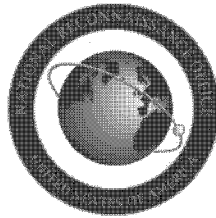


**National Reconnaissance Office**  
Business Function 80, Oversight  
**Directive 80-6, Protecting Whistleblowers with Access  
to Classified Information**

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20 JUNE 2013

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(U) ND 80-6 CHANGE LOG

Revision	Date	Revised By	Pages Affected	Remarks

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**(U) SECTION I - INTRODUCTION**

(U) In accordance with the National Reconnaissance Office (NRO) Governance Plan and Presidential Policy Directive (PPD) 19, this NRO Directive (ND) defines the scope, authorities, and responsibilities specific to NRO Business Function (NBF) 80, *Oversight*. The ND is coordinated with appropriate stakeholders, and is approved by the NBF owner, with administrative approval of the Director, Office of Policy and Strategy (OP&S). Official record copies are archived by OP&S.

(U) This ND implements and prescribes the policy, responsibilities, and procedures for handling complaints of reprisal against United States Government civilian employees (hereafter referred to as employees) who make Protected Disclosures to appropriate officials.

**(U) SECTION II - APPLICATION**

(U) All NRO United States Government personnel (defined as government civilian and military) who perform tasks or have duties specific to NBF 80, including those serving in a position to take or direct Personnel Action for the NRO, will comply with this ND.

(U) This ND sets forth the process for protecting employees who allege reprisal for making a Protected Disclosure under the provisions of PPD 19. The process includes handling reviews of NRO Personnel Actions and appeals of those actions by employees who allege reprisal. This Directive is applicable to Personnel Actions and decisions impacting Eligibility for Access to Classified Information made after the effective date of this Directive.

**(U) SECTION III - REFERENCES/AUTHORITIES**

- a. (U) PPD 19, 10 October 2012.
- b. (U) Executive Order (E.O.) 12333, as amended, 30 July 2008.
- c. ~~(U//FOUO)~~ Memorandum of Agreement between the Secretary of Defense and the Director of National Intelligence concerning the NRO, 21 September 2010.
- d. ~~(U//FOUO)~~ Department of Defense (DoD) Directive 5105.23 regarding the NRO, 29 June 2011.
- e. (U) NRO Business Function (NBF) 80, 27 April 2012.

f. (U) E.O. 12968, 2 August 1995.

**(U) SECTION IV - POLICY**

~~(U//FOUO)~~ The NRO is committed to an employee's right and duty to lawfully report instances of suspected waste, fraud, or abuse, without fear of reprisal, to appropriate officials in accordance with NBF 80. It is the policy of the NRO that it shall not tolerate reprisals or the threat of reprisals against employees for lawfully reporting suspected cases of waste, fraud, or abuse. Any NRO personnel who has authority to take, direct others to take, recommend, or approve any Personnel Action, shall not (with respect to such authority): take, fail to take, or threaten to take, a Personnel Action with respect to any employee as a reprisal for a Protected Disclosure.

~~(U//FOUO)~~ The NRO Office of Inspector General (OIG) is authorized to receive any allegation of reprisal and may investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has occurred, exists, or is to be taken. Employees who believe that they have been subjected to reprisal for a Protected Disclosure should contact the OIG under the processes set forth in NBF 80. The OIG will conduct a review of the complaint and make recommendations to the Director, NRO (DNRO) consistent with provisions of PPD 19. The investigations and review process required by this Directive shall be conducted consistent with PPD 19, and to the fullest extent possible, 5 U.S.C. 2302(b)(8).

**(U) SECTION V - ROLES AND RESPONSIBILITIES**

(U) The NRO OIG:

a. ~~(U//FOUO)~~ is designated as the NRO point of contact for employees to report allegations of reprisals for making Protected Disclosures. An employee who believes that he/she has been subject to a Personnel Action or an action affecting his/her Eligibility for Access to Classified Information as a reprisal for a Protected Disclosure should contact the OIG. Should an employee provide his/her management a complaint of reprisal, management should instruct the employee to contact the OIG;

b. ~~(U//FOUO)~~ is responsible for investigating any allegation of a reprisal by Personnel Action or action affecting Eligibility for Access to Classified Information as defined herein. Upon receipt of such an allegation, the OIG:

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1. ~~(U//FOUO)~~ will conduct a review of the complaint to determine whether there are reasonable grounds to believe that a reprisal has occurred, exists, or has been threatened; and

2. ~~(U//FOUO)~~ may recommend corrective actions consistent with provisions of PPD 19.

c. ~~(U//FOUO)~~ If the OIG substantiates a complaint as reprisal, it will issue a report and make a recommendation to the DNRO that appropriate corrective action be provided to the complainant and that appropriate disciplinary action, consistent with the NRO and any applicable Parent Organization regulations, be taken against the personnel responsible for the reprisal.

(U) Under this Directive, the following may be part of the review process:

a. ~~(U//FOUO)~~ Recommendations by the OIG to the DNRO that the NRO take specific corrective action to return the employee, as nearly as practicable and reasonable, to the position that employee would have held had the reprisal not occurred. Furthermore, the OIG will recommend to the DNRO that the NRO reconsider any adverse action affecting the employee's access to classified information consistent with national security and E.O. 12968, as amended. The DNRO shall consider the findings and actions recommended by the OIG. To the extent authorized by law, corrective action may include, but is not limited to, reinstatement, reassignment, the award of reasonable attorney's fees, other reasonable costs, back pay and related benefits, travel expenses, and compensatory damage.

b. ~~(U//FOUO)~~ Stays of Adverse Personnel Actions and Decisions Impacting Eligibility for Access to Classified Information. A complainant may request that the OIG seek to delay, or "stay" an adverse Personnel Action or decision impacting Eligibility for Access to Classified Information pending the OIG investigation. With or without such a request, if the OIG has reasonable grounds to believe that the proposed action is the result of reprisal, the OIG may ask that the cognizant appropriate management officials, to include Parent Organization management officials as applicable, delay the proposed action. If the management official does not agree to a delay, the OIG may ask the DNRO to stay the action. The OIG cannot stay a Personnel Action or decision impacting Eligibility for Access to Classified Information on its own authority.



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(U) APPENDIX A - GLOSSARY and ACRONYM LIST

Term and/or Acronym	Definition
(U) Eligibility for Access to Classified Information	(U) For purposes of this Directive, the term Eligibility for Access to Classified Information means the result of the determination whether an employee: a. (U) is eligible for access to classified information for access in accordance with E.O. 12968 or successor thereto, and E.O. 10865, as amended (relating to safeguarding classified information with industry), or any successor thereto; and b. (U) possesses a need to know under such orders.
(U) employee	(U) United States Government civilian employees.
(U) no additional rights conferred	(U) Nothing in this regulation is intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, organizations, or entities, its officers, employees, or agents, or any other person.
(U) personnel	(U) All NRO United States Government personnel (defined as government civilian and military) who perform tasks or have duties specific to NBF 80 will comply with this ND.
(U) Personnel Action	(U) An appointment, promotion, detail, transfer, reassignment, demotion, suspension, termination, reinstatement, restoration, reemployment, or performance evaluation; a decision concerning pay, benefits, or awards; a decision concerning education or training if the education or training may reasonably be expected to lead to an appointment, reassignment, promotion, or performance evaluation; a decision to order psychiatric testing or examination; and any other significant changes in duties, responsibilities, or working conditions. The term "Personnel Action" does not include the termination of an employee pursuant to section 1609 of Title 10, United States Code. The term "Personnel Action" does not include the termination of an employee pursuant to section 102A(m) of the National Security Act of 1947, section 104(e) of the National Security Act of 1947, or section 7532 of Title 5, United States Code, so long as the official authorized by those provisions to terminate the employee (and not his or her delegatee) (i) determines that the alternative legal procedures to terminate the employee cannot be invoked in a manner consistent with the national security and (ii) promptly notified the Inspector General of the employing agency. The term "Personnel Action" does not include actions taken with respect to a member of the Armed Forces, as used in section 1034 of Title 10, United States Code. The term "Personnel Action" does not include any actions taken prior to the issuance of PPD 19.
(U) Protected Disclosure	a. (U) A disclosure of information by the employee to a supervisor in the employee's direct chain of command up to and including the head of the employing agency, to the Inspector General of the employing agency or Intelligence Community Element, to the Director of National Intelligence, to the Inspector General of the Intelligence Community, or to employees designated by any of the above officials for



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	<p>the purpose of receiving such disclosures, that the employee reasonably believes evidences (i) a violation of any law, rule, or regulation; or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;</p> <p>b. (U) Any communication described by and that complies with subsection (a)(1), (d), or (h) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.); subsection (d)(5)(A) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q); or subsection (K)(5)(A), (D), or (G), of section 103H of the National Security Act of 1947 (50 U.S.C. 403-3h);</p> <p>c. (U) The exercise of any appeal, complaint, or grievance with regards to the violation of Section A or B of PPD 19;</p> <p>d. (U) Lawfully participating in an investigation or proceeding regarding a violation of Section A or B of PPD 19; or</p> <p>e. (U) Cooperating with or disclosing information to an Inspector General, in accordance with applicable provisions of the law in conjunction with an audit, inspection or investigation conducted by the Inspector General,</p> <p>(U) If the actions described under paragraph F., subparagraph (5) subparagraphs (c) through (e) of PPD 19 do not result in the employee disclosing classified information or other information contrary to law.</p>
(U) reprisal	(U) Taking or threatening to take an unfavorable Personnel Action or withholding or threatening to withhold a favorable Personnel Action concerning employee for making, preparing to make, or for supporting one who makes or is preparing to make a Protected Disclosure.