

COMPLAINT OF WRONG TCMJ §432.184



Fact Sheet Prepared by the Texas State Defense Counsel

INTRODUCTION

Under Texas Law, Texas Code of Military Justice (TCMJ) §184(a) (Texas Government Code §432.184(a)), a member of the Texas state military forces has a right to file a complaint against his or her commanding officer when he or she believes he or she was wronged by that Commander. This right is similar to the complaint process under Uniform Code of Military Justice Article 138 for members of the Armed Forces in a Title 10 status.

TEXAS CODE OF MILITARY JUSTICE §184(a)

The Texas Code of Military Justice §184(a) provides “A member of the state military forces who believes himself wronged by his commanding officer, and who, on due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the next highest commander, who shall examine into the complaint and take proper measures for redressing the wrong complained of, and send to the adjutant general, as soon as possible, a true statement of that complaint with the proceedings had on it.”

WHEN TO FILE A TCMJ §184(a) COMPLAINT OF WRONG

The Texas Military Department has not issued any regulation or policies providing guidance on the process for filing a complaint under TCMJ §184(a). Generally, a complaint is appropriate when you feel a commanding officer has committed a wrong against you.

WHAT IS NOT APPROPRIATE TO FILE A COMPLAINT OF WRONG FOR

A TCMJ §184(a) complaint is not appropriate when the action is nondiscretionary decision by your commander, actions that were not taken by your commander, and where alternative channels for resolving the complaint exist. For example:

- Court-Martial and Section 15 proceedings
- Actions for which Air Force instructions or Texas Air National Guard regulations specifically authorize an administrative appeal (AGR Curtailments, Administrative Demotions, and Involuntary Separations, to name a few)
- Matters in the purview of the Equal Opportunity (EO) office
- Matters in the purview of the Inspector General (IG)

HOW TO FILE A TCMJ §184(a) COMPLAINT OF WRONG

The Texas Military Department has not issued any regulations or policies concerning how to file a complaint, but generally the procedure is as follows:

- (1) You must file a written request for redress to the Commander who has wronged you providing an explanation of how you were wronged by the Commander and what redress (fixing the wrong) that you desire.
- (2) If the redress is refused or after a reasonable amount has passed with no response you may send the complaint to any commissioned officer that is senior to your commander. This officer, if not your commander's commander, will forward the complaint to that next higher commander. After the next higher commander examines the complaint, and takes appropriate measures if required, shall send a statement regarding the complaint and any action taken to the Adjutant General.

SOME CLOSING COMMENTS ...

Filing a complaint under TCMJ §184(a) is a serious matter and may not result in your desired outcome. You should ensure that other avenues to address your complaint have been explored.

**If you have further questions, you should call the Texas State Defense Counsel at
michael.j.kirkland8.mil@mail.mil.**

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