

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

75. When/how is a sexual assault victim’s retaliation complaint referred to:

- a. A Commander’s Inquiry or Investigation (informal or formal such as Army Regulation 15-6 investigation and JAGMAN investigations in the Navy and Marine Corps);**

USA	Upon notification to the command that a victim has made a complaint of retaliation, the command will appoint an AR 15-6 Investigating Officer.
USAF	<p>Any commander who receives a retaliation report that does not constitute reprisal can initiate a commander-directed investigation (CDI). This is not limited to the Airman’s immediate commander – a higher level commander, such as a wing commander, may initiate a CDI. The formal complaint can come directly from the member or their chain of command or it could be referred to the commander from another agency such as the Air Force Office of Special Investigations (AFOSI) or AF Inspector General (AF IG).</p> <p><u>References:</u></p> <ul style="list-style-type: none"> - <i>Commander-Directed Investigation (CDI) Guide</i>, 26 April 2010, http://www.af.mil/Portals/1/documents/ig/cdi-guide.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 51-904, <i>Complaints of Wrongs under Article 138, Uniform Code of Military Justice</i>, 30 June 1994, http://static.e-publishing.af.mil/production/1/af_a3_5/publication/afi51-904/afi51-904.pdf
USN	A sexual assault victim’s retaliation complaint is referred to a commander’s JAGMAN investigation or inquiry in cases of social retaliation in the form of ostracism or maltreatment, as defined by SECNAVINST 5370.7D, or when an IG requests the command investigate other forms of reprisal or retaliation.
USMC	<p>See consolidated answer below.</p> <p>Any IG is authorized to receive complaints of professional retaliation (reprisal) from naval personnel. All professional retaliation (reprisal) complaints are vetted by the IGMC for investigative merit. Upon the receipt of allegations of social retaliation (in the form of ostracism or maltreatment), IGMC will typically refer them to the appropriate command for action except in those circumstances where the IGMC, in its discretion, determines that the allegations should be handled by an IG. Such circumstances would exist, for example, when either ostracism, maltreatment, or both, is alleged to have occurred in addition to a retaliatory personnel action (professional retaliation) and the IGMC determines it would be unreasonable to conduct two separate investigations; or when a flag/general officer (GO) or member of the senior executive service (SES) is alleged to have engaged in the ostracism or maltreatment (as IGMC is the only entity in the USMC authorized to conduct senior official investigations). DoD IG retains the investigative authority for 3-star general officers and above and SES equivalents.</p>

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

	If an issue of retaliation is identified during the provision of VLC services, the VLC will assist that victim prepare and file their complaint to each of these, whether it is a letter to the Commander or filling out a form to request an IG investigation. Often times VLC will inquire into allegations of retaliation by phone to get further details and seek resolution, followed by written inquiry to preserve the record to file a formal complaint later if necessary.
USCG	Generally, if a victim brings a report of retaliation to the attention of their chain of command, or someone within their unit, it can be referred for a command level investigation. However, the command also has the option of requesting that CGIS conduct the investigation instead. The victim can also approach CGIS, directly or through the SVC or SARC, to request an investigation.

b. MCIO for investigation;

USA	Upon notification to the command/VA/SARC/SVC that a victim has made a complaint of retaliation that involves an assault, a threat, or damage to personal property, that complaint will be forwarded to CID immediately.
USAF	Other agencies refer retaliation reports to AFOSI when the actions associated with the retaliation are criminal in nature and of a level of seriousness to warrant AFOSI involvement. Less serious criminal activities and those outside of AFOSI's authority are referred to the appropriate authorities (e.g., AF Security Forces; federal, state, or local law enforcement; foreign law enforcement). <u>References:</u> <ul style="list-style-type: none"> - <i>Commander-Directed Investigation (CDI) Guide</i>, 26 April 2010, http://www.af.mil/Portals/1/documents/ig/cdi-guide.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 51-904, <i>Complaints of Wrongs under Article 138, Uniform Code of Military Justice</i>, 30 June 1994, http://static.e-publishing.af.mil/production/1/af_a3_5/publication/afi51-904/afi51-904.pdf
USN	Reports of reprisal and retaliation are typically investigated by the NAVINSGEN or the victim's command. However, if an allegation of reprisal, or any other allegations of criminal activity against the victim (threats, minor physical assaults, damage to property, etc.), is identified during a NCIS sexual assault investigation, NCIS shall initiate a separate investigation. For all other instances, NCIS will open a formal investigation or refer the matter to either NAVINSGEN or the victim's command.
USMC	N/A. NCIS is a DON agency; NCIS procedures will be addressed in the USN response.
USCG	Victims, SARCs, SVCs, or any other person can bring information about retaliation to the attention of CGIS for investigation. CGIS may then open an investigation or refer the matter to the chain of command for investigation and action.

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

c. The Service IG for investigation;

USA	A Soldier makes a complaint of statutory whistleblower reprisal directly to the IG.
USAF	<p>A member can make a reprisal report at the AF IG or DoD IG level. The AF IG will review the complaint and determine if it meets the criteria for reprisal. If it does not amount to reprisal, the IG will refer the report it back to the commander or another appropriate agency for review.</p> <p><u>References:</u></p> <ul style="list-style-type: none"> - <i>Commander-Directed Investigation (CDI) Guide</i>, 26 April 2010, http://www.af.mil/Portals/1/documents/ig/cdi-guide.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 51-904, <i>Complaints of Wrongs under Article 138, Uniform Code of Military Justice</i>, 30 June 1994, http://static.e-publishing.af.mil/production/1/af_a3_5/publication/afi51-904/afi51-904.pdf
USN	<p>NAVINSGEN receives complaints of retaliation through the NAVINSGEN Hotline. In addition, NAVINSGEN receives referrals of complaints via the DoDIG Hotline or other Service IG Hotline. Complaints are also received via Navy Echelon II Hotlines and certain Echelon III commands which maintain Hotline Programs. The Hotline system accepts complaints directly from the complainant, via a third party, or anonymously.</p> <p>NAVINSGEN investigates allegations of reprisal or retaliation in the form of unfavorable personnel action. NAVINSGEN typically forwards complaints of social retaliation (i.e. ostracism or maltreatment) to the appropriate commander for investigation except in those circumstances where NAVINSGEN, in its discretion, determines whether the allegation should be handled by the NAVINSGEN. (SECNAVINST 5370.7D, enclosure (3), paragraph 1(m).)</p>
USMC	<p>See consolidated answer below.</p> <p>Any IG is authorized to receive complaints of professional retaliation (reprisal) from naval personnel. All professional retaliation (reprisal) complaints are vetted by the IGMC for investigative merit. Upon the receipt of allegations of social retaliation (in the form of ostracism or maltreatment), IGMC will typically refer them to the appropriate command for action except in those circumstances where the IGMC, in its discretion, determines that the allegations should be handled by an IG. Such circumstances would exist, for example, when either ostracism, maltreatment, or both, is alleged to have occurred in addition to a retaliatory personnel action (professional retaliation) and the IGMC determines it would be unreasonable to conduct two separate investigations; or when a flag/general officer (GO) or member of the senior executive service (SES) is alleged to have engaged in the ostracism or maltreatment (as IGMC is the only entity in the USMC authorized to conduct senior official investigations). DoD IG retains the investigative authority for 3-star general</p>

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

	<p>officers and above and SES equivalents.</p> <p>If an issue of retaliation is identified during the provision of VLC services, the VLC will assist that victim prepare and file their complaint to each of these, whether it is a letter to the Commander or filling out a form to request an IG investigation. Often times VLC will inquire into allegations of retaliation by phone to get further details and seek resolution, followed by written inquiry to preserve the record to file a formal complaint later if necessary.</p>
USCG	<p>The victim can report the allegation of retaliation to the DHS IG through its hotline. However, DHS IG generally refers matters regarding the Coast Guard to CGIS for investigation.</p>

d. DOD IG for investigation;

USA	<p>DOD IG will provide this response separately.</p>
USAF	<p>AF IG notifies DoD IG within 10 days of receiving a complaint including allegations of reprisal. AFI 90-301, para. 6.5. DoD IG may decide to retain the allegation to conduct a complaint analysis at their level and conduct an investigation or return the complaint to AF IG to proceed. DoD IG maintains oversight throughout the conduct of any investigation into an allegation of reprisal.</p> <p><u>References:</u></p> <ul style="list-style-type: none"> - <i>Commander-Directed Investigation (CDI) Guide</i>, 26 April 2010, http://www.af.mil/Portals/1/documents/ig/cdi-guide.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 51-904, <i>Complaints of Wrongs under Article 138, Uniform Code of Military Justice</i>, 30 June 1994, http://static.e-publishing.af.mil/production/1/af_a3_5/publication/afi51-904/afi51-904.pdf
USN	<p>DoD IG investigates or oversees NAVINSGEN investigations of allegations of restriction or professional retaliation.</p>
USMC	<p>N/A.</p>
USCG	<p>The Coast Guard does not fall within the Department of Defense and thus does not utilize the DoD IG for investigation. If a member does call the DoD IG hotline or contact the DoD IG in another way, DoD IG would normally refer the matter to the DHS IG, who would normally refer it to CGIS for investigation.</p>

e. Any other investigative body (e.g., Art. 138 complaints)?

USA	<p>A victim has multiple avenues to report retaliation. A victim of retaliation can make a report with the SARC, Special Victims Counsel, the commander, law enforcement, Victim Witness Assistance Program personnel or the Service Inspector General. The SARC/VA/SVC will assist the victim by ensuring that the victim's complaint is referred to the appropriate agency. Once the complaint is made, each of the investigating agencies follows its own procedures.</p>
------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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

<p>USAF</p>	<p>It is the victim’s choice to make an Article 138 complaint. There is no process to refer an allegation to an Article 138 complaint. If the victim is an Airman who believes that he or she was wronged by his/her commander and is refused redress by that commander, the Airman may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction will examine the complaint and take proper measures for redressing the wrong.</p> <p><u>References:</u></p> <ul style="list-style-type: none"> - <i>Commander-Directed Investigation (CDI) Guide</i>, 26 April 2010, http://www.af.mil/Portals/1/documents/ig/cdi-guide.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 51-904, <i>Complaints of Wrongs under Article 138, Uniform Code of Military Justice</i>, 30 June 1994, http://static.e-publishing.af.mil/production/1/af_a3_5/publication/afi51-904/afi51-904.pdf
<p>USN</p>	<p>If a victim of sexual assault file an Article 138, UCMJ complaint alleging reprisal or retaliation, the allegation will be forwarded to the next level in the commander’s chain of command and the next level in the chain of command will either ensure that an investigation is completed or will offer to forward the complaint of reprisal or retaliation to the NAVINSGEN.</p>
<p>USMC</p>	<p>See consolidated answer below.</p> <p>BCNR. BCNR is a DON agency; BCNR procedures will be addressed in the USN response.</p> <p>Any IG is authorized to receive complaints of professional retaliation (reprisal) from naval personnel. All professional retaliation (reprisal) complaints are vetted by the IGMC for investigative merit. Upon the receipt of allegations of social retaliation (in the form of ostracism or maltreatment), IGMC will typically refer them to the appropriate command for action except in those circumstances where the IGMC, in its discretion, determines that the allegations should be handled by an IG. Such circumstances would exist, for example, when either ostracism, maltreatment, or both, is alleged to have occurred in addition to a retaliatory personnel action (professional retaliation) and the IGMC determines it would be unreasonable to conduct two separate investigations; or when a flag/general officer (GO) or member of the senior executive service (SES) is alleged to have engaged in the ostracism or maltreatment (as IGMC is the only entity in the USMC authorized to conduct senior official investigations). DoD IG retains the investigative authority for 3-star general officers and above and SES equivalents.</p> <p>If an issue of retaliation is identified during the provision of VLC services, the VLC will assist that victim prepare and file their complaint to each of these, whether it is a letter to the Commander or filling out a form to request an IG investigation. Often times VLC will inquire into allegations of retaliation by phone to get further details</p>

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

	and seek resolution, followed by written inquiry to preserve the record to file a formal complaint later if necessary.
USCG	A Victim could bring an Article 138 complaint under the appropriate circumstances for retaliation to the first flag officer in his/her chain of command. The SAPR Crisis Intervention Team also provides an avenue to raise awareness not only to the command level, but to the appropriate legal office and CGIS field office.