation of the program. The purpose of the DON Hotline Program is to receive allegations of fraud, waste, abuse, and mismanagement when the chain of command has been unresponsive, or the complainant fears reprisal resulting from the submission of his or her allegations. NAVINSGEN is designated as the DON Defense Hotline coordinator; DNIGMC serves as the DON Defense Hotline coordinator for complaints involving the Marine Corps.

2.1.2. DON Hotline

2.1.2.1. The DON Hotline program includes NAVINSGEN and other offices, commands, and activities within the DON that perform DoD/DON Hotline functions and provides a method of receiving expressions of concerns from military members, DON civilian and contractor employees, and members of the public when they fear retaliation or believe the chain-of-command is unresponsive. The focus of the DoD/DON Hotline program is to identify suspected instances of fraud, waste, abuse, mismanagement, and reprisal, and other matters that may adversely affect the discipline or military efficiency within DON, or DON’s preparation to support the military operations of Combatant Commands and Commands. The various IG offices receive complaints via telephone calls, letters, e-mails, Hotline public websites, fax, walk-ins, and referrals.

2.1.2.2. Upon receipt of a contact, the IG office shall perform an initial screening and will open a case in the NAVINSGEN case management system, unless the contact contains allegations against or concerning senior officials. To avoid entering duplicate complaints, screening will include a name check of the complainant in NIGHTS to determine if the complainant has filed a contemporaneous complaint with another IG office and liaison with the other IG office if another complaint is found.
2.1.2.3. **Required Notifications for Senior Official Investigations.** DoD Directive 5505.06, Investigations of Allegations against Senior DoD Officials, applies to Officers selected or serving in the paygrade of O-7 and above or civilians serving in the Senior Executive Service (SES) or earning equivalent salaries. The Directive requires DoD Components to report allegations made against senior officials to IG DoD within five workdays of receipt by the Component. Consequently, the implementing SECNAVINST requires those within the DON who receive allegations against senior officials to notify NAVINSGEN within two workdays. Receiving IG offices shall immediately forward contacts and complaints against or concerning senior officials to the NAVINSGEN Special Inquiries Division (N5), who will open a case in the NAVINSGEN case management system. NAVINSGEN N5 will contact the complainant for additional information and any follow-up information, as necessary or required.

2.1.2.4. **Required Notifications for Military Whistleblower Reprisal Allegations.** IGs at the Echelon III level or below who receive military whistleblower reprisal complaints shall immediately enter them into the NAVINSGEN case management system and transfer them to the Echelon II IG who shall process the complaint and complete the notification letter to IG DoD via NAVINSGEN within 10 days of receipt of the complaint.

2.1.2.5. **Required Notifications for Sexual Harassment Allegations.** Title 10 U.S. Code § 1561 requires commanding officers ensure immediate investigation into all allegations of sexual harassment, irrespective of whether the complainant, alleged victim, or subject are civilian employees or military members. Upon receipt, IG offices shall notify the commanding officer immediately to ensure compliance with mandatory statutory requirements. Assisting the complainants by advising them of their EEO or EO rights does not satisfy the statutory investigative requirement.

2.1.2.6. **Required Notifications for Sexual Assault Allegations.** IG offices who receive complaints of sexual assault shall immediately notify the command’s sexual assault program manager or equivalent and NCIS. If the alleged assailant is the commanding officer, IG offices shall immediately notify the immediate superior in the chain of command.

2.1.2.7. **Congressional Inquiries.** Matters with congressional interest include referrals from Members of Congress on behalf of a constituent, requests for investigation from Members and/or Committees, or referrals from the DON Office of Legislative Affairs (OLA) and/or SECNAV tasking. Upon receipt, NAVINSGEN staff prepares an initial acknowledgement letter to the interested Member and tasks the appropriate Echelon II IG office to conduct a PI or investigation into the allegation(s), as required. Other IG offices may have different procedures for responding to congressional inquiries (some IG offices may not handle congressional inquiries; those may instead be handled by the command’s public affairs and/or congressional liaison offices).

2.2. **CONTACT/COMPLAINT CLARIFICATION**

2.2.1. **Initial Contact/Complaint Evaluation.** This process varies depending on where and/or how the contact is received. Determination of the appropriate course of action depends on the complexity, amount of information provided, and whether there is a known complainant. As
detailed further herein, IG personnel should interview known complainants (including confidential complainants) to clarify the complaint. Anonymous contacts/complaints present additional challenges, as a complainant interview is not possible. Accordingly, IG personnel should carefully review complaints/contacts for potential IG issues, to include employing the analytical process detailed further in Chapter 4 to identify potentially applicable standards.

2.2.1.1. If the contact is received at NAVINSGEN, a determination is made as to the merits of the contact and appropriate course of action. Fraud, waste and abuse (FWA) hotline contacts are reviewed by the Hotline and Investigations Division/N6.

2.2.1.2. Contacts received at other IG offices must be reviewed by the receiving IG (or designated representative) to determine an appropriate course of action. Contacts received at the Echelon III level and below should follow guidance provided by their Echelon II Inspectors General and this manual. As a best practice, Echelon III IG offices should add their Echelon II IG office as collaborators for all cases created in the NAVINSGEN case management system.

2.2.2. **Contacting the Complainant**. Contacting the complainant is an important step in the complaint clarification process. The purpose of the initial contact is to:

- Inform the complainant that the IG has received their complaint
- Obtain additional information and documentation to clarify allegation(s)
- Obtain the names, titles, and duty locations of knowledgeable witnesses
- Determine if the complainant has raised the allegation(s) in other channels
- Identify the complainant’s preferred means of contact (telephone, email, etc.)

NOTE: Investigators should exercise care when contacting complainants, especially at their workplaces, so as not to compromise their confidentiality.

2.2.3. **Complaint Clarification Interviews.** Many written complaints require clarification to fully ascertain and explore the potential issues raised in the complaint. As such, investigators\(^6\) should conduct a complaint clarification interview whenever practicable. Investigators should explain to the complainant that this interview is distinguishable from a witness interview in that the purpose is to clarify the complaint, as opposed to gather evidence upon which the investigator may rely should the complaint warrant investigation. Investigators should also explain that the complainant may be re-interviewed as a witness should the complaint result in an investigation. During complaint clarification interviews, investigators should:

- Set the stage for a productive interview. Meet walk-ins in a semi-private area that permits initial assessment and control of security and safety and then move to a comfortable, private area that will encourage the complainant to be completely candid during the interview. Use the same number of interviewers and other precautionary measures as would be appropriate for a witness

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\(^6\) For purposes of this section, “investigators” includes IG personnel who intake complaints even if they do not conduct formal IG investigations (e.g., analysts and administrative personnel).
interview. Establish good rapport; engage in active listening; and assess
demeanor, candor, bias, intelligence, motivation and understanding of subject
matter and applicable rules.

- Determine whether classified information is to be discussed, and, if so, that all
  present have the requisite clearance level and need to know. Encourage
  complainants to provide a narrative recital of their concerns with minimum
  interruption for questions.

- After listening to the narrative, ask clarifying questions, and then summarize
  the key points. Work on the summary until the complainant agrees it is
  accurate and that you understand the information the complainant is trying to
  convey. Investigators should ask the following questions, as needed, to fully
  clarify the complaint:

  o Who engaged in the wrongdoing?
  o What did they do (or fail to do) that constitutes the wrongdoing?
  o What standard, rule, regulation, law, etc. was violated when this
    happened?
  o When did this happen?
  o Where did it happen?
  o How did it happen?
  o Why does the complainant think this happened (i.e., was it intentional
    or negligent and due to lack of training, personal gain or intent to injure
    another)?
  o How is the Navy adversely affected by what happened?
  o Who was harmed by what happened, and in what manner?
  o What corrective, remedial, or disciplinary action, if any, does the
    complainant think should be taken, and why?
  o Who else have they contacted in an attempt to get action on their
    complaints?

- Explore potential weaknesses by asking complainants to explain what they
  expect the subject of their complaints or others that might not agree with the
  complainant would say in defense of their actions.
- Ask complainants to identify others who may have pertinent information about the matter that would tend to support or refute the complainant’s position. Ask complainants to identify documents that relate to the matter, including those that would tend to support or refute the complainant’s position, and, if possible, to provide copies of them for the investigative file as soon as possible.

2.2.4. **Informing Chain of Command on High-Interest Matters.** IGs will promptly inform their chains of command of complaints that are high interest (e.g., suicidal ideations, workplace violence) or IG DoD high-interest matters, including public health and safety, Congressional or news media interests, or other matters deemed to be of high interest to the DON or the local Commander.

2.2.5. **Official Notification Correspondence.** The information included in the documents library must be sufficient to enable the NAVINSGEN case manager to provide guidance, collaboration, and oversight without the need to request information from the IG office conducting the investigation.

2.2.5.1. **Referral, Assist or Dismissal.** When IG offices determine that the appropriate course of actions is a referral, assist, or dismissal, the IG office should notify the complainant and upload a copy of the notification to the NAVINSGEN case management system document library.

2.2.5.2. **Transfer.** When IG offices determine that the appropriate course of actions is a transfer, the transferring IG should provide the complainant the contact information of the receiving IG office within 5 days and upload a copy of the notification to the NAVINSGEN case management system document library.

2.2.5.3. **Preliminary Inquiry or Full Investigation.** If the course of action is to conduct a preliminary inquiry or a full investigation, the IG office shall upload all applicable documents into the NAVINSGEN case management system, including the investigative plan and notify the complainant that their complaint is under investigation.
NAVINSGEN Complaint Resolution Process

Complaint Intake and Analysis
- Receive the Complaint
- Analyze the Complaint
- Interview the Complainant
- Determine Course of Action (COA)
- Execute COA
- Notify Complainant

Duplicate Case
- Discard

Frivolous or No Standard
- Dismiss

Alternate Process Available
- Assist Complainant

Not a Navy IG Issue
- Refer to Other Agency/Command

Other IG Command Matter
- Transfer to Other Navy IG

IG Matter Sufficient Info. Identifiable Standard
- Conduct PI or Investigate

Conduct Preliminary Inquiry
- Gather Evidence
- Limited Interviews
- Recommend Investigation or Closure

Conduct Investigation
- Notify Subject
- Gather Evidence
- Witness/Subject Interviews
- Draft Report
- Issue Tentative Conclusion Letter
- Legal Sufficiency Review

Post-Investigation
- Conduct QA Review
- Issue Report
- Notify Complainant

Close Case

Email, Phone, FAX, Letter, Walk-in

Figure 2-1, Case Initiation Flow Chart
CHAPTER 3 - PLANNING INVESTIGATIONS

3.1. INVESTIGATIVE PLAN

3.1.1. CIGIE Quality Standards. The first qualitative standard of the CIGIE Quality Standards for Investigations requires an investigative organization to establish case-specific priorities and to develop objectives to ensure that individual tasks are performed efficiently and effectively. Investigators are required to develop an investigative plan, consult with counsel, document coordination measures (case notes) and upload the plan in the NAVINSGEN case management system within 15 calendar days of NAVINSGEN approval to investigate. Well-prepared investigative plans provide investigators, supervisors, and attorneys a roadmap for conducting focused, thorough, and efficient investigations.

3.1.2. Key Elements of the Investigative Plan. The key elements of the investigative plan include:

- Allegations to be investigated;
- Applicable standards (laws, rules, or regulations) and the elements of proof for the standards;
- Documentary and other relevant evidence to be collected;
- Witnesses to be interviewed and questions relevant to allegation;
- Investigation milestones; and
- Investigative steps necessary to execute an organized, thorough, and efficient investigation.

3.1.2.1. Allegations. The first step in developing the investigative plan is to identify the allegations that warrant investigation. This is generally the most important aspect of investigative planning. When necessary, the investigator should consult with an attorney to be certain the allegations that warrant investigation have been correctly identified based on the information contained in the complaint and gathered from the complainant. This is necessary to properly focus the investigation and avoid unnecessary or unproductive investigative activity. An allegation should identify the subject (by name, position, and pay grade), the relevant command or activity, the relevant timeframe, the improper conduct, and the applicable standard.

3.1.2.2. Standards. Investigators should thoroughly research and understand the applicable laws, rules, regulations, and policies early in their investigation planning. This means not only understanding which particular standard applies, but also understanding the applicable language in the standard that needs to be proven or disproven (elements of proof) in order for a violation to have occurred. Correctly developing issues and standards leads to the selection of the best witnesses to interview, the questions to ask, and the records/documents to obtain.

3.1.2.3. Biographical and Organizational Data. Investigators should perform research and become knowledgeable about the people and organizations involved in the investigation as a fundamental step in preparing for interviews and obtaining relevant facts and information. Whenever possible, review documents that show the organizational structure and
the chain of command. Know the mission/function of the organization before interviewing its members. This will assist in contextualizing the information provided by witnesses. Similarly, review official biographies and personnel records to aid in developing pertinent questions for each witness. Investigators may also find social media postings to be informative and useful as they collect evidence during the fact-finding phase of the investigation.

3.1.2.4. **Evidence to Obtain.** It is important for investigators to identify during the planning phase any/all foreseeable supporting documents to be obtained during their investigation. SECNAVINST 5430.57G, “Missions and Functions of the Naval Inspector General”, states that NAVINSGEN personnel are to be granted expeditious and unrestricted access to copies of all evidence records, regardless of classification, medium (e.g., paper, electronic) or format (e.g., digitized images, data) and information available to or within any DON component. It further provides that all DON personnel are obligated to fully assist and cooperate with all IG actions, including inspections, investigations and inquiries. Accordingly, no employee, contractor, or service member of the DON may deny IG investigators access to records.

3.1.2.4.1. **Records and Documents.** Identify the types, sources, and locations of records and documents to collect. In cases that require gathering a large volume of records/documents or using a subpoena (via IG DoD), good planning affords the opportunity to initiate formal written requests for records early in the investigation and may avoid delays when the investigation is at a critical stage.

3.1.2.4.2. **Emails.** In cases where government emails are necessary, investigators should work through designated points of contact to reach the appropriate systems administrator personnel. Investigators should start with an initial phone contact, and then provide a written request. In addition, in some instances it may be sufficient to simply obtain emails directly from senders and/or recipients rather than through systems administrators.

3.1.2.5. **Special Types of Records.** The procedures below should be followed in obtaining special types of records:

3.1.2.5.1. **Military Promotion Board Records.** Promotion board proceedings are conducted in secret; board members, recorders, and support personnel are under oaths not to reveal anything discussed in the board proceedings. If investigators need to obtain records relating to the board proceedings or to interview witnesses regarding board proceedings, investigators will need to obtain a memorandum from the SECNAV (via NAVINSGEN action memorandum) that directs release of the records and that releases the board members from their oaths.

3.1.2.5.2. **Travel Records.** Defense Travel Management Office (DTMO) is the focal point for commercial travel within the DoD. To obtain travel records, investigators who do not have direct access to the records, should contact the command’s POC Defense Travel System, Defense Travel Administrator. Alternatively, investigators may obtain travel records from DTMO.
3.1.2.5.3. **Contractor Records.** IG personnel should consult the cognizant contracting officer, contracting officer’s representative, and/or counsel when seeking evidence from contractors to ensure consistency with the Federal Acquisition Regulation, the applicable contract, and related authorities. In addition, contractor records and documents may contain proprietary information. IG personnel should also consider whether the relevant records may be available from a government source.

3.1.2.6. **Witnesses.** Investigators are authorized to obtain sworn statements from personnel during the course of investigations. To the extent possible, the initial investigative plan should identify all of the witnesses to be interviewed during the investigation. At a minimum, investigative plans should identify witnesses by their titles or relationships to the complainant and the subject. Early identification of witnesses allows an investigator to better plan and execute the investigation. It is also helpful to annotate what information or evidence each witness may provide. Investigative plans may be revised after the interview is conducted and can be used to establish patterns of witness knowledge, corroboration, and refutation.

3.1.2.6.1. **Witness Availability.** Once witnesses are identified, investigators should determine their current duty assignments and availability. This is important in planning the interviews because personnel may be assigned to temporary duty, transferred, or reassigned, or may resign or retire prior to scheduling their interviews, for reasons unrelated to the investigation. Witness availability can impact the order of witness interviews and the timing of the investigator’s travel.

3.1.2.6.2. **Travel Locations/Dates.** Plan travel in the most cost-effective manner. In cases that involve multiple witnesses in multiple geographic locations, careful planning, coordination, and timing is required. To the extent possible, combine travel to several different locations into one trip within the same geographic area. Consider alternatives to travel such as the use of Video Teleconference (VTC) or web cam technology, or telephonic interviews in lieu of long distance travel, particularly in situations where an investigator needs to conduct a small number of interviews that can be effectively accomplished remotely.

3.1.2.6.3. **Investigative Steps.** The investigative plan should reflect the strategy or the steps through which the investigator plans to proceed to complete the case. Consider the order of the witness interviews, the documents to obtain, and any special investigative aids or methodologies that may be employed. Develop a plan that will maximize efficiency and effectiveness. The plan should include milestones with target dates for completion, as well as a projected completion date for the investigation. Continually assess the progress of the investigation and adjust the plan accordingly. The investigative plan is a living document and should be revised as needed throughout the investigation.

3.2. **ON-SITE FIELDWORK**

3.2.1. **Preparation.** Before going on-site, make all the arrangements necessary to facilitate the fieldwork. To assist in the preparation for the fieldwork, obtain a point of contact (POC) where the fieldwork will be performed. If available, the local IG is normally best suited to assist with NAVINSGEN investigations. If a local IG is not available, make arrangements
directly with command or management officials if their involvement will not compromise the confidentiality or integrity of the investigation.

3.2.2. **Point of Contact (POC) Assistance.** As appropriate, a POC may be used to notify the chain of command, contact witnesses, ensure witness availability, schedule interviews, and reserve a suitable facility for conducting interviews. POCs may also be helpful in obtaining documents (e.g., local records, regulations) and assisting with logistical requirements, such as billeting, transportation, access to facilities, security clearances, and parking. A POC should, however, be unassociated with the investigation; a non-disclosure agreement (Appendix B) may also be appropriate.

3.3. **INVESTIGATIVE TOOLS.** As part of the investigative process, investigators may find it helpful to use one or more tools that can aid in the organization of the investigation and the analysis of the evidence.

3.3.1. **Outline of Proof.** An outline of proof (Figure 3-1) is a valuable tool for graphically depicting the allegation, the applicable standards, the elements of proof, the relevant facts collected, the weight of the relevant facts, and whether the preponderance of the evidence substantiates an allegation. The outline of proof is divided into three columns that contain, respectively: (1) the allegation and applicable standard, (2) the elements of proof for the applicable standard, and (3) the evidence that tends to support or refute each element of proof. Investigators should prepare an outline of proof for each allegation so as to analyze the relevant evidence within the applicable elements of proof. Elements of proof are detailed further in Chapter 4.
<table>
<thead>
<tr>
<th>Allegation and Standard</th>
<th>Elements of Proof</th>
<th>Evidence for Each Element</th>
</tr>
</thead>
</table>
| **Allegation**: On 15 Jan 2015, Mr. John Doe, GS-15 Supervisor, NAVAIR, directed a subordinate to perform activities other than official duties, in violation of 5 CFR 2635.705, “Use of a subordinate’s time.” | 1. An employee or officer (persons to whom the standard applies), 2. Shall not encourage, direct, coerce, or request a subordinate, 3. To use official time, 4. For activities other than those required to perform official duties or authorized by law or regulation. | **Evidence to substantiate:**  
1a. Subject’s SF-50 states he is a GS-15 NAVAIR employee.  
1b. Subject stated he is a NAVAIR employee.  
2a. Subject stated he directed subordinate to review real estate listings for subject’s realty business.  
2b. Subordinate stated subject directed him to review the listings.  
3a. Subject stated he directed subordinate during business hours.  
3b. Subordinate’s timesheet shows he was in a duty status when directed on 15 Jan.  
4a. Subject’s and subordinate’s PDs do not include private realty business.  
4b. Subject stated the realty listings were not official business or otherwise authorized. |
| **5 CFR 2635.705(b)**: Use of a subordinate’s time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation. |  | **Evidence to not substantiate:**  
1. None identified.  
2. Subject initially denied having directed subordinate to review listings.  
3. None identified.  
4. None identified. |
| **5 CFR 2635.102(h)**: Employee means any officer or employee of an agency. It includes officers but not enlisted members of the uniformed services. |  | |

Table 3-1, Sample Outline of Proof
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CHAPTER 4 - CONDUCTING INVESTIGATIONS

4.1. INTRODUCTION

4.1.1. IG Investigations. The primary investigative mission of NAVINSGEN is to conduct investigations into matters that affect the discipline or military efficiency of the DON. IG investigations inquire into violations of law, regulation, and policy for purposes of recommending corrective and accountability actions. Because, within the DON, the Naval Criminal Investigative Service (NCIS) has primary jurisdiction to investigate major crimes, IG investigators should exercise caution in framing allegations that utilize criminal laws, particularly where a non-criminal standard is also applicable, because doing so may unnecessarily complicate an administrative investigation and raise questions among participants as to their rights and the standard of proof necessary to substantiate an allegation. In addition, criminal statutes often require proof of intent to substantiate a violation. Criminal prosecution almost always requires proof beyond a reasonable doubt, and it is not the intent of this manual to require that IG investigators obtain evidence sufficient to establish a violation of criminal law beyond a reasonable doubt in order to substantiate an allegation in an IG investigation.

4.1.2. Standard of Proof. Findings and conclusions of investigations must be supported by a preponderance of evidence; i.e., the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. It is a qualitative assessment vice a quantitative assessment.

4.1.3. IG Standards. IG investigations may utilize various standards, including statutes, regulations, and policies, discussed in turn below. Investigators should carefully review statutes, regulations, and policies to ensure they are applicable to the personnel subject to an investigation and the timeframe involved.

4.1.3.1. Statutes. Statutes include provisions of the U.S. Code. Statutes are frequently further defined, explained, and qualified in regulations or case law, often extensively. Accordingly, investigators should exercise caution and consult counsel before using a statutory standard to ensure that the investigator clearly and accurately identifies a statute’s elements of proof prior to investigation. In addition, investigators should first consider regulations and policies (discussed further below) as potential standards, given that they are frequently more specific and articulable as investigative standards.

4.1.3.2. Regulations. Regulations include those rules published by an agency (such as DoD or the Office of Personnel Management) in the Code of Federal Regulations (CFR). In addition, regulations include the U.S. Navy Regulations issued by SECNAV. Some regulations, such as the U.S. Navy Regulations, have the force and effect of law. DoD and DON directives and instructions are considered regulations for the purpose of this manual. Directives and instructions that are published in the CFR have more authority than those that are not because the requirements they contain are binding on the public.
4.1.3.3. **Policies.** Policies may be issued at all levels within the DoD and Navy, from SECDEF/SECNAV to the command level. Policies are most commonly promulgated via policy memoranda.

4.1.4. **Researching and Analyzing Standards.** The first and possibly most important step in any potential investigation is to identify and analyze the applicable standards. Ideally, investigators should identify the applicable standards and their elements of proof prior to fact-finding; indeed, it is impossible to ascertain potentially relevant facts without first identifying the elements of proof. Failure to identify an applicable standard and its elements of proof prior to fact-finding will almost certainly result in an investigation that fails to gather all of the relevant and necessary evidence. However, there are also instances in which investigators must gather some basic facts in order to identify applicable standards. As such, investigators should continually assess the applicability of potential standards throughout the fact-finding process.

4.1.4.1. **Researching Standards.** Investigators must conduct thorough research to identify potentially applicable standards. Investigators may utilize various resources to research standards, including official government resources, online resources, and commercially available research databases. However, investigators should exercise caution and ensure that the standards they utilize are official, accurate, and applicable to the allegation and its timeframe. Complainants may identify potential standards but investigators are responsible for this step in the investigative process and should not rely exclusively on the standards identified by complainants. Investigators are encouraged to seek the assistance of counsel in researching standards.

4.1.4.2. **Analyzing Standards.** Investigators shall analyze standards to determine their applicability and elements of proof. Investigators should use the outline of proof as a tool to aid this process. When analyzing a standard, an investigator should consider the following, in consultation with counsel:

- To whom does the standard apply? Is it limited to a particular command or class of personnel? For example, some standards apply only to uniformed personnel; others apply only to civilian employees.

- When was the standard effective? Is it current? Has it expired? Most importantly, was it applicable on the date identified in the allegation?

- Does the standard clearly prohibit or prescribe certain conduct? If not, the standard may amount to an aspirational statement that cannot be proven or disproven.

- What are the standard’s elements of proof? That is, what facts must be established in order to conclude the standard was violated?

- Does the standard require that the subject have intentionally engaged in the conduct at issue (for example, with knowledge that he was engaging in the conduct, or with purpose to engage in the conduct)? Or, may the standard be
violated based on the subject’s recklessness or negligence, even though he did not intend to engage in the conduct? Or, is the standard “strict liability,” where a subject may violate the standard solely as a result of engaging in certain conduct, regardless of the subject’s state of mind at the time or whether he acted recklessly or negligently?

4.1.4.3. Elements of Proof. In order to substantiate or not substantiate the violation of a standard, an investigator must first identify the elements of proof that comprise the standard. Counsel can provide invaluable assistance to the investigator in accurately identifying the elements of proof. Investigators should carefully consider the following when analyzing a standard to identify and apply its elements of proof. Most standards are comprised of elements that relate to: (1) the class of personnel to whom the standard applies, (2) the act that the standard prohibits or prescribes, and (3) the state of mind, or intent (if any), required on the part of the subject. When analyzing a standard, an investigator should take the following steps:

1. Identify the personnel to whom the standard applies. This is generally contained in the text of the standard but may also be within sections entitled “applicability,” “scope,” or similar. The applicability of the standard to the subject is generally the first element of proof.

2. Review the standard in its entirety and pay particular regard to sections entitled “definitions” and “exceptions,” among others. Standards frequently define terms differently from common use.

3. Identify whether the standard contains conjunctive elements, disjunctive elements, or a combination thereof. Carefully review the standard to determine which elements require proof to determine whether the allegation is substantiated or not substantiated.
   a) Conjunctive elements are typically denoted by the use of the word “and.” Conjunctive standards generally require the proof of every element to substantiate a violation of the standard.
   b) Disjunctive requirements are typically denoted by the use of the word “or.” Disjunctive standards generally require the proof of a limited number of elements to substantiate a violation of the standard.
   c) Some standards contain a combination of both conjunctive elements and disjunctive elements.

4. Identify the specific act(s) or omission(s) that the standard prohibits or prescribes. If the standard does not specify an act or omission, the standard may not be appropriate for investigation.

5. Identify whether the standard requires proof of intent on the part of the subject. Standards that utilize terms such as “intentionally” or “knowingly” generally require proof of the subject’s state of mind. State of mind can be established by the subject’s
statements, as well as the facts and circumstances that surround the relevant act(s) or omission(s). Consult the section of this manual pertaining to evaluating evidence for further guidance.

6. Seek the advice of counsel regarding the investigator’s determination of the elements of proof by, for example, providing to counsel a draft of the investigator’s outline of proof for concurrence.

4.1.5. **Emerging Criminal Allegations.** The nature of IG investigations presumes that the allegations under investigation, if substantiated, are not reasonably expected to result in criminal prosecution. If during the course of conducting an IG investigation the investigator discovers evidence of potential violations of criminal law, the investigator should immediately discuss the evidence with his or her supervisor, next higher level IG, and/or case manager to determine whether to suspend the inquiry pending consultation with NCIS.

4.2. **PROFESSIONAL QUALITY STANDARDS**

4.2.1. **Basic Standard for Execution.** The CIGIE qualitative standards require investigators to conduct investigations in a timely, efficient, thorough, and legal manner. They note that the investigator is a fact-finder and should not allow conjecture, unsubstantiated opinion, or bias to affect work assignments. They also require that investigators be receptive to evidence that is exculpatory or mitigating.

4.2.2. **Objectivity.** Investigators must always remain objective and conduct themselves with the highest degree of professionalism, integrity, and impartiality, and approach each case without prejudging people or reaching predetermined conclusions. Investigators must recuse themselves from cases in which they may have a real or perceived conflict of interest in the outcome of the investigation. Conflicts can include personal financial interests or those of family members, past employment or military assignments, or personal or professional relationships with the subject, key witnesses, or the complainant. If at any point investigators believe that they cannot be impartial in a particular case, or that the matter raises the appearance of a conflict of interest, they should immediately notify their supervisor.

4.2.3. **Thoroughness.** In exercising due professional care and in order for investigations to be credible, they must be thorough. In general, investigators should interview all material witnesses and obtain all evidence relevant to the allegations under investigation. Be especially careful to pursue witnesses and documents identified by the subject and the complainant. Taking shortcuts can result in more work in the end and may undermine the credibility of the investigation and the IG. Investigators should routinely assess the evidence they have obtained during the course of their investigation, and consult with their supervisor and counsel about emerging allegations, whether sufficient evidence has been obtained and whether to continue or close the investigation.

4.2.4. **Timeliness.** Investigators must conduct investigations in a timely manner. This means accomplishing investigative activities with a sense of urgency and with all due regard for statutory and regulatory timeframes, established deadlines, and organizational performance
metrics. It is also important for investigators to stay focused on the issues and the scope identified in the investigative plan, and discuss with their supervisor how to handle new issues that arise during the course of the investigation. Investigators must remember that the investigations they are conducting can have a profound impact on individuals’ lives, professional careers and reputations, and activities of organizations.

4.3. **ELEMENTS OF THE IG INVESTIGATION PROCESS.** All IG investigations will employ the elements of the investigative process as set forth below.

4.3.1. **Official Notifications.** Refer to Hotline and Investigations and Special Inquiries SOPs for detailed notification instructions, as well as NAVINSGEN policy memoranda.

4.3.2. **Confidentiality.** Complainants shall be afforded confidentiality to the fullest extent permitted under law. As provided in SECNAVINST 5370.5B, “DON Hotline Program”, IG personnel shall explain to complainants that the use of their testimony and the release of their identity as witnesses, but not as complainants, may be necessary under due process procedures associated with disciplinary or administrative action. The nature of some complaints and relief requested may necessitate the identification of the complainant during the course of the investigation as, for example, a military whistleblower reprisal investigation or similar complaint requesting personal relief.

4.3.3. **Privacy.** All IG personnel shall safeguard information relating to investigations out of respect for individual privacy and professional reputations as required by the Privacy Act and guidance on official use information. Investigators will not discuss ongoing or past investigative work with individuals who have no official need to know such information. IG personnel shall refer all media inquiries to NAVINSGEN.

4.3.4. **Sworn Recorded Testimony.** Investigators shall obtain sworn and audio-recorded testimony from complainants, witnesses, and subjects whenever practicable.

4.3.5. **Complainant Interviews.** Absent unusual circumstances, investigators will always interview the complainant (if known) first in order to clarify allegations and issues.

4.3.6. **Subject.** Absent unusual circumstances, investigators shall interview the subject last. This allows the investigator to explain the allegations and summarize the evidence developed against the subject, to offer the subject an opportunity to comment on the allegations and evidence developed to date, to offer additional evidence or otherwise respond to the allegations, and to identify potential additional witnesses and evidence that may be material to the matters under investigation.

4.3.7. **Documentation.** Investigative findings and activities will be fully supported by accurate and complete documentation. All evidence relied upon in the ROI will be included and uploaded to the NAVINSGEN case management system as it is gathered. Case notes will be updated upon any significant change in case status in order to facilitate supervisor and higher echelon review as the investigation progresses. Investigators are encouraged to use investigator notes to document their progress on a step-by-step basis.
4.3.8. **Quality Controls.** Investigators should begin drafting findings of fact early in the investigation and supplement them after each interview. Supervisors should use the NAVINSGEN case management system to review the source material for these findings of fact to ensure draft findings of fact are based on supporting evidence as the investigation progresses.

4.3.9. **Legal Sufficiency Review.** All final reports of investigation will undergo a legal sufficiency review by counsel at the echelon in which the investigation was conducted. However, IG offices that do not have legal counsel at their echelon should contact NAVINSGEN for assistance. Legal sufficiency reviews must be documented in writing.

4.3.10. **Tentative Conclusions.** As required by NAVINSGEN Policy Memo 2016-001, investigators or their superiors shall notify subjects in writing of tentative conclusions where allegations are substantiated. Investigators should obtain counsel’s concurrence to the tentative conclusions prior to notifying subjects. Subjects shall have an opportunity to respond to the tentative conclusions prior to issuance of the final report. IG offices may establish standard operating procedures for this purpose. IG personnel should consult Policy Memo 2016-001 for further guidance.

4.3.11. **Final Reports.** IGs shall provide final reports that contain substantiated allegations to the command for remedial or accountability action. Reports may include specific remedial recommendations (i.e., recommendations designed to make victims whole and/or improve internal controls). However, reports shall make only general recommendations to hold subjects accountable for violations (i.e., “take such action as may be appropriate,” or substantially similar language). Though not required, IGs may provide final reports for not substantiated allegations to commands when deemed useful.

4.3.12. **Closure Letters.** IGs will inform subjects and complainants, as appropriate, of the conclusions of the investigation upon completion. An investigation is complete upon confirmation that NAVINSGEN has approved closure; IG DoD must also concur to close IG DoD action referrals.

4.4. **ACCESS TO RECORDS**

4.4.1. **Authority**

4.4.1.1. **DON Instructions.** SECNAVINST 5430.57G, “Missions and Functions of the Naval Inspector General”, states that NAVINSGEN personnel are to be granted expeditious and unrestricted access to copies of all evidence records, regardless of classification, medium (e.g., paper, electronic) or format (e.g., digitized images, data) and information available to or within any DON component. It further provides that all DON personnel are obligated to fully assist and cooperate with all IG actions, including inspections, investigations, and inquiries.

4.4.2. **Classified Information.** Investigators who need to access classified information or spaces are subject to applicable, governing DoD and DON authorities.
4.4.3. **Non-Navy Government Records and Records of Other Federal Agencies.** The Inspector General Act authorizes statutory IGs to request information or assistance from other federal governmental agencies as may be necessary for carrying out IG duties and responsibilities. Requests for records maintained by other DoD Components or federal agencies necessary to support DON IG investigations should be made through the IG DoD for records held by other DoD Components, and the Agency IG for records held by other federal agencies. The names and telephone numbers of statutory and administrative IGs can be obtained from the directory published by CIGIE, which is maintained by the DoD, Deputy Assistant Inspector General for Audit Policy and Oversight. IG data is also available at http://www.ignet.gov/.

4.4.4. **Non-Government Records and IG Subpoenas.** During the course of an investigation, it may be necessary to obtain records from private individuals, corporations, partnerships, nonprofit organizations, or state and local government agencies. To obtain these documents it may be necessary to utilize an IG DoD subpoena. An IG subpoena can require, for example, banks, credit unions, and credit card companies to turn over financial records including customers' bank statements, checks, deposit slips, and safety deposit records. An IG subpoena can also be used to require hotels to release lodging records, phone companies to release phone records and text messages, and airlines to release ticketing records. An IG subpoena can also require state and municipal governments to turn over documents. The process for obtaining an IG subpoena is administered by the IG DoD Office of Investigative Policy & Oversight (IPO). Investigators should refer to the IPO website for guidance and templates for obtaining an IG subpoena (http://www.dodig.mil). Investigators should notify NAVINSGEN via the IG chain of command prior to contacting IG DoD.

4.5. **DOCUMENTARY EVIDENCE**

4.5.1. **Obtain All Relevant Documentary Evidence.** Investigators should obtain all relevant documentary evidence needed to determine whether the elements of the standard have been met. Investigators should exercise sound judgment to determine whether to continue fact-finding once they have gathered sufficient facts to meet the standard of proof. If facts or events are documented, investigators should obtain copies. Examples of relevant documents include, but are not limited to:

- Personnel records
- Travel records
- Contract records
- Pay records
- Security records
- Internal memoranda
- Calendars
- Policy and regulatory documents
- Emails

Investigators should not request documents prior to visiting an organization if they are concerned that the request will result in the destruction of critical evidence or otherwise compromise the investigation. Under such circumstances, investigators should directly obtain
the documents, request the documents from the appropriate management official, and/or observe the retrieval of the documents. In general, it is acceptable to take copies of documents, leaving the originals with the organization.

**4.5.2. Documentary Evidence is often the Best Evidence.** Contemporaneous documents are frequently more reliable than testimony, particularly for events that occurred months or years in the past. In some cases, a single document may constitute direct evidence of wrongdoing. In other cases, investigators should build a strong foundation for substantiating or refuting an allegation with documentary evidence, and then build on that foundation with witness testimony. Nevertheless, investigators should scrutinize documentary evidence to ensure its authenticity—that is, that the document is what it purports to be, and may be relied upon as proof in the investigation.

**4.5.3. Thorough Evidence Gathering.** If doubts arise regarding the ultimate relevance of a document, it is usually best to obtain a copy of the document. As an example, local command instructions, whose value may not be readily apparent during on-site work, may later provide insight in identifying systemic problems in certain cases.

**4.5.4. Examples of Relevant Documents**

**4.5.4.1. Adverse Personnel Action Cases.** Examples of documents that are helpful in investigations involving adverse personnel actions may include:

- Official personnel files
- Performance evaluations/appraisals
- Merit promotion and selection documents
- EEO/EO or grievance records
- Records of non-judicial punishment proceedings, and other formal and informal disciplinary action records

These records are generally located at the civilian or military personnel offices, HR offices, and within supervisory and administrative files.

**4.5.4.2. Abuse of Official Travel Cases.** Records that are helpful in investigations related to the abuse of official travel include travel orders, vouchers, itineraries, calendars, and visitor logs. They are typically obtained directly from the Defense Travel System and may also be found within finance or payroll centers and headquarters administrative files. In cases involving alleged misuse of military aircraft (MilAir), requests for MilAir flight advisory messages and passenger manifests may be submitted to the Joint Operational Support Airlift Center, Scott AFB, Illinois, or the aviation unit flying the mission(s) in question.

**4.5.4.3. Time and Attendance Cases.** In cases involving allegations of time and attendance abuse, helpful records include:

- Employee time and attendance records
- Pay records
• Leave requests
• Ingress/egress records
• Computer use logs
• Muster logs
• Telephone records
• Telework agreements/policies

4.5.4.4. Improper Contracting/Funding Cases. In cases involving improper contracting or expenditure of funds, helpful records include:

• Contracts
• Modifications
• Specifications
• Performance work statements
• Statements of work
• Proposals
• Source selection criteria
• Contracting Officer’s Representative (COR) files
• DD 448, Military Interdepartmental Purchase Requests
• Documents reflecting budget decisions (such as minutes from organization Program & Budget Advisory Committee meetings)

These documents can be found in the local contracting officer’s files, contracting officer’s technical representative’s files, program management files, finance or budget office files, and within the servicing Defense Finance and Accounting Service office records.

4.5.4.5. Previous Investigations. If the command has previously conducted a commander’s inquiry, obtain a copy of the report and underlying documentation. Also, interview the investigating officer.

4.5.4.6. Obtaining Information from Computers. As a general rule, information stored in government computers and information systems is considered government property. Similarly, email (e.g., .PST files) and other electronic documents are official records. All DoD systems are required to have official log-on warning banners advising employees and other authorized users that the systems are subject to monitoring. Investigators should ensure the standard DoD banner is displayed on the Government information system when obtaining records from that system. DoD employees generally do not have a reasonable expectation of privacy with regard to the communications or documents they transmit on DoD systems.

4.5.5. Requesting Records

4.5.5.1. Telephone and Email Requests. Investigators may request documents through a telephonic or email request to expedite delivery of the documents. Telephonic or email requests for records may be made to the Service/agency POC or directly to the organization in possession of the records. It is normally a good idea to follow a telephonic
request with an email to confirm the documents or information that is needed and to provide a written record of the request.

If an individual is reluctant to respond to an initial request because they want to verify the investigator’s identity, the investigator has several options. The investigator may refer the individual to the service/local IG or NAVINSGEN, who can confirm that the investigator is a representative of NAVINSGEN. The investigator may also satisfy the individual by providing a copy of their appointment letter. Investigators should not copy or transmit their credentials; doing so creates the potential for persons to improperly duplicate NAVINSGEN credentials.

4.5.5.2. **Formal Written Requests.** In many instances, investigators should send a formal written request. Letterhead is preferable in cases where it is important to set the tone with the command or the organization at which NAVINSGEN or other IG office is conducting the investigation, and to establish a clear suspense date for providing the documents. Requests for records should include the following language:

This request for records is made in conjunction with an official investigation and is made under the authority of SECNAVINST 5430.57G, which states that all DON personnel are obligated to fully assist and cooperate with all IG actions, including inspections, investigations, and inquiries.

4.5.6. **Challenges to Authority.** If an investigator is denied access to records or documents during the conduct of an investigation, they should make reasonable efforts to obtain access through the local chain of command. Refer local authorities to SECNAVINST 5430.57G. Continued resistance to requests for documents or access to personnel should be referred to NAVINSGEN via the IG chain of command. Certain records and documents may be exempt from disclosure by law or regulation (e.g., safety mishap investigations and JAGMAN litigation reports). NAVINSGEN and counsel can provide guidance to IG personnel regarding such exemptions, as they arise.

4.6. **EXPERTS AND OTHER SOURCES OF ASSISTANCE**

4.6.1. **Introduction.** When used effectively, assistance from experts and other sources can enhance the credibility of investigations and provide the critical element needed in proving or disproving the allegations. Investigators should consult their supervisors prior to seeking expert assistance outside their areas of responsibility.

4.6.2. **Technical Experts**

4.6.2.1. **Policy Experts.** In cases where regulations are unclear, investigators may work with the local command counsel or SJA to obtain clarification of the applicable policy. Investigators should notify NAVINSGEN if they seek policy guidance from an organization outside the DON. Investigators should provide policy experts sufficient detail regarding the facts of their case and regulations that are potentially applicable, but should limit disclosure to ensure confidentiality of the investigation.
4.6.2.2. **Medical Experts.** Physicians, psychiatrists, and psychologists located at naval installations and the NAVINSGEN headquarters staff may serve as consultants, expert witnesses, or may be asked to provide their opinion about a medical report or diagnosis.

4.6.2.3. **Engineers.** Engineers are helpful in cases requiring the analysis of technical or scientific information. There are engineers assigned within NAVINSGEN’s Special Studies Division and Inspections Division. Naval Facilities Engineering Command (NAVFAC) is another source of engineering expertise.

4.6.2.4. **Auditors.** Investigators may request assistance from Naval Audit Service (NAVAUDSVC). NAVAUDSVC members may be used to assist with audits of invoices, billings, and/or costs charged to contacts.

4.6.2.5. **Safety Experts.** Expertise in the various safety functional areas (e.g., flight safety or explosive safety) may be obtained from NAVINSGEN or the Naval Safety Center, Norfolk, Virginia.

4.7. **ON-SITE FIELDWORK**

4.7.1. **Arrival On-Site.** On arrival at the activity, visit the local POC and ensure satisfactory arrangements have been made for witness interviews, records retrieval, and administrative and logistical support. Check the facility provided for interviews. Ensure that it is private and adequate (e.g., that it has sufficient tables and chairs).

4.7.2. **Thoroughness On-Site.** Investigators should not conclude the on-site visit until they have conducted a thorough investigation. Interview newly identified witnesses during the course of the visit who are available locally. Similarly, take the time to review identified documents to ensure that valuable new evidence is not overlooked, and review with witnesses or subjects, as necessary. If necessary, investigators should extend travel rather than omit logical investigative leads or make additional trips to the same location.

4.7.3. **In-Briefings and Out-Briefings.** Investigators may conduct in-briefings as a courtesy to the commander; this may be done in advance of the visit via telephone, as necessary. In-briefings should be limited to general discussion of the process and should not include specific details of the complaint. Out-briefings are optional but should be limited in scope. IG personnel should not discuss the evidence obtained or provide any analysis of the case. Instead, they should express appreciation for support received, and report any significant problems at the activity that adversely impacted the conduct of the investigation. IG personnel should advise the commander that as a matter of policy, investigators do not comment on a case until NAVINSGEN approves the ROI and should not commit to a completion date for the investigation. IG personnel should inform the commander that the investigative work undergoes a rigorous review process before NAVINSGEN approves the ROI, and consequently, it is not possible to estimate a completion date.
4.8. EVALUATING EVIDENCE

4.8.1. Fact-Finding Role. An investigator’s primary responsibility is to gather and evaluate all potentially relevant facts. Virtually all investigations will present disputes of fact; the investigator is responsible for determining what weight to afford each piece of evidence gathered and for explaining his or her rationale in apportioning weight to the evidence.

4.8.2. Categories of Evidence. Evidence may be either direct or circumstantial. The popular belief that circumstantial evidence is less reliable than direct evidence is incorrect. The reliability of evidence turns on the circumstances that support the veracity of the evidence rather than whether it is better characterized as direct or circumstantial.

4.8.2.1. Direct Evidence. Direct evidence supports the truth or falsity of a matter at issue without inference. Direct evidence often takes the form of testimony by a witness who observed the alleged act in question. The reliability of direct evidence frequently resides upon the credibility of the testifier and, as such, is subject to potential bias, mistake, and other relevant factors. An example of direct evidence is a witness who testifies that he observed the subject commit the act prohibited by the applicable standard. However, testimony is not always direct evidence; some testimony is circumstantial evidence.

4.8.2.2. Circumstantial Evidence. Circumstantial evidence allows for multiple potential explanations or inferences and, thus, requires an investigator to rule out alternative explanations, typically by gathering additional evidence that either supports or refutes potential inferences. Circumstantial evidence may reliably establish facts so long as it is thoroughly vetted (i.e., corroborated) and the inferences drawn from the evidence are logical. Examples of circumstantial evidence include a witness who testifies that he observed the subject in the vicinity where the prohibited conduct occurred or an official record that shows the subject electronically signed a record in question. Both examples require inference and allow for alternative explanations and both may or may not be reliable, depending upon the circumstances.

4.8.3. Factors in Evaluating Credibility of Evidence. An investigator must explain his or her findings of fact in the report of investigation. However, the investigator must also consider the relevant factors throughout the investigation because the relevant factors will invariably influence the investigative process, including the questions investigators may ask witnesses and subjects during interviews.

4.8.4. Hillen Factors. The following factors are utilized by the Merit Systems Protection Board (MSPB) in reaching findings of fact during administrative appeals. Accordingly, they serve as a valuable means of evaluating the testimony of witnesses in IG investigations (which may ultimately be appealed to the MSPB or another administrative board). These factors are also instructive in cases involving military members. The factors include: (1) The witness's opportunity and capacity to observe the event or act in question; (2) the witness's character; (3) any prior inconsistent statement by the witness; (4) a witness's bias, or lack of bias; (5) the contradiction of the witness's version of events by other evidence or its consistency with other evidence; (6) the inherent improbability of the witness's version of events; and (7) the witness's
demeanor. See Hillen v. Dept. of the Army, 35 MSPR 453 (1987) (from which the following subsections are paraphrased).

4.8.4.1. The Opportunity and Capacity to Observe the Event or Act. Personal knowledge of the event or act at issue is an essential qualification of a witness, and the requisite personal knowledge is established by evaluation of the witness's opportunity, as to place, time, proximity, and similar factors, to observe the event or act in issue. These factors relating to a witness's opportunity to observe are material in determining the witness's credibility. The witness's capacity to observe refers to his or her ability to understand what was seen and intelligently narrate it.

4.8.4.2. Character. Character evidence may be used for impeachment of a witness on the theory that certain characteristics render that person more prone to testify untruthfully. This form of impeaching evidence may be established by prior misconduct or reputation. Conversely, certain positive characteristics may render a witness more prone to testify truthfully.

4.8.4.3. Prior Inconsistent Statement. The effect of a prior inconsistent statement is not that the present testimony is false but that the very fact of the inconsistency raises doubt as to the truthfulness of both statements. The form of the inconsistency, whether oral, in writing, or by conduct, is immaterial and the statements or conduct need not be in direct conflict. Inconsistencies, however, do not necessarily render testimony incredible (e.g., inconsistencies found to be inadvertent).

4.8.4.4. Bias. The possibility of bias is always significant in assessing a witness's credibility. Bias rests on the assumptions that certain relationships and circumstances impair the impartiality of a witness and that a witness who is not impartial may consciously or unconsciously shade his or her testimony for or against one of the other witnesses or parties. The fact-finder must be sufficiently informed of the underlying relationships, circumstances, and influences operating on the witness, so that in the light of his or her experience, he or she can determine whether a mutation in the testimony could reasonably be expected as a probable human reaction. One aspect of bias is the question of self-serving testimony. Although the fact that a witness's testimony may be self-serving does not by itself provide sufficient grounds for disbelieving that testimony, it is a factor for consideration in assessing the probative weight of the evidence.

4.8.4.5. Contradiction by or Consistency with Other Evidence. Contradiction is the calling of one or more witnesses who deny the fact or facts asserted by another witness and maintain that the opposite is the truth; the contradiction in itself does nothing probatively unless the contradicting witness or witnesses is believed in preference to the first witness. Contradiction rests on the inference that if a witness is mistaken about one fact, he or she may be mistaken about more facts and therefore his or her testimony is untrustworthy.

4.8.4.6. Inherent Improbability. Inherent improbability relies on the fact-finder's evaluation of the likelihood of the event occurring in the manner described in the testimony.
4.8.4.7. **Demeanor.** Demeanor constitutes the carriage, behavior, manner, and appearance of a witness during testimony. Assessment of demeanor depends upon direct observation of the witness during his or her testimony.

4.8.5. **Statements Against Self Interest.** Statements against self-interest. There is inherent credibility to a witness’s statements against his or her own self-interest (such as an admission by the witness that he and another person committed an improper act) because a person is unlikely to fabricate a statement against his own interest at the time it is made. *Beck v. Dept. of Justice, 67 MSPR 219 (MSPB 1995).*

4.8.6. **Hearsay Evidence.** Generally, hearsay is when someone testifies to what they heard someone else say. That is, hearsay is a statement made outside of the investigation that is introduced during the investigation. IG investigations may include hearsay evidence; the weight afforded it depends upon various factors, detailed below. Examples of hearsay include, among others:

- A statement during an interview by a witness that purports to relate a statement the witness heard another person make outside of the interview
- A written statement made outside the course of the investigation (including, but not limited to, a signed, sworn statement)
- A police report
- A medical record
- A fitness report (FITREP)
- A disciplinary letter (such as a letter of reprimand)

4.8.7. **Factors to Evaluate Hearsay.** The MSPB has recognized the following factors as helpful in evaluating hearsay evidence during administrative appeals. Accordingly, they serve as a valuable means of guiding an investigator in evaluating the testimony of witnesses in IG investigations (which may ultimately be appealed to the MSPB or another administrative board). The factors, which are excerpted from *Borninkhof v. Dept. of Justice, 5 MSPR 77 (1981)*, include:

- The availability of persons with firsthand knowledge to testify at the hearing;
- Whether the statements of the out-of-court declarants were signed or in affidavit form, and whether anyone witnessed the signing;
- The agency's explanation for failing to obtain signed or sworn statements;
- Whether declarants were disinterested witnesses to the events, and whether the statements were routinely made;
- Consistency of declarants' accounts with other information in the case, internal consistency, and their consistency with each other;
- Whether corroboration for statements can otherwise be found in the agency record;
- The absence of contradictory evidence; and
- Credibility of declarant when s/he made the statement attributed to him.
CHAPTER 5 – INTERVIEWS

5.1. INTRODUCTION

5.1.1. Professional Conduct. One of the keys to the successful resolution of investigations rests with the ability of the investigator to elicit information from witnesses during interviews. How well the investigator is prepared sets the stage for the interview process. Investigators should conduct themselves at all times in a manner that reflects the highest standards of integrity, impartiality, competence, and professionalism, so as to maintain the credibility of NAVINSGEN and all IGs, and to comply with CIGIE standards.

5.1.2. During Interviews

5.1.2.1. Be Objective. Approach interviews with an open mind. Ask questions to get both sides of the story, including exculpatory and mitigating information. Let the witnesses tell their side of the story.

5.1.2.2. Be Prepared. Know the objective of the interview. Know what information should be obtained from the interview and the standards and elements of proof for the allegation under investigation. Use the outline of proof to identify lines of questioning and guide the interview.

5.1.2.3. Listen. Ask short, direct questions and listen to the answers. Give the witness a chance to answer the question; avoid interruptions; do not do all of the talking; let the witness talk about their knowledge of the events under investigation.

5.1.2.4. Be Respectful. Treat witnesses with dignity and respect. The investigator should treat a witness with the same respect that the investigator would expect if interviewed. Do not be rude or condescending. It is permissible, and frequently necessary, to challenge or confront a witness, but do not berate, coerce, or harass the witness.

5.1.2.5. Maintain Control. Lead and direct the discussion. Keep the interview on track and focused on the questions. Do not allow the witness to ramble off topic or to avoid or evade answering the questions.

5.2. INTERVIEW PROCESS

5.2.1. Planning. It is imperative that the investigator is well prepared before interviewing witnesses. This requires planning. First, identify all relevant issues and elements of proof (e.g., using the outline of proof). Then consider the facts or information necessary to resolve each of those elements of proof. Determine which witnesses to interview based on whether they can reasonably be expected to supply facts relevant to the elements of proof. Formulate an objective for each interview and develop a line of questioning based on that objective. Consider the locations of the interviews and the order in which witnesses will be interviewed. Review the complaint, biographical data on the witnesses, files, documentary evidence, and information on
the witnesses’ organization(s). In addition, whenever possible, interviews should be conducted by two interviewers.

5.2.2. **Selection of Witnesses to Interview.** When conducting an investigation, always interview the complainant, the subject, and other primary witnesses (those having firsthand knowledge of the events at issue). Interview relevant witnesses identified by the complainant as well as those identified by the subject, if the witness is reasonably expected to provide relevant information. Failure to interview primary witnesses can lead to insufficient fact-finding and unfounded conclusions, and may undermine the credibility of the IG to conduct thorough investigations. However, investigators may not need to interview all of the witnesses identified by the complainant or subject. Some interviews may be redundant and serve no probative purpose. For example, if five witnesses have clearly established a fact, it may not be necessary to continue interviewing witnesses on the same point (unless, e.g., there is evidence of bias or error on the part of the witnesses already interviewed). On the other hand, do not avoid witnesses who may have valuable information. At times, it may be useful to do a brief screening interview via telephone to determine if the witness has pertinent information regarding the matter under investigation. If the witness has relevant information, proceed with a sworn interview.

5.2.3. **Objective of Interview.** Before conducting an interview anticipate what evidence the witness may provide that may either substantiate or refute the allegations, and develop a line of questioning that is designed to obtain that information.

5.2.4. **Lines of Questioning.** Under most circumstances, outline the questions/topics to ask a primary witness before conducting the interview. Anticipate possible responses and formulate follow-up questions. This process will focus attention on the interview beforehand, resulting in increased confidence and control during the interview itself. Aside from the scripted read-in and read-out, avoid getting locked into a prepared script of questions. During the interview, ask a question, listen to the answer, evaluate the answer, consider the objectives and areas of interest, and go with the flow of the testimony. Follow-up questions are often the most important questions. It is paramount that a witness address all the areas of concern. Be prepared with an outline of “must ask” questions to ask if necessary. While it is best to cover all relevant lines of questioning during the interview, follow-up interviews may (and should, as needed) be conducted at the discretion of the investigator.

5.2.5. **Location of Interviews.** The location of the interview should be compatible with the confidentiality of an IG inquiry. If possible, conduct interviews in a quiet location away from the witness’s office to ensure privacy and to prevent interruption. The atmosphere of privacy helps place witnesses at ease and may make witnesses more forthcoming. A quiet location reduces distractions and enhances the quality of the audio recording.

- Consider conducting interviews in designated interview rooms. When on travel, the local IG or POC can frequently provide an interview room or conference room that provides privacy. If it is difficult to find an adequate interview site, contact the legal offices (SJA or OGC) and request assistance.

- As a matter of courtesy, notify a senior official in advance that a private, sworn, recorded interview will be conducted and that the interview should not be interrupted.
Investigators should notify NAVINSGEN prior to interviewing senior officials who are witnesses.

- Complainants and other witnesses frequently will not want to be interviewed in their workplaces or during duty hours. Some witnesses will be fearful of retaliation if they are seen speaking to an IG investigator. If necessary, arrange to interview those witnesses after duty hours at off base locations, such as public buildings, or government offices; hotel rooms or private residences should only be used as a last resort.

- Telephone interviews may be used with witnesses or when circumstances make an interview in-person impossible, unduly expensive, or unreasonably time-consuming. When conducting a telephone interview, take steps to ensure that the witness has sufficient privacy to discuss the issues candidly.

5.2.6. **Scheduling Interviews.** Unless completely impractical, contact a witness via telephone to schedule the interview. Explain NAVINSGEN policy about swearing in, recording, and transcribing interviews, and the use of two interviewers. Introduce the Privacy Act notice and non-disclosure agreement and get the witness’s email address. Do not rush interviews, particularly those with the subject or the complainant. Schedule interviews to ensure sufficient time to cover all the issues and allow enough time to follow-up on unanticipated information. Allocate time for breaks (generally 5 or 10 minutes each hour). Schedule interviews with sufficient time between them so the witnesses do not encounter one another when arriving or leaving from the interview site. Follow-up the phone conversation with an email confirming the time and location of the interview and attach the Privacy Act notice.

5.3. **RIGHTS AND OBLIGATIONS OF PARTICIPANTS**

5.3.1. **Rights and Obligations Generally.** Participants have both rights and obligations that depend on their status (civilian or military), role (complainant, witness, or subject), and other circumstances discussed below.

5.3.2. **Article 31b Warnings (Military Members).** Article 31(b) of the Uniform Code of Military Justice (UCMJ) requires that whenever a military member whom the interviewer suspects may have committed an offense under the UCMJ is questioned, the member must be advised of the nature of the offense, his or her right to remain silent, and that any statement made may be used against the member. Investigators should use the written Article 31(b) warning contained in Appendix J. Investigators may consider providing a copy of the warning in advance of the interview, particularly when the interview involves official travel.

5.3.3. **Obligation to Cooperate.** Overall, DON personnel have a duty to cooperate with an IG, per SECNAVINST 5430.57G. However, the obligation to cooperate is subject to various qualifications and exceptions, discussed below. In addition, personnel are obligated to provide truthful and fully candid answers to investigators’ questions. Personnel (military or civilian employees) who provide false statements, or who are less than fully candid with investigators, are subject to disciplinary action. Investigators may ask participants to acknowledge those
obligations in writing (Appendices D and E pertain). Personnel who refuse to cooperate should initially be reminded of their duty to cooperate with an official investigation per SECNAVINST 5430.57G. Investigators may also utilize the witness or subject’s chain of command to direct cooperation.

5.3.4. **Right Against Self-Incrimination.** All personnel (military members and civilian employees) have the constitutional right against self-incrimination when they reasonably believe their incriminating statements could be used against them in a criminal prosecution. However, the right against self-incrimination is a right to remain silent (which may be expressed in other ways such as affirmatively declining to answer questions, or walking out of the interview). It is not a right to make a false statement, including the false denial of an allegation.

- If a civilian employee invokes the right to remain silent during an IG investigation, the agency may not take disciplinary action against the employee solely for invoking that right. The agency may draw adverse inferences; that is, take into consideration the failure of the employee to respond, in ascertaining the truth or falsity of the allegation. *LaChance v. Erickson*, 522 U.S. 262 (1998).

- A military member may invoke the right to remain silent and/or terminate an interview at any time, in accordance with Article 31(b) of the Uniform Code of Military Justice.

5.3.5. **Garrity Warnings (Civilians).** In 1967, the Supreme Court held that where government employees were compelled to answer questions under the threat of termination and subsequently prosecuted based on their admissions, the statements they had made were coerced and therefore could not be used against them in a criminal prosecution. *Garrity v. New Jersey*, 385 U.S. 493 (1967).

- If investigators are planning to interview the subject of the investigation on matters that may include potential criminal violations, they shall consult with NAVINSGEN, counsel, and NCIS on whether to issue the subject a Garrity warning at the start of the interview. Factors to consider in making this determination should include whether the potential criminal violations would rise to the level of those that are prosecuted by the U.S. Attorney.

- A sample Garrity warning is contained in Appendix N.

5.3.6. **Kalkines Warnings (Civilians).** If a federal employee refuses to cooperate by claiming the Fifth Amendment right against self-incrimination, the investigator shall consult with NAVINSGEN and counsel to determine whether a Kalkines warning is appropriate. The cognizant U.S. Attorney or his/her designee must authorize a Kalkines warning in writing and the subject’s chain of command should issue the warning. *Kalkines v. U.S.*, 473 F.2d 1391 (1973).

- A Kalkines warning (Appendix O) informs an employee that neither his nor her statements to investigators, nor evidence obtained based on those statements, can be used as evidence against the employee in a criminal prosecution.
• The warning further results in a duty to respond to questions during an IG investigation. Failure to answer questions could result in disciplinary action.

• Finally, the warning provides that the agency may use the employee’s answers in agency administrative proceedings (i.e., disciplinary action), up to and including removal from federal service.

5.3.7. Union Representation (Weingarten Rights). An employee in a bargaining unit represented by a union is entitled to have a union representative present, if: (1) the employee reasonably believes that the examination may result in disciplinary action, and (2) the employee requests representation. If the union representative is not immediately available, reschedule the interview to permit the employee a reasonable amount of time to get a union representative. There is no legal requirement to advise employees of this right during the interview. However, bargaining unit agreements vary; accordingly, investigators should consult labor and employee relations to identify command-specific requirements.

5.3.8. Civilian Employees - Legal Representation. Although there is no requirement to do so, investigators may permit civilian witnesses and subjects to have their attorney present during interviews. The attorney must be a private attorney, absent extraordinary circumstances. DON attorneys may not represent an individual during an IG investigation.

5.3.9. Notice of Charges. Federal civilian employees have no legal right to be informed of charges until formal disciplinary action is proposed under Title 5 U.S.C. § 7513. Ashford v. Dept. of Justice, 6 MSPB 389 (1981). However, it is NAVINSGEN policy to notify subjects at the earliest time practicable after making a decision to conduct an investigation of that individual, consistent with the need to protect the integrity of the investigation.

5.3.10. Minor’s Right to Have Parents Present. If a witness is under the age of 18, investigators should arrange for a parent to be present during the interview.

5.3.11. Use of an Interpreter. If a witness/subject has a better understanding of matters in his or her native language, consider arranging for an interpreter to be present during the interview. When possible, investigators should obtain an interpreter/translator to support the investigative process; however, this arrangement should not incur an obligation on behalf of the federal government without prior approval through the contracting office. Investigators should not rely on the witness/subject to obtain an interpreter/translator.

5.3.12. Non-Federal Personnel. Non-federal personnel (i.e., private civilians) cannot be compelled to cooperate with an IG investigation or inquiry absent the issuance of an IG testimonial subpoena.

5.3.13. Contract Employees. Contractors are considered private civilians; however, they may have an obligation to cooperate with IG investigations and investigative inquiries if the contract with the Government requires their cooperation. In these situations, IGs should contact the contracting officer or the contracting officer’s representative to request witness participation.

5.4. WITNESS CONFIDENTIALITY
5.4.1. Per SECNAVINST 5370.5B, DON IGs will, to the maximum extent permitted under law and regulation, safeguard the identity of complainants seeking assistance via the Hotline program. DON IGs shall explain to complainants the use of their testimony and the release of their identity as witnesses, but not as complainants, may be necessary under due process procedures associated with disciplinary or administrative action. The nature of some complaints and relief requested may necessitate the identification of the complainant during the course of the investigation as, for example, a military whistleblower reprisal investigation, or similar complaint requesting personal relief.

5.4.2. SECNAVINST 5370.5B further provides that DON IGs will, to the maximum extent permitted under law and regulation, safeguard the identity of witnesses and assist them, as appropriate, if the IG determines the witness has been subjected to reprisal. DON IGs shall explain to witnesses that it may be necessary under due process procedures associated with disciplinary or administrative action to release their identity. Such identification will be made only to those with an official need to know the identity of the witness.

5.5. AUTHORITY TO ADMINISTER OATHS

5.5.1. Authority. SECNAVINST 5430.57G authorizes credentialed personnel to administer an oath.

5.5.2. Oath. Investigators should administer the following oath: “Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief?”

5.6. SWORN RECORDED TESTIMONY

5.6.1. Purpose of Recording. Investigators shall obtain sworn and recorded testimony from all complainants, witnesses, and subjects, to the maximum extent practicable. Recorded interviews help to ensure an accurate record and to improve quality of the investigation. A transcript of a recorded interview is less susceptible to a witness’s argument that his or her remarks have been misinterpreted. Accordingly, investigators should begin audio recording at the outset of the interview.\(^7\)

5.6.2. Witness Acknowledgement. At the start of an interview, explain to the interviewee that NAVINSGEN policy is to record interviews. Investigators shall ensure that all interviewees verbally acknowledge on the record they are aware the interview is being audio recorded. Do not ask the interviewee for permission to record the interview. Explain that the purpose of recording is to ensure accuracy and that the interviewee may request a copy of the transcript or summary (if generated) after the investigation is complete.

5.6.3. Telephone Interviews. Telephone interviews should also be recorded and it is imperative to have the interviewee acknowledge on the record that the interview is being audio recorded. Failure to do so may violate state and/or federal laws.

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\(^7\) Investigators in overseas billets should consult counsel regarding local laws pertaining to recording interviews.
5.6.4. **Challenges to Recording Procedures.** Audio recording interviews may initially cause witnesses and subjects to be uncomfortable. Should an interviewee challenge the procedure, explain that it is NAVINSGEN policy and standard practice to conduct sworn, recorded interviews during investigations. Tell the interviewee that audio recording the interview is in everyone’s best interest as it avoids error inherent in note-taking and that a transcript or summary, if generated, can be provided to him or her upon case closure. As appropriate, further explain to subjects that they will be provided a tentative conclusion letter in accordance with NAVINSGEN Policy Memorandum 2016-001, "Tentative Conclusion Letter (TCL)." If an interviewee continues to object to the audio recording, remind him or her that Navy policy requires cooperation during the interview, which includes audio recording, and that failure to cooperate may result in disciplinary action. As needed and appropriate, utilize the interviewee’s chain of command, as well.

5.6.5. **Recording by Witnesses.** Investigators should not allow witnesses or subjects to make their own records of interviews (including audio recordings and written notes). The investigator should explain to the interviewee that the information obtained and discussed during the interview is “FOR OFFICIAL USE ONLY” and potentially personally identifiable information (PII) is subject to the Privacy Act. Accordingly, the interviewee is not permitted to leave the room with “OFFICIAL USE ONLY” or PII information on their personal recording devices.

5.6.5.1. If an interviewee states their intent to record the interview, investigators should advise that it is inconsistent with NAVINSGEN policy to allow interviewees to record interviews that are conducted as part of an official investigation. Investigators should cite the following reasons:

1. IG recordings, transcripts, and summaries are the official record of the interview.

2. The investigation is ongoing; surrendering control of the information discussed during the interview by permitting a personal recording could compromise the integrity of the investigation.

3. Information discussed by the investigator during the interview concerns sensitive matters related to individuals and Navy activities. The investigator has a legal obligation to protect such information from unauthorized release.

4. Because the information discussed is “For Official Use Only,” and/or PII, the investigator has a duty to limit release of such information to those who need access in connection with the accomplishment of a lawful and authorized government purpose.

   a. The interview is the lawful and authorized government purpose that justifies the witness’s access to the information provided by the investigator.

   b. The interviewee’s official need to access this information ends at the conclusion of the interview.
5. Finally, unauthorized storage, handling, or release of the sensitive information discussed may result in an unwarranted invasion of personal privacy and violate the Privacy Act, which may subject the interviewee to criminal and/or civil penalties.

6. If the interviewee persists, caution him that as a federal employee he has a duty to cooperate with an official IG investigation. Restate that it is contrary to NAVINSGEN policy for an interviewee to record interviews. Inform him that he may obtain a copy of the transcript as follows:

   a. For a witness, a copy of the transcript or summary of their testimony may be provided in response to a FOIA request after case closure.

   b. For a subject, if the investigation tentatively substantiates any allegations, a copy of the transcript or summary and a draft copy of the report (or summary) will be provided for the subject’s use in responding to the tentative conclusions before the report is finalized. If no allegation is substantiated, a copy of the transcript may be provided to the subject in response to a FOIA request after case closure.

7. If the interviewee still persists, investigators should discuss the best course of action with their supervisor and consult counsel.

8. Interviewees may attempt to record interviews with an investigator. If an investigator becomes aware that a witness or subject is recording an interview, inform the witness or subject and ask for confirmation. If the witness/subject refuses to disclose whether he is recording or admits to recording the interview, instruct him that recording is contrary to NAVINSGEN policy and request that he cease recording. In addition, caution the witness/subject about the potential consequences of recording the interview as detailed above.

   **5.6.6. Standard Read-In and Read-Out Process.** Investigators must follow the standard read-in and read-out processes. This is to ensure that all witnesses/subjects are treated equally and afforded all proper notifications of authorities and due process (see Appendices G-L for standard read-in and read-out scripts and related forms).

   **5.6.6.1. Initial Discussion.** Investigators will address the following at the outset of the interview:

   1. Introduce the investigators and display credentials;
   
   2. Advise the witness/subject this is an official IG investigation;
   
   3. Briefly state the purpose of the interview and explain why it is necessary to interview the witness/subject;
4. Inform the witness/subject the interview will be conducted under oath and is being recorded; remind the witness/subject that even when the recorders are off, nothing is off the record;

5. Review and provide the witness/subject with a copy of the Privacy Act Statement and non-disclosure agreement if they have not already been provided copies (Appendices B and C);

6. At the investigator’s discretion, review and provide the witness/subject with a copy of the Warning Statement Concerning Acts of Reprisal (Appendix F); and

7. Unless special recording devices and arrangements have been made in advance, remind the witness/subject that nothing classified may be discussed while recording.

5.6.6.2. **Read-In and Read-Out scripts.** Investigators shall use the appropriate script contained in Appendices I-L, including the audio recording scripts (Appendices H and K).

5.6.7. **Recording Interviews**

5.6.7.1. **Create a Good Record.** It is important that the transcript of an interview is a clear and accurate record of the testimony by the witness/subject. Following the steps below will enhance the quality of the recording.

1. Request the witness/subject speak loudly and clearly at the start of the interview and remind them to speak clearly throughout the interview.

2. Ask the witness/subject to explain any acronyms and spell out any questionable words or names.

3. If the witness/subject makes nonverbal gestures such as head nods or hand movements, ask the witness to provide audible responses.

4. Identify verbally any documents introduced during the interview. Refer to these documents by name, date, and page or paragraph number; specificity and detail is important. Investigators should be open and upfront with documentary evidence. Investigators should provide copies of relevant evidence to the witness/subject to review so as to ensure transparency while safeguarding PII and complainant/witness confidentiality. Utilization of a back-up recorder during the interview in the event of a recorder failure; extra batteries should be available during the interview (best practice)

5.6.7.2. **Handling “Off-the-Record” Statements.** Sometimes witnesses/subjects may desire to make statements “off-the-record” during the course of an interview and request for the recorder to be turned off. Caution the witness/subject that going “off tape” does not constitute going “off-the-record” and that anything said while the recording device is off may be used as part of the investigation. If the investigator turns off the recorder to listen to what the
witness/subject has to say, upon hearing the information, the investigator should determine if it is relevant to the investigation and introduce a summary of the discussion once the recording device is turned back on. The following two techniques may be effective in this situation:

1. Ask specific questions to the witness/subject to elicit the relevant information; or

2. Summarize “off-the-record” comments made by the witness/subject and ask them to verify the information. Note: As a less preferable alternative, you may document the “off-the-record” discussion in a memorandum for the record.

5.6.7.3. Validating Transcripts. Investigators should validate each transcript by listening to the audio recording and comparing it to the transcript to ensure the transcription is accurate and that all acronyms and names are correctly spelled and correctly referenced. This should be done for the key statements cited in the ROI in support of the report’s conclusions. It should also be done for inaudible sounds that appear in the transcript. Ensure that all names, locations, and acronyms are spelled out. Identify anything that a person outside DON would not recognize. Investigators should timely report errors to the transcriber for correction.

5.7. DOCUMENTATION OF NON-RECORDED INTERVIEWS

5.7.1. Memorandum for the Record. Recorded interviews are the NAVINSGEN standard for investigations. When recorded interviews are not practicable, e.g., subject matter experts (SME), investigators should summarize interviews in a written memorandum for the record (MFR) as soon as possible after the interview has been completed. An MFR should be carefully drafted to place investigator and witness statements in context and highlight facts needed to establish an element of proof. MFR’s are also useful in assist cases to document interactions with complainants and other individuals contacted to resolve the case.

5.7.2. Sworn Statement. When an audio recorded interview of a critical witness is not possible, obtain a sworn statement from the witness. On those occasions, immediately at the conclusion of the interview create a written record of the facts (who, what, when, where, why, how) provided by the witness during the interview.

5.7.2.1. Prepare the statement in the first person as though the witness had written it. Number each page of the statement consecutively with the total pages (for example, 2 of 4). The last sentence of the statement is “End of Statement.” Have the witness review the statement and make any deletions, additions, or corrections deemed appropriate. The witness must initial all annotations. Have the witness initial each page except for the last page. Above the signature block, place the statement “I swear or affirm that the foregoing is true and correct to the best of my knowledge and belief,” and have the witness sign the last page. The investigator and another investigator should sign the statement to verify that the witness signed it.

5.8. INTERVIEW TECHNIQUES.

A variety of interview techniques may be employed depending on the nature of the investigation and the circumstances of a particular situation. Interviews commonly have four phases: (1) background phase, (2) free narrative, (3) direct questioning, and (4) cross-examination. One key aspect of this process is for investigators to establish rapport with the witness/subject, to the
maximum extent possible and ensure the witness/subject understands the IG investigative process.

5.8.1. **Background Phase.** During the background phase, the investigator should ask questions to establish the biographical information of individuals and organizations relevant for that particular witness. This will include questions relating to the witness’s title or position, how long the witness has been in that position, his or her responsibilities, and organizational and chain of command relationships.

5.8.2. **Free Narrative/Indirect Questioning.** During the free narrative/indirect questioning phase, the investigator should ask open-ended questions, asking the witness to talk about his or her knowledge of the events or actions under investigation in his or her own words without interruption. This may also be a good time to ask the witness to talk about processes that relate to the matters under investigation. This affords the opportunity for the witness to provide his or her unique memory and perspective of events, resulting in the investigator developing a more complete picture of events and obtaining information that was previously unknown.

5.8.3. **Direct Questioning.** During direct questioning, the investigator should ask questions that probe the details of the events with a specific focus on the allegations of misconduct, the elements of proof, and individual accountability. This set of questions will typically address areas such as “did you or did they?” and “why did you or why did they?” During this phase of questioning, it is important to focus the witness/subject and require them to answer the questions and not let them evade or avoid the questions.

5.8.4. **Cross-Examination.** During the cross-examination phase, the investigator should address inconsistencies in the witness/subject testimony, contradictions within the testimony, or conflicts between the witness/subject testimony and the testimony of other witnesses. This is also the phase where the investigator should put the subject or witness on notice if they believe that they are not being honest or truthful in their testimony, as well as confront the witness/subject with conflicting evidence. This is a good time to remind the witness/subject of their responsibility to provide truthful testimony. If a subject fails to provide any information to the investigator, the investigator should remind the subject that this interview is their opportunity to address the allegations made against them. Absent the subject’s testimony to address the allegations (e.g., tell their side of the story), the investigator’s report will present the evidence obtained during the investigation. This is an important phase of the interview and it is imperative for the investigator to ask critical questions and address all unresolved conflicts. It is also important to note that follow-up interviews can and should be conducted in order to ensure a thorough investigation. There is no limit on the number of follow-on interviews as there should be no relevant questions left unaddressed in the ROI/HCR.

5.9. **PRIVILEGES**

Witnesses may claim a “privilege” that prevents them from cooperating with the investigator. The following claims are most commonly encountered and should not be considered as an exhaustive list, as many other potential, if uncommon, privileges may arise. Investigators should raise questions regarding issues of privilege with their supervisor, command counsel/SJA, or
NAVINSGEN counsel because there may be legitimate questions about the applicability of, or exceptions to, the asserted privilege.

5.9.1. **Promotion Boards.** Board members, recorders, and support personnel are sworn to secrecy. If you must interview these individuals regarding board proceedings, obtain a memorandum from the Service Secretary releasing them from their oaths.

5.9.2. **Attorney-Client.** A client (and his/her counsel) has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications made for the purpose of facilitating the rendition of professional legal services to the client.

5.9.3. **Husband-Wife.** A person has a privilege to refuse to testify about communications with his or her spouse.

5.9.4. **Priest-Penitent.** A person has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication by the person to a clergyman or a clergyman’s assistant, if such communication is made either as a formal act of religion or as a matter of conscience.

5.9.5. **Doctor-Patient.** Many witnesses (and medical professionals) believe that communications between a patient and a doctor are protected by privilege similar to the attorney-client privilege described above. However, under federal law, such privilege generally does not exist except under certain circumstances between a psychotherapist and his or her patient. Furthermore, there is no privilege regarding the medical treatment of military personnel, military family members, or civilian employees by government physicians. For example, a military doctor must testify regarding his or her treatment of a service member.
CHAPTER 6 – FINAL REPORTS

6.1. **INTRODUCTION.** The CIGIE Quality Standards for Investigations require that “reports (oral and written) thoroughly address all relevant aspects of the investigation and be accurate, clear, complete, concise, logically organized, timely, and objective.” IG investigative reports should create a formal record of the allegations that were investigated, the scope of the investigative effort, the issues addressed by the investigation, the evidence collected, and the conclusions reached as to whether each allegation was substantiated or not substantiated. All IG investigative reports should follow the guidelines set forth below.

6.2. **PROFESSIONAL STANDARDS GUIDELINES**

6.2.1. **Accurate.** IG reports can have profound effects on the careers of DON personnel and the public’s trust and confidence in DON officials and the IG enterprise. Care should be exercised in presenting witness testimony in the report to ensure that it is accurate, and that it has not been inaccurately paraphrased or characterized.

6.2.2. **Documented.** The findings of fact presented by investigators must be fully supported by documentation. Source documents for facts presented in the report should be collected and uploaded in the NAVINSGEN case management system as they are obtained throughout the course of the investigation.

6.2.3. **Clear.** Investigators should use the plain language style of writing and use active voice to give the reader a clear understanding of the basic facts of the case and the logic used to arrive at the conclusions. Reports should be well organized and structured around the issues and the elements needed to substantiate or not substantiate the allegations. They should also clearly communicate the analysis of the evidence, including the credibility of the witnesses, how the evidence was weighed, and how conflicting evidence was resolved.

6.2.4. **Thorough.** Reports should contain enough information to allow an uninformed reader to understand the allegations, the findings, and the conclusions. Reports should demonstrate to the reader that the allegations were treated seriously and the investigation was a diligent effort to ascertain the facts. Reports that lack sufficient information may raise doubt in the reader’s mind about the credibility of the investigation and the IG.

6.2.5. **Complete.** Reports should document a complete record of the allegations addressed by the investigation, the relevant supporting evidence, and investigative activities, and adequately discuss the analysis of the evidence, thereby answering the reader’s anticipated questions on important aspects of the investigation. In cases where one or more of the allegations were not investigated, they should be noted in the report to avoid questions regarding the disposition of those allegations.

6.2.6. **Standards.** Reports will contain the standards applicable to the allegations under investigation. Standards should be listed precisely, carefully citing the complete title, sections, dates, and relevant language verbatim. Investigators shall not paraphrase standards without first citing and quoting standards verbatim.
6.2.7. **Concise.** Reports should be concise and to the point, presenting only the information that is relevant and essential to resolve the allegations. Sentences and paragraphs should be short, direct, and focused only on the allegations – not a recitation of all the information developed during the investigation. Sentences or paragraphs that attempt to convey multiple thoughts or that, stray from the allegations may confuse the reader and should be avoided. Long, rambling reports lose the reader and only succeed in obscuring critical information. If findings of fact pertain to more than one allegation, it is not necessary to restate the facts; instead incorporate facts by reference to the previous pertinent section.

6.2.8. **Objective.** Reports should be fair, impartial, and free of bias. They should present both sides of the story: the evidence in support of the allegations and the evidence casting doubt on the allegations. They should contain information presented by the subjects in their defense, including information that is exculpatory or mitigating.

6.3. **PREPARING REPORTS.** Investigators should begin drafting their reports of investigation (ROI) at the outset of the investigation, to avoid potential impacts affecting the overall timeliness for completing an investigation. To begin the writing process, investigators should organize source documents and draft an outline of the main facts and tentative conclusions for their investigation.

6.3.1. **ROI Outline.** Investigators should prepare an outline of the report containing the main facts of the case and the tentative conclusions. To aid in this process, various tools exist, such as the investigative plan, the outline of proof, and commercial products. Investigators should discuss findings and conclusions with their supervisor and counsel.

6.3.2. **Report Format.** The following guidance applies to the major sections common to all NAVINSGEN reports. However, there are differences in the Senior Official, Hotline, and MWBR report formats. In addition, for IG DoD action referrals, investigators should consult NAVINSGEN case managers via the IG chain of command to ensure compliance with applicable and current IG DoD report format requirements.

6.3.2.1. **Introduction/Background.** Reports should include a section that provides the reader an executive summary; i.e., the most important information contained in the report in the most concise manner, to include background, organizational information, and context. It should also include a summary of the investigation’s findings and conclusions. Simply put, this section should explain why the investigator conducted the investigation and what the investigator found.

6.3.2.2. **Organization.** The following sections should, in most cases, be organized by allegations unless the facts are pertinent to all or most of the allegations. In that case, it may be appropriate to consolidate the facts in a section entitled “Facts Common to All Allegations” or similar.

6.3.2.3. **Standards.** Reports should clearly identify the standards relied upon by the investigators. See Chapter 4 of this manual for further guidance regarding standards.

6.3.2.4. **Facts.** Facts include testimony as well as documentary and other evidence. Present the facts in detail to include names, dates, organizations, and locations. Attribute facts to
their sources and clearly identify sources. Investigators should organize facts in a manner that most clearly communicates the facts to the reader. Facts may be organized in order of importance, chronologically, or by topic, as appropriate. Investigators should use sub-headings in this section to help with the organization and readability of complex matters. Investigators should integrate tables, charts, figures, photographs, and other visual displays that help communicate complex or key facts; however, ensure that the report notates the source of the information in the visual. Regarding testimony, direct quotes should be kept to a minimum where there are no disputed facts. Indeed, to the extent there are no disputes of fact, a report may state, “The undisputed testimony of all witnesses resulted in the following findings of fact,” and subsequently list the facts. This section should not contain the investigator’s judgments as to the credibility of evidence. Credibility judgments should be addressed in the following section. However, investigators may identify contradictions in statements or evidence in footnotes that advise the reader that the contradictions will be addressed and resolved in the Analysis/Discussion/Conclusions section.

6.3.2.5. Analysis/Discussion/Conclusion. This section explains how the investigator arrived at their conclusions. It shall not introduce new facts. The analysis should analyze the evidence using the applicable standard of proof; i.e., preponderance of the evidence. In addition, it should identify the elements of proof of the standard and apply the relevant facts to those elements. Investigators should start the discussion section by stating their conclusion in the first sentence, and then follow with information that walks the reader through how the evidence supports the conclusion. This section should follow the elements of the applicable standard and explain how the facts apply to those elements. This section should not merely restate all of the facts. On the other hand, investigators should not assume that anything, particularly their logic, is obvious or self-evident. Be explicit in pointing out the specific facts that carried the most weight in reaching the conclusion.

6.3.2.5.1. Steps. Investigators should take the following steps in drafting the Analysis/Discussion/Conclusions section:

1. In a discussion approach, break the standard into its elements of proof.
2. Organize each element into a subsection.
3. Discuss relevant evidence within each subsection to explain whether the evidence substantiates each element of proof.
4. Analyze conflicting evidence within each subsection using the factors detailed in Chapter 4 of this manual. Investigators must clearly articulate why they attached more weight to certain evidence than other, conflicting evidence. It may also be appropriate to identify instances in which witnesses or subjects made non-credible statements. It is the investigator’s role as fact-finder to exercise judgment when there is conflicting evidence; however, it is crucial to explain the investigator’s rationale when exercising such judgment.
5. State the conclusion (i.e., whether the preponderance of the evidence
establishes that the allegation is substantiated or not substantiated).

6.3.2.5.2. **Sample Outline of Analysis/Discussion/Conclusions Section**

1. Elements of Proof

2. First element
   a. Conclusion as to this element
   b. Discussion of supporting and exculpatory facts

3. Second element
   a. Conclusion as to this element
   b. Discussion of supporting and exculpatory facts

4. Additional elements (as applicable)
   a. Conclusion as to this element
   b. Discussion of supporting and exculpatory facts

5. Overall Conclusion

It is especially important to deal with the arguments put forward by the subject of the investigation, and explain how they were considered in reaching the conclusions. If the subject responds to the Tentative Conclusion Letter (TCL), incorporate and address the subject’s responses/arguments in the final report. Also address (in the facts section) any additional fieldwork that was conducted after reviewing the subject’s response to the TCL and any new information discovered by the additional investigation. In the Analysis/Discussion/Conclusions section, address how the new information impacted the conclusions.

6.3.2.6. **Conclusion.** This section sets forth the conclusion for each of the allegations addressed under the Analysis/Discussion/Conclusions section of the report. The conclusion statement for each allegation should be one sentence that indicates the allegation was substantiated or was not substantiated.

6.3.2.7. **Recommendations.** This section makes recommendations for corrective action. In cases where allegations are substantiated, recommend “appropriate action.” Do not recommend specific disciplinary action. Recommendations regarding systemic issues, such as revising policy or conducting training, may be more specific. Subject matter experts may assist with developing recommendations.

6.4. **TENTATIVE CONCLUSION LETTER (TCL).** For investigations that substantiate one or more allegations, a tentative conclusion letter is issued to the subject prior to issuing a final report. Investigators should obtain initial counsel review of the draft report prior to issuing the TCL. See Appendix R and NAVINSGEN Share Point Law and Policy portal.
6.5. INVESTIGATION QUALITY ASSURANCE REVIEW

6.5.1. Peer Discussion and Review. When possible, investigators should peer review their draft reports. Generally, this is the first chance for another individual to put a fresh set of eyes on the draft report to identify areas where facts are missing or where the facts as presented do not logically flow to the conclusions. Additionally, it is helpful to have an investigator who has little or no knowledge of the case review the draft. This investigator can provide an independent “sanity check” of the effort. As a general rule, the more experienced the reviewing investigator, the greater the value added to the report. If another investigator assisted during the fieldwork, particularly during the interviews, that person should also review the draft report. This not only provides feedback regarding the report format, language, and presentation, but also provides a critical review of the analysis, conclusions, and recommendations.

6.5.2. Supervisor Review. The investigator’s supervisor and/or IG chain of command should review the report, as appropriate, provide any edits and comments, and return the draft report to the investigator for revision as necessary. The supervisor review should include a review of the supporting evidence to ensure that the factual statements in the report are accurate.

6.5.3. Checklist. Investigators shall use the quality assurance review checklist in the NAVINSGEN case management system for all reports.

6.5.4. Legal Sufficiency Review (LSR). All investigative reports require a legal sufficiency review, documented in writing. LSR is optional for PI reports (except that certain MWBR PIs also require LSR; consult MWBR rules for further guidance). It is a good practice for the investigator and the attorney to discuss the initial LSR in order to efficiently and effectively resolve any questions or concerns. Candid and clear communications will reduce the number of iterations in the draft review process and move more rapidly toward completing the investigation.

6.6. REPORT REVIEW AND APPROVAL AT NAVINSGEN

6.6.1. Procedure. Investigators shall forward reports to NAVINSGEN via the IG chain of command for review and approval. Case Managers are responsible for performing reviews of investigations as directed by the Hotline and Investigations Division Director. The review encompasses the criteria against which the reports are evaluated to ensure investigations were conducted in accordance with CIGIE professional standards.

6.6.2. Case File Review. Case Managers should review reports of investigation and supporting evidence for adherence to the CIGIE professional standards for due professional care. At a minimum, the review should evaluate:

6.6.2.1. Independence. The investigator was independent; i.e. outside the immediate chain of command of the complainant and the subject.

6.6.2.2. Objectivity. The evidence was gathered and reported in an objective and unbiased manner, and the conclusions flow logically from the facts as applied against the applicable standards.
6.6.2.3. **Thoroughness.** All allegations or issues warranting investigation were addressed by the investigation. All knowledgeable witnesses were interviewed including the complainant if not anonymous and the subject. All relevant evidence was collected, considered, and the relevant standards applied.

6.6.2.4. **Documentation.** The ROI findings are supported by adequate documentation.

6.6.2.5. **Timeliness.** The investigation was conducted in accordance with prescribed timeframes or established suspense dates.

6.6.2.6. **Corrective Actions.** The ROI contains recommendations for appropriate action by management officials in substantiated cases.

6.6.2.7. **Legal Sufficiency Review.** The ROI was reviewed for legal sufficiency.

6.6.3. **Recommendations.** The case manager’s oversight review concludes with recommendations regarding disposition of the case.

6.6.3.1. If the review raises minor questions regarding the sufficiency of evidence or the validity of the conclusions, case managers should contact the Echelon II IG or the IG investigator to gather additional information upon which to base any recommendation.

6.6.3.2. Where investigations are not sufficiently thorough, case managers should send a detailed email message to the investigator via the IG chain of command that identifies deficiencies in the investigation and additional steps that are necessary.

6.6.3.3. Where investigations are adequately thorough but the conclusions appear inconsistent with a preponderance of the evidence, the case manager should discuss concerns with the investigator’s IG chain of command. If consensus cannot be reached, the case manager should consult his or her supervisor and counsel, as appropriate.

6.7. **ISSUANCE OF THE REPORT**

6.7.1. If the investigative effort is satisfactory and no major deficiencies are evident in the case file, case managers should authorize issuance of the report to management and closure of the case. Reports shall be issued to management for corrective actions, normally within two business days. Investigations that are complete and pending corrective action by management shall be maintained within NAVINSGEN’s area of responsibility and are monitored within the NAVINSGEN case management system under a pending corrective actions tab.

6.7.2. Investigators will ensure the NAVINSGEN case management system reflects corrective action taken on substantiated allegations in response to recommendations. Investigators will also ensure corrective actions are incorporated into the NAVINSGEN case management system document library.

6.7.3. Investigators shall use the quality assurance survey tool in the NAVINSGEN case management system to submit cases to NAVINSGEN for closure via their IG chain of command.
CHAPTER 7 - CASE CLOSURE

7.1. **INTRODUCTION.** The CIGIE standard of due professional care requires that the investigative report findings and accomplishments be supported by adequate documentation. The CIGIE standard of managing investigative information requires that investigative data must be maintained in a manner allowing effective retrieval, referencing, and analysis. To ensure compliance with these standards, investigators shall perform all of the tasks critical to the case closure process and fully document the outcome of the investigation.

7.2. **CASE CLOSURE PROCESS.** Once NAVINSGEN approves the ROI, investigators should ensure prompt closure of the case.8

   Steps in the Case Closure Process
   1. Prepare closure correspondence
   2. Staffing process per IG organizational SOP
   3. Case closure in the NAVINSGEN case management system

7.3. **CLOSURE CORRESPONDENCE.** Investigators will prepare closure correspondence as soon as possible following NAVINSGEN authorization to release the ROI to the command for corrective action in a substantiated case. Investigators bear the primary responsibility for ensuring that closure correspondence is complete, accurate, and properly drafted using the standardized templates and in accordance with the guidance set forth in the Navy Correspondence Manual or local administrative requirements. Investigators who fail to ensure quality of the closure documents will create additional work for those involved in the staffing process and unnecessary delays in the closure of the case. Correspondence and reports reflect directly on the credibility and professionalism of the investigator, the IG, and NAVINSGEN. When preparing closure letters to the subjects or complainants, be sensitive to the privacy rights of individuals involved in the investigation.

   7.3.1. **Internal Correspondence.** Investigators must use local administrative SOPs when reporting or transmitting the results of investigations. Templates for NAVINSGEN correspondence are available on the NAVINSGEN SharePoint Resources Management Division (N1) page.

   7.3.2. **External Correspondence.** IG offices should use official letterhead when reporting or transmitting the results of investigations. Correspondence shall include the following:

   - Complainant close-out letter that notifies the complainant of the general results of the investigation.
   - Subject close-out letter per NAVINSGEN Policy memo 2015-002

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8 The definition of “closure” for purposes of this manual may differ from the legal definition under FOIA and other authorities.
CHAPTER 8 - INVESTIGATIVE OVERSIGHT

8.1. OVERSIGHT AUTHORITY

8.1.1. Professional Standards. The CIGIE standards for investigations require due professional care be used in conducting investigations and preparing related reports. Elements of due professional care include thoroughness, objectivity, timeliness, independence, and documentation. See Appendix A for additional elements and a discussion of each.

8.2. QUALITY ASSURANCE REVIEWS. NAVINSGEN Quality Assurance Review (QAR) teams are responsible for periodic monitoring of investigations being conducted by Echelon I/II and Navy Region Echelon III IGs to ensure they are completed in accordance with prescribed timeframes and/or established suspense dates. Additionally, QAR teams will conduct a review of the DON Hotline Program. Echelon I/II IGs should similarly conduct QARs of their subordinate IGs. A QAR shall be conducted of each IG office a minimum of every three years.

8.2.1. NAVINSGEN Case Management System Reviews. QAR teams will perform routine reconciliations of the open and closed investigations conducted by command under review. The review will include an assessment of the cases and courses of action. QAR assessments look at thoroughness, objectivity, timeliness, independence, and documentation of the processing of all hotline matters and compliance with DoD and SECNAV instructions, and NAVINSGEN policies.

8.2.2. QAR Follow-up. Routine follow-up will be conducted within six months after the QAR team has identified deficiencies.

8.2.3. Status Reports. NAVISNGEN may require IG offices prepare status or progress reports regarding correction of deficiencies and pending investigations.
QUALITY STANDARDS FOR INVESTIGATIONS

GENERAL STANDARDS

General Standards apply to investigators and the organizational environment in which they perform. The three general standards address qualifications, independence, and due professional care.

A. QUALIFICATIONS

The first general standard for investigative organizations is:

*Individuals assigned to conduct the investigative activities must collectively possess professional proficiency for the tasks required.*

This standard places upon the investigative organization the responsibility for ensuring that investigations are conducted by personnel who collectively have the knowledge and skills required to perform the investigative activities.

B. INDEPENDENCE

The second general standard for investigative organizations is:

*In all matters relating to investigative work, the investigative organization must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude.*

C. DUE PROFESSIONAL CARE

The third general standard for investigative organizations is:

*Due professional care must be used in conducting investigations and in preparing related reports.*

This standard requires a constant effort to achieve quality and professional performance. It does not imply infallibility or absolute assurances that an investigation will reveal the truth of a matter.
APPENDIX A: QUALITY STANDARDS

QUALITY STANDARDS FOR INVESTIGATIONS

QUALITATIVE STANDARDS

Qualitative standards address four critical standards that must be addressed if the effort is to be successful. These are: planning, execution, reporting, and information management.

A. PLANNING

The first qualitative standard for investigative organizations is:

*Organizational and case-specific priorities must be established and objectives developed to ensure that individual case tasks are performed efficiently and effectively.*

Priorities and objectives apply to investigative organizations, in general (the types and numbers of investigations conducted, application of resources, minimal case-opening thresholds, etc.) and to specific investigative tasks in particular (the person(s) to interview, the records to review, and time frames for completing tasks, etc.). This standard may best be achieved by preparing organizational and case-specific plans and strategies.

B. EXECUTING INVESTIGATIONS

The second qualitative standard for investigative organizations is:

*Investigations must be conducted in a timely, efficient, thorough, and objective manner.*

The investigator is a fact-gatherer and should not allow conjecture, unsubstantiated opinion, bias, or personal observations or conclusions to affect work assignments. He or she also has a duty to be receptive to evidence that is exculpatory, as well as incriminating. The investigator should collect and analyze evidence through a number of techniques, including, but not limited to, interviews of complainants, witnesses, victims, and subjects; reviews of records; surveillance and consensual monitoring; undercover operations; and use of computer technology.

C. REPORTING

The third qualitative standard for investigative organizations is:

*Reports (oral and written) must thoroughly address all relevant aspects of the investigation and be accurate, clear, complete, concise, logically organized, timely, and objective.*

All reports should accurately, clearly, and concisely reflect the relevant results of the investigator's efforts. Facts should be presented in straightforward, grammatically correct language and should avoid the use of unnecessary, obscure, and confusing verbiage. Graphics should be well-prepared, clearly relevant to the investigation, and supportive of the presentation.
APPENDIX A: QUALITY STANDARDS

QUALITY STANDARDS FOR INVESTIGATIONS

QUALITATIVE STANDARDS

D. MANAGING INVESTIGATIVE INFORMATION

The fourth qualitative standard for investigations is:

Investigative data must be stored in a manner that allows effective retrieval, reference, and analysis, while ensuring the protection of sensitive data (i.e., personally identifiable, confidential, proprietary, or privileged information or materials).

One of the many hallmarks of an efficient organization is its ability to retrieve information that it has collected. An effective information management system creates and enhances institutional memory. This, in turn, enhances the entire organization's ability to conduct pattern and trend analyses and to fulfill the mandate of detection and prevention. Such a system also assists in making informed judgments relative to resource allocation, training needs, investigative program development, prevention activities, and implementation of the investigative process. Further, the IG Act requires that certain data elements be reported in the semiannual reports to Congress.4

4 OIGs are encouraged to consult the IG Act for those requirements.
APPENDIX B: NAVINSGEN NON-DISCLOSURE AGREEMENT

NAVAL INSPECTOR GENERAL
NON-DISCLOSURE AGREEMENT

I, ________________________________, am providing (or have provided) information for an official Naval Inspector General (NAVINSGEN) investigation being conducted by ENTER NAME OF COMMAND Office of the Inspector General (hereafter referred to as “NAVINSGEN”).

I will not reveal any information, oral, written or pictures, provided to me for official use by the NAVINSGEN investigator to anyone outside of NAVINSGEN.

If I have been asked to obtain information and provide it to the investigator, I will not discuss the information with anyone except as authorized by NAVINSGEN.

If asked about the investigation by persons not directly affiliated with NAVINSGEN, I will refer them to NAVINSGEN.

I acknowledge that, NAVINSGEN reports are privileged information (IAW SECNAVINST 5430.57G) and are not releasable without specific approval of the Secretary of the Navy or NAVINSGEN.

I understand that the direct or indirect unauthorized disclosure, unauthorized retention, or negligent handling of official information, oral or written, received during my contact with NAVINSGEN, could negatively impact an official Inspector General proceeding. Accordingly, any such unauthorized conduct may result in criminal or administrative action.

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

___________________________________  ________________________
Signature                                      Date
APPENDIX C: PRIVACY ACT STATEMENT

PRIVACY ACT STATEMENT
DATA REQUIRED BY THE PRIVACY ACT OF 1974

For Personal Information Taken During
Inspector General Interviews

**AUTHORITY**: Title 10 United States Code § 5014 and 5020

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

**USERS**: Information is used for the purpose set forth above and may be:
- a. Forwarded to federal, state, or local law enforcement agencies for their use;
- b. Used as a basis for summaries, briefings, or responses to Members of Congress or other agencies in the Executive Branch of the Federal Government;
- c. Provided to Congress or other federal, state, or local agencies, when determined necessary.

**MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION**:

**MILITARY PERSONNEL**: Disclosure of personal information is mandatory and failure to do so may subject the individual to disciplinary action.

**DEPARTMENT OF THE NAVY CIVILIAN PERSONNEL**: Failure to disclose personal information in relation to individual’s position and responsibilities may subject the individual to adverse personnel action.

**ALL OTHER PERSONNEL**: Disclosure of personal information is voluntary and no adverse action can be taken against individuals for refusing to provide information about themselves.

**ACKNOWLEDGEMENT**

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

Name (Print)  Date  Command/Code

Position/Title  Rate/Rank/Grade

Telephone Number/Extension

Signature
APPENDIX D: IMPORTANCE OF PRESENTING TRUTHFUL TESTIMONY (CIVILIAN)

United States Code, Title 18 Section 1001 (18 USC § 1001) makes it unlawful to:

(1) Falsify, conceal, or cover up by any trick, scheme, or device a material fact; or

(2) Make any materially false, fictitious, or fraudulent statement or representation; or

(3) Make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

I acknowledge the above provisions.

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APPENDIX E: IMPORTANCE OF PRESENTING TRUTHFUL TESTIMONY
(MILITARY)

IMPORTANCE OF PRESENTING TRUTHFUL TESTIMONY (MILITARY)

Any person subject to the UCMJ who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing the same to be false, may be subject to action under the provisions of UCMJ, Art. 107.

Additionally, under the provisions of the UCMJ, Art. 134, any person subject to the UCMJ who makes a false statement, oral or written, under oath, believing the statement to be untrue, may also be subject to disciplinary action under the UCMJ.

Confidentiality

In order to protect the confidentiality and rights, privacy, and reputation of all people involved in an Inspector General (IG) fact-finding consultation (inquiry, investigation, or Hotline) I understand that I may not discuss or reveal any matters or aspect of the subject consultation(s) with anyone without permission of the Office of the Inspector General (OIG). If someone attempts to gain information specific to my consultation with the investigating officer, I will notify the OIG immediately.

I understand that my identity will be protected from disclosure to the extent possible, consistent with the fact-finding mission of an inquiry/investigation; however, that absolute confidentiality cannot be guaranteed. I understand that disclosure of my identity may be made to competent authority and persons who have a need to know. Acknowledging that withholding consent may hinder the IG fact-finding process and may result in a lack of necessary information, I consent to the disclosure of my identity as necessary to produce a complete and impartial inquiry.

Therefore, I agree to keep confidential all information related to any inquiry/investigation which the OIG investigator may address with me. I also understand that this confidentiality agreement remains in effect until I am released from this responsibility by OIG or other competent authority.

I acknowledge the above provisions.

Name (Print)                                    Date

Command/Code

Position/Title                                     Rate/Rank/Grade

Telephone Number/Extension                       Signature
APPENDIX F: WARNING STATEMENT CONCERNING ACTS OF REPRISAL

Warning Statement Concerning Acts of Reprisal

1. Acts of reprisal taken against a civilian or military employee because he or she made protected disclosure to NAVINSGEN are prohibited by, respectively, Title 5 U.S.C. § 2302(b) and Title 10 U.S.C. § 1034.

2. A protected disclosure is defined as any communication of information that is reasonably believed to be evidence of (1) a violation of law or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) abuse of authority; (5) a substantial and specific danger to public health and safety.

3. Acts of reprisal may include prohibited personnel practices such as demotion, transfer, reassignment, disciplinary action, refusal to give performance evaluation, withholding training, withholding a promotion, withholding an award or special recognition, and any significant changes in working condition, duties, and responsibilities that are inconsistent with the grade of the employee who made the protected disclosure.

4. Reprisal or retaliation against any employee or member who makes a protected disclosure is unlawful and improper. Any such acts may result in disciplinary and remedial actions.

Acknowledgement

I understand the provisions of the Whistleblower Protection Act, which prohibits acts of reprisal as disclosed to me in the above statement.

________________________________________________________________________
Signature                                                                 Command Code

________________________________________________________________________
Name (Please Print)                                                           Position Title, Series, and Grade

________________________________________________________________________
Date                                                                            Phone Number
APPENDIX G: WITNESS READ-IN (CIVILIAN AND MILITARY)

Witness Read-In (Civilian and Military)

Before we talk, we want to give you a brief overview of the Inspector General’s role and our procedures.

- First, you are not the subject of this investigation.
- We act as an impartial fact finder on behalf of the Naval Inspector General (NAVINSGEN).
- Information we obtain will be used for official purposes only.
- Access to the information is restricted to persons with a need to know to perform official duties. In some cases, depending on the circumstances, disclosure to other persons may be required by law or regulation, or may be directed by higher authority. Also, under FOIA (Freedom of Information Act) & the Privacy Act, individuals may request and may be given redacted copies of your statement. That is, they may be given your statement, but identifying information such as your name, address, title, etc., will be omitted
- Complainant/Witness communications are protected from reprisal under Title 5 U.S. Code 2302b8 and 10 U.S.C 1034, The Civilian and Military Whistleblower Protection Act.
- We will make every effort to protect your privacy.
- Our goal is problem resolution.

This is an administrative proceeding. We have no authority to impose punishment or direct corrective action.

Our job is to collect and examine all pertinent information and then make an impartial presentation.

Our goal is to establish the truth of allegations or establish that allegations are not true and therefore clear a person’s good name.

We can accept hearsay evidence and opinions from you, but please identify information of that nature when you relate it to us. For the purpose of this interview, hearsay is information you give us that is based on what others have told you, rather than what you know personally. Opinions are your thoughts, beliefs, and inferences about facts you know personally or have heard from others. The conclusions you draw from facts or observations are a form of circumstantial evidence.

As a reminder, in accordance with SECNAVINST 5430.57G, all Department of the Navy (DON) employees are obliged to cooperate with all IG actions. This obligation specifically includes submitting to questioning, consistent with Constitutional, statutory and regulatory Due Process protection. We would also like to remind you of the importance of presenting truthful and candid statements. And, we would like for you to give us information we need to know, even if we do not ask a specific question.

Please advise us if your statement contains classified information.

You will be placed under oath; this will be a sworn statement. Also, we will need you to read and sign a Privacy Act Statement.
Audio Recording Script: Witness/Complainant

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

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

Your Full Name: ________________________________
Title: ________________________________________
Your Command/Dept: _________________________________
Rank/Grade: _______________________
Your Phone #: _________________________
Email: _______________________________________

The recorder is ON. My name is _________________________________ assigned as an investigator for _________________________________
I am here with my colleague _________________________________
The date is: _________________________________
The time is: _________________________________
This is NAVINSGEN Case #_____________________________
I am/ we are interviewing (name/grade): _________________________________

I will now administer the oath. Please stand, raise your right hand.

“Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief?”

- Do you acknowledge that you are being audio recorded?

- Please state your name and command.
APPENDIX I: SUBJECT READ-IN (CIVILIAN)

Subject Read-In (Civilian)

- Identify yourself and show ID or Appointing Letter as required.

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

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

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

General Brief.

- Access to the information we gather is restricted to persons with a need to know to perform their official duties; usually investigators, attorneys, etc. However, management officials may also see the report, but only if corrective action is required. Therefore, we cannot guarantee absolute confidentiality. Other than those types of circumstances, we protect your privacy and identify.

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

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

- Military Subject. Although you are not suspected of a criminal offense, we have information that may be unfavorable to you. We are required to give you the opportunity to comment on these matters. However, you do not have to answer any question that may tend to incriminate you. The information is that: (advise subject of general nature of all allegations against him/her).

- Non-military Subject: [Bargaining Unit Members only:] Civilian employees who are members of a collective bargaining unit (i.e. a union) may have the right to union representation when interviewed during an investigation. Additionally, bargaining unit employees may seek counsel with a union representative after an IG investigation interview. The IO should consult with the IG and Judge Advocate to clarify the specifications of the respective local bargaining agreement that may apply to each given investigation.

Although you are not suspected of a criminal offense, we have information that may be unfavorable to you. We are required to give you the opportunity to comment on these matters. However, you do not have to answer any question that may tend to incriminate you. The information is that: (advise subject of general nature of all allegations against him/her).

- Please advise me if your statement contains classified information.

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

Subject Read-In (Military)

<table>
<thead>
<tr>
<th>ARTICLE 31(b) MILITARY RIGHTS ADVISEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>SUBJECT FULL NAME (Last, First, Middle Initial)</td>
</tr>
<tr>
<td>COMMAND/PHONE/EMAIL</td>
</tr>
<tr>
<td>INTERVIEWER(S) (Last, First, Middle Initial)</td>
</tr>
<tr>
<td>ORGANIZATION</td>
</tr>
<tr>
<td>LOCATION OF INTERVIEW</td>
</tr>
</tbody>
</table>

I have been advised that I am suspected of the following:

**Allegation**

I have been advised that I have the following rights according to Article 31(b) of the Uniform Code of Military Justice (UCMJ):

- I have the right to remain silent – that is to say nothing at all.
- Any statement I make, oral or written, may be used against me in a trial, or in other judicial, non-judicial or administrative proceedings.
- I have the right to consult with a lawyer, and to have a lawyer present during this interview.
- I may obtain a civilian lawyer of my own choice at no expense to the government.
- If I want a military lawyer, one will be appointed for me free of charge.
- I may request a lawyer at any time during this interview.
- If I decide to answer questions with or without a lawyer present, I may stop the questioning at any time.

I have read my rights as listed above, and fully understand my rights. No promises, threats or inducements of any kind have been made to me. No pressure or coercion has been used against me. I make the following choice:

- I do not want a lawyer. I am willing to answer questions or make a statement, or both, about the offense(s) under investigation.
- I do not want a lawyer and I do not wish to make a statement or answer any questions.
- I want a lawyer. I will not make any statements or answer any questions until I speak with a lawyer.

I fully understand my rights and that my signature does not constitute an admission of guilt.

| SIGNATURE OF SUBJECT | TIME | DATE |
| SIGNATURE OF INTERVIEWER | TIME | DATE |
| PRINT/SIGNATURE OF WITNESS | TIME | DATE |

FOR OFFICIAL USE ONLY – PRIVACY SENSITIVE
INFORMATION PROTECTED UNDER THE PRIVACY ACT OF 1974
ANY MISUSE OR UNAUTHORIZED DISCLOSURE MAY RESULT IN BOTH CIVIL AND CRIMINAL PENALTIES
APPENDIX K: AUDIO RECORDING SCRIPT (SUBJECTS)

Audio Recording Script (Subjects)

- Our interviews are Audio recorded for accuracy. But before I turn on the Audio recorder, I want to ask you if you have any questions.
- I will turn on the recorder, record some information and then place you under oath.

Your Full Name: ______________________________________
Title: ______________________________________

Your Command/Dept: ______________________________________
Rank/Grade: ____________________

Your Phone #: _____________________________
Email: ______________________________________

The recorder is ON. My name is ______________________________________________________
I am assigned as an investigator for ___________________________________________________
I am here with my colleague _________________________________________________________
The date is: ________________________
The time is: ________________________

This is NAVINSGEN Case #__________________________________________________
I am/ we are interviewing (name/grade): ________________________________________________

I will now administer the oath. Please stand, raise your right hand.

“Do you swear or affirm that the information you will give is true and correct to the best of your knowledge and belief?”
- Do you acknowledge that you are being Audio-recorded?
- Please state your name and command.
- I will first discuss the allegation(s) with you and then provide you an opportunity to comment on these matters.
  - List of allegations:
APPENDIX L: INTERVIEW CLOSING NOTES

*Interview Closing Notes*

*Conclude the Interview:*

1. Review and/or summarize their statement.
2. Is there anyone else I should talk to and why?
3. Are there any other documents I should review?
4. Is there anything we haven't discussed that I should know about?

We are required to protect the privacy of IG investigations and the rights and reputations of all people involved in them. Accordingly, *do not* discuss this matter or reveal information about our discussion. [Execute a non-disclosure agreement as appropriate.]

Earlier, I advised you that access is normally restricted to persons with a need to know. However, individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony, under the Freedom of Information Act.

If there is such a request, do you consent to the release of your testimony, but not your personal information; such as name, home address, or home phone number outside official channels?

*Complainant only:*

What do you want the IG to do for you?

You will be notified whether we decide to investigate.

You may contact me at: ____________________

Thank you for your assistance.
APPENDIX M: HILLEN FACTORS

Hillen Factors - Standards for evaluating testimony

1. The witness's opportunity and capacity to observe the event or act in question.
2. The witness's character.
3. Any prior inconsistent statement by the witness.
4. The contradiction of the witness's version of events by other evidence or its consistency with other evidence.
5. A witness's bias or lack of bias.
6. The inherent improbability of the witness's version of events.
7. The witness's demeanor.

Source: Hillen v. Department of the Army, 35 MSPR 453 (1987)
APPENDIX N: GARRITY WARNING

Employee Information and Acknowledgment of Rights

Read carefully and initial each section:

___ I have been informed and I understand that this is an official administrative investigation involving matters relating to my official duties as a federal employee.

___ I have been informed and I understand that this is a voluntary interview, and that I am not required to answer questions if my answers would tend to implicate me in a crime.

___ I have been informed and I understand that no disciplinary action will be taken against me solely for refusing to answer questions. However, if I refuse to answer questions, the evidentiary value of my silence may be considered in any administrative proceedings as part of the facts surrounding my case, but may not be considered in any criminal proceedings.

___ I have been informed and I understand that any statement I furnish may be used as evidence in any future administrative and/or criminal proceedings.

___ I have been informed and I understand that I may end this interview at any time.

____________________________________________________
SIGNATURE

____________________________________________________
DATE & TIME

____________________________________________________
NAME (PRINTED)

N-1
APPENDIX O: KALKINES WARNING

Employee Information and Acknowledgment Form (Use Immunity)

Read carefully and initial each section:

____ I have been informed and I understand that this is an official investigation involving matters relating to my official duties as a federal employee.

____ I have been informed and I understand, that as a federal employee, I am required to cooperate with this official investigation by providing fully truthful, complete, and candid answers.

____ I have been informed and I understand that if I refuse to cooperate and answer questions in this official investigation, my refusal can be a basis for disciplinary action, which may result in, among other things, my removal from federal service.

____ I have been informed and I understand that neither the information I provide in response to questions by the investigator nor any evidence gained by reason of my answers will be used against me in a criminal proceeding, except that I may be subject to criminal prosecution for any false information that I may provide.

____ I have been informed and I understand if I provide information during this official investigation that I know to be false at the time I provide that information, my providing false information can be a basis for disciplinary action which may result in, among other things, my removal from federal service.

____________________________________________________
SIGNATURE

____________________________________________________
DATE & TIME

____________________________________________________
NAME (PRINTED)
APPENDIX P: ESTABLISHED REDRESS AND RESOLUTION PATHS

Established Redress and Resolution Paths

<table>
<thead>
<tr>
<th>Item</th>
<th>Type of Issue</th>
<th>Appropriate Agency to Resolve the Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Appropriated Fund employees -- Conditions of employment (personnel policies, practices, and matters affecting working conditions) Equal Employment Opportunity (EEO) issues (discrimination based on age, race, color, gender, religion, disability, or national origin), or reprisal against a civil service employee or applicant.</td>
<td>Refer conditions of employment complaints to the servicing Civilian Personnel Office. Refer EEO Complaints go to the local EEO Office for processing. Refer allegations of civilian whistleblower reprisal to the Office of Special Counsel (<a href="http://www.osc.gov">www.osc.gov</a>) or DODIG Hotline (<a href="http://www.dodig.mil">www.dodig.mil</a>)</td>
</tr>
<tr>
<td>2</td>
<td>Non-appropriated Fund Instrumentality (NAFI) Employees - Conditions of employment and discrimination or reprisal</td>
<td>Refer conditions of employment complaints to the servicing NAFI Employment Office. IGs may accept reprisal allegations from a NAFI employee but must forward the complaint to DODIG (through NAVINSGEN) for resolution within 10 working days; IGs may also advise the complainant that they can file their complaint directly with DODIG IAW DODD 1401.3 (Reprisal Protection for Non-appropriated Fund Instrumentality Employees / Applicants)</td>
</tr>
<tr>
<td>3</td>
<td>Reserve Assignment Matters</td>
<td>Commander Navy Reserve Forces Command or BUPERS</td>
</tr>
<tr>
<td>4</td>
<td>Military Equal Opportunity Issues</td>
<td>Command Military Equal Opportunity (CMEO) program manager, e.g. CMEO or EOA</td>
</tr>
<tr>
<td>5</td>
<td>Equal Opportunity in off-base housing</td>
<td>Military Housing Referral Office</td>
</tr>
<tr>
<td>6</td>
<td>Landlord or tenant disputes</td>
<td>Local Civil Authority</td>
</tr>
<tr>
<td>7</td>
<td>Claims against the Government</td>
<td>Naval Legal Service Office</td>
</tr>
<tr>
<td>8</td>
<td>Correction of military records</td>
<td>Board for Correction of Naval Records (BCNR)</td>
</tr>
<tr>
<td>9</td>
<td>Appeal of Performance Reports</td>
<td>Bureau of Personnel</td>
</tr>
<tr>
<td>10</td>
<td>Support of Dependents and Private Indebtedness</td>
<td>Subject’s command or DFAS</td>
</tr>
<tr>
<td>11</td>
<td>Change to an Instruction/ Regulation or current policy guidance</td>
<td>Refer to the policy issuing authority</td>
</tr>
</tbody>
</table>
### APPENDIX P (cont.)

**Established Redress and Resolution Paths (Continued)**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Responsible Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Letter Of Counseling, Letter Of Reprimand, or Article 15 (other than discrimination/reprisal)</td>
<td>Commander or Naval Legal Service Office</td>
</tr>
<tr>
<td>13</td>
<td>Punishment under UCMJ</td>
<td>Naval Legal Service Office</td>
</tr>
<tr>
<td>14</td>
<td>Article 138, UCMJ (Complaint of Wrong)</td>
<td>Naval Legal Service Office</td>
</tr>
<tr>
<td>15</td>
<td>Hazardous Working Conditions (unsafe or unhealthy)</td>
<td>Local Safety Office</td>
</tr>
<tr>
<td>16</td>
<td>Elimination From Training</td>
<td>Naval Education and Training Command</td>
</tr>
<tr>
<td>17</td>
<td>Medical Treatment</td>
<td>Servicing Medical Treatment Facility</td>
</tr>
<tr>
<td>18</td>
<td>TRICARE Complaints</td>
<td>TRICARE Benefits Services Office</td>
</tr>
<tr>
<td>19</td>
<td>Misuse or abuse of government vehicles</td>
<td>Base transportation (to forward to the command responsible for the vehicle) or Base Commander</td>
</tr>
<tr>
<td>20</td>
<td>Unprofessional Relationships / Adultery</td>
<td>Subject’s Commander</td>
</tr>
<tr>
<td>21</td>
<td>Sexual Harassment and Discrimination (Military)</td>
<td>Command Military Equal Opportunity program manager, e.g. CMEO or EOA</td>
</tr>
<tr>
<td>22</td>
<td>Allegations of reprisal by DoD contractors</td>
<td>DODIG</td>
</tr>
<tr>
<td>23</td>
<td>Allegations against Military Counsel</td>
<td>Office of Judge Advocate General</td>
</tr>
<tr>
<td>24</td>
<td>Anti-Deficiency Act (ADA) violations</td>
<td>Report potential Anti-deficiency Act violations through their official chain of command to the Assistant Secretary of the Navy (Financial Management and Comptroller).</td>
</tr>
<tr>
<td>25</td>
<td>Intelligence Oversight</td>
<td>Senior Intel Officer of the organization where the violation occurred.</td>
</tr>
<tr>
<td>26</td>
<td>Health Insurance Portability and Accountability Act (HIPAA) violations</td>
<td>Surgeon General</td>
</tr>
<tr>
<td>27</td>
<td>Sexual Assault</td>
<td>Report to law enforcement and Sexual Assault Response Coordinator (SARC)</td>
</tr>
<tr>
<td>28</td>
<td>Host or Third Country Nationals, contractors, or non-DoD civilians</td>
<td>SJA or OGC for advice on proper course of action</td>
</tr>
</tbody>
</table>

P-2
APPENDIX Q: MATTERS APPROPRIATE FOR IG INVESTIGATION

Matters Appropriate for IG Investigation

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

Source: http://www.secnav.navy.mil/ig/Pages/HotlineFAQ.aspx)
APPENDIX R: TENTATIVE CONCLUSION LETTER POLICY

POLICY MEMORANDUM NUMBER 2016-001

From: Naval Inspector General
To: Echelon I and II Inspectors General

Subj: TENTATIVE CONCLUSION LETTERS

Ref: (a) Law and Policy Page on Naval IG SharePoint Portal

1. This memorandum directs Inspector General (IG) Offices conducting IG investigations to offer each subject of a substantiated allegation in an investigation the opportunity to comment on a draft of the report of investigation (ROI). The direction provided in this memorandum is mandatory for all ROIs issued on or after 1 July 2016 and optional for those issued before that date. The requirement shall remain in effect until rescinded or superseded.

2. The offer shall be communicated by a letter, referred to in this memo as the Tentative Conclusion Letter (TCL). The TCL may be signed by the investigator, another person in the investigating IG Office, or a higher Echelon IG as the responsible Echelon II IG deems appropriate. Samples of the TCL appear on reference (a). The TCL shall be accompanied by a draft of the ROI and, when available, copies of the subject’s interview transcripts or sworn statements. The TCL may include other evidence collected during the investigation the investigators or their superiors think would help the subject offer meaningful comments on the draft ROI.

3. The purpose of the TCL is to give subjects an opportunity to comment on the draft ROI during the investigation, which is controlled by the IG community. Under current practice, subjects may comment only after the investigation is completed and the ROI goes to those outside of the IG community for action. Presenting the subject’s comments in the ROI itself will improve the accuracy and thoroughness of the investigation and resulting ROI and, where appropriate, explain why the subject’s rebuttal does not have merit. Those outside the IG community who must make accountability determinations will see the Subject’s comments and the IG response to them when they read the ROI.
4. The TCL provides subjects an opportunity to read and comment on the ROI’s precise wording of each allegation and the specific standard used to evaluate the facts. It provides subjects an opportunity to address the facts and the analysis of those facts they believe may be incomplete or in error. Finally, the TCL process affords subjects an opportunity to identify additional witnesses or sources of exculpatory or mitigating evidence that are not addressed in the ROI.

5. IG personnel reviewing the subject’s response to the draft ROI shall take action they deem appropriate to address the subject’s comments. This may include gathering additional evidence and revising facts, analysis, or conclusions. In most cases, the final version of the ROI will discuss the subject’s comments on the draft ROI, explaining what changes, if any, were made to address those comments, or why it was not appropriate to change any challenged facts, analysis, or conclusions.

6. The TCL process focuses on the subject’s agreement or disagreement with the content of the ROI based on the subject’s current knowledge of relevant facts. The process is not intended, and shall not be used, to permit subjects to review witness testimony or similar evidence in the investigative case file in order to argue the ROI does not accurately characterize that evidence or omits exculpatory or mitigating evidence contained in the case file. Although the TCL process permits subjects to suggest other investigative leads to pursue, it does not permit subjects to interview people mentioned in the ROI, interview additional potential witnesses, or collect documentary evidence not already in the subject’s possession.

7. Reference (a) contains more information on implementing the tentative conclusion letter process. Sample language for use in TCL letters, suggested timeframes for obtaining a subject’s response, and suggested responses to questions subjects may ask after receiving a TCL and draft ROI are included.

8. Direct questions about this policy to any member of my Legal Office. On a case-by-case basis, Naval Inspector General case managers and lawyers are available to discuss the wording of the TCL, the extent to which the ROI and the transcript of the subject’s interview should be redacted before the subject receives them, ways to address the subject’s responses to the draft ROI, and other case-specific matters.

HERMAN A. SHELANSKI

Copy to:
DNIG/IGMC

R-2