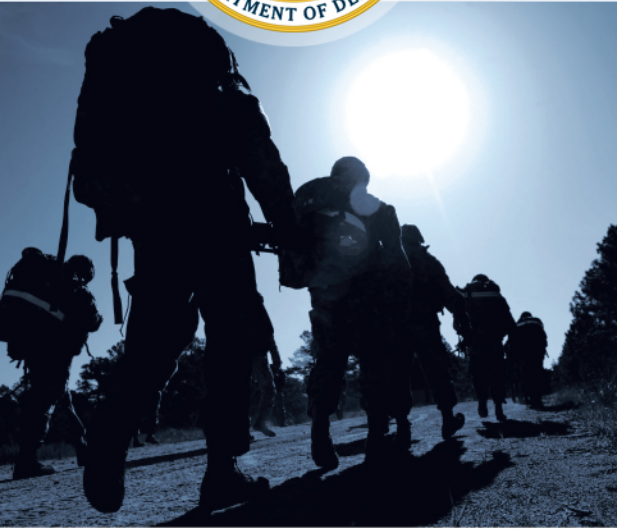




INSPECTOR GENERAL

U.S. Department of Defense



PRESENTED BY: DOD WHISTLEBLOWER PROTECTION COORDINATOR

WHISTLEBLOWER PROTECTION MILITARY PERSONNEL



INSPECTOR GENERAL

U.S. Department of Defense

PRESENTED BY: KENNETH M. SHARPLESS

WHISTLEBLOWER PROTECTION
PROHIBITIONS, RIGHTS, RESPONSIBILITIES
10 U.S.C 1034

WHISTLEBLOWER PROTECTION COORDINATOR

“The DoD’s ability to protect our warfighters and safeguard the taxpayers’ money depends on each of us. We rely heavily on our military members, civilian employees, and contractors to freely report issues of fraud, waste, and abuse without fear of retaliation. We all are potential whistleblowers and we should be aware of the protections afforded to us under the applicable statutes.” It is a responsibility we can’t afford to dismiss!

Ken Sharpless, DoD WPC



BACKGROUND ON RIGHTS & PROTECTIONS

- Congress wanted military personnel to report wrongdoing without fear of retaliation and initially addressed whistleblower rights and protection for military personnel in 1988 with the enactment of the Military Whistleblower Protection Act (10 U.S.C. 1034).
- These protections were updated and strengthened throughout the years by broadening the definition of “protected communications” and expanding the scope to whom protected communications can be made.
- Executive Order 12674, as amended, requires Federal employees to, “disclose waste, fraud, abuse, and corruption to appropriate authorities.”
- The Whistleblower Protection Enhancement Act of 2012 broadened the scope of some of these rights and protections, and required each Inspector General of a federal agency to appoint a Whistleblower Protection Ombudsman to educate agency employees about prohibitions on retaliation for protected disclosures and rights and remedies against such retaliation.
- In June 2018, under the Whistleblower Protection Coordination Act, the Ombudsman position was renamed the Whistleblower Protection Coordinator.



BACKGROUND ON RIGHTS & PROTECTIONS

- The Whistleblower Protection Coordinator is required to educate agency employees about the prohibitions on retaliation for protected disclosures and rights and remedies against such reprisal.
- This role compliments the existing responsibility of the Secretary to ensure Department of Defense employees are informed of their whistleblower rights and remedies.
- Ken Sharpless was designated to serve as the Whistleblower Protection Coordinator for the Department of Defense.
- You can contact the DoD Whistleblower Protection Coordinator at:

Whistleblowerprotectioncoordinator@dodig.mil



DoD POLICY ON WHISTLEBLOWING

- Members of the Armed Forces shall be free to make a protected communication and be free from reprisal for making or preparing to make a protected communication.
- No person shall restrict a member of the Armed Forces from making lawful communications to a member of Congress or an Inspector General.
- No person may take or threaten to take an unfavorable personnel action, or withhold or threaten to withhold a favorable personnel action, in reprisal against any member of the Armed Forces for making, preparing, or being perceived as making or preparing a protected communication.



REPRISAL & RESTRICTION DEFINED

- Reprisal
 - Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making, preparing, or being perceived as making or preparing a protected communication.
- Restriction
 - Preventing or attempting to prevent members of the Armed Forces from making or preparing to make lawful communications to members of Congress or an IG.



ELEMENTS OF REPRISAL

To demonstrate reprisal you must show:

- You made a protected communication
- A responsible management official (RMO) knew or perceived that the complainant made or prepared to make a protected communication
- A personnel action was taken, withheld, or threatened
- The protected communication was a contributing factor in the decision to take, withhold, or threaten the personnel action



PROTECTED COMMUNICATION DEFINED

A communication in which the Armed Forces member has a reasonable belief that evidences:

- A violation of law or regulation, including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violation of the UCMJ, sexual harassment, or unlawful discrimination
- Gross mismanagement
- Gross waste of funds
- An abuse of authority
- A substantial and specific danger to public health or safety
- Any threat by another member of the armed forces or employee of the Federal Government that indicates a determination or intent to kill or cause serious bodily injury to members of the Armed Forces or civilians or damage to military, federal, or civilian property



COMMUNICATION MADE TO THE FOLLOWING ENTITIES

- A member of Congress
- An Inspector General
- A member of a DoD audit, inspection, or law enforcement organization
- Any person in the chain of command
- A court-martial proceeding
- Any other person designated pursuant to regulations or other established administrative procedures to receive such communications



PERSONNEL ACTION

- **Any action taken on a member of the Armed Forces that affects, or has the potential to affect, that military member's current position or career (DoDD 7050.06)**
- Promotions
- Disciplinary or other corrective action
- Transfer or reassignment
- Performance evaluation
- Decision on pay, benefits, awards or training



PERSONNEL ACTION CONTINUED

- **Any action taken on a member of the Armed Forces that affects, or has the potential to affect, that military member's current position or career (DoDD 7050.06)**
- Referral for mental health evaluations
- Other significant changes in duties or responsibilities inconsistent with the military member's grade
- Retaliatory investigations for the primary purpose of punishing, harassing, or ostracizing a member of the armed forces for making a protected communication



SHOULD I SUBMIT A REPRISAL COMPLAINT?

IF YOU MADE A PROTECTED COMMUNICATION AND BELIEVE YOU HAVE BEEN REPRISED AGAINST BECAUSE OF THAT COMMUNICATION, YOU CAN SUBMIT A REPRISAL COMPLAINT THROUGH THE DOD HOTLINE.



WHERE TO SUBMIT A REPRISAL COMPLAINT?

- Notifying your local or command Inspector General (IG) office is the most efficient means to report and resolve your complaint within the IG system.
- All reprisal complaints receive DoD IG oversight regardless of submission location.
- Complaints may also be submitted to the DoD Hotline using the on-line complaint forms for the following:
 - www.dodig.mil/hotline (Internet)
 - www.dodig.smil.mil/hotline (SIPRNet)
 - www.dodig.ic.gov/hotline/index.html (JWICS) **Link does not work on unclassified systems
 - Phone: 1-800-424-9098
 - Please call prior to submitting complaints via SIPRNet or JWICS, or to ask general questions regarding submitting a complaint.



MILITARY REPRISAL TIME LIMITS

- No investigation is required when a service member submits a reprisal complaint more than one year after the date the member became aware of the personnel action that is the subject of the investigation.
- The Inspector General may still consider the complaint based on compelling reasons or circumstances
 - Service member was actively misled regarding his/her rights
 - Service member was prevented in some extraordinary way from exercising his/her rights
 - Service member filed the same allegation within the 1 year period with the wrong office or agency



BOARDS OF CORRECTION OF MILITARY RECORDS

- A military member may obtain a review of the service reprisal investigation by submitting a copy of the investigative report to the appropriate Board for Correction of Military Records (BCMR).
 - Air Force BCMR: <https://www.afpc.af.mil/Career-Management/Military-Personnel-Records/>
 - Navy/Marine BCNR: <http://www.donhq.navy.mil/bcncr/bcncr.htm>
 - Army BCMR: <http://arba.army.pentagon.mil/>
 - U.S. Coast Guard BCMR: <https://www.uscg.mil/Resources/Legal/BCMR/>
 - Deputy Under Secretary of Defense for Program Integration USD (PI) within 90 days of BCMR decision. Refer to DoDD 7050.6 for more information.



WHAT IF I DON'T KNOW WHAT TO DO

Contact the DoD Whistleblower Protection Coordinator

The Coordinator's role is to educate all agency employees about the prohibitions on reprisal and the means by which employees can employ avenues of resolution through either the DoD Office of Inspector General or other alternative solutions. He is prohibited from acting as a legal representative, agent, or advocate.



We Have Been Given a Responsibility

Report Fraud, Waste, Abuse

...Do What's Right

