SECNAV INSTRUCTION 5800.12C

From: Secretary of the Navy

Subj: INVESTIGATION OF ALLEGATIONS MADE AGAINST SENIOR OFFICIALS OF THE DEPARTMENT OF THE NAVY

Ref: (a) DoD Directive 5505.06 of 6 June 2013
     (b) DoD Instruction 5505.03 of 24 March 2011
     (c) DoD Instruction 5505.02 of 29 August 2013
     (d) DoD Instruction 5505.16 of 23 June 2017
     (e) SECNAVINST 5430.7R
     (f) SECNAVINST 5430.107A
     (g) SECNAV M-5214.1
     (h) 10 U.S.C. CH 47
     (i) DoD 5500.07-R, Joint Ethics Regulation (JER) of 30 August 1993
     (j) SECNAVINST 5370.5C
     (k) OPNAVINST 5354.1G
     (l) MCO 5354.1E
     (m) SECNAVINST 5300.26D
     (n) Department of the Navy, Civilian Human Resources Manual (CHRM) Subchapter 1614.1
     (o) SECNAVINST 5211.5F
     (p) BUMEDINST 6320.103
     (q) BUMEDINST 5211.4

Encl: (1) Definitions
     (2) Responsibilities

1. Purpose

    a. To implement reference (a) within the Department of the Navy (DON).

    b. To ensure that all allegations of misconduct made against DON Senior Official/Senior Officials will be reported to the Offices of the Naval Inspector General (NAVINSGEN) or the Deputy Naval Inspector General for Marine Corps Matters/Inspector General of the Marine Corps (DNIG/IGMC), as
appropriate, within one business day of receipt for further processing.

c. To clarify that within the DON, NAVIG or the DNIG/IGMC, as appropriate, will determine whether a complaint against a DON Senior Official/Senior Officials is a credible allegation of misconduct that must be reported to the Department of Defense Office of Inspector General (DoD OIG) for investigation. Notwithstanding the role of the Naval Criminal Investigative Service (NCIS) to investigate allegations of misconduct, per references (a) through (f), allegations of criminal misconduct, including fraud offenses, within the DON will first be referred to the NCIS.

d. In addition, this instruction utilizes current DoD, Bureau of Medicine and Surgery, and Marine Corps Order guidance as a guide for fulfilling requirements, policies, and adhering to instructions in support of references (g) through (q). In particular, enclosure (1) compiles allegations of misconduct by references (h) and (i); enclosure (2) compiles where allegations made that are governed by references (k) through (n) and the protecting the identity of witnesses, other persons involved in investigations, and their personally identifiable information by references (o) through (q).

2. Cancellation. SECNAVINST 5800.12B.

3. Definitions. See enclosure (1).

4. Applicability. This instruction applies to the Offices of the Secretary of the Navy (SECAV); the Chief of Naval Operations (CNO); the Commandant of the Marine Corps (CMC); all U.S. Navy (USN) and U.S. Marine Corps (USMC) installations, commands, activities and field offices; and all other organizational entities within the DON.

5. Policy

a. It is DON policy that all allegations of misconduct, regardless of the level at which they are received, made against DON Senior Official/Senior Officials must be reported to NAVINSGEN or DNIG/IGMC, who will report those allegations they deem credible to the DoD OIG. Allegations of criminal activity reported to NAVINSGEN or DNIG/IGMC will promptly be reported to NCIS. Credible allegations of misconduct must be thoroughly investigated by the DoD OIG, NAVINSGEN, DNIG/IGMC, NCIS, or other DON commands or organizations acceptable to DoD OIG using
techniques applicable to the nature of the allegation. Cognizant disposition authorities will generally be kept informed of the progress and results of Senior Official/Senior Officials investigations and, upon receipt of a Report Of Investigation (ROI) with substantiated allegations, must make a determination whether or not corrective action (as defined in enclosure (1)) will be taken.

b. Conduct of Criminal Investigations. The NAVINSGEN or DNIG/IGMC will refer allegations involving criminal misconduct to the NCIS for investigation. Should NCIS accept the case, the official responsible for the conduct of the investigation will provide the Component-Designated Official (CDO) the information necessary to prepare the reports discussed in paragraph (a) above in sufficient time to meet the deadlines set forth therein.

6. Responsibilities. See enclosure (2).

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page: https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.

8. Information Management Control. The reporting requirement contained in paragraph 5(a) is exempt from information management control, per reference (g), Part IV, paragraph 7(n).

THOMAS B. MODLY
Under Secretary of the Navy

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DEFINITIONS

The following definitions apply to the terms used in this instruction:

1. Senior Official/Senior Official Investigation. Any investigative inquiry conducted to address credible allegations of misconduct against Senior Official/Senior Officials, beyond the initial review of an allegation to determine whether it meets the definition of misconduct. The term “investigation” as used in this directive includes formal investigations, as well as preliminary inquiries, complaint analyses, and other investigative activities that may be employed by the DON to establish the scope of investigative effort warranted or alternatively, to conclude that further investigation is not warranted. It does not include initial reviews of standards that may apply to the allegations or communications with the complainant to clarify an allegation.

2. Allegation of Misconduct. A credible allegation that if proven, would constitute:

   a. A violation of a provision of criminal law, including but not limited to reference (h).

   b. A violation of a recognized standard, for example, reference (i) as amended, or other federal, DoD, or Service regulations.

   c. Any other conduct of concern to DoD or DON leadership, or conduct that could reasonably be expected to be of significance to the Secretary of Defense or the SECNAV, especially when there is an element of misuse of position or of unauthorized personal benefit to the Senior Official/Senior Officials, a family member, or an associate; or

   d. Mismanagement, waste, or abuse of title or position.

3. CDO. The CDO is the point of contact with DoD OIG who makes the credibility determination required for reporting allegations made against DON Senior Official/Senior Officials to the DoD OIG. The CDO also provides to DoD OIG the information specified in reference (a) on behalf of SECNAV. Within the DON:

   a. NAVINSGEN is the CDO for Navy civilian or military personnel when SECNAV or the CNO is the appropriate Disposition
Authority (DA), and for all DON civilians within the Office of the SECNAV.

b. The DNIG/IGMC is the CDO for Marine Corps civilian or military personnel when SECNAV or the CMC is the appropriate DA, and

c. NCIS will act as the CDO if the SECNAV determines that investigative needs do not permit notifications to CDOs identified in paragraphs (a) and (b) above.

4. **Corrective Action.** Action taken by DA in response to investigations, including, but not limited to: changes in regulations, policies or practices; disciplinary, administrative or remedial actions; and, such other actions as the DA deems appropriate.

5. **DON Hotline Program Manager.** Any person who manages or operates a DON Hotline Program in accordance with reference (j).

6. **DA.** A DA is the individual in the DON who will make a determination whether or not corrective action is necessary upon receiving an ROI involving a DON Senior Official/Senior Officials. This accountability determination authority may be delegated to a subordinate individual for action. Within the DON, the primary DA’s are:

a. The SECNAV for all civilian Senior Official/Senior Officials; and

b. The CNO or the CMC for all military Senior Official/Senior Officials based on the Service component of the Senior Official/Senior Officials.

7. **Senior Official/Senior Officials.** An active duty, retired, or reserve military officer in grades O-7 and above; an officer selected for promotion to O-7 whose name is on the O-7 Promotion Board Report forwarded to SECNAV; a current or former member of the Senior Executive Service (SES); a current or former DON civilian employee whose position is deemed equivalent to that of a member of the SES; or, a current or former presidential appointee. Senior Official/Senior Officials does not include an O-6 military member who will be advanced in grade on the retired list to the rank of Rear Admiral or Brigadier General.
RESPONSIBILITIES

1. DA. As defined in enclosure (1), paragraph 6, must:

   a. Within 30 working days of receipt of an ROI with substantiated allegations of misconduct by a DON Senior Official/Senior Officials, make a written determination whether or not corrective action is necessary, which includes the rationale for the decision and identifies any disciplinary, administrative, or other corrective action the DA has taken; and

   b. Within five working days of making this determination, provide a copy of the ROI to the DoD OIG via the CDO concerned, and to such other DON personnel who may be responsible for implementing corrective action.

2. NAVINSGEN and DNIG/IGMC as the CDOs must:

   a. Upon receipt of an allegation, and in accordance with subparagraph (b) below, determine whether the allegation of misconduct against a DON Senior Official/Senior Officials is credible and, if so, report it to the DoD OIG within five working days of the date a subject is identified. In the event the CDO is unable to make a credibility determination within five working days, the CDO must inform the DoD OIG of the allegation and request additional time to make that determination.

   b. Unless the DoD OIG conducts the investigation or refers the investigation to another organization:

      (1) Investigate all credible allegations of misconduct made against the DON Senior Official/Senior Officials.

      (2) Refer the credible allegations of misconduct to the cognizant flag or general officer in command and support the commander’s investigation as required; and

      (3) Refer all allegations of misconduct involving possible criminal conduct to the Director, NCIS through the NCIS IG for concurrent review with the DoD OIG. Should NCIS conclude the allegation is appropriate for criminal investigation, it shall investigate the allegation with notification to the DoD OIG. When NCIS conducts the investigation, the Director, NCIS
must provide progress updates to the DoD OIG, the CDO, and the
cognizant DA every 30 days.

c. In general, where allegations are made that are governed
by references (k) through (n), defer to the investigative
processes set forth in those references, as applicable. In such
instances, the official responsible for the investigation must
provide the DoD OIG and the CDO updates of the progress of the
investigation every 30 days. However, nothing herein will be
deemed to preclude the DoD OIG, NAVINSGEN, or DNIG/IGMC from
investigating such allegations in parallel with, or in lieu of,
those processes.

d. Forward the determination whether or not corrective
action was taken (described in paragraph one above) to the DoD
OIG and retain a copy.

3. **Director, NCIS** must:

   a. Upon referral by the CDO, review all credible
      allegations of misconduct involving possible criminal conduct
      committed by a DON Senior Official/Senior Officials.

   b. If, following such review, the credible allegation is
      appropriate for a criminal investigation, then investigate the
      credible allegation with notification to the IG DoD and CDO.
      Provide progress updates to the IG DoD, the CDO, and the
cognizant DA every 30 days.

4. Commanders, Commanding Officers, Activity Heads,
Supervisors, DON Hotline Program Managers, and others in
positions of authority over DON personnel shall:

   a. Report every allegation of misconduct as defined in
      enclosure (1), paragraph 2, made against a Senior
      Official/Senior Officials to the responsible CDO within one
      working day of receipt. The notification must be in writing
      (Email or Hotline) and include:

      (1) The name, rank or pay grade, title or position of
      the Senior Official/Senior Officials.

      (2) The organization to which the Senior Official/Senior
      Officials are assigned.
(3) The location of the Senior Official/Senior Officials.

(4) A synopsis of the allegation made against the Senior Official/Senior Officials.

(5) The date the allegation was received.

(6) A copy of the document containing the allegation.

(7) The contact information for the individual designated to provide further information about the allegation.

b. After reporting an allegation, provide such supporting documents and other information as the CDO may request to support the CDO’s credibility determination, but will not undertake further inquiry into the matter, unless directed by the CDO.

c. When the complaint alleges that a Senior Official/Senior Officials personally participated in discrimination that is subject to processing under references (j) through (n), the report required by paragraph 4.a. must state whether their desire is to process the allegation pursuant to those instructions; if so, the processes under references (j) through (n) may proceed only with CDO approval.

d. Echelon II and below Inspectors General, DON Hotline Program Managers, and anyone aware of the receipt of an allegation against a Senior Official/Senior Officials are prohibited from providing any information regarding the receipt or complaint status to the Senior Official/Senior Officials, the activity Commander, and anyone in the Chain of Command. Further, no entry shall be made into the NAVINSGEN Case Management Information System.

5. All DON Personnel. As required by reference (a), all DON personnel must:

a. Protect the identity of witnesses, other persons involved in investigations, and their personally identifiable information in accordance with references (o) through (q).
b. Protect the confidentiality and sensitivity of materials obtained during the investigative process consistent with applicable laws and regulations.

c. Handle information covered by this instruction in a manner that avoids unauthorized disclosure and limits access to those persons who have an official need to know consistent with applicable laws and regulations; and

d. Only release information obtained during investigations in compliance with applicable statutes, references (o) through (q) and with DoD and DON directives, instructions, and guidance governing the release of information.