



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

ETHICS STANDOWN AND OTHER ISSUES INVOLVING THE DUTIES OF INSPECTORS GENERAL

Remarks as delivered by Jerry Hansen, Deputy Inspector General for Inspections and Policy, Department of Defense Office of the Inspector General, to Department of State International Visitors, Arlington, VA, August 2, 2000.

In one of my previous assignments, I was the Inspector General for the California National Guard where I covered both the Army Guard and the Air Guard. We did reprisal cases too. There are several common criteria in our system for reprisal cases: first, was there a protected communication – did you tell someone that qualifies you for that status, in other words did you tell an IG, did you tell a Commander, or did you just tell your wife or friend which would not be a protected communication? Second, was there adverse action taken against you as a result of that protected communication? So you have to have a protected communication, you have to have adverse action and finally, you have to have a nexus between those two, some connection between the adverse action and the complaint that suggests a cause and effect relationship.

What's hardest in the military context is to determine whether or not this was a righteous, noble complaint or whether this was a poor performer who had done something wrong and was on a downhill slope career wise and just before they were ready to get fired, they make a complaint to an Inspector General and then try to say that the reason they are being fired is because they made this complaint. It takes a very good investigator to sort this out sometimes – to determine where the truth lies. These are some of the most difficult investigations, but important because there certainly are a number of righteous, noble allegations that need to be protected.

Yet sometimes I found that as an IG that they did not meet the specific criteria: the protected communication, the adverse action, or the nexus; so, I could not say that they had to be protected and I did not necessarily substantiate the allegation because of the legal requirements. But there were times where I went back to a commander and I said, this did not meet the requirements, but what you are doing with this person is not right and you should stop it or you should make sure whatever is being done to them is undone. An IG should have a good enough rapport with his/her commander and with your agency head that you will be able to go in and close the door and say that this is not illegal but it is wrong and something should be done about it.

How many of you here are actually in the Inspector General field? So you are in other oversight positions in your respective agencies. After I served as an Army IG, I worked for the state of California as and IG for prisons. I did management reviews of wardens and superintendents of youth facilities; I also did investigations of prison guards. I don't know very much about Abu Ghraib, but I can tell you there are a lot of very well run prisons that meet the very highest standards of accountability, but they still have things go wrong – and typically, when things go wrong, it's at night or it's on the

weekend, because that is when all the chain of command, all the leadership are at home asleep. You're going to have a few people that for some reason always like to have the night shift. I would just suggest that sometimes things happen at night that are just totally unacceptable, that the leadership would not accept, that are totally contrary to the rules, regulations and laws, but they do happen.

One of the problems I found in prisons is that there is not enough of a leadership structure in a lot of the prisons and why is that? In many of our prisons and I mean outside the military, there are prison unions and guards get overtime pay and they do not particularly want to get promoted to the leadership positions. Sometimes there is a leadership vacuum at the first-line supervisor level. There are a number of guards who are peers, so when one of them does something wrong, they are not held accountable. The guards don't want to report their buddy, so it doesn't get reported as it should. This is just a general comment, I'm not relating it to Ahu Ghraib or to the military.

After I did prisons I was the IG for Veterans Affairs for the state of California, where we provided oversight of state veterans' homes and hospitals. That was a brand new position, so I had to build an Inspector General office from scratch when there was none before. There are differences in missions between the military IG's, the federal IG's that we've discussed here and IG's at the state and local level. The one thing that's common is that they are concerned with fraud, waste and abuse and mismanagement in government. Typically, at the Federal level we have Auditors, an audit cell, and an investigative cell for both criminal and administrative investigations. We will often have inspections and evaluations also. It really depends on how the office was created. At the Federal level, they're usually created by statute. At the state and local levels, sometimes they're created by a statute that defines what they are and what they are supposed to do. Sometimes, they are created administratively; an agency head decides he wants an IG and decides what the IG's focus should be. They may have more of an ombudsman roll, handling complaints, reviewing problems and reporting back to the commander-- but they can have a very different character depending upon how they were created and what their charter says they are supposed to do.

Our IG system in the Department of Defense can be traced back to the revolutionary war, with Baron Von Steuben, who came from Prussia to advise General Washington on training and discipline of the Army. We developed an IG system within the Army first, with the IG being an extension, not a replacement for, but an extension of, the eyes, ears, and the conscience of the commander. The commander can't be everywhere. He's getting reports up through the chain of command, telling him that everything is wonderful and that we're doing everything exactly the way you said we are supposed to, and sometimes he wants a double check -- he wants go out and tell him if that really is the case.

The IG in the U.S. started in the military, but since 1978, we've extended it to the Federal service. Hopefully the IG will have a relationship with the agency head or commander where he can close the door and say "would you like to know what's really going out there?" I would hope that you would have that kind of relationship with your agency head.

One characteristic of the federal IG is transparent accountability, including publicly posting reports. This is more threatening to your agency head if he knows all his reports are going to be

posted on the Internet or released to the public. That's a difference between federal IGs and the military IG's--they don't have to post all their reports like we do. Therefore, I think the responsibility is greater on us to ensure we are accurate, thorough, and balanced--because the media may be looking for that one little paragraph they can extract from the report that sounds exciting and makes headlines. So when we edit our reports, we try to make sure that we don't write things that are likely to be extracted which might give a distorted view of the whole report. Because our reports are publicly released, we have a greater responsibility to ensure they are balanced.

I spent most of my life on the receiving end of IG reports and I didn't always like IG's because I didn't feel they did well at providing balanced reports. If you come into my organization and I show you that ninety percent of our activities are going very well and the morale is good, but then I tell you that ten percent still need some improvements and maybe half of those I've got processes in place to fix but they are not totally fixed yet and the other half I'm still struggling with--maybe they need more money or I need more support from higher headquarters or there's something I cannot quite fix myself yet.

I've seen too many cases where an IG then goes back and thinks "this is great--he just told me everything I needed to write my report". And what does the report focus on? That ten percent. He reports that numerous items (the 10%) are totally broken and makes it sound look like the organization didn't know a thing about the areas that were broken, implying that the IG discovered them. He then recommends what the organization is already doing. The report might be fairly thorough and reasonably accurate--but what value have you added to the organization? I would say you've done a disservice to the organization and the OIG, because first of all, they don't ever want to see an IG again.

Secondly, you really haven't given them any new recommendations for improvements or told them anything they didn't know already. I ask my inspectors, auditors, and investigators to consider: "what did you tell them they didn't already know, and what did you recommend that they aren't already doing, and are your recommendations practical and realistic in today's environment?" You can always recommend that they put ten million dollars against a problem and that will help it, but if you don't have ten million dollars in the budget, or if the problem doesn't justify a ten million dollar solution, that isn't a realistic recommendation.

I think we all have responsibility as accountability professionals to make sure that we are fair and balanced and that we are making recommendations that are realistic and reasonable. If we don't have the people with the experience and maturity to make those calls, then we need to restructure our office to ensure we have those kinds of people.

Now in our organization, we have auditors, six hundred auditors, including brand new auditors who work with mature auditors and try to get that kind of balance and that kind of growth and mentoring. We have an inspection and evaluation cell that is very small. We don't have new people in there. They are retired military from the army, air force, navy, engineers, people with very impressive technical credentials. When they go out and evaluate something, they don't have to take down just what people tell them-- they have enough maturity and experience to tell whether

something is important or not and just focus on those things that really make a difference to the organization.

And by that way, the commander is less threatened by experienced professionals, because he knows you are going to give him something that's useful and even though he doesn't like you saying some things that aren't totally positive, they are balanced, they're in perspective, and he agrees with the facts, and if you want to publish those he doesn't have a problem with that. We don't always hit it right a hundred percent of the time, but that is certainly our goal.

I was asked to talk about the ethics program. In addition to being the Deputy for Inspections and Policy I am also the designated agency ethics official. Within the Department of Defense we have a formal ethics training program so that every new employee is briefed on ethics within the department. We talk about conflicts of interests, outside employment, gifts. If an aerospace firm wants to give you a model of the new airplane they are making and provide one for your desk, can you accept it? Or if they want to take you to lunch or they want to give you a tour and take you to lunch, is that acceptable? We have rules for all of those things. Unfortunately, there are a lot of exceptions, which can be complicated. I tell people: if you have questions, send them to me by email. Unless I know all the facts, I don't know whether the exceptions might apply. There may be times when you can accept that gift, either accept it personally or on behalf of the organization.

There are times when offers are appropriate-- maybe you need to tour their plant and having lunch is part of it and maybe that's acceptable under certain circumstances, so we provide guidance to fit the situation. Conflicts of interest may be pretty clear. If I have a thousand shares of Boeing stocks and I am involved with acquisition and one of the decisions I make has to do with acquisition of an aircraft they're building, that is a clear conflict. There are different ways of dealing with the conflict. One way would be to sell the stock. Another would be to disqualify myself with anything to do with Boeing. In our system, we have to do disqualifications in writing, specifying who will make these decisions in our place. That gets kind of complicated because we have to a gatekeeper to make sure that anything that has to do with that company doesn't get to the person disqualified. Conflicts do happen, sometimes because of a financial interest, maybe because a senior official is getting ready to retire and a contractor may approach them about a job. As soon as that contact is made, they have to let us know and we may ask them to disqualify themselves from anything to do with that company until they leave. If the conflict ends—because they sell the stock or they're no longer interested in working for a firm—they withdraw the disqualification. We have procedures for various situations and they have to be analyzed by an independent and objective adviser.

We recently performed an Ethics Stand-down within the OIG, which could be described as an internal controls awareness day. We conducted training for managers, reviewed our policies and disqualifications, and designed a survey to ask all the employees how they felt we were doing in the ethics area. The survey asked about 12 questions and got their feedback concerning whether they agreed or strongly agreed, or thought we were doing OK, or doing poorly in specific areas. Our results showed that in most areas of importance, about 10% of our people thought we really needed improvement. With 90% indicating we were doing satisfactorily or better, we felt that was

a reasonably good result for a first poll. Since this is the first time we have done this survey, we are planning on repeating it in 6 months or a year to track our progress from the current baseline.

Thank you for your attention. What are your questions?