



## JUDICIAL PROCEEDINGS SINCE FISCAL YEAR 2012 PANEL

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### FOR IMMEDIATE RELEASE

#### **The Judicial Proceedings Panel Issues Report on Retaliation: Notes Systematic Problems and Calls for Reforms**

Arlington, VA – The Judicial Proceedings Panel (JPP) today released a report to Congress and the Secretary of Defense containing thirteen recommendations to improve the response of the Department of Defense to the problem of retaliation against Service members who report sexual misconduct in the military. At the heart of the Panel's report is concern over the fundamental lack of data about the prevalence and nature of reported incidents of retaliation and the steps taken to deal with it. The Panel stressed the critical importance of such data to understand and resolve how incidents of retaliation affect individual Service members, unit cohesion, and military readiness.

The prevalence of retaliation in the military is not clear because the only data that currently exists about retaliation against Service members after reporting sexual misconduct comes from workplace surveys. The JPP report concludes that effective collection and tracking of actual incident data is necessary to understand the extent and nature of the problem of retaliation; that, in turn, is necessary in order to craft more effective solutions and ensure the security and well-being of affected Service members.

To meet this important need, the Panel's report recommends that the Department of Defense and the Services utilize a standardized reporting form for incidents of retaliation, similar to the existing form that is used when a sexual assault is reported. The form should be linked to the underlying report of sexual assault. To remedy this problem, the JPP report recommends that incident information should be collected and tracked uniformly for every victim and across each of the Services.

At present there is no single person charged with monitoring what happens to any victim of retaliation. The JPP report recommends that the installation sexual assault response coordinators (SARCs) be tasked to consolidate retaliation reports, track and record retaliation data, and provide information to installation case management groups to monitor complaint resolution progress.

The JPP also heard testimony that the most important goal for many Service members who experience retaliation is simply to stop the retaliatory behavior, and the potential for a prolonged or prominent investigation of a retaliation complaint may deter some from reporting. The JPP report recommends establishment of informal and formal reporting options within the command, similar to the options available in the military today for complaints of sexual harassment and other types of employment discrimination. Offering a Service member the option to make an informal report may facilitate quick resolution of a complaint with minimal disruption to the Service member and unit, which may increase reports and improve awareness of retaliation issues.

The JPP's report is based on a ten-month review, during which the Panel heard extensive testimony from sexual assault survivors, installation commanders, noncommissioned officers, victims' counsel, military victim assistance personnel, representatives of Service review boards, and the office of the Department of Defense Inspector General, and received written responses to requests for information from the Department of Defense and the Services and input from victim advocacy organizations.



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Elizabeth Holtzman, JPP Chair, stated, “Retaliation is a serious problem for victims of sexual assault in the military. It is also a major barrier to reporting by victims. But retaliation can’t be fully tackled without proper data, and right now there is no adequate vehicle for collecting and analyzing information about cases of retaliation. That is why the JPP has urged DOD to use a standard form for data collection. It has also issued 12 other recommendations for improving DOD’s response to retaliation. I want to thank my distinguished colleagues on the Panel for their hard work on this very important subject.”

Other Panel recommendations on retaliation were:

- development of appropriate retaliation prevention and response training for commanders, Service members, and those who investigate retaliation complaints within the command;
- investigation of all complaints of professional retaliation related to sexual assault by the Department of Defense Inspector General and alignment of the elements and burdens of proof for professional reprisal claims made under the Military Whistleblower Protection Act with the corresponding Federal law applicable to civilian Federal government personnel;
- expansion of the expedited transfer program to cover, on a case-by-case basis, witnesses and bystanders;
- clarification regarding complaint resolution information that may be released to a person filing a retaliation complaint;
- tracking by the Services of the statutory requirement for general or flag officer review of all proposed involuntary separations of Service members who made an unrestricted report of sexual assault within the preceding year; and
- removal of the intent requirement in Service regulation definitions of maltreatment.

More information about the Panel, including the full version of this report and testimony and materials considered by the Panel members in developing these recommendations, is available on the JPP’s website at <http://jpp.whs.mil>.