



Department of Defense **DIRECTIVE**

NUMBER 7050.06

April 17, 2015

Incorporating Change 1, October 12, 2021

IG DoD

SUBJECT: Military Whistleblower Protection

References: See Enclosure 1

1. **PURPOSE.** This issuance reissues DoD Directive (DoDD) 7050.06 (Reference (a)) to update established policies and assigned responsibilities for military whistleblower protection pursuant to section 1034 of Title 10, United States Code (U.S.C.) (Reference (b)).

2. **APPLICABILITY.** This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense (IG DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

3. **POLICY.** It is DoD policy that:

a. Members of the Military Services (referred to in this issuance as “Service members”) are free to make protected communications.

b. No person will restrict a Service member from making lawful communications to a Member of Congress or an inspector general (IG).

c. Service members will be free from reprisal for making or preparing to make, or being perceived as making or preparing to make, a protected communication.

d. No person may take or threaten to take an unfavorable personnel action or withhold or threaten to withhold a favorable personnel action in reprisal against any Service member for making or preparing to make, or being perceived as making or preparing to make, a protected communication.

e. Nothing in this issuance will be construed to limit the ability of a commander to consult with a superior in the chain of command, an IG, or a judge advocate on the disposition of a

complaint against a Service member for an allegation of collateral misconduct or for a matter unrelated to a protected communication.

f. No investigation is required when a Service member (hereinafter, use of “Service member” includes both current and former Service members) submits a reprisal complaint more than 1 year after the date that the member became aware of the personnel action that is the subject of the allegation. However, an IG receiving a reprisal complaint more than 1 year later may consider the complaint based on compelling reasons or circumstances. These circumstances may include situations in which the Service member:

- (1) Was actively misled regarding his or her rights;
- (2) Was prevented in some extraordinary way from exercising his or her rights; or
- (3) Filed the same allegation within the 1 year period with the wrong office or agency.

4. RESPONSIBILITIES. See Enclosure 2.

5. RELEASABILITY. **Cleared for public release.** This issuance is available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.

6. SUMMARY OF CHANGE 1. The changes to this issuance include:

- a. Revisions required by 2016 and 2017 amendments to section 1034 of Reference (b).
- b. Added responsibilities of DoD Intelligence Component heads and their IGs.
- c. Clarification that only Service members who allege reprisal or restriction may petition the Secretary of Defense for reconsideration of the final decision of the Secretary of the Military Department concerned.
- d. Extension of time to complete the complaint evaluation stage from 30 to 60 days.
- e. Administrative changes to organizational titles, references, and website addresses.

7. EFFECTIVE DATE. This issuance is effective April 17, 2015.

A handwritten signature in black ink, appearing to read "R. Work", with a stylized flourish at the end.

ROBERT C. WORK

Deputy Secretary of Defense

Enclosures

1. References

2. Responsibilities

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 7050.06, "Military Whistleblower Protection," July 23, 2007 (hereby cancelled)
- (b) Title 10, United States Code
- (c) Title 5, United States Code
- (d) DoD Directive 5505.06, "Investigations of Allegations Against Senior DoD Officials," June 6, 2013, as amended
- (e) DoD Directive 5106.04, "Defense Inspectors General," May 22, 2014, as amended
- (f) DoD Instruction 6490.04, "Mental Health Evaluations of Members of the Military Services," March 4, 2013, as amended
- (g) Public Law 95-452, "The Inspector General Act of 1978," October 12, 1978, as amended

ENCLOSURE 2

RESPONSIBILITIES

Unless otherwise expressly provided below, the responsibilities in this enclosure may be delegated in writing.

1. IG DoD. The IG DoD evaluates and investigates, or oversees DoD Component IG complaint evaluations and investigations of, allegations that the prohibitions of reprisal or restriction of this issuance have been violated. To ensure compliance with this issuance and section 1034 of Reference (b), the IG DoD:

a. Evaluates a complaint of reprisal or restriction submitted to the IG DoD by a Service member to determine if there is sufficient evidence to warrant an investigation. Such a complaint may be submitted to the IG DoD either directly or indirectly, as detailed in sections 3-5 of this enclosure. Within 60 days after receipt of a complaint, the IG DoD:

- (1) Closes the complaint;
- (2) Initiates an investigation; or
- (3) Requests that the DoD Component IG initiate an investigation.

b. Reviews recommended complaint evaluation determinations by DoD Component IGs that find that an allegation is not supported by evidence and should be closed. Notifies the DoD Component IG of approval or concerns.

c. Ensures the evaluating or investigating DoD Component IG:

(1) Is outside the immediate chain of command (as established under DoD Component regulations) of both the Service member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action; or

(2) Is at least one organization higher in the chain of command than the organization of the Service member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.

d. Reviews the results of each investigation conducted by DoD Component IGs. Consistent with section 5 of this enclosure:

- (1) Approves the results; or
- (2) Ensures the DoD Component IG corrects inadequacies or initiates a follow-up investigation; and

(3) Notifies the DoD Component IG of approval.

e. Reports the results of an IG DoD investigation not later than 180 days after the commencement of a reprisal or restriction investigation. The report will include:

(1) A thorough review of the facts and circumstances relevant to the allegation(s), relevant documents acquired during the course of investigation, and summaries or transcripts of interviews conducted.

(2) Recommendations for an appropriate disposition of the allegation(s) and, in a substantiated case, recommendations for an appropriate remedy for the Service member.

f. If the report on the results of the IG DoD investigation cannot be issued according to paragraph 1.e. of this enclosure, not later than 180 days after the commencement of a reprisal or restriction investigation, and every 180 days thereafter until the transmission of the report, notifies the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Secretary of the Military Department concerned, and the Service member of the reasons for the delay and an estimate of the time remaining until the report will be issued.

g. Conducts or requests a DoD Component IG to conduct a separate investigation of the underlying allegations contained in the protected communication when:

(1) An investigation has not been initiated; or

(2) An investigation of the allegation(s) contained in the protected communication has been conducted, and the IG DoD determines that the investigation was biased or inadequate.

h. Maintains reports on the results of the IG DoD investigation of reprisal, restriction, or underlying allegations and is responsible for transmitting the reports to the USD(P&R), the Secretary of the Military Department concerned, and the Service member not later than 30 days after the completion of the investigation; and when requested, transmits a copy of the documents acquired during the investigation and summaries or transcripts of testimony to the Service member. Ensures the copy of the report and supporting documents released to the Service member includes the maximum disclosure of information possible, with the exception of information that is not required to be disclosed in accordance with section 552 of Title 5, U.S.C. (Reference (c)).

i. Advises the Service member concerned that he or she may request review of the matter by a Board for Correction of Military Records (BCMR).

j. At the request of a BCMR, submits a copy of the report on the results of the investigation and gathers further evidence.

2. USD(P&R). On behalf of the Secretary of Defense, the USD(P&R):

a. Reviews reports on the results of investigations conducted pursuant to this issuance and section 1034 of Reference (b).

b. Within 90 days of receipt of an appeal of a decision by the Service member who alleged reprisal or restriction pursuant to this issuance:

(1) Reviews the final decision of the Secretary of the Military Department concerned on applications for correction of military records decided in accordance with this issuance and section 1034 of Reference (b).

(2) Decides whether to uphold or reverse the decision of the Secretary of the Military Department concerned. The decision of the USD(P&R) is final within the DoD.

c. If necessary, requests the Secretary of the Military Department concerned comment on evidence considered by a BCMR when the Secretary of Defense is requested by the Service member who alleged reprisal or restriction to reconsider the final decision of the Secretary of the Military Department concerned.

d. Notifies the IG DoD and Military Department IG concerned of decisions made on appeals pursuant to this issuance to the Secretary of Defense.

3. DoD COMPONENT HEADS. With the exception of the DoD Intelligence Component heads, the DoD Component heads:

a. Maintain regulations governing civilian employees that make reprisal and restriction the basis for appropriate disciplinary action.

b. Direct that all allegations submitted in accordance with section 1034 of Reference (b) are evaluated in a thorough, objective, and timely manner.

c. Direct that their respective IGs:

(1) Establish internal procedures for receiving, evaluating, reporting, and investigating pursuant to this issuance and section 1034 of Reference (b) allegations that the prohibitions of reprisal and restriction have been violated.

(2) Make proper complaint receipt notification to the IG DoD:

(a) In general, notify the IG DoD within 30 days after receiving a reprisal or restriction allegation. Notify the IG DoD within 10 days after receiving a reprisal or restriction allegation involving: sexual assault, matters of known congressional interest, or senior officials as defined in Reference (d).

(b) For allegations filed with a DoD Component IG, the timeframe for notifying the IG DoD commences once the complainant has completed applicable DoD Component IG complaint filing procedures.

(3) Evaluate a complaint of reprisal or restriction to determine if there is sufficient evidence to warrant an investigation and, within 60 days after receipt of the complaint, recommend either to close it or to initiate an investigation.

(4) Forward to the IG DoD any recommended determination that there is not sufficient evidence to warrant investigation and it should be closed. If the IG DoD agrees with the determination, the DoD Component IG will inform the Service member making the allegation.

(5) Initiate an investigation when it has been determined that initiating an investigation is warranted or upon the request of the IG DoD. Forward the report on the results of the investigation to the IG DoD for approval.

(6) Additionally, apply the provisions of DoDD 5505.06 (Reference (d)) when a reprisal or restriction allegation is made against a senior official of the DoD.

d. Ensure the evaluating and investigating IG:

(1) Is outside the immediate chain of command (as established under DoD Component regulations) of both the Service member submitting the allegation(s) and the individual(s) alleged to have taken the retaliatory action; or

(2) Is at least one organization higher in the chain of command than the organization of the Service member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.

e. Submit a report on the results of the investigation to the IG DoD not later than 150 days after the commencement of a reprisal or restriction investigation. The report will include:

(1) A thorough review of the facts and circumstances relevant to the allegation(s), relevant documents acquired during the course of investigation, and summaries or transcripts of interviews conducted.

(2) Recommendations for an appropriate remedy for the Service member in a substantiated case.

f. If the report on the results of the investigation cannot be issued according to paragraph 3.e. of this enclosure, not later than 180 days after the commencement of a reprisal or restriction investigation, and every 180 days thereafter until the transmission of the report, submit a notice on the investigation to the USD(P&R), the IG DoD, the Secretary of the Military Department concerned, and the Service member. Each notice will include:

(1) A description of the current progress of the investigation.

(2) An estimate of the time remaining until the completion of the investigation and the transmittal of the report on the results of the investigation to the Service member.

g. Conduct a separate investigation of the underlying allegations contained in the protected communication when an investigation has not been initiated or an investigation of the allegation(s) contained in the protected communication has been conducted, and the DoD Component IG or IG DoD determines that the investigation was biased or inadequate.

h. Transmit a report on the results of the investigation of reprisal, restriction, or underlying allegations to the USD(P&R), the Secretary of the Military Department concerned, and the Service member not later than 30 days after IG DoD approval of the results of the investigation. If requested, transmit a copy of the documents acquired during the investigation and summaries or transcripts of testimony to the Service member. Ensure the copy of the report and supporting documents released to the Service member include the maximum disclosure of information possible, with the exception of information not required to be disclosed pursuant to section 552 of Reference (c).

i. Advise the Service member that he or she may request review of the matter by a BCMR.

j. At the request of a BCMR, ensure the investigating IG submits a copy of the report on the results of the investigation or gathers further evidence.

k. Ensure that the subjects of reprisal or restriction investigations conducted in accordance with this issuance are afforded procedural protections, including the opportunity to present matters on their behalf, incident to administrative or disciplinary action, under DoD Component regulations or other established administrative procedures governing such action.

l. Publicize the content of this issuance to ensure that members of the Military Services and other DoD personnel fully understand its scope and application.

4. DoD INTELLIGENCE COMPONENT HEADS. The DoD Intelligence Component heads:

a. Maintain regulations governing civilian employees that make reprisal and restriction the basis for appropriate disciplinary action.

b. Publicize the content of this issuance to ensure that Service members and other DoD personnel fully understand its scope and application.

5. DoD INTELLIGENCE COMPONENT IGs. The DoD Intelligence Component IGs:

a. With regard to allegations of reprisal and restriction that the DoD Intelligence Component IG receives directly:

(1) Notify the IG DoD of any non-frivolous allegations involving Service members generally within 10 working days, unless otherwise agreed to by the IG DoD and the respective DoD Intelligence Component IG, and provide a copy of the complaint to the IG DoD.

(2) Unless the IG DoD, after consultation with the DoD Intelligence Component IG, assumes sole investigative responsibility:

(a) Initiate an investigation into the allegations; or

(b) If the DoD Intelligence Component IG determines that there is not sufficient evidence to warrant an investigation or an investigation is not practicable, notify and coordinate with the IG DoD to determine the appropriate course of action.

(3) For cases investigated, forward the results of the investigation and any requested final report and supporting documents to the IG DoD for review. Coordinate with the IG DoD to determine the appropriate course of action for a case that the IG DoD review determines requires further action.

b. With regard to allegations of reprisal and restriction that the IG DoD refers for action to the DoD Intelligence Component IGs:

(1) If the DoD Intelligence Component IG determines that there is not sufficient evidence to warrant an investigation or an investigation is not practicable, notify and coordinate with the IG DoD to determine the appropriate course of action.

(2) Where the DoD Intelligence Component IG determines that there is sufficient evidence to warrant an investigation, conduct an investigation and provide the report of investigation to the IG DoD for review within 5 working days of completion. If the IG DoD determines further action is required, coordinate with the IG DoD to determine the appropriate course of action.

c. Will not conduct a separate or parallel investigation of a reprisal or restriction matter arising at one or more of the DoD Intelligence Components (as defined in the Glossary) regarding matters within the authorities of the IG DoD and over which the IG DoD elects to exercise jurisdiction.

(1) Similarly, where the DoD Intelligence Component's IG investigates a reprisal or restriction matter without the involvement of the IG DoD, the IG DoD will not conduct a separate or parallel investigation of the same matter.

(2) However, when an IG DoD review of a DoD Intelligence Component's IG investigation determines the matter requires further action, after coordination, the IG DoD may exercise jurisdiction over the entire matter.

6. SECRETARIES OF THE MILITARY DEPARTMENTS. In addition to the responsibilities in section 3 of this enclosure, the Secretaries of the Military Departments:

a. Maintain regulations that make punishable, under Article 92 of chapter 47 of Reference (b) (also known and referred to in this issuance as “the Uniform Code of Military Justice (UCMJ)”), any violation of the prohibitions of restriction by persons subject to the UCMJ.

b. Maintain regulations requiring timely notification by commanders to the command IG of complaints alleging retaliation, reprisal, or restriction in violation of Articles 132 or 92 of the UCMJ, for any such complaints made to persons or entities other than an IG.

c. Not later than 30 days after receiving a report on the results of the investigation from or approved by the IG DoD of a substantiated allegation, determine whether corrective, disciplinary, or remedial action should be taken. If the Secretary of the Military Department concerned determines that such action should be taken, they are to take appropriate action.

d. When a prohibition has been violated:

(1) Order the record of the Service member corrected, including referring the report on the results of the investigation to the appropriate BCMR for review.

(2) Take any appropriate corrective or disciplinary action against the individual who committed the reprisal or restriction. Submit a report to the IG DoD on the corrective or disciplinary action taken within 10 days of taking action.

e. If an order for corrective, disciplinary, or remedial action is not appropriate, not later than 30 days after making the determination:

(1) Provide the Secretary of Defense and the Service member a notice of the determination and the reasons for not taking action.

(2) When appropriate, refer the report on the results of the investigation to the appropriate BCMR for further review.

f. Based on the report on the results of the investigation, take corrective or remedial action, including assisting members in preparing an application to a BCMR when implementation of the recommendations of the report requires action by a BCMR. Submit a report to the IG DoD on the corrective or remedial action taken within 10 days of taking action.

g. Ensure their respective BCMRs:

(1) Consider applications for the correction of military records at the request of a Service member who alleged reprisal or restriction.

(2) Establish procedures to resolve such an application that as a minimum include:

(a) Reviewing the report submitted to the Secretary of the Military Department concerned.

(b) Requesting that the IG DoD or the Military Department IG concerned gather further evidence if needed.

(c) As appropriate, taking depositions, conducting an evidentiary hearing, examining and cross-examining witnesses, and receiving oral arguments.

(d) As appropriate, recommending to the Secretary of the Military Department concerned that disciplinary action be taken against the individual responsible for violations of the prohibitions.

(e) If the BCMR holds a hearing, the Service member who filed the application:

1. May be provided with representation by a judge advocate if:

a. The IG investigation finds the prohibition of reprisal has been violated.

b. The Judge Advocate General concerned determines that the Service member would benefit from judge advocate assistance to ensure proper presentation of the legal issues in the case.

c. The Service member is not represented by outside counsel.

2. The Service member may examine witnesses through depositions, serve interrogatories, and request the production of evidence, including evidence in an IG investigative record not included in the report released to the Service member.

h. Issue a final decision on an application submitted to a BCMR in accordance with this issuance within 180 days after the application is filed. If the Secretary of the Military Department fails to issue a final decision within that time, the Service member will be deemed to have exhausted the administrative remedies afforded by section 1552 of Reference (b).

i. Advise the Service member who alleged reprisal or restriction that he or she may request review of the matter by the USD(P&R) on behalf of the Secretary of Defense. The request must be made within 90 days after receipt of the Secretary of the Military Department's decision.

j. Order such action, consistent with the limitations in section 1552 and 1553 of Reference (b), to correct the record of a personnel action prohibited by section 1034 of Reference (b).

k. Notify the IG DoD, the USD(P&R), and the Military Department IG concerned of a decision on an application for the correction of military records received from a Service member pursuant to this issuance.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

BCMR	Board for Correction of Military Records
DoDD	DoD directive
IG	inspector general
IG DoD	Inspector General of the Department of Defense
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

PART II. DEFINITIONS

Unless otherwise noted, these definitions are for the purposes of this issuance.

abuse of authority. An arbitrary or capricious exercise of power by a military member or a federal official or employee that adversely affects the rights of any person or results in personal gain or advantage to himself or herself or to preferred other persons.

audit, inspection, investigation, or law enforcement organizations. The IG DoD, the U.S. Army Audit Agency, the Naval Audit Service, the Air Force Audit Agency, and the Defense Contract Audit Agency. The law enforcement organizations at any command level in any of the DoD Components, including the Defense Criminal Investigative Service, the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations.

BCMR. Any board empowered pursuant to section 1552 of Reference (b) to recommend correction of military records to the Secretary of the Military Department concerned.

chain of command. The succession of commanding officers from a superior to a subordinate through which command is exercised; also the succession of officers, enlisted members, or civilian personnel through whom administrative control is exercised, including supervision and rating of performance. For members of the National Guard this also includes the Adjutant General and the Governor of the State.

DoD Intelligence Components. Pursuant to sections 2 and 8G of Public Law 95-452, also known as “the Inspector General Act of 1978” (Reference (g)), this consists of the National Security

Agency; National Reconnaissance Office; Defense Intelligence Agency; and National Geospatial-Intelligence Agency.

gross mismanagement. A management action or inaction that creates a substantial risk of significant adverse impact on the agency's ability to accomplish its mission. The matter must be significant and more than de minimis wrongdoing or simple negligence. It does not include management decisions that are merely debatable among reasonable people.

gross waste of funds. An expenditure that is significantly out of proportion to the benefit reasonably expected to accrue to the government.

IGs. The IG DoD; the Military Department IGs (these include the Military Department IGs and IGs assigned or detailed under regulations of the Secretary of the Military Department concerned to serve at any command level in one of the Military Services); Defense IGs (as defined in DoDD 5106.04 (Reference (e))); an IG appointed under Appendix of Reference (c).

Member of Congress. A U.S. Senator or Representative, delegate or resident Commissioner to the U.S. Congress, or a staff member of a Senator, Representative, or congressional committee, delegate, or resident Commissioner.

personnel action. Any action taken on a Service member that affects, or has the potential to affect, that member's military pay, benefits, or career. Such actions include, but are not limited to:

Threatening to take any unfavorable action.

Withholding, or threatening to withhold, any favorable action.

Making, or threatening to make, a significant change in the duties or responsibilities of a Service member not commensurate with the member's grade.

Failure of a superior to respond to any retaliatory action or harassment (of which the superior had actual knowledge) taken by one or more subordinates against a member.

Conducting a retaliatory investigation of a Service member.

Referral for mental health evaluation in accordance with DoD Instruction 6490.04 (Reference (f)).

Personnel actions may be either favorable or unfavorable.

Favorable personnel actions are those that are reasonably expected to result in a positive impact on the Service member's military pay, benefits, or career. They do not include inconsequential matters.

Unfavorable personnel actions are those that are reasonably expected to result in an adverse impact on the Service member's military pay, benefits, or career. They do not include inconsequential matters.

protected communication. The Table describes when a communication is protected.

Table. Protected Communication

Type of Communication:	Conditions on Protection:	When made to:
Any communication	Must be a lawful communication	<ul style="list-style-type: none"> • A Member of Congress or • An IG
<p>Any communication in which a Service member communicates information that he or she reasonably believes evidences:</p> <ul style="list-style-type: none"> • A violation of law or regulation, including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violations of section 920 through 920c of Reference (c) (articles 120 through 120c of the UCMJ), sexual harassment or unlawful discrimination; • Gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety; or • A threat by another Service member or employee of the Federal Government that indicates a determination or intent to kill or cause serious bodily injury to Service members or civilians or damage to military, federal, or civilian property. 	<p>A communication will not lose its protected status because:</p> <ul style="list-style-type: none"> • The communication was made to a person who participated in the activity that the Service member complained of; • The communication revealed information that had been previously disclosed; • Of the Service member's motive for making the communication; • The communication was not in writing; • The communication was made while the Service member was off duty; or • The communication was made during the normal course of the Service member's duties. 	<ul style="list-style-type: none"> • A Member of Congress; • An IG; • A member of a DoD audit, inspection, investigation, or law enforcement organization; • Any person or organization in the chain of command; • A court-martial proceeding; or • Any other person or organization designated pursuant to regulations or other established administrative procedures to receive such communications.
<ul style="list-style-type: none"> • Testimony, or otherwise participating in or assisting in an investigation or proceeding related to a communication as described above; or • Filing, or causing to be filed, participating in, or otherwise assisting in a military whistleblower reprisal action. 		

remedial action. Appropriate relief to make the complainant whole, to include such action as is necessary to correct the record of a retaliatory personnel action.

reprisal. Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making, preparing to make, or being perceived as making or preparing to make, a protected communication.

restriction. Preventing or attempting to prevent a current Service member from making or preparing to make a lawful communication to a Member of Congress or an IG.

Service member.

A Regular or Reserve Component officer (commissioned and warrant) or enlisted member of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard (when it is operating as a Service in the Navy), or the Space Force on active duty.

A Reserve Component officer (commissioned and warrant) or enlisted member in any duty or training status, including officers and enlisted members of the National Guard.

unlawful discrimination. Discrimination on the basis of race, color, religion, sex, or national origin.

whistleblower. A Service member who makes, prepares to make, or is perceived as making or preparing to make a protected communication.