

7.A.6. Procedures for Filing Complaints Under Article 138, UCMJ**7.A.6.a. Application to Commanding Officers**

The basis of a complaint properly brought under Article 138, UCMJ is a wrong coupled with the commanding officer's refusal or failure to redress the wrong. Therefore, the commanding officer must be provided the opportunity to redress the wrong as a condition precedent to the filing of a complaint. A request for redress must be submitted in writing to the commanding officer complained against, via the chain of command. The respondent commanding officer shall act on the application in a timely manner and will notify the complainant of his or her action.

7.A.6.b. Form of Complaint

The complaint shall:

- (1) Be in writing, signed by the complainant, and addressed to the appropriate OEGCMJ;
- (2) Include a statement that the complaint is made pursuant to Article 138, UCMJ;
- (3) Set forth all relevant facts applicable to the complaint;
- (4) Clearly identify the respondent;
- (5) State that the complainant previously requested in writing redress from his or her commanding officer and that he or she was refused such redress. A copy of the request and reply shall be included;
- (6) Describe the specific redress desired;
- (7) Attach all available evidence including affidavits and statements of witnesses that support the complaint or provide other information pertinent to the complaint; and
- (8) Be submitted to the commanding officer or any other superior commissioned officer of the Coast Guard for forwarding to the appropriate OEGCMJ.

7.A.6.c. Legal Advice

Law specialists or legal counsel will provide advice upon request to members desiring to submit an Article 138, UCMJ complaint. Requests shall be made according to the established procedures of the cognizant MLC [see, subparagraph 3.H.2 above]. Telephonic requests are sufficient. The advice should include an opinion whether an Article 138, UCMJ complaint is an appropriate procedure under the circumstances. If not, advice will be given concerning other authorized Coast Guard channels by which the member may seek relief. This section is not to be construed as requiring the assignment of a law specialist to represent a complainant in any proceedings held pursuant to Article 138, UCMJ or to create a right to individual military counsel. Complainants may retain civilian coun-