



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JUN 08 2023

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
COMMANDERS OF THE COMBATANT COMMANDS
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Addressing Recommendations from the Internal Review Team on Racial Disparities
in the Investigative and Military Justice Systems

A significant body of data indicates racial disparities in the investigative and military justice systems exist. These disparities are unacceptable. They degrade Service members, directly impact recruitment and operational readiness, and undermine public trust in the military.

On May 3, 2022, I established the Internal Review Team (IRT) on Racial Disparities in the Investigative and Military Justice Systems to provide actionable recommendations aimed at eliminating these disparities. The IRT has completed its work and recommends several improvements in DoD policies, programs, processes, and resources to mitigate negative impacts.

Additional data and research remain warranted to identify root causes and eliminate these disparities, and the Department will continue its work to fulfill the requirements of the Fiscal Year (FY) 2020 National Defense Authorization Act (NDAA) section 540I to identify the causes of any racial, ethnic, or gender disparities in the military justice system. Additionally, in accordance with sections 549F and 549G of the FY 2022 NDAA, the Military Departments will assess racial disparities in the military justice and discipline process, as well as in military personnel policies.

There is nevertheless sufficient research and evidence to support thoughtful evaluation of the IRT's recommendations for immediate action. Accordingly, the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) will serve as my overall lead for developing a consolidated roadmap to address the IRT's recommendations, and each recommendation will have a designated Office of Primary Responsibility (OPR), as detailed in the attachment.

OPRs shall review the recommendations for which they are responsible and provide the USD(P&R) with an assessment, including whether the recommendations should be approved with or without revisions, or disapproved. The USD(P&R) will submit a consolidated assessment to me within 120 days from the date of this memorandum.

I deeply appreciate and value the IRT's thoughtful recommendations, and I look forward to the forthcoming roadmap to help ensure that the Department's investigative and military justice systems are inclusive, fair, and just.

Attachment:
As stated



OSD001377-23/CMD001728-23

INTERNAL REVIEW TEAM ON RACIAL DISPARITIES IN THE INVESTIGATIVE AND MILITARY JUSTICE SYSTEMS

KEY RECOMMENDATIONS AND OFFICES OF PRIMARY RESPONSIBILITY

- (1) Develop cultural core competencies to anchor training and education for officers, enlisted, and civilian personnel across their career life cycles and at all levels in the Department. **OUSD(P&R)**
- (2) Train and educate leaders at all levels to enhance their proficiency in talent management, improve their understanding of human behavior, and increase their acumen in interpersonal communications. **OUSD(P&R)**
- (3) Establish and implement enhanced legal training and education tailored to Service members at all levels who make discretionary decisions, with a focus on first-line supervisors. **OUSD(P&R)**
- (4) Develop and mandate appropriate training for all military police investigators (MPI) and for investigating officers (IOs) who conduct command-directed investigations. **OUSD(I&S)/OUSD(P&R)**
- (5) Adopt modern policing practices, such as the use of body-worn cameras and recording suspect interviews, to improve professionalism, oversight, and protections for officers and the public. **OUSD(I&S)**
- (6) Provide all Service members subject to nonjudicial punishment with a right to counsel. **OGC**
- (7) Update the “vessel exception,” and restrict its use to operationally necessary circumstances. **OGC**
- (8) Provide Service members with the right to legal representation at Summary Courts-Martial. **OGC**
- (9) Prohibit a Commanding Officer in the Accused’s chain of command from serving as the Summary Court-Martial Officer. **OGC**
- (10) Implement additional due process in the Administrative Separation proceedings of a Service member not otherwise entitled to a Separation Board. **OUSD(P&R)**
- (11) Add additional due process and access control for titling, indexing, and expungement of information in the Defense Central Index of Investigations and the Department of Justice National Criminal Information Center and Interstate Identification Index. **OIG**
- (12) Increase emphasis on compliance with Article 137, Uniform Code of Military Justice (UCMJ), which requires the explanation to Service members of certain Articles of the UCMJ at various points in their career. **OUSD(P&R)**
- (13) Improve and standardize data collection across all phases of the investigative, administrative, and military justice systems, particularly at the initial intake stages. **OUSD(P&R)**
- (14) Develop processes and policies for timely analysis and reporting of data to commanding officers and other key stakeholders. **OUSD(P&R)**
- (15) Provide commanding officers with “detection tools” and expert assistance to address potential areas of disparity. **OUSD(P&R)**
- (16) Establish a Principal Staff Assistant (PSA) for Law Enforcement. **OUSD(I&S)**
- (17) Institute appropriate oversight mechanisms to assess the impact of actions taken to ameliorate or eliminate racial disparities in law enforcement investigations, command inquiries, command-directed and other administrative investigations, adverse administrative actions, nonjudicial punishment, and military justice actions. **OIG**