

**AF/JA RESPONSE SYSTEMS PANEL RECOMMENDATIONS TASKED TO SECAF
IMPLEMENTATION – as of 3 December 2015**

RSP Recommendation	SECDEF RECOMMENDATION	STATUS	COMMENTS
#11- Service Secretaries provide sentencing data, categorized by offense type, particularly for all rape and sexual assault offenses under Article 120 of the UCMJ, forcible sodomy under Article 125 of the UCMJ, or attempts to commit those acts under Article 80 of the UCMJ, into a searchable DoD database, to: (1) conduct periodic assessments, (2) identify sentencing trends, or (3) address other relevant issues. Information should be posted to a website or publicly accessible forum.	Approve OPR: Secretaries of Military Departments (in coordination with USD (P&R))	Complete	The Air Force is able to search and provide data through its Automated Military Justice Analysis and Management System (AMJAMS).
#12- Services release sentencing outcomes in all cases on a monthly basis to increase transparency and confidence in the military justice system.	Approve OPR: Secretaries of Military Departments	Complete	The Air Force publishes court-martial results on The Judge Advocate General's (TJAG) public website on a monthly basis. If the accused is found guilty the result includes the accused's name, rank, base, forum, charges and specifications, and the sentence. If the accused is acquitted the result includes the general nature of the charges, forum, location, and whether the member was an officer or enlisted.
#38-Ensure all officers preparing to assume senior command positions at the grade of O-6 and above receive dedicated legal training that fully prepares them to exercise authorities assigned	Approve OPR: Secretaries of the Military Departments	Complete	The Senior Officer Legal Orientation (SOLO) class began Feb 15 and is held 5 times a year from February through July at the AF JAG School. Each class has between 60-80 students. All incoming Wing Commanders, Vice Wing Commanders and Group Commanders must attend the course for 2 full days of legal training, preparing them to exercise the

to them under the UCMJ.			authorities assigned to them under the UCMJ. The success of SOLO has led to the establishment of the Senior Enlisted Legal Orientation (SELO) Course, which held its first 2-day class for Command Chiefs in November 2015.
#47- implement additional selection criteria for their individual Special Victim Counsel programs to require that counsel have appropriate trial experience, whenever possible, prior to being selected as special victim counsel.	Approve OPR: Secretaries of the Military Departments	Complete	Our current practice requires the Director of Professional Development (AF/JAX) to send a call for nominations to every MAJCOM SJA and Director to solicit input for “best qualified” personnel. Part of the criteria is as follows: “Candidates are analyzed on their courts-martial experience to include, the number of courts-martial tried, a breakdown of litigated, partially litigated, and guilty plea trials, an examination of the types of offenses tried, and the extent of the candidates participation in the trial (e.g., opening statement, voir dire, etc.). A candidate must also be certified as a trial and defense counsel through the rigorous field certification program. In that program, judge advocates must have served effectively as a trial or assistant trial counsel on a number of courts-martial, demonstrated comprehension of fundamental principles of military criminal law, procedure, and evidence, and demonstrated competence in fundamental litigation skills including case preparation, motions practice, voir dire, opening statement, direct and cross examination, making objections, and closing and sentencing arguments. Finally, candidates must be recommended by both a candidate's supervisory SJA and by a military judge to be trial certified. Judge advocates are not trial and defense certified directly out of the basic judge advocate training course. “
#48- Service Secretaries survey convening authorities, staff judge	Approve OPR: Secretaries	Under Review	We are in the process of setting up a working group to design and administer a questionnaire assessing the effects

advocates, prosecutors, defense counsel, military judges, and investigators to assess the effects of the program on the administration of military justice.	of the Military Departments		of the SVC program on the administration of military justice. This working group will be chaired by JAJ and will invite representation from JAT, JAJM, CLSV, and OSI. The working group is expected to convene in December 2015 and conclude its assessment in June 2016.
#50- establish and disseminate collaborative methods for special victim counsel between and among the Services, including an inter-Service website where special victim counsel may access resources and training materials, and receive training on best practices including the provision of advice and resources to sexual assault victims for issues related to negative personnel actions encountered as a result of being a victim or seeking treatment.	Approve OPR: Secretaries of the Military Departments	Under Review	Our SVCs are working with other Service counterparts to determine what the best method is to effectively collaborate, both internally and externally. Currently, the Air Force SVC leadership participates in monthly leadership meetings to cross-feed best practices, discuss issues, and identify policy matters with their counterparts from the other Services. Additionally, the Air Force SVC program provides the Coast Guard and National Guard SVC programs access to its interactive shared website where best practices and field resources are available for all Air Force SVCs. Finally, the Air Force SVC training course is attended by other service SVCs and Air Force SVCs attend training hosted by the other services SVC programs.
#51- develop a standard evaluation mechanism in consultation with an independent evaluator with appropriate metrics to determine the effectiveness of the Special Victim Counsel program in each Service on an annual basis. This includes annually evaluating the effectiveness of the organizational structure of the Service Special Victim Counsel programs and assessing the individual Service policies on eligibility requirements for	Approve OPR: Secretaries of the Military Departments, in coordination with DoD/GC	Under Review	We are working with DoD and other Services on establishing and assessing an independent evaluator process. Options include an internal function, such as JAI, to assess under TJAG's Art 6, UCMJ authority, or an outside agency to conduct the evaluation.

obtaining a special victim counsel.			
#57- ensure trial counsel comply with their obligations to afford military crime victims the rights set forth in Article 6b of the UCMJ and DoD policy by, in cases tried by courts-martial, requiring military judges to inquire, on the record, whether trial counsel complied with statutory and policy requirements.	Approve OPR: Secretaries of the Military Departments	Complete	The Air Force updated their Uniform Rules of Practice and is currently working on updating the Air Force script for Courts-Martial.
#59- assess the effectiveness of the processes to receive and investigate complaints relating to violations of or failures by military and civilian employees of all the Services to provide the rights guaranteed by Article 6b, UCMJ, and to determine whether a more uniform process is needed.	Approve OPR: USD P&R in coordination with Secretaries of the Military Departments	Under Review	DoD SAPRO to implement on behalf of USD P&R; the most recent version of USD P&R's draft Retaliation Response Strategy has addressed this recommendation.
#71A- set forth clear guidance that the DoD Safe Helpline is the single military 24/7 sexual assault crisis hotline for Service members.	Approve OPR: Secretaries of the Military Departments	Complete	AFI 90-6001, Sexual Assault Prevention and Response Program, 21 May 2015, para 1.5.5.3.9 sets forth this guidance.
#74- determine necessary victim advocate staffing for each Service and appropriate caseload for each victim advocate to ensure that victim advocates become and remain proficient in their	Approve OPR: Secretaries of the Military Departments (Approve concept but	Under Review	Training for victim advocates is constantly expanding to meet the needs of the victim. Currently, the training is under review by AF/CVS, SAPR, and will include additional practical skills and mentoring for victim advocates.

<p>duties. Victim advocate duties should include partnering with or observing other professionals who provide victim services (including community providers) or other experiential work to gain further practical skills and confidence while awaiting assignment to a case.</p>	<p>agree this is a Service issue to be addressed by Services)</p>		
<p>#80- ensure prevention programs address concerns about unlawful command influence. In particular, commanders and leaders must ensure sexual assault prevention and response training programs and other initiatives do not create perceptions among those who may serve as panel members at courts- martial that commanders expect particular findings and/or sentences at trials or compromise an accused Service member's presumption of innocence, right to fair investigation and disposition, and access to witnesses or evidence. Judge advocates with knowledge and expertise in criminal law should review sexual assault prevention training materials to ensure the materials neither taint potential panel members (military jurors) nor present inaccurate legal</p>	<p>Approve OPR: Secretary of the Military Departments in coordination with USD (P&R)</p>	<p>Complete</p>	<p>Currently, AF/JA (JAJ and JAJM) review all AF SAPR training and address any potential UCI issues. AF/CVS has an embedded JAG monitoring all other AF SAPR products. SOLO, SELO and all MJ courses address UCI and LCI.</p>

information.			
#82- ensure military defense counsel organizations are adequately resourced in funding resources and personnel, including defense supervisory personnel with training and experience comparable to their prosecution counterparts, and direct the Services assess whether that is the case.	Approve OPR: Secretaries of the Military Departments	Complete	AFLOA/JAJD is resourced in both funding and personnel. We recently added a new senior defense counsel billet to ensure all area defense counsel have adequate supervision and access to a senior attorney. In addition, the Air Force recently realigned their 19 senior defense counsel so they are centralized in 5 circuits. This will provide better collaboration among the supervisors and enhance supervision over junior defense counsel.
#83- Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps review military defense counsel training for adult sexual assault cases to ensure funding of defense training opportunities is on par with that of trial counsel.	Approve OPR: Secretaries of the Military Departments	Under Review	JAJ reviews all current training of both trial counsel and defense counsel on behalf of TJAG, ensuring the defense community's training is commensurate with the trial counsel and SVC. New civilian training opportunities for defense counsel in 2015 include the following: Bronx Defenders Spring Training (6 day intensive trial skills program), Defending Sexual Assault Cases at the Center for American and International Law, Death Penalty Seminar at the Trial Lawyer's College, Death Penalty College, National Capital Case Voir Dire Training, and Zealous Advocacy in Sexual Assault and Child Victims Cases presented by the National Association of Criminal Defense Lawyers. There were a total of 6 courses with 24 defense counsel for a total cost around \$49,150.00
#84- current training efforts and programs be sustained to ensure that military defense counsel are competent, prepared, and equipped.	Approve OPR: Secretaries of the Military Departments	Under Review	The Air Force is continuing to expand training opportunities for all trial practitioners. See #83 above

<p>#85- Services continue to provide experienced defense counsel through regional defense organizations and from personnel with extensive trial experience and expertise in the Reserve component.</p>	<p>Approve OPR: Secretaries of the Military Departments</p>	<p>Complete</p>	<p>The Air Force will continue to provide experienced defense counsel. The Air Force recently realigned their 19 senior defense counsel so they are centralized in 5 circuits (regional offices) along with the senior trial counsel, senior SVCs and trial judges.</p>
<p>#86-Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps permit only counsel with litigation experience to serve as lead counsel defense counsel in a sexual assault case as well as set the minimum tour length of defense counsel at two years or more, except when a lesser tour length is approved by the Service Judge Advocate General or Staff Judge Advocate to the Commandant of the Marine Corps, or designee, because of exigent circumstances or to specifically enable training of defense counsel under supervision of experienced defense counsel.</p>	<p>Approve in part-by adding words “when practicable” OPR: Secretaries of the Military Departments</p>	<p>Complete</p>	<p>All lead counsel for both the prosecution and defense have litigation experience before serving as counsel on a sexual assault case. Currently, standard defense counsel tour length is two years. TJAG approves all assignment of defense counsel and will continue to do so.</p>
<p>#87- Services to assess military defense counsels' performance in sexual assault cases similar to performance assessment of prosecutors and identify areas that may need improvement.</p>	<p>Approve OPR: Secretaries of the Military Departments</p>	<p>Complete</p>	<p>In addition to mandatory feedback and Officer Performance Reports (OPRs), after every case, the defense counsel must submit a case report detailing what happened in the case, to include information on motions, evidence, and sentencing. These reports are sent though the defense attorney’s chain of command to the Chief, Trial Defense Division, and are used when providing feedback or writing</p>

			the counsel's OPR. Military Trial Judges continue to provide candid feedback on areas of improvement for all counsel who appear before them whether trial counsel, defense counsel, or special victims' counsel.
#91- review of the Services' procedures for approving military criminal investigative organizations agent requests to conduct timely pretext phone calls and text messages and establish a standardized procedure to facilitate and expedite military criminal investigative organizations' use of this investigative technique, in accordance with law.	Approve in Part (procedures be reviewed) OPR: Secretaries of the Military Department, in coordination with DoD/IG	Complete	AFOSI has a standardized procedure that facilitates the timely approval of pretext phone calls and text messages, in accordance with law. AFOSI/CC recently determined that region commanders should approve these investigative techniques in most cases to further expedite the process. HQ AFOSI is currently revising its policy concerning such approvals to effectuate that recent change. In accordance with DoDI O-5505.09, Interception of Wire, Electronic, and Oral Communications for Law Enforcement, 27 November 2013, Enclosure 3, paragraph 2, all such operations must be coordinated with the supporting legal counsel associated with the investigation (servicing Staff Judge Advocate's Office, Assistant United States Attorney or state prosecuting attorney's office). All operations are also coordinated with HQ AFOSI/JA in accordance with DoDI O-5505.09, Enclosure 3, paragraph 1.a(2). Finally, pursuant to AFOSIMAN 71-103, Volume 3, Technical Services, 5 June 2012, Incorporating Change 1, 20 September 2013, paragraph 6.2, coordination with SAF/GC is required in cases involving the following: a general officer, member of the Senior Executive Service, or other equivalent civilian grades or family members sponsored by such officials; allegations of national security law violations; procurement fraud involving amounts in excess of \$1,000,000; Air Force Academy cadets, staff, or faculty; sexual misconduct of consenting adults; or any significant matter that AFOSI/CC determines is likely to be of specific interest to SECDEF or SECAF or is likely to receive extensive media coverage.

<p>#96- military criminal investigative organization commanders and directors to carefully select and train military investigators assigned as investigators for special victim units, and whenever possible, utilize civilians for specialized investigative oversight to maximize continuity and expertise. Military criminal investigation organization commanders and directors ensure that military personnel assigned to a special victim unit have the competence and commitment to investigate sexual assault cases.</p>	<p>Approve in part (delete reference to “units”) OPR: Secretaries of the Military Departments, in coordination with DoD/IG</p>	<p>Complete</p>	<p>AFOSI has a selection process in place to ensure qualified individuals support the Special Victim Investigation and Prosecution Capability and utilizes experienced civilian agents to ensure continuity and expertise. Agents assigned such duties receive specialized training in the investigation of sexual assault.</p>
<p>#97- commanders and directors of the military criminal investigative organizations to continue training of all levels of law enforcement personnel on potential biases and inaccurate perceptions of victim behavior. The Secretary of Defense direct the military criminal investigation organizations to also train investigators against the use of language that inaccurately or inappropriately implies consent of the victim in reports.</p>	<p>Approve OPR: Secretaries of the Military Departments</p>	<p>Complete</p>	<p>These areas are addressed in the Basic Special Investigators Course. In 2012, AFOSI also created the Sex Crime Investigations Training Program (SCITP) which provides advanced training to Air Force sexual assault investigators and judge advocates in the use of the Cognitive Interview technique for interviewing victims of sexual assault; cognitive biases training, which includes inaccurate perceptions of victim behavior; and the importance of unbiased language in report writing.</p>
<p>#100- exempt DNA and other examiners at the Defense</p>	<p>Approve OPR: Secretaries</p>	<p>Choose an item.</p>	<p>Defer to United States Army as the Defense Forensic Science Center is with the Department of the Army.</p>

Forensic Science Center, as well as other critical civilian members of the criminal investigative process, from future furloughs, to the extent allowed by law.	of the Military Departments		
#106- continue to assess and meet the need for well-trained prosecutors to support the Services' special victim capabilities, especially if there is increased reporting of sexual assaults.	Approve OPR: Secretaries of the Military Department	Complete	We now have 6 Special Victim Capability Prosecutors. Per AFI 51-201, Senior Trial Counsel designated as members of the Special Victims Unit (SVU-STC) by the Chief, Government Trial and Appellate Division (JAJG) serve as Special Victim Capability prosecutors. The Chief of JAJG must certify that each SVU-STC possesses the requisite litigation skills, professionalism, and leadership to provide the highest quality of legal representation for the government and support to victims. SVU-STCs must be capable of supervising, mentoring, and training junior counsel while providing candid, independent legal advice and expert prosecutorial support to responsible legal offices.
#110- Service Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps sustain or increase training of judge advocates to maintain the expertise necessary to litigate adult sexual assault cases in spite of the turnover created by personnel rotations within the Services' Judge Advocate General Corps.	Approve OPR: Secretaries of the Military Departments	Complete	The Air Force JAG School continues to offer a range of advocacy courses to help litigators strengthen their litigation skills. These include the following: TRIALS (Trial advocacy taught by reservists), the Trial and Defense Orientation Course (TDAC), The Advanced Trial and Defense Advocacy Course (ATAC), Intermediate Sexual Assault Litigation Course (ISALC) and the Advanced Sexual Assault Litigation Course (ASALC). We continue to send litigators to civilian conferences dealing with the prosecution of sexual assault cases as well as classes that focus on sexual assault investigations, such as the Sex Crimes Investigator Training Program at the Federal Law Enforcement Training Center. Defense counsel have attended: Bronx Defenders Spring Training (6 day intensive trial skills program), Defending Sexual Assault Cases at the Center for American and

			International Law, Death Penalty Seminar at the Trial Lawyer's College, Death Penalty College, National Capital Case Voir Dire Training, and Zealous Advocacy in Sexual Assault and Child Victims Cases presented by the National Association of Criminal Defense Lawyers.
#111- Service Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps sustain and broaden the emphasis on developing and maintaining shared resources, expertise, and experience in prosecuting and defending adult sexual assault crimes.	Approve OPR: Secretaries of the Military Departments	Under Review	Both JAJG and JAJD are continuing to develop training programs, expand training opportunities and maintain shared resources (ex: Electronic motion banks for the defense, STC website and STC quick hits sent to the field). For example, both JAJG and JAJD teach at TDAC, ATAC, ISALC, ASALC, the Military Justice Administration Course (MJAC) and the Staff Judge Advocate Course (SJAC). Moreover, JAJG is developing a new course at the JAG School on digital forensics. In addition, JAS is in the process of acquiring a new case management system called AMJAMS Next. The system will track a case from beginning to end. This process started in July 2014. Currently, JAS anticipates step 3 of 6 will be complete in February of 2016. Finally, JAJM created the Virtual Military Justice Deskbook, a collection of resources compiled in one location for military justice practitioners.
#119- The Service Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps continue to fund and expand programs that provide a permanent civilian presence in the training structure for both trial and defense counsel. The Services should continue to leverage experienced military Reservists and civilian	Approve OPR: Secretaries of the Military Departments	Under Review	AF/JAX is responsible for managing the civilian career field on behalf of TJAG. We have a robust reserve program that runs the TRIALS team program, a hands-on litigation training program, which travels to different bases throughout the Air Force and does mock trials in order to help practitioners hone their litigation skills. This program is held eight times per year. We have senior civilians assigned in JAJM, JAJG, AFJAGS, JAJ, and CLSV, where they are uniquely positioned to apply their experience in policy matters and assist in the development of training opportunities for the field. AF/JA is consistently reviewing

attorneys for training, expertise, and experience.			opportunities to hire additional experienced civilian attorneys as needs and resources are identified. The next area of focus for hiring is within the trial defense community. They are currently drafting a proposal for defense investigators as well as a civilian billet to run a Defense Counsel Assistance Program (DCAP) similar to the program currently in place within the USN and USMC.
#120- Service Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps continue to fund sufficient training opportunities for military judges and consider more joint and consolidated programs.	Approve OPR: Secretaries of the Military Departments	Complete	All Air Force judges, including reserve judges, attend Joint Military Judges Annual Training (JMJAT). Additionally, the Air Force held a training class in September, focusing on sexual assault. Air Force judges will attend training in August 2016 with all Senior Trial Counsel, Senior Defense Counsel and Senior Special Victim's Counsel.