

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 3**

69. What are the various channels within the Service that a victim of sexual assault or witness to retaliation can use to report social or professional retaliation?

USA	<p>Victims and/or witnesses may report allegations of professional or social retaliation to the chain of command, law enforcement, Victim Advocates, Sexual Assault Response Coordinators, Special Victim Counsel, the IG, and hotlines run by the DoD, the Army, or the installation</p>
USAF	<p>The terms “professional retaliation” and “social retaliation” have been used in surveys and discussions about how to address retaliation and other negative ancillary effects of reporting a crime experienced by victims. In reporting, we do not focus on this terminology, but instead focus on the division between conduct that the Inspector General (IG) investigates (i.e. reprisal) and ostracism and maltreatment.</p> <p>As discussed in RFI #68, an Airman can file a complaint of reprisal through the DoD Inspector General (DoD IG) or AF Inspector General (AF IG) complaint resolution systems. They may report any reprisal under 10 U.S.C. § 1034 (Protected Communications; Prohibition of Retaliatory Personnel Actions) to the IG at the installation, Numbered Air Force (NAF), Major Command (MAJCOM), or AF level. They can file their complaint in person, over the phone, via e-mail or through the web-based AF IG complaints page.</p> <p>An Airman, military or civilian, can make a complaint of ostracism or maltreatment, in violation of AFGM to AFI 36-2909, directly to their chain of command or to law enforcement, meaning AFOSI or AF Security Forces. AFGM to AFI 36-2909, para. 14, states that “[a] commander or supervisor must take appropriate action if it is reasonable to believe retaliation has occurred. At a minimum, the member or members suspected of engaging in retaliation will be ordered to cease from engaging in any further retaliation. As soon as practicable, the alleged victim, or other military member who is believed to have been retaliated against will be informed that command is aware of the suspected act or acts of retaliation, and that the alleged offenders have been ordered to cease from engaging in any further retaliation. The individual retaliated against will be advised to report any further acts of retaliation.” If the report made to a commander or law enforcement involves an allegation of reprisal, the matter will be referred to the IG. AFGM to AFI 36-2909, para. 16.</p> <p>Airmen also have available the assistance of their sexual assault response coordinator (SARC), victim advocate (VA), or Special Victim’s Counsel (SVC) to provide them advice on how to report reprisal, ostracism, and maltreatment, and to assist with reporting if the victim chooses. A victim may refuse to disclose and prevent any other person from disclosing a privileged communication made between the victim and a SARC, VA, or SVC unless required by law. Military Rules of Evidence 502 and 514.</p> <p>During the initial intake that SAPR personnel have with a victim, the SARC or VA is responsible for discussing with victims the definition of retaliation, to include reprisal, ostracism, and maltreatment. They are also required to talk to the victim about whether the victim has experienced any form of retaliation, different reporting</p>

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	<p>options, and to assist the victim with reporting the retaliation if the victim chooses. The SARC or VA will continue to discuss this issue with victims at least monthly prior to Case Management Group (CMG) meetings. If a victim discusses a retaliation incident with the SARC or VA, but chooses not to make a retaliation report, the communications remain privileged and will not be discussed at the installation CMG to ensure the victim's identity is protected. If the victim chooses to report the retaliation, the SARC will assist in determining whether the complaint is best referred to command, the IG, or Air Force Office of Special Investigations (AFOSI) and assist the victim in contacting the agency if necessary. The SARC or VA will also encourage the victim to consult with their SVC.</p> <p>For victims that elect Special Victims' Counsel (SVC) representation, the SVC will discuss with the victim the definitions of retaliation, to include reprisal, ostracism, and maltreatment. The SVC will also discuss different reporting options if the victim makes the SVC aware of a retaliation incident and assist the victim with making a report if the victim chooses. These conversations take place both in advance and after CMG meetings to see if there is an incident the victim would like to report so that it can be discussed at the CMG or at the meeting victims have with their commander within 72 hours after the CMG where they receive a status update on the investigation. If the victim makes the SVC aware of an incident that the victim has experienced that does not meet the definitions of reprisal, ostracism, or maltreatment, the SVC (if the victim consents) will raise the issue with the Commander or installation Staff Judge Advocate. An example of such a scenario could be an inappropriate posting on the Facebook page of one of the victim's friends that the victim views. Such conduct could be a violation of AFI 1-1, <i>Air Force Standards</i>, para.2.15.3.</p> <p><u>References:</u></p> <ul style="list-style-type: none"> - AFGM 2014-01 to AFI 36-2909, <i>Professional and Unprofessional Relationships</i>, 19 June 2014, http://static.e-publishing.af.mil/production/1/af_ja/publication/afi36-2909/afi36-2909.pdf - AFI 90-301, <i>Inspector General Complaints Resolution</i>, 6 June 2012, http://static.e-publishing.af.mil/production/1/saf_ig/publication/afi90-301/afi90-301.pdf - AFI 1-1, <i>Air Force Standards</i>, 7 August 2012, http://static.e-publishing.af.mil/production/1/af_cc/publication/afi1-1/afi1-1.pdf <p>ATTACHMENT: Attachment 70, Change 1 to 27 February 15 Memorandum - Updated Procedures Regarding Reporting and Tracking Victim Retaliation in Sexual Assault Cases, 17 March 15.</p>
USN	A service member who is a victim of sexual assault or witness to retaliation can report via several channels including their chain of command, an Inspector General, Naval Criminal Investigative Service (NCIS), Victims' Legal Counsel (VLC), Victim Advocate (VA), other Commanding Officers (COs), or DoD Safe Helpline.
USMC	Victims of or witnesses to social or professional retaliation may report such retaliation in a number of ways. Ways of reporting include:

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	<p>(a) Request that any SARC or SAPR VA/UVA (not just those to whom they are normally designated) assist them in reporting. This can be facilitated locally or by the DoD SAPR SAFE Helpline;</p> <p>(b) Report to their immediate commander, a commander outside of their chain of command, or to any superior commissioned officer;</p> <p>(c) Report through an IG; or</p> <p>(d) Request legal services from Victim’s Legal Counsel (VLC), trial counsel, the Victim Witness Assistance Program (VWAP), or a legal assistance attorney to facilitate reporting.</p> <p>SARCs and SAPR VA/UVAs are required to inform sexual assault victims of the resources available to report instances of retaliation as part of the protocol for reviewing the DD Form 2910.</p> <p>VLC are available to discuss options and to assist victims to file complaints to address perceived reprisal or retaliation. However, few crime victims seeking VLC assistance have raised such issues or requested assistance filing retaliation complaints. The options VLC may use to address perceived retaliation include:</p> <ul style="list-style-type: none"> - Article 138, UCMJ, Complaints of Wrong - Navy General Regulation 1150, Redress of Wrong Committed by a Superior - Request Mast - Equal Opportunity complaint - BCNR assistance - IG complaint - Congressional inquiry assistance
USCG	<p>A victim that experiences retaliation or a witness to retaliation can report such incidents to a Coast Guard SARC, victim advocate (VA), or special victims’ counsel (SVC) using existing channels for victim support. Reports can also be made to CGIS. If a victim or bystander is involved in an ongoing criminal case for which trial counsel have been assigned, a report can also be made to trial counsel. Reports can always be made through the victim’s chain of command or to a superior in the chain of command. The Coast Guard has also instituted a SAPR Crisis Intervention Team consisting of the victim and alleged offender’s commands, SARC, CGIS, legal, and medical representatives for every unrestricted report of sexual assault. This team is capable of coordinating response to an allegation of retaliation.</p>