

# Inspector General Marine Corps Ethical Decision Game No. 2 (10-23)

Multiple “landmines”

by the Inspector General of the Marine Corps Staff

## Scenario

You are just promoted to lieutenant colonel and assigned to a chief of staff billet under BGen Ford, a decorated general with years of combat experience, in a headquarters command. You are excited to work for a war hero and eager to impress him. You also believe that if you play your cards right this will not be your last promotion.

BGen Ford is less than excited about being back in the Pentagon working as a desk jockey. On deployment, BGen Ford was personally involved in the development and execution of a covert operation. Now BGen Ford is dealing with a mountain of paperwork while dealing with a deluge of inspector general (IG) complaints and request masts.

Morale is low in the command, and there are a lot of conflicts between junior and senior-level Marines. BGen Ford is fed up with these petty rivalries and will not allow a few bad apples to compromise the mission (or his promotion). On your first day on the job, BGen Ford pulls you aside and tells you to develop a plan to improve morale and to identify the troublemakers so they can be stopped.

To improve morale, you decide the command should host a 4th of July celebration. You invite the entire team to the event, including Marines, civilians, and contractors. It is also BGen Ford's birthday, so you ask everyone to contribute \$35 (\$20 for the cost of the event and \$15 toward a gift for BGen Ford). To control costs, you assign some

Marines to prepare meals and others to work as servers during the event.

Now that the party planning is nearly complete, you get down to your main task, finding the root cause of the command's morale issues. After talking with the staff, including the command inspector general (CIG), you discover that two young Marines, Sgt John and Sgt Doe, have filed a dozen IG complaints, none of which were substantiated. The sergeants have raised allegations against multiple officers in the command for what they perceive as unfair treatment. The officers on the other hand are tired of being questioned regarding petty slights and complain that these young Marines just need to grow thicker skin.

You review the complaints filed by Sgt John and Sgt Doe and the subsequent investigations into the alleged misconduct and conclude their complaints were in fact meritless.

Sgt Doe files another IG complaint with the CIG and names YOU as the subject. The CIG quickly contacts you

and informs you that Sgt Doe is alleging that you improperly assigned him to work as a server during the upcoming 4th of July celebration. Sgt Doe lists Sgt John as one of his witnesses.

The last thing the command needs is another investigation, what do you do next?

## Scenario Questions

1. Have you done anything wrong?
2. What about the CIG?
3. Do you approach Sgt Doe to try to resolve the matter informally rather than through the CIG? After all, you are both Marines, and these issues should be resolved face-to-face.



**EDGs involve real-world leadership challenges that usually have a significant ethical or legal component. They are typical of challenges that have confronted Marines in the past and could easily be encountered in the future. Readers should analyze the problem carefully and decide what action they would take.**

# Answers to the EDG Questions Presented on Page 90

## Potential Answers

1. Yes. Your office party plans could potentially violate multiple ethics rules.

- For example, asking subordinate employees to donate \$15 toward BGen Ford's birthday gift violates 5 CFR § 2635.302, which states that generally an employee may not: (1) directly or indirectly, give a gift to or donate toward a gift for an official superior; or (2) solicit a contribution from another employee for a gift to either his own or the other employee's official superior.

- There are exceptions to this rule, including a gift exchange exception (applies only to gifts with an aggregate market value of \$10 or less per occasion) and a special, infrequent occasion exception (e.g., marriage, illness, or the birth or adoption of a child, NOT birthdays), but these exceptions would not apply in this case (See 5 CFR § 2635.304).

- You also asked contractors to donate \$30 toward the festivities, in violation of 5 CFR § 2635.202–2635.204, which prohibits employees from soliciting ANY gifts from contractors or accepting unsolicited gifts having an aggregate market value over \$20.

- Further, by assigning subordinate Marines to serve as cooks or servers during the event, you also likely violated 5 CFR § 2635.705(b), which states that an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties.

2. The CIG violated his duty as an IG by failing to protect the identity of the complainant and of a witness in this case. *Marine Corps Order 5430.1A* states that the identity of complainants and witnesses will be protected to the extent possible under applicable laws

and regulations. There is no apparent reason here for the CIG to tell you about any information regarding the complaint, especially when you are the subject of the complaint.

3. If you answered yes to question #3, you likely just bought yourself a substantiated restriction finding. Title 10 U.S.C. § 1034 prohibits anyone from restricting a member of the Armed Forces from making lawful communications to a member of Congress or an IG.

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### ***Always consult your local counsel when faced with a potential ethics question.***

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- Proving restriction requires establishing, by a preponderance of the evidence, that a responsible management official (RMO) prevented or attempted to prevent a member of the Armed Forces from making or preparing to make a lawful communication to a member of Congress or an IG.

- The determination is always case-specific and must take into consideration the totality of the circumstances in that case. Restriction can be substantiated even if the RMO's attempt at preventing a lawful communication failed to deter the member of the Armed Forces from subsequently contacting a member of Congress or an IG.

- When analyzing such a fact pattern, your focus should be on whether a reasonable person could believe the RMO's action was an attempt to deter the member from talking to a member of Congress or an IG.

- In this case, the lieutenant colonel's offer to handle the matter outside of IG channels could reasonably be perceived as an attempt to restrict the sergeant's communication with the CIG.

## Final Thoughts

- Avoid ethical landmines—even well-intentioned actions may run afoul of the ethical midlines. Always consult your local counsel when faced with a potential ethics question.

- Respect the IG process, do not try to identify complainants or subjects, do not interfere with a Marine's access to an IG, and cooperate with all IG investigations.

- Do not prejudge a complaint based on the complainant. In the scenario detailed above, the complainant had filed numerous meritless complaints; however, his most recent complaint identified multiple incidents of misconduct. Even a broken clock is right twice a day.



***Comments are welcomed. Discussion will be posted on the Gazette LinkedIn group: <https://www.linkedin.com/showcase/marine-corps-gazette>.***