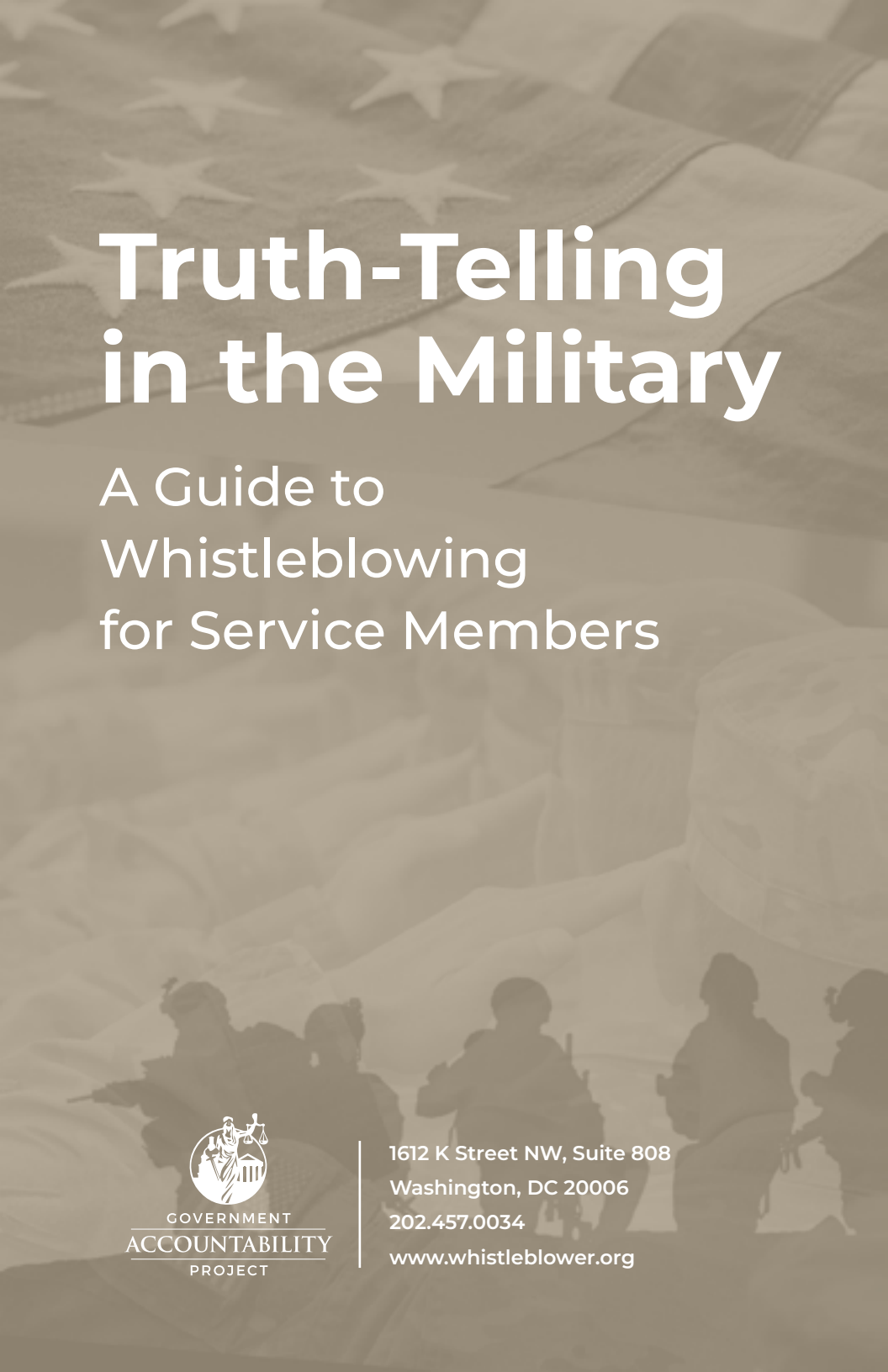
Truth-Telling in the Military

A Guide to Whistleblowing for Service Members



GOVERNMENT ACCOUNTABILITY PROJECT

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About Government Accountability Project

Government Accountability Project is the nation's leading whistleblower protection and advocacy organization. As a nonprofit, nonpartisan group founded in 1977, we have assisted over 10,000 whistleblowers in holding government and corporate institutions accountable to the public. We work to verify whistleblowers' concerns and ensure their disclosures reach public officials empowered to make a change, and we seek justice if they face retaliation.

Government Accountability Project has drafted, led campaigns to pass, or helped defend every federal whistleblower protection law that exists today. This unique expertise, developed over nearly five decades, enables us to help whistleblowers minimize risk while maximizing the impact of their disclosures.

How to Use This Guide

This guide provides comprehensive information about whistleblower rights and protections for U.S. military service members. Whether you're considering reporting wrongdoing, planning your disclosure strategy, or have already experienced retaliation, this guide will help you understand your rights and navigate the process. You can read it sequentially for a complete overview or jump to specific sections relevant to your situation.

Truth-Telling in the Military: A Guide to Whistleblowing for Service Members

SECTION 1

Introduction

Government Accountability Project finalized this guide in early 2026, at a moment when service members face a heightened operational tempo and an accountability infrastructure under systemic strain. Secretary of Defense Pete Hegseth last year announced changes to the Inspector General (IG) complaint process, directing rapid credibility screens of new complaints and developing procedures for managing repeat complainants.[1] Federally controlled National Guard units have deployed for extended law-enforcement-style missions in multiple U.S. cities under contested legal authority, and airstrikes against alleged drug traffickers have drawn scrutiny from military lawyers.[2]

Yet the law remains. The Military Whistleblower Protection Act (MWPA), 10 U.S.C. § 1034, protects service members who report serious wrongdoing through authorized channels. This guide explains how those protections work, where the gaps lie, and best practices for people who may need to use these processes.

Section 2 of this guide describes this law in detail. The MWPA prohibits retaliation against service members who disclose violations of law, abuse of authority, gross mismanagement, gross waste of funds, or substantial and specific dangers to public health or safety, provided that these disclosures are made to authorized recipients. This section describes what counts as a protected disclosure and, equally important, what does not.

1 | Pete Hegseth, "Secretary of Defense Pete Hegseth Addresses General and Flag Officers at Quanitco, Virginia," September 30, 2025, U.S. Department of Defense, transcript, https://www.war.gov/News/Transcripts/Transcript/Article/4318689/secretary-of-war-pete-hegseth-addresses-general-and-flag-officers-at-quantico-v/.

2 | Mark Sherman, "Supreme Court keeps Trump's National Guard deployment blocked in the Chicago area, fornow," Associated Press, December 23, 2025, https://apnews.com/article/supreme-court-trump-national-guard-97192a48f01dd4954f1ba505628b5f21; Scott R. Anderson, "Did the President's Strike on Tren de Aragua Violatethe Law?," Lawfare, September 5, 2025, https://www.lawfaremedia.org/article/did-the-president-s-strike-on-tren-de-aragua-violate-the-law.

It addresses nondisclosure agreements and gag orders, which remain unenforceable to the extent they conflict with whistleblower statutes, and dispels common myths, including the persistent misconception that reporting wrongdoing is itself disloyal or insubordinate.

For service members who suffer retaliation, **Section 3** walks through the Inspector General complaint process from filing to resolution. This is where the gap between law and practice is widest. This section explains the two-stage structure—an initial screening, a full investigation—and the standards of proof at each stage. It addresses what "winning" actually looks like when an IG investigation substantiates retaliation. It touches on the Boards for Correction of Military Records and the various systems for certain services, discusses when different systems may apply to National Guardsmen in different situations, and analyzes Secretary Hegseth's changes to the accountability infrastructure.

Section 4 provides concrete, actionable best practices for service members who are considering a disclosure or who have already made one. One best practice worth mentioning early: consult an experienced attorney before you blow the whistle. Communications with counsel are protected by attorney-client privilege, and an experienced whistleblower lawyer can help you identify the safest channels, anticipate retaliation, and preserve your options. Beyond that threshold advice, the section covers how to document and report those moments in ways that protect you and create a record.

Government Accountability Project has worked with thousands of whistleblowers across the federal government, including many in sensitive national security positions, to help them safely and effectively disclose serious wrongdoing. This guide adapts our approach to the distinct realities of military service. We do not take positions here on policies, deployments, or operations. Our role is to explain, as clearly as possible, what legal protections exist for military whistleblowers; how those protections interact in practice; and concrete steps service members can take to raise concerns lawfully and strategically when they see serious wrongdoing.

SECTION 2

Whistleblowing in the Military

When you are in uniform, you live in a world of order, discipline, and the chain of command. Speaking up about serious problems can feel disloyal but staying silent may put people in danger. Congress established a system specifically to protect service members who make proper disclosures. This section explains what it means, legally and practically, to "blow the whistle" in the military.

The Military Whistleblower Protection Act

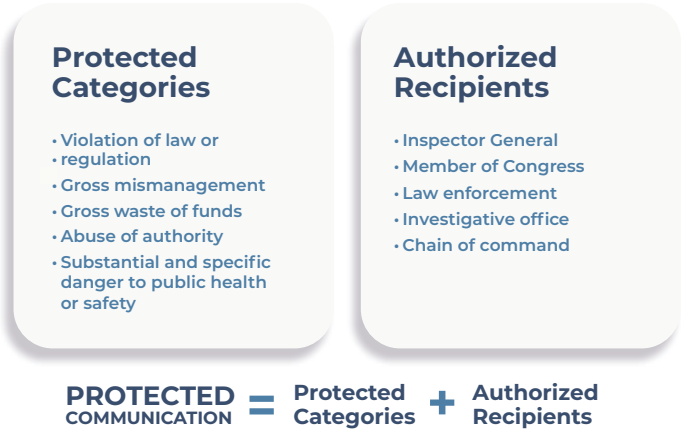
Generally, people use the term "whistleblowing" loosely. It might mean anything from venting to a boss about problems to sharing policy concerns with a reporter. The law is more specific.

Under 10 U.S.C. § 1034, the Military Whistleblower Protection Act (MWPA), a "protected communication" is a lawful report by a service member that they reasonably believe shows: a violation of law or regulation, gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety.[3] The report must be made to an Inspector General, a Member of Congress, a law enforcement or investigative office, someone in your chain of command, another person designated by regulation to receive such reports, or within court-martial proceedings.[4]

Practically, this means you are "whistleblowing" in the legal sense when two elements come together. First, you are raising a concern about serious wrongdoing or danger, not just a personal disagreement or annoyance. Second, you are reporting to an audience

3 | 10 U.S.C. § 1034 (Military Whistleblower Protection Act).

4 | *Id.*



the law recognizes as appropriate. The law focuses on your reasonable belief, not on whether every detail later proves true.

If you honestly and reasonably believe there is a violation or danger, your communication should be protected even if an investigation ultimately disagrees with your assessment. Reasonable mistakes supported by evidence can be the basis for legally protected disclosures. The Whistleblower Protection Act (WPA), the law that empowers most civilian federal employees to report wrongdoing and that guides interpretation of the MWPA, defines the reasonable belief standard to mean that peers with similar knowledge could agree with you—and the MWPA tracks this definition.[5]

Your statutory anti-retaliation protections as a service member hinge on the concept of a protected communication. The MWPA prohibits two broad categories of misconduct by others: (1) restricting your ability to make protected communications, and (2) taking or threatening unfavorable personnel actions (or withholding favorable ones) because you did so. Department of Defense (DoD) Directive 7050.06, "Military Whistleblower Protection," implements these rights. It states that service members are free to make protected communications; that no one may restrict lawful communications with a Member of Congress or an Inspector General; and that no one may take or threaten reprisal for making or preparing a protected communication.[6]

5 | 5 U.S.C. § 2302(b)(8); 10 U.S.C. § 1034(c)(2); DoD OIG, Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints, at 18 (May 9, 2024) (applying the disinterested observer test: a belief is reasonable if a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the Service member could reasonably conclude that the disclosed information evidences covered wrongdoing); Cf. Downing v. Dep't of Labor, 98 M.S.P.R. 64, 69-70 (2004) (establishing the same standard under the WPA).

6 | Department of Defense Directive 7050.06, Military Whistleblower Protection (Apr. 17, 2015) (incorporating Change 1, Oct. 12, 2021). N.B.: Recent department-wide policy changes do not eliminate or override whistleblower protections.

A related article of the Uniform Code of Military Justice (UCMJ), Article 132, makes retaliation for reporting a criminal offense or making a protected communication a crime, punishable up to dishonorable discharge, forfeiture of all pay and benefits, and three years' confinement. It punishes anyone who, with intent to retaliate or to discourage reporting, wrongfully takes or threatens adverse personnel action against another person, or wrongfully withholds or threatens to withhold a favorable personnel action.[7]

It helps to think of MWPA's anti-retaliation protections involving a three-part framework:

1. What you disclosed (a protected communication),

2. To whom you disclosed it (an authorized recipient), and

3. What others are forbidden to do in response (restriction or reprisal).

The MWPA prohibits two broad categories of misconduct by others: (1) **restriction**—trying to stop you from making lawful communications with a Member of Congress or an IG; and (2) **reprisal**—taking (or threatening to take) an unfavorable personnel action, or withholding (or threatening to withhold) a favorable personnel action, because you made (or prepared to make) a protected communication. DoD Directive 7050.06 and DoD Instruction 7050.09 implement these rights and set standards for evaluating and investigating restriction and reprisal complaints.

Examples of prohibited personnel actions can include:

- a negative evaluation/fitness report;
- disciplinary or corrective action (e.g., counseling, reprimands);
- non-judicial punishment;
- transfer or reassignment;
- removal from a position or a significant change in duties or responsibilities inconsistent with your grade;
- denial of promotion, awards, training, or schools/PME;
- decisions affecting pay or benefits;
- referral for a mental health evaluation
- a retaliatory investigation; or
- a leader's failure to stop retaliatory harassment they know is occurring.[8]

For personnel with access to classified information, Presidential Policy Directive 19 (PPD-19) and its codifying statutes add another layer to the MWPA. PPD-19 prohibits retaliation against Intelligence Community employees or those with security clearances in reprisal for protected disclosures, and establishes an external review process under the Inspector General of the Intelligence Community when internal remedies are exhausted.[9] Moreover, statutes such as the Intelligence Community Whistleblower Protection Act (ICWPA) give you a lawful path to bring "urgent concerns" about intelligence activities to Congress through the relevant Inspector General.[10]

These regimes are complicated, and the next section describes them in detail. For now, the takeaway is that the law defines specific kinds of reports that you have a right to make and that others have a legal duty not to obstruct or punish.

What Counts as Protected Whistleblowing?

Not every complaint qualifies as a protected communication. The law focuses on certain categories of serious issues.

Violations of Law or Regulation

This includes obvious criminal offenses, such as theft of government

For example, the Secretary's September 30, 2025 memorandum on IG oversight and reform directs implementation "consistent with applicable laws" and instructs that actions must "protect whistleblower rights."

7 | 10 U.S.C. § 932 (2023) (UCMJ art. 132, Retaliation).

8 | U.S. Dep't of Def., Inspector General Guide to Investigating Military Whistleblower Reprisal and Restriction Cases, at 20-21 (May 9, 2024), https://www.dodig.mil/Portals/48/Documents/Components/AI/AI%20Manuals/Guide%20to%20Investigating%20Military%20Whistleblower%20Reprisal%20and%20Restriction%20Complaints%20-%2005-09-2024_Final_20240513_508.pdf?ver=EYXJxdntwpw7f7x7jJ02Dg%3d%3d.

9 | U.S. Dep't of Def., Inspector General Guide to Investigating Military Whistleblower Reprisal and Restriction Cases, at 20-21 (May 9, 2024), https://www.dodig.mil/Portals/48/Documents/Components/AI/AI%20Manuals/Guide%20to%20Investigating%20Military%20Whistleblower%20Reprisal%20and%20Restriction%20Complaints%20-%2005-09-2024_Final_20240513_508.pdf?ver=EYXJxdntwpw7f7x7jJ02Dg%3d%3d.

10 | Intelligence Community Whistleblower Protection Act of 1998, Pub. L. No. 105-272, tit. VII, §§ 701–702, 112 Stat. 2396, 2413–18 (1998) (codified as amended at 5 U.S.C. § 416; 50 U.S.C. §§ 3033(k)(5), 3517(d)(5)).

property, falsification of official documents, or assault, as well as violations of the UCMJ and Department regulations. The MWPA specifically recognizes violations of laws prohibiting sexual assault, sexual harassment, and unlawful discrimination as covered subjects. Equal opportunity and sexual harassment problems are not "merely interpersonal" when they involve violations of law or regulation; they are exactly the kind of misconduct Congress intended you to be able to report safely under the MWPA.

Gross Mismanagement or Gross Waste of Funds

These terms refer to more than routine bureaucratic inefficiency. "Gross mismanagement" means arbitrary actions that significantly obstruct the agency mission. Examples might include a training program that repeatedly fails basic safety inspections but continues unchanged, or a procurement process where leadership knowingly bypasses required competition rules to steer contracts, leading to large, unjustified cost overruns. "Gross waste" means more than debatable expenditure that is significantly out of proportion to the benefit reasonably expected to accrue to the government.

Abuse of Authority

This occurs when arbitrary actions result in favoritism or discrimination, such as ordering subordinates to perform personal errands, manipulating performance reports to punish dissent, or threatening to withhold lawful benefits unless a service member engages in unrelated or unlawful conduct.

A Substantial and Specific Danger to Public Health or Safety

These concerns refer to tangible threats rather than conceptual concerns.

Service members have a duty under the Uniform Code of Military Justice to disobey unlawful orders.[1] The MWPA protects you for reporting an unlawful order, but it does not protect you from refusing to follow one.[2]

We discuss this dilemma in detail in the Note on Refusing Unlawful Orders on page 21.

1 | Manual for Courts-Martial (MCM), Part IV, ¶ 14.c.(2)(a)(i).

2 | 10 U.S.C. § 1034(c)(2).

In the military context, it can include units ordered to operate equipment known to be unsafe, systemic shortcuts in maintenance, mishandling of hazardous materials, or training practices that predictably cause serious injury. The danger must be more than theoretical, but it does not have to have resulted in injury yet.

The MWPA also protects disclosures of threats by other service members or federal employees to kill or cause serious bodily injury to others or to damage military or civilian property—a recognition that violence, sabotage, and insider threats are themselves serious abuses that must be reportable without fear of reprisal.[11]

Check Your Gut Against the Law

When something feels wrong, ask yourself a few targeted questions.

- Is what I am seeing a violation of a specific law, regulation, or written policy?
- Does it involve fraud, serious waste of money, or misuse of authority?
- Does it create a specific danger to people's health or safety, or to systems and property?

If you can answer "yes" to one or more of these, you are likely in the territory that Congress meant to protect. If you are unsure, an attorney can often help you sort that out before you escalate.

Authorized Channels for Reporting Misconduct

The content of your disclosure is only half the picture. The other half is who you tell.

Under 10 U.S.C. § 1034, protected communications can be made to Members of Congress; any Inspector General (IG) in the Department of Defense (DoD), including service and DoD-level IGs; the Department of Homeland Security (DHS) Inspector General (IG) for Coast Guard members; members of Defense or Homeland Security audit, inspection, investigation, or law-enforcement organizations; anyone in your chain of command; courts-martial; and any other person or organization designated by regulation or administrative procedures to receive such complaints.[12]

DoD and DHS policies further recognize that reports to specialized

11 | 10 U.S.C. § 1034(c)(2)(C).

12 | 10 U.S.C. § 1034(b)(1)(B).

programs—such as equal opportunity offices, sexual assault response programs, safety offices, and medical quality-assurance bodies—can count as protected communications when they meet the statutory criteria, because those offices are designated by regulation to receive such information.[13] In some instances, protected channels also include the Inspector General of the Intelligence Community, agency-specific IGs, and the Director of National Intelligence.[14]

At the same time, the law explicitly says that a communication does not lose protection because of when or how you make it. The MWPA states that a communication is still protected even if you made it orally, off duty, or in the normal course of your duties, and even if your motive is questioned.[15] In other words, you do not have to use special magic words, file a particular form, or sacrifice your right to complain just because speaking up is part of your job. (However, a written record helps a whistleblower build a stronger case if later challenging retaliation.)

Issues That Do not Qualify as Whistleblowing

In a healthy unit, you should be able to raise a wide range of concerns—about workload, leadership style, interpersonal conflict, or career development—without needing to wrap them in whistleblower law. Many of those issues are real and important. But they often do not meet the legal thresholds for protected communications under 10 U.S.C. § 1034.

The important distinction is between disagreeing with a policy's wisdom and disclosing that a policy's implementation or consequences create illegality, abuse of authority, gross waste or mismanagement, or a substantial threat to public health or safety. Objecting that "this training schedule is too aggressive" or "I think this deployment is unwise" sounds like a policy disagreement. But if the consequences of that aggressive schedule violate mandatory safety regulations, or that deployment order requires you to commit war crimes, then your disclosure concerns unlawful conduct—and that is protected whistleblowing.

13 | DoD Directive 7050.06, Encl. 1, § E1.1.8.2.2; 33 C.F.R. Part 53.

14 | 50 U.S.C. § 3234; Presidential Policy Directive 19, Protecting Whistleblowers with Access to Classified Information (Oct. 10, 2012).

15 | 10 U.S.C. § 1034(c)(3).

The law does not protect you for saying a lawful policy is foolish; it protects you for reporting that the consequences of a policy, however well-intentioned, are producing violations of law, rule, or regulation.

A common gray area is "toxic leadership." Commanders who belittle subordinates, play favorites, or manage through fear can cause enormous harm. However, while a complaint that "my commander yells and is unfair" may spur retaliation, it would not be a whistleblowing disclosure of illegality, gross waste or mismanagement, abuse of authority, or a public health or safety threat. If, on the other hand, that commander systematically falsifies records or uses their position to coerce personal favors, those are specific abuses that can trigger your anti-retaliation protections.

However, the fact that an issue does not qualify as a protected communication under the statute does not mean it is trivial. Many serious problems are handled through other mechanisms that have their own rules and, in some cases, their own anti-retaliation provisions.

Focus on Rules, Not Personality Conflicts

When you assess whether your situation is "whistleblowing," strip away personalities and focus on rules.

Ask: If I had to explain this to an outsider, could I identify a specific law, regulation, or standard that is being violated, or a substantial and specific danger that those rules are meant to prevent?

If the answer is no, unless you are right about one of the other topics, you are likely dealing with an important but different kind of problem not protected by the MWPA. That does not mean you should stay silent; it means you may need to use other complaint channels, and you should not assume whistleblower statutes will apply. If you are unsure, an attorney can often help you sort that out before you

Equal opportunity (EO) and discrimination complaints are handled through their own offices, and because unlawful discrimination is a violation of law and abuse of authority, your EO complaint is simultaneously a protected communication under the MWPA. Similarly, sexual harassment and sexual assault complaints go through programs such as the DoD's Sexual Assault Prevention and Response (SAPR) office, with parallel criminal jurisdiction through law enforcement and command, but the MWPA protects service members who make reports through these processes.

The labels you use for your disclosure can have real consequences. Statutory protections like the MWPA are keyed to specific types of communication, content, and recipients. If you later experience reprisal—such as a bad evaluation, involuntary transfer, or denial of promotion—and you bring a complaint to an IG, one of the first two questions investigators will ask is whether you made a protected communication and to whom.

Use the Right Tool for the Job

As you think about where to go, match your issue to the system designed for it.

If you are facing discrimination or harassment, ***EO or SAPR*** may be the mandatory starting place—***BUT*** your report may also count as a protected communication because it alleges unlawful discrimination or sexual misconduct. ***In that case, you can pursue both options.***

Using the correct channel can make it much more likely that someone with the power to fix the problem actually sees it.

Under the MWPA, an IG's reprisal analysis begins with assessing whether you disclosed information that you reasonably believed was evidence of a covered type of wrongdoing, and whether you did so to a covered recipient.[16] Only if that threshold is met does the analysis continue. If, instead, your complaint was a general gripe, never tied to any rule or legal standard, and made only to a peer who had no official role, it will be harder to argue later that you engaged in protected whistleblowing. That does not mean you deserve retaliation. It does mean the strongest statutory protections may not be available, and you may need to rely on other laws or policies.

16 | DoD OIG, Guide to *Investigating Military Whistleblower Reprisal and Restriction Complaints* (May 2024); 10 U.S.C. § 1034(c)(4).

We understand that many real-world situations do not come neatly labeled. What starts as a policy disagreement or personal concern may reveal serious wrongdoing once you dig into the facts.

Imagine you are a platoon leader ordered to conduct live-fire night training with unfamiliar equipment on a compressed timeline. Your first reaction is that the schedule is unreasonable and endangers your platoon. On its face, "I think this schedule is too aggressive" sounds like a policy disagreement. But you review the relevant training and safety regulations and discover that the plan violates mandatory requirements for illumination, range control, or medical coverage. At that point, your concern is about specific regulatory violations and a substantial and specific danger to safety. Framed that way and raised to an IG, safety office, or chain of command, your communication fits squarely within the protected categories of the MWPA.

Or consider a junior enlisted member who believes their supervisor is "out to get them." Initially, this might look like a personality conflict. However, when you lay out the facts, you may see the supervisor repeatedly manipulates work schedules to interfere with mandatory medical appointments, uses derogatory comments tied to the member's race, and threatens to block reenlistment if the member "keeps complaining." When documented and reported, those facts describe a pattern of retaliation, and a report about them to a watchdog office is a protected communication.

Look for the rules behind the disagreement.

When you find yourself in a dispute over "how things are done," take the next step and ask: What written rules govern this situation? Are we ignoring them? Are those rules designed to prevent exactly the kind of harm I fear? That exercise can reveal that your "disagreement" is actually about systemic violations of law or regulation, which means your report may be protected whistleblowing rather than mere dissent.

The law also protects you when you report threats or misconduct related to others' whistleblowing. The MWPA recognizes that it is protected activity to assist in investigations of other whistleblowers' disclosures or to help them challenge retaliation.[17] If you see someone being punished for

17 | 10 U.S.C. § 1034(b)(1)(C); 10 U.S.C. § 932 (UCMJ Art. 132).

going to the IG, your report about that reprisal can itself be a protected communication.

Gag Orders and NDAs

Recent changes in DoD policy have leaned heavily on nondisclosure agreements, new "loyalty" forms, and warnings about talking to outsiders.[18] These tools are presented as necessary to protect sensitive information and operational security. In some respects, they are. But they also create obvious opportunities to chill lawful whistleblowing if they are drafted or enforced improperly.

Federal law has long recognized this risk. That is why Congress requires any nondisclosure agreement, policy, or form that restricts disclosure of information to include a statement making clear that it does not override your right to report wrongdoing to an OIG, to Congress, or to other authorized entities. This "anti-gag" language is a legal requirement attached to the use of federal funds. When leaders roll out new nondisclosure agreements without that clause, they may be violating appropriations law and whistleblower statutes.[19]

For you, this means that the mere existence of a nondisclosure agreement does not answer the question, "Am I allowed to blow the whistle?" If the nondisclosure agreement explicitly carves out lawful whistleblowing, such as disclosures to Congress, OIGs, and law enforcement, it is operating as Congress intended: as a reminder not to release information illegitimately, not a blanket gag. Otherwise, a nondisclosure agreement or policy that threatens discipline for any "unauthorized" communication with outsiders, without any mention of statutory rights, may itself be a form of unlawful restriction that you can report.

Of course, reading a nondisclosure agreement correctly and asserting your rights under it are different things. The people wielding these forms may not care that they are illegal; they may still punish you.

18 | Alex Horton, Tara Copp, and Ellen Nakashima, "Pentagon plans widespread random polygraphs, NDAs to stanch leaks," The Washington Post, updated October 2, 2025, https://www.washingtonpost.com/national-security/2025/10/01/pentagon-pete-hegseth-crackdown-leaks/; Edward Helmore, "US news outlets refuse to sign new Pentagon rules to report only official information," The Guardian, October 13, 2025 (last modified October 14, 2025), https://www.theguardian.com/us-news/2025/oct/13/defense-department-media-news-rules.

19 | Irvin McCullough and Addison Rodriguez, "The Trump administration loves gag orders. But they're often illegal," *The Washington Post*, October 13, 2020, https://www.washingtonpost.com/outlook/2020/10/13/trump-gag-orders-illegal/.

The point of knowing the law is not to pretend that risk vanishes, but to arm yourself with arguments and evidence if you choose to push back.

Dispelling Myths About Military Whistleblowers

Beyond the legal definitions, there is the culture you live in every day. Unspoken norms discourage "going outside the chain" or "making waves." Whistleblowers are sometimes portrayed as disloyal, selfish, or weak. Those stereotypes are powerful, and they can make you question your own motives or judgment.

This section confronts some of the most common myths about military whistleblowers and contrasts them with the realities the law and our experience reflect.

Truth #1: You Have Rights. Lawful Whistleblowing Is not Disloyalty.

One of the deepest fears service members express to us is that reporting serious concerns, especially outside the immediate chain of command, will be seen as insubordination or "breaking rank." That fear is understandable in an institution built on good order and discipline. But when misconduct threatens the military mission, it is not what the law says.

The MWPA begins with a simple rule: no person may restrict a member of the armed forces from communicating with a Member of Congress or an IG.[20] DoD's own directive on military whistleblower protection repeats this rule as department policy and emphasizes that service members are free to make protected communications and must be free from reprisal for doing so.[21]

Your oath is to support and defend the Constitution. When you lawfully report violations of law, serious abuses, or dangers that threaten your unit or the public, you are honoring that oath. In theory, every commander should welcome accurate information about wrongdoing. In practice, some will feel threatened or embarrassed and may try to label you the

20 | 10 U.S.C. § 1034(a)(1).

21 | DoD Directive 7050.06, § 4.1 (Apr. 17, 2015).

problem. Knowing that the law is on your side will not eliminate those reactions, but it can help you resist internalizing them.

However, this does not mean any form of speech about unit matters is protected. If you publicly disparage leaders on social media, reveal classified information to the press, or encourage others to disobey lawful orders, you may face legitimate disciplinary action. The distinction is between lawful disclosures through protected channels about serious wrongdoing, which the law protects, and unlawful speech that undermines the mission or violates clear rules, which the law does not.

Truth #2: Most Service Members Try to Fix Problems Inside the Unit First

Another common myth is that whistleblowers "run to the media" at the first sign of trouble. In our experience, that is rarely true. Most service members who eventually become whistleblowers start by trying to solve problems quietly inside their unit.

Often a service member first raises concerns with a direct supervisor, first sergeant, or company-level commander. Others go to internal programs such as safety, medical, or SAPR, especially when policies require those avenues. Many make repeated attempts to address issues informally before they ever contact an IG or Member of Congress.

Sometimes, those internal efforts work. A commander listens, investigates, and corrects the problem. No one calls it "whistleblowing," and that is fine; the mission is safer, the issue is fixed, and you can move on. Oftentimes, leadership is part of the problem, or the internal system is under pressure not to acknowledge politically sensitive issues. In those situations, people usually turn to IGs or Congress because they have run out of other options or no longer trust the chain of command to police itself. DoD's own materials on whistleblower protections recognize that the department relies on military members, civilian employees, and contractors to freely report fraud, waste, and abuse in order to protect warfighters and taxpayers.[22]

22 | U.S. Department of Defense, Office of Inspector General (DoD OIG), *Whistleblower Protection: Military Personnel* (PDF, modified Mar. 1, 2019), 3, https://www.dodig.mil/Portals/48/Documents/Components/Ombudsman/10%20USC%201034%20%28Military%20Personnel%29.pdf?ver=2019-03-01-102137-837.

Importantly, while you are protected for disclosures within the chain of command, the MWPA does not require internal reports before contacting an IG or Congress, and it explicitly forbids anyone from imposing such a requirement. In practice, many service members still choose to start internally because they value their unit and want their leaders to succeed. That is a valid choice—but it is your choice, not your commander's.

When deciding where to start, consider who is implicated by your concerns, how much you trust your leadership, and what the risks are if the problem is ignored. If your immediate chain is directly involved in the wrongdoing, or if you have reason to believe they will retaliate, it may be safer to go directly to an external entity. If the issue is localized and your commander has a track record of addressing problems, an internal approach may make sense.

Truth #3: Motivations Are Duty, Loyalty, and Protection, not Revenge

Commanders and public affairs officers sometimes portray whistleblowers as disgruntled employees, poor performers, or people seeking attention. That narrative can be effective in discrediting your disclosures, especially if you have any blemishes in your record, which almost everyone does.

Our experience is different. Most whistleblowers in the military context are motivated by a sense of duty: to protect their teammates, uphold the mission, safeguard civilians, or prevent waste and fraud. They often have pride in their service and would prefer not to be in conflict with leadership. Many delay coming forward because they fear exactly the retaliation and stigma that later occurs, and they may worry deeply about the impact on their families and careers.

The whistleblower laws described in this guide are built around a "reasonable belief" standard, not a purity test for motives. The MWPA protects communications in which you complain of, or disclose information that you reasonably believe constitutes evidence of, violations of law or regulation, gross mismanagement, gross waste, abuse of authority, or substantial and specific danger to public health or safety. The statute explicitly says a communication does not lose protection based on your motive, whether or not it is in writing, whether you were on duty or off duty, or whether you made the communication as part of your normal duties.[23]

23 | 10 U.S.C. § 1034(c)(3).

That means you do not have to be a perfect service member with spotless evaluations. You do not have to prove that you are unselfish. You do not even have to be correct on every fact, as long as your belief was reasonable at the time. Investigators and boards will consider your credibility and the accuracy of your information, but the law does not require you to suffer in silence just because you are also angry, scared, or frustrated.

The official legal focus is on the merits of your disclosures. In practice, however, if you blow the whistle on serious abuses you should expect some people to attack your motives and character. They almost reflexively will dig through your records for past mistakes, suggest you are trying to avoid accountability, or imply that you are politically motivated. Those tactics are common and, unfortunately, sometimes effective. They do not negate your rights. Documenting your concerns carefully, grounding them in specific facts and rules, and tying them to recognized categories of wrongdoing can help keep the focus on the substance of what you reported. But know you will be under a microscope and be prepared to live with the whole truth of your own life.

Setting Realistic Expectations for Whistleblowing

Understanding what counts as whistleblowing shapes the risks you take and the protections you can invoke. On paper, this legal regime creates strong safeguards. It declares that you are free to make lawful protected communications, that no one may restrict or retaliate against you for doing so, and that leaders who engage in reprisal can face investigations, corrective orders, and even court-martial.

However, enforcement is uneven and unreliable. As discussed in the next section, IG investigations routinely take years and almost always find against the whistleblower. Some complaints are dismissed early on, sometimes due to resource constraints or narrow interpretations of what qualifies as reprisal. Commanders may find other pretexts to marginalize or punish whistleblowers, especially through subtle actions like negative performance comments, ostracism, or loss of coveted assignments. Even when an IG substantiates a whistleblower's reprisal, that is only a tentative, recommended finding. Implementing corrective action can be slow and incomplete.

If you decide to come forward, you will be balancing your obligations to your unit and the Constitution against personal risks. Knowing what constitutes a protected communication—what counts as "serious," who you can safely tell, and how to frame your concerns—gives you a better chance of both protecting yourself and making your disclosure matter.

The next section walks through how these laws work in practice. For now, it is enough to hold onto three core ideas: (1) Whistleblowing in uniform means lawful, serious reporting through protected channels. (2) The law recognizes and protects that role. (3) Most whistleblowers act internally first and do so out of duty and loyalty, not disloyalty or revenge.

A Note on Refusing Unlawful Orders

All of the protections described in this guide exist alongside a reality of military service: there are times when the law does not simply permit you to disobey an order, it demands that you do so. Whistleblowing is usually about speaking up while continuing to follow orders that are presumed lawful. Disobedience enters the picture when an order crosses a line so clearly that obedience would make you complicit in a crime.

Every service member lives at the intersection of two duties. One is the duty to obey lawful orders, which underpins discipline and makes collective action possible. The other is the duty to uphold the Constitution and the law, which includes refusing to carry out "patently illegal" orders.[24] The UCMJ and the Manual for Courts-Martial codify both sides of this equation.[25] DoD law-of-war policy likewise makes clear that compliance is required in good faith, that clearly illegal orders must be refused, and that potential law-of-war violations must be reported.[26] The problem is that unlike whistleblowing, there is no legal protection for retaliation against those who violate this duty.

Orders are presumed lawful and disobeyed at the peril of the subordinate, but that presumption does not apply to orders that direct criminal

24 | Manual for Courts-Martial, United States (2024 ed.), Part IV, para. 16.c.(2)(a)(i) (PDF p. IV-24).

25 | Manual for Courts-Martial, United States (2024 ed.), Rule for Courts-Martial 916(d) (PDF p. II-136).

26 | Memorandum from Paul C. Ney, Jr., General Counsel of the Department of Defense, *Brief Overview of the Law of War* (Aug. 6, 2020), §§ 1.4–1.6, 1.8, https://ogc.osd.mil/Portals/99/Law%20of%20War/Practice%20Documents/DoD%20GC%20Ney%20Aug%206%202020%20memo%20-%20brief%20overview%20of%20the%20law%20of%20war.pdf?ver=Yz2LvulUoSfw6bdcFHOVkA%3d%3d.

conduct. The post–World War II rejection of "just following orders" as a defense for war crimes is part of the legal framework you operate under.

Practically, the category of truly "patently" illegal orders is narrower than many people imagine. Orders to deliberately target civilians who are clearly not taking part in hostilities, to torture or cruelly treat detainees, to fabricate or destroy official records, or to commit obvious criminal acts such as rape, theft, or assault on fellow service members fall into this category. So do orders to cover up such crimes. In those situations, a reasonable person does not need a legal opinion to recognize that the conduct is unlawful. In the law-of-war context, a classic "red line" example is an order to attack people who are hors de combat, such as shipwrecked persons in a helpless state (or anyone who has clearly surrendered and is under effective control).[27] Your obligation is to refuse, even if everyone around you appears to accept the order. If you comply anyway, you may later face criminal liability yourself.

Most of the difficult situations you are likely to face, however, will not be branded "war crime" or "felony" in bright red letters. The boat strikes and domestic deployments described earlier illustrate this dilemma—and the fact that both have been under active congressional scrutiny is a reminder that the "lawfulness" of an operation may be contested long after individual orders have been carried out.

At the policy level, lawyers and courts may debate whether a particular authorization for the use of military force, counternarcotics authority, or novel theory like "defense support to civil authorities" or "military zone" designation permits the activities being conducted—or whether such framing sidesteps the Insurrection Act's requirements by relabeling law enforcement as something else.[28] At the tactical level, your order may be to crew an aircraft, maintain a targeting system, man a perimeter, or transport detainees from one location to another.

27 | U.S. Department of Defense, DoD Law of War Manual (June 2015; updated July 2023), §§ 5.9.4 (shipwrecked/hors de combat), 5.4.7 (prohibition on "no survivors"/denial of quarter), 18.3 (duty to refuse illegal orders).

28 | See Cong. Rsch. Serv., Defense Primer: Defense Support of Civil Authorities, IF11324 (Apr. 9, 2025), https://www.congress.gov/crs_external_products/IF/PDF/IF11324/IF11324.16.pdf; Cong. Rsch. Serv., Defense Primer: Legal Authorities for the Use of Military Forces, IF10539 (Dec. 23, 2025), https://www.congress.gov/crs_external_products/IF/PDF/IF10539/IF10539.13.pdf; "U.S. military to create two new border zones, officials say," *Reuters* (June 25, 2025), https://www.reuters.com/world/us/us-military-create-two-new-border-zones-officials-say-2025-06-25/.

You may believe strongly that the mission as a whole is unlawful or dangerously overbroad, but you are not being directly told to shoot an unarmed civilian or beat a prisoner. These are the "gray zone" cases.

In that gray zone, the law expects you to treat orders as lawful unless they plainly require crimes, while using whistleblower channels to challenge what you reasonably believe is unlawful about the mission.

That means that in most situations you will, as a legal matter, obey orders that do not themselves instruct you to violate criminal law, even if you are simultaneously documenting those orders and reporting to an IG or Congress that you believe the operation as a whole exceeds statutory authority, violates rules of engagement, or endangers civilians in ways the law does not permit. This "obey while you report" structure is how the current framework tries to reconcile individual conscience with the institutional need for discipline.

However, there are situations where that framework breaks down. If you are given an order that, in context, clearly directs criminal conduct—for example, to falsify targeting data so that civilian casualties will not be counted, or to attack persons you know are hors de combat—the

The Law on Refusing Illegal Orders

The Manual for Courts-Martial states:

"An order requiring the performance of a military duty or act may be inferred to be lawful, and it is disobeyed at the peril of the subordinate. ***This inference does not apply to a patently illegal order, such as one that directs the commission of a crime.***"

—Manual for Courts-Martial, Part IV, para. 16.c.(2)(a)(i)

Under Rule for Courts-Martial 916(d), "following orders" is a legitimate defense against criminal charges unless "the accused knew the orders to be unlawful or a person of ordinary sense and understanding would have known the orders to be unlawful."

DoD's law-of-war guidance states: "All service members must: (1) comply with the law of war in good faith; (2) refuse to comply with clearly illegal orders to commit violations of the law of war; and (3) report potential violations of the law of war...."

law says you have a duty to refuse. It also says you can be held criminally liable if you comply. But the MWPA does not clearly protect the act of refusal itself.

If you refuse, it is important that you document what happened and make a protected communication as soon as practicable. Write down who gave the order, who was present, what exactly was said, and what you did in response. Preserve any contemporaneous messages, logs, or recordings you lawfully possess. Then bring that information to an IG, to a legal office such as a JAG, or to a Member of Congress or other designated authority under the MWPA.

Your report about the illegal order is itself a protected communication, and any retaliation you face for refusing to commit a crime or for reporting the order constitutes unlawful reprisal.

You should also understand the risk that comes with misjudging the situation. If you refuse an order that later turns out to be lawful, or that a court or investigative body concludes was not clearly illegal, you may be charged with disobedience under the UCMJ.

The law does not give you a free-floating veto over policy or strategy; it protects disobedience only when the order demanded conduct that was unlawful on its face. This is another reason why, in close cases where you suspect illegality but the criminal character of the order is not obvious, it is often safer to comply narrowly with the order while using protected channels to challenge the operation rather than unilaterally refusing.

When refusal and whistleblowing meet.

Refusing a patently illegal order and reporting that order are two sides of the same obligation. The refusal protects you and potential victims from immediate harm. The report helps prevent recurrence, exposes patterns, and triggers systems designed to hold wrongdoers accountable. When you have to say no, you should assume from the outset that you will also need to become a whistleblower.

The fact that the law draws these lines imperfectly does not mean you must simply abandon your conscience. It means that you should be deliberate.

When an order troubles you, ask whether it requires you to commit or conceal a crime, or whether it instead involves a policy or legal judgment above your level of authority. Look for the written rules that govern the situation and ask whether they are being ignored. Seek legal advice and a written opinion from experienced counsel.

SECTION 3

How Military Whistleblower Laws Work in Practice

And when you reach the point where you honestly believe an order is criminal, be prepared for the reality that fulfilling your duty to disobey may also require you to step into the role of a whistleblower.

By this point you have seen what counts as whistleblowing in uniform. This section shifts away from definitions and toward machinery. It explains what actually happens when those rights collide with real events: when you report, when someone pushes back, and when the law is forced to take a position on who is right.

You experience this machinery as a series of steps. First comes your report of wrongdoing. That might be an email to a hotline, a phone call with a supervisor, or a detailed memo to a Member of Congress. Later, something else happens, a removal from a leadership position, a negative evaluation that does not match your prior record, a denial of a transfer that had been informally promised, or a command climate that hardens into systematic ostracism. You begin to suspect that these events are not random or purely performance based. You file a reprisal complaint with an Inspector General's office.

Overview of the Inspector General Complaint Process

Once you move from "I might report" to "I already reported and something is happening to me," your rights and protections under the MWPA become a legal test applied to your particular facts.

Significantly, unlike civil service employees, your rights kick in as soon as a retaliatory investigation is opened to find charges against you.

Civil service employees must wait until there is action on the investigation.[29]

The mechanics of this system are governed by DoD Directive (DoDD) 7050.06 ("Military Whistleblower Protection") and DoD Instruction (DoDI) 7050.09 ("Uniform Standards for Evaluating and Investigating Military Reprisal or Restriction Complaints"). These documents describe the procedures investigators must follow, the timelines they must meet, and the chain of decisions that will ultimately determine the outcome of your case.

Every reprisal and restriction complaint moves through two stages: complaint evaluation and investigation. The first stage determines whether on its face your complaint contains enough information to warrant a full review. The second, if you get there, is the full investigation that produces a report and ultimately a recommendation for corrective action.[30]

Stage 1: Filing a Complaint and Initial Screening

The clock starts when your complaint arrives at an Inspector General's office. Component Inspectors General—the service-level inspectors general for the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard—must notify the DoD Office of Inspector General (OIG) within 30 days of receiving a reprisal or restriction allegation.[31]

For complaints involving sexual assault, matters of known congressional interest, or allegations against senior officials, that notification window shrinks to ten days. (Separately, under DoDD 5505.06, which applies to *misconduct* allegations against senior DoD officials, the entity receiving your complaint must refer the allegation to the DoD IG within five workdays.)[32]

Officially, the complaint evaluation stage is supposed to be completed within 60 days. During this phase, investigators review your complaint

29 | 10 U.S.C. §§ 1034(b)(2)(A)(v), (b)(2)(B); cf. 5 U.S.C. § 2302(a)(2)(A).

30 | DoDI 7050.09, § 3.1.a (Oct. 12, 2021).

31 | DoDD 7050.06, Encl. 2, § 3.c.(2)(a); DoDI 7050.09, § 3.1.a.

32 | DoDD 5505.06 (June 6, 2013, as amended); *see also* DoDI 5505.16, § 3.5.

and any supporting documents to determine whether you have established what lawyers call a "prima facie" case. Taking your allegations at face value, they are looking at whether the basic elements of reprisal or restriction are present.

For a reprisal allegation, the investigator asks four questions. First, did you make or prepare to make a protected communication, or were you perceived as doing so? Second, did something happen to you—an unfavorable personnel action taken or threatened, or a favorable action withheld or threatened to be withheld? Third, did the person who took that action know about your protected communication, or is there enough circumstantial evidence to infer that they knew? Fourth, is there a plausible connection—often visible in the timing—between your disclosure and what happened to you afterward?

For an allegation that your speech has been restricted, the analysis is simpler: the investigator asks whether someone said or did something that, if true, would have deterred a reasonable service member from communicating with a Member of Congress or an IG.

During this stage, you should expect an investigator to contact you. At minimum, they must acknowledge receipt of your complaint as soon as practicable and explain the investigative process. In many cases, they will want to interview you to clarify your allegations. If that interview happens during complaint evaluation rather than later, the investigator is supposed to conduct it thoroughly enough that they will not need to re-interview you if the case moves forward.

The complaint evaluation stage can end in one of several ways. If after initial review your complaint establishes a prima facie case and a preponderance of the evidence does not indicate that the personnel action would have happened but for your protected communication, the case proceeds to investigation. If the investigator concludes that one or more elements are missing—you did not make a protected communication, nothing that qualifies as a personnel action happened to you, or there is no basis to infer knowledge or causation—they will recommend closing the complaint without investigation.

The IG's initial screening is not a full investigation; in fact, it can feel frustratingly narrow. If your complaint is vague, lacks information, or never identifies who you actually told, that alone can be enough for the office to decline a full investigation. This is one reason why documenting your disclosures at the time you make them—who you told, what you said, and when—matters so much. However, if investigators make a preliminary determination that reprisal more likely than not occurred and that it is causing you immediate hardship, they must promptly notify the Secretary of your Military Department. They have the authority to seek interim remedies for you while the investigation proceeds. This can occasionally trigger faster relief before the full investigation concludes.

Cases that Can Close Without DoD OIG Review

Component OIGs for individual services like the Army or Navy usually submit a recommendation to close a case to the DoD OIG for review before the case can be closed. However, there are four circumstances in which a component OIG can close a complaint without waiting for DoD OIG approval.

1: If you voluntarily withdraw your complaint in writing and the OIG is satisfied the withdrawal was not coerced.

2: If your complaint was filed more than one year after you became aware of the personnel action and no compelling circumstances (e.g., filing with the wrong office) justify excusing the delay.

3: If you become unresponsive or fail to cooperate after at least three attempts to reach you and a written warning that the case will close in ten days without a response.

4: If your complaint is a duplicate of one already filed and contains no new information.

Note that the one-year filing deadline applies only to reprisal allegations. Restriction complaints and whistleblowing disclosures have no such deadline.[1]

1 | DoDI 7050.09, §§ 3.2.e, 3.2.g (Oct. 12, 2021); *id.* § 3.2.f.(2).

Stage 2: Moving to a Full Investigation

If your complaint survives both phases of the initial screen, it becomes a formal case. The investigator must notify you as soon as practicable that the investigation has begun. They must also notify the DoD OIG of the initiation date; this matters because statutory timelines begin running from this point.

This process looks more like what most people imagine an investigation to be. DoD policy requires investigators to prepare a written investigative plan identifying the documents

they need to obtain, the witnesses they need to interview, and the sequence in which they will proceed.[33] They will request your personnel file, your evaluations, and the documents connected to the contested personnel action. They will interview you under oath, with the interview recorded.

They will interview witnesses you have identified, as well as others they determine to have relevant information.

The subject of your complaint, the person you allege retaliated against you, will be notified that they are under investigation and informed of the nature of the allegation. However, the subject's interview typically comes last, after the investigator has developed a complete picture from documents and other witnesses.

Several procedural protections apply to the investigation. The investigator must be structurally independent from both you and the person you have accused, which means being in a different chain of command and at least one level higher job than the alleged retaliator. If an investigator discovers a conflict at any point (prior relationships with personnel involved, personal stakes in the outcome), they must immediately bring it to the attention of management and potentially recuse themselves.[34]

Your identity as the complainant is protected under the IG Act; investigators cannot disclose it without your consent unless disclosure is unavoidable for the investigation or necessary to address an emergency.[35] You may have an attorney present during your interview, a private attorney or military counsel if authorized under your service's regulations, though they cannot speak on your behalf or testify. Moreover, the OIG must verify that someone is investigating the underlying wrongdoing you originally reported, not just your retaliation claim.[36] However, note that you cannot easily enforce those protections if an OIG violates them.

33 | DoDI 7050.09, § 3.3.b (Oct. 12, 2021).

34 | Department of Defense Office of Inspector General, *Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints* (May 9, 2024), https://www.dodig.mil/Portals/48/Documents/Components/AI/AI%20Manuals/Guide%20to%20Investigating%20Military%20Whistleblower%20Reprisal%20and%20Restriction%20Complaints%20-%2005-09-2024_Final_20240513_508.pdf.

35 | Inspector General Act of 1978, § 407(b), 5 U.S.C. § 407(b).

36 | *Supra note 6.*

Officially, component OIGs have 150 days from the commencement of an investigation to provide a report on the results to the DoD OIG.[37] The DoD OIG goal is to close service member and contractor whistleblower reprisal investigations within 180 days of commencement.[38] If your investigation cannot be completed within 180 days, the law requires that you be notified. Not later than 180 days after the investigation begins, and every 180 days thereafter until the final report is transmitted, the investigating OIG must send a notice to you, the Secretary of Defense, the Secretary of your Military Department, and the DoD OIG.

This notice must include a description of the investigation's current progress and an estimate of when it will be completed. (Separately, Secretary Hegseth's memorandum requires the investigating agency to send written notices to the subject of the complaint, his or her commander, and the complainant every fourteen days.)[39]

On paper, in regulation and statute, that timeline is tight. In practice, these deadlines are routinely missed. A 2015 Government Accountability Office (GAO) review found that military reprisal investigations averaged 526 days to complete—almost three times the requirement—and that there was no evidence that DoD sent the required notification letters in about 47% of delayed cases.[40] In 2016, the Acting DoD IG told Congress that the average had improved to roughly 300 days, still nearly double the statutory goal.[41] If you are not receiving the required 180-day notices, that itself is a procedural failure you can raise with the DoD OIG's Whistleblower Protection Coordinator or in communications with congressional offices.

The investigation produces a Report on the Results of Investigation (ROI). For reprisal cases, this report must analyze the alleged facts against the

37 | DoDD 7050.06, "Military Whistleblower Protection," encl. 2, para. 3.e (Apr. 17, 2015, incorporating Change 1, Oct. 12, 2021).

38 | Department of Defense Office of Inspector General, *Fiscal Year 2025 Budget Estimates*, at OIG-5 (2024), https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2025/budget_justification/pdfs/01_Operation_and_Maintenance/O_M_VOL_1_PART_2/OIG_OP-5.pdf.

39 | Secretary of Defense, "IG Oversight and Reform: Enhancing Timeliness, Transparency, and Due Process in Administrative Investigations," September 30, 2025, U.S. Department of Defense, memorandum for Secretaries of Military Departments (OSD010718-25/CM), https://api.army.mil/e2/c/downloads/2025/09/30/947d9ca3/ig-oversight-and-reform-enhancing-timeliness-transparency-and-due-process-in-administrative-investigations-osd010718-25-fod-fi.pdf.

40 | U.S. Government Accountability Office, *Whistleblower Protection: DOD Needs to Enhance Oversight of Military Whistleblower Reprisal Investigations,* GAO-15-477, at 12-14 (May 2015), https://www.gao.gov/products/gao-15-477.

41 | Oversight of the Department of Defense Office of Inspector General's Military Whistleblower Reprisal Investigations: Hearing Before the Subcomm. on National Security of the H. Comm. on Oversight and Government Reform, 114th Cong. (2016) (statement of Glenn A. Fine, Principal Deputy Inspector General, U.S. Dep't of Defense), https://www.govinfo.gov/content/pkg/CHRG-114hhrg22275/html/CHRG-114hhrg22275.htm.

four elements discussed earlier: (1) protected communication, (2) personnel action, (3) knowledge, and (4) causation.

For restriction cases, it must analyze whether the subject's words or actions would have deterred a reasonable service member from communicating with Congress or an OIG.[42] Whether the investigation finds for or against your claim depends on whether your complaint's facts meet the standard of proof, which for both cases is preponderance of the evidence.

Standards of Proof and How They Affect Your Case

Preponderance of the evidence is the most common civil standard. As aforementioned, it means simply that a contested fact is "more likely true than not," sometimes described as tipping the scales just past 50%. If the evidence for reprisal slightly outweighs the evidence against it, the complaint should be substantiated. If the evidence is equally balanced, then you lose, because you haven't met your burden of proof.

For military whistleblower cases under the MWPA, the standard of proof is preponderance of the evidence. DoD OIG's 2024 Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints instructs investigators that preponderance means "that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue."[43] If a preponderance of the evidence shows reprisal or restriction, the complaint is substantiated; if not, it is "not substantiated." That single standard applies to all four elements of a Section 1034 reprisal or restriction case.[44]

Practically, this means you bear the burden of convincing the OIG that, looking at the whole record, it is more likely than not that: (1) you made, prepared to make, or were perceived as making a protected communication, meaning a lawful complaint or disclosure to one of the authorized audiences listed in the statute; (2) an unfavorable personnel action was taken or threatened against you, or a favorable action was withheld or threatened to be withheld; (3) the officials responsible for that decision knew about, or should have known about, your protected communications; and (4) looking at the whole record under the preponderance-of-the-evidence standard, your protected communication was a causal factor in that personnel action.

The painful part is how IGs analyze the fourth element. DoD policy instructs investigators to consider factors like the timing and sequence between your protected communications and the personnel action, how the subject explains the action and whether the record supports that explanation, whether similarly situated non-whistleblowers were treated the same way, and what motive the subject might have had to retaliate versus to act for legitimate reasons.[45]

These are reasonable questions, but the framework for answering them tilts against service members. If the IG concludes that it is more likely than not that the action would have been taken anyway for nonretaliatory reasons, your reprisal allegation is not substantiated—even if retaliatory animus also appears to have played some role. Command does not have to prove its "same action" story to any heightened standard; it simply needs an alternative explanation strong enough to keep the overall evidentiary balance from tipping more likely than not toward reprisal. If you pass that test, the burden of proof effectively shifts to the military service to prove by a preponderance of the evidence that it would have taken the same action for independent reasons in the absence of whistleblowing.

If the evidence is genuinely ambiguous, if both retaliation and legitimate justification are reasonable interpretations, then you lose. This is the defining contrast between whistleblowing rights and protections between service members and their civilian counterparts, who are mostly protected by the Whistleblower Protection Act (WPA).[46] Congress designed the WPA with a burden-shifting framework that recognizes the inherent power imbalance between individual employees and the agencies that employ them.

42 | Oversight of the Department of Defense Office of Inspector General's Military Whistleblower Reprisal Investigations: Hearing Before the Subcomm. on National Security of the H. Comm. on Oversight and Government Reform, 114th Cong. (2016) (statement of Glenn A. Fine, Principal Deputy Inspector General, U.S. Dep't of Defense), https://www.govinfo.gov/content/pkg/CHRG-114hhrg22275/html/CHRG-114hhrg22275.htm.

43 | DoD OIG, *Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints* p. 13 (May 9, 2024).

44 | *Id* at 16, 28-32.

45 | DoDI 7050.09, encl. 3, para. 2.g(5)(d)(1)–(4) (directing investigators, when assessing causation, to analyze timing, disparate treatment, motive, and the subject's stated reasons and supporting evidence).

46 | Whistleblower Protection Act of 1989, Pub. L. No. 101-12, 103 Stat. 16.

MWPA vs. WPA:

Stronger Rights for Civilian Whistleblowers

For civilian employees, such as most career DoD staff, to prove unlawful reprisal under the WPA, the process works in two steps. First, an employee must show, by a preponderance of the evidence, that their protected disclosure was a "contributing factor" in the personnel action. This is a deliberately low bar. A contributing factor is "any factor which, alone or in combination with other factors, tends to affect in any way the outcome of the decision."[1] You don't have to show that whistleblowing was the primary cause, the but-for cause, or even a significant cause. Any influence at all is enough.[2]

Congress also codified a "knowledge-timing test" to help employees meet this burden through circumstantial evidence.[3] If the employee can show that the official taking the action knew of their disclosure, and that the action occurred close enough in time that a reasonable person could infer a connection, they have established that their communication was a contributing factor in the adverse personnel action.

Once the employee clears that relatively low bar, their work on causation is done. The burden shifts entirely to the agency. And here is where the framework tilts decisively in the whistleblower's favor: the agency must prove by "clear and convincing evidence" that it would have taken the same personnel action even if the employee had never made a protected disclosure.[4]

1 | S. Rep. No. 101-413, at 20 (1989) (Senate Report accompanying the Whistleblower Protection Act, which defined "contributing factor" as "any factor which, alone or in connection with other factors, tends to affect in any way the outcome of the decision")

2 | CRS Report R48318, *The Whistleblower Protection Act (WPA): A Legal Overview* at 25-26 (Dec. 30, 2024), https://www.congress.gov/crs-product/R48318.

3 | 5 U.S.C. § 1221(e)(1)(A)-(B) (codifying that an employee may demonstrate contributing factor through circumstantial evidence, "such as evidence that—(A) the official taking the personnel action knew of the disclosure or protected activity; and (B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure or protected activity was a contributing factor in the personnel action")

4 | 5 U.S.C. § 1221(e)(2)

Clear and convincing evidence is a substantially higher standard than preponderance. Courts describe it as requiring evidence strong enough to produce a "firm belief" in the mind of the factfinder that the agency's justification is true—sometimes characterized as requiring 70-80% certainty, compared to the bare 50%-plus required under preponderance.[5] The Federal Circuit has called it a "high" burden, justified precisely because "the agency controls most of the cards," including the drafting of the documents supporting the decision, the testimony of witnesses who participated in the decision, and the records that could document whether similar personnel actions have been taken in other cases.[6] The Merit Systems Protection Board evaluates the agency's defense using three factors: (1) the strength of the agency's evidence supporting its stated reasons; (2) the existence and strength of any retaliatory motive; and (3) whether the agency treats similarly situated non-whistleblowers the same way.[7] If the agency cannot satisfy this burden, the Board must order corrective relief.

Under the civilian WPA framework, once you make a threshold showing that whistleblowing played some role in the adverse action, the agency must affirmatively prove that it would have acted the same way regardless. If the agency's defense is plausible but not firmly established, the whistleblower wins. Under the MWPA framework, you must effectively prove the entire case yourself. Command offers its alternative explanations, and those explanations only need to be strong enough to prevent the evidence from tipping past "more likely than not" toward reprisal. There is no statutory requirement that command meet a clear-and-convincing burden on its "same action" defense; everything is resolved under the single preponderance standard.[8]

5 | Tom Devine, *The Whistleblower Protection Act Burdens of Proof: Ground Rules for Credible Free Speech Rights*, 2 E-J. Int'l & Comp. Lab. Stud. 4, 10 (2013)

6 | *Whitmore v. Dep't of Labor*, 680 F.3d 1353, 1367 (Fed. Cir. 2012).

7 | Carr v. Soc. Sec. Admin., 185 F.3d 1318, 1323 (Fed. Cir. 1999) (identifying three nonexclusive factors for evaluating whether an agency has met its clear-and-convincing burden under the WPA).

8 | Compare 5 U.S.C. § 1221(e)(1)–(2) (WPA burden-shifting) with 10 U.S.C. § 1034 and DoD OIG, Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints p. 13.

GAO documented this disparity in a 2003 report examining National Guard whistleblower protections, observing that "this difference in the burden of proof makes it easier for military services to prove they were not retaliating against whistleblowers than it is for civilian government agencies to prove the same thing."[9] It noted that "for most of the reprisal allegations we reviewed, guard management demonstrated to the satisfaction of an Inspector General that it would have taken the same course of action in the absence of a protected disclosure."[10]

Consider this example. A Staff Sergeant reports to the IG that her commanding officer has been falsifying readiness reports. Two weeks later, her next performance evaluation contains a negative remark absent from every prior evaluation. The commander insists the remark reflects genuine performance concerns that emerged independently. Under the WPA framework, the Staff Sergeant need only show that her disclosure was a contributing factor in the adverse evaluation; the supervisor's knowledge of the disclosure and the close timing would typically satisfy that requirement. The burden would then shift to the agency to prove, by clear and convincing evidence, that it would have issued essentially the same evaluation even if she had never reported the falsified reports. If the agency's explanation is only somewhat persuasive, the employee still wins.

Under the MWPA framework, the Staff Sergeant must persuade the IG that it is more likely than not that the negative evaluation was taken in reprisal for her protected communication. If the IG concludes that it is more likely than not that the commander would have issued essentially the same evaluation for nonretaliatory reasons—for example, based on documented concerns about her performance—then the reprisal allegation is not substantiated, even if retaliatory motive is also present.

This burden-of-proof structure helps explain why substantiation rates for military whistleblower reprisal complaints remain so low.

9 | U.S. Gov't Accountability Off., GAO-04-258, Military Personnel: Information on Selected National Guard Management Issues 36 n.7 (Dec. 2003), https://www.gao.gov/assets/gao-04-258.pdf ("In military whistleblower investigations the evidentiary standard is preponderance of evidence. ... [But] in civilian cases, management must prove by clear and convincing evidence that it would have taken a personnel action regardless of a protected disclosure. Clear and convincing evidence requires a degree of proof more demanding than preponderance."

10 | *Id.*

Congressional Research Service analysis indicates rates typically between 2 and 4%,[11] compared to 10 and 30% for civil service employees.[12] While some complaints undoubtedly lack merit, the burden of proof structure means that even meritorious claims can fail when evidence is ambiguous. As the Project on Government Oversight noted, the disparity in burdens "is one contributing factor to low substantiation rates for military whistleblower reprisal cases."[13] The absence of burden shifting means that in close cases—where the facts could reasonably support either interpretation—the service member loses.

Further, there is no record of decisions interpreting the law to check for consistent precedents. GAO observed in 2003 that "decisions made under the civilian whistleblower protection statutes rely on case law," while under the MWPA, "Inspectors General interpret issues associated with whistleblowing on an allegation-by-allegation basis without relying on established guidance from past similar allegations and decisions."[14] The OIG system does not publish its findings systematically, and individual investigators operate with substantial discretion in weighing evidence and credibility. For service members, this means less predictability and less ability to understand how similar cases have been resolved.

11 | Cong. Research Serv., IF11499, Protecting Military Whistleblowers: 10 U.S.C. §1034 (Apr. 9, 2020) (calculating 3.27% substantiation rate for DoD reprisal allegations closed FY2017–FY2019, based on analysis of DoD OIG and DHS OIG Semiannual Reports to Congress).

12 | Tom Devine and Samantha Feinstein, *Are Whistleblowing Laws Working? A Global Study of Whistleblower Protection Litigation* (International Bar Association and Government Accountability Project, March 2021), 25-26, https://www.ibanet.org/MediaHandler?id=49c9b08d-4328-4797-a2f7-1e0a71d0da55.

13 | *Oversight of the Department of Defense Office of Inspector General's Military Whistleblower Reprisal Investigations: Hearing Before the Subcomm. on Nat'l Sec. of the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Sept. 7, 2016) (testimony of Mandy Smithberger, Director, Center for Defense Information, Project On Government Oversight) ("Ensuring the fairness of military reprisal investigations is particularly important because military whistleblowers still have a higher burden of proof to show illegal retaliation than other federal whistleblowers. In the military, the burden is placed on our service members to prove that they were illegally retaliated against, versus in civilian cases where the burden is placed on the agency to prove there was no retaliation. We believe this is one contributing factor to low substantiation rates for military whistleblower reprisal cases.").

14 | *Supra at 20.*

What "Winning" Looks Like After Substantiation

It is easy to assume that once an IG substantiates reprisal, everything will snap back: your rank restored, your evaluations scrubbed, your reputation repaired. The reality is more incremental and bureaucratic.

When an OIG substantiates reprisal, it does not directly "fix" your career. It issues findings and recommendations to the Secretary of your military department. The Secretary generally has thirty days to determine whether corrective or disciplinary action should be taken.[47] If the Inspector General determines that prohibited personnel action occurred, the statute requires that the Secretary "order such action as is necessary to correct the record," including referring the report to the appropriate Board for Correction of Military Records (BCMR).[48]

Corrective relief can include removing an evaluation, reinstating you to a position, considering you for a special promotion board, restoring rank and back pay, or other measures needed to undo the specific harm. Even when reprisal is substantiated, however, the connection between substantiation and meaningful relief can be tenuous. Secretaries can conclude that corrective or disciplinary action is not appropriate and must explain that decision, and in many cases the dispute shifts into the records-correction system anyway.

Navigating Boards for Correction of Military Records (BCMR)

This is often where BCMRs should be engaged—usually by you filing a BCMR application. **Do not assume the OIG process automatically triggers a full review and fix of your records.** BCMRs operate under 10 U.S.C. § 1552, which empowers the Secretary to "correct any military record … when … necessary to correct an error or remove an injustice."[49]

47 | 10 U.S.C. § 1034(f)(1).

48 | 10 U.S.C. § 1034(f)(2)(A) ("If the Inspector General determines that a personnel action prohibited by subsection (b) has occurred, the Secretary concerned shall—order such action as is necessary to correct the record of a personnel action prohibited by subsection (b), including referring the report to the appropriate board for the correction of military records."). N.B.: The servicemember in many cases must also petition the BCMR. Seek guidance from the OIG that handled your complaint.

49 | 10 U.S.C. § 1552(a)(1).

In whistleblower reprisal cases, the BCMR must review the IG report and has the authority to request additional evidence and, in appropriate cases, hold hearings, though in practice those tools are rarely used.[50]

For BCMR applications involving reprisal, the Secretary must issue a final decision within 180 days. If no final decision is issued within that time, your application is deemed denied and your administrative remedies are considered exhausted.[51] "Exhausted" here means you have reached the end of the administrative track. At that point, depending on your facts and the relief you are seeking, the next steps may include requesting review by the Secretary of Defense, who generally is deferential to the decisions already made.

Status, Institutions, and Overlapping Systems

The MWPA talks broadly about "members of the armed forces," but the enforcement machinery does not treat everyone identically. Your precise status determines which OIG screens your complaint, who has authority to grant relief, and which parallel systems might also matter.

For most active duty members in the Army, Navy, Air Force, Marine Corps, and Space Force, the picture is straightforward. Your service's OIG or the DoD OIG has jurisdiction, and any corrective action flows through your service secretary. If you are a cadet or midshipman, you are under academy regulations and the UCMJ, but the fundamental machinery is the same. Your evaluations, demerits, disenrollment decisions, and other records are still military records that can be corrected if reprisal is later substantiated or other injustices are found.

Coast Guard members live in a slightly different architecture. In peacetime they are in the Department of Homeland Security (DHS) rather than the DoD, and so the primary watchdog is DHS's OIG and the Coast Guard's internal oversight offices. The principles parallel other systems but the acronyms and points of contact differ. What matters for you is that the underlying idea is the same: your job is to tell the truth through lawful channels; their job is to protect you for doing so.

50 | 10 U.S.C. § 1034(g)(2).

51 | 10 U.S.C. § 1034(g)(4).

If you serve in the Public Health Service (PHS) Commissioned Corps within the Department of Health and Human Services (HHS) or the NOAA Commissioned Corps within the Department of Commerce, you live in yet another variation. These are uniformed services that borrow many features from the armed forces but reside in civilian departments. They have adapted military whistleblower rules to their own structures. For reprisal and restriction complaints, the relevant Inspector General is the one for your parent department. NOAA Corps officers file reprisal complaints with the Department of Commerce OIG, while Public Health Service Commissioned Corps officers file whistleblower retaliation complaints with the HHS OIG. For records relief, NOAA Corps uses a Records Examination Board process tied to a decision by NOAA Corps leadership, while PHS officers can seek record correction through HHS's Board for Correction of Public Health Service Commissioned Corps Records.[52]

The net effect is that, even though you do not answer to DoD leadership, you still operate under a system that allows you to report serious wrongdoing and offers protection from reprisal, although far weaker than for other civilian workers.

One reason status matters so much is that time does not stand still while you blow the whistle. You might be active duty when you report, then move to the Reserve before retaliation fully unfolds. You might be at an academy when you make a complaint, then commission and find that the real payback comes once you arrive at your first unit. The whistleblowing system often encounters such transitions. You should assume that you will need to show which status you held at each major moment: when you disclosed, when the contested decisions were made, and when you filed your reprisal complaint. Keeping copies of orders, appointment letters, and separation documents becomes part of protecting yourself.

52 | 15 C.F.R. § 998.45(a), (c) (2025), https://www.govinfo.gov/link/cfr/15/998?link-type=pdf&sectionnum=45&year=mostrecent; U.S. Department of Health and Human Services, Office of Inspector General, "Check Your Eligibility", https://oig.hhs.gov/fraud/report-fraud/whistleblower/eligibility; U.S. Department of Health and Human Services, Program Support Center, "About the Board of Correction", https://www.hhs.gov/about/agencies/asa/psc/board-for-correction/about-board/index.html

THE IG REPRISAL PIPELINE

STEP 1: You make a protected communication
STEP 2: You suffer restriction or reprisal
STEP 3: You file an IG complaint

STAGE 1: COMPLAINT EVALUATION (Initial Screen)

IG screens "on its face" whether there is enough to warrant a full investigation.

If alleging REPRISAL, you need:

1. Protected communication (actual, prepared, or perceived)
2. Personnel action (unfavorable action/threat, or favorable action withheld/threatened)
3. Knowledge (did the decision-maker know or can knowledge be inferred?)
4. Connection (is there enough information to infer the protected communication could have been connected to the personnel action?)

If alleging RESTRICTION:

Would the conduct, if true, prevent or deter a reasonable service member from lawfully communicating with Congresss or an IG?

DECISION POINT

PROCEEDS
Full investigation opened

CLOSES
Missing elements, insufficient info, untimely

STAGE 2: FULL INVESTIGATION

Investigation Activities

- Written investigative plan (documents + witnesses + sequence)
- Records requests (personnel file, evaluations, emails, etc.)
- Knowledge (did the decision-maker know or can knowledge be inferred?)
- Interviews (witnesses interviewed; statements typically under oath and recorded)
- A final Report on the Results of Investigation (ROI)

DECISION POINT: ROI FINDING

SUBSTANTIATED
More likely than not occurred

NOT SUBSTANTIATED
Does not meet preponderance

IF SUBSTANTIATED

- IG report goes to relevant Secretary
- Secretary has 30 days to determine corrective/disciplinary action
- If prohibited PA found: Secretary must order record correction, including BCMR referral
- Service member notified they must petition BCMR if Secretary hasn't acted

NOT SUBSTANTIATED

- You may still pursue BCMR review/correction
- Secretary must issue final BCMR decision within 180 days
- If no decision in 180 days: deemed denied, administrative remedies exhausted

Special Considerations for National Guard Members

If you are in the National Guard, the basic promise of the MWPA still applies: as a "member of the armed forces," you are protected from reprisal for making protected communications, and no one may restrict you from communicating with Congress or an OIG.[53] The hard part is figuring out which status you were in (Title 10, federal active duty orders under federal command; Title 32, Guard duty under state command but federally funded; or State Active Duty, state-only orders for a governor-led mission)[54] and which system has jurisdiction over the retaliation you experienced. For National Guard members, the presence or absence of a federal nexus is what decides whether the MWPA applies.[55]

When you are on federal active duty orders under Title 10—whether as a Guardsman, Reservist, or active component member—you are a "member of the armed forces" under 10 U.S.C. § 1034, and the military whistleblower statute's protections and IG procedures apply in full. Your complaints can go to DoD OIG or any Service IG, and whichever IG receives them has to handle them under Section 1034 and DoD's whistleblower directives. Any adverse personnel action that ends up in your federal records can later be reviewed by your Service's correction board using MWPA procedures. If your whistleblowing and the retaliation both occur during that kind of federal mobilization, the analysis is relatively straightforward.[56]

For National Guard members on Title 32 orders, the picture is more complicated. You are drilling or performing duty under state command but are federally funded; for MWPA purposes the question is whether there is a federal nexus.[57] DoD OIG's current guidance treats Guard members who are drilling or training in a Title 32 status as covered "service members" and states that a federal nexus exists in that situation. In that status, the MWPA applies to your protected communications and to personnel actions that affect your military pay, benefits, or career.[58]

National Guard Bureau (NGB) instructions make State IG offices and Guard IGs responsible for receiving whistleblower reprisal cases and DoD Hotline referrals, and NGB OIG serves as the DoD Component IG and Hotline coordinator for the National Guard; those IGs must process and forward whistleblower reprisal investigations through NGB OIG to the appropriate Service IG.[59] DoD OIG retains oversight and may keep or delegate the case, but any investigation has to meet the uniform standards in DoD's whistleblower policies.[60]

State Active Duty is where federal MWPA coverage drops away for National Guard members. When you are on pure state orders, for a state-funded mission under the governor's command, there is no federal nexus for Section 1034. GAO has long noted that federal whistleblower protections for Guard members "apply only" when they are in federal duty or training status and "do not apply to guard members who are in state active duty."[61] NGB guidance likewise explains that Guard members serving on State Active Duty who complain about violations at their State National Guard are under the sole jurisdiction of their State, with state law (including the State Code of Military Justice) controlling, while Title 32 members are under both State and NGB jurisdiction.[62] Moreover, recent NGB manuals instruct SAPR personnel to advise Guard members on State Active Duty, and technicians working only as full-time civilian employees, that they are

53 | 10 U.S.C. § 1034 (Military Whistleblower Protection Act); see subsections (a)–(c), (g)–(j) (protections, IG duties, and correctionboard procedures).

54 | National Guard Bureau, *National Guard Duty Statuses Fact Sheet* (last accessed January 3, 2026), https://www.nationalguard.mil/Portals/31/Resources/Fact%20Sheets/NGB-Fact-Sheet-Duty-Status-Reference-FINAL.pdf.

55 | DoD OIG, *Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints* (May 9, 2024).

56 | 10 U.S.C. § 1034(a)–(c), (e), (g) (2025); DoD OIG, **Guide to Investigating Military Whistleblower Reprisal and Restriction Complaints**, § 6.1.d (May 9, 2024).

57 | *Id.*

58 | Id.

59 | CNGBI 0700.00A, *National Guard Inspectors General*, encl. A ¶¶ 7.c–d, 9.h, 10.b (29 July 2024, incorporating Change 1, 27 Sept. 2024) (designating NGB OIG as a Defense IG and DoD Hotline coordinator that "receive[s], process[es], and submit[s] DoD IG Whistleblower (WBR) Issues and Investigations" to DoD OIG, and directing State IGs and ARNG/ANG IGs to "receive, process, review, and submit DoD IG Hotline Completion Reports and Whistleblower Reprisal investigations" to NGB OIG).

60 | *Id.*

61 | U.S. Gov't Accountability Office, *Military Personnel: Information on Selected National Guard Management Issues*, GAO04258, app. V at 31 (Dec. 2, 2003) (noting that "Federal protections for National Guard whistleblowers are limited by the dual federalstate status of the guard," that "Federal protections apply only to guard members who are in federal duty or training status," and that "Federal protections do not apply to guard members who are in state active duty").

62 | National Guard Bureau, *National Guard Alternative Dispute Resolution and Conflict Management* (NGB Office of General Counsel) (explaining that National Guard members serving in State Active Duty status who allege violations at their State National Guard are "under the sole jurisdiction of their State," that "State law applies, including the State Code of Military Justice," and that members in Title 32 status are under both State National Guard and National Guard Bureau jurisdiction).

not eligible to use the DoD OIG for these retaliation complaints.[63]

In the State Active Duty space, your rights depend heavily on state law and whatever internal Guard policies your governor and adjutant general have adopted. Some states, such as California, have created state-level whistleblowing laws that prohibit reprisals against members of the state Military Department for specified protected disclosures and assigns those complaints to a state military OIG.[64] Others rely on general state employee whistleblower laws or provide little formal protection at all.

What this means for you, in concrete terms, is that you should always ask two status questions when something goes wrong. First, what legal status was I in when I raised my concern (Title 10, Title 32, State Active Duty, or federal civilian technician status)? Second, what legal status was I in when leadership took each action I believe was retaliatory? If the answers are different, your lawyer will likely need to stitch together multiple paths for a remedy—MWPA and the military records system on the military side, and federal civil service or state law whistleblower protections on the civilian or State Active Duty side.

Impact of Recent Policy Changes on IG Investigations

On September 30, 2025, Secretary Hegseth issued a memorandum directing major changes to how OIG administrative investigations are triaged and tracked, including a rapid "credibility assessment" and tighter timelines. The memo repeatedly states these changes apply "consistent with applicable laws" and "as permitted by law"; in other words, it is policy guidance that cannot override statutes like the MWPA.

What the Memo Changes in Practice:

• IG offices are directed to complete a "credibility assessment" within 7 duty days of receiving a complaint, and then either close the complaint or initiate an investigation.

• The memo directs that an investigation should be initiated only if the complaint meets a "credible evidence" standard, so a vague or undocumented complaint is more likely to be closed at intake.

• IG offices are directed to track repeat complainants and to establish procedures for multiple complaints "without credible evidence," frivolous complaints, or complaints with knowingly false information (with potential accountability under Article 107, UCMJ), while also safeguarding due process and "protect[ing] whistleblower rights."

What the Memo Cannot Change:

• A policy memo cannot take away statutory rights. You still have a protected right to make lawful communications to an IG or to Congress about covered wrongdoing, and leaders still may not lawfully retaliate (or threaten retaliation) for protected communications.

• If any new "screening" or "credibility" practice is applied in a way that deters or blocks lawful communications with Congress or an IG, that conduct can itself be a reportable "restriction" problem under the MWPA.

Guard Members in Dual-Status Technician Roles:

A dual-status technician is a federal civilian employee of the Department of the Army or Air Force who is also required to hold and maintain a corresponding National Guard military position.[1]

If you blow the whistle in your technician job and your agency suspends, demotes, or removes you in that civilian capacity, your primary remedies run through the federal civil service whistleblower framework within the WPA.[2] At the same time, DoD and NGB policy make clear that Guard technicians working solely as fulltime civilian employees, and Guard members on State Active Duty or training only as state militia, are not covered by 10 U.S.C. § 1034 for those civilian or purely state activities and are ineligible to seek assistance from DoD OIG under the MWPA process.[3]

If leadership then responds to your whistleblowing by manipulating your drill assignments, blocking promotions, or moving to separate you from the Guard, those military personnel actions fall back within the MWPA's scope and can be challenged through the IG system and, if necessary, your Service's board for correction of military records. In effect, you straddle two legal worlds and sometimes must pursue both sets of remedies at once.

63 | CNGBM 1300.03B, *National Guard Sexual Assault Prevention and Response Retaliation*, at 0–1, 5–6 (12 Dec. 2023).

64 | Cal. Mil. & Vet. Code §§ 55–57 (West 2024).

1 | 32 U.S.C. § 709(b), (e) (2025).

2 | 5 U.S.C. §§ 1214, 1221, 2302(b)(8) (2025)

3 | CNGBM 1300.03B

SECTION 4

Strategies to Protect Yourself

People often imagine whistleblowing as a single act of sending an email, calling a hotline, or contacting Congress. It is instead a sequence of decisions that reshapes your career and your life. If you treat these decision casually—if you improvise, vent, or "just ask a question" in the wrong way—you can make it easier for the institution to discredit you, isolate you, or punish you under a pretext that has nothing to do with the merits of what you saw.

Best Practice #1: Present Yourself as a Problem Solver, Not a Critic

Institutions retaliate when they feel threatened. That reaction is almost instinctual—someone has declared themselves an adversary, and the machinery of self-protection kicks in. If you can raise a concern without triggering that response, you are more likely to get the problem fixed and less likely to become a target.

Frame yourself as someone trying to help leadership solve a problem rather than someone accusing them of creating one. Compare two ways of raising the same issue. The first: "Sir, this order violates the Anti-Deficiency Act and I'm not going to be part of it." The second: "Sir, how are we going to defend this if an auditor or an IG starts asking questions? I want to make sure I understand the legal basis so I can explain it." Both surface the problem but the first makes you an adversary while the second makes you someone helping leadership see around corners.

This gives leadership a chance to recognize a problem, fix it without losing face, and remember you as the person who helped them avoid a disaster. If they take that chance, the problem gets solved and you never need to escalate. If they dismiss you, double down, or tell you to stop asking questions, you have lost nothing. Every option remains open. But you have also built a record that you tried to work inside the system first, and you have bought yourself time to organize your facts and prepare for what may come.

This will not always work. Some commanders will retaliate no matter how carefully you raise a concern. Some problems are too urgent to allow for a soft opening. Use judgment. However, when circumstances permit, being perceived as someone trying to help rather than someone trying to accuse can help to prevent retaliation.

Best Practice #2: Consult Experienced Legal Counsel Before Escalating

Whistleblowing involves understanding how your status, duties, security obligations, and chain of command interact with the system to make protected disclosures of wrongdoing and reinforce your legal protections. A lawyer can help you decide whether your concern is best handled quietly inside a unit, through a specialized program, or through an Inspector General or congressional office; whether you should remain confidential; how to avoid steps that inadvertently waive protections; and how to plan for the possibility of reprisal before it starts. This guide is educational information, not legal advice.

You may be brave enough to accept personal consequences for speaking your conscience, but you should not stumble into them. ***Before you take an action you cannot undo, you should pause long enough to ask: What result am I trying to achieve? What is the safest lawful path to reach it? What will I do if my leadership reacts badly? Who will help me carry the load if this becomes prolonged?***

Not every lawyer has handled whistleblower cases, and general advice, while better than nothing, is often limited. Ushering whistleblowers' cases through OIG systems and structuring disclosures to Congress are specialties. A civilian attorney with whistleblower experience can understand the intersection of the MWPA, classification rules, and the practical realities of how commands respond to service members who raise uncomfortable truths.

When looking for representation, ask whether the attorney has represented military whistleblowers specifically. Ask how many reprisal cases they have taken to conclusion. Ask whether they have experience with classified information issues, because those complicate everything. Initial consultations are often free or low-cost, and the attorney-client privilege is the strongest confidentiality protection available to you.

Before you meet with counsel, organize what you know. Write down the facts—what you saw, when you saw it, who else was present, and what records exist. Identify any specific laws, regulations, or policies you believe are being violated. Note any adverse actions you have already experienced and the timeline of events. If you have documents, bring copies, but be careful not to include classified material. Counsel can help you figure out what you can lawfully retain and share with them.

Best Practice #3: Document Your Concerns in Writing

The third best practice is to put your concerns in writing whenever you can. A whistleblowing dispute is often decided on what you can prove rather than what happened. If you raise an issue formally, doing so in writing can protect your credibility later. It also prevents your disclosure from being watered down into hearsay or turned into "a misunderstanding" after the fact. Written communications create dates, recipients, and wording that can be matched to later events; they also force you to slow down and be precise, something that matters when investigators later test whether you made a protected communication and whether decision makers knew about it.

In many cases, the best practice is simply to create a clear record. If a conversation happens orally, you can follow up with a short, professional message that captures the substance of what you raised, what you asked for, and what response you received. You can even write this as a memorandum or email to yourself. If your concern is sensitive, your lawyer can help you decide what belongs in an unclassified summary, what must be handled through secure channels, what should be reserved for an Inspector General or other authorized recipient, and how to make these disclosures both strategically and legally.

Your writing does not need to be dramatic. Just factual and specific. Identify the conduct you are reporting: what happened, when, where, who was involved, and who witnessed it. State explicitly that you are reporting what you reasonably believe to be a violation of law, regulation, or policy or gross mismanagement, gross waste, abuse of authority, or a substantial and specific danger to public health or safety. If you can cite the specific statute, regulation, or instruction being violated, do so.

When you cannot safely send an email to a supervisor or official channel—for example, because you need time to think, or because you are not yet ready to escalate—consider sending an email to your personal (non-.mil) account describing what you observed. Include the date, time, location, and names. This creates a contemporaneous record with a timestamp that is harder to challenge later. The email is not a substitute for an official disclosure, but it preserves facts while you consult counsel and decide on next steps.

Investigators will scrutinize your statements for overreach, so be precise about what you know versus what you infer. If you observed a commander sign a falsified readiness report, say that. If you heard from a peer that reports were falsified but did not see it yourself, say that. The distinction between direct knowledge and secondhand information matters. A complaint grounded in clear, direct observations is harder to dismiss than one that conflates rumor with fact.

Frame your concern as a protected communication.

When you draft an email, prepare to speak with an IG, or consider approaching Congress, take the time to connect the dots explicitly. Identify the law, regulation, or policy you believe is being violated, or explain why the situation constitutes gross mismanagement, gross waste, abuse of authority, or a substantial and specific danger. State clearly that you are reporting this to an IG, Member of Congress, or other authorized recipient. Doing this does not make retaliation disappear, but it strengthens the legal foundation of your report and improves your chances if you later need to prove reprisal.

Best Practice #4: Protect Your Credibility Relentlessly

The fourth best practice is to protect your credibility as aggressively as you protect your conscience. As a result, we always warn against embellishment. Stick to facts you know, and do not inflate a case because you fear it will not be taken seriously. In practice, institutions often respond to whistleblowers by attacking motive, judgment, and temperament. You cannot prevent that strategy, but you can deny it oxygen. When you write or speak, separate what you observed from what you infer, and avoid adjectives that do not add proof. Be disciplined about accuracy. If you later learn a detail is wrong, correct it promptly.

In any reprisal investigation, the first thing the IG will assess is whether you made a protected communication. The second thing they will assess is whether that communication was grounded in a reasonable belief. If your complaint includes exaggerations, unverifiable claims, or statements that turn out to be false, the subject of your complaint will use those errors to argue that you were not a credible reporter—and therefore that any adverse action against you was based on your unreliability. Even one significant factual error can shift the narrative from "whistleblower retaliated against" to "problem employee who got basic facts wrong."

When you are angry or frightened, it is natural to want to make the strongest possible case. Resist that impulse. Understatement is more powerful than overstatement. If you say "the commander falsified three reports" and the number turns out to be two, that discrepancy will be used against you, even if the underlying misconduct is real. If you say "I observed the commander sign at least two reports that I believe contained false readiness data" and the number turns out to be three, you have left room for the investigation to uncover additional facts without undermining your core claim.

The credibility trap.

One of the most common ways whistleblowers undermine their own cases is by adding inflammatory language, speculating about conspiracies, or making claims they cannot substantiate. Investigators are trained to notice these patterns. If your complaint reads like a rant—lots of adjectives, accusations of bad faith, claims about widespread corruption without specific evidence—it will be easier for the IG to dismiss it as the product of a disgruntled employee rather than a credible report of wrongdoing. The strongest complaints are the ones that read like incident reports.

You can describe what you observed and the sequence of events, but you should generally avoid psychoanalyzing leadership or attributing specific corrupt motives unless you have direct evidence of those motives (such as an email in which a commander says, "I'm doing this because she went to the IG"). Statements like "the commander did this because he's corrupt" or "this is obviously a cover-up" may feel true, but they invite the other side to argue that you are biased and unreliable. Stick to conduct and let investigators draw their own conclusions about intent.

Best Practice #5: Preserve Evidence Lawfully

You also need to be careful not to create a second problem while reporting the first. General whistleblower survival guidance encourages securing relevant records and being attentive to nondisclosure policies. In the military, the consequences for mishandling information—especially classified information—are less forgiving than in most civilian workplaces. The best practice is to preserve what you can lawfully preserve, disclose through authorized channels, and let investigators with the proper access retrieve what must remain inside secure systems. If you are uncertain about what you may retain, how to mark it, or how to transmit it, that is a signal to stop and consult counsel before you act.

You are generally permitted to retain copies of unclassified documents that you received in the normal course of your duties, provided they are not otherwise restricted. This includes emails you sent or received, unclassified memoranda, training records, and similar materials. You are permitted to take notes about what you observe, including dates, times, participants, and substance of conversations.

You cannot, however, remove classified documents from secure facilities. You cannot copy classified materials to unclassified systems or personal devices. You cannot photograph or record inside SCIFs or other restricted areas. Violating these rules can result in criminal prosecution, loss of

clearance, and administrative separation, even if the underlying wrongdoing you were trying to document was real.

If the misconduct you observed involves classified information, the path to preservation runs through authorized channels. You can describe what you observed in an unclassified summary (being careful not to reveal classified details) and note that classified evidence exists and where it is located. You can then report to an IG or congressional committee with appropriate clearances and request that they retrieve and secure the classified materials. The IG has authority to access classified systems; you do not have authority to bypass classification rules to help them.

For unclassified communications, consider forwarding relevant emails to your personal account or taking screenshots before they can be deleted. But be mindful: forwarding emails that contain sensitive information to personal accounts can itself be a violation of rule, law, or regulation. When in doubt, describe the email's existence and contents in a memo to yourself and consult counsel about whether and how to preserve the original.

Best Practice #6: Think Carefully Before Going Outside Authorized Channels

The MWPA protects disclosures to specific recipients. It does not protect disclosures to the media, to advocacy groups, or to the general public. If you bypass protected channels and go directly to a reporter, you lose the statutory framework that would otherwise shield you from reprisal.

The second offense trap.

Commands facing whistleblower complaints sometimes shift attention from the underlying misconduct to how the whistleblower handled evidence. If you removed a document you should not have removed, recorded a conversation in a jurisdiction that requires two-party consent, or forwarded certain information to an unauthorized account, that violation absorbs all the oxygen. Your complaint gets reframed as "person who violated policy" rather than "person who reported wrongdoing." Consult counsel before you take any action involving documents, recordings, or data you are not certain you have a right to possess.

Journalists play an essential role in accountability, and some of the most important whistleblower stories in American history were broken by the press. But the law treats them differently. If you disclose to a reporter, command can argue that your disclosure was unauthorized and that any adverse action against you was based on that unauthorized disclosure, not on protected whistleblowing. Even if you win in the court of public opinion, you may lose in the legal system.

In the current environment, some service members may believe that IGs have been captured, that congressional oversight has been politicized, or that internal channels cannot be trusted. Those concerns are not irrational. However, the legal reality is that the MWPA's protections are tied to specific recipients, and bypassing them forfeits those protections. If you believe protected channels are compromised, consult an attorney before deciding whether and how to go outside them. There may be creative ways to both accomplish your goal of reporting wrongdoing while protecting yourself.

Best Practice #7: Build Support Before You Need It

Another best practice is to build support before you need it. Government Accountability Project legal director Tom Devine often warns that one of the most serious risks of whistleblowing is the strain it can place on loved ones, because the entire family can suffer the consequences. His broader lessons emphasize that emotional support can be as significant as legal rights, and that isolation is dangerous. Solidarity from family, peers, and institutions can determine whether a whistleblower survives the process and whether the truth has a chance to matter.

Support means choosing a small number of trusted people who can help you stay steady, think clearly, and avoid self-sabotage. It also means thinking ahead about practical issues like the stress of uncertainty, the possibility of being reassigned or sidelined, the possibility that your reputation will be questioned, and the possibility that the timeline will be measured in months or years rather than days. Whistleblowers are often forced to "finish what they start," because backing down midstream can strengthen the wrongdoers and invite the organization to make an example of the person who challenged it. You should not step onto that road unless you have weighed what it may demand from you and unless you have lined up the legal and personal support that makes persistence possible.

Before you escalate, have an honest conversation with your spouse, partner, or closest family members. Explain what you have seen, what you are considering, and what the risks might be. They deserve to know because the consequences will affect them too—financially, emotionally, and socially. If your family is not prepared for the possibility of a difficult year or longer, you need to factor that into your decision. Some whistleblowers have told us that the strain on their marriages was worse than the retaliation itself.

It is natural to want validation from peers who have seen the same problems, but recruiting colleagues to your cause inside the command is risky. If word gets back to leadership that you are "organizing" against them, it can accelerate retaliation and give them ammunition to characterize you as a troublemaker. Worse, colleagues who initially seem supportive may distance themselves once the pressure builds, and some may be asked to testify against you. Keep your circle small and trust only people who have already demonstrated they can keep a confidence.

Even with support, you should expect a period of professional loneliness. People who were friendly before may become distant. You may be excluded from meetings, left off emails, or passed over for opportunities. This is painful, but it is also predictable. Knowing it is coming can help you avoid interpreting every slight as a new act of retaliation and can help you focus on the handful of relationships that matter.

The marathon, not the sprint.

Whistleblowing cases rarely resolve quickly. IG investigations can take over a year. BCMR reviews add additional months. The emotional and financial toll of a prolonged fight is one of the least discussed aspects of whistleblowing. Before you commit, ask yourself honestly: Can I sustain this for two years? Do I have savings, family support, and emotional reserves to endure a long process? If the answer is uncertain, that does not mean you should stay silent—but it does mean you should enter with realistic expectations and a support system built for endurance.

Best Practice #8: Track Retaliation in Real Time

If you have made a protected communication, you should assume that retaliation is possible and prepare accordingly. This means maintaining the same documentation discipline you applied to your original disclosure.

As soon as you have reason to believe retaliation may be occurring, start a log. For each incident, record the date, time, location, what happened, who was involved, and who witnessed it. Include direct quotes if you can remember them. Note how the action differs from how similarly situated service members have been treated. This log should be kept on a personal device or in a personal email account, not on government systems that command can access.

One of the most powerful forms of evidence in a reprisal case is showing that you were treated differently than peers who did not blow the whistle. If you received a negative evaluation, were other NCOs in your section evaluated the same way? If you were denied a school slot, who received the slot instead, and what was their performance record? If you were transferred, were others with similar qualifications transferred at the same time? These comparisons are hard for command to explain away.

Commands sometimes use facially neutral administrative processes like security clearance reviews, medical evaluations, random drug tests, or "fitness for duty" assessments to pressure whistleblowers. If you find yourself suddenly subjected to a process that peers are not experiencing, document it and raise it with counsel. The timing and context matter.

The MWPA has a one-year filing deadline for reprisal complaints, running from when you became aware of the adverse personnel action. Do not wait until you have accumulated a long list of grievances. File your complaint while the facts are fresh and the timeline is clear. You can always supplement the complaint if additional acts of retaliation occur.

None of these best practices guarantee safety. They are not magic words. They are the difference between entering a high-stakes process blindly and entering it with a plan. If you remember nothing else from this section, remember this: before you escalate, consult experienced legal counsel; communicate in writing where possible; keep your facts clean and your records orderly; and do not let yourself be isolated. Those are the habits that turn whistleblower rights on paper into something you can actually use in practice.

SECTION 5

Next Steps & Support

Government Accountability Project offers free, confidential legal advice for service members considering a disclosure or facing retaliation, as well as training for commands and organizations on whistleblower rights. You will also find links to Inspectors General and oversight offices authorized to receive protected communications. Whether you need guidance, representation, or education, these tools are here to help you navigate the process safely and effectively.

Contact Government Accountability Project

Government Accountability Project is the nation's leading whistleblower protection and advocacy organization. With nearly 50 years of experience guiding whistleblowers through every stage of the process—and ensuring their disclosures make a difference—our internationally renowned attorneys and experts are here to help.

We offer pro bono legal and strategic advice to employees considering reporting, or who have already reported, misconduct. We also advise public interest organizations and journalists, as well as their whistleblower sources.

To request free, confidential legal advice about reporting concerns:

Fill out our secure intake form:
https://whistleblower.org/how-to-request-assistance/

Or contact us directly at **info@whistleblower.org** or **(202) 457-0034**

For additional information about whistleblowing, visit:
whistleblower.org/resources

Request Training

Government Accountability Project provides tailored training for military commands, oversight offices, and advocacy organizations on whistleblower rights and best practices. Training can cover:

- Legal protections under the Military Whistleblower Protection Act
- How to handle disclosures lawfully and effectively
- Strategies for preventing retaliation and fostering accountability

To request training, email **info@whistleblower.org** with ***"Training Request"*** in the subject line.

Links to Relevant Oversight Offices

Authorized channels for protected communications include Inspectors General and designated oversight offices. Below are key links:

DoD Inspector General Hotline: https://www.dodig.mil/Hotline
Army Inspector General: https://www.army.mil/ig
Navy Inspector General: https://www.secnav.navy.mil/ig
Air Force Inspector General: https://www.afinspectorgeneral.af.mil
Marine Corps Inspector General: https://www.hqmc.marines.mil/igmc
Space Force Inspector General: https://www.afinspectorgeneral.af.mil
Coast Guard Inspector General (DHS): https://www.oig.dhs.gov

For members of the Public Health Service Commissioned Corps or NOAA Commissioned Corps:

HHS Inspector General: https://oig.hhs.gov
Commerce Inspector General (NOAA): https://www.oig.doc.gov