



Office of Inspector General

November 14, 2006

Mr. Ted Keating
President
National Association of Postal Supervisors
1721 King Street
Alexandria, VA 22314-2753

HAND DELIVERED

Dear Mr. Keating:

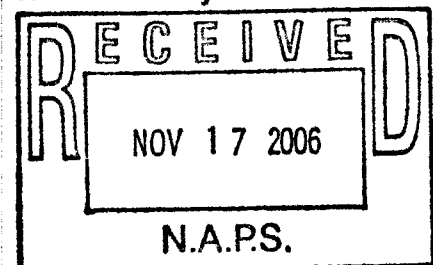
In follow-up to a meeting you had with Inspector General David Williams, I understand that you have expressed interest in a clarification of the warnings being used by Office of Inspector General Special Agents (SA).

The Office of Inspector General (OIG) initiates investigations based on allegations we receive from multiple sources, including our Hotline, the U.S. Postal Service, and Congress. OIG conducts investigations to prevent and detect fraud and misconduct in Postal Service programs and operations, as required by the Inspector General Act. 5 U.S.C. app. 3, § 4(a)(3).

The Inspector General Act also requires that OIGs report to the Attorney General "whenever the Inspector General has reasonable grounds to believe there has been a violation of federal criminal law." *Id.* § 4(d). The Attorney General has issued guidelines for OIGs when conducting investigations, including the warnings to be used. These warnings ensure employees are fully advised of their rights and Department of Justice's interests in the cases are safeguarded. The use of the DOJ warnings also promotes uniformity in OIG investigations. These warnings, discussed below, are also called Advisements of Rights.

Miranda

Miranda warnings are given to subjects of OIG investigations when they are placed under arrest or are in custody, as required by Miranda v. Arizona, 384 U.S. 436 (1966). Miranda warnings advise the subject of OIG investigations who are under arrest or otherwise in custody that they have a right to remain silent; that statements they make can be used against them; that they have a right to an attorney during questioning; and that an attorney will be appointed to them if they cannot afford one.



Garrity

Garrity warnings are given to subjects of OIG investigations, who are not under arrest or in custody, as suggested by Garrity v. New Jersey, 386 U.S. 493, 500 (1967). Garrity warnings are designed to ensure that employees' interviews are voluntary. Garrity warnings advise subjects that they may remain silent on matters where there may be criminal exposure, but must report on activities for which there is no criminal exposure. Subjects are also reminded that the interview is strictly voluntary.

Kalkines

Kalkines warnings are given to subjects of OIG investigations to assure employees that their statements may not be used against them in any criminal proceeding, in accordance with guidance in Kalkines v. U.S., 473 F.2d 1391 (Ct. Cl. 1973). Courts have long held that once an individual's statements are immunized, the employee no longer has a right to remain silent. Lefkowitz v. Cunningham, 431 U.S. 801, 806 (1977). Kalkines warnings remind employees that they have a duty to respond to investigative questions and that agency disciplinary actions may follow if employees fail to cooperate or fail to answer fully and truthfully. Employees are also told that statements they provide may be used in civil or administrative proceedings, but cannot be used in criminal proceedings.

The Postal Service Employee and Labor Relations Manual (ELM), Section 665.3 requires that Postal Service employees "cooperate in any postal investigation, including Office of Inspector General investigations." Employees may be disciplined for refusal to cooperate or for providing false statements during questioning. As an additional safeguard for employees, OIG agents have been trained to comply with all reasonable requests for union representation.

In addition to this explanation, I understand that you requested some additional information. Accordingly, I am including copies of our current OIG Warnings and Advisement of Rights. Please note that the restrictive language contained on the bottom of each document is in place to ensure that these forms, once completed, are protected from public dissemination. Also enclosed are copies of contact information for our Special Agents in Charge, and their areas of geographic responsibility throughout the country.

OIG investigations and warnings protect Postal Service employees and protect the Postal Service. By preventing and detecting fraud and abuses in Postal Service

programs and operations, the OIG safeguards Postal Service credibility and financial stability. We look forward to working with you towards that end, and thank you for your interest in this matter. I hope this letter provides clarification on our investigative processes and warnings and addresses your questions.

If you have any questions or wish to discuss, please contact me at (703) 248-2386.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth P. Martin", is written over the typed name.

Elizabeth P. Martin
General Counsel

Attachments: a/s

cc: Anthony J. Vegliante

**UNITED STATES POSTAL SERVICE
OFFICE OF INSPECTOR GENERAL**

1735 NORTH LYNN STREET
ARLINGTON, VA 22209-2020

MIRANDA RIGHTS

I, _____, have been advised by Special Agent
_____, who has identified himself/herself to me as a Special Agent of
the United States Postal Service, Office of Inspector General that he/she is conducting
criminal investigation.

I have also been advised that:

- _____ 1. I have the right to remain silent;
- _____ 2. Any statement I make can be used as evidence against me in a court of law;
- _____ 3. I have the right to consult with an attorney prior to and during any questioning;
- _____ 4. If I cannot afford an attorney, one will be appointed to me by the court without cost, prior to any questioning;
- _____ 5. I have the right to request an attorney at any time during this interview; and
- _____ 6. I have the right to terminate this interview at any time, for any reason.

I have read my rights or had them read to me as set forth above and I understand my rights. With this understanding, I am willing to make a statement and answer questions. I do not wish to consult with an attorney at this time, and I do not wish to have an attorney present during this interview. I make this decision freely, knowingly, and voluntarily, and without any threats, promises, or coercion of any kind being made against me.

Signature: _____

Date & Time: _____

Investigator: _____

Date & Time: _____

Witness: _____

Date & Time: _____

**RESTRICTED
INFORMATION
MIRANDA**

This report is furnished on an official need to know basis and must be protected from dissemination which may compromise the best interests of the U.S. Postal Service Office of Inspector General. This report shall not be released or disseminated to other parties without prior consultation with the Office of Inspector General. Unauthorized release may result in criminal prosecution.

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**1735 NORTH LYNN STREET
ARLINGTON, VA 22209-2020**

GARRITY WARNING: ACKNOWLEDGMENT OF RIGHTS

I, _____, have been advised by Special Agent _____, who has identified himself/herself to me as a Special Agent of the United States Postal Service, Office of Inspector General, that he/she is conducting an investigation into a matter affecting my official duties.

In connection with this, I have been advised that:

1. I have the right to remain silent if my answers may result in a criminal charge being brought against me.
2. Anything I say or do may be used as evidence in administrative proceedings, civil proceedings, or any future criminal proceeding involving me.
3. If I refuse to answer the questions posed to me on the grounds that the answers may tend to incriminate me, I cannot be discharged solely for remaining silent.
4. This interview is strictly voluntary and I may leave at any time.

I have read the Acknowledgment of Rights or had them read to me and I understand them as set forth above.

Signature: _____

Date & Time: _____

Investigator: _____

Witnessed: _____

Place: _____

**RESTRICTED
INFORMATION
GARRITY**

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KALKINES WARNING: ADMINISTRATIVE

This is an inquiry regarding information pertaining to or allegations of misconduct or improper performance of official duties. In accordance with the Privacy Act of 1974, you are advised that the authority to conduct this interview is contained in the Inspector General Act of 1978, as amended, 5 U.S.C. App 3 Section 4. The purpose of this interview is to obtain information which will assist in the determination of whether administrative action is warranted.

1. You are going to be asked a number of specific questions concerning the performance of your official duties as an employee of the United States Postal Service.
2. You have a duty to reply to these questions. Agency disciplinary proceedings, including your dismissal, may be initiated if you refuse to answer or fail to reply fully and truthfully.
3. Neither your answers nor any information or evidence which is gained by reason of your statements can be used against you in criminal proceedings; except that you may be subject to criminal prosecution for any false oral or written answers made by you during the course of this interview.
4. YOU ARE SUBJECT TO DISCIPLINARY ACTIONS UP TO AND INCLUDING DISMISSAL IF YOU REFUSE TO ANSWER OR FAIL TO RESPOND TRUTHFULLY AND FULLY TO ANY QUESTIONS, OR GIVE MISLEADING INFORMATION.

Acknowledgement

I have read the above warning or had it read to me, and I understand my rights. I have been advised of the nature of the inquiry and I am willing to discuss the subject(s) presented to me. No promises, threats, or coercion of any kind have been made against me. I know and understand what I am doing.

Date

Time

Signature

PRINT NAME

INVESTIGATOR

DATE

TIME

Witness

Date

Time

**RESTRICTED
INFORMATION
KALKINES**

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