

**JUDICIAL PROCEEDINGS PANEL  
REQUEST FOR INFORMATION SET # 5**

**101. DoD IG and Service IGs:** The following information is needed for the cases involving sexual assault victims who reported retaliation to DoD or Service IG's in order to fully understand the processing of their complaints. (follow up to JPP Question 84)

- a. How many sexual assault victims reported retaliation to the DoD or Service IG in FY12, 13, and 14.**

<b>DoD</b>	<p><b>(DoD IG)</b> I (Nilgun Tolek) testified in April of this year before the JPP that the following number of sexual assault-related reprisal complaints were filed in those years. These numbers are based on word searches in case descriptions and other fields in our case management system and thus may not include all cases filed.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Fiscal Year</th> <th>Sexual Assault-related Complaints Received</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2012</td> <td style="text-align: center;">6</td> </tr> <tr> <td style="text-align: center;">2013</td> <td style="text-align: center;">10</td> </tr> <tr> <td style="text-align: center;">2014</td> <td style="text-align: center;">9</td> </tr> </tbody> </table> <p>These numbers represent complaints filed with the DoD IG as well as those filed with Service IGs and reported to DoD IG. However, because GAO found in May 2015 that not all complaints filed with the Services were reported to DoD IG, I have revised the numbers reported earlier to reflect only those filed with DoD IG:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Fiscal Year</th> <th>Sexual Assault-related Complaints Received by DoD IG</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2012</td> <td style="text-align: center;">4</td> </tr> <tr> <td style="text-align: center;">2013</td> <td style="text-align: center;">6</td> </tr> <tr> <td style="text-align: center;">2014</td> <td style="text-align: center;">8</td> </tr> </tbody> </table>	Fiscal Year	Sexual Assault-related Complaints Received	2012	6	2013	10	2014	9	Fiscal Year	Sexual Assault-related Complaints Received by DoD IG	2012	4	2013	6	2014	8
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<b>USA</b>	<p><b>(DAIG)</b> See attached spreadsheet.</p> <p><b>ENCLOSURE:</b> JPP Data 3 December 2015</p>																
<b>USAF</b>	<p><b>(SAF/IG)</b> The total number of Air Force sexual assault related cases of reprisal during FY12, FY13 and FY 14 breaks out as follows: FY12=0, FY13=2, FY14= 4.</p>																
<b>USN</b>	<p>0 sexual assault victims reported retaliation to the Navy IG.</p>																
<b>USMC</b>	<p>Reported to IGMC: FY12 - 0 / FY13 - 0 / FY14 - 1</p>																
<b>USCG</b>	<p>The Coast Guard does not have a Service IG. CGIS has not historically tracked this data in a searchable format and is unable to respond to this question within the time frame prescribed by the JPP.</p>																

- b. Provide a case synopsis for each of the cases identified above. Detail the complete processing of each of those complaints and the time frame for each stage of the process. In the explanation, identify which agency was involved at each stage of the process from the time of the complaint, preliminary investigation, full investigation, case closure, dismissal, or complaint withdrew, case disposition as substantiated or unsubstantiated, final approval by DoD IG. If the case is still pending, please describe the process completed to date.**

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<b>DoD</b>	<p>(DoD IG) See attachment 3.</p> <p><b>ENCLOSURE:</b> Attachment 3, JPP Sexual Assault Cases FY 12-14</p>
<b>USA</b>	<p>(DAIG) See attached spreadsheet.</p> <p><b>ENCLOSURE:</b> JPP Data 3 December 2015</p>
<b>USAF</b>	<p>(SAF/IG) FY 12: No cases reported</p> <p>FY 13: Cases reported: 2</p> <p>Case 1. Synopsis: The case was initiated by a call to the Air National Guard Readiness Center (ANGRC) IG on 30 Nov 2012. The ANGRC/IG transferred the case on 30 Nov 2012, to SAF/IGQ. On 5 Dec 2012 SAF/IGQ transferred the case to the Alaska Joint Force Headquarters (AK JFHQ) IG who accepted the case on 13 Dec 2012. AK JFHQ/IG conducted a complaint clarification interview on 9 Jan 2013. In this case, the complainant alleged a third party was reprisal against. When contacted by the IG, the third party chose not to pursue the allegations of reprisal. It was determined that the reprisal was not related to any report of sexual assault, and that the initial complaint involving sexual assault was in fact an allegation of abuse of authority involving a separate complaint of sexual harassment not related to the complainant. That allegation of sexual harassment was investigated by Military Equal Opportunity and found to be not substantiated. Based on the analysis, the reprisal allegation was dismissed and the case was closed by the AK JFHQ/IG on 7 Feb 2013.</p> <p>Case 2. Synopsis: While investigating another complaint made by the complainant, the Air Mobility Command IG (AMC/IG) determined the facts supported a prima facie case of reprisal, i.e. there was a protected communication followed by an unfavorable personnel action. The case was opened by AMC/IG on 1 Jul 2013. Two years prior to this case, the complainant had made a report of sexual assault against an Army officer. That allegation was turned over to the Army for investigation. However, the elements of reprisal in this case did not relate to that allegation of sexual assault. In this case, the complainant had made false official statements to investigators, which meant the element of a protected communication, which must be a lawful communication, was not met. Therefore, the unfavorable personnel action, a court martial, was not done in reprisal and the complaint was dismissed. Approval from DoD IG was received on 13 Dec 2013. The case was completed /closed on 17 Dec 2013.</p> <p>FY 14: Cases reported: 4</p> <p>Case 1. Synopsis: This case was opened on 23 Dec 2013 after DoD IG referred the complaint to the AF. SAF/IGQ transferred the complaint to PACAF/IG on 23 Dec 2013. The initial analysis was completed 14 Jan 2014 by PACAF/IGQ. The</p>

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complainant had contacted her Congresswoman in August 2013, who forwarded the complaint to DoD IG. In a discussion with her commander, and in a complaint to her Congresswoman, the complainant had alleged she suffered from post-traumatic stress disorder (PTSD) from a sexual assault prior to her entering the AF. At the time, the complainant was being processed for discharge due to failure to perform to AF standards, misconduct resulting in an Article 15, and a diagnosed personality disorder. The discharge action was amended to include that she had not disclosed on her SF Form 86, Questionnaire for National Security Positions, that she had been treated for a mental health condition, i.e. the PTSD. The analysis showed that the complainant did not receive the unfavorable personnel action (the discharge) due to her contact with the congresswoman, but because of the reasons cited in the discharge and the allegation of reprisal was not substantiated. The investigation was completed 13 May 2014. The review of the investigation was completed by SAF/IGQ on 6 Jan 2015 and a clarifying addendum, concurring with the not substantiated finding was added to the case file. DoD IG approved the investigation with addendum on 6 Jan 2015 and the case was closed 12 Jan 2015.

Case 2.

Synopsis: The complaint was opened 16 Apr 2014 when the complainant came to the 79 MDW/IG. After alleging a sexual assault, the complainant asked for and received an expedited transfer from Travis AFB, CA to Bolling AFB, DC. She alleged her former commander at Travis had recommended "Do Not Retain" on the Enlisted Retention Recommendation Form, AF 3538E because of her allegations of sexual assault. The case was transferred to the AMC/IG from the 79 MDW/IG through the AFDW/IG and SAF/IG 29 May 2014. The AMC/IG contacted the complainant on 11 Jun 2014 for a clarification interview and requested additional information. By 19 Jun 2014 the AMC/IG had not received any further information from the complainant and again requested, via email, that the complainant provide the information. At the same time, the IG notified the complainant that, IAW AFI 90-301 , Inspector General Complaints Resolution, Table 3.12 her complaint would be dismissed if she did not respond within 5 days. The complainant did not respond and the AMC/IG dismissed the complaint on 1 Jul 2014 and closed the case.

Case 3.

Synopsis: The complainant met with the 11 WG/IG on 18 Jun 2014 and filed a complaint alleging her First Sergeant and supervisor reprimed against her for making a report of sexual assault. The 11 WG/IG completed a complaint analysis 25 Jul 2014 dismissing the complaint. After review by SAF/IGQ, SAF/IG completed a clarifying addendum On 3 Sep 2014. The addendum agreed that the First sergeant had no knowledge of the letter counseling (LOC), and therefore could not have reprimed. The analysis showed that the supervisor was unaware of the report of sexual assault and issued the LOC for reasons unrelated to the report of sexual assault, and therefore could not have reprimed against the complainant. DoD IG reviewed the case and concurred on 11 Dec 2014 and the case was closed.

Case 4.

Synopsis: The complainant filed a congressional complaint which SAF/IGQ

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	received 25 Aug 2014. SAF/IGQ transferred the case to AFSOC/IG who further transferred it to the 1 SOW/IG on 25 Aug 2014. The complainant alleged she was reprisal against for reporting a sexual assault by her medical provider. The original complaint analysis was completed on 3 Sep 2014, however, the analysis was not provided to SAF/IGQ for review as required by AFI 90-301. The complaint was transferred to SAF/IGQ on 3 Nov 2014 and then back to AFSOC/IG and then the 1 SOW/IG for rework on 5 Nov 2014. The case came back to AFSOC/IG on 3 Apr 2015 but was returned to the 1 SOW/IG on 23 Jul 2015 for further rework. On 27 Aug 2015, the 1 SOW/IG sent the case to AFSOC/IG for review. The case was transferred to SAF/IGQ for review on 1 Sep 2015 and a case manager was assigned 10 Oct 2015.
<b>USN</b>	N/A
<b>USMC</b>	<p>Complainant alleged RMO downgraded a fitness report and forwarded a copy of the investigation substantiating the complainant's misconduct to the new command in reprisal for a protected communication.</p> <p>The allegation was Not Substantiated.</p> <p>NAVINSGEN initial complaint processing: 280 Days Complaint then transferred to IGMC IGMC investigative process: 154 days total     IGMC complaint intake analysis: 12 days     Preliminary Inquiry conducted: 52 days     Investigation conducted: 90 days     DoD IG Oversight: 130 Days Currently pending SECNAV concurrence.</p>
<b>USCG</b>	The Coast Guard does not have a Service IG. CGIS has not historically tracked this data in a searchable format and is unable to respond to this question within the time frame prescribed by the JPP.

**c. If the processing time did not meet the time frame prescribed by the regulation, please explain why.**

<b>USA</b>	<p><b>(DAIG)</b> Failure to meet processing time frames is the result of resourcing constraints or factual complexities. All reprisal complaints, regardless on content, are investigated in order and no priorities are given to a specific type of complaint to ensure fairness across the system.</p> <p>DAIG has invested in significant resources at the Service level to improve the flow of all reprisal cases, which is reflected in increased numbers of case closures over the past three fiscal years.</p>
<b>USAF</b>	AFI 90-301, paragraph 6.7.2, (citing DoDD 7050.06), states MAJCOM, JFHQ, FOA, and DRU IGs must provide an 180 Day Notification Letter to IG DoD (through SAF/IGQ) and to the complainant if the investigation is not completed within 180 days after receipt of the allegations. Both cases in 2013 met the metric. The first case in 2014 took 142 days for the investigation at the wing to be complete. The AFI 90-301 standard at the time was 114 days. The MAJCOM review took 121 days vice

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	<p>the standard of 11 and the SAF/IGQ review took 119 days versus the standard of 28 days. Most of the delays in the case at the wing level were likely due to the inexperience of the team conducting the investigation. At the MAJCOM and SAF/IGQ levels, lack of manpower generally delays case review, as there is a backlog of cases. The second and third cases of 2014 met the metric. The fourth case of 2014 is still currently open. It has required significant rework at the wing level in order to bring it up to the proper standard for review by the MAJCOM , SAF/IGQ and DoD IG. This took nearly a year. As a result, SAF/IGQ conducted a teach and train session with the MAJCOM and wing, in order to address deficiencies found in the investigation of the case and to ensure future cases are resolved in a timely fashion.</p>
<b>USN</b>	N/A
<b>USMC</b>	<p>IGMC did not receive the complaint until it was already approximately 100 days past the 180 day mandate. Total time at IGMC was 154 days (4 days over recommended time frame). DoD IG oversight took 130 days (100 days over DoD IG policy of 30 days to oversight).</p>
<b>USCG</b>	<p>The Coast Guard does not have a Service IG. CGIS has not historically tracked this data in a searchable format and is unable to respond to this question within the time frame prescribed by the JPP.</p>