

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
--	------	-----------	------	--------------	-------------

**V. (B) RETALIATION PREVENTION AND RESPONSE TRAINING**

<b>Service-wide /Annual Training</b>	<p>SHARP directorate, SHARP Academy, training and doctrine command (TRADOC), inspector general (IG), and The Judge Advocate General’s Legal Center and School (TJAGLCS) share responsibility for training leaders and service members about retaliation.</p> <p>In the future, retaliation will be discussed in professional military education (PME), the civilian education system (CES), and during mandatory annual SHARP operational training.</p>	<p>AF SAPRO is the lead organization training Air Force leaders and Service members about retaliation against victims of sexual assault.</p> <p>In addition to the annual SAPR training, all Airmen will participate in SAPR small group discussions throughout the year.</p>	<p>The twenty-first century sailor office (OPNAV N17) is responsible for ensuring appropriate training is provided to leaders and Service members about retaliation against victims of sexual assault and that the topic of retaliation is included in its annual SAPR training.</p> <p>It is the responsibility of commands to deliver the training to their personnel using training specialists.</p>	<p>The inspector general of the Marine Corps (IGMC) is the office of primary responsibility for reprisal training, Headquarters Marine Corps (HQMC) SAPR incorporates additional training regarding retaliation into its programs.</p> <p>DON - Sailors, Marines and civilian personnel, are required to complete web-based, biennial training on the Notification and Federal Employees Antidiscrimination and Retaliation Act (No FEAR Act) of 2002.</p>	<p>The Coast Guard SAPR program is responsible for mandatory annual training as well as other special event training materials, such as Sexual Assault Awareness Month, and includes some discussion of retaliation in the training they provide.</p>
<b>Senior Leader Training</b>	<p>Judge advocates provide legal orientation training to incoming brigade commanders, command sergeants major, and general officers; and to incoming company commanders and first sergeants at pre-command courses. Army Chief of Staff SHARP Summit for all Army three and four-star as well as select two-star command teams.</p>	<p>AF SAPRO has updated initial training for wing, group, and squadron commanders to include information on retaliation against victims of sexual assault. Also in seminars for senior enlisted leaders.</p> <p>Training on retaliation is also included in the AF senior officer legal orientation (SOLO) course, hosted by the Air Force Judge Advocate General’s (AFJAG) School for incoming wing commanders, vice wing commanders, and group commanders.</p>	<p>OPNAV N17 provides content for the SAPR portion of major command, prospective commanding officer, executive officer, senior enlisted academy, and leadership development courses across the range of enlisted and officer trainings</p> <p>The Naval Justice School (NJS) in Newport, Rhode Island, provides basic level training to attendees of its senior officer course about the grievance process and prohibitions against victim retaliation.</p> <p>New SAPR training courses are currently being developed for the senior enlisted academy (SEA).</p>	<p>HQMC SAPR conducts leadership training designed to ensure that MC leaders understand the risks and circumstances associated with SA incidents, including retaliation, and the proactive measures they can take to prevent these and other destructive behaviors. Training is being enhanced to include more information on retaliation prevention and detection, and policies and procedures for filing a complaint of retaliation. Judge advocate division, HQMC, provides training to counsel on retaliation against victims of sexual assault during legal community training and trial counsel assistance program training. Training on retaliation is also discussed with leaders at the commanders’ course.</p>	<p>Not Addressed in RFI Responses</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
<b>Junior Leader Training</b>	Though not mentioned in the Army responses, several presenters from the Army placed particular emphasis on the Army's "Not in My Squad" initiative which is specifically geared toward junior non-commissioned officers who are squad leaders.	AF SAPRO is including education and training on retaliation in its first-line supervisor training which was released in the spring of 2015	The Navy's SAPR pre-commissioning training is provided at officer candidate school (OCS), reserve officers training corps (ROTC), and the United States Naval Academy (USNA).	Not Addressed in RFI Responses	Not Addressed in RFI Responses
<b>New Recruit Training</b>	Not Addressed in RFI Responses	Not Addressed in RFI Responses	New SAPR training courses are currently being developed for Navy recruits attending recruit training command (RTC)	Not Addressed in RFI Responses	Not Addressed in RFI Responses
<b>SARC &amp; VA Training</b>	The SHARP 7-week baseline certification and 80-hour certification courses are used to train SARCs and VAs use the DoD Victim Reporting Preference Statement (DD Form 2910) as a basis for their instruction. SARC/VA training teaches that if a victim experiences some form of coercion, retaliation, reprisal, or ostracism from their supervisors or peers, they can report to the SARC/VA, SVC, VWAP personnel, the IG, and unit commander.	AF SAPRO is responsible for training SARCs and VAs on how to assist Airmen with filing reports of retaliation, reprisal, ostracism, and maltreatment. Sexual assault victims learn about this assistance when they meet with a SARC, VA, or SVC.	Not Addressed in RFI Responses	Retaliation-specific training for SARCs will be conducted by HQMC SAPR, and all-hands training for civilian and uniformed VAs will be conducted by SARCs.	Coast Guard SARCs receive training on retaliation during their initial SARC training, as well as during their ongoing advanced trainings.

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Training Curriculum	<p>Center for Army Professional Ethics (CAPE) has developed training on the topic of retaliation for use Army-wide in small group discussions. CAPE has produced videos from three sexual assault victims that discuss retaliation and its devastating effects as well as facilitator guides for each video that provide discussion questions and topics highlighted in the videos.</p> <p>Annual Service-wide SHARP training is taught in conjunction with MEO program training, and both include instruction about hostile work environments and sexual harassment.</p>	<p>AF SAPRO has incorporated retaliation in its 2015 Annual SAPR training provided to all Airmen, military and civilian. This interactive training includes definitions and a video from the DoD IG titled, “Whistleblower Reprisal: Rape and Sexual Assault” to give general information about what reprisal is and what steps can be taken. SAPR training focuses on empathy and the spectrum of available responses if a disclosure of sexual assault is made, helping Airmen understand how to interact with victims, develop better communication skills and build empathy for victims. A video that presents helpful responses to give to a victim who reports being sexually assaulted is shown and after, the audience pairs up and practices what they would say to a victim of sexual assault if the victim confided in them.</p> <p>For Leaders: data from the 2014 RAND MWS, focus groups, and DEOC climate Survey questions are used to highlight the need for leaders to address retaliation proactively, also educates leaders on the neurobiology of trauma to increase their knowledge and understanding of victims and to encourage leadership commitment to protect those who report sexual assault from incidents of actual and perceived retaliation.</p>	<p>DON SAPR Video Library is a training resource containing short videos on various SAPR topics with discussion guides. Within the videos, various leaders speak to the need to prevent gossip and rumors and ensure victims are receiving appropriate support and care. These videos also include testimonials from victims of social or peer retaliation and ostracism.</p> <p>The new RTC and SEA courses will include sections that explain retaliation, reprisal, coercion, ostracism, and maltreatment; explain what is the appropriate professional response by peers to a victim and an alleged offender when a sexual assault is reported; and explain Navy regulations that protect victims of sexual assault from coercion, retaliation, ostracism, maltreatment, and reprisal.</p> <p>Leaders: the curriculum for leader courses includes information on how to recognize and prevent retaliation.</p>	<p>No Fear Act - training provides information about the rights and remedies available under applicable anti-discrimination and whistleblower protection laws. No other Service mentioned the No Fear Act, its training requirements, or applicability to military members and the issue of retaliation.</p>	<p>Not Addressed in RFI Responses</p> <p>CG civil rights directorate is responsible for MEO training. It includes training on preventing retaliation in any empl. context, including following a report of SA.</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
--	------	-----------	------	--------------	-------------

**VI. (A) VICTIM SUPPORT RESOURCES TO ASSIST VICTIMS WITH RETALIATION CLAIMS (RFI 71)**

	Army	Air Force	Navy	Marine Corps	Coast Guard
<b>Role of SARC/VA</b>	<p>If an Army SARC or a VA becomes aware that a sexual assault victim has a complaint of retaliation, the SARC or VA should notify the lieutenant colonel (O-5) level or higher commander of the victim. The lieutenant colonel will develop a plan to immediately address the issue and forward the plan to the SARB chair</p>	<p><u><a href="#">Change 1 to 27 February 15 Memorandum, "Updated Procedures Regarding Reporting and Tracking Victim Retaliation in Sexual Assault Cases" (17 March 15).</a></u></p> <p>SARCs have the primary responsibility for discussing retaliation with sexual assault victims, discussing retaliation reporting, and ensuring victims are provided with assistance in making retaliation reports</p> <p>At the installation level, the SARC, VA, or CMG may seek advice from their servicing SJA. Questions of policy may be referred to AF SAPRO.</p>	<p>SARCs and VAs advise victims on available legal assistance through the VLC, and can advise regarding the various reporting options available to victims with respect to retaliation</p>	<p>The Marine Corps SARCs and SAPR VA/UVAs refer service members with a retaliation complaint to their command and/or the IG.</p>	<p>A victim in the Coast Guard who experiences retaliation or a witness to retaliation can report such incidents to a Coast Guard SARC, VA, or SVC using existing channels for victim support. The SARC, VA, or SVC may then communicate with CGIS or the trial counsel, if assigned, to ask that the matter be investigated.</p>
<b>Role of Victims' Counsel</b>	<p>SVC will assist victims in identifying and reporting allegations of retaliation. SVC will also advocate on behalf of victims who have experienced retaliation with the chain of command to ensure an appropriate response.</p>	<p>If SVC becomes aware client suffered retaliation, SVC will discuss reporting options, assist the client in making a retaliation report and advise the client as to how the retaliation complaint may affect the client's sexual assault allegation. SVCs advocate directly to commanders, first sergeants, legal offices or other relevant entities in order to ensure client's rights have been safeguarded and retaliation addressed. SVCs work with SARC, FAP and VWAP, to assist the client in resolving retaliation allegations. SVCs are actively involved in advising their clients both before and after CMG meetings to advise them on their reporting options for retaliation.</p>	<p>Navy VLC play a direct role in advising and assisting victims in understanding and exercising retaliation complaint options when a victim has retained a VLC and a complaint is desired. To date, Navy VLC have assisted victims in utilizing Article 1150, U.S. Navy Regulations and Article 138, UCMJ to make complaints. However, Navy VLC report that the vast majority of "retaliation" issues observed in the course of their support for victims have consisted of lower-level, "peer-to-peer", social ostracism which have generally been successfully resolved via VLC engagement with the victim's chain of command.</p>	<p>VLC provide legal advice and counseling to victims, including discussing options to file complaints of retaliation, and assisting to prepare such complaints. In cases of either social or professional retaliation, VLC are able to assist victims with allegations of retaliation by communicating with the command to seek resolution. When this effort fails, VLC can assist the victim by filing an appropriate complaint.</p>	<p>A victim in the Coast Guard who experiences retaliation or a witness to retaliation can report such incidents to a Coast Guard SARC, VA, or SVC using existing channels for victim support. The SARC, VA, or SVC may then communicate with CGIS or the trial counsel, if assigned, to ask that the matter be investigated.</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Role of VWAP Personnel/Trial Counsel	<p>VWL notify Trial Counsel or Special Victim Prosecutors if a victim makes an allegation of retaliation to ensure an appropriate investigation and response. TC will assist victims in identifying allegations of retaliation and refer allegations to law enforcement, IG, or the chain of command for investigation. Once investigations are complete, TC are also trained to evaluate evidence to determine if the retaliatory conduct meets the elements of a charge under the Uniform Code of Military Justice, regulatory violation, or other inappropriate non-criminal conduct. Trial Counsel will then advise commanders on appropriate disposition.</p>	<p>The installation VWAP is responsible for informing victims that they should immediately report any intimidation, harassment, or similar conduct to military or civilian authorities. AFI 51-201, The VWAP and trial counsel are responsible for ensuring the victim is reasonably protected from the accused under Article 6b, UCMJ and will inform victims of the availability of MPOs and CROs . AFI 51-201, para. 7.12.8.1. The VWAP and trial counsel will also ensure that victims and witnesses are able to wait to testify in an area that is separate from the accused or defense witnesses. AFI 51-201, para. 7.15.1.4. If a victim indicated to the VWAP or trial counsel that he or she had experienced a retaliation incident, the legal office personnel would be responsible for ensuring the retaliation allegation was referred to the appropriate entity (e.g. AFOSI, AF IG, commander) for investigation.</p>	<p>Trial counsel provide all victims and witnesses of sexual assaults with Victim Witness Assistance Program (VWAP) notifications, which includes information on retaliation.</p>	<p>VWL – None</p> <p>Trial counsel must ensure notification of victims of their rights under Article 6b. Also, TCs must notify eligible victims of their right to VLC. Finally, TCs will review allegations of retaliation when received by commands through requests for legal services, and make appropriate recommendations regarding form and disposition of charges, if any.</p>	<p>No Response to RFI</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Role of Service IG	<p>Army IGs will normally refer a retaliation complaint to the command for investigation. If the complainant meets the requirements for statutory reprisal, the IG will forward the complaint through IG channels to DAIG for a formal review. DAIG will review the complaint and if they concur, forward the complaint to DoDIG WRI. If the complaint is missing some critical information necessary to determine if it is reprisal, DAIG will contact the IG who received the complaint or the complainant directly to obtain the missing information prior to forwarding to DoDIG.</p>	<p>AF IG analyzes all complaints received to determine the appropriate resolution strategy. Any complaints meeting the definition of reprisal will remain with the IG for further analysis. If does not meet the reprisal definition - referred to the appropriate level of command for further analysis and action. Allegations of reprisal will be assessed for prima facie evidence of reprisal. If there is not, the allegations will be dismissed. If prima facie evidence, then the allegations will be analyzed to see if a full investigation is warranted or not. If a full investigation is warranted, it will be conducted and after, a determination will be made whether or not to substantiate each claim. At the installation level, the servicing SJA provides advice to the AF IG on investigations.</p>	<p>Retaliation that falls within the protection of 10 U.S.C. 1034 (Military Whistleblower Protection), will be investigated by NAVINSGEN MWBR Branch and Echelon II IG offices. Cases investigated as potential 10 U.S.C. 1034 violations are specifically related to professional retaliation –</p> <p>In accordance with SECNAVINST 5370.7D, Military Whistleblower Protection, allegations of ostracism and maltreatment shall be referred to the appropriate command for action except in those circumstances where IGs, in their discretion, determine the allegations should be handled by an IG.</p>	<p>The role of the IGMC regarding any retaliation complaint applies to all service members, not only to victims of sexual assault. The IGMC established specific procedures necessary for conducting professional retaliation (reprisal) investigations, as published in SECNAVINST 5370.7D. Upon determining sufficient evidence, the IGMC will promptly investigate allegations of retaliation. Additionally, the IGMC is available to take retaliation complaints through the hotline, task them to commands via CIG (if the command is the more appropriate investigative avenue, such for social retaliation complaints), and track completion information. IGMC is typically not a first responder for sexual assault victims, but the IGMC and CIG accept and process all requests for assistance and/or investigations in accordance with SECNAVINST 5370.7D and will assist anyone who comes to the IG to file a retaliation complaint.</p>	

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Role of MCIOs	<p>When CID initiates a sexual assault investigation, it will also initiate and conduct subsequent investigations relating to suspected threats against the sexual assault victim, including minor physical assaults and damage to property. Complainants and/or their commander should immediately notify Criminal Investigation Command whenever the victim of an unrestricted sexual assault is threatened, assaulted or suffers property damage subsequent to her/his complaint of a sexual assault.</p>	<p>AFOSI assesses all complaints it receives to determine if the complaint involves a felony violation of the UCMJ or other penal codes. retaliation may be the motive for damage to property, assault, or unlawful communication of a threat. If an allegation involves a criminal matter falling outside of AFOSI's own mission area or jurisdiction, AFOSI refers the matter to the appropriate law enforcement agency. For non-criminal matters, AFOSI refers the matter to command officials (e.g., installation IG, unit commander) for further action. AFI 51-201, Section 13P,</p>	<p>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.</p>	<p>Same as USN response for information regarding NCIS.</p>	<p>If a report is received by DHS IG and that organization believes CGIS is in the best position to investigate the complaint, DHS IG will refer the matter to CGIS directly.</p>
Role of Case Management Groups	<p>Per Army Directive 2015-16, during every Sexual Assault Review Board (SARB) meeting the SARB chair will ask SARB members if the victim, witnesses, bystanders (who intervened), Sexual Assault Response Coordinators, Victim Advocates, first responders or other parties to the incident have experienced any retaliation or reprisal. If any incidents are reported, the Lieutenant Colonel (O-5) level or higher commander of the victim of retaliation or reprisal will develop a plan to immediately address the issue and forward the plan to the SARB chair. For the Army, the SARB is the equivalent of the Case Management Group.</p>	<p>Retaliation allegations that a victim reports will be briefed at the monthly Case Management Group (CMG) meeting. The victim's commander will brief a plan to address the retaliation report. The report will remain on the CMG agenda until the victim's sexual assault case has reached final disposition or the report has been appropriately addressed according to the CMG Chair.</p>	<p>The Sexual Assault Case Management Group (SACMG) is required to regularly assess, and refer for appropriate corrective action, all reports from a victim, witness or first responder of retaliation, ostracism, maltreatment, or reprisal in conjunction with a report of sexual assault. Upon notification of retaliation, COs are required to follow procedures for reporting and investigation in accordance with SECNAVINST 5370.7D.</p>	<p>Installation commanders who serve as CMG Chairs will regularly assess, and refer for appropriate corrective action, all reports from a victim, witness, or first responder of retaliation, ostracism, maltreatment, or reprisal in conjunction with a report of sexual assault.</p>	<p>No Response to RFI</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
--	------	-----------	------	--------------	-------------

**VI. (B) OPTIONS FOR REPORTING RETALIATION (RFI 68, 69, 71,74)**

	Army	Air Force	Navy	Marine Corps	Coast Guard
<b>Reporting Channels for Retaliation Complaints</b>	<p>Victims and/or witnesses may report allegations of professional or social retaliation to the chain of command, law enforcement, VAs, SARCs, SVC, IG, and hotlines run by DoD, the Army or the installation (RFI 69, 74)</p> <p>Each reporting agency has a separate process for taking complaints of retaliation, investigating the complaint, and producing the results of the investigation (RFI 74, 75(e))</p>	<p>An Airman can file a complaint of <b>professional reprisal</b> through DoD IG or AF IG complaint resolution systems. They may also report professional reprisal to the IG at the installation, numbered Air Force (NAF), major command (MAJCOM), or AF level. Airmen may file their complaint in person, over the phone, via e-mail or through the web-based AF IG complaints page. (RFI 72)</p> <p>For complaints of <b>social retaliation</b>, the Air Force reports that an Airman, military or civilian, can make a complaint of ostracism or maltreatment directly to their chain of command or to law enforcement (AFOSI or AF Security Forces.) (RFI 69, 73)</p>	<p>Service member who is a victim of sexual assault or witness to retaliation can informally report through multiple channels including his or her chain of command, an IG, NCIS, VLC, VA, other commanding officer (CO), or DoD Safe Helpline. However, to formally report professional reprisal or social retaliation, the Navy specifies that a victim can either contact the Navy IG through their hotline number or can contact their chain of command. (RFI 69)</p>	<p>In the Marine Corps, victims of or witnesses to social or professional retaliation may request assistance from 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; a Marine may also report to their immediate commander, a commander outside of their chain of command, or to any superior commissioned officer; and any retaliation complaint can be filed with DoD IG, IGMC, or any CIG (acronym not defined in the written response) hotline; or by requesting legal services from VLC, trial counsel, VWAP, or a legal assistance attorney to facilitate reporting. (RFI 69, 74)</p>	<p>The Coast Guard provides that a victim who experiences retaliation or is a witness to retaliation can report such incidents to a CG SARC, VA, or 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. (RFI 69, 74)</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Hotlines for Retaliation Complaints	<p>The Army IG “webpage contains a link directly to DoD IG webpage which contains a direct link to the DoD IG fraud, waste, abuse, or reprisal hotline.” Army IGs meeting with Service members provide information on other complaint channels, including DoD IG. Army IG maintains a complaint line which is manned by an IG 24 hours a day, 7 days a week. The phone number is posted on the Army IG webpage. The Army IG website allows members to submit retaliation complaints on-line at any time. Anyone can contact their unit IG or any other IG to make a retaliation report. Complaints can be made by calling-in, walking-in, USPS, Fax, email, and on-line. (RFI 68)</p>	<p>For the Air Force, the contact information for DoD IG and AF IG are published in numerous places throughout installations, distributed through periodic e-mail and publications, and posted and advertised on both public and internal web pages so that Airmen are aware of how to report reprisal under 10 U.S.C. § 1034. The AF IG also maintains dedicated phone and e-mail hotlines which members can use to contact the AF IG directly. Additionally, the AF IG maintains a web-based complaint system that allows a member to file a complaint over the internet. The AF IG webpage also contains links to DoD IG and the other Service IGs. (RFI 68)</p>	<p>The local IG hotline and Navy IG hotline numbers are posted at Navy commands and advertised on the Navy IG website. Navy IG can receive complaints in person, by telephone, or through the Navy IG website. OPNAV N17 encourages Sailors to use the DoD Safe Helpline as an avenue for victims to report retaliation. Key fobs, pamphlets, flyers, table tents and posters which publicize the DoD Safe Helpline are provided to the Fleet. In addition, Navy IG receives referrals of complaints via the DoD IG hotline or other Service IG hotlines. Complaints are also received from Navy echelon II hotlines and certain echelon III commands which maintain hotline programs. The hotline system accepts complaints directly from the complainant, from a third party, or can be made anonymously. (RFI 68)</p>	<p>For the MC, the IGMC has a separate hotline phone number and email address to send a hotline complaint on the IGMC’s website. Within 10 days of receiving a reprisal complaint, HQMC IG will notify DoD IG of the complaint. The IGMC website provides a link to the DoD IG’s website. The IG offices at each command publicize their hotline and the IGMC hotline in addition to the DoD IG whistleblower hotline. DoD IG information is further disseminated and publicized during IGMC biennial inspection of the CIGs throughout the Marine Corps. The IGMC and all CIG offices currently have the capacity and procedures in place to in-take all allegations of retaliation via their general hotlines (there is no dedicated retaliation hotline in the USMC). (RFI 68)</p>	<p>The CG SAPR program distributes the DoD Safe Helpline number. The CG does not fall under the DoD IG and therefore, although a CG member may call the DoD number for help, that individual will normally be directed to the DHS IG hotline. The DHS IG hotline is made available to CG members via the Service’s website. DHS IG refers most Coast Guard-related matters to CGIS for issues that would typically be evaluated by the DoD IG. The Coast Guard does not have its own Service IG. (RFI 68)</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
--	------	-----------	------	--------------	-------------

VI. (C) INVESTIGATING AND RESPONSE

	Army	Air Force	Navy	Marine Corps	Coast Guard
<p><b>Retaliation Report Received by the Command</b></p>	<p>Once reported, all allegations of professional or social retaliation are to be formally reported to the senior installation commander through the SARB. The commander will ensure that all allegations will be investigated by either law enforcement or the chain of command. If a victim makes a report of retaliation to the chain of command, he or she may initiate an investigation in accordance with AR 15-6. Upon notification to the command that a victim has made a complaint of retaliation, the command will appoint an investigating officer. (RFI 74)</p> <p>Upon notification to the command, VA, SARC, or 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. (RFI 75a,b)</p>	<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 AFOSI or AF IG. (RFI 75(a))</p> <p>The victim’s commander will develop a plan to address the retaliation report. For example, the commander may initially refer the allegation to the AFOSI or the commander could initiate a commander-directed investigation to look into the allegations. If the allegation is against the victim’s immediate commander, a higher level commander would initiate the investigation. (RFI 75(a))</p> <p>If the report made to a commander or law enforcement involves an allegation of reprisal, the matter will be referred to the IG. (RFI 69)</p>	<p>According to the Navy, a command, upon receipt of a formal complaint of reprisal or retaliation in the form of unfavorable personnel action will advise the victim in writing of their rights, document the provision of such advice, and offer to forward the complaint of reprisal or retaliation in the form of unfavorable personnel action to the Navy IG.</p> <p>A command, upon receipt of a formal complaint of retaliation in the form of maltreatment or ostracism will investigate the allegations, or forward to the next level in the chain of command for investigation when necessary to avoid the appearance of a lack of impartiality or objectivity (RFI 74)</p>	<p>Victims may report social retaliation to their chain-of-command. In such cases, the commander may decide to use a command investigation to determine the fact and character of the social retaliation and to obtain recommendations for appropriate remedies. The commander, assisted by the Staff Judge Advocate (SJA) defines the scope of the investigation, and makes legal counsel available to the investigating officer. Pursuant to Chapter 2 of the JAGMAN, investigating officers may interview witnesses and seek other evidence. (RFI 74)</p>	<p>Generally, if a Coast Guard 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. (RFI 75(a))</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Retaliation Report Received by the IG	<p>Army IGs will normally refer a (social) retaliation complaint received to the command for investigation. If the complainant meets the requirements for statutory reprisal, the IG will forward the complaint through the Army IG chain of command up to the Department of the Army IG level (DAIG) for a formal review. DAIG will review the complaint and if they concur, forward the complaint to DoD IG. If the complaint is missing some critical information necessary to determine if it is reprisal, DAIG will contact the lower level Army IG who received the complaint or the complainant directly to obtain the missing information prior to forwarding to DoD IG. (RFI 71)</p>	<p>An Airman 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. (RFI 75 (c)) AF IG notifies DoD IG within 10 days of receiving a complaint, including allegations of reprisal. 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. (RFI 75(d))</p>	<p>Retaliation that falls within the protection of the Military Whistleblower Act (10 U.S.C. 1034) will be investigated by Navy IG military whistleblower reprisal (MWBR) branch and echelon II IG offices under the supervision of the Navy IG MWBR branch. Cases investigated as potential whistleblower reprisal violations are specifically related to professional retaliation. In accordance with Department of the Navy regulation, allegations of ostracism and maltreatment will be referred to the appropriate command for action except in those circumstances where IGs, in their discretion, determine the allegations should be handled by an IG. (RFI 71, 74)</p>	<p>All MC professional retaliation complaints are vetted by the IGMC for investigative merit. If sufficient evidence, the IGMC will investigate allegations. If allegations are social retaliation in the form of ostracism or maltreatment, IGMC will refer them to the appropriate command where the IGMC determines that the allegations should be handled by an IG. I.e. when either ostracism, maltreatment, or both, is alleged to have occurred in addition to a retaliatory personnel action; or when a flag or general officer or member of the senior executive service (SES) is alleged to have engaged in the ostracism or maltreatment. (RFI 74, 75(a))</p>	<p>A Coast Guard 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. 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. (RFI 75(d))</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Retaliation Report Received by MCIO	<p>When Army CID initiates a sexual assault investigation, it will also initiate and conduct subsequent investigations relating to suspected threats against the sexual assault victim, including minor physical assaults and damage to property. Complainants and/or their commander should immediately notify CID whenever the victim of an unrestricted sexual assault is threatened, assaulted or suffers property damage subsequent to her/his complaint of a sexual assault. CID will also initiate and conduct investigations relating to suspected threats against a sexual assault victim, to include minor physical assaults, stalking and damage to property. Depending on the situation, a separate law enforcement report (LER) may be initiated (e.g., friends or other Soldiers or associates of the subject may be ones threatening the victim, in which situation a separate LER from the sexual assault LER may be called for). (RFI 71, 77)</p>	<p>AFOSI assesses all complaints it receives to determine if it involves a felony violation of the UCMJ or other penal code such as damage to property, assault, or unlawful communication of a threat. If involves a criminal matter outside of AFOSI's area of jurisdiction, AFOSI refers the matter to the appropriate law enforcement agency. For non-criminal matters, AFOSI refers the matter to command officials (e.g., installation IG, unit commander) for further action. Other Air Force agencies refer retaliation reports to AFOSI when the actions associated with the retaliation are criminal in nature. If the alleged retaliation is not a criminal violation that AFOSI investigates, AFOSI will refer the matter to the IG or commander for resolution (RFI 77)</p>	<p>For the Navy and MC, 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 initiates a separate investigation. For all other instances, NCIS will open a formal investigation or refer the matter to either Navy or MCIG or the victim's command. If NCIS initiates an investigation, the criminal investigator will inform the victim and will provide status updates periodically thereafter. NCIS will conduct a thorough interview of the victim and will collect any physical evidence relevant to the complaint. NCIS will present their preliminary findings to a judge advocate to determine whether the retaliation complaint constitutes the elements of a crime. Regardless of the path pursued, the NCIS will immediately inform the victim's command, SARC, and VLC of the retaliation complaint, as well as the results of all ensuing investigative efforts. Special measures taken for victims and/or witnesses that have been retaliated against for reporting a sexual assault include providing the victim with VWAP information and ensuring they are afforded the services of a VA and VLC. (RFI 77)</p>	<p>See Navy</p>	<p>In the Coast Guard, 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 (RFI 75(b))</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Notification of Victims – IG Investigation	<p>Notification of the results of a retaliation investigation will vary based on the type of claim and the procedures governing the investigating agency, but that the SARC or VA will ultimately be responsible for ensuring that victims receive all notifications required. (RFI 78)</p>	<p>If AF victim makes a reprisal report to the AF IG, they will receive periodic updates throughout the course of the investigation. Upon conclusion of the case, the victim will be notified of the determination of the allegations and the complainant’s options for appeal or further consideration through the BCMR and/or the AF Ombudsman. (RFI 78)</p> <p>A victim is entitled to a redacted copy of the final report of investigation. If victim makes a retaliation report to the AF IG does not involve reprisal, the AF IG informs the victim of the decision to refer the report to the commander or other appropriate agency and provides the victim the option of not releasing his or her name in the referral. When the AF IG refers a retaliation report to a commander, the referral memorandum requests that the commander receiving the referral notify the IG of the analysis and action within 30 days. (RFI 78)</p>	<p>For a Navy IG investigation, a victim will learn of the results of a retaliation investigation and receive a redacted copy of the investigation within thirty days of when the investigation is complete as required by 10 U.S.C. 1034. The copy of the investigation will include any recommendation for disposition. The victim will also receive an update if the investigation goes beyond 180 days from when the allegation was made and should the claim be substantiated, the investigation will be forwarded to the appropriate commander who will notify the victim of the action that will be taken against the retaliator. (RFI 78)</p>	<p>In MC cases of professional reprisal, the IGMC notifies complainants in writing that their complaint has either been declined (and why) or is under investigation. After an investigation is completed, reviewed for legal sufficiency, and endorsed by the IGMC, it is forwarded to DoD IG for oversight and concurrence. Not later than 30 days after the DOD IG completes or approves a report of investigation, a redacted copy of the report of investigation and, when applicable, the DoD IG approval memorandum will be provided to the Service member.</p> <p>Upon request, summaries of interviews conducted and documents collected during the investigation will also be provided to the Service member. After the (ASN (M&amp;RA)) concurs with the findings, complainants are provided a letter explaining the result of investigation and information on how to petition the (BCNR) to change/correct military records. If ASN (M&amp;RA) determines that no corrective, administrative or disciplinary action is appropriate, he or she will notify the Service member of the reasons for not taking action. (RFI 78)</p>	<p>How a Coast Guard victim is informed of the results of a report of retaliation varies depending on the type of report, the organization that investigates the report, and the type of action taken. (RFI 78)</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
<b>Notification of Victims – Command Investigation</b>	Notification of the results of a retaliation investigation will vary based on the type of claim and the procedures governing the investigating agency, but that the SARC or VA will ultimately be responsible for ensuring that victims receive all notifications required. (RFI 78)	Commander is required to notify the victim of the resolution of the retaliation report. The commander may release disposition information to the victim consistent with Privacy Act restrictions. For reports that are reviewed during CMG meetings, the victim will receive a monthly update from the victim’s commander within 72 hours of the CMG. Results of all courts-martial and Article 15, UCMJ, NJP actions are releasable to the victim under the Privacy Act. (RFI 78)	In cases involving a command investigation, the unit commanders, commanding officers and officers in charge are responsible for ensuring that victims and witnesses, whether military or civilian, of crimes under military jurisdiction are afforded their rights and kept informed on the status of the case until either admin. disposition, including NJP, administrative separation, or other, or judicial disposition is complete. (RFI 78)	For MC command investigations, victims must request the report of the investigation from the GCMCA, who is the release authority. (RFI 78)	How a Coast Guard victim is informed of the results of a report of retaliation varies depending on the type of report, the organization that investigates the report, and the type of action taken. (RFI 78)
<b>Notification of Victims – MCIO Investigations</b>	Notification of the results of a retaliation investigation will vary based on the type of claim and the procedures governing the investigating agency, but that the SARC or VA will ultimately be responsible for ensuring that victims receive all notifications required. (RFI 78)	Not Addressed in RFI	NCIS will inform the victim when an investigation is initiated and will provide status updates periodically thereafter. At the end of the investigation, NCIS will hand the case over to TC. NCIS, TC, and the victim’s command will provide the victim frequent case updates through case disposition. (RFI 78) If VLC they will be tracking the case progress on behalf of the victim and ensure the victim is provided with status and disposition updates. (RFI 78)	NCIS will inform the victim when an investigation is initiated and will provide status updates periodically thereafter. At the end of the investigation, NCIS will hand the case over to TC. NCIS, TC, and the victim’s command will provide the victim frequent case updates through case disposition. (RFI 78) If VLC they will be tracking the case progress on behalf of the victim and ensure the victim is provided with status and disposition updates. (RFI 78)	How a Coast Guard victim is informed of the results of a report of retaliation varies depending on the type of report, the organization that investigates the report, and the type of action taken. (RFI 78)

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
--	------	-----------	------	--------------	-------------

VI. (C)(6) APPEALS OF INVESTIGATION FINDINGS

	Army	Air Force	Navy	Marine Corps	Coast Guard
<p><b>Appeal of Command Investigations – Article 138 Complaints</b></p>	<p>In the Army, command investigations require an independent legal review when complete to identify any errors in the process or conclusions. This legal review ensures thorough and independent investigations and conclusions supported by the evidence. The Service member can challenge the investigation and its findings to the commander that appointed the investigation, the IG’s Office or they may avail themselves of the Art. 138, UCMJ, complaint process. (RFI 79(a))</p> <p>Art. 138, UCMJ, allows a Service member to lodge a complaint against his/her commander if believes he/she has been wronged. The UCMJ and AR 27-10 establish a complaint, not investigation, system wherein a Service member’s allegations against his/her commander may be adjudicated. After the Service member informs the allegedly offending commander of the grievance, if said commander does not rectify the situation to the Service member’s satisfaction (or the matter is not appropriate for resolution IAW Art. 138), the Service member may "appeal" to the GCMCA for adjudication. Subsequent to</p>	<p>The Commander-Directed Investigation (CDI) Guide, para. 7.3, provides that there is no formal appeal process. If the victim wishes to appeal the result of the CDI, the victim should provide additional information to justify further review and any “appeal” is within the discretion of the initiating commander and superior commanders. In practice victims have demonstrated their awareness of their right to request further review. Victims may also appeal any adverse administrative action or non-judicial punishment to the Air Force Board for Correction of Military Records (AFBCMR) for substantive relief. Active duty members may also file an Article 138 complaint to request redress. (RFI 79(a))</p> <p>If the superior commander receiving the Article 138 complaint deems it necessary, the commander may order a CDI into matters raised in the complaint. In that case, the challenge mechanisms within the CDI process would be available as described above. Inherent in the Article 138 process is the service member’s right to have his/her</p>	<p>Service members with a complaint about the handling of their case may contact supervisory personnel at the local NCIS office, or alternatively, their command, VA, VLC, higher NCIS headquarters, the offices of the DON and DoD Inspector General, or members of Congress. (RFI 79(a))</p> <p>When a victim has engaged a VLC, the VLC will inform a victim of their option to challenge the investigation findings. SARCs and VAs may also provide this information, and refer victims to the VLC (or legal assistance attorney for non-sexual assault victim questions) for any legal questions. Further, all of the above offices may inform the service member of their options to challenge the investigation findings. (RFI 79(a))</p> <p>In the Navy, 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 Navy IG. (RFI</p>	<p>In the MC victims may file an Article 138 complaint if they believe their commanders have engaged in professional retaliation or failed to hold others accountable for retaliation. The procedures include requesting redress by the commander, and the submission of the complaint to the GCMCA. Article 138 complaints are ultimately reviewed by the ASN. VLC are also available to assist with filing the complaint. Victims of retaliation may also report social retaliation by senior service members through Article 1150 complaints, which are handled according to the procedures for Article 138 complaints. (RFI 74, 79(a),(e))</p>	<p>In the Coast Guard, 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. A GCMCA reviews, with advice of their SJA, all investigations into Article 138 complaints, and takes the final action with regard to them. That action is then reviewed in the office of the judge advocate general. A Service member can request a command investigation be reviewed higher up the chain of command or can request that CGIS look into the matter. (RFI 79(a))</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
	<p>GCMCA adjudication, as a matter of due course, all such Art. 138 complaints are forwarded to the Army Judge Advocate General (acting on behalf of the Secretary of the Army) for review of the GCMCA's action; or in other words, an "automatic appeal." (RFI 79(e))</p>	<p>complaint reviewed by a superior commander if the member's immediate commander does not grant the redress petitioned for. Under paragraph 4.2, the immediate commander must promptly notify the member in writing as to the redress granted, or in the case of denial of the petitioned redress, must specify the reasons for such denial. AFI 51-904, para. 4.2. Further, in the event that the complainant believes the initial redress is unsatisfactory, para. 4.5 requires that the officer exercising GCMCA over the member's immediate commander, conduct or direct further investigation into the complaint and then "inform the member in writing of both the action taken on the complaint and the reasons for that action." Finally, the GCMCA must forward the file to the Air Staff for review and disposition. (RFI 79(e))</p>	<p>75(e))</p>		

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
Appeal of Inspector General Investigations	<p>In the Army, upon DoD approval of DAIG findings, DAIG notifies service members who submitted allegations of retaliation under 10 U.S.C 1034 of their option to challenge the investigation finding as it pertains to an error or injustice they believe exists in their records. DAIG notifies Service members they can appeal the finding to the Army Board for Correction of Military Records. The Secretary of the Army is directed by DoDD 7050.06, "Military Whistleblower Protection," dated April 17, 2015 to notify a Service member that he or she may request review of the matter by the USD(P&amp;R) on behalf of the Secretary of Defense. 10 USC 1034(h) establishes a right to appeal findings to the Secretary of Defense upon completion of all administrative review. A Service member can make a complaint about the handling of their case to the next higher IG office, DAIG, or DoD IG. (RFI 79(c))</p>	<p>AFI 90-301, para. 2.4, grants complainants the right to request the next higher-level IG review their complaint within 90 days of receiving the IG response. The closure letter that complaints receive includes a statement that the complainant can request the next higher level IG review the investigation if they have additional information to justify the review. The letter also provides their option to address the issues with the Air Force Ombudsman and/or the AFBCMR. In the case of reprisal, a redacted copy of the Report of Investigation is included with the closure letter. (RFI 79(c))</p>	<p>Service members with a complaint about the handling of their case may contact supervisory personnel at the local NCIS office, or alternatively, their command, VA, VLC, higher NCIS headquarters, the offices of the DON and DoD Inspector General, or members of Congress. When a victim has engaged a VLC, the VLC will inform a victim of their option to challenge the investigation findings. SARCs and VAs may also provide this information, and refer victims to the VLC (or legal assistance attorney for non-sexual assault victim questions) for any legal questions. Further, all of the above offices may inform the service member of their options to challenge the investigation findings. (RFI 79(c))</p>	<p>The Marine Corps reports that since professional reprisal investigations are conducted by IGMC and over-sighted by DoD IG, challenge or appeal would quickly be exhausted within DoD. The only appeal a service member can make is to the Secretary of Defense, after he/she receives notification of the ASN (M&amp;RA) determination. If the complainant has new or additional information that was not considered by the IGMC, or has a complaint of investigatory misconduct, a new IGMC/DoD IG complaint can be filed. (RFI 79(c))</p>	<p>CGIS handles IG complaints that involve the Coast Guard. The Coast Guard does not have a Service IG. (RFI 79(c))</p>

RFI RESPONSES

	Army	Air Force	Navy	Marine Corps	Coast Guard
<b>Appeal of MCIO Investigations</b>	<p>A Service member may consult with a legal assistance attorney or a civilian attorney at their own expense. Department of Defense Instruction 5505.07, (Titling and Indexing Subjects of Criminal Investigations in the Department of Defense), provides that an individual or entity is listed as the subject of a criminal investigation in the Defense Central Index of Investigations (DCII) to ensure that this information may be retrieved for law enforcement or security purposes in the future. Reports of a criminal investigation are titled to identify the subject for the accuracy and efficiency of the investigative effort. An individual who believes he or she was titled or indexed incorrectly may appeal to the head of the investigation organization to obtain a review of the decision. When reviewing the appropriateness of a titling and indexing decision, the reviewing official shall consider the investigative information available at the time the initial titling and indexing decision was made to determine whether credible information exists that the subject committed a criminal offense. (RFI 79(b))</p>	<p>AFI 71-101, Criminal Investigations Program, does not establish any direct formal procedures for challenging investigative findings. Victims may file a complaint regarding an Air Force Office of Special Investigations (AFOSI) investigation through the AF Inspector General (AF IG) or directly with the Headquarters AFOSI/ Inspector General. (RFI 79(b))</p>	<p>Navy Service members with a complaint about the handling of their case may contact supervisory personnel at the local NCIS office, or alternatively, their command, VA, VLC, higher NCIS headquarters, the offices of the DON and DoD Inspector General, or members of Congress. When a victim has engaged a VLC, the VLC will inform a victim of their option to challenge the investigation findings. SARCs and VAs may also provide this information, and refer victims to the VLC (or legal assistance attorney for non-sexual assault victim questions) for any legal questions. Further, all of the above offices may inform the service member of their options to challenge the investigation findings. (RFI 79(b))</p>	<p>NCIS is a DON agency; NCIS procedures will be addressed in the USN response. (RFI 79(b))</p>	<p>In the Coast Guard, CGIS does not make specific findings in their reports. They report only information collected. CGIS does not “substantiate” a report. A service member, either directly or through the SVC, can bring additional information or leads to the attention of CGIS and can approach a convening authority or legal office with concerns that a CGIS investigation does not adequately cover the claim the member brought forward. As noted previously, generally CGIS handles IG complaints that involve the Coast Guard. The Coast Guard does not have a Service IG. (RFI 79(b),(c))</p>