



FORT SILL LEGAL ASSISTANCE



ARTICLE 138 COMPLAINTS

I. INTRODUCTION

Article 138, Uniform Code of Military Justice, provides that any member of the armed forces who believes himself wronged by his commander, and refused redress, may make a complaint to any superior commissioned officer, who will forward the complaint up to the General Court Martial Convening Authority (GCMCA).

Generally, a commander's actions are presumed proper. However, Article 138 provides a means for an administrative review upon application of the Soldier. This process should only be used as a last resort. It is only available if there is no other statutory or regulatory avenue of appeal. Examples of actions for which Article 138 is inappropriate can be found at AR 27-10, paragraph 19-5b.

II. PROCESS

An Article 138 complaint involves the following steps:

1. A Soldier files a written request for redress with the commander concerned. The commander has 15 days to reply. If it is not possible for the commander to reply within the 15 days, the commander must provide an interim response with estimated date for final response.

2. If the commander denies redress, the Soldier submits an Article 138 complaint, in writing, to the Soldier's immediate superior commissioned officer. The complaint must be submitted within 90 days of discovery of the alleged wrong. The time a request for redress with the commander is pending does not count towards the 90 day time period.

3. The complaint is processed through the chain of command to the GCMCA which had authority over the commander at the time of the alleged wrong. Anyone in the GCMCA chain of command may grant redress.

4. The GCMCA will examine the complaint. The type of examination conducted by the GCMCA is discretionary. The GCMCA may delegate the examination of the complaint, in which case there will be an investigation conducted in accordance with AR 15-6. The GCMCA will personally act on the complaint and notify the Soldier in writing. The GCMCA will forward the complaint to HQDA, regardless of the outcome of the complaint.

III. LEGAL ASSISTANCE

Soldiers may seek legal counsel when deciding whether to pursue an Article 138 complaint. If the matter involves a violation of the UCMJ, the Soldier may seek assistance from the Trial Defense Service at (580) 442-3123. In all other cases, contact the Legal Assistance Office.

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If you have questions concerning the information in this fact sheet, please call the Legal Assistance Office (580) 442-5058 or (580) 442-5059. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Sill Legal Assistance Office is located on the 4th floor of Building 4700, Hartell Hall on Mow-Way Road.