

UNCLASSIFIED/FOUO

INFORMATION PAPER

SUBJECT: Whistleblower Protection Act

1. Purpose. To inform commanders about the Whistleblower Protection Act, 10 U.S. Code section 1034.

2. Points of major interest and facts.

a. No person will restrict a member of the Armed Services from communicating with a member of Congress; an Inspector General; a member of a DOD audit, inspection, investigation or law enforcement organization; an EO/EEO representative; or anyone in the chain of command. Soldiers will be free from reprisal for making or preparing such communications.

b. No employee or Soldier may take or threaten to take an unfavorable personnel action, or to withhold or threaten to withhold favorable personnel action, in reprisal against any Soldier for making or preparing a protected communication. Personnel Action is defined as any action that affects or has the potential to affect the member's current position or career. These include promotions; disciplinary or other corrective action; transfer or reassignment; performance evaluation; decision on pay, benefits, awards, or training; referral for a mental health evaluation; or other significant change in duties inconsistent with the member's rank.

c. A reprisal situation may exist if you answer the questions below as indicated:

- (1) Was there a protected communication (Member of Congress, IG, EO, etc.)? **Yes**
- (2) Was there an adverse personnel action taken or threatened, or an action withheld or threatened to be withheld, after the protected communication? **Yes**
- (3) Did the chain of command know about the protected communication? **Yes**
- (4) Would the action have occurred absent the protected communication (i.e. was there an independent basis for the action, such as a separate act of misconduct)? **No**

d. Consult your supporting legal office or IG if you have questions concerning the Whistleblower Protection Act.

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