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**OUR IG SYSTEM
TO VICTIMS OF
REPRISAL: YOYO!**





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Our IG System to Victims of Reprisal: YOYO!

One of the most prevalent missions flown in recent conflicts was Close Air Support, or, CAS. In many of these scenarios, there was little to no threat to fighter aircraft from enemies in the air or on the ground. To boot, some of the on-station times for these sorties were incredibly long, at least by fighter aircraft standards. So it was not uncommon to execute what was referred to as “YOYO ops”, which is a fitting word, both as an acronym, but as a visual representation of the operation. With a 2-ship of fighters, you may have had one tanker above the area of operation. One fighter would be on-station executing CAS, while the other fighter was on the tanker aerial refueling. Then, the two fighters would swap. You can visualize this “yo-yo” over time: one fighter goes up to get gas, the other descends into the fight, and repeat. The term was also fitting because the single fighter was on their own. The flight lead would clear the wingman off to execute YOYO ops, in other words: “2, **You’re On Your Own!**”

I think there exists a misnomer out there that a Whistleblower walks into a Congressional office somewhere with a bunch of incriminating documents and then, wham-o, the next day, they are in the headlines and have a team of lawyers and advisors right there behind them. It is not at all like that (and, in part, for good reason). There are many challenges that a Whistleblower faces, but the main one is that the burden of proof is on them. Marry that with the fact that they are working against some significant organizational inertia, primarily in that they do not have counsel, and that they are “fighting” a system that is designed to protect itself. A colleague of mine put it most succinctly when he told me during my Reprisal investigation: “Count, you find yourself in a precarious situation...the system is designed to protect you...but it’s designed to protect itself even more so.” That is, in essence, the insoluble dichotomy that a Whistleblower finds themselves in: they are told that it is their duty to raise concerns of wrongdoing, however, when they do, they begin down a long and arduous road that is as thankless as it is unlikely to achieve any sort of success. So why bother?



Stacking the Deck

The YOYO factor is no more in-your-face prevalent than the IG interview. Don't believe me? Just ask any IG then: "Who's allowed to be in the room with the victim/complainant during an IG interview." The answer: only your attorney. Oh, did we mention: that's the attorney **you've** retained on **your own dime**. So, the G has its unlimited resources, money, time and JAGs – most of which is postured to discredit you and/or your complaint – and you have...? Basically nobody.

But the deck becomes even more stacked, and sometimes based on nothing more than artistic license taken by Inspectors General, based on dubious-at-best grounds. Take for example a recent exchange with a Service's Inspector General in which despite our client having retained a lawyer, counsel was not allowed into the complaint clarification interview.

This exchange begs several questions:

- 1.) Why are you, DoDIG, so averse to having another person in the room? What is the concern and/or fear here?
- 2.) Do you have something to hide?

Going beyond the lawyerisms, let's look at this from a holistic perspective. You've been a victim of reprisal. You are now a complainant. You are afforded zero assistance, guidance, counsel from the government. You are isolated in almost every sense and the one person, per regulation, allowed into the interview room – a lawyer that you have retained – isn't allowed because some IG is simply making shit up as they go. And this brings me to the final question:

- 3.) How can the DoDIG system say with a straight face that they are independent watchdogs committed to the self-touted values of:

“Objectivity and impartiality shape our conduct and facts lead our work. The conclusions we reach and the recommendations we issue are grounded in evidence and free from external influence”

when acts such as the one above so *blatantly* show you serve as protectors of the institution and its leadership?



And Speaking of Counsel...

Shortly after I authored my first report to Congress reporting a swath of toxicity and dysfunction within DIA, I met with a lawyer to see what she could offer in terms of counsel. After that meeting, it was painfully obvious why so few people blow the whistle. Her offer to me was to represent me to Congress during the process, but to be kept on retainer in order to do it. She also told me that there was a very low probability of success in recouping any personal damages, so she would not work on a contingency basis. So, essentially, I would need to shell out tens of thousands of dollars to fix our government and get nothing in return other than the satisfaction that I helped repair the government (which I pay taxes into to ensure its operation, mind you). And all the while, as a member of the military, be constantly concerned about any backlash along the way.

I draw this parallel to show the gaping hole that exists in today's Whistleblower protections, especially as it relates to military members:

If I am issued a Letter of Counseling, or "LOC," (which is a very light slap-on-the-wrist administrative punishment in the military) for having a haircut which does not meet standards, then the military allows me to write a rebuttal. In doing so, I am afforded the services of military legal counsel at no cost.

If I am a victim of a career-ending reprisal, I am not afforded zero counsel or advisement.

I think that is an absurdly large gap. An LOC will have little to no impact on my career, but a reprisal could (and in my case did) veritably end it. Yet the military only affords me representation in the case of the LOC. That's nuts. This glaring disparity only exposes the military's duplicity because it simultaneously touts two mutually exclusive credos:

Men and women of the military: It is your duty to stand up against and report wrongdoings!

Men and women of the military: If you do so, we will not assist you – You're On Your Own!



It harkens back to my Congressional testimonial where I talked about values: what an organization truly values will speak louder than any fancy mission/vision/credo poster on any wall. If the U.S. government printed a poster right now about its true values with regards to whistleblowing, I think it would look something like this:

YOYO!



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