

SELECT COMMITTEE ON  
INTELLIGENCE  
UNITED STATES SENATE



**Prehearing Questions**  
**For**  
**Susan S. Gibson**  
**upon her nomination to be**  
**Inspector General of the National Reconnaissance Office**

## ***Duties***

### **1. What is your understanding of the scope of the programs and activities within the responsibility and authority of the Director of the NRO?**

The scope of the National Reconnaissance Office's (NRO's) programs and activities is laid out in Executive Order 12333, which states that the NRO is "responsible for research and development, acquisition, launch, deployment, and operation of overhead systems and related data processing facilities to collect intelligence and information to support national and departmental missions and other United States Government needs;" and for conducting foreign liaison in support of these missions within the framework laid out in other sections of the Executive Order. In addition to these core intelligence responsibilities, I would add the responsibility and authority of the Director to lead and manage the NRO, which includes the responsibility to judiciously and effectively manage and execute the taxpayer's funds entrusted to the NRO, and the responsibility to manage and provide for the professional development of NRO personnel.

### **2. Please describe your standards for an objective and effective office and how you intend to establish an office that maintains such standards?**

My standards for an objective and effective Inspector General (IG) office are very similar to my standards for an objective and effective General Counsel's Office. An objective and effective office requires individuals who take an open-minded, honest and thorough approach to acquiring the facts and understanding the circumstances; who know and support the missions of the NRO and the NRO Office of Inspector General (OIG); who identify and fairly apply the relevant laws, regulations and standards; and who act and think independently and with complete integrity. These are the same standards set forth by the Council of Inspectors General on Integrity and Efficiency (CIGIE). If confirmed, I will ensure that the NRO OIG staff continues to meet these standards and that they continue their professional development. I will be a role model for these standards myself, and remain vigilant in identifying and addressing any personal bias or any personal, organizational, or outside pressures or conflicts of interest, or other impediments to integrity or independence.

**3. To what extent do you believe that the timeliness and responsiveness of reporting is an element of the effectiveness of an Inspector General?**

I believe that if an IG is not timely and responsive, she is generally not effective. IG findings and recommendations need to be provided promptly to be relevant and useful to the Director as she manages the NRO and to the Congress to assist in its oversight function. However, timeliness must be viewed in light of the need for thorough investigations, inspections, and audits. Findings and recommendations must be based upon solidly developed facts and presented in a clear, understandable manner. It is incumbent on the IG to establish appropriate internal controls and to ensure that the Office is striking the correct balance between speed and thoroughness in each case.

**4. What standards and procedures would you apply to ensure the appropriate timeliness and responsiveness of the NRO Office of Inspector General's (NRO OIG) completion of inspections, audits, reviews, and investigations?**

If confirmed, I would first examine the processes and internal controls at the NRO OIG, to determine the current standards and internal controls and assess their effectiveness. I would also compare the NRO OIG's current performance against the *Quality Standards for Federal Offices of Inspector General*, as published by CIGIE, and other relevant guidance and standards. I was pleased to learn that the NRO OIG issues flash reports regarding significant issues that need to be brought to management's attention prior to the completion of an audit, review, or investigation; this is a practice I would retain. The peer review process is also a valuable tool to assess the NRO OIG's standards and procedures. In April 2014, the NRO OIG Audit Division passed a peer review conducted by the National Security Agency (NSA) OIG. A joint peer review led by NSA OIG of the NRO OIG Inspection Division began on 23 May 2016 and a peer review of the Audit Division is scheduled to begin in October 2016.

***Protection of Whistleblowers***

**5. What formal policies and processes are in place to inform employees of their right to provide information to the NRO OIG and to detect and protect against reprisal for making complaints or disclosing information to the NRO OIG?**

All new employees are briefed by members of the OIG staff. The briefing includes information on their responsibility to notify the OIG of fraud, waste, and abuse; on how to

contact the OIG; and on the laws and NRO policy that protects whistleblowers against reprisal if they make a complaint or provide information to the OIG. There are several ways employees or contractors can contact the OIG. These include a confidential hotlink process on the NRO internal information system, both open and confidential contact information that is posted on NRO's unclassified website, and drop boxes in NRO facilities. In addition, NRO employees and contractors are encouraged to visit the OIG in their offices at Headquarters and in the field.

**6. If confirmed, what additional policies and processes will you establish or recommend to the NRO Director to protect whistleblowers?**

If confirmed, I plan to review the current policies and processes to ensure that they fully and effectively protect whistleblowers and inform employees of their rights and protections. In particular, given the NRO's extensive relationships with contractors, I will ensure that all policies and processes include the whistleblower protections that apply to contractor personnel.

***Access to Information***

**7. Please describe how you would resolve, including what remedies you would pursue, if an NRO employee or contractor refuses to provide access to records, reports, audits, reviews, documents, papers, recommendations or other materials requested by the NRO IG?**

If confirmed, I would seek to resolve any issues regarding access to records or other information through discussions with NRO's leadership and General Counsel, with a goal of resolving any issues at the lowest level. If an NRO employee is refusing to provide the requested materials, and discussions with the General Counsel and the Director fail to result in access by the OIG to those materials, I would notify the oversight committees if I felt the denial of such access was improperly interfering with the conduct of the work of the OIG. If a contractor refused to voluntarily provide access, I would notify the NRO Office of Contracts that the contractor was failing to comply with its contractual requirements. If the contractor failed to comply voluntarily, I would issue a subpoena to the contractor.

**8. What is your view of the appropriate use of subpoena authority?**

In my view, subpoena authority is a valuable and essential tool that should be used sparingly.

***Sources of Complaints***

**9. If confirmed, what steps would you take to inform individuals, within or outside of the U.S. Government, including contractors, of their opportunity to provide such complaints or information to the Inspector General?**

If confirmed, I would assess the processes and mechanisms the NRO OIG currently has in place to provide information about contacting the NRO OIG, and if needed, make appropriate improvements to the processes for informing individuals, within or outside the U.S. Government, of their ability to provide complaints, concerns, or information to the NRO IG, the Intelligence Community (IC) IG, or the Department of Defense (DoD) IG. Given the NRO's mission, information about how to contact the NRO IG, through both classified and unclassified means, should be readily available to both government and contractor personnel at NRO, and also available to the general public.

***Relationship to Other Inspectors General***

**10. Please describe your priorities, if confirmed, for the work of the NRO OIG in relation to the work of other Inspectors General with responsibilities concerning intelligence programs and activities.**

During my nearly eleven years at the ODNI, I have learned and relearned the value of coordination and collaboration with interagency partners. If confirmed as the NRO IG, I would consult and coordinate regularly with the IC IG and the other IC member IGs, both individually and through the IC Inspectors General Forum, to ensure that OIG efforts across the IC are optimized. The NRO has many mission partners, including the National Geospatial-Intelligence Agency (NGA) and the NSA. I would look for opportunities to continue the current NRO OIG practice of conducting joint reviews with these agencies when appropriate. However, I expect that my priority would be to focus on matters of greatest importance to NRO's mission or other matters unique to the NRO.

**11. Please also describe your goals, if confirmed, concerning the NRO OIG participation in the work of the Intelligence Community Inspectors General Forum and any measures you would recommend to improve, if warranted, its functions.**

If confirmed, I intend to be an active member of the IC Inspectors General Forum. The Forum, both at the IG level and at the audit, inspection, investigation, and counsel committee levels, is critical to ensuring that the IC IGs are aware of each other's work. This awareness helps to reduce potential conflicts and to identify opportunities for joint work and collaboration. If confirmed, and if during my participation in the IC IG Forum, I see opportunities for improvement, I will share my views with other members of the Forum and be an active participant in bringing about any needed improvements.

***Government Accountability Office***

**Pursuant to Section 348 of the Intelligence Authorization Act for Fiscal Year 2010, the Director of National Intelligence has issued a directive on the access of the Comptroller General to information in the possession of an element of the Intelligence Community.**

**12. Please describe your understanding of the role of the Government Accountability Office (GAO) in assisting Congress in oversight that relates to such information.**

GAO's role in assisting Congress, as it relates to such information, is to evaluate Intelligence Community programs and activities; and provide information, analyses, options, recommendations, and other assistance to help the Congress make effective policy, funding, and oversight decisions.

**13. Please describe your views on what coordination between the NRO OIG and GAO would be desirable to assure full coverage of oversight requirements while avoiding conflict or duplication.**

My view is that frequent communication and coordination would assist both the NRO OIG and the GAO in accomplishing their respective oversight responsibilities. Coordination could also help deconflict and avoid a duplication of effort. This is particularly important during a constrained budget environment.

**14. Intelligence Community Directive 114 governs the Comptroller General's access to Intelligence Community information. In recent deliberations on the GAO's role in scrutinizing NRO programs, the NRO offered that Congress should leverage the NRO OIG to perform specific inquiries that might otherwise be appropriate for the GAO. Historically, the NRO OIG has been quite amenable to these requests.**

**Are you prepared to have your office support similar such requests?**

Yes, I would support similar requests.

***Independence***

**15. If confirmed, in addition to this reporting responsibility, please describe what actions you would take if a senior NRO or IC official sought to prevent you from initiating, carrying out, or completing any audit or investigation within the jurisdiction of the NRO IG?**

The Inspector General Act authorizes only the Secretary of Defense, after consultation with the Director of National Intelligence, to prohibit the NRO OIG from initiating or completing any audit or investigation if necessary to protect vital national security interests. If this authority is used, the committees must be informed. If I believed that a senior NRO or IC official was improperly seeking to prevent the NRO OIG from carrying out its lawful functions, I would consult first with the individual's senior management, to include the NRO Director, and encourage them to consult with the NRO General Counsel. If not resolved, I would report the matter to the leadership of the congressional oversight committees.

**16. The NRO has dual reporting chains (DoD and IC); you are a political appointee; and you have statutory reporting obligations. How will you balance these competing equities and reporting obligations?**

Under the Inspector General Act, the responsibility of an inspector general is to keep the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of the agency's programs and operations. My status as a political appointee would have no bearing on these responsibilities. In my view, dual reporting chains would not necessarily create competing equities and reporting obligations. I have always found it best to err on the side of reporting if there is any

ambiguity or question about whether a report is required or whether additional oversight entities should receive the information.

**17. Please provide your views on how to build and maintain the integrity and independence of your OIG staff to help them address organization pressures?**

Organizationally, the NRO IG and the OIG staff report to the Director of the NRO and do not report to any other NRO officer. This placement within the NRO helps the NRO OIG maintain its integrity and independence. To further protect the integrity and independence of its members, the OIG maintains an independent Career Service Board (CSB) for making informed decisions on assignments, awards, promotions, education/training, and administrative actions. Only senior members of the NRO OIG serve on the NRO OIG CSB, with the exception of one representative from Central Intelligence Agency (CIA) OIG when the CSB is reviewing NRO OIG personnel for possible promotion into the Senior Intelligence Service. Only the NRO IG can approve or disapprove recommendations from the NRO OIG CSB.

OIG personnel also are required to complete the Office of Government Ethics Forms 450 or 278. These forms are reviewed by their supervisors to safeguard against conflicts of interest that could affect the integrity of the OIG. In addition, at the beginning of each project, all OIG team members and project managers complete an Independence Certification. If any potential independence or integrity issues are noted, the issues must be mitigated or the individual will be assigned to another project.

If confirmed, I would continue these structures and processes and look for additional ways to improve the integrity and independence of the OIG. I have always maintained an "open door" policy and encourage employees under my supervision to seek guidance and assistance whenever they feel they are being subjected to inappropriate organizational pressures. I would continue this practice if confirmed as the NRO IG.



### ***Inspector General Work Plan***

- 18. If confirmed, how will you determine the investigations and reports that are necessary or desirable to complete each year? Would you anticipate developing a work plan for each year in office?**

I have had the opportunity to review the NRO OIG's current process for determining which investigations and reports are necessary or desirable and for developing its annual work plan. The process identifies oversight projects that address NRO mission risks; support the OIG's responsibilities to promote economy, efficiency, and effectiveness; and prevent and detect fraud, waste, and mismanagement. The current process includes identifying all congressionally required reviews, and engaging with stakeholders (to include congressional oversight committees) to identify mission risks and management challenges. If confirmed, I anticipate developing a work plan for each year I am in office. I also commit to undertaking unanticipated work based on congressional or NRO senior leadership concerns and emerging issues.

### ***Referrals to the Department of Justice***

- 19. Please describe your understanding of the authority and responsibility of the NRO OIG to refer matters to the Department of Justice concerning possible criminal conduct, including the conduct of current or former officials?**

The basic Inspector General authorities and responsibilities for reporting possible criminal conduct, including allegations of criminal conduct by current or former officials, are found in section 4 of the Inspector General Act and in the *1995 Memorandum of Understanding: Reporting of Information concerning Federal Crimes*, which addresses the reporting requirements in Executive Order 12333, and in 28 U.S.C. §535(b). If confirmed, I would be responsible for reporting to the Attorney General possible violations of the federal criminal laws by employees and others in a manner consistent with the protection of intelligence sources and methods.

**20. In your view, what should be the role, if any, of other NRO offices or officials, including the Office of General Counsel, in making referrals to the Department of Justice?**

All Intelligence Community personnel have the responsibility to report potential criminal misconduct; employees may report criminal allegations to either the IG or the General Counsel. In accordance with Sections III-V of the *1995 Memorandum of Understanding: Reporting of Information concerning Federal Crimes*, the NRO Office of General Counsel is required to report possible violations of federal and state criminal laws to the Department of Justice or to state or local law enforcement authorities, subject to certain exceptions including, but not limited to, allegations subject to the OIG's jurisdiction that have been reported to the OIG. The NRO Office of General Counsel's military attorney also reviews possible violations of the Uniform Code of Military Justice to determine if referral through military command channels is appropriate.

***Consultations about Reports***

**21. Under what circumstances, if any, do you believe it would be appropriate for the NRO OIG to consult with officials in the NRO, or other officials of an IC element outside an office of an Inspector General, before issuing a report, regarding the findings and recommendations in the report?**

The NRO OIG's current practice of providing draft reports of audits, inspections, or special projects to NRO management to solicit comments and factual corrections is appropriate and consistent with the standards set by CIGIE. Providing drafts of these reports to management for comment helps ensure that the reports are factually accurate, that findings and recommendations are supported by the facts, that classified information is properly identified, that proprietary and other similarly sensitive information is properly protected, and that the managers understand the underlying basis for the findings and recommendations. However, the final responsibility for determining appropriate findings and recommendations rests with the OIG. If a recommendation requires the NRO to coordinate with another agency, I would expect the IG of that agency to be informed of the matter.

The NRO OIG also frequently teams with other OIGs in the IC to conduct joint reviews. The NRO OIG has found that working with OIG members from across the IC on matters that affect other IC agencies creates a more accurate result with a broader perspective. It is

my understanding that for these joint reviews, the involved OIGs consult with the appropriate IC officials before issuing a final report to solicit comments and factual corrections.

**22. To the extent that you believe such consultation is appropriate, what steps, if any, do you believe the Inspector General should take to keep a record of the consultation and record the results in the text of the report?**

When the NRO OIG requests comments and technical accuracy reviews on draft reports, any comments or corrections should be submitted in writing. Any comments indicating disagreement with the NRO OIG's findings and recommendations should be made a part of the report, and other comments or corrections may be included as appropriate. All comments or discussions with management regarding a project or case should be captured in the project or case working papers.

**23. Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the NRO OIG not investigate or review a particular matter?**

As noted in my response to Question 15, only the Secretary of Defense can prohibit the NRO IG from initiating any audit or investigation and only if such prohibition is necessary to protect vital national security interests. However, if a senior NRO official requested that a review be delayed because the review would likely interfere with critical on-going mission activities, I would discuss the situation with senior leaders in the NRO and in my office and determine whether delaying the review served the best interests of the NRO and the country.

**24. Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the NRO OIG not issue a report on a particular matter?**

As noted above, only the Secretary of Defense can prohibit the issuance of a report. If the investigation or review has been completed, there are circumstances where it would be appropriate to limit dissemination of a report, for example a report on a review of a highly compartmented program or an overhead collection operation in support of a covert action. However, the report would still at a minimum be provided to the Director of the NRO and the chair and vice chair or ranking member of the oversight committees.

**25. Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the NRO OIG change findings, recommendations, or other pertinent material in a report on a particular matter?**

It is essential that reports issued by an IG are accurate. If confirmed, I intend to continue the NRO OIG's current practice of submitting draft reports to the affected directorates and offices for a review to ensure that the report is factually accurate and the recommendations are addressed to the appropriate officials. While I would welcome factual corrections and suggested changes to recommendations, I would not condone any requests to make changes to a report if the request were based on a desire to avoid embarrassment, to keep information from Congress, or for other inappropriate reasons.

**26. Please describe your views on the appropriate relationship between the NRO OIG and the NRO Office of Congressional Affairs when communicating with the Congress.**

The NRO OIG must maintain direct communication channels with Congress. At the same time, the NRO OIG generally should keep the NRO Office of Congressional and Public Affairs informed of communications with Congress. The final responsibility for determining appropriate coordination with the NRO Office of Congressional Affairs rests with the OIG.

**27. What is your position on the role of the NRO OIG to monitor NRO adherence to Congressional intent and direction?**

NRO's adherence to congressional intent and direction is foundational to its relationship with the Congress. Given the breadth of NRO programs, the Congress implicitly trusts the NRO to comply with direction provided in its legislation and incorporated into classified annexes, or to communicate when any deviation is necessary and appropriate. The role of the NRO OIG in this process is to ensure that the NRO is honoring its commitment in this regard, and highlight any perceived deficiencies to NRO leadership and to the congressional oversight committees as appropriate.

**28. Please also describe your views on the appropriate relationship between the NRO OIG and the NRO Office of General Counsel when those communications involve legal issues.**

The Inspector General Act provides that an IG shall obtain legal advice from a counsel reporting either directly to the IG or to another IG. This construct provides the IG with independent legal advice on matters within the IG's purview, free from any real or perceived conflict that might occur. The role of the NRO General Counsel is to provide legal advice to the NRO's leadership concerning matters within the NRO's mission. However, legal advice from the IG's counsel will often benefit from consultation with the NRO's General Counsel. If confirmed, I would advise my counsel to work closely with the NRO's General Counsel on resolution of legal issues identified in the course of any investigations or review. This would enable the two offices to either reach an accord, or properly frame the issue when agreement on the resolution cannot be reached. I would expect my counsel to provide me with independent and objective advice that is informed by, but not inappropriately influenced, by those discussions.

***Major Challenges, Problems, and Priorities***

**29. In your view, what are the major challenges facing the NRO OIG?**

I am not currently aware of any major challenges facing the NRO OIG. I assume that the NRO OIG, like every OIG, needs to ensure it has full and prompt access to the information needed to thoroughly investigate or review a matter, but I have not been informed of any particular problems with access to information. I also assume that there are budget and personnel resource constraints that limit the number of reviews the OIG can accomplish. The Acting IG has informed me that the office recently spent two days identifying and developing solutions to the issues of most importance to the staff and working on the strategic plan for the office. If confirmed, I will review those issues and the plan to get a better understanding of the challenges the staff feels it faces.

- 30. The NRO is emerging from a period wherein the ability of the organization to produce on schedule and budget major system acquisitions was questioned. Some problems persist, and the NRO remains under strict scrutiny. What is your perspective on the NRO IG's role in scrutinizing the performance of the NRO?**

In my view, the NRO IG's role should be to continue its oversight of major system acquisition to help the NRO make additional progress towards a more efficient, effective, and accountable acquisition process. Effective execution of major system acquisitions is one of the NRO's most important missions and it should receive commensurate NRO OIG oversight and scrutiny.

***Personnel and Budgetary Resources of the NRO OIG***

- 31. Please describe the present organization, staffing (both with respect to authorized positions and positions currently filled), training, and resources of the NRO OIG.**

The NRO OIG presently consists of the front office and five divisions. Those divisions are Audit, Inspections, Investigations, Management Services, and Special Projects. The NRO OIG staff consists of CIA officers, NRO Cadre personnel, and active duty Air Force members. The NRO OIG is currently about 90 percent staffed, with several additional personnel scheduled to arrive over the next 6 months. I have not had an opportunity to review the training records of the NRO OIG personnel but am told that they are meeting all of the training requirements established by CIGIE. The NRO OIG budget is classified. I have received an overview of the OIG budget and, if confirmed, will conduct an in-depth examination.

- 32. If you are confirmed, what changes, if any, would you expect to consider or make in the present OIG with regard to organization, staff qualifications, training, budget, or other features relevant to the effective performance of the duties of the new statutory office?**

If confirmed, I will review the current organization, staff qualifications, training, and budget to ensure the NRO OIG can effectively perform its mission. The NRO OIG has been in existence since 1987 and was established as a designated federal entity IG in 2010. In my many years of military and government service, it has never been my practice to make major organizational changes as soon as I arrive. If confirmed, I will review the NRO OIG, consult with stakeholders inside and outside the office, to include the

congressional committees, and assess where improvements can be made. In my experience, training is one area that can almost always be improved, so I will start by looking for any training gaps or opportunities.

**33. To your knowledge, to what extent, if any, has the NRO OIG used contractors to perform audit and investigative functions?**

The Chief Financial Officers (CFO) Act of 1990, as amended by the Government Management Reform Act of 1994, and Office of Management and Budget Bulletin 14-02, requires an agency's IG or qualified independent public accountant under the direction of the IG, to audit an agency's financial statements. The NRO OIG uses the services of an independent public accounting firm to perform the audit of the NRO's annual financial statements. The NRO OIG also uses this firm to perform the Federal Information Security Modernization Act (FISMA) evaluation and the Statement on Standards for Attestation Engagements (SSAE) No. 16 examination. The NRO OIG oversees the work of the firm to ensure it is properly performed. The remaining oversight activities of the NRO OIG are conducted by NRO OIG government personnel.

**34. Under what circumstances, if any, do you believe that the use of contractors to perform such functions is appropriate?**

The NRO OIG's use of contractors to perform the audit of the NRO financial statements, the FISMA evaluation, and the SSAE 16 attestation is appropriate as permitted by the CFO Act and OMB Bulletin 14-02. While it may be necessary to obtain the services of a subject matter expert on a limited basis to support an audit or inspection, if confirmed, I have no plans to expand the use of contractors to perform additional audit or investigative functions.

**35. In your view, are there any barriers or disincentives, including any created by personnel policies, that impede the recruitment or retention of qualified IG personnel? If so, please describe.**

I am concerned that the current cadre staffing allocations for the NRO OIG may limit its ability to recruit and retain personnel with the skills necessary to fully perform its mission. The NRO is undergoing a significant restructuring of its personnel system to incorporate a permanent cadre. If confirmed, I would review the NRO OIG's cadre, military, and detailee mix and seek changes as needed.

### ***Oversight of Acquisition Programs and Contracts***

**36. What role, if any, do you believe the NRO OIG should play in achieving acquisition reform?**

As part of the NRO OIG's continued commitment to providing value-added oversight of NRO acquisition practices, it must remain focused on NRO's acquisition reform progress and plans. For example, the NRO OIG must continue to evaluate the NRO's progress improving the professionalism of the acquisition workforce, which includes program management, engineering, contracting, and product support disciplines. In addition, the NRO OIG must continue to oversee efforts to improve competition, cost realism, and program risk reductions.

**37. What is your view of the role the NRO OIG should play in oversight, audit, and investigation over NRO contracts?**

In my view, the NRO OIG should continue to conduct independent and objective acquisition audits, inspections, and special reviews of NRO contracts. These reviews should include the effectiveness of program management and acquisition planning at the NRO, which includes a review of whether effective and responsible contracting practices were followed. I will also ensure that the investigations unit continues its strong investigative efforts focused on fraud and defective and counterfeit parts, and make recommendations to correct any government practices that permitted fraud or contractor misconduct to occur.

### ***Questionnaire Follow-Up***

**38. In your response to question 31 of the Questionnaire you completed on May 2, 2016, you stated that you received interest in the amount of \_\_\_\_\_ in 2012. Could you please provide details about this amount, given that it far exceeds the amount of interest earned in the other calendar years reported?**

My husband and I held \_\_\_\_\_ E and I Series U.S. Savings Bonds that we had accumulated through direct purchase and military payroll deductions early in our careers. In 2012, \_\_\_\_\_ bonds were approaching their full maturity dates. We decided to



redeem savings bonds that year, which resulted in an unusually large amount of interest income.

**39. In your response to question 38 of the Questionnaire you completed on May 2, 2016, you indicated that you were the subject of a Professional Responsibility inquiry by the Army JAG Corps' Standards of Conduct Office. Could you please provide additional details about this inquiry even though it was closed as unfounded?**

In the mid-1990s, I was the Deputy Staff Judge Advocate for Aberdeen Proving Ground. As such, I was the senior legal advisor to the U.S. Army Ordnance Center and School as the command addressed the legal, congressional, and public relations issues during the 1996 investigations into allegations that drill sergeants and instructors sexually assaulted and raped trainees. Soon after the initial reports by trainees of rapes and other sexual assaults by drill sergeants and instructors at Aberdeen, I learned that some trainees were being read their Article 31 rights for "false official statement" as soon as they began to make allegations against drill sergeants.

Article 31 rights are required by Article 31 of the Uniform Code of Military Justice (10 U.S.C. §831). They are similar to *Miranda* rights, but also include the requirement to inform the suspect of the "nature of the accusation." In practice, this means that suspects are "read their rights" for a particular offense or offenses.

Ordnance School personnel were also subject to a local punitive regulation that made it a violation of a lawful order for trainees and drill sergeants/instructors to "fraternize." As a result, if a trainee made statements to criminal investigators that could be perceived as admitting to fraternization (*e.g.*, drinking with a drill sergeant, getting into a drill sergeant's car, travelling off the military installation with an instructor, etc.), they were being read their rights for violation of a lawful military order, in the form of this local punitive regulation.

I was concerned that giving rights warnings in these circumstances could be perceived as attempting to intimidate the trainees from reporting allegations of misconduct. I took steps to stop improper rights warnings—such as the warnings given for false official statements as soon as the trainees began to report—and to appropriately limit other circumstances where trainees would be read their rights.

After the first wave of courts-martial concluded, the Office of the Army Inspector General thoroughly investigated the Aberdeen incidents and the command's response. During the investigation, there was an allegation that I had improperly instructed Army criminal investigators not to read Article 31 rights to trainees who admitted to violations of the punitive fraternization regulation. The Army OIG turned the matter over to the Army Judge Advocate General for resolution, and the JAG Corps Standards of Conduct Office in turn assigned an investigator to examine the facts surrounding this allegation. The investigator concluded that the allegation against me was unfounded. The Standards of Conduct Office concurred with the findings and closed the case as unfounded.