



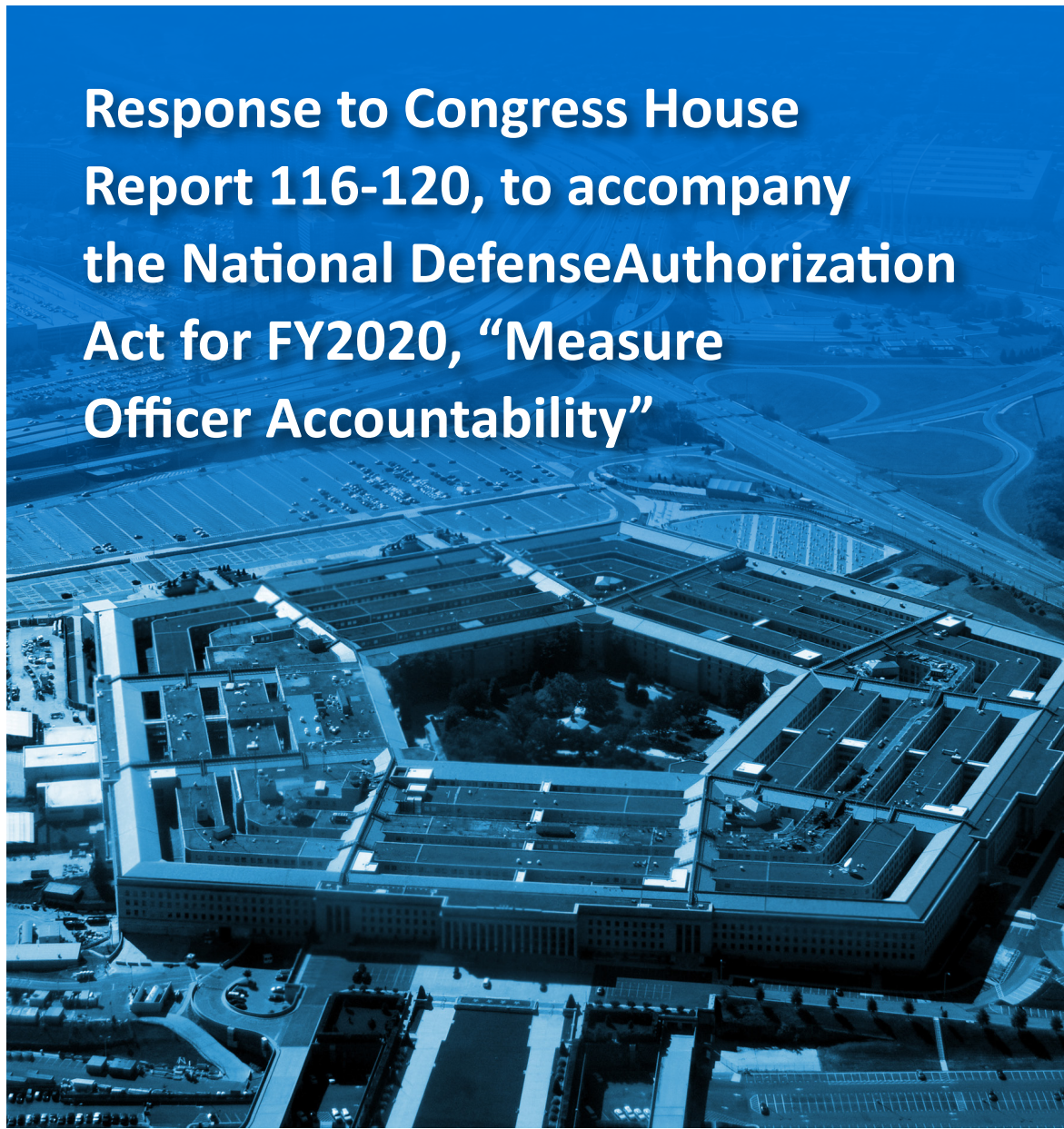
# INSPECTOR GENERAL

*Department of Defense*

MARCH 4, 2020



## Response to Congress House Report 116-120, to accompany the National Defense Authorization Act for FY2020, "Measure Officer Accountability"



INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





**Response to Congress**  
**House Report 116-120, to accompany the National Defense Authorization Act for FY2020,**  
**“Measure Officer Accountability”**

House Report 116-120, Report of the Committee on Armed Services, to accompany the National Defense Authorization Act for Fiscal Year 2020, contained a provision titled Measure Officer Accountability, that directed the DoD Office of Inspector General (OIG) to submit a report to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2020, containing data from fiscal year 2018 regarding:

- (1) the total number of substantiated cases of ostracism;<sup>1</sup>
- (2) the total number of substantiated cases of maltreatment;<sup>2</sup>
- (3) the total number of substantiated cases of retaliation that would meet the elements of Article 132 of the Uniform Code of Military Justice;<sup>3</sup>
- (4) the total number of commanders, across military services, who have been formally accused of mishandling reports of sexual harassment and sexual assault;
- (5) the total number of commanders, across military services, who have been formally reprimanded for mishandling reports of sexual harassment and sexual assault and what, if any, related disciplinary action was taken;
- (6) the total number of commanders, across military services, who have been formally accused of mishandling reports of victim retaliation related to sexual harassment and sexual assault;
- (7) the total number of commanders, across military services, who have been formally reprimanded for mishandling reports of victim retaliation related to sexual harassment and sexual assault and what, if any, related disciplinary action was taken;<sup>4</sup> and

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<sup>1</sup> The Army, Navy, and Air Force definitions for ostracism vary. Secretary of the Navy Instruction 5370.7D, “Military Whistleblower Protection,” December 4, 2014, and Air Force Guidance Memorandum 2015-01 to Air Force Instruction (AFI) 36-2909, “Professional and Unprofessional Relationships,” January 4, 2019, define ostracism as exclusion from social acceptance, privilege or friendship with the intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice. Army Directive 2014-20, “Prohibition of Retaliation Against Soldiers for Reporting a Criminal Offense,” June 19, 2014, defines ostracism as excluding from social acceptance, privilege or friendship a victim or other member of the Armed Forces because: (a) the individual reported a criminal offense; (b) the individual was believed to have reported a criminal offense; or (c) the ostracism was motivated by the intent to discourage reporting of a criminal offense or otherwise to discourage the due administration of justice.

<sup>2</sup> The Uniform Code of Military Justice (UCMJ) defines cruelty and maltreatment, a violation of Article 93, UCMJ (10 U.S.C. 893), as oppression, or maltreatment, although not necessarily physical, must be measured by an objective standard. Assault, improper punishment, and sexual harassment may constitute this offense. Sexual harassment includes influencing, offering to influence, or threatening the career, pay, or job of another person in exchange for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature. The imposition of necessary or proper duties and the exaction of their performance does not constitute this offense even though the duties are arduous or hazardous or both.

<sup>3</sup> DoD Instruction 1020.03, “Harassment Prevention and Response in the Armed Forces,” February 8, 2018 defines retaliation as illegal, impermissible, or hostile actions taken by a Service member’s chain of command, peers, or coworkers as a result of making or being suspected of making a protected communication in accordance with DoD Directive 7050.06, “Military Whistleblower Protection,” April 17, 2015. In addition to reprisal, additional retaliatory behaviors include ostracism, maltreatment, and criminal acts for a retaliatory purpose in connection with an alleged sex-related offense or sexual harassment.

<sup>4</sup> There are no reporting requirements for the Services concerning individual Commanders that are accused or reprimanded for mishandling reports of sexual assault or sexual harassment or for mishandling reports of victim retaliation related to sexual assault or sexual harassment. The data was obtained through various searches of the databases listed in footnotes 8 through 11 to identify if any Commanders were listed as being accused or reprimanded for mishandling such reports.

(8) the total number of commanders, across military services, who have received negative command climate reports related to sexual harassment, sexual assault, and gender discrimination.<sup>5</sup>

To obtain the above listed information, the DoD OIG sent a data request on October 17, 2019, to the Service Secretaries and the Commandant of the Marine Corps.

In response to the data request, the Service Inspectors General (IG), responding for the Service Secretaries and the Commandant, provided the following information for fiscal year 2018:

<b>Congressional Data Request</b>	<b>Army</b>	<b>Navy</b>	<b>Air Force</b>	<b>USMC</b>
<b>Q1.</b> Total number of substantiated cases of ostracism	0	0	0	3
<b>Q2.</b> Total number of substantiated cases of maltreatment	0	23	0	6
<b>Q3.</b> Total number of substantiated cases of retaliation that would meet the elements of Article 132 of the Uniform Code of Military Justice	5	2	0	2
<b>Q4.</b> Total number of commanders, across military services, who have been formally accused of mishandling reports of sexual harassment and sexual assault	6	0	3	0
<b>Q5.</b> Total number of commanders, across military services, who have been formally reprimanded for mishandling reports of sexual harassment and sexual assault and what, if any, related disciplinary action was taken	5 - Letters of Reprimand	0	1 - Article 15 & Relieved of Command	0
<b>Q6.</b> Total number of commanders, across military services, who have been formally accused of mishandling reports of victim retaliation related to sexual harassment and sexual assault:	1	0	0	0
<b>Q7.</b> Total number of commanders, across military services, who have been formally reprimanded for mishandling reports of victim retaliation related to sexual harassment and sexual assault and what, if any, related disciplinary action was taken	0	0	0	0
<b>Q8.</b> Total number of commanders, across military services, who have received negative command climate reports related to sexual harassment, sexual assault, and gender discrimination	The DoD does not categorize command climate assessments as positive or negative, as such the services did not provide a response to this question.			

We met with the Service IG representatives from the Army, Navy, Air Force, and Marine Corps to discuss their methodology for collecting the requisite data. The Service IG representatives told us that they collected the data from multiple Service databases that track Service related ostracism, retaliation, sexual harassment and sexual assault incidents.<sup>6</sup> The data is entered into

<sup>5</sup> According to the Director, DoD Office of People Analytics, the office responsible for the Defense Organizational Climate Survey (DEOCS), does not classify command climate reports as "negative" or "positive." Rather, the DEOCS assesses a range of various aspects of workplace climate and experiences, and scores on these constructs generally vary within a unit. There is no criteria by which a report is classified as negative. The DEOCS is administered within 120 days of a new commander assuming command, and annually thereafter, and provides information about the climate within the unit to inform his or her decision-making and highlight potential areas of concern for follow-on assessment and action, allowing a commander to address problem areas before they escalate.

<sup>6</sup> We did not test the reliability of the data bases or the data entered into those data bases.

multiple Service databases by the responsible entity such as Service IGs, Staff Judge Advocates, Military Criminal Investigative Organizations, and Sexual Assault Prevention and Response (SAPR) offices.<sup>7</sup> The following sections provide more detail on the methodology used by Service IG personnel.

**Army:** The Department of the Army Inspector General (DAIG) representatives told us that the information provided in response to our OIG data request was collected from a search of various Army databases maintained by the DAIG, the Army Sexual Harassment Assault Response and Prevention (SHARP) office, the Office of the Judge Advocate General, the U.S. Army Criminal Investigation Command, and Military Justice online.<sup>8</sup> Additionally, the DAIG told us that the Army SHARP office has a quarterly requirement to report incidents of ostracism, maltreatment, and retaliation to the DoD SAPRO pertaining to complaints of retaliation in connection to sexual assault and sexual harassment.

**Navy:** The Navy Inspector General (NAVINSGEN) Chief of Staff (CoS) told us that the information provided in response to our OIG data request was collected from a manual search of various Navy databases maintained by the NAVINSGEN, the Office of the Navy Judge Advocate, Naval Criminal Investigative Service, and Chief of Naval Personnel.<sup>9</sup> Additionally, the NAVINSGEN CoS told us that the Department of the Navy Sexual Assault Prevention and Response Office (SAPRO) has a quarterly requirement to report incidents of ostracism, maltreatment, and retaliation to the DoD SAPRO pertaining to complaints of retaliation in connection to sexual assault and sexual harassment.

**Air Force:** The Air Force IG CoS told us that the information provided in response to our OIG data request was collected from a search of various Air Force databases maintained by the Air Force IG, the Air Force Judge Advocate General, the Air Force Office of Special Investigations, and the Air Force SAPR Program.<sup>10</sup> Additionally, the Air Force SAPR coordinator told us that the Air Force has a quarterly requirement to report incidents of ostracism, maltreatment, and retaliation to the DoD SAPRO pertaining to complaints of retaliation in connection to sexual assault and sexual harassment.

**Marine Corps:** The U.S. Marine Corps IG CoS told us that the information provided in response to the OIG data request was collected from a search of various Marine Corps databases maintained by the Marine Corps IG, the Marine Corps Manpower and Reserve Affairs, and the Marine Corps Judge Advocate General.<sup>11</sup> Additionally, the Marine Corps SAPR coordinator told us that the Marine Corps SAPR program has a quarterly requirement to report instances of

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<sup>7</sup> Each of the Service IG representatives told us that the Under Secretary of Defense for Personnel and Readiness annually issues a memorandum that requires the reporting of Service related ostracism, retaliation, and maltreatment incidents to the DoD Sexual Assault Prevention and Response Office (SAPRO). This information is included in the DoD "Annual Report on Sexual Assault in the Military," as required by Section 543, of Public Law No: 114-328, National Defense Authorization Act for Fiscal Year 2016.

<sup>8</sup> Army data bases used in compiling its response included: Judge Advocate: Judge Advocate Corps Network (JAGCNET)/Military Justice Online; CID: Army Law Enforcement Reporting and Tracking System (ALERTS); Inspector General Action Request System (IGARS); Inspector General Worldwide Network (IGNET)

<sup>9</sup> Navy data bases used in compiling its response included: Naval Inspector General Hotline Tracking System (NIGHTS); NCIS: Consolidated Law Enforcement Operations Center (CLEOC); Naval Justice Information System (NJIS); OJAG Case Management System (CMS)

<sup>10</sup> Air Force data bases used in compiling its response included: AF IG: Automated Case Tracking System (ACTS); Judge Advocate: Air Force Automated Justice Analysis and Management System (AMJAMS); AFOSI: Investigative Information Management System (I2MS)

<sup>11</sup> Marine Corps data bases used in compiling its response included: Naval Inspector General Hotline Tracking System (NIGHTS); NCIS: Consolidated Law Enforcement Operations Center (CLEOC); Officer Disciplinary Notebook Management System (ODNMS)

ostracism, retaliation, and maltreatment to the DoD SAPRO pertaining to complaints of retaliation in connection to sexual assault and sexual harassment.

**DoD Sexual Assault Prevention and Response Office (SAPRO):** The DoD SAPRO Deputy Director told us the data provided to us by the Services were consistent with data collected by the DoD SAPRO during the development of the Department of Defense Fiscal Year 2018 Annual Report on Sexual Assault in the Military. The Deputy Director also told us the data provided by the Services were consistent with the data reported by the DoD SAPRO in prior year annual reports.

# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

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