

The DoD Times (Redacted)



The Glove (nearly) Always Fits with the DoD's Criminal Investigative Services

LTC (Ret) Francesca Graham (Retired, Army – United States Military Academy), COO & Chief Advisor with the [Walk the Talk Foundation](#), authored this article. (Published July 21st, 2024)

Check out our Podcast, *The Star Chamber*, on: [Apple](#) | [Spotify](#) | [YouTube](#)

Did You Know: Commanders in the Department of Defense will often request / require support from a military criminal investigative service during an investigation. If the commander elects to punish a service member either through [non-judicial punishment](#) (NJP) or an [administrative punitive/non-punitive](#) process instead of through a [court-martial](#), the service member and their lawyer, if applicable, has no legal right to contest the decisions made by the criminal investigation service to gather / not gather evidence for the investigation.

Here are some potential implications of these facts:

1. A service member risks being confined to a military detention facility for up to 30 days, being reduced in rank, placed on house arrest, losing pay, and/or being involuntarily separated from their Service – likely at a reduced rank if retiring – based on “evidence” that was inappropriately gathered.
2. Service members and/or their lawyer can raise concerns to the command regarding evidence the criminal investigative service did NOT gather, whether through investigative misfeasance or malfeasance, but the command can dismiss or ignore these concerns as they decide upon punishment of the service member.
3. Given investigations and the gathering of evidence are core functions of criminal investigative services, commanders will naturally and potentially inappropriately bias their conclusions concerning the guilt / innocence of the service member based on the evidence provided by the criminal investigative service.
4. Often, the accused individual won't be allowed access to "evidence" that was compiled and/or disregarded until charges have been officially filed. By that point, decision-makers have often established a bias they are unwilling to confront, even if later faced with contrary evidence.
5. In investigations of commanding officers, who are viewed as public figures, the service department can opt to release these investigations to the press before those commanders are even provided access to the information and given a chance to rebut false allegations. This further establishes a bias with the public and a perceived need for accountability, even if the evidence doesn't support it.
6. By the time unjustly accused personnel even begin to understand what has happened, they face a Goliath that is often too big to fight. Inspector General complaints filed by the accused about the inappropriate process take months to resolve and rarely (if ever) vindicate the inappropriately accused.
7. The accused are put into an Admin-hold status, which means they are not promoted (even if already selected) and are taken off leadership track. They also are not allowed to retire unless they receive Service Secretarial approval to waive the process (read: never happens). These processes can take years to resolve,

The DoD Times (Redacted)

which means the accused works in a state of purgatory, unable to advance in any way. For older service members, this equates to lost opportunity in the private sector. Each day they are denied the ability to retire has a direct cost as they lose marketability with age.

8. The service branch can opt to keep the case out of court-martial proceedings, which means the accused's due process rights are not legally applicable, given the proceedings aren't judicial. This is a way to stack the deck for a predetermined verdict. To deny due process in an Administrative or Non-Judicial setting isn't illegal, although it is certainly unethical.

Take-away: Accused are told to trust the process. But...the process IS the punishment.

If you feel that you have been a victim of these types of concerns, feel free to reach out privately at francescagraham@walkthetalkfoundation.org, or share your story in the comments.

If you would like to help us fight these issues, please consider donating to the [Walk the Talk Foundation](#) via either [Venmo](#) or [PayPal](#). We greatly appreciate your support.

Also, [SIGN THIS PETITION](#) demanding that our leaders in Congress change the DoD's unjust administrative investigatory system, and [SIGN THIS PETITION](#) demanding real anti-harassment reform in the Military and Coast Guard now!

All our articles are posted on [LinkedIn here](#) and [Online here](#). Be sure to subscribe to the newsletter on LinkedIn and follow us on [Instagram](#), [Facebook](#), and [X \(Twitter\)](#). We are excited to start using these platforms to expand the reach of our information to a larger portion of our DoD workforce, Congress, and the American public.

Find Graphic Here: [Where rank won't get you anywhere: A look inside the US military's jail in Europe | Stars and Stripes](#)