

allegations that [REDACTED] committed adultery and fraternized with a SSG; engaged in conduct unbecoming an officer; and that [REDACTED] Commander, 35th Signal Brigade, covered up the alleged assault of [REDACTED] by [REDACTED]. The request for directive stated that the alleged wrongdoing of the 35th Signal Brigade commander would be handled as an issue because an inquiry had been done which had a supporting legal review. The directive also indicated that the XVIII ABN Corps IG office interviewed on 9 Nov 04 the husband of the Soldier with whom [REDACTED] had allegedly had the improper relationship [REDACTED]. (IO Note: The IO found no documentation or tape of this interview).

(4) IO Appointment 17 Dec 04. The case file contained a memorandum from the XVIII ABN Corps CG signed on 17 Dec 04, appointing an IO to conduct an informal investigation under AR 15-6 procedures into the allegations against [REDACTED] for an inappropriate or adulterous relationship. (IO Note: AR 15-6 is an administrative fact-finding procedure under Army Regulation 15-6, which provides procedures for the conduct of informal and formal investigations, thus the nomenclature "AR 15-6 investigation").

(5) IG ROII, 25 Feb 05. The case file indicates the XVIII ABN Corps IG office produced a ROII on 25 Feb 05, which addressed the following allegations and issues relevant to this OSC case: that [REDACTED] committed adultery (not substantiated); that [REDACTED] participated in a prohibited relationship (substantiated); that [REDACTED] assaulted [REDACTED] (substantiated); that [REDACTED] failed to treat [REDACTED] with dignity and respect (substantiated); and as an issue that the 35th Signal Brigade commander did not take proper action when he learned that [REDACTED] allegedly assaulted [REDACTED] (unfounded). The ROII contained as enclosures the findings of the AR 15-6 investigation, and the documentation of adverse actions taken against [REDACTED] since allegations were substantiated against him during the conduct of the 15-6. Though the IG of record in IGARS was [REDACTED] signature appeared on the ROII as the inquiry officer, and [REDACTED] signature appeared concurring with the report.

(e) Sworn Statement, [REDACTED] administered on 24 Jan 07. In his sworn statement [REDACTED] indicated that [REDACTED] came into the office in mid to late 2004 and complained that she was assaulted by her battalion commander [REDACTED]; that the battalion commander had also had a improper relationship with a subordinate female NCO; and she reported the alleged assault and improper relationship to the 35th Signal Brigade commander, [REDACTED] and he covered up the offenses instead of investigating her complaint. [REDACTED] sworn statement said that he briefed [REDACTED] on the matter and the case was handed over to their Inquiries and Investigations officer, [REDACTED] stated that [REDACTED] interviewed the complainant (IO Note: no evidence of this interview was in the case file) and identified three allegations, and then prepared a commander's inquiry request to the 35th Signal Brigade commander to look into the allegations. [REDACTED] stated that [REDACTED] refused to sign the request. [REDACTED] said that he heard [REDACTED] say later in reference to the allegations that he [REDACTED] did not want to

"straddle units with distractors while they are preparing for deployment." [REDACTED] stated that after [REDACTED] blocked the referral, he was instructed to contact and interview the husband [REDACTED] of the female [REDACTED] who was alleged to have had the inappropriate relationship with [REDACTED]. Sworn statement also indicated he interviewed the Staff Duty NCO [REDACTED] who witnessed the alleged incident between [REDACTED] and [REDACTED]. According to [REDACTED] the Staff Duty NCO told him that the altercation was entered in the staff duty log and he contacted the Battalion CSM. [REDACTED] said that he then interviewed the battalion CSM [REDACTED] who confirmed that there was an altercation between [REDACTED] and an NCO, and that he knew about the perceived improper relationship. All three of these interviews led [REDACTED] to believe there was a strong possibility the allegations were accurate, and that [REDACTED] knew about them, and [REDACTED] never interviewed any one of them. [REDACTED] said that [REDACTED] also interviewed the former battalion executive officer [REDACTED], who also confirmed the altercation between [REDACTED] and [REDACTED] and that he made members at the 35th Signal Brigade HQs aware of the incident. [REDACTED] then stated that [REDACTED] became the primary action officer on the case after the interviews; that the case then resulted in involvement by the Corps commander; and that after an investigation, [REDACTED] was removed from command. [REDACTED] said that to completely address the allegation, [REDACTED], [REDACTED], and [REDACTED] should all be interviewed. (TAB C-1)

(IO Note: None of the interviews mentioned by [REDACTED] were documented in the case file. Tapes of two of the four interviews were discovered by the IO. [REDACTED] was interviewed on 2 Dec 04, and [REDACTED] was interviewed on 3 Dec 04. Tapes of interviews with [REDACTED] and the former battalion executive officer [REDACTED] could not be found).

(i) Testimony of [REDACTED] on 25 Jan 07. [REDACTED] testified that [REDACTED] would not let them refer the allegations of [REDACTED] alleged improper relationship/adultery to [REDACTED], for a commander's inquiry because he [REDACTED] didn't want to bother the units while they were trying to deploy. He testified that [REDACTED] talked to [REDACTED] and [REDACTED] told [REDACTED] he had already informally looked into the allegations of the improper relationship; that [REDACTED] told [REDACTED] he didn't do it, and that was the end of it. [REDACTED] testified that [REDACTED] then wanted the case immediately closed as assistance; that it wasn't until they learned of the altercation between [REDACTED] and [REDACTED] that [REDACTED] let him get a directive for an investigation from the CG; and that they learned about the altercation between [REDACTED] and [REDACTED] right before the directive was requested.

[REDACTED] confirmed that the current battalion Executive Officer (XO) [REDACTED], the battalion CSM [REDACTED], the battalion SDNCO [REDACTED], and [REDACTED] were all interviewed by the IGs as part of their preliminary analysis. [REDACTED] testified it was not until his interview with the old battalion XO [REDACTED], after he had received the directive for and IG

investigation from the CG, that he suspended the IG investigation so it could be turned over to the CG for appointment of a 15-6 IO. [REDACTED] testified that the interviews with all of the individuals were sworn and recorded, and that copies of the transcripts of the interviews should be in the IG office. (TAB C-2)

(IO Note: The IO could not find any documentation or tapes of interviews with [REDACTED] or [REDACTED])

(j) Testimony of [REDACTED] obtained 8 Aug 06, and sworn statement administered on 5 Jan 07. [REDACTED] testified that he remembered taking the initial complaint of [REDACTED] that he told her that her complaint about being assaulted had already been inquired into and was therefore without merit, so it was determined to be an assistance case, and he handed the case over to [REDACTED], because [REDACTED] only handled inquiries and investigations and [REDACTED] handled assistance cases. He testified [REDACTED] came back into the office later and the improper relationship concerning [REDACTED] came out then; that since [REDACTED] didn't have any first hand knowledge of the relationship, he and [REDACTED] undertook that piece of it by conducting follow-on interviews with the Soldier ([REDACTED]) and the Soldier's husband [REDACTED] that he didn't work any more of the case after that and wasn't familiar with how the directive for an investigation was sought because what they were doing was still part of the preliminary inquiry; that he didn't receive any pressure from [REDACTED] not to report allegations against [REDACTED] during the conduct of that piece as it was [REDACTED] and not his case; and that this was at about the same time he was being dismissed from the office so he wasn't taking on any new cases, but was handing over cases to [REDACTED] (TAB C-7)

(IO Note: The IO could find no documented evidence of [REDACTED] conducting interviews during the conduct of the [REDACTED] investigation)

(k) Testimony and sworn statement of [REDACTED] obtained on 14 Dec 06, and 19 Jan 07. [REDACTED] testified she remembered the [REDACTED] case but none of the details; that she could not remember any improprieties of how the case was handled from an IG perspective; that she could not remember if the case was handled improperly in the IG office concerning the allegations against [REDACTED] and that since she primarily managed the suspense tracking of cases because part of the office was deployed to Iraq, and also performed Inspection Chief duties, she was not familiar with all of the intricacies of the cases which were not hers. (TAB C-8)

(l) Sworn statement of [REDACTED] administered on 22 Jan 07. [REDACTED] said that [REDACTED] was disgusted with [REDACTED] behavior; that [REDACTED] got upset when he found out that [REDACTED] did not retire from the Army as previously specified during the command's investigation; and that as far as he knew, [REDACTED] did not try to influence the investigation in any way. (TAB C-4)

(m) Testimony of [REDACTED] on 22 Dec 06. [REDACTED] testified in reference to the [REDACTED] case that he tried to get [REDACTED] "off the dime" and do some preliminary analysis on the case; that [REDACTED] battalion was about to deploy and [REDACTED] was taking a slow non-confrontational approach towards gathering evidence; that if they were going to lose a battalion commander or upset the command climate they ought to do it now so the CG could have time to recover from it or get a new commander in there; that he talked to [REDACTED] about it and [REDACTED] thought the allegations were serious enough that he [REDACTED] needed to start lining up the next commander; that he had made it very clear to [REDACTED] that he wanted him to move forward on the case so the CG and brigade commander could make an informed decision on the fate of the battalion commander before they deployed. [REDACTED] denied that he had ordered the case closed in the office as an assistance case or that he had told anyone not to investigate it. (TAB C-10)

(2) Discussion:

(a) The OSC complainants alleged [REDACTED] improperly delayed an investigation against [REDACTED] Commander, 51st Signal Battalion, in violation of AR 20-1 para 4-5 b.(2). The complainants alleged that [REDACTED] delayed an investigation into [REDACTED] alleged physical assault of [REDACTED] and the allegation that he had an inappropriate relationship with a female SSG. The complainants alleged that [REDACTED] was reluctant to order an investigation even though a preliminary analysis uncovered sufficient evidence to warrant further investigation. The complainants alleged that after some delay, [REDACTED] signed the request for a commander's inquiry.

(b) AR 20-1, Inspector General Activities and Procedures, stated IGs will determine whether the complaint contains allegations of wrongdoing by an individual, an adverse condition or issue. If so, the process outlined in chapter 8 will be used. Chapter 8 of AR 20-1 states an investigative inquiry is the fact-finding process followed by IGs to gather information needed to address allegations of impropriety against an individual that can accomplish the same objectives as an IG investigation ... The investigative inquiry is the primary fact-finding process used by IGs to address allegations. Additionally Chapter 8 stated, inspector general investigators will make or obtain conscious decisions on disposition of all allegations. IGs will not discard an allegation solely because it appears frivolous, unimportant, not relevant to matters under investigation, or is subsequently withdrawn by the complainant. Paragraph 4-6a of AR 20-1 explains referrals to the chain of command: "The chain of command has the responsibility and the authority to address complaints. Inspector Generals will decide matters that are appropriate for the chain of command and then monitor the case after the referral is made to ensure the chain of command takes proper action. When appropriate, IGs should refer allegations to commanders while protecting confidentiality of the source to the extent possible."

(c) The serious lack of documentation in the case file of IG investigational efforts, mainly documentation of preliminary IG interviews and case notes, made it

difficult to determine what transpired between when [REDACTED] first made her complaint to the IG on 19 Oct 04, and when the directive to investigate was requested on 22 Nov 04, in order to corroborate the complainants claim that [REDACTED] had delayed or was reluctant to order an investigation. The first documented interview the IO was able to find was 2 Dec 04. However, based upon statements and testimony from [REDACTED], [REDACTED], and [REDACTED] it appeared that undocumented interviews were conducted with at least the complainant [REDACTED] and [REDACTED] prior to [REDACTED] signing a request for a directive for investigation on 22 Nov 04.

[REDACTED] and [REDACTED] both claimed [REDACTED] blocked recommendations to refer the allegations against [REDACTED] to the chain of command. The decision not to refer allegations to the chain of command does not, by itself, imply impropriety, and can be considered a purely discretionary decision within an IG's authority to make. IGs also have the option to conduct the investigation or inquiry themselves.

Based upon witness statements and testimony, a preponderance of the evidence indicates that adequate IG preliminary analysis (IGPA) into the allegations against [REDACTED] occurred after [REDACTED] initial complaint on 19 Oct 04, and before the request for a directive of investigation on 22 Nov 04. Witness testimony indicated at least five IG interviews were conducted during IGPA, however, due to the failure in the office to properly document the IGPA, the IO could not determine when these interviews occurred, the exact substance of these interviews, and whether there was sufficient evidence to warrant further investigation, and therefore there was insufficient evidence to establish that [REDACTED] had delayed the investigation in any way. The five interviews conducted during IGPA coupled with the evidence that [REDACTED] eventually requested the CG direct an IG investigation, refutes the claims that [REDACTED] was reluctant to order an investigation, or had ordered the case closed. [REDACTED] testified that he had made it very clear to [REDACTED] that he wanted him to move forward on the case so the CG and brigade commander could make an informed decision on the fate of the battalion commander before they deployed. [REDACTED] also denied that he had ordered the case closed in the office as an assistance case or that he told anyone not to investigate it. After the directive was signed by the CG, an IG investigation commenced, and eventually, the IG recommended referring the allegations to the CG for an AR 15-6 officer investigation, which was used as the basis for the completion of an IG ROI, which all are additional indicators that the investigation was being handled and supervised properly in the office. Additionally, key witnesses identified by the complainants did not corroborate the complainants's claim that [REDACTED] failed to properly investigate the allegations. Therefore the preponderance of evidence does not indicate [REDACTED] improperly delayed the investigation of allegations against [REDACTED].

(3) Conclusion: The allegation [REDACTED] improperly delayed an investigation against LTC Jochen Thomas, the 51st Signal Battalion Commander, in violation of AR 20-1 para 4-5 b(2) was not substantiated.

Allegation 4: [REDACTED] improperly delayed an investigation against [REDACTED] Commander, 327th Signal Battalion, in violation of AR 20-1 para 4-5 b(2).

FINDING: The allegation was not substantiated.

(1) Presentation of evidence:

(a) Whistleblower Complainants. According to the OSC correspondence to the Secretary of the Army, dated 22 Nov 06, the complainants alleged that [REDACTED] delayed an investigation into the Commander, 327th Signal Battalion, [REDACTED] for allegedly condoning the consumption of alcohol while deployed in Louisiana. The complainants alleged that [REDACTED] was reluctant to sign the request for a commander's inquiry, stating he didn't want to burden the units while they were preparing for deployment. The complainants alleged that [REDACTED] was trying to protect [REDACTED] (TAB 2)

(b) Standards: Paragraph 4-5b.(2), AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated IGs will determine whether the complaint contains allegations of wrongdoing by an individual, an adverse condition or issue. If so, the process outlined in chapter 8 will be used. (TAB A-1)

Paragraph 8-1b.(2), AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated "An investigative inquiry is the fact-finding process followed by IGs to gather information needed to address allegations of impropriety against an individual that can accomplish the same objectives as an IG investigation ... The investigative inquiry is the primary fact-finding process used by IGs to address allegations." (TAB A-1)

Paragraph 8-2a.(2), AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated "Inspector general investigators will make or obtain conscious decisions on disposition of all allegations. Inspectors general will not discard an allegation solely because it appears frivolous, unimportant, not relevant to matters under investigation, or is subsequently withdrawn by the complainant." (TAB A-1)

Paragraph 4-1, AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated "Inspector General Action Process—Inspectors general will use the Inspector General Action Process (IGAP) outline below in receiving and resolving IGARS. The IGAP provides for a systematic fact-finding approach to problem solving. Specific actions or components of the IGAP are integral to the whole process and are not intended to be a group of individual steps that are accomplished independently during the process. The process does not require a dogmatic sequential approach of each step for every case, but using this process allows the IG to accomplish all critical tasks in resolving complaints." (TAB A-1)

Paragraph 4-6a, AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated "The chain of command has the responsibility and the authority to address complaints. Inspector Generals will decide matters that are appropriate for the chain of command and then monitor the case after the referral is made to ensure the chain of command takes proper action. When appropriate, IGs should refer allegations to commanders while protecting confidentiality of the source to the extent possible." (TAB A-1)

(c) XVIII ABN Corps IG case file, Case No. FJ 04-0152, Opened 23 Apr 04 and Closed: 28 Oct 04. Examination of the case file showed the following: (TAB B-15)

(1) ROII (26 Oct 04): A complaint was made on 23 Apr 04, to the XVIII ABN Corps IG office by a Soldier who alleged he was wronged by his commander and was assaulted by three NCOs. The Soldier's complaint made no allegation against [REDACTED]. The XVIII ABN Corps IG office referred the allegations to the 35th Signal Brigade on 29 Apr 04, for a commander's inquiry. When the XVIII ABN Corps IG received the commander's inquiry results (dated 22 Jul 04) from the commander, the IG office identified additional wrongdoing within the commander's inquiry which was not addressed as wrongdoing by the commander. One of the findings in the commander's inquiry was that [REDACTED] admitted authorizing Soldiers to drink alcohol while deployed or on a field exercise in violation of a Corps policy letter. The XVIII ABN Corps IG apparently decided to include this as an allegation against [REDACTED] in the IG ROII even though it was not part of their original referral of allegations to the command. The ROII contained evidence that the 35th Signal Brigade commander learned about the IG's discovery of wrongdoing and asked the CG, XVIII ABN Corps on 7 Sep 04, for authority to take administrative action on [REDACTED] actions. The CG returned the matter in the form of a memorandum to the 35th Signal Brigade commander on 8 Sep 04. The 35th Signal Brigade commander then issued a Memorandum of Concern to [REDACTED] on 9 Sep 04.

(2) Case Notes: There was no evidence of the use of case notes in the IGARS database or the case file.

(d) Sworn Statement, [REDACTED] administered on 24 Jan 07. [REDACTED] stated that [REDACTED] would not sign a request for a commander's inquiry in reference to the Soldier's complaint; that the Soldier complained about his commander; that [REDACTED] allowed Soldiers to consume alcoholic beverages while deployed; that the reason [REDACTED] refused to sign the request was because he didn't want to "saddle units with distractors" while they were deploying; and that the matter was eventually referred for inquiry. (TAB C-1)

(e) Sworn Statement, [REDACTED] administered on 20 Dec 06. [REDACTED] said that [REDACTED] did not want to bother [REDACTED] Commander, 35th Signal Brigade, with the allegation of wrongdoing by members of his command; that [REDACTED]

(b)(7)(C) insisted that (b)(7)(C) allow him to look in to possible violations; that (b)(7)(C) let them pursue the (b)(7)(C) case after he and (b)(7)(C) pushed him; and that because of (b)(7)(C) insistence in this case, (b)(7)(C) fired (b)(7)(C) (TAB C-2)

(f) Testimony of (b)(7)(C) obtained 19 Dec 06. (b)(7)(C) testified that he had worked the case of Soldiers drinking alcohol while deployed to the Joint Readiness Training Center (JRTC); that the case took a turn after he received the commander's inquiry back and discovered that (b)(7)(C) had incriminated himself by authorizing Soldiers to drink alcohol while deployed. (b)(7)(C) testified that he then went back to the command and asked them what they were going to do about it; that he then went and told (b)(7)(C) and (b)(7)(C) that he had asked this question of the command; that (b)(7)(C) questioned why they needed to include this part about (b)(7)(C) that he explained it to (b)(7)(C) and (b)(7)(C) wasn't happy about it, but he let it go. (b)(7)(C) testified that (b)(7)(C) never told him not to investigate the allegation further or bullied him in any way; that he confirmed that the allegation against (b)(7)(C) was included in the IG report and eventually substantiated in the IG database; and that he believed that it was his confrontation with the command over this case which led to his eventual dismissal from the. (TAB C-7)

(g) Testimony of (b)(7)(C) on 9 Aug 06. (b)(7)(C) testified that he remembered the case well and that "you could ask anyone" in the office that he had concerns about that battalion commander; that (b)(7)(C) battalion came into their view frequently for leader misconduct and they were always on their "radar scope"; that he thought they were going to have a problem with the battalion commander because he was concerned about the wrong things and his command climate was a "bit skewed"; and that he would have never tried to protect (b)(7)(C) because he was "beyond protection". (TAB C-10)

(2) Discussion:

(a) The OSC complainants alleged (b)(7)(C) delayed an investigation into the Commander, 327th Signal Battalion, (b)(7)(C) for allegedly condoning the consumption of alcohol while deployed in Louisiana. The complainants alleged that (b)(7)(C) was reluctant to sign the request for a commander's inquiry, stating that he didn't want to burden the units while they were preparing for deployment. The complainants alleged that (b)(7)(C) was trying to protect (b)(7)(C)

(b) AR 20-1, Inspector General Activities and Procedures, stated IGs will determine whether the complaint contains allegations of wrongdoing by an individual, an adverse condition or issue. If so, the process outlined in chapter 8 will be used. Chapter 8 of AR 20-1 went on to state an investigative inquiry is the fact-finding process followed by IGs to gather information needed to address allegations of impropriety against an individual that can accomplish the same objectives as an IG investigation. The investigative inquiry is the primary fact-finding process used by IGs to address

allegations. Additionally Chapter 8 stated, IG investigators will make or obtain conscious decisions on disposition of all allegations. IGs will not discard an allegation solely because it appears frivolous, unimportant, not relevant to matters under investigation, or is subsequently withdrawn by the complainant. Paragraph 4-6a of AR 20-1 explains referrals to the chain of command. It stated "The chain of command has the responsibility and the authority to address complaints. Inspector Generals will decide matters that are appropriate for the chain of command and then monitor the case after the referral is made to ensure the chain of command takes proper action. When appropriate, IGs should refer allegations to commanders while protecting confidentiality of the source to the extent possible."

(c) [REDACTED] sworn statement indicates [REDACTED] would not sign a request for a commander's inquiry for the complaint made by the 327th Signal Battalion Soldier. [REDACTED] incorrectly contends in his sworn statement that the Soldier indicated [REDACTED] wrongdoing. [REDACTED] alleged wrongdoing was not part of the original referral to the chain of command. [REDACTED] said the reason [REDACTED] refused to sign the request was because he didn't want to "saddle units with distractors" while they were deploying. [REDACTED] sworn statement said that the matter was eventually referred for inquiry and that [REDACTED] worked the case. [REDACTED] stated that [REDACTED] didn't want to burden the command with the case, and [REDACTED] had to insist to [REDACTED] that it be investigated. But [REDACTED] testified that while [REDACTED] didn't like the idea that [REDACTED] was going to be included in the IG report with a substantiated allegation, [REDACTED] never told him not pursue the allegation against [REDACTED]. [REDACTED] denied ever trying to protect [REDACTED]. He testified he had concerns with [REDACTED] and knew he was going to have problems with his unit. [REDACTED] thought [REDACTED] was beyond protecting.

The decision to not refer allegations to the command does not by itself imply impropriety, and can be considered a purely discretionary decision that an IG has the authority to make. The IG also has the option to conduct the investigation or inquiry. The only possible type of impropriety would have been if the allegations were not investigated at all, either by the IG or the command.

[REDACTED] as the action officer on the case, did not corroborate the complainant's claims that [REDACTED] did anything improper in the case. Documentary evidence in the case file indicates the complaint came into the office on Friday, 23 Apr 04, and the request for a commander's inquiry was sent to the 35th Signal Brigade within four working days, on Thursday 29 Apr 04. The preponderance of evidence does not indicate [REDACTED] delayed the investigation. Rather, the preponderance of credible evidence indicates the IG office handled the allegations of [REDACTED] wrongdoing, which came to the IG's attention at a later date, properly, and indicated no wrongdoing on [REDACTED] part.

(3) Conclusion: The allegation [REDACTED] improperly delayed an investigation against [REDACTED] Commander, 327th Signal Battalion, in violation of AR 20-1 para 4-5 b.(2) was not substantiated.

Allegation 5: [REDACTED] improperly did not investigate an allegation against [REDACTED] the 35th Signal Brigade Commander, in violation of AR 20-1 para 8-2a(2).

FINDING: The allegation was not substantiated.

(1) Presentation of evidence:

(a) Whistleblower Complainants. According to the OSC correspondence to the Secretary of the Army dated 22 Nov 06, the complainants alleged that the preliminary analysis into [REDACTED] complaint provided sufficient evidence to warrant an investigation in the allegation the 35th Signal Brigade commander [REDACTED] had prior knowledge of [REDACTED] misconduct and covered up [REDACTED] complaint. The complainants alleged that recommendations made to [REDACTED] that he order an investigation into [REDACTED] behavior went unheeded. (TAB 2)

(b) Standards: Paragraph 4-5b(2), AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated IGs will determine whether the complaint contains allegations of wrongdoing by an individual, an adverse condition or issue. If so, the process outlined in chapter 8 will be used. (TAB A-1)

Paragraph 8-1b(2), AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated: "An investigative inquiry is the fact-finding process followed by IGs to gather information needed to address allegations of impropriety against an individual that can accomplish the same objectives as an IG investigation... The investigative inquiry is the primary fact-finding process used by IGs to address allegations." (TAB A-1)

Paragraph 8-2a(2), AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated IG investigators will make or obtain conscious decisions on disposition of all allegations. IGs will not discard an allegation solely because it appears frivolous, unimportant, not relevant to matters under investigation, or is subsequently withdrawn by the complainant. (TAB A-1)

(c) XVIII ABN Corps IG case file, Case No. FJ 05-0012 (Perez), Opened 19 Oct 04 and Closed: 22 Mar 05. Examination of the case file showed the following: (TAB B-13)

(1) DA Form 1559 (IGAR) signed by [REDACTED] on 19 Oct 04, where she alleged that an incident involving [REDACTED] and another Soldier was covered up. [REDACTED] described the incident in the IGAR as a Soldier (the husband of [REDACTED])

(b)(7)(C) confronting (b)(7)(C) in public about (b)(7)(C) having an inappropriate relationship with his wife (b)(7)(C)

(2) Case Notes: The first case note from the case file indicated an unknown IG (IO Note: believed to be (b)(7)(C) on a date unknown, clarified (b)(7)(C) complaint as; she was allegedly assaulted by her battalion commander while they were deployed a year ago; that she knew the 35th Signal Brigade commander investigated the incident; that she received a response back from her congressman on the findings of the investigation and it was declared a verbal altercation; that she reported the assault to the provost marshal; that she alleged the 35th Signal Brigade commander covered up the report of assault and failed to take action; that the battalion commander had an improper relationship with a Soldier assigned to his unit; that the same battalion commander then had a public altercation with the Soldier's spouse; that the battalion CSM allowed the battalion commander to retrieve letters showing the improper relationship; and finally that no action was taken against the battalion commander. The case notes provide that on 20 Oct 04, (b)(7)(C) was directed to create a chronology and return it to the IG office. The case notes were continued by an unknown IG (IO Note: believed to be (b)(7)(C) on an unknown date with (b)(7)(C) of this IG office is conducting preliminary analysis. IGPA indicated that the allegations had merit." On 22 Nov 04, there was a case note relating that (b)(7)(C) "prepared an action memo to CG allowing the Corps CG to sign the directive for the investigation." The case note continued with the information that the CG signed the directive and requested that a commander's inquiry pursuant to Manual for Courts Martial Rule 303 be used and an IO appointed if the allegations appear like they may be substantiated.

(3) Directive for Investigation-ACTION MEMORANDUM 22 Nov 04. The request for a directive was present in the case file and was signed by (b)(7)(C) on 22 Nov 04. It included the following issue: "Did (b)(7)(C) the 51st Signal Battalion SDNCO, record in the SDNCO log, the alleged incident/confrontation between (b)(7)(C) and (b)(7)(C)" According to the case notes (b)(7)(C) informed the CG on 17 Dec 04 that it looked like an allegation would be substantiated and the CG directed the investigation be stopped and an AR 15-6 officer appointed.

(4) IO Appointment and AR 15-6 Investigation, 17 Dec 04: The case file contained a memorandum from the XVIII ABN Corps CG signed on 17 Dec 04 appointing an IO to conduct an informal investigation into the allegation that LTC Thomas engaged in an inappropriate or adulterous relationship.

(5) DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officer), 26 Jan 05 (AR 15-6 Investigation Report). The IO's findings addressed the following: (b)(7)(C) alleged assault/improper treatment of a SPC (not substantiated); (b)(7)(C) alleged assault of (b)(7)(C) (Substantiated); (b)(7)(C) alleged improper relationship (Substantiated); (b)(7)(C) alleged adultery (not substantiated). The AR 15-6 report contained sworn statements from (b)(7)(C) CSM, (b)(7)(C), his XO (b)(7)(C) his Operations Officer (b)(7)(C)

(b)(7)(C) and the SDNCO who saw the altercation between (b)(7)(C) and (b)(7)(C). Each sworn statement provided credible evidence that (b)(7)(C) was having an improper relationship between Jan 04 (while the battalion was still in Iraq), and as late as May 04 at Fort Bragg, NC. None of the sworn statements, however, indicated he that (b)(7)(C) knew about the relationship. (b)(7)(C) statement indicated he told (b)(7)(C) CSM, in late Mar 04, while the battalion was still in Kuwait, that he thought (b)(7)(C) was getting too close to the battalion commander (b)(7)(C) and that he needed to have her moved to another battalion.

(6) ROII 25 Feb 05. The ROII addressed that (b)(7)(C) committed adultery (not substantiated), that (b)(7)(C) participated in a prohibited relationship (substantiated); that (b)(7)(C) assaulted (b)(7)(C) (substantiated); that (b)(7)(C) failed to treat (b)(7)(C) with dignity and respect (substantiated); and that the 35th Signal Brigade commander did not take proper action when he learned of the alleged assault by (b)(7)(C) on (b)(7)(C) (Unfounded). The background paragraph of the ROII addressed why the brigade commander's alleged cover up of the assault was treated as an issue by explaining that an inquiry was conducted and legally reviewed. The IG of record in IGARS was (b)(7)(C) but however, (b)(7)(C) signature appeared on the ROII as the inquiry officer, and (b)(7)(C) signature appeared concurring with the report.

(d) Sworn and Recorded Testimony of (b)(7)(C) taken on 3 Dec 04, by (b)(7)(C) and (b)(7)(C) XVIII ABN Corps IG office. (b)(7)(C) and (b)(7)(C) conducted an interview with the complainant as part of an investigation directed by the XVIII ABN Corps CG. (b)(7)(C) answered questions concerning her knowledge surrounding the allegations that her battalion commander had an improper relationship with one of his subordinate female NCOs, and the allegations involving her alleged assault in Iraq by the same battalion commander. (b)(7)(C) testified to some events she witnessed in Iraq and Kuwait that she perceived to be evidence that her battalion commander (b)(7)(C) was having an improper relationship with one of his subordinate NCOs (b)(7)(C) testified about an altercation she heard had occurred between (b)(7)(C) and (b)(7)(C) husband after the unit returned from Iraq. She testified that another Soldier told her that (b)(7)(C) husband came to the battalion headquarters one night and confronted (b)(7)(C) about having sex with his wife (b)(7)(C). (b)(7)(C) testified that the incident was covered up by unnamed persons (p. 8 TAB B-14). (TAB B-14)

(IO Note: There was no documentation or evidence of (b)(7)(C) interview in the inspector general case file, nor was it included as evidence in the ROII. The IO discovered the tape and determined it was never transcribed. (b)(7)(C) testimony was transcribed at a later date for purposes of this investigation)

(e) Sworn and Recorded Testimony of (b)(7)(C) taken on 2 Dec 04, by (b)(7)(C) and (b)(7)(C) XVIII ABN Corps IG office. (b)(7)(C) and (b)(7)(C) interviewed (b)(7)(C), who was the Staff Duty NCO the night of

the altercation between [REDACTED] and [REDACTED] on 10 May 04, as part of an investigation directed by the XVIII ABN Corps CG. [REDACTED] indicated he saw the altercation between [REDACTED] and [REDACTED]. He testified the only person he contacted about the incident was the battalion CSM, [REDACTED] who then came to the battalion headquarters to deal with the situation. [REDACTED] said [REDACTED] initially told him not to log the altercation in the staff duty log, but later told him to put something in the log to make it sound less offensive. (TAB C-12)

(IO Note: There was no documentation or evidence of [REDACTED] interview in the inspector general case file, nor was it included as evidence in the IG ROI. The IO discovered the tape and determined it was never transcribed. [REDACTED] testimony was transcribed at a later date for purposes of this investigation)

(f) Sworn and Recorded Testimony of [REDACTED] taken on 2 Dec 04, by [REDACTED] and [REDACTED] XVIII ABN Corps IG office. [REDACTED] and [REDACTED] interviewed [REDACTED] who was the Operations Officer for [REDACTED] battalion, as part of an investigation directed by the XVIII ABN Corps CG. [REDACTED] testified that he did not know about or believe that [REDACTED] had an improper relationship with [REDACTED] he shared living quarters with [REDACTED] during their deployment to Iraq, and talked with him frequently; he did not hear about an altercation between [REDACTED] and [REDACTED] at the battalion headquarters in May 2004; that [REDACTED] had once asked him if he had the perception or heard rumors that he, [REDACTED] was having an improper relationship; and that he told [REDACTED] that he hadn't seen it and didn't think it happened, and didn't know where the rumors were coming from. (TAB C-13)

(IO Note: There was no documentation or evidence of [REDACTED] interview in the IG case file, nor was it included as evidence in the IGI ROI. The IO discovered the tape and determined it was never transcribed. [REDACTED] testimony was transcribed at a later date for this investigation)

(g) Sworn and Recorded Testimony of [REDACTED] taken on 3 Dec 04, by [REDACTED] and [REDACTED] XVIII ABN Corps IG office. [REDACTED] and [REDACTED] interviewed [REDACTED] as part of an investigation directed by the XVIII ABN Corps CG. [REDACTED] testified that he had gotten the impression there was an inappropriate relationship between [REDACTED] and [REDACTED] while the battalion was deployed to Iraq; that he told the brigade CSM, [REDACTED] about it; and that he asked [REDACTED] to have [REDACTED] moved from the battalion once they got back to Fort Bragg. [REDACTED] described the incident that took place between [REDACTED] and [REDACTED] husband ([REDACTED]) after they were back at Fort Bragg. He testified that [REDACTED] accused [REDACTED] of "messing with his wife," but he didn't get the impression that adultery was involved; that [REDACTED] had unsigned letters in his possession that [REDACTED] thought were written to his wife by [REDACTED] that he testified he told [REDACTED] about the incident approximately two days later (p. 7, TAB C-14); that he and [REDACTED] decided there was not enough credibility to [REDACTED] allegations, so

they decided to keep the incident at the lowest level (p.43, TAB C-14); that he told the SDNCO, [REDACTED] not to talk about the incident, and log it in the staff duty log so it would not bring undue attention to the incident; that he didn't think [REDACTED] told the brigade commander, [REDACTED] about the incident; that he found out the last week of November 2004 that [REDACTED] told [REDACTED] about the incident, but did not know exactly when he told him (p.46, TAB C-14); that it could have been a couple of days after the incident or the last week of November 2004, he didn't know (p.47, TAB C-14); that [REDACTED] told him around the last week of November 2004 he wished [REDACTED] had told him about the incident (p.52, TAB C-14); that he believed [REDACTED] had told [REDACTED] about the incident before the last week of November 2004, because he knew [REDACTED] and that was what he, [REDACTED] would have done (p.64, TAB C-14).

(IO Note: There was no documentation or evidence of [REDACTED] interview in the IG case file, nor was it included as evidence in the IG ROII. The IO discovered the tape and determined it was never transcribed. [REDACTED] testimony was transcribed at a later date for purposes of this investigation)

(h) Sworn Statement, [REDACTED] administered on 24 Jan 07. [REDACTED] indicated [REDACTED] came into the office in mid to late 2004 and complained she was assaulted by her battalion commander [REDACTED] that the battalion commander also had a improper relationship with a subordinate female NCO; and that she had reported the alleged assault and improper relationship to the 35th Signal Brigade commander, [REDACTED] and he did not investigate her complaint and covered up the offenses. [REDACTED] said he briefed [REDACTED] on the matter, and the case was handed over to their inquiries and investigations officer, [REDACTED] that [REDACTED] interviewed the complainant *(IO Note: no evidence of this interview was in the case file)*, where he identified three allegations; that after the referral was blocked by [REDACTED] he was instructed to contact and interview the husband [REDACTED] of the female [REDACTED] who was alleged to have had the inappropriate relationship with [REDACTED] and that he also interviewed the Staff Duty NCO [REDACTED] who witnessed the alleged incident between [REDACTED] and [REDACTED]. According to [REDACTED] the SDNCO told him the altercation was entered in the staff duty log and he contacted the Battalion CSM. [REDACTED] said he then interviewed the battalion CSM [REDACTED] who confirmed that there was an altercation between [REDACTED] and an NCO, and that he knew about the perceived improper relationship. All three of these interviews led [REDACTED] to believe there was a strong possibility the allegations were accurate, and that COL Ellis knew about them. [REDACTED] said [REDACTED] interviewed the former battalion executive officer [REDACTED] who confirmed the altercation between [REDACTED] and [REDACTED] and that he, [REDACTED] had made members at the 35th Signal Brigade HQs aware of the incident. [REDACTED] stated [REDACTED] became the primary action officer on the case after the interviews; that the case then resulted in involvement by the Corps Commander, and after an investigation, [REDACTED] was removed from command; and that he recommended that [REDACTED] and [REDACTED] also be interviewed regarding these allegations. (TAB C-1)

(i) Testimony of [REDACTED] obtained on 25 Jan 07. [REDACTED] testified that [REDACTED] had made a complaint in the IG office to [REDACTED] that she went to [REDACTED] and told him about the inappropriate relationship between [REDACTED] and an NCO under his open door policy. She complained that [REDACTED] never took action on it, and she thought he covered it up. [REDACTED] said [REDACTED] asked [REDACTED] if he had looked into it, and [REDACTED] admitted that he had; and that [REDACTED] was satisfied with it, and didn't want to pursue [REDACTED] complaint against [REDACTED] because he didn't want to distract them while they were deploying. [REDACTED] confirmed he was the inquiry officer on the case, and that he produced the ROII in reference to the case. He testified that the ROII was completed after [REDACTED] had left for Iraq, but the AR 15-6 investigation which was used to help complete the ROII was finished before the CG deployed, and as such the CG was able to relieve [REDACTED] from command. (TAB C-2)

(j) Testimony of [REDACTED] obtained 8 Aug 06, and sworn statement administered on 5 Jan 07. [REDACTED] testified he remembered taking the initial complaint of [REDACTED] and that he told her that her complaint about being assaulted had already been inquired into and was therefore without merit. [REDACTED] thus determined [REDACTED] complaint to be an assistance case, and he handed the case over to [REDACTED] because [REDACTED] handled assistance cases. He testified [REDACTED] came back into the office at a later date, and the allegation of an improper relationship concerning [REDACTED] came out of the discussions. [REDACTED] said that since [REDACTED] didn't have any first hand knowledge of the relationship, he and [REDACTED] undertook that piece of it by interviewing the Soldier [REDACTED] and the Soldier's husband [REDACTED]. (IO Note: No evidence of these three interviews involving [REDACTED] could be found). [REDACTED] testified that he didn't work any more of the case after that, and he wasn't familiar with how the directive for an investigation was sought because what they were doing was still part of the preliminary inquiry; that he didn't receive any pressure from [REDACTED] during the conduct of the case while he was there because it was [REDACTED] case; and that this was at about the same time his employment was terminated with the office, so he wasn't taking on any new cases and was handing over cases to [REDACTED] (TAB C-7)

(k) Testimony and sworn statement of [REDACTED] obtained on 14 Dec 06 and 19 Jan 07. [REDACTED] testified she remembered the [REDACTED] case but none of the details; that she could not remember any improprieties of how the case was handled from an IG perspective; and that since she primarily managed the suspense tracking of cases, because part of the office was deployed to Iraq, and also performed Inspection Chief duties, she was not familiar with all of the intricacies of the cases which were not hers. (TAB C-8)

(k) Testimony of [REDACTED] on 9 Feb 07. [REDACTED] testified he deployed from Fort Bragg, NC to Operation Iraqi Freedom (OIF) around 26-28 Nov 04; that he had a face-to-face meeting with the XVIII ABN Corps IG [REDACTED] about two weeks before his deployment (early to mid November 2004); that [REDACTED] told him the IG had some unfavorable information concerning one of his subordinate battalion

commanders, [REDACTED] that he never knew or heard about allegations against [REDACTED] having an improper relationship before [REDACTED] told him about it; that he had not previously conducted any type of commander's inquiry into allegations of an improper relationship involving [REDACTED]; that he had conducted a commander's inquiry in Iraq involving [REDACTED] regarding an allegation that [REDACTED] assaulted an NCO; that after being notified of the allegations by [REDACTED] he realized there may have been some perceptions of the improper relationship within the organization that he wasn't aware of up until that point; that he brought his CSM, [REDACTED] and [REDACTED] CSM, [REDACTED] into his office after finding out about the allegations from [REDACTED] and asked them if there was an impropriety that wasn't brought to his attention; that the two CSMs told him there were previous indications of perceptions of an improper relationship, and they, the CSMs, tried to make personnel moves to stabilize and control some things within the organization. (TAB C-11)

(I) Testimony of [REDACTED] on 6 Feb 07. [REDACTED] testified the [REDACTED] case (Oct 04) occurred around the same time that he went TDY to Iraq in preparation of his impending deployment; that he didn't think he was told about the case by his IGs before he left for Iraq, but thought he first learned about it once he had returned; that he remembered [REDACTED] proceeding slowly on the case, so he wouldn't have to work it; that he thought [REDACTED] was going to delay long enough to make sure the case would have to be pushed forward with the Command's decision-makers and investigated in Iraq; that he had made it very clear to [REDACTED] that he wanted him to move forward on the case so the CG and brigade commander would have enough facts to make an informed decision on the fate of the battalion commander before they deployed; that he did not remember a course of action being presented to him by his IGs to refer the allegations to [REDACTED] that he never ordered the case closed in the office as an assistance case or instructed anyone not to investigate it; that he wasn't sure what [REDACTED] previously knew about the improper relationship; that when he notified [REDACTED] in early November, [REDACTED] told him there were previous indications or perceptions previously of the improper relationship, and that he, [REDACTED] had conducted a commander's inquiry into it; that he could not recall if it had been brought to his attention that there was a complaint or a potential allegation against [REDACTED] for covering up the alleged improprieties of his battalion commander; that he didn't believe [REDACTED] covered for his battalion commander, but thought that he may have tried to protect his subordinate commander's good name; and that if there was that impression of these particular allegations against [REDACTED] in his office, that it might have been a case of [REDACTED] exaggerating them so he could bring down a Senior NCO or Field Grade officer, especially [REDACTED] [REDACTED] denied covering up any allegation against [REDACTED]. He testified that after talking with [REDACTED] he went back to the office and told [REDACTED] that [REDACTED] had looked into the allegations against [REDACTED] and had done a commander's inquiry; that he did not take any more action on the matter; and that he intended to leave it up to which ever IO ended up looking at it, either an IG or AR 15-6 officer, because he was just doing preliminary analysis and not starting the investigation. (TAB C-10)

(2) Discussion:

(a) The complainants alleged that the preliminary analysis into [REDACTED] complaint provided sufficient evidence to warrant investigating the allegation that [REDACTED] knew about [REDACTED] misconduct and covered up [REDACTED] complaint. The complainant's alleged that [REDACTED] ignored recommendations to order an investigation into [REDACTED] behavior.

(b) AR 20-1, Inspector General Activities and Procedures, dated 29 Mar 02, stated IGs will determine whether the complaint contains allegations of wrongdoing by an individual, an adverse condition or issue. If so, the process outlined in chapter 8 will be used. Chapter 8 of AR 20-1 stated, an investigative inquiry is the fact-finding process followed by IGs to gather information needed to address allegations of impropriety against an individual that can accomplish the same objectives as an IG investigation. The investigative inquiry is the primary fact-finding process used by IGs to address allegations. Additionally, AR 20-1 stated IG investigators will make or obtain conscious decisions on disposition of all allegations. IGs will not discard an allegation solely because it appears frivolous, unimportant, not relevant to matters under investigation, or is subsequently withdrawn by the complainant.

(c) To determine if [REDACTED] acted improperly as alleged by the complainants in this case, the investigation must first focus on whether there was a viable allegation that [REDACTED] covered up. Based upon an analysis of IG case files, the testimony of witnesses interviewed during the XVIII ABN Corps investigation, and interviews done by the IO, the preponderance of evidence does not indicate there was an valid allegation of impropriety against [REDACTED] as alleged by the complainants. The most persuasive evidence of this is found in [REDACTED] complaint and testimony. She never identified [REDACTED] as being the individual who covered up the incident between [REDACTED] and [REDACTED] in her original complaint to the office, or in her follow up testimony. [REDACTED] simply alleged that the incident was covered-up without identifying who performed the cover up. No other witness interviewed by the XVIII ABN Corps IGs from 2-3 Dec 04 implicated [REDACTED] in doing anything improper. [REDACTED] testified that he could not recall if any allegation of this nature against [REDACTED] had been brought to his attention.

Even had someone alleged that [REDACTED] had previous knowledge of the improper relationship and was covering it up, a preponderance of the evidence supports a finding that [REDACTED] was not covering up this allegation of misconduct. [REDACTED] testified he did not know about the improper relationship before his conversation with [REDACTED]. He testified that he had previously conducted a commander's inquiry into allegations that [REDACTED] had assaulted an NCO, but that he had not conducted a commander's inquiry into allegations that [REDACTED] was involved in an inappropriate relationship. This could explain [REDACTED] statement that [REDACTED] had conducted a commander's inquiry into the allegation; it is possible that [REDACTED] misunderstood [REDACTED] explanation on this point. [REDACTED] Sergeant Major, testified that [REDACTED] discussed the allegation with him

during the last week of November 2004, which would have been shortly after [REDACTED] discussion with [REDACTED] testified that [REDACTED] told him in this discussion that he wished [REDACTED] had told him of the incident earlier. This discussion implies that [REDACTED] did not know about the allegation until [REDACTED] discussed it with him.

Finally, even had someone made an allegation against [REDACTED] and even had [REDACTED] told [REDACTED] that he had already handled this allegation via commander's inquiry, there was insufficient evidence that [REDACTED] subsequently covered-up for [REDACTED] alleged failure to take action. The witnesses, [REDACTED] and [REDACTED] identified by the two complainants in this case as being able to corroborate these allegation, did not indicate that [REDACTED] acted improperly during the conduct of the case. [REDACTED] himself testified he told [REDACTED] that [REDACTED] had inquired into this misconduct via commander's inquiry, and had handled it in that manner. At most, this would constitute a procedural violation of the IG regulation in that there was a failure to document this discussion with [REDACTED] and make it part of the IG case file. It would not constitute or suggest a cover-up.

(3) Conclusion: The allegation [REDACTED] He improperly failed to investigate an allegation against [REDACTED] Commander, 35th Signal Brigade, in violation of AR 20-1 para 8-2a(2) was not substantiated.

8. Disposition: Recommend that this case be approved for closure, and no further action be taken against [REDACTED] in these matters. Upon approval of this report the outstanding whistleblower reprisal matters of [REDACTED] case should be readdressed to determine if any further action is required.

9. Security Classification of Information: This report is FOR OFFICIAL USE ONLY.

10. Location of Field Working Papers and Files: Office of the Inspector General, U.S. Army Forces Command (FORSCOM), Fort McPherson, GA 30330.

