



OFFICE OF THE NATIONAL COMMANDER
CIVIL AIR PATROL
UNITED STATES AIR FORCE AUXILIARY
MAXWELL AIR FORCE BASE, ALABAMA 36112-5937

ICL 17-04
15 MARCH 2017

MEMORANDUM FOR ALL CAP UNIT COMMANDERS

FROM: CAP/CC

SUBJECT: Interim Change Letter - CAPR 123-2, *Complaints*

1. CAPR 123-2 will soon begin revision as a part of the publication reengineering project. This interim change letter will remain in effect until the new regulation is published; there is no expiration date on this change letter, but we expect the new regulation to be published in FY17.

2. CAPR 123-2 will be amended as follows:

a. Paragraph 1.d is amended to read:

d. Policy on Receiving Complaints. CAP IGs receive and process complaints from CAP members, USAF members and parents or legal guardians of cadets (including anonymous), via any medium, however, members are encouraged to utilize the CAPF 30, *IG Personal and Fraud, Waste & Abuse Complaint Registration*. Complaints must be received in English and will be resolved through referral, transfer, dismissal, assistance, or investigation (see paragraph 8e). Inspectors General will maintain a record of all contacts and the rationale for selecting the resolution strategy implemented for each contact. Completion of a written complaint analysis in accordance with paragraph 8d meets this requirement.

b. Paragraph 7a(2) is amended to read:

(2) The CAPF 30 is not required for the initial complaint but the IG must obtain a signed CAPF 30 from the complainant (unless anonymous) prior to the completion of the complaint analysis. CAPF 30, (*IG Personal and Fraud, Waste & Abuse Complaint Registration*) is the summary page for the complaint and should indicate the CAP standard(s) (an identifiable directive, instruction, policy, regulation, rule, statute, or other standard) alleged to have been violated. Complaints must be accompanied by all available documentation in the possession or control of the complainant.

(a) If no CAPF 30 is received the IG will advise the complainant that he or she has 15 days after an IG request for information to submit the form, along with other clarifying information. If no CAPF 30 or clarifying information is received, the complaint may be considered frivolous or it may be dismissed.

c. Paragraph 8e(2)(f) is added to read:

(f) Frivolous Complaints. Frivolous complaints are defined in ICL 17-03 to CAPR 123-

1. If a complaint is determined to be frivolous, the person filing the complaint may be subject to disciplinary action. The procedure is as follows:

(1) If, after applying the acid test; the receiving IG believes that the complaint is frivolous (based on the definition in ICL 17-03 to CAPR 123-1), the IG will submit a written justification, along with the completed complaint analysis, to the CAP/IG or CAP/IGQ.

(2) The CAP/IG will determine if the complaint is frivolous after performing the frivolous complaint acid test and notify the receiving IG of their determination. The frivolous complaint acid test and flow chart are in the *"Complaint Investigating Officers Guide."*

(3) If the complaint is determined to be frivolous, the receiving IG will forward the determination to the appointing authority for action.

(4) A complaint deemed frivolous or one that is submitted outside those defined in the protected communication definition are not eligible for Whistleblower protection.

3. Any questions can be directed to Col. Cheryl Fielitz-Scarborough, CAP/IG at cfielitzscarborough@cap.gov.

JOSEPH R. VAZQUEZ
Major General, CAP
Commander



NATIONAL HEADQUARTERS CIVIL AIR PATROL

CAP REGULATION 123-2

31 DECEMBER 2012

INCLUDES ICL 17-04 15 MARCH 2017

Inspector General

COMPLAINTS

This regulation establishes policies related to Civil Air Patrol Complaints and Fraud, Waste and Abuse (FWA) programs and Whistleblower Protection program. It includes procedures for submitting and processing complaints against all CAP members acting in their volunteer capacity and against the corporate entity. This program is managed by the CAP Inspector General (CAP/IG). This regulation does not apply to complaints against persons acting in their capacity as CAP employees, who are governed by the *CAP Employee Handbook* or complaints alleging discrimination.

SUMMARY OF CHANGES. This revision implements changes to CAP governance; moves the definitions for all Inspector General program documents to attachment 1 of CAPR 123-1; updates the requirements for handling complaints against CAP Senior Level Officials, Whistleblower complaints and appointing investigating officers; adds the requirements to use a CAPF 30 in the submission of a complaint and makes use of the Electronic Case Information Management database mandatory for all inspectors general and investigating officers. **Note: Shaded areas identify new or revised material.**

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Supersedes: CAPR 123-2, 24 March 2008.

Distribution: National CAP website.

OPR: COX

Pages: 20

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1. General. The Civil Air Patrol Complaints Resolution program is designed to prevent, detect, and correct any fraud, waste and abuse (FWA), mismanagement or deficiency, acts of reprisal or restriction, or cadet protection issues. When complaints against CAP senior level officials (see definition in CAPR 123-1, Civil Air Patrol Inspector General Program, attachment 1) are received, the CAP Inspector General shall notify the CAP National Commander, CAP National Headquarters General Counsel (NHQ/GC), and the CAP-USAF/IG of the complaint.

a. Core Responsibilities of the CAP Complaints Resolution program are reflected in CAPR 123-1.

b. **Oversight.** CAP has responsibility for insuring the CAP Complaints Resolution program is properly implemented and that its members are afforded a fair and effective mechanism to redress complaints. CAP-USAF does not administer the CAP Complaints Resolution program nor does CAP-USAF control CAP's investigations, the outcome of individual complaints, or membership administrative and disciplinary actions. If CAP-USAF has general concerns, at any time, about the manner in which the CAP Complaints Resolution program is being implemented, these concerns may be raised by the CAP-USAF/CC to CAP leadership in accordance with the Statement of Work or other document regulating relations between Civil Air Patrol and the United States Air Force.

c. **Responsibilities.** CAP members have a responsibility to report FWA; violations of policies, or directives; abuse (including abuse of authority); cadet protection issues, or misconduct; to an appropriate commander or IG. In addition, CAP members should report any known violations of law relating to these CAP issues.

d. **Policy on Receiving Complaints.** CAP IGs receive and process complaints from CAP members, USAF members and parents or legal guardians of cadets (including anonymous), via any medium, however, members are encouraged to utilize the CAPF 30, IG Personal and Fraud, Waste & Abuse Complaint Registration. Complaints must be received in English and will be resolved through referral, transfer, dismissal, assistance, or investigation (see paragraph 8e). Inspectors General will maintain a record of all contacts and the rationale for selecting the resolution strategy implemented for each contact. Completion of a written complaint analysis in accordance with paragraph 8d meets this requirement.

2. Definitions. Definitions of terms used in this regulation can be found in CAPR 123-1, attachment 1, and are provided as an aid to understanding the terms used in the Inspector General program.

3. The Whistleblower Protection Program.

a. **Policy.** The CAP Whistleblower Protection program provides protection against reprisal or abuse of authority toward members who expose fraud, waste, mismanagement, deficiency, cadet protection issues, abuse of authority or discrimination. This program is applicable to all CAP members.

(1) No person shall restrict a member of CAP from making a protected communication.

(2) Any CAP member who attempts to limit another member's right to make or prepare to make a protected communication, or who attempts to reprise against a member for making or preparing to make a protected communication, is in violation of the CAP Whistleblower Protection program policy and may receive administrative and/or disciplinary action.

(3) A Whistleblower complaint is considered an administrative action, and no appeal of an adverse membership action may be made to the Membership Action Review Panel (MARP) until the Whistleblower complaint has been resolved.

b. Responsibilities.

(1) CAP Inspector General.

(a) Develops, publishes and oversees the Whistleblower Protection program.

(b) Develops IG training materials for CAP members.

(c) Develops publicity materials and articles to publicize the Whistleblower Protection program.

(d) Ensures that complaints of misconduct, fraud, waste and/or abuse against CAP senior level officials receive a thorough complaint analysis and, if IG investigation is warranted, are investigated or transferred to the appropriate investigation level.

(e) Processes Whistleblower complaints against members of the national staff, region commanders and members of region staffs.

(2) Region Inspectors General.

(a) Normally, process Whistleblower complaints against wing commanders (when assigned by the CAP/IG) and members of wing staffs.

(b) Disseminate information and materials regarding the Whistleblower Protection program.

(3) Wing Inspectors General.

(a) Normally investigate Whistleblower complaints against group and squadron commanders and members.

(b) Disseminate information and materials regarding the Whistleblower Protection program.

c. Procedures.

(1) Whistleblower complaints will be processed on a priority basis in accordance with paragraph 8. During the complaint analysis phase, when the Acid Test for Reprisal is accomplished and the answers to the first two questions are "YES", notification of the potential reprisal will be made to the CAP/IG and to NHQ/GC. Additionally, a copy of the complaint will be forwarded to the CAP/IG and to NHQ/GC within 14 days.

(2) At the completion of the report of investigation (ROI) for all reprisal cases, a copy of the ROI will be submitted to the next higher echelon IG for review and approval. This is to be accomplished prior to submission of the ROI to the appointing authority.

(3) Upon completion of all actions taken, if any, a copy of the close-out letter describing those actions will be forwarded to the CAP/IG, and distributed to the CAP/GC and, if the complaint is against a CAP senior level official, to CAP-USAF/IG. NHQ/GC and CAP-USAF/IG will have access to the complaints database so that the ROI from such cases may be reviewed on an as needed basis.

4. Sexual Abuse Complaints, Complaints Involving Criminal Conduct, and Civil Air Patrol Nondiscrimination Policy Complaints.

a. The commander or inspector general receiving a complaint of alleged sexual abuse or involving criminal conduct shall give immediate notification to NHQ/GC. Any further action or investigation into these complaints by CAP must be specifically authorized by NHQ/GC. (See CAPR 52-10, *CAP Cadet Protection Policy*; and CAPR 52-16, *Cadet Program Management*, as it relates to sexual abuse in violation of the Cadet Protection Policy).

b. Complaints of sexual abuse or other criminal conduct should be reported to and investigated by appropriate civilian law enforcement agencies in accordance with the laws of the state. Any further action or investigation into these complaints, by CAP, must be specifically authorized by NHQ/GC. The NHQ/GC will make any notifications required by established procedures.

c. IGs receiving complaints alleging violation of the CAP Nondiscrimination Policy will immediately refer the complaint to the CAP Equal Opportunity Officer (EEO), via the NHQ Equal Opportunity Administrator, to be handled in accordance with CAPR 36-2, *Complaints Under The Civil Air Patrol Nondiscrimination Policy*.

5. Complaints Processed Under Other Regulations. The CAP Complaints Resolution program may not be used for matters normally addressed through other established grievance or appeal channels, unless there is evidence that those channels mishandled the matter or process. If a policy directive provides a specific means of redress or appeal of a grievance, complainants must exhaust those procedures before filing an IG complaint.

6. Complaints and Chain of Command Policy.

a. To provide an opportunity for the internal resolution of disputes, unit commanders are encouraged to maintain an open door policy for the members of their respective units.

b. Members should follow the chain of command. Commanders and members should make every attempt to resolve problems, conflicts, and disputes within CAP at the lowest unit level possible.

c. A member's use of the procedures set forth in this regulation will be free from reprisal by any other member. However, CAP members must understand that when submitting complaints, they are making official statements within CAP channels. Therefore, CAP members may receive administrative or disciplinary action under appropriate CAP regulations for knowingly making false statements. Any commander or inspector general who reasonably believes a complainant has submitted a knowingly false statement should consult with their legal officer before taking any action.

d. Prior to presenting a complaint to the appropriate IG, complainants should first consider whether their complaint may be solved more quickly and simply by contacting the unit commander, legal officer or chaplain.

e. Members are advised of their duty to use appropriate channels and grievance systems to resolve complaints at the lowest possible level and will not send copies of complaints, correspondence relating to complaints, or otherwise communicate complaint information to other

CAP members, including CAP staff or members of the CAP Board of Governors (BOG), except as outlined in paragraph 7c. However, nothing herein should be interpreted as restricting a member's right to communicate with any CAP commander, elected or regulatory federal, state and local governmental officials or legal counsel.

7. Complaints Submission.

a. CAP members (senior or cadet), parents or legal guardians on behalf of their cadet members, USAF members or other interested individuals have the right to file complaints under this regulation. All allegations of FWA may be accepted regardless of the source. Complaints submitted under the CAP Inspector General program must be filed using the procedures established in this regulation.

(1) All complaints should be in writing, dated and signed by the complainant. Signature on the complaint is deemed to be an affirmation and is evidence that all information in the complaint is true and correct to the best of the knowledge of the complainant. Complainants providing information to the CAP IG program are submitting official statements within official CAP channels. Therefore, complainants who are CAP members remain subject to punitive action (or adverse administrative action) for knowingly making false statements and/or communications.

(2) The CAPF 30 is not required for the initial complaint but the IG must obtain a signed CAPF 30 from the complainant (unless anonymous) prior to the completion of the complaint analysis. CAPF 30, (IG Personal and Fraud, Waste & Abuse Complaint Registration) is the summary page for the complaint and should indicate the CAP standard(s) (an identifiable directive, instruction, policy, regulation, rule, statute, or other standard) alleged to have been violated. Complaints must be accompanied by all available documentation in the possession or control of the complainant.

(a) If no CAPF 30 is received the IG will advise the complainant that he or she has 15 days after an IG request for information to submit the form, along with other clarifying information. If no CAPF 30 or clarifying information is received, the complaint may be considered frivolous or it may be dismissed.

(3) E-mail and verbal (telephone or direct conversation) complaints should be followed-up with a written submission, including a CAPF 30, signed by the complainant and dated and submitted to the IG (postmarked, e-mailed or hand delivered) within 14 days of the original notification.

b. Complainants may submit complaints anonymously. Anonymous complaints may be filed through the CAP FWA Hotline, or directly with an IG. E-mail and voice (telephone) complaints filed anonymously do not require a written follow up or a completed CAPF 30. Anonymous complaints are NEVER evidence of a violation of CAP directives and cannot be used as evidence of a violation of CAP directives. Anonymous complaints may only be acted upon if the complaint analysis reveals credible evidence of a violation of CAP directives.

c. Where to File a Complaint.

(1) Except as described below, complaints should be submitted to the commander or inspector general of the wing or region to which the complainant is assigned. If the subject is not in the same chain of command as the complainant, the commander or inspector general will forward the complaint to the appropriate commander or inspector general of the unit in the subject's chain of command and will notify the complainant of the transfer. The transfer will be documented as a case note in the CAP Electronic Case Information Management (ECIM) database (see paragraph 7f, below).

(2) Complaints against a commander of a unit subordinate to a wing shall be filed with the wing commander or inspector general.

(3) Complaints against CAP senior level officials shall be submitted directly to the CAP/IG.

(4) Complaints against the CAP/IG are submitted directly to the CAP/CC, unless the CAP/CC is a party (complainant, subject or witness) to the complaint. If the CAP/CC is a party to a complaint against the CAP/IG, the complaint will be submitted to the BOG Executive Secretary. Informational copies of complaints filed against the CAP/IG will be forwarded to the CAP-USAF/IG by the CAP/CC or BOG Executive Secretary, respectively.

d. Time Limits for Filing a Complaint.

(1) The complainant shall submit the complaint within 60 days of the occurrence or action upon which the complaint is based or within 60 days of the complainant becoming aware of the occurrence or action upon which the complaint is based.

(2) An IG is not required to look into a complaint if a complainant has failed to present the matter within 60 days. IGs, in consultation with their appointing authority, may accept and refer complaints that exceed the above requirements if the complaint is of special CAP interest or the complainant is able to demonstrate that he/she was unable to meet the time requirements due to unforeseen or extra ordinary circumstances and such circumstances justify the delay.

e. Delivery of an IG Complaint.

(1) Complaints may be delivered personally, by mail, by telephone or by e-mail. The date of actual receipt or 5 days following the date of the postmark, whichever is earlier, is the effective date of the complaint.

(2) The complaint must be annotated with the date received and the original postmarked envelope retained to properly establish date of receipt.

(3) The effective date of telephone and/or e-mail complaints will be the date of actual receipt only if a written follow-up, with signature, is submitted (postmarked, e-mailed or hand delivered) within 14 days following the date of the receipt of the e-mail.

(4) For anonymous complaints the effective date will be the date the complaint is received.

f. CAP Electronic Case Information Management (ECIM). Case files for all assisted, referred, transferred, dismissed or investigated issues handled by an IG or IO will be recorded in the CAP ECIM database to document the time invested, case progress and the outcome. Information concerning the progress of IG case files will be entered into ECIM as a case note at a minimum of every 30 days. ECIM is the official system of record for all IG complaints in CAP.

8. Complaint Processing.

a. Complaint Acknowledgement. Receipt of a complaint shall be acknowledged in writing by the IG or IO within 30 days of the effective date of the complaint. This notification will inform the complainant when the complaint was received and that a complaint analysis has begun. At this point an IG investigation has not started. The decision whether to open an IG investigation will be made at the conclusion of the complaint analysis.

b. CAP-USAF Policy Regarding CAP Members Interviewing United States Air Force (USAF) Personnel. This policy is contained in attachment 1.

c. CAP Policy Regarding CAP Members Interviewing CAP Employees. This policy is contained in attachment 2.

d. Complaint Clarification. If upon initial receipt of the complaint the IG identifies the need for more information from the complainant, the IG will conduct a complaint clarification. This contact will be properly documented in ECIM and conducted in accordance with the CAP “Complaint Investigating Officers Guide”.

e. Complaint Analysis.

(1) Policy for Complaint Analysis. In each case, the IG/IO assigned to handle a complaint will conduct a thorough complaint analysis to determine the appropriate complaint resolution strategy. A complaint analysis is always required, and results in either assistance, dismissal, investigation, referral or transfer of the complaint. Complaints containing multiple assertions may require multiple resolution strategies, i.e., referral, dismissal and/or investigation. For every assertion document the rationale for the selected resolution strategy(s) in ECIM.

(2) Conducting a Complaint Analysis. A complaint analysis is a preliminary review of assertions and evidence to determine the potential validity and relevance of the issues to CAP and to determine what action is necessary within IG, supervisory or other channels. As a part of Complaint Analysis, the IO will consult with a Legal Officer to help frame the allegation(s) and develop an investigation plan, if necessary. At the conclusion of a complaint analysis, the IG may:

(a) Assist: IGs assist complainants in resolving personal problems when there is no evidence or assertion of wrongdoing. To remedy a problem, IGs may make phone calls, ask questions of functional experts, solicit helpful information from the appropriate organization or agency, or put the complainant in contact with the person, organization or agency that can appropriately address their problem. The purpose of assistance is to quickly resolve personal issues and allow the complainant to refocus on the assigned mission.

(b) Refer: When the complaint analysis discloses that an organization or agency outside the CAP IG Complaints Resolution system can more appropriately handle a complaint alleging a violation of directive, policy or procedure by a management official, IGs will refer the complaint to the appropriate organization or agency. When referring complaints, IGs will include the Referral Completion Report (RCR) template (see the CAP “*Complaint Investigating Officers Guide*”) with the complaint. The organization receiving the referral will complete the RCR and return it to the IG within 30 days of receipt along with a courtesy copy of their response to the complainant.

(c) Transfer: A complaint is transferred when the complaint analysis discloses that the matter is appropriate for CAP IG action, but an IG other than the one receiving the complaint should handle the matter.

(d) Investigate: A complaint may be investigated when a properly framed allegation is derived from the issues asserted or implied by the complainant and the IG determines the substantive issues framed in an allegation are appropriate IG matters.

(e) Dismiss: A complaint may be dismissed following a thorough complaint analysis if there is no assertion or evidence of a standard being violated, or one of the following situations apply: (i) The complainant fails to bring forth credible evidence of a violation of law, CAP directive or policy; (ii) The complainant has exhausted procedural appeals with an administrative process and there is no evidence of a process problem; (iii) The complainant did not contact the IG within 60 days of learning of the alleged wrongdoing and there is no overriding

CAP interest in the alleged matters; (iv) The complainant refuses to provide sufficient evidence to properly conduct the complaint analysis or fails to respond to requests for additional information within 30 days; (v) The issue is without merit, frivolous, or that an IG investigation would not appreciably affect the outcome or remedy sought; (vi) The allegations have already been investigated and reviewed by a higher-level IG office; (vii) The complainant requests to withdraw the complaint and there is no overriding CAP interest in the complaint.

(f) Frivolous Complaints. Frivolous complaints are defined in ICL 17-03 to CAPR 123-1. If a complaint is determined to be frivolous, the person filing the complaint may be subject to disciplinary action. The procedure is as follows:

1. If, after applying the acid test; the receiving IG believes that the complaint is frivolous (based on the definition in ICL 17-03 to CAPR 123-1), the IG will submit a written justification, along with the completed complaint analysis, to the CAP/IG or CAP/IGQ.

2. The CAP/IG will determine if the complaint is frivolous after performing the frivolous complaint acid test and notify the receiving IG of their determination. The frivolous complaint acid test and flow chart are in the *“Complaint Investigating Officers Guide.”*

3. If the complaint is determined to be frivolous, the receiving IG will forward the determination to the appointing authority for action.

4. A complaint deemed frivolous or one that is submitted outside those defined in the protected communication definition are not eligible for Whistleblower protection.

(3) Written documentation of the complaint analysis will be made using the format specified in the Complaint Investigating Officer Guide to be entered into the CAP ECIM system and become part of the case file described in paragraph 9a.

f. Appointment of Complaint Investigating Officer. When it is determined through a complaint analysis that an IG investigation is warranted, a qualified investigating officer (see definition in CAPR 123-1, attachment 1) will be appointed. All investigating officer appointments for IG investigations conducted by CAP must be accomplished by a qualified appointing authority (see CAPR 123-1). That is:

(1) The appropriate wing commander may appoint the investigating officer for complaints against a commander of a unit subordinate to a wing or a member of the wing staff (with the exception of the wing IG) or subordinate unit. When the appropriate IO has been selected, the wing commander will issue the necessary appointment letter.

(2) The appropriate region commander may appoint the investigating officer for complaints against a member of the region staff, subordinate wing IGs and members of any subordinate wing, except a senior level official. When the appropriate IO has been selected, the region commander will issue the necessary appointment letter.

(3) The CAP/CC may appoint the investigating officer for complaints against CAP senior level officials and members of all subordinate units. When the appropriate IO has been selected, the CAP/CC will issue the necessary appointment letter.

(4) The Chairman of the CAP Board of Governors will appoint the investigating officer for complaints against the CAP/CC. When the appropriate IO has been selected, the Chairman will issue the necessary appointment letter.

(5) All IO appointments shall be documented through a properly composed appointment letter which will afford the IO indemnification under CAPR 112-10, Indemnification. An example

of a properly composed appointment letter is shown in attachment 3. All appointment letters shall bear the original (not digital) signature of the appointing authority.

(a) The appointment letter shall state the nature of the complaint and any limits to the scope of the investigation. If during the course of the investigation additional information is discovered that alters the scope of the investigation, a new appointment letter will be issued.

(b) Appointed investigating officers' responsibilities expire when the report of investigation (ROI) is approved by the appointing authority or after final higher headquarters approval, whichever is later.

(c) The CAP appointment of the IO and a copy of the appointment letter are to be entered into the CAP ECIM system by the IO.

g. IG Investigation Notifications. When it is determined by complaint analysis that an IG investigation is warranted and an IO has been properly appointed:

(1) The IO will notify the subject's commander that an IG investigation has been initiated. For complaints against the CAP/CC, the Chairman of the CAP Board of Governors will notify BOG members and the CAP-USAF/CC, through any means deemed appropriate, once a complaint analysis has been made and an investigation has been initiated.

(2) If the subject of the complaint is a CAP senior level official, the CAP/IG will notify the following personnel at National Headquarters that an IG investigation has been initiated.

(a) CAP National Commander.

(b) National Headquarters General Counsel

(c) CAP-USAF/IG

(4) Copies of these notifications will be entered into the ECIM database by the IO.

h. Termination of a Complaint in IG Channels. Once an investigation is determined to be warranted, and is therefore in IG channels, only the appointing authority's IG, or an IG at a higher organizational level, may terminate the complaint resolution process prior to its normal conclusion.

i. How Long Does An IG Investigation Take?

(1) IG investigations should be completed as quickly as reasonably possible, unless there is a justifiable reason for delay.

(2) In cases where the IO believes the IG investigation will exceed 180 days, the IO will submit justification for this delay to the appointing authority. The IO will also notify the IG managing the case and make an appropriate addition to the case notes of the ECIM case file.

j. Conflict of Interest.

(1) The IG or IO selected to conduct an IG investigation must certify in writing to the appointing authority that no conflicts of interest exist. This certification will be entered into ECIM as an uploaded document.

(2) Additionally the IG or IO must declare in writing to the appointing authority that any apparent conflicts of interest or perceived conflict of interest that may exist as a result of an expired, outdated or coincidental relationship with any party in the IG investigation, will not bear upon or subsequently bias the IG investigation.

(3) Should a conflict of interest exist or become manifest at any time during an investigation between the IG or IO and any party to the IG investigation, the appointing authority must take one of the following actions:

(a) Assign a different IG or IO to perform or continue the IG investigation.

(b) Transfer the complaint to the next higher level IG for continuance of the IG investigation at that level.

(4) In the event the appointing authority does reassign or transfer the IG investigation, the resulting ROI shall be sent to the appointing authority for appropriate closure actions.

k. The IG Investigation.

(1) IG investigations are administrative in nature--they are fact finding rather than judicial proceedings. They are not criminal proceedings in which proof beyond a reasonable doubt is required. Rather, the standard of proof that applies is proof by a preponderance of the evidence (an allegation that is not substantiated cannot constitute a preponderance of the evidence). Investigations require formal collection of evidence, taking statement from complainants, witnesses and subjects, and documentation of the findings in a report of investigation (ROI). An investigation is an evidence-gathering process to substantiate or not substantiate an allegation.

(2) Since the purpose of an IG investigation is to ascertain facts, full cooperation is required by complainants, subjects and witnesses who are CAP members. Failure to respond with truthful and complete information or any action to impede the process of the IG investigation in any way WILL be documented and provided to the offender's commander for disciplinary action up to and including membership termination, as permitted under CAPR 35-3, *Membership Termination*, and other appropriate CAP regulations.

(a) Exception: No member shall be required to cooperate or provide information if he/she reasonably believes that the information requested or the answer to be provided might tend to self-incrimination. For the purposes of this regulation, a fact or answer "tends to self-incriminate" a person if the fact or answer would provide evidence that could suggest the commission of a crime by the declarant. The failure to answer questions based on this defense will be documented in the case file.

(b) Individuals providing evidence in an IG investigation shall be requested either to sign the Read-In Document (CAPR 123-1, attachment 1 contains the definition of Read-In Document and attachment 4 to this regulation contains examples of this document) or an attestation that the individual agrees that all information provided in the IG investigation is true and correct and is based on the personal knowledge of the individual. A failure of a CAP member to sign the Read-In Document does not preclude the member from being interviewed and the results of the interview from being included in the ROI. The member's refusal to sign the Read-in document shall be documented in the ROI.

(c) There is no requirement for legal representation, recorded statement, a formal hearing or application of the rules of evidence. Legal representation provided by CAP is not available to interviewees. A recording of the interview may be made by the IO; however, the consent of the interviewee is required. The documentation of the consent will be entered into ECIM as part of the case file. All recordings shall be made in accordance with applicable law.

(d) If any complainant, subject or witness fails to appear after being properly notified, the IG investigation should continue without his/her input. The refusal of the complainant(s) to participate in the IG investigation may cause the IG investigation to be concluded unless independent corroborating evidence exists.

(3) All personnel involved or having knowledge of an IG investigation are cautioned not to unofficially discuss the complaint, investigation or findings. Unauthorized disclosure may result in legal claims.

(4) The appointing authority will ensure the IO, in consultation with a legal officer, investigates all appropriate complaints filed within IG channels. The identity of the complainant shall remain confidential.

(5) Priority IG investigation complaints shall take precedence over all other complaints and shall be processed immediately by the assigned IO.

(6) It is the responsibility of the assigned IO to conduct an objective inquiry and to find factual information.

(7) IOs shall use the "*Complaint Investigating Officers Guide*" as a source for conducting the IG investigation. This guide can be obtained by contacting the Inspector General Administrator at HQ CAP.

(8) Information concerning the progress of the IG investigation will be entered into the CAP ECIM system by the IO as a case note at a minimum of every 30 days.

l. IG Investigation Progress Reports. Beginning 60 days after the date of the appointment letter, and every 60 days thereafter, the IO will send reports to both the complainant (except for anonymously filed complaints) and the appointing authority indicating at what step in the investigative process the complaint has reached. Specific issues or information relating to or derived from the IG investigation should not be discussed.

m. The Report of Investigation (ROI).

(1) Upon completion of an IG investigation, the IG or IO will submit written findings to the appointing authority in a ROI. The ROI must be a stand-alone document--all the essential facts, documents, portions of regulations, interviews, etc., must be included in the report so that a reviewer can arrive at a determination without reference to information outside the report. A ROI shall include at least the following elements:

- (a) The ECIM case number.
- (b) Background of the complaint (how it came to the attention of the inspector general or investigating officer).
- (c) Complainant's allegation(s).
- (d) Applicable CAP, FAA, FCC or other directives that may have been violated.
- (e) A list of individuals associated with the IG investigation.
- (f) Complainant's documentation and/or statement. (Attach copy of Read-In Document, if used.)
- (g) Subject's documentation and/or statement. (Attach copy of Read-In Document, if used.)
- (h) Witnesses' documentation and/or statement, if any. (Attach copy of Read-In Document, if used.)
- (i) Findings and conclusions.
- (j) The signature of a legal officer attesting that a legal sufficiency review of the ROI has been conducted. This will be documented in writing and will be included as an attachment to the ROI. For this purpose, the legal sufficiency review shall consider at a minimum the following factors:

1 A review of the allegations, the complaint and the ROI to verify that the complaint should not have been dismissed (that is, that the action complained of if true would violate a CAP rule, regulation, or standard);

2 A review of the ROI to determine if each substantiated allegation in the complaint is supported by a preponderance of the evidence; and

3 A review of the standards cited in the ROI to determine whether their interpretation is consistent with known CAP policy guidance.

(k) Signature of the IG or IO.

(2) The Findings and conclusions will include a classification for each allegation.

Allegation Finding (substantiated or not substantiated) for each of the allegations, derived from the facts and conclusions, with a discussion of the facts or lack of facts that support the classification. If the IG or IO considers the non-substantiated complaint without merit, that finding may be noted.

(a) SUBSTANTIATED -- an allegation is "substantiated" when the inquiry reveals "a preponderance of evidence" in support of the allegation. The findings of the IG or IO shall be based upon preponderance of evidence.

(b) NOT SUBSTANTIATED -- The inquiry determined that the allegation did not occur, was justified according to applicable directives, or that there was not a preponderance of evidence to support the allegation.

(c) The IO will summarize his/her conclusion and briefly state the reasons for the conclusion. For example, the conclusion can state, "The preponderance of the credible evidence indicates that Lt Col XYZ reprised against 1st Lt ABC by threatening to not promote 1st Lt ABC as a result of 1st Lt ABC's complaint alleging improper use of a CAP vehicle. Numerous witnesses agree that Lt Col XYZ threatened to withhold 1st Lt ABC's promotion and nothing in 1st Lt ABC's record suggests 1st Lt ABC had any performance or conduct shortcomings. Accordingly, I find Allegation 1 to be substantiated."

(3) The IG investigation and ROI is prepared for the commander (appointing authority). It shall remain confidential, subject to the provisions of this regulation and CAPR 123-1.

(4) IOs will NOT make written recommendations concerning administrative, disciplinary or other corrective actions to commanders (appointing authority) in the ROI. IOs may make recommendations concerning systemic problems noted/encountered during the investigation.

(5) Generally, the CAP command level conducting an IG investigation shall pay the costs incurred during investigations (exceptions may be agreed upon by the command levels involved). The IG or assigned IO is not expected to personally pay for expenses related to any IG investigation.

(6) After the ROI has been submitted to the appointing authority, the IO will send notification to the complainant and the subject informing them that the IG investigation has been completed and the ROI has been submitted to the appointing authority. Once the ROI has been submitted to the appointing authority, it is the appointing authority's responsibility to communicate with the complainant until such time as the case closes. This includes providing the complainant with 60-day updates. These updates will be provided to the IO for inclusion in the ECIM case file.

n. The Commander (Appointing Authority) and the ROI.

(1) The commander/appointing authority may accept or reject the findings of the IO, or may direct further IG investigation.

(2) Upon receipt of the findings and when the appointing authority is satisfied that the complaint has been fully investigated, the appointing authority will provide the complainant (except for anonymously filed complaints), subject's commander (if not the appointing authority) and the subject each with a written notification stating the appointing authority's (commander's) decision with respect to the allegations of the complaint. These notifications are generally known as "Closure Letters" and copies of these closure letters **MUST** be provided to the IO for inclusion in the case file.

(a) The closure letters will be issued by the commander/appointing authority after consultation with a legal officer on the proposed action(s), if any. Additionally, the IG or IO may also assist with the preparation of these documents.

(b) A copy of all closure letters will be provided to the IO for the case file and will be entered into the CAP ECIM system. Upon receipt of the closure letters from the appointing authority and entry by the IO into the CAP ECIM System, the IG investigation will then be closed.

(3) The appointing authority to whom the ROI is presented should seek guidance from the legal officer appointed to that echelon when reviewing any ROI and prior to taking any action on the ROI.

(4) If the commander/appointing authority, after consultation with the legal officer, elects to impose an administrative action against a member, the commanders must refer to the substantiated misconduct, and NOT reference the ROI or IG investigation, as the justification for taking the adverse action.

(a) The notification to the member of the decision and proposed action of the commander must be in accordance with the regulation under which the proposed action is taken.

(b) Requests for review of the commander's actions, if any, are made pursuant to the regulation under which the commander's action is taken; e.g., CAPR 35-3 for membership termination.

(5) Any copies (electronic media or written) of the ROI provided to the commander/appointing authority are not to be given any further distribution and must either be returned to the IO for inclusion in the case file or destroyed with a written notice of destruction given to the IO.

o. IG Investigation Review. If a complainant or subject believes that the IG investigation was improperly conducted, not valid or inadequate for some reason(s), he/she may request that the next higher-level IG review the case. This review will focus on the complaint process and the information on which the investigating officer based the findings.

(1) Simply disagreeing with the findings or conclusions will not constitute sufficiency for additional IG review.

(2) This request must occur within 90 days of receiving the commander's decision.

(3) The request for a review must be in writing, give specific reasons why the complainant believes the original CAP IG investigation was not valid or adequate, and provide additional information to justify a higher level review on previously considered issues.

9. Disposition of Records.

a. Upon completion of an IG investigation, the IG or IO shall consolidate a copy of all documentation, including hand written notes and memoranda of the final action of the commander/appointing authority. This shall constitute the case file. The complete case file shall be uploaded into the ECIM database. These files may be reviewed for completeness by designated

inspection team members during Staff Assistance Visits (SAV) and Compliance Inspections (CI), in accordance with CAPR 123-3, *CAP Compliance Inspection Program*.

b. ROI and case files are privileged information documents. Except as noted in paragraph 9c or in CAPR 123-1, they will not be released (in whole or in part), reproduced or given additional dissemination (in whole or in part) outside of IG or legal officer channels without prior written approval of the CAP/IG and the CAP/CC, after consultation with the NHQ/GC.

c. Following the completion of an IG investigation of a complaint involving CAP members while performing Air Force-assigned missions, a copy of the final ROI will be forwarded to CAP-USAF/IG within 30 days for submission to the Secretary of the Air Force Inspector General (SAF/IGQ).

d. Following the completion of an IG investigation of a complaint against a CAP senior level official, a copy of the final ROI will be forwarded to NHQ/GC, CAP-USAF/IG and CAP/CC within 30 days.

(1) Any copies (electronic media or written) of the ROI provided to the above are not to be given any further distribution and must either be returned to the IG for inclusion in the case file or destroyed with a written notice of destruction given to the IG.

(2) The National Headquarters IG Administrator shall act as the CAP central repository for ROIs for National-level complaints, to include complaints against CAP senior level officials (see definition in CAPR 123-1, attachment 1), as an agent for the CAP/IG.

CHARLES L. CARR, JR.
Major General, CAP
Commander

CAP-USAF Policy Regarding CAP Members Interviewing United States Air Force Personnel**DEPARTMENT OF THE AIR FORCE**
AIR UNIVERSITY (AETC)

8 November 2010

MEMORANDUM FOR CAP/IG

FROM: CAP-USAF/CC

SUBJECT: Policy Regarding Civil Air Patrol Interview of CAP-USAF and USAF Personnel

1. A Civil Air Patrol (CAP) Inspector General (IG), Investigating Officer (IO), or any CAP member conducting a CAP Investigation, formal or informal, may identify the need to interview CAP-USAF personnel (active, reserve, or civilian). Prior to any such interview, coordination and permission from the CAP-USAF/CC is required, regardless of whether the investigation is an IG investigation, Commander Directed Investigation (CDI), or any other type of formal or informal investigation. In addition, the following guidelines must be followed:

a. The CAP investigator will request permission from the CAP-USAF/CC prior to initiating an interview with a CAP-USAF member. Requests will be staffed through the CAP/IG or CAP Wing/CC and the CAP-USAF/IG. A general list of anticipated interview questions must accompany the request. Reasonable follow-up questions are permitted; however the interviewer may not initiate questioning beyond the anticipated questions submitted to the CAP-USAF/CC;

b. If the CAP identifies the need to review documents in the possession of CAP-USAF, a request for production will be submitted to the CAP-USAF/CC; requests will be staffed through the CAP/IG and CAP-USAF/IG;

c. When interviewing a CAP-USAF member, use of sound or video recording devices are prohibited;

d. If before, or during an interview, the CAP investigator suspects the interviewee of misconduct (criminal in nature, or in violation of any CAP or Air Force Regulation), the interview must be postponed, or immediately terminated, and the CAP-USAF/IG notified. The CAP-USAF/IG will contact the CAP-USAF/CC and CAP-USAF/JA for further guidance;

e. The CAP interviewer may conduct follow-up interviews to clarify information obtained in the initial interview under the initial permission granted by the CAP-USAF/CC; however, the follow-up interview must first be coordinated with the CAP-USAF/IG. If the CAP identifies the need to inquire into new topics, the procedures in paragraph "a" above must be followed;

f. The CAP will provide a copy of the interview results to the CAP-USAF/IG within 30 days of the interview.

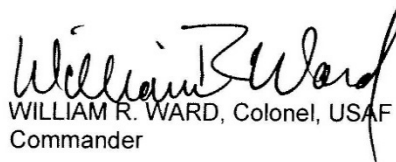
2. In the course of an investigation the CAP may identify the need to interview USAF personnel (active, reserve, or civilian), who are not assigned to CAP-USAF. If the interview is part of an IG Investigation, permission to interview the USAF personnel must be obtained from the CAP-USAF/CC. If the interview is part of a CDI or any other formal or informal interview that may potentially reveal misconduct on the part of any USAF member and/or reveal USAF official information (any information related to the USAF other than an individual's rank, duty station, and job title), permission to interview the USAF personnel must be obtained from the CAP-USAF/CC. Requests will be staffed through the CAP/IG or CAP Wing/CC and CAP-USAF/IG. The CAP-USAF/CC will coordinate the request with the relevant Air Force Commander/Civilian Director. The CAP will be notified which, if any, of the procedures in paragraph "1 a- f" above must be followed. This mandate applies even if the USAF member is also a CAP member.

a. If, during any interview conducted under this paragraph, the CAP interviewer suspects or learns that any USAF member, including the interviewee, engaged in misconduct (criminal in nature, or in violation of any CAP or Air Force Regulation) the interview must be postponed and/or immediately terminated. The CAP interviewer will then contact the CAP/IG or a CAP Wing/CC who will notify the CAP-USAF/IG of the situation. Likewise, if, during any interview conducted under this paragraph, the CAP interviewer suspects the interviewee will provide or the interviewee does provide any USAF official information, the interview must be postponed and/or immediately terminated. The CAP interviewer will then contact the CAP/IG or a CAP Wing/CC who will notify the CAP-USAF/IG of the situation. The CAP-USAF/IG will contact the CAP-USAF/CC and CAP-USAF/JA for further guidance.

3. At no time will any member of CAP interview a person who is a USAF Member (active, reserve, or civilian), as well as a CAP member as part of a CAP investigation, without first seeking coordination and approval from the CAP-USAF/CC as outlined above.

4. This policy letter supersedes the policy letter regarding CAP members interviewing USAF personnel dated, 21 May 2010.

5. Please disseminate appropriately. Questions regarding this matter may be directed to the CAP-USAF/IG at DSN 493-4286, commercial 334-953-4286.


WILLIAM R. WARD, Colonel, USAF
Commander

Cc: CAP-USAF Personnel

CAP Policy Regarding CAP Members Interviewing CAP Employees

NATIONAL HEADQUARTERS
CIVIL AIR PATROL
UNITED STATES AIR FORCE AUXILIARY
105 South Hansell Street
MAXWELL AIR FORCE BASE, ALABAMA 36112-5937

DON ROWLAND
CHIEF OPERATING OFFICER

20 December 2012

MEMORANDUM FOR CAP/CC

FROM: CAP/CO

SUBJECT: Policy Regarding CAP Investigating Officers Interviewing CAP Employees

1. There may be times when CAP personnel conducting complaint resolution or commander directed investigations wish to interview CAP employees. In these cases, the employees will most likely fall into one of two categories; those who were fulfilling a function associated with their employment at the time they witnessed/participated in the circumstances being investigated and those who were fulfilling a function as a CAP member at the time they witnessed/participated in the circumstances being investigated.
2. Regardless of whether the individual was fulfilling a function associated with their employment or was acting as a CAP member, the CAP investigating officer must coordinate the request to interview the employee with National Headquarters Human Resources (NHQ/HR). NHQ/HR will coordinate with any National Headquarters directorates necessary, as well as the employee(s) in question. Once all coordination is completed, NHQ/HR will notify the requesting investigating officer that he/she may proceed with the interview. Follow-up interviews to clarify information obtained in the initial interview may be conducted under the initial permission. Interviews with employees who have been interviewed previously that discuss new/different circumstances from the previously approved interview require a new approval.
3. The above policy relates to circumstances where a CAP employee is a witness in an investigation. Complaints/allegations in which a CAP employee is the complainant or subject of the complaint will be forwarded to CAP/CO, through NHQ/HR, for handling in accordance with the CAP Employee Handbook.
4. Questions regarding this process may be directed to the National Headquarters Executive Support Manager at (877) 227-9142 ext 228, commercial (334) 953-7748 ext 228, or DSN 493-7748 ext 228.


DON ROWLAND
Chief Operating Officer

Appointment of Investigating Officer to Conduct an IG Investigation



WING/REGION HEADQUARTERS
 CIVIL AIR PATROL
 United States Air Force Auxiliary
 Street address
 City, State Zip



PRIVILEGED INFORMATION DOCUMENT
 ONLY PERSONS HAVING A NEED TO KNOW WILL REVIEW THIS MATERIAL

DATE

MEMORANDUM FOR [GRADE and NAME OF INDIVIDUAL BEING APPOINTED]

FROM: [Office symbol of appointing authority]

SUBJECT: COMPLAINT of Grade NAME, CAP, #ID, Leadership Position, Organization, Wing (ECIM case number)

SUBJECT: COMPLAINT concerning the MEMBERSHIP TERMINATION of Grade NAME, CAP, #ID, Organization Charter (if known), City, State (ECIM case number)

SUBJECT: ANONYMOUS COMPLAINT received [date] (ECIM case number)

1. (Grade Name), CAP, (Leadership Position), is hereby appointed as Investigating Officer authorized to inquire into all aspects and circumstances surrounding a complaint filed by (Grade Name) concerning an allegation of xxxxxx.

2. Acting pursuant to authority granted by the Civil Air Patrol regulations, the Civil Air Patrol Inspector General shall interview any and all CAP personnel and any other person known to the Inspector General to have knowledge of these matters, review any and all records, files, correspondence and documents (including any and all confidential and court records, files, correspondence, and documents), and inspect any and all tangible or intangible relationships, material, assets or property deemed necessary by the Civil Air Patrol Inspector General in order to bring this matter to conclusion.

3. The Investigating Officer is authorized to appoint additional investigating officers to assist, as he/she deems necessary.

NAME, Grade, CAP
 Leadership Position (of appointing authority)

Notes:

- (a) **Heading: Use appropriate Wing/Region heading.**
- (b) **Use only one subject line.**
- (c) **Enter the Wing or Region name and/or the name and grade of the IG/IO**
- (d) **Enter a brief description of the allegation(s).**
- (e) **DO NOT include the name of the complainant in this document.**

Examples of Read-In Documents



WING/REGION HEADQUARTERS
CIVIL AIR PATROL
United States Air Force Auxiliary
Street address
City, State Zip



PRIVILEGED INFORMATION DOCUMENT
ONLY PERSONS HAVING A NEED TO KNOW WILL REVIEW THIS MATERIAL

DATE

Grade Name, CAP
Organization
Address
City, State Zip

Dear Grade Name:

The Inspector General has been authorized to inquire into the nature of a complaint of which you may have information or in which you may be involved. An inquiry will be conducted concerning this matter. The Inspector General or designee is authorized to interview any and all CAP members, review any and all records, files, correspondence, and documents, and inspect any and all tangible or intangible material, assets, or property of CAP deemed necessary by the Inspector General in order to bring this inquiry to conclusion.

To assure confidentiality and to preserve the integrity of this inquiry, you may not discuss this situation with anyone while the inquiry is in progress, other than personnel serving on the investigation team from the Office of the Inspector General. You are expected to maintain confidentiality and be truthful in all matters concerning this situation.

You are reminded that Civil Air Patrol Regulation (CAPR) 123-2, paragraph 6e states (in part):

e. Members ... will not send copies of complaints, or correspondence relating to complaints, to other CAP members, including CAP staff or members of the BoG.

The sending of copies of complaints, or any correspondence related to complaints, to other CAP members, including any member of the National CAP or USAF staff, before the Inspector General has completed the inquiry will not be tolerated.

Failure to be truthful or failure to cooperate in this matter may result in adverse personnel actions up to and including termination of your membership privileges or loss of other privileges provided for you by CAP regulations.

NAME, Grade, CAP
Wing/Region Inspector General

I HAVE READ AND UNDERSTAND THE ABOVE INFORMATION. I KNOW THAT I AM TO RESPOND TRUTHFULLY AND PROMPTLY IN WRITING TO IG REQUESTS FOR INFORMATION.
SIGNATURE DATE

PLEASE SIGN AND RETURN THIS FORM IMMEDIATELY TO THE INSPECTOR GENER

