

## **Proposed Executive Order: The Creation of a Truly Independent Office of the Inspector General for the United States Department of Defense**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve accountability and transparency in the Department of Defense (DoD) and to protect Americans from violations of their rights as citizens guaranteed by the U.S. Constitution, it is hereby ordered as follows:

**Section 1. Purpose.** The Department of Defense Inspector General (DoD IG), has unequivocally failed at carrying out its mission to investigate complaints with integrity and efficiency and has further failed to ensure those who raise issues of wrongdoing are protected from retribution and reprisal. The consistent failures of the Office of the Inspector General and its larger Inspector General (IG) enterprise are having damaging effects on trust in the DoD, are squandering millions of taxpayer dollars, and are negatively impacting operational readiness and recruiting and retention. Further, without exaggeration, these failures have placed, and will likely continue to place, American service members' lives in danger through both their negative impacts on the personnel readiness of our force as well as their causal links to the U.S. military suicide and mental health crisis. The purpose of this order is to begin to rebuild our American citizens' and uniformed service members' trust in the integrity of the Department of Defense by removing the Inspector General system from the control of the Department, thereby eliminating the corrupting aspects of the current system.

**Sec. 2. Definitions.** The Department of Defense Inspector General (DoD IG) System includes the Office of the DoD IG itself, all subordinate Service component IG offices (Army, Navy, Marine Corps, Air Force, and Space Force), and commander-appointed Investigating Officers (IO) tasked with investigating Inspector General and/or Equal Opportunity (EO) matters.

**Sec. 3. The Problems.** We know the following shortcomings exist in the current organizational construct of the Department of Defense's Inspector General system:

(a) Complainants and subjects are afforded little to no due process and/or transparency from the initiation through closure of the investigation. This opacity carries on beyond investigation completion as service members are consistently denied timely access to the final Report of Investigation. The result is a significant trust deficit of the investigatory and associated administrative punishment system which results in deterring personnel from reporting wrongdoing.

(b) Irredeemable conflicts of interest exist due to Inspectors' General and command-appointed investigating officers' subordination to leaders within and throughout the DoD. This fundamental flaw introduces a palpable conflict of interest for Inspectors General and/or Investigating Officers, who must choose between loyalty to their duty to report the truth, no matter how poorly it reflects on their organization's leadership, and loyalty to themselves and/or their careers.

(c) Inspectors General and command-appointed investigating officers are inadequately trained. The paltry amount of training is neither enough to understand the investigatory process, nor enough to understand the ethical responsibilities associated with conducting a proper investigation. IGs and IOs alike have, throughout the years, consistently demonstrated their lack of understanding of critical concepts such as burdens of proof, standards of proof, and proper investigative techniques and procedures.

(d) There is a real link to the military suicide and mental health crisis due to the moral injury caused by leadership's betrayal of the DoD's stated moral and ethical guidelines compounded by an investigative mechanism which many times re-victimizes those carrying out their duty of reporting wrongdoings.

(e) There are no statutorily mandated timelines for investigations, thus victims or subjects of investigations must suffer months to years before an investigation is closed. Herein lies another causal link to the military's current mental health epidemic.

(f) In the conduct of its investigations, the DoD IG system routinely violates public law as well as DoD policies. The hubris with which the DoD IG system believes itself to be above the law is reflective of a culture that complicitly and routinely accepts deviations from rules and regulations. No longer can we rely on an organization tasked with ensuring laws and regulations are upheld if they themselves cannot be trusted to abide by them.

**Sec. 4. Remedies.** The ultimate aim of this Order is to establish an independent entity through which members of the Department of Defense can attain recourse in a fair and timely manner free from the threat of retribution and/or reprisal. We will achieve these via:

(a) Create an independent Office of the Inspector General for the Department of Defense. The only means by which military members can hope to be afforded redress and justice in a timely and impartial manner is through a system which cannot be influenced, leveraged, corrupted, and/or ignored by the Department of Defense. The only way this is achieved is by removing the Office of the Inspector General and its subordinate Inspector General offices from the organizational structure and thereby the influences of the military chain of command and leadership.

(b) Increase and improve oversight and accountability of both the Department of Defense and the newly created Inspector General for the Department of Defense. The breakdown of trust in the DoD IG system is attributable, in part, to the lack of real oversight and accountability that has taken place over the past decades, especially as it pertains to investigation of complaints. Had proper checks and balances been instituted and executed by both our Congress as well as entities such as the Council of Inspectors General on Integrity and Efficiency (CIGIE), there is no doubt we would not see the levels of investigative shortfalls we see today. Responsive and relevant oversight and accountability controls must be a part of the original organizational design of an independent IG.

(c) Increase and improve training for Inspectors General personnel. The impacts of a military administrative investigation cannot be overstated. Results of these investigations can have significant and lasting impacts on military members' careers and lives. Far more care must be taken in these investigations; the corollary being that investigators, those tasked with assisting investigations, and those performing legal reviews of investigations must be far better trained than they are currently.

(d) Institute mandatory timelines for the completion of investigations. The solution here is simple as are the reasons for it. With every day that passes during an IG investigation, the fleeting opportunity to both hold perpetrators to true account as well as provide adequate restitution to the victim dwindles. Investigations must be completed in a timely manner and Inspectors General who fail to adhere to those mandated timelines must be held accountable.

(e) Afford all current and former service members the opportunity to appeal all unsubstantiated and dismissed Inspector General complaints that were conducted and/or completed between January 20<sup>th</sup>, 2021,

to January 20<sup>th</sup>, 2025. Within 180-days of the publication of this Order, provide currently serving and former service members whose cases were unsubstantiated or dismissed during this period the ability to re-file their same complaint to the newly formed independent Inspector General office, along with any new evidence pertaining to their case. The statute of limitations for any violations enumerated in these complaints is hereby waived.

(f). To remove the opacity which has shrouded the investigation process for so long, all Inspector General Reports of Investigation (ROIs) are to be immediately submitted into the Freedom of Information Act (FOIA) queue for expedited processing such that the complainant is provided a copy of the investigative report as soon as practicable after investigation closure. This includes those ROIs from appeals referenced in paragraph (e) above.

**Sec. 5.** To the extent that carrying out the directives in this order would require revision of regulations issued through notice-and-comment rulemaking, the heads of agencies shall comply with the Administrative Procedure Act and other applicable statutes in considering or promulgating such regulatory revisions.

**Sec. 6.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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