



THE SECRETARY OF THE NAVY
WASHINGTON, D.C. 20350-1000

February 7, 2022

MEMORANDUM FOR ASSISTANT SECRETARIES OF THE NAVY
CHIEF OF NAVAL OPERATIONS
COMMANDANT OF THE MARINE CORPS
GENERAL COUNSEL OF THE NAVY

SUBJECT: Implementation of the Recommendations of the Independent Review Commission on Sexual Assault in the Military and the Fiscal Year 2022 National Defense Authorization Act Related to Sexual Assault Prevention, Response, and Accountability

Sexual assault and related crimes are a scourge upon our military and will not be tolerated within the Department of the Navy (DON). In addition to damaging victims' lives, these offenses pose a threat to the readiness and cohesion of our Armed Forces and undermine trust between commanders and their subordinates. We must do more. I expect DON leaders to continue to embrace reform, rebuild trust, and approach these problems with determined and unwavering leadership.

The Fiscal Year 2022 (FY22) National Defense Authorization Act (NDAA) provides us new tools to deter misconduct and prosecute sexual assault, domestic violence, and other covered offenses. The DON will implement these reforms in concert with the Deputy Secretary of Defense's (DepSecDef) tiered implementation roadmap (roadmap) of the recommendations of the Independent Review Commission (IRC) to ensure a comprehensive, integrated response. To ensure effective progress across the DON, this memorandum establishes roles and responsibilities for structuring our efforts and articulates my expectations, including those for immediate action.

I expect every Sailor, Marine, and civilian employee of the DON to be familiar with key features of the FY22 NDAA and the IRC's thorough report and its recommendations. Sexual assault and sexual harassment often take place in environments where other unacceptable behaviors are tolerated. Developed by the DON, "The Watch List" is an evidence-based informational tool, which highlights five behavioral signals as key indicators of conditions that increase the risk of sexual assault: sexual harassment, gender discrimination, lack of responsibility and intervention, lack of respect and cohesion, and workplace hostility. I expect leaders at all levels to be familiar with The Watch List, to discuss it with their Sailors and Marines, to post it prominently in workspaces, and to use it to discuss FY22 NDAA and the IRC's recommendations. Information on The Watch List is currently available at <https://portal.secnav.navy.mil/orgs/sapro/SitePages/home.aspx>.

A key to eliminating sexual assault and sexual harassment from our ranks is eradicating the foundational barriers of misogyny, racism, discrimination based on sexual orientation or gender identity, and other forms of disrespect. Everyday indignities add up. I direct the DON to

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redouble its efforts to remove all barriers to equity in order to create a more respectful and inclusive culture throughout the force.

Successful implementation of the DepSecDef's roadmap and the FY22 NDAA requires a unified, team effort. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) will lead the DON's comprehensive implementation of the approved IRC recommendations and the statute. In so doing, I expect DON policies, programs, and budgets will be fully consistent with statute, policy, and instruction, and designed to achieve timely implementation of our objectives.

Establishment of Implementation Advisory Panel (IAP)

To aid ASN (M&RA) in this endeavor, I direct the establishment of an IAP, chaired by ASN (M&RA) and facilitated by DON Sexual Assault Prevention and Response Office. The IAP shall be comprised of the following members:

- (1) Assistant Secretary of the Navy (Financial Management and Comptroller);
- (2) General Counsel of the DON;
- (3) Deputy Commandant of the Marine Corps (Manpower and Reserve Affairs)
- (4) Chief of Naval Personnel;
- (5) Judge Advocate General;
- (6) Staff Judge Advocate to the Commandant of the Marine Corps;
- (7) Director of the Naval Criminal Investigative Service; and
- (8) Additional members as determined necessary by ASN (M&RA)

The IAP shall advise ASN (M&RA) on matters pertaining to the successful implementation of the DepSecDef's roadmap and the sexual assault prevention, response, and accountability reforms contained in the FY22 NDAA. In so doing, I expect the IAP to consider the full range of programs and tools available to address harmful behaviors and provide ASN (M&RA) with proposed actions that achieve unity of effort across the DON.

Immediate Actions

The IAP will review the DepSecDef's roadmap and Division A, Title V, Subtitle D (Military Justice Reform) and Subtitle E (Other Military Justice and Legal Matters) of the FY22

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NDAAs, and identify an Office of Primary Responsibility (OPR) and Offices of Coordinating Responsibility (OCR) to implement each applicable reform.

ASN (M&RA) will thereafter schedule periodic meetings of the IAP. To the greatest extent practicable, these periodic meetings should precede—and not duplicate—meetings of the Deputy's Workforce Council and the Workforce Management Group.

IAP meetings should include briefings on implementation from assigned OPRs to provide Secretarial strategic input and direction in accordance with the intent reflected in enclosure 1. Detailed implementation planning by OPRs should evaluate current resources and capabilities, including consideration of how DON personnel, facilities, and material may be best allocated to end the scourge of sexual assault in our ranks.

Conclusion

Culture is set by leaders. Discrimination, harassment, and sexual assault of any Sailor, Marine, or civilian employee impacts readiness. Only determined and unwavering leadership at all levels will bring about the cultural reform necessary to prevent these offenses.



Carlos Del Toro

Attachments:
As stated

cc:
UNSECNAV
ACMC
VCNO
DUSN
DMCS
DNS
DC (M&RA)
CNP
CNR
JAG
JAD
AUDGEN
CHINFO
DON CIO
NAVIG
NCIS
OCMO
OLA

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OSBP

ENCLOSURE 1

In furtherance of my intent to implement the DepSecDef's tiered implementation roadmap of the recommendations of the IRC and the sexual assault prevention, response, and accountability reforms in the FY22 NDAA, I provide the following strategic guidance:

A Comprehensive, Team Effort.

1. Successful implementation of these foundational reforms will require a team effort. The ASN (M&RA) will lead the Department's comprehensive implementation. The IAP, chaired by ASN (M&RA), shall advise on matters pertaining to successful implementation.

2. The Department will continue to implement those recommendations of the IRC that do not conflict with the FY22 NDAA reforms. We will move forward in alignment with the DepSecDef's IRC implementation roadmap, and in close coordination with both the Office of the Secretary of Defense and our fellow Military Departments.

3. My expectation is that we move forward on these recommendations and the FY22 NDAA reforms aggressively, with an emphasis on improving the Department's prevention activities to stop sexual assault, sexual harassment, and other offenses before they occur.

4. I expect all stakeholders to work closely with the IAP throughout planning and implementation, including by providing information or data necessary to ensure effective Secretarial guidance, consideration, and decision-making.

Resourced to Achieve the Mission.

1. I do not expect the Department's Service Members and civilian employees to successfully execute this mission by "doing more with less." As a result, all planning efforts should include a practical, meaningful analysis of resources, including personnel, facilities, and materials, necessary to meet the intent of the FY22 NDAA requirements, the approved recommendations of the IRC, and my direction.

2. In assessing required resources, I expect planners to consider current Sexual Assault Prevention and Response, investigation, and accountability capabilities and workload, including the number of personnel and billets, the number of investigations and accountability actions, and any relevant trends. Planners should assess how any proposed course of action might impact future prevention, response, and accountability efforts, with an eye toward ending the scourge by preventing these offenses in the first instance and holding offenders appropriately accountable.

Office of the Special Trial Counsel.

1. In general, my intent is for the special trial counsel and related office infrastructure to be: (1) **independent**, both in appearance and in fact; (2) **specialized**, that is, focused on covered offenses enumerated in the FY22 NDAA; and (3) **expert**, that is, possessed of the capacity and

expertise necessary to effectively perform the duties assigned to the office. Potential courses of action identified by planners should reflect this intent.

2. I expect planners to consider how that independence may be impacted by assignment rotation, broader career progression including promotion opportunities, and voluntary extension of assignments.

3. I also expect the IAP to consider the relationship of both individual special trial counsel and the associated office with other entities with responsibilities connected to military justice, including Naval Criminal Investigative Service and other Military Criminal Investigative Organizations. Planners should assess the feasibility and merits of including personnel from such entities within the office supervising the special trial counsel, including on the collection of evidence and other investigative steps related to the prosecution of covered offenses, and whether including personnel from other entities will impact the independence of the special trial counsel and related office infrastructure.

4. The IAP panelists should consider the foregoing strategic guidance, as well as the broader needs of each Military Service, in its advice pertaining to successful implementation.

Sexual Harassment Investigations.

1. SECNAVINST 5300.26E, the DON instruction governing Sexual Harassment policy, will require a major revision. While that revision is underway, I direct ASN (M&RA) to draft an ALNAV to require that all sexual harassment investigations be investigated from outside the chain of command wherein the alleged offensive behavior occurred. This draft ALNAV shall be complete within 45 days of this memorandum.

2. The Department shall collect data pertaining to informal complaints of sexual harassment. The IAP shall recommend a framework for successful implementation and, once approved by ASN (M&RA), such data shall be reported to the Secretariat.

Determination and Reporting of Missing and Absent Service Members.

1. Any time a Sailor or Marine is missing or absent, the DON's initial and primary priority is to ensure that individual's safety and security. I expect each Service, as directed and overseen by DC (M&RA) and CNP, to thoroughly review existing policies and procedures related to missing and absent Service Members and, if necessary, revise those policies and procedures to so reflect this prioritization.

2. Our installations and facilities must promote the physical security of our personnel. I expect leaders to thoroughly assess physical spaces under their control and to recommend security improvements, emphasizing the importance of improvements to lighting, locks, and security cameras, as well as the posting of watchstanders and sentries.

Improvement of Family Violence Prevention and Response.

1. I expect the Family Advocacy Program (FAP) to holistically review the services offered victims of domestic abuse, to include community partners and civilian victim service organizations. This review should aim to identify best practices and any potential gaps in current capabilities within FAP and the community. Planners should identify solutions to ensure victims of domestic abuse receive the full panoply of support and close any identified potential gaps.

2. I expect the FAP to review all information provided to military family members who report an incident of domestic abuse, intimate partner violence, or child abuse and neglect to ensure such information is accurate, concise, and clear. Upon completion of the review, materials will be revised as applicable.

Developing, Educating, and Promoting Leaders

1. In order to succeed, we must first foster an inclusive leadership culture. Therefore, I am directing the DON to prioritize development and execution of five IRC recommendations that will ensure we are focused on developing, educating, and promoting leaders, with completion no later than September 30, 2023:

- Recommendation 3.3b: Educate leaders on cyber harassment and technology-facilitated sexual harassment and sexual assault;
- Recommendation 3.4d: Review and revise Professional Military Education and schoolhouse curricula to mainstream Women, Peace, and Security Priorities;
- Recommendation 3.5a: Use qualitative data to select and develop the right leaders;
- Recommendation 3.6: Building a climate for the reduction of sexual harassment and sexual assault as a fundamental leader development requirement; and
- Recommendation 4.4c: Revise and update training modules on appropriate response to sexual assault and sexual harassment in PME for officers and NCOs.

2. Implementation plans for these five recommendations, with greater detail than required pursuant to the Department of Defense's implementation roadmap, including any necessary legislative proposals, shall be submitted to ASN (M&RA) by March 1, 2022.

Regulations, Instructions, and Policies.

1. All planning efforts should be accompanied by a thorough review of all regulations, instructions, and policies to ensure compliance with statute and direction related to the recommendations of the IRC, and promotion of my strategic intent.