

19 Dec 19

From: [REDACTED], JAGC, USN, Preliminary Inquiry Officer  
To: Superintendent, U.S. Naval Academy

Subj: PRELIMINARY INQUIRY INTO HAND GESTURES MADE DURING ESPN  
GAMEDAY BROADCAST BEFORE THE ARMY-NAVY GAME ON 14  
DECEMBER 2019

Ref: (a) JAGMAN, Section 0203  
(b) COMDTMIDNINST 1610.2J

Encl: (1) Screenshots from ESPN College Gameday Broadcast of 14 Dec 19  
(2) Email from [REDACTED] USN of 16 Dec 19  
(3) Result of Interview of MIDN [REDACTED], USN of 16 Dec 19  
(4) Result of Interview of MIDN [REDACTED], USN of 16 Dec 19  
(5) Result of Interview of MIDN [REDACTED] USN of 16 Dec 19  
(6) Result of Interview of MIDN [REDACTED] USN of 16 Dec 19  
(7) Result of Interview of MIDN [REDACTED], USN of 16 Dec 19  
(8) Result of Interview of MIDN [REDACTED], USN of 16 Dec 19  
(9) Result of Interview of MIDN [REDACTED] USN of 16 Dec 19  
(10) Email to [REDACTED], NCIS of 16 Dec 19  
(11) Email from [REDACTED], NCIS of 18 Dec 19  
(12) Result of Interview of LT [REDACTED], USN of 18 Dec 19  
(13) Result of Interview of LT [REDACTED] USN of 18 Dec 19  
(14) Result of Interview of [REDACTED], USN of 18 Dec 19  
(15) Result of Interview of MIDN [REDACTED], USN of 17 Dec 19  
(16) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(17) Email from MIDN [REDACTED] of 18 Dec 19  
(18) Result of Interview of MIDN [REDACTED], USN of 18 Dec 19  
(19) Result of Interview of MIDN [REDACTED], USN of 18 Dec 19  
(20) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(21) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(22) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(23) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(24) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(25) Result of Interview of MIDN [REDACTED] USN of 17 Dec 19  
(26) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(27) Result of Interview of LT [REDACTED] USN of 18 Dec 19  
(28) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(29) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19  
(30) Photograph of Text Message from [REDACTED] of 14 Dec 19  
(31) Washington Post Article by Mrs. Abby Ohlheiser of 16 Dec 19  
(32) Result of Interview of LT [REDACTED] USN of 17 Dec 19  
(33) Result of Interview of [REDACTED] USN of 18 Dec 19  
(34) Result of Interview of MIDN [REDACTED] USN of 18 Dec 19

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- (35) Result of Interview of MIDN [REDACTED], USN of 19 Dec 19
- (36) Result of Interview of LT [REDACTED], USN of 19 Dec 19
- (37) Result of Interview of LT [REDACTED], USN of 19 Dec 19
- (38) Result of Interview of LT [REDACTED], USN of 17 Dec 19
- (39) Commandant of Midshipmen Action/Decision Memo of 4 Dec 19
- (40) Result of Interview of LT [REDACTED], USN of 19 Dec 19
- (41) Email from LT [REDACTED], USN of 9 Dec 19
- (42) Email from LT [REDACTED], USN of 9 Dec 19
- (43) Result of Interview of CDR [REDACTED] USN of 19 Dec 19

1. This reports completion of the preliminary inquiry conducted in accordance with reference (a) into hand gestures made by midshipmen during the ESPN Gameday broadcast on 14 December 2019 prior to the Army-Navy game. Per reference (b), I was verbally appointed as the preliminary inquiry officer by the Commandant of Midshipman on 15 December 2019 after reports of the gestures were received. I was subsequently directed to address my report directly to the Superintendent.

2. In preparing this report, I interviewed the two (2) suspect midshipmen, the midshipman in front of whom the gestures were made, and the four (4) midshipmen who could be identified in the vicinity of the gestures. To garner background information on the suspects, I interviewed the Company Officer and the Senior Enlisted Leader for both of the suspected midshipmen and thirteen (13) midshipmen who have daily interactions with the suspected midshipmen including chain of command, teammates, and roommates. Similarly, I interviewed the Command Managed Equal Opportunity (CMEO) Officer and the Supervisory Special Agent in charge of Naval Criminal Investigative Service Resident Activity Annapolis to determine if there was any derogatory information about any of the suspects reported to other authorities. I also interviewed nine (9) individuals including officers, senior enlisted, and midshipmen involved with the planning and execution of the Army-Navy Gameday evolution.

3. Materials reviewed:

- a. Video footage from ESPN Gameday broadcast of 14 December 2019;
- b. Screen shots from video footage from ESPN Gameday broadcast of 14 December 2019;
- c. Text message between MIDNs [REDACTED] and [REDACTED];
- d. Text messages between MIDNs [REDACTED] and [REDACTED];
- e. Online resources describing “the circle game.”

4. Summary of findings:

- a. On 14 December 2019, a contingent of roughly 300 midshipmen was sent to attend the filming of ESPN College Gameday in Philadelphia, Pennsylvania prior to the Army-Navy

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Football Game to be held later that day. There was minimal coordination between Naval Academy officials and ESPN College Gameday staff prior to or during the event. When the midshipmen arrived at the Gameday filming location, they discovered that there were two areas accessible to midshipmen, a main corral behind the ESPN broadcast desk and a set of bleachers which could be accessed by completing a brief survey. There were no screening mechanisms instituted by the Naval Academy as to which midshipmen could access the bleachers, and midshipmen came and went from the bleachers at will.

b. At some point, more midshipmen were needed in the bleachers for a video shot, so a staffer grabbed a group of midshipmen from the rear of the corral and brought them to the bleachers. This group included Midshipmen [REDACTED], [REDACTED], and [REDACTED]. There was a large television screen facing both the bleachers and the main corral, which were adjacent to each other. An ESPN reporter was standing in the bleachers between the cadets and midshipmen. The midshipmen surrounding the reporter could be seen on the TV screen. Midshipman [REDACTED] was somewhat visible at the top of the screen and Midshipman [REDACTED] was just off-screen.

c. Midshipman [REDACTED] placed his hand on the shoulder of Midshipman [REDACTED] and placed his pointer and thumb together in a circle, with the other three fingers out-stretched. Midshipman [REDACTED] leaned down, making his face visible on the screen.

d. Midshipman [REDACTED] then stretched his hand in front of Midshipman [REDACTED] and made the same hand gesture, at which point his face was partially visible on the screen. Midshipman [REDACTED] then retracted his hand, took off his glove, and put his hand back out making the gesture more visible on the screen. After a few seconds, Midshipman [REDACTED] used his hand to push Midshipman [REDACTED] hand down.

e. Both Midshipman [REDACTED] and Midshipman [REDACTED] stated that they were playing “the circle game.” The circle game is a common game that has been played for decades and has been featured in popular culture television, including an episode of “Malcolm in the Middle” that originally aired in 2000. The premise of the game is that a person makes a circle with their pointer finger and thumb below their waist. If someone looks at the circle, they lose and the person who made the circle gets to punch the person who looked in the arm. There are different variations on the game, one of which consists of “photobombing” a photograph while displaying the gesture. Within the last two years, the “OK” hand gesture, which looks like the gesture made for the circle game, became the target of an internet hoax which claimed that the gesture signified “white power.” In light of this hoax, several prominent members of “white power” and “white supremacy” groups began making the gesture in public, thereby appropriating the gesture as a symbol of their movements.

f. During the Gameday evolution, there were signs and reciprocal chants saying disparaging things about the other service, including that the other service “sucks.” Similarly, there were limited instances of individuals throwing projectiles at others. This type of behavior has been observed at previous editions of the Army-Navy Gameday evolution.

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5. Opinion: Midshipmen [REDACTED] and [REDACTED] were playing the circle game without any racist or white supremacist intent.

a. Both midshipmen state that they were playing the circle game back and forth with cadets throughout Gameday. The gesture they made is consistent with the gesture made for the circle game. After the midshipmen made the gesture, several cadets from West Point can be seen making the same gesture. Midshipman [REDACTED] also stated that he believed they were playing the circle game and can be seen smiling when he notices Midshipman [REDACTED] hand before pushing it down. Midshipman [REDACTED], the roommate of Midshipman [REDACTED], texted Midshipman [REDACTED] "Got em" after seeing the gesture on the TV screen while standing in the main corral. Midshipman [REDACTED] explained the text was in reference to the circle game and that he meant to text "Got me" because Midshipman [REDACTED] normally says "Got you" while playing the game. Multiple individuals stated that the circle game is commonly played at the Naval Academy and in other military and civilian settings. Additionally, when viewed in context with the other behavior displayed by both midshipmen and cadets during Gameday, it is reasonable to believe the midshipmen were playing the circle game.

b. Based on my interviews with the suspects, I assess that both Midshipman [REDACTED] and Midshipman [REDACTED] were credible when denying having any racist intent. Both midshipmen exhibited genuine shock and surprise by the entire situation and credibly stated that they were previously unaware of the racist connotation that was recently associated with the gesture. Both midshipmen adamantly denied supporting or having any association with the "white power" movement or having any ill intent when displaying the gesture. Their denials are supported by the statements of their friends, roommates, members of their chain of command, and team captains who unanimously stated that they have never heard any of the midshipmen involved make a racial or derogatory comment and have never seen or heard about any concerning behavior by any of the midshipmen involved. Background checks by both the Naval Criminal Investigative Service and the Federal Bureau of Investigation's Joint Terrorism Task Force for both midshipmen did not reveal any known association with any racist or supremacist group or raise any other cause for concern.

c. There is no evidence that either midshipman intended to convey any type of message through the hand gesture. The evidence indicates they intended to play a sophomoric game.

6. Recommendations:

a. I recommend no further investigation into this matter.

b. I recommend training to reemphasize that everything midshipmen do reflects upon the Naval Academy and the Navy and they should conduct themselves accordingly at all times.

c. I recommend that future ESPN Gameday events involving the Brigade of Midshipmen be treated as a stand-alone evolution for planning and staffing purposes, to include the assignment of an on-site event coordinator. The on-site coordinator would be responsible for providing ad

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hoc screening of and direction to midshipmen selected for special segments or placement in high visibility areas.

d. I recommend that prior to any planned nationally broadcast television event, such as ESPN Gameday, all participants receive a media briefing which covers expectations for appearance and behavior. The media briefing should be conducted in consultation with the U.S. Naval Academy Public Affairs Officer and the Commandant's Protocol Officer.

e. I recommend that Midshipman [REDACTED] and Midshipman [REDACTED] conduct be addressed through administrative action under the Brigade conduct system, per reference (b), for failure to use good judgment. Although there is no evidence that either midshipman was intending to support "white power" or were aware that the gesture could be interpreted as supporting white power, the hand gestures displayed while in uniform during a live national television broadcast were unprofessional and not in keeping with the standards required of all midshipmen.

7. My preliminary inquiry is complete.





DEPARTMENT OF THE NAVY  
UNITED STATES NAVAL ACADEMY  
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5830  
Ser 28/985  
20 Dec 19

FINAL ENDORSEMENT on [REDACTED] JAGC, USN letter of 19 Dec 19

From: Superintendent, U.S. Naval Academy  
To: File

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1. I have reviewed the subject investigation and I concur with the findings of fact, opinions, and recommendations.
2. I concur that the two midshipmen who made hand gestures during a broadcast of ESPN College Gameday did not have racist intent. While the hand gesture in question has been appropriated by some groups to signal white supremacy, the evidence firmly supports the conclusion that the midshipmen did not intend to invoke racist or supremacist meaning. Regardless of intent, their conduct was immature and unprofessional. We expect better from our midshipmen.
3. In addition to the investigating officer's recommendations, all midshipmen will attend conduct training during January Reform. The training will cover, at a minimum, proper military decorum, standards of conduct, and uniform regulations.
4. Recommendations 6 (b) through (d) are forwarded to the Commandant for action. Recommendation 6 (e) is forwarded to the Commandant for appropriate action, at his discretion.
5. This investigation is closed.

S. S. BUCK  
Vice Admiral, U.S. Navy  
Superintendent

Copy to:  
Commandant of Midshipmen