



SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1000

DEC 15 2014

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND
READINESS
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Department of Defense Implementation of the Recommendations of the
Response Systems to Adult Sexual Assault Crimes Panel

The goal of eliminating sexual assault is a high a priority for the Department of Defense. The Response Systems to Adult Sexual Assault Crimes Panel (RSP), a congressionally mandated advisory committee, conducted an independent one-year review of systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses. The RSP submitted its final report and recommendations to the Department and Congress on June 27, 2014. After careful consideration of the views submitted by the components regarding each of the recommendations of the RSP, I approved the implementation of 88 recommendations, approved in part 10 recommendations, disapproved one recommendation, referred six recommendations to working groups for further study, and deferred consideration of Recommendation 76 until the Judicial Proceedings Since Fiscal Year 2012 Amendments Panel completes its review. Additionally, 11 recommendations are already under review by the Joint Service Committee on Military Justice and 16 recommendations are under consideration by the Military Justice Review Group. The disposition for each recommendation and the Office of Primary Responsibility for each recommendation are reflected in the attached matrix.

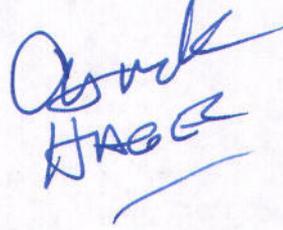
I direct that the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), develop, in coordination with the Secretaries of the Military Departments, Department of Defense Inspector General (DoD IG), and DoD General Counsel (DoD GC), policy guidance on the approved recommendations and the "approved in part" recommendations, as modified. I also direct USD (P&R) and DoD GC establish working groups to assess the recommendations within their respective purviews that require further study. Additionally, consistent with DoDI 5106.01, "Inspector General of the Department of Defense", I request the DoD IG establish working groups to address those recommendations affecting investigative policies. Each of the components will provide periodic updates as specified by USD (P&R) on the status of implementation and the progress of the working groups.



OSD013373-14



Defeating sexual assault requires the commitment of every person in this Department. Our concerted efforts to combat sexual assault will ensure our service members are treated with the dignity and respect they deserve. Thank you for your sustained efforts towards eliminating sexual assault from our ranks.



cc:
Chairman, Joint Chiefs of Staff
Assistant Secretary of Defense for Legislative Affairs
Assistant to the Secretary of Defense for Public Affairs

RSP Recommendation	DoD Action
#1-develop/implement military crime victimization survey, with Bureau of Justice Statistics, relying on best research methods & provides data to be more readily compared to other crime victimization surveys	Approve OPR: USD(P&R)
#2-utilize results from the Workplace and Gender Relations Survey of Active Duty Members to assess attitudes, identify areas for improvement, and revise workplace policies rather than to estimate the incidence of sexual assault within the military	Approve OPR: USD(P&R)
#3A-Use single, standardized methodology to calculate prosecution and conviction rates. The Panel recommends a methodology, based on the current Army model, which will provide accurate and comparable rates by tracking the number and rates of acquittals and alternate dispositions in sexual assault cases	Approve OPR: DoD GC
#3B- Once 3A done, direct a highly qualified expert, external to the military, to study the disposition process in sexual assault cases.	Approve OPR: DoD GC
#4- Congress and the Secretary of Defense not measure success solely by comparing military and civilian prosecution and conviction rates.	Approve
#5- Congress enact legislation to amend Section 1631(b)(3) of the NDAA for FY 2011, related provisions in NDAA for FY 2012 and NDAA for FY 2013 to provide the number of "unfounded cases," (i.e., those cases that were deemed false or baseless), as well as a synopsis of all other unrestricted reports of sexual assault with a known offender within the military's criminal jurisdiction. Eliminating the requirement to provide information about "substantiated cases" will more accurately reflect disposition of all unrestricted reports of sexual assault within the military's jurisdiction.	Approve OPR: USD (P&R)
#6- raw data collected from all surveys related to workplace environments and crime victimization be analyzed by independent research professionals to assess how DoD can improve responses to military sexual assault.	Approve OPR: USD (P&R)
#8- If implemented, direct that military crime victimization surveys use the Uniform Code of Military Justice's (UCMJ) definitions of sexual assault offenses, including: rape, sexual assault, forcible sodomy, and attempts to commit these acts.	Approve OPR: USD (P&R)
#9- Improve response rates to all surveys related to workplace environments and crime victimization to improve the accuracy and reliability of results	Approve OPR: USD (P&R)
#10- Be alert to the risk of survey fatigue, and DoD SAPRO and Defense Equal Opportunity Management Institute monitor and assess what impact increased survey requirements have on survey response rates and survey results.	Approve OPR: USD (P&R)
#11- Service Secretaries provide sentencing data, categorized by offense type, particularly for all rape	Approve

<p>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.</p>	<p>OPR: Secretaries of Military Departments</p>
<p>#12- Services release sentencing outcomes in all cases on a monthly basis to increase transparency and confidence in the military justice system.</p>	<p>Approve OPR: Secretaries of Military Departments</p>
<p>#13- DoD SAPRO and the Services enhance efforts to prevent and respond to male-on-male sexual assault. Prevention efforts should ensure commanders directly acknowledge the potential for male-on-male sexual assault in their commands and directly confront the stigma associated with it.</p> <ul style="list-style-type: none"> - Prevention efforts should also ensure Service members understand that sexually demeaning or humiliating behaviors that may have been minimized as hazing or labeled as "horseplay" in the past are not tolerated and may constitute punishable offenses. - DoD SAPRO should fund research on and seek expert assistance to understand the risk and protective factors that are unique to male-on-male sexual assault in the military and should develop targeted prevention programs for male-on-male sexual assault offenses. 	<p>Approve OPR: USD (P&R)</p>
<p>#14-Ensure commanders focus on effective prevention strategies. Commanders demonstrate leadership of DoD's prevention approach and its principles, and ensure members of their commands are effectively trained by qualified and motivated trainers who are skilled in teaching methods that will keep participants tuned in to prevention messages.</p>	<p>Approve OPR: USD (P&R)</p>
<p>#15-Direct appropriate DoD authorities to work with researchers to determine how best to implement promising, evidence-based alcohol mitigation and DoD's strategic policies emphasize these strategies; DoD SAPRO to coordinate with the Services to evaluate promising programs some local commanders have initiated to mitigate alcohol consumption.</p>	<p>Approve OPR: USD (P&R)</p>
<p>#16-DoD SAPRO evaluate development of risk-management programs directed toward populations with particular risk and protective factors that are associated with prior victimization. In particular, DoD SAPRO should work with researchers to determine to what extent prior sexual victimization increases Service members' risk for sexual assault in the military to develop effective programs to protect against re-victimization.</p>	<p>Approve OPR: USD (P&R)</p>
<p>#17- DoD SAPRO to consult with the Centers for Disease Control and Prevention and other appropriate agencies to develop and expand services for military members who experienced sexual abuse prior to joining the military, and to develop strategies to encourage utilization of these services to prevent re-</p>	<p>Approve OPR: USD (P&R)</p>

victimization and develop or maintain skills necessary to fully engage in military activities and requirements.	
#18- DoD SAPRO and the Services, respectively, to review bystander intervention programs to ensure they do not rely upon common misconceptions or overgeneralized perceptions. In particular, programs should not overemphasize serial rapists and other sexual "predators" and should instead emphasize preventive engagement, encouraging Service member attention and vigilance toward seemingly harmless attitudes and behaviors that increase the potential for sexual assault.	Approve OPR: USD (P&R)
# 19-SeCDEF direct SAPRO to establish specific training and policies addressing retaliation toward peers who intervene and/or report.	Approve OPR: USD (P&R)
# 20-Continue to develop and implement training for all members of the military, including new recruits, with examples of male on male sexual assault, including hazing and sexual abuse by groups of men. The training should emphasize the psychological damage done by sexual assault against male victims.	Approve OPR: USD(P&R)
#21- Direct commanders of military entrance processing stations to determine how to best provide sexual assault prevention information to new recruits immediately upon entry into the Service that include the definition of sexual assault, possible consequences of a conviction for sexual offenses in the military and information about the DoD Safe Helpline and other avenues for assistance.	Approve OPR: USD(P&R)
#22- Continue to develop and implement training for all members of the military, including new recruits, emphasizing that reporting instances of sexual assault is essential for good order and discipline and protects rather than undermines morale. It is also essential that training continue to emphasize that good order and discipline require that the military justice system carries out its mission of determining guilt or innocence in an environment free from bias against an accuser or accused Service member.	Approve OPR: USD(P&R)
#23-Continue to develop and implement training for all members of the military, including new recruits, that retaliation or harassment by Service members in response to an allegation of sexual assault violates good order and discipline.	Approve OPR: USD(P&R)
#25- DoD not promulgate at this time an additional formal statement of what accountability, rights, and responsibilities a member of the Armed Forces has with regard to matters of sexual assault prevention and response.	Approve OPR: USD (P&R)
#26- DoD SAPRO and the Defense Equal Opportunity Management Institute ensure survey assessments and other methods for assessing command climate accurately assess and evaluate the effectiveness of subordinate organizational leaders and supervisors in addition to commanders.	Approve OPR: USD (P&R)
#27- Ensure commanders are required to develop action plans following completion of command climate surveys that outline steps the command will take to validate or expand upon survey information and steps the command will take to respond to issues identified through the climate assessment process.	Approve OPR: USD (P&R)
#28- Identify and utilize means in addition to surveys to assess and measure institutional and	Approve

organizational climate for sexual assault prevention and response.	OPR: USD (P&R)
#29- DoD, the Services, and commanders identify and utilize other resources to obtain information and feedback on the effectiveness of Sexual Assault Prevention and Response programs and local command climate.	Approve OPR: USD (P&R)
#30- Congress not adopt Section 3(d) of the Victim's Protection Act of 2014. Alternatively, the Secretary of Defense should direct the formulation of a review process to be applied following each reported instance of sexual assault to determine the non-criminal factors surrounding the event. Such reviews should address what measures ought to be taken to lessen the likelihood of recurrence (e.g.; physical security, lighting, access to alcohol, off-limits establishments, etc.).	Approve OPR: USD (P&R)
#31- consider opportunities and methods for effectively factoring accountability metrics into commander performance assessments, including climate survey results, indiscipline trends, sexual assault statistics, and equal opportunity data.	Approve OPR: USD (P&R)
#32- Ensure sexual assault prevention and response performance assessment requirements extend below unit commanders to include subordinate leaders, including officers, noncommissioned officers, and civilian supervisors.	Approve OPR: USD (P&R)
#33-Ensure assessment of commander performance in sexual assault prevention and response incorporates more than results from command climate surveys.	Approve OPR: USD (P&R)
#34- Ensure Sexual Assault Prevention and Response programs and initiatives are clearly defined and establish objective standards when possible.	Approve OPR: USD (P&R)
#35-Ensure commanders are trained in methods for monitoring a unit's sexual assault prevention and response climate, and ensure commanders are accountable for monitoring their command's sexual assault prevention and response climate outside of the conduct of periodic surveys.	Approve OPR: USD (P&R)
#36- Congress not adopt the proposals in the Sexual Assault Training Oversight and Prevention Act or the Military Justice Improvement Act to modify the authority vested in convening authorities to refer sexual assault charges to courts-martial.	Approve
#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 to them under the UCMJ.	Approve OPR: Secretaries of the Military Departments
#24- SECDEF continue to develop and implement training for all members of the military, including new recruits, explaining that implicit or explicit invitations or demands for sex or sexualized interactions from commanders or superiors are not lawful orders, should not be obeyed, violate the code of military conduct, and will be punished.	Approve OPR: USD(P&R)
#47- implement additional selection criteria for their individual Special Victim Counsel programs to	Approve

require that counsel have appropriate trial experience, whenever possible, prior to being selected as special victim counsel.	OPR: Secretaries of the Military Departments
#48- Service Secretaries survey convening authorities, staff judge advocates, prosecutors, defense counsel, military judges, and investigators to assess the effects of the program on the administration of military justice.	Approve OPR: Secretaries of the Military Departments
#49- Congress appropriate sufficient funds and personnel authorizations annually to DoD to ensure the Services are able to sustain a robust Special Victim Counsel program.	Approve
#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
#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 obtaining a special victim counsel.	Approve OPR: Secretaries of the Military Departments
#52- establish an inter-Service working group to assess the practices of all Service Special Victim Counsel programs. The inter-Service working group should discuss, deliberate, and decide upon the best practices being utilized by all the Services. The working group should then ensure each Service implements the best practices of the Special Victim Counsel programs. The working group should consist of, at a minimum, the Special Victim Counsel program heads from each Service. The first meeting should occur within twelve months from the date of this report. Thereafter, the working group should meet at least annually.	Approve OPR: DoD GC
#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
#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: Secretaries of the Military

	Departments
#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
#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
#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
#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.	Approve OPR: Secretaries of the Military Departments
#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.	Approve OPR: Secretaries of the Military Departments
#88- direct the standardization of procedures regarding the requirement for military criminal investigative organization investigators to advise victim and witness Service members of their rights under Article 31(b) of the UCMJ for minor misconduct uncovered during the investigation of a felony to ensure there is a clear process that complies with law, throughout the Services.	Approve OPR: DoD IG
#61- develop and implement policy and regulations such that sexual assault victims have the right and ability to consult with a special victim counsel before deciding whether to make a restricted or unrestricted report, or no report at all. Communication made during this consultation would be confidential and protected under the attorney-client privilege.	Approve OPR:USD (P&R)
#64- implement policy that protects victims of sexual assault in the military from suffering damage to their military careers (including but not limited to weakened performance evaluations or lost promotions, security clearances, or personnel reliability certifications) based on having been a victim of sexual assault, having reported sexual assault, or having sought mental health treatment for sexual	Approve OPR: USD (P&R)

assault.	
#65- DoD SAPRO to ensure sexual assault reporting options are clarified to ensure all members of the military, including the most junior personnel, understand their options for making a restricted or unrestricted report and the channels through which they can make a report.	Approve OPR: USD (P&R)
#70- Training for medical personnel, sexual assault response coordinators, and victim advocates, include the options that a commander has available to make or affect transfers when an unrestricted report is made.	Approve OPR: USD(P&R)
#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
#71B- DoD Safe Helpline establish an easily remembered number similar to its website name of SafeHelpline.org	Approve OPR: USD (P&R)
#71C- DoD require the Services to provide the Safe Helpline with sufficient contact information at each installation or deployed location so that local victim service providers can be reached on a 24/7 basis.	Approve OPR: USD (P&R)
#72- evaluate the availability of, and access to, adequate and consistent mental healthcare for victims of sexual assault, and the option of incorporating counselors into the Sexual Assault Prevention and Response program in a manner similar to the integration in the Family Advocacy Program.	Approve OPR: USD (P&R)
#73- direct further development of local coordination requirements both on and off the installation, and expand requirements for installation commanders to liaison with victim support agencies.	Approve OPR: USD (P&R)
#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 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.	Approve OPR: Secretaries of the Military Departments
#75- periodic evaluations of training provided for Services' sexual assault response coordinators and victim advocates be conducted and include an assessment as to whether the training and curriculum across the Services is uniform, is effective, and reflects all existing initiatives, programs, and policies.	Approve OPR: USD (P&R)
#77- evaluate and assess all programs and initiatives dealing with sexual assault and measure the effectiveness of each to determine which programs and initiatives are effective, which should be continued, expanded, and preserved, and how best to allocate funding for the effective programs and initiatives.	Approve OPR: USD (P&R)
#78- direct periodic and regular evaluations of individual DoD, Service, or local Sexual Assault Prevention	Approve

and Response programs. And performance, to be conducted by independent organizations, which would serve to validate or disprove DoD's own internal assessments and would provide useful feedback to the Department and enhance public confidence in Sexual Assault Prevention and Response programs and initiatives.	OPR: USD (P&R)
#79- direct DoD SAPRO or the DoD Inspector General to assess the roles and responsibilities of sexual assault response coordinator, victim advocate, victim witness liaison, and Family Advocacy Program personnel, to ensure advocacy personnel are effectively utilized, their roles are properly delineated to allow for excellence; overlap is minimized; that sufficient positions are designated and to determine whether their roles should be modified, and whether all current victim assistance related programs should be sustained in this resource constrained environment.	Approve OPR: USD (P&R)
#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 information.	Approve OPR: Secretary of the Military Departments
#92- the appropriate agency to eliminate the requirement to collect plucked hair samples as part of a sexual assault forensic examination.	Approve OPR: USD (P&R)
#95- audit of sexual assault investigations by persons or entities outside DoD specifically qualified to conduct such audits.	Approve OPR: USD (P&R)
#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.	Approve OPR: Secretaries of the Military Departments
#98- Congress appropriate funds for training of sexual assault investigation personnel. The Secretary of Defense direct the Service Secretaries to program and budget funding, as allowed by law, for the military criminal investigative organizations to provide advanced training on sexual assault investigations to special victim unit investigators.	Approve
#99- The Service Secretaries direct their Surgeons General to: (1) review Section 1725 of the National Defense Authorization Act for Fiscal Year 2014, which requires the assignment of at least one full-time sexual assault nurse examiner to each military medical facility with a 24 hour, seven days a week	Approve OPR: USD (P&R)

emergency room, and (2) provide recommendations to amend the legislation so as to permit the most effective way to provide sexual assault forensic examinations at their facilities, given that many civilian medical facilities have more experienced forensic examiners than are typically located on a military installation and those facilities serve as the community's center of excellence for sexual assault forensic examinations.	
#100- exempt DNA and other examiners at the Defense Forensic Science Center, as well as other critical civilian members of the criminal investigative process, from future furloughs, to the extent allowed by law.	Approve OPR: Secretaries of the Military Departments
#101- to create a working group to coordinate the Services' efforts, leverage expertise, and consider whether a joint forensic exam course open to all military and DoD practitioners, perhaps at the Joint Medical Education and Training Center, or portable forensic training and jointly designed refresher courses would help to ensure a robust baseline of common training across all Services.	Approve OPR: USD (P&R)
#103-Directive-Type Memorandum 14-003, the policy document that addresses the Special Victim Capability, be revised so that definitions of "covered offenses" accurately reflect specific offenses listed in the relevant version(s) of Article 120 of the UCMJ	Approve OPR: USD (P&R)
#104- develop policy that does not require special victim prosecutors to handle every sexual assault under Article 120 of the UCMJ. Due to the resources required, the wide range of conduct that falls within current sexual assault offenses in the UCMJ, and the difficulty of providing the capability in remote locations, a blanket requirement for special victim prosecutors to handle every case undermines effective prevention, investigation, and prosecution, and the difficulty of providing the capability in remote locations, a blanket requirement for special victim prosecutors to handle every case undermines effective prevention, investigation, and prosecution.	Approve OPR: USD (P&R)
#105-fully implement the special victim prosecutor programs within the Special Victim Capability and further develop and sustain the expertise of prosecutors, investigators, victim witness liaisons, and paralegals in large jurisdictions or by regions for complex sexual assault cases	Approve OPR: USD (P&R)
#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
#107A- assess the various strengths and weaknesses of different co-location models at locations throughout the Armed Forces to continue to improve the efficiency and effectiveness of investigation and prosecution of sexual assault offenses.	Approve OPR: USD (P&R)

#108- require standardization of Special Victim Capability duty titles to reduce confusion and enable comparability of Service programs, while permitting the Service Secretaries to structure the capability itself in a manner that fits each Service's organizational structure.	Approve OPR: USD (P&R)
#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
#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
#112- establishment of a DoD judge advocate criminal law joint training working group to optimize sharing of best practices, resources, and expertise for prosecuting and defending adult sexual assault cases. The working group should produce a concise written report, delivered to the Service Judge Advocate Generals and the Staff Judge Advocate to the Commandant of the Marine Corps at least annually, for the next five calendar years.	Approve OPR: USD (P&R)
#115- The Judicial Proceedings Panel assess the use of depositions in light of changes to the Article 32 proceeding, and determine whether to recommend changes to the deposition process, including whether military judges should serve as deposition officers.	Approve OPR: DoD GC Also referred to MJRG
#116- Military Justice Review Group or Joint Service Committee to evaluate if there are circumstances when a general court-martial convening authority should not have authority to override an Article 32 investigating officer's recommendation against referral of an investigated charge for trial by court-martial.	Approve -Under review by MJRG OPR: DoD GC
#117- Judicial Proceedings Panel study whether the military plea bargaining process should be modified.	Approve OPR: DoD GC
#118- It is the sense of the Panel that military judges should be involved in the military justice process at an earlier stage to better protect the rights of victims and the accused. The Secretary of Defense direct the Military Justice Review Group or Joint Services Committee to evaluate the feasibility and consequences of involving military judges at an earlier stage.	Approve Already being studied by MJRG OPR: DoD GC
#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	Approve OPR: Secretaries of the Military

experienced military Reservists and civilian attorneys for training, expertise, and experience.	Departments
#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
#7- Create advisory panel of qualified experts from the Bureau of Justice Statistics and the National Academy of Sciences' Committee on National Statistics to consult with the RAND Corporation, selected to develop and administer the 2014 Workplace and Gender Relations Survey of Active Duty Members, and any other agencies or contractors that develop future surveys of crime victimization or workplace environments, to ensure effective survey design.	Approve in Part - USD (P&R) used RAND (who consulted with experts for development of 2014 WGRS); will consider recommendation for future survey development.
#68- develop and implement a process to provide the installation commander, the first O-6 and first general or flag officer in the victim's chain of command with information on status and services provided to victims filing restricted reports of sexual assault within eight days of a report. When restricted reports are made, DoD SAPRO should work with the Services to ensure adequate measures are in place to protect the identity of the victim while providing sufficient information to track the victim's care.	Approve in Part OPR: USD (P&R)
#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.	Approve in part - refer to services for further study OPR: Secretaries of the Military Departments
#89- Direct the commanders and directors of the military criminal investigative organizations to authorize the utilization of Marine Corps Criminal Investigation Division, military police investigators, or security forces investigators to assist in the investigation of some non-penetrative sexual assault cases under the direct supervision of a special victim unit investigator to retain oversight.	Approve in Part OPR: DoD IG
#90- commanders and directors of the military criminal investigative organizations to require special	Approve in part -

<p>victim investigators not assigned to a dedicated special victim unit coordinate with a senior special victim unit agent on all sexual assault cases.</p>	<p>Ensure coordination of special victim prosecutor handling sexual assault case with special victim investigators OPR: USD (P&R)</p>
<p>#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.</p>	<p>Approve in Part (procedures be reviewed) OPR: Secretaries of the Military Department</p>
<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</p>
<p>#102- Secretary of Defense maintain the requirement for an investigator to notify the prosecution section of the staff judge advocate's legal office of an unrestricted sexual assault report within 24 hours, and for the special victim prosecutor to consult with the investigator within 48 hours, and monthly, thereafter. Establish milestones to insert the prosecutor into the investigative process early and to ensure that the special victim prosecutor contacts the victim or the victim's counsel as soon as possible after an unrestricted report.</p>	<p>Approve in part OPR: USD (P&R)</p>
<p>#109- assess the Special Victim Capability annually to determine the effectiveness of the multidisciplinary approach and the resources required to sustain the capability, as well as continue to develop metrics such as the victim "drop-out" rate, rather than conviction rates, to determine success.</p>	<p>Approve in Part OPR: USD (P&R)</p>
<p>#113- Judicial Proceedings Panel and Joint Service Committee consider whether to recommend legislation that would either split sexual assault offenses under Article 120 of the UCMJ into different articles that separate penetrative and contact offenses from other offenses or narrow the breadth of</p>	<p>Approve in Part- Already being studied by JPP</p>

conduct currently criminalized under Article 120.	GC referred to MJRG (not JSC) OPR: DoD GC
#62- develop and implement policy that, when information comes to military police about an instance of sexual assault by whatever means, the first step in an investigation is to advise the victim that she or he has the right to speak with a special victim counsel before determining whether to file a restricted or unrestricted report, or no report at all.	Disapprove
#37- Congress not further limit the authority under the UCMJ to refer charges for sexual assault crimes to trial by court-martial beyond the recent amendments to the UCMJ and DoD policy.	GC referred to MJRG OPR: DoD GC
#39- Congress repeal Section 1744 of NDAA for FY 2014, requiring a convening authority's decision not to refer certain sexual assault cases be reviewed by a higher general court-martial convening authority or the Service Secretary, depending on the circumstances, due to the real or perceived undue pressure it creates on staff judge advocates to recommend referral, and on convening authorities to refer, in situations where referral does not serve the interests of victims or justice.	GC referred to MJRG OPR: DoD GC
#40- If Congress does not repeal Section 1744, & requirement for elevated review of non-referred case files continues, the Secretary of Defense direct a standard format be developed for declining prosecution in a case, modeled after the contents of civilian jurisdiction declination statements or letters. The DoD should coordinate with the Department of Justice, or with state jurisdictions that are more familiar with the sensitive nature of sexual assault cases, to develop a standard format for use by all Services. Any such form should require a sufficient explanation without providing too much detail so as to ensure the written reason for declination to prosecute does not jeopardize the possibility of a future prosecution or contain victim-blaming language.	GC referred to MJRG OPR: DoD GC
#41- Congress not enact Section 2 of the Victim's Protection Act of 2014, which would require the next higher convening authority or Service Secretary to review a case if the senior trial counsel disagreed with the staff judge advocate's recommendation against referral or the convening authority's decision not to refer one of these sexual assault cases. The staff judge advocate is the general court-martial convening authority's legal advisor on military justice matters; there is no evidence that inserting the senior trial counsel into the process will enhance the fair administration of military justice.	GC referred to MJRG OPR: DoD GC
#42- Congress not adopt additional amendments to Article 60 of the UCMJ beyond the significant limits on discretion already adopted, and the President should not impose additional limits to the post-trial	GC referred to MJRG

authority of convening authorities.	OPR: DoD GC
#43- Congress amend Section 1702(b) of the National Defense Authorization Act for Fiscal Year 2014 to allow convening authorities to grant clemency as formerly permitted under the UCMJ to protect dependents of convicted Service members by relieving them of the burden of automatic and adjudged forfeitures.	GC referred to MJRG OPR: DoD GC
#44- Services to extend the opportunity for special victim counsel representation, although not necessarily the same special victim counsel, to a victim so long as a right of the victim exists and is at issue.	GC referred to MJRG OPR: DoD GC
#114- Congress not enact Section 3(b) of the Victim's Protection Act of 2014, which requires the convening authority to give "great weight" to a victim's preference where the sexual assault case be tried, in civilian or military court. The Services do not have control over the civilian justice system, and jurisdiction must be based on legal authority, not the victim's personal preferences, so this decision should remain within the discretion of the civilian prosecutor's office and the convening authority.	GC referred to MJRG OPR: DoD GC
#121- Congress should enact Section 3(g) of the Victim's Protection Act of 2014 because it may increase victim confidence. Further changes to the military rules of evidence regarding character evidence are not necessary at this time.	GC referred to MJRG OPR: DoD GC
#122- direct a study to analyze whether changes should be made to the Manual for Courts-Martial, the UCMJ, and Service regulations, respectively, to make military judges the sole sentencing authority in sexual assault and other cases in the military justice system.	GC referred to MJRG OPR: DoD GC
#123- recommend amendments to the Manual for Courts-Martial and UCMJ to impose sentences which require the sentencing authority to enumerate the specific sentence awarded for each offense and to impose sentences for multiple offenses consecutively or concurrently to the President and Congress, respectively.	GC referred to MJRG OPR: DoD GC
#124- The Panel does not recommend the military adopt sentencing guidelines in sexual assault or other cases at this time.	GC referred to MJRG OPR: DoD GC
#125- Congress not enact further mandatory minimum sentences in sexual assault cases at this time.	GC referred to MJRG OPR: DoD GC
#45- The Judicial Proceedings Panel and the Joint Services Committee should review and clarify the extent of a victim's right to access information that is relevant to the assertion of a particular right.	GC referred to JSC OPR: DoD GC
#46- recommend to the President changes to the Manual for Courts-Martial and prescribe appropriate regulations to clarify a victim's right to be heard includes the right to be heard on legal issues through	GC referred to JSC OPR: DoD GC

counsel.	
#53- clarify that victims have legal standing to enforce their rights listed in Article 6b of the UCMJ at any relevant time in the proceedings, including before, during, and after trial.	GC referred to JSC OPR: DoD GC
#54A- President changes to the Manual for Courts-Martial and prescribe appropriate regulations that provide victims a right to be heard regarding a pretrial agreement.	GC referred to JSC OPR: DoD GC
#54B- The proposed changes provide victims the right to be heard by the convening authority regarding a plea, with appropriate consideration to account for military pretrial agreement practice.	GC referred to JSC OPR: DoD GC
#54-C: The recommended changes ensure the right to be heard before the convening authority decides to accept, reject, or propose a counteroffer to a pretrial agreement offer submitted by an accused. The convening authority should retain discretion to determine the best means to comply with this right and consider the victim's opinion (e.g., submission in writing, in person).	GC referred to JSC OPR: DoD GC
#55- creation and implementation of mechanisms, where not currently in place, requiring trial counsel to convey the victim's specific concerns and preferences to the convening authority regarding case disposition. These procedures will take into account the convening authority's role in the disposition of cases under the military justice system and create a process more analogous to a victim's right to confer with a prosecutor under the Crime Victim's Rights Act.	GC referred to JSC OPR: DoD GC
#56- President changes to the Manual for Courts-Martial and prescribe appropriate regulations to provide victims the right to make an unsworn victim impact statement, not subject to cross examination during the presentencing proceeding, with the following safeguards: - The members should be instructed similarly to the instruction they receive when the accused makes an unsworn statement; - The substance of the unsworn statement, including all material facts, should be in writing, available to the defense counsel before sentencing and be subject to the same objections available to the government regarding the accused's unsworn statement; and -If there is ""new matter"" that could affect the sentence brought up in the victim's unsworn statement, a military judge may take appropriate corrective action.	GC referred to JSC OPR: DoD GC
#58-President changes to the Manual for Courts-Martial and prescribe appropriate regulations to ensure that military investigators, prosecutors and other DoD military and civilian employees engaged in the detection, investigation, or prosecution of crime use their best efforts to notify and accord victims the rights specified in Article 6b of the UCMJ	GC referred to JSC OPR: DoD GC
#60- direct an expedited study of what constitutes low-level collateral misconduct in sexual assault cases and examine whether a procedure for granting limited immunity should be implemented in the future.	GC referred to JSC OPR: DoD GC
#81- provide independent, deployable defense investigators in order to increase the efficiency and effectiveness of the defense mission in sexual assault cases and the fair administration of justice.	GC referred to JSC (pending)

	OPR: DoD GC
#63- DoD SAPRO, in coordination with the Services and the DoD Inspector General, to change restricted reporting policy to allow a victim who has made a restricted report to provide information to a military criminal investigative organization agent, but only when a victim advocate and/or special victim counsel is present, without the report automatically becoming unrestricted and triggering a law enforcement investigation. This should be a voluntary decision on the part of the victim. The policy should prohibit military criminal investigative organizations from using information obtained in this manner to initiate an investigation or title an alleged offender as a subject, unless the victim chooses, or changes, his or her preference to an unrestricted report. The Secretary of Defense should require this information be provided the same safeguards as other criminal intelligence data to protect against misuse of the information.	Currently in pending legislation for FY 2015
#67- DoD SAPRO develop policy/ procedures for sexual assault response coordinators to input information into DSAID on offenders identified by those victims who opt to make restricted reports. These policies should include procedures on whether to reveal the alleged offender's personally identifying information to the military criminal investigative organization when there is credible information the offender is identified or suspected in another sexual assault, providing safeguards for that personally identifiable information.	Currently in pending legislation for FY 2015
#66- adult unwanted sexual contact reports handled by the Family Advocacy Program and recorded in its database be included in the annual DoD SAPRO report of adult unwanted sexual contact cases.	Refer to Working Group OPR: USD (P&R)
#69- Service secretaries create a means by which sexual assault victims who file a restricted report may request an expedited transfer without having to make their report unrestricted.	Refer to Working Group OPR: USD (P&R)
#93- SECDEF direct Service Secretaries to standardize the process for determining a case is unfounded. The decision to unfound reports should apply the Uniform Crime Reporting Program standard to determine if a case should be unfounded. Only those reports determined to be false or baseless should be unfounded.	Refer to working group. OPR: DoD IG
#94A- SECDEF direct military criminal investigative organizations to standardize their procedures to require that military criminal investigative organization investigators coordinate with the trial counsel to review all of the evidence, and to annotate in the case file, that the trial counsel agrees all appropriate	Refer to working group. OPR: Secretaries

<p>investigation has taken place, before providing a report to the appropriate commander for a disposition decision. Neither the trial counsel, nor the investigator, should be permitted to make a dispositive opinion whether probable cause exists.</p>	<p>of the Military Departments</p>
<p>#94B- military criminal investigative organization commanders and directors continue to ensure investigators are trained that all sexual assault cases remain open for further investigation until final disposition of the case.</p>	<p>Refer to working group. OPR: DoD IG</p>
<p>#107B- each Service's Judge Advocate General Corps and military criminal investigative organizations work together to co- locate prosecutors and investigators who handle sexual assault cases on installations where sufficient caseloads justify consolidation and resources are available. Additionally; locating a forensic exam room with special victims' prosecutors and investigators, where caseloads justify such an arrangement, can help minimize the travel and trauma to victims while maximizing the speed and effectiveness of investigations. Because of the importance of protecting privileged communication with victims, the Panel does not recommend that the sexual assault response coordinator, victim advocate, special victim counsel or other victim support personnel be merged with the offices of prosecutors and investigators.</p>	<p>Refer to working group OPR: USD (P&R)</p>
<p>#76- establish an advisory panel, comprised of persons external to the DoD, to offer to the Secretary and other senior leaders in DoD independent assessment and feedback on the effectiveness of DoD's sexual assault prevention and response programs and policies.</p>	<p>Defer consideration until JPP completes assessments.</p>

APPENDIX

Recommendation #7

“The Secretary of Defense direct the creation of an advisory panel of qualified experts from the Bureau of Justice Statistics and the National Academy of Sciences' Committee on National Statistics to consult with the RAND Corporation, selected to develop and administer the 2014 Workplace and Gender Relations Survey of Active Duty Members, and any other agencies or contractors that develop future surveys of crime victimization or workplace environments, to ensure effective survey design.”

Approved Recommendation #7, as revised:

Collaborate with qualified experts from the Bureau of Justice Statistics and the National Academy of Sciences' Committee on National Statistics to consult with the RAND corporation or other entity, selected to develop and administer the 2014 Workplace and Gender Relations Survey of Active Duty Members, and any other agencies or contractors that develop future surveys of crime victimization or workplace environments, to ensure effective survey design.

Recommendation #68

“The Secretary of Defense direct DoD SAPRO to develop and implement a process to provide the installation commander, the first O-6, and first general or flag officer in the victim's chain of command with information on status and services provided to victims filing restricted reports of sexual assault within eight days of a report. When restricted reports are made, DoD SAPRO should work with the Services to ensure adequate measures are in place to protect the identity of the victim while providing sufficient information to track the victim's care.”

Approved Recommendation #68, as revised:

The Secretary of Defense direct DoD SAPRO to develop and implement a process to provide the installation commander with information on status and services offered to victims filing restricted reports of sexual assault within eight days of a report. To protect the integrity of the restricted reporting process, no personal identifying information will be provided in the reports to the installation commander.

Recommendation #86

“The Service 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.”

Approved Recommendation #86 as revised:

The Judge Advocates General of the Military Departments and the Staff Judge Advocate to the Commandant of the Marine Corps permit only counsel with litigation experience to serve as trial counsel and defense counsel in penetrative-type sexual offenses, and set a minimum tour length of two years for defense counsel, consistent with the needs of the Service and to the extent practicable.

Recommendation #89:

“The Secretary of Defense direct the commanders and directors of the military criminal investigative organizations to authorize the utilization of Marine Corps Criminal Investigation Division, military police investigators, or security forces investigators to assist in the investigation of some non-penetrative sexual assault cases under the direct supervision of a special victim unit investigator to retain oversight.”

Approved Recommendation #89, as revised:

The Secretary of Defense direct the utilization of Marine Corps Criminal Investigative Division, military police investigators, or security forces investigators to assist in the investigation of some non-penetrative sexual assault cases under the direct supervision of a special victim capability investigator to retain oversight, provided that only specially trained MCIO personnel have direct contact with victim.

Recommendation # 90

“The Secretary of Defense direct commanders and directors of the military criminal investigative organizations to require special victim investigators not assigned to a dedicated special victim unit coordinate with a senior special victim unit agent on all sexual assault cases.”

Approved Recommendation #90, as revised:

The Secretaries of the Military Departments direct commanders and directors of the military criminal investigative organizations at locations without special victim capabilities require investigators to coordinate with their respective special victim capabilities investigators and prosecutors on all sexual assault cases.

Recommendation #91

“The Secretary of Defense direct a 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.”

Approved Recommendation # 91, as revised:

The Secretaries of the Military Departments direct a review of the Services' procedures for approving military criminal investigative organizations' requests to conduct timely pretext phone calls and text messages and establish a procedure to facilitate and further expedite military criminal investigative organizations' use of this investigative technique, in accordance with law.

Recommendation #96

"The Secretary of Defense direct 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."

Approved Recommendation #96, as revised:

The Secretaries of the Military Departments direct their respective military criminal investigative organization commanders and directors to carefully select and train military investigators assigned as part of the special victim capability, 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 as special victim capability personnel have the competence and commitment to investigate sexual assault cases.

Recommendation #102

"Secretary of Defense maintain the requirement for an investigator to notify the prosecution section of the staff judge advocate's legal office of an unrestricted sexual assault report within 24 hours, and for the special victim prosecutor to consult with the investigator within 48 hours, and monthly, thereafter. Establish milestones to insert the prosecutor into the investigative process early and to ensure that the special victim prosecutor contacts the victim or the victim's counsel as soon as possible after an unrestricted report."

Approved Recommendation #102, as revised:

The Secretary of Defense maintains the requirement for an investigator to notify the Staff Judge Advocate of an unrestricted report as soon as practicable, but not later than twenty-four hours of the unrestricted report, and for the special victim prosecutor to consult with the investigator on reoccurring basis. The Secretaries of the Military Departments shall establish procedures to ensure that special victim prosecutors contact the victim or victim's counsel as soon as possible after an unrestricted report.

Recommendation #109

“The Secretary of Defense assess the Special Victim Capability annually to determine the effectiveness of the multidisciplinary approach and the resources required to sustain the capability, as well as continue to develop metrics such as the victim "drop-out" rate, rather than conviction rates, to determine success.”

Approved Recommendation #109, as revised:

The Secretary of Defense shall periodically assess the Special Victim Capability to determine the effectiveness of the multidisciplinary approach and the resources required to sustain the capability, as well as continue to develop metrics such as the victim “drop-out” rate, rather than conviction rates to determine success.

Recommendation #113

“The Judicial Proceedings Panel and Joint Service Committee consider whether to recommend legislation that would either split sexual assault offenses under Article 120 of the UCMJ into different articles that separate penetrative and contact offenses from other offenses or narrow the breadth of conduct currently criminalized under Article 120.”

Approved Recommendation #113, as revised:

The Judicial Proceedings Panel and the Military Justice Review Group consider whether to recommend legislation that would either split sexual assault offenses under Article 120 of the UCMJ into different articles that separate penetrative and contact offenses from other offenses or narrow the breadth of conduct currently criminalized under Article 120.