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INSPECTOR GENERAL NEWSLETTER



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Inspector General Mission

Serves as the confidential advisor and fact finder to the Commanding General, 2d Infantry Division and advises the commander on the state of the economy, efficiency, discipline, morale, and readiness of assigned and attached units and activities.

OFFICE OF THE INSPECTOR GENERAL

15 OCT 2014

Warrior Inspector General Message

★HOT TOPIC - WHISTLEBLOWER REPRISAL★

Army Regulation 600-20, Para 5-12a, *Army Command Policy*, states, "No person will restrict a member of the Armed Services from making a protected communication with a member of Congress; an Inspector General; a member of a DOD audit, inspection, investigation or law enforcement organization; or any other person or organization (**including any person in the chain of command**) designated under this regulation or other administrative procedures to receive such communication."

Reprisal includes "the **taking of or threatening to take an unfavorable** personnel action or the **withholding or threatening to withhold a favorable** personnel action because the member made or was thought to have made a protected communication." All Soldiers and **DA civilians (DAC)** can make a protected communication (PC); they have the right to raise matters of fraud, waste, and abuse or other improprieties within the Army "**without fear of reprisal.**" DOD Directive 7050.06, *Military Whistleblower Protection*, provides overarching policy guidance to the military services.

What are the elements of reprisal? Reprisal is generally a chronologic event. The first thing that occurs is a **Protected Communication (PC)**. A Protected Communication is the suggestion/intent to/comment about intending to lawfully contact/making contact with a member of Congress, IG, audit team member, and others such as EO, Chaplain, and **other leaders in the chain of command** to report abuse, fraud, discrimination and other misconduct. The next thing that occurs is an **Unfavorable Personnel Action (UPA)** against the individual that made the PC. A UPA is any action taken or threaten to be taken that affects or has the potential to affect an individual's position or career (i.e. eval reports, awards, bars, separation, command referred Behavioral Health Assessment). The other important aspect when deciding if the action taken is reprisal is that the leader initiating the UPA must have knowledge of the PC. This leader is referred to as a **Responsible Management Official (RMO)**. The RMO has knowledge of the PC and is in the position to influence or act on the unfavorable action. The same applies to a withheld favorable action (i.e. PCS award). *When you are in doubt if a UPA is reprisal you must ask yourself... Is there reason to believe that the unfavorable action would have taken place if the PC had never occurred? If the answer is "no," then the personnel action may potentially be reprisal. Conversely, if the answer is "Yes," it may not be reprisal, but you must further assess the situation.*

What are my responsibilities as a leader to prevent Whistleblower Reprisal's in my unit? Commanders and subordinate leaders (CPL and above) need to be consistent in all they do; leaders need to familiarize themselves with policies and regulations in order to effectively enforce the standards established therein. Leaders must:

- * Counsel Soldiers consistently and effectively
- * Foster open communications (Open Door)
- * Enforce standards consistently, equitably
- * Be mindful of perceptions within your unit

The bottom line and what to remember is if the Soldier or DAC receiving a UPA has made or intended to make a protected communication, analyze the situation before making a decision. Within your time limits test your action for **reasons** (violation of a standard or enforcing a standard), **reasonableness** (is it right and do supporting documents exist, i.e. counseling), **motive** (is the recommender the subject of the complaint?), **procedural correctness** (which does not mean absent any errors but determines if the RMO skipped steps that denied due process or recourse that would have affected processing each UPA.), **consistency with past practices** (did you do the same to other individuals in your unit under similar circumstances?), and finally the **timing** (is the UPA after a PC?).

The Warrior IG team is available to provide training on this topic to Soldiers and Leaders at your location. You can contact us at DSN 732-8767/8774.

SECOND TO NONE!

