

Annex 2: Independent Review Commission on Sexual Assault in the Military Implementation Update



Table of Contents

Introduction 2

Implementation Progress Update 2

Performance Measurement and Evaluation Update 6

Implementation Way Forward..... 6

Introduction

The Department of Defense (DoD) is taking unprecedented action to implement the historic reforms recommended by the Independent Review Commission on Sexual Assault in the Military (IRC) as approved by Secretary of Defense Lloyd Austin III in 2021 to prevent and respond to sexual assault in the military. The DoD Sexual Assault Prevention and Response Office (SAPRO) oversees sexual assault policy, working closely with the Military Services and DoD stakeholders to develop, implement, and track prevention and response programs, including those meeting the IRC recommendations. DoD SAPRO is tracking IRC implementation via three methods:

- **Implementation progress:** the tracking of how IRC Offices of Primary Responsibility (OPR) (e.g., the Military Services, and Office of the Secretary of Defense (OSD) Components) are completing their Plans of Action and Milestones (POAM), including implementation successes and any challenges or past due actions.
- **Performance measurement:** measuring key metrics from DoD surveys, administrative data, and other databases to monitor changes and progress associated with the implementation of the approved IRC recommendations.
- **Evaluation:** assessments of the fidelity of implementation and whether implementation of approved IRC recommendations had the intended effect.

This annex provides an update on the Department’s implementation progress for the 82 IRC recommendations directed to DoD and provides an update on the Department’s plan for evaluating implementation of the recommendations over time.

Implementation Progress Update

As of April 8, 2024, significant implementation actions have been undertaken or completed for 32 approved IRC recommendations. Implementation of the remaining approved recommendations directed to DoD is in progress.

As shown in Table 1, the Department implemented 11 recommendations since last year’s IRC Update Annex from Fiscal Year 2022 (FY22).

Table 1. IRC Recommendations and Actions Implemented Since FY22 IRC Update Annex

| Count | Recommendation | Implementation Action |
|-------|--|--|
| 1 | 1.1: [REVISED] Establishment of Offices of Special Victims Prosecutors and removing prosecution of sexual assaults and related crimes out of the military chain of command. | Completed. As of December 27, 2023, Special Trial Counsels will now make prosecutorial decisions and lead the prosecution effort for covered offenses. |
| 2 | 1.3: [REVISED] Study of judge-ordered Military Protective Orders for victims of sexual assault and related offenses. | Completed. DoD completed the study of judge-ordered Military Protective Orders and continues to consider the best facilitation of victim access to protective orders. |
| 3 | 1.6: Expedite processing of proposed Executive Orders regarding military justice, including those currently awaiting issuance | Completed. Executive Order 14103 of July 28, 2023, implemented this recommendation. |
| 4 | 1.7.a and b: [REVISED] The Military Justice Review Panel has been directed to study Article 32 Preliminary Hearings, and [REVISED] the Military Justice Review Panel has been directed to study Article 34, Advice to Convening Authority Before Referral to Trial. | Completed. The Military Justice Review Panel made a recommendation to the DoD Office of the General Counsel on Articles 32 and 34 by June 30, 2023. DoD continues to consider whether amendments of these articles in the Uniform Code of Military Justice (UCMJ) are warranted. |

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| 5 | 1.7.c: [REVISED] The Joint Service Committee on Military Justice has drafted a proposed Executive Order to establish a preponderance of the evidence standard for non-judicial punishment. | Completed. Executive Order 14103 of July 28, 2023, implemented this recommendation. |
| 6 | 1.7.d: The method of selection of court-martial panel members should be revised. | Completed. Selection of court-martial panel members was included in Section 543 of the FY23 National Defense Authorization Act. |
| 7 | 1.7.e: The Secretary of Defense should direct the Military Services to establish funding appropriate for defense counsel control of their own resources. | Completed. Executive Order 14103 of July 28, 2023, implemented this recommendation |
| 8 | 2.7.b: USD(P&R) should submit a legislative proposal providing authorization and funding for the NGB to conduct recurring National Guard unit inspections and staff assistance visits for prevention oversight and assistance. | Completed. Unit inspections and staff assistance visits were conducted at necessary National Guard locations, and an audit of the site visits was completed to forecast future year funding. |
| 9 | 3.3.c: Hold Service members appropriately accountable who engage in cyber harassment and other forms of technology-facilitated sexual harassment and sexual assault. | Completed. Office for Diversity, Equity, and Inclusion (ODEI) completed their report on cyber harassment Service member accountability, and the report was delivered to USD(P&R). |
| 10 | 3.7.a: [REVISED] USD(P&R) should develop a standardized "pulse survey" tool that would enable unit-level commanders to collect real-time climate data on sexual harassment and sexual assault from Service members in their units between required administrations of the <i>Defense Organizational Climate Survey (DEOCS)</i> . | Completed. The Office of People Analytics (OPA) launched the <i>Defense Organizational Climate Pulse Survey (DOCP)</i> , which is available to Commanders between administrations of the annual <i>DEOCS</i> . |
| 11 | 4.2.c: Expand access to Catch a Serial Offender (CATCH) Program to include victims of sexual harassment and enable Service members to self-service access to the CATCH Program. | Completed. The "Updated Catch a Serial Offender Procedures and New DD Form 2910-4" memorandum was signed by USD(P&R) on June 14, 2023. New procedures were published on the <sapr.mil/catch> webpage on June 30, 2023, and emailed to the Military Services and the NGB. |

In addition to the 11 recommendations listed above, Table 2 details the remaining 21 IRC recommendations and actions implemented.

Table 2. Remaining IRC Recommendations and Actions Implemented

| Count | Recommendation | Implementation Action |
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| 12 | 1.4: Professionalized career billets for military justice personnel handling special victim crimes. | Completed. |

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| 13 | 1.5: Judge-alone sentencing in all noncapital general and special courts-martial and establishment of sentencing parameters. | Completed. All legal authorities are in place for the new military justice sentencing system, which will apply to special and general courts-martial in which all findings of guilty are for offenses occurring after December 27, 2023. The new sentencing system will apply in all non-capital cases, regardless of offense. |
| 14 | 1.7.f: Article 128b of the UCMJ should be amended to include dating violence. | Completed. DoD submitted a legislative proposal to amend the UCMJ in accordance with DoD Directive (DoDD) 5500.01, "Preparing, Processing, and Coordinating Legislation, Executive Orders, Proclamations, Views Letters, and Testimony." |
| 15 | 2.1.a: The Undersecretary of Defense for Personnel and Readiness (USD(P&R)) should define the competencies leaders must have to oversee prevention. | Completed. DoD Instruction (DoDI) 6400.11 "Primary Prevention Policy for Prevention Workforce and Leaders," published on December 20, 2022, defined competencies. |
| 16 | 2.2.a: USD(P&R) should develop a model for a dedicated and capable prevention workforce. | Completed. The Prevention Workforce Model was signed by USD(P&R) on June 13, 2022. |
| 17 | 2.2.b: USD(P&R) should develop a professional credential for the prevention workforce. | Completed. DoDI 6400.11 "Primary Prevention Policy for Prevention Workforce and Leaders" defined the professional credential for the prevention workforce. In September 2022, a credentialing entity was identified and funded. |
| 18 | 2.6.b: USD(P&R), the Military Services, and the National Guard Bureau (NGB) should continually review and update all policies that unnecessarily restrict data collection on important populations of Service members. | Completed. DoDI 6400.11 "Primary Prevention Policy for Prevention Workforce and Leaders" was published, and the Military Services and NGB evaluated and updated policies in accordance with the DoDI. This instruction now addresses and alleviates restrictions on data collection on important populations of Service members. |
| 19 | 2.8: USD(P&R) should update the Department's prevention strategy, including the DoD Prevention Plan of Action (PPoA), to incorporate approved IRC recommendations. | Completed. PPoA 2.0 signed by USD(P&R) on May 27, 2022. |
| 20 | 4.3.c: Allow survivors flexibility to take non-chargeable time off for seeking services or time for recovery from sexual assault. | Completed. "Clarification of Convalescent Leave Policy for Service Members Recovering from Sexual Assault" was signed October 20, 2022. |
| 21 | 4.3.e: Study the methods our allies have used to make amends to survivors, including restorative engagement to acknowledge harm, and potential victim compensation. | Completed. |

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| 22 | 4.4.a: Establish a Defense Sexual Assault and Sexual Harassment Center of Excellence that administers a core curriculum of trauma and response trainings for all SAPR Victim Advocates (VAs) and Sexual Assault and Response Coordinators (SARCs), chaplains, and other response personnel. | Completed. |
| 23 | C.1: DoD should immediately make sexual harassment victims eligible for Sexual Assault Prevention and Response (SAPR) services and undertake a review of all policies and structures tasked with addressing elements of the military's sexual harassment response. | Completed. Memorandum signed by USD(P&R) on September 14, 2022, made sexual harassment victims eligible for SAPR services if requested. Review of policies is ongoing. |
| 24 | C.3.a: Designated independent judge advocates should replace commanders in deciding whether a charge should be tried by a court-martial and, if so, whether by a special or general court-martial (i.e., the referral decision) in domestic violence cases. | Completed. A modified version of this recommendation was enacted by the NDAA for FY22. Lead Special Trial Counsel have been Senate confirmed and appointed by the President. |
| 25 | C.3.b: DoD should establish a mechanism to track prevalence of domestic abuse/intimate partner related sexual assault by collecting information on the victim-perpetrator relationship in the <i>Workplace and Gender Relations Survey of Active-Duty Members (WGRA)</i> , and <i>Workplace and Gender Relations Survey of Reserve Component Members (WGRR)</i> . | Completed. The 2021 <i>WGRA</i> survey was published and incorporated the ability to estimate the prevalence of intimate partner-related unwanted sexual contact incidents as a form of intimate partner violence. |
| 26 | C.3.c: USD(P&R) should immediately publish the reissuance of DoDI 6400.06, "Domestic Abuse Involving DoD Military and Certain Affiliated Personnel." | Completed. DoDI 6400.06, "DoD Coordinated Community Response to Domestic Abuse Involving DoD Military and Certain Affiliated Personnel" and associated policy clarification memo published December 15, 2021. |
| 27 | C.4.b: DoD should require the collection of data regarding sexual orientation and gender identity on the <i>WGRA</i> and <i>WGRR</i> . | Completed. |
| 28 | C.4.c: DoD should ensure the <i>WGRA</i> and <i>WGRR</i> publish both past-year prevalence, prior to joining the military prevalence, and lifetime prevalence of sexual assault by race and ethnicity, sexual orientation, and gender identity. | Completed. |
| 29 | C.4.d: DoD SAPRO should work with the Centers for Disease Control and Prevention (CDC) Division of Violence Prevention to request that future reports of the military supplement to the National Intimate Partner and Sexual Violence Survey (NISVS) include a breakdown of past-year and lifetime prevalence by race/ethnicity. | Completed. |

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| 30 | C.4.e: DoD should ensure the <i>WGRA</i> and <i>WGRR</i> publish sexual harassment prevalence data by race and ethnicity, sexual orientation, and gender identity. | Completed. |
| 31 | C.4.h: DoD should require the collection of data regarding sexual orientation and gender identity on the <i>Workplace and Equal Opportunity Survey of Active Duty (WEOA)</i> and the <i>Workplace and Equal Opportunity Survey Reserve Component Members (WEOR)</i> . | Completed. |
| 32 | C.4.i: DoD should ensure the <i>Workplace and Equal Opportunity</i> surveys of military members publish past-year prevalence rates for racial/ethnic harassment by gender identity and sexual orientation. | Completed. |

Based on timelines outlined in the Implementation Roadmap signed by the Secretary of Defense on September 22, 2021, tier one approved recommendations must be completed by FY27, approved recommendations in tiers two and three must be completed by FY28, and tier four recommendations must be completed by FY30. Among the 32 approved recommendations completed thus far, 23 are tier one recommendations, seven are tier two or three recommendations, and two are tier four recommendations.

Performance Measurement and Evaluation Update

In addition to tracking OPR implementation progress, it is also important for the Department to monitor and evaluate the impact of a recommendation’s implementation on the DoD community. This FY, the Department continued to identify key metrics and measures from DoD surveys, databases (e.g., Defense Sexual Assault Incident Database), and other data sources to monitor progress associated with the implementation of the approved IRC recommendations across all IRC lines of effort (i.e., accountability, prevention, culture and climate, victim care and support, and cross-cutting recommendations). Specific IRC efforts are also under consideration for discrete evaluations to assess the fidelity and quality of implementation and effectiveness.

The identification of key performance measures and evaluations to assess the effectiveness of the Department’s efforts over time will allow the Department to readily observe a lack of a progress or ineffective implementation and adjust accordingly. Accordingly, metrics will be selected based on the ability to observe trends over time both before and after implementation of approved IRC recommendations.

Implementation Way Forward

DoD SAPRO will continue to collaborate with the Military Departments, Military Services, NGB, and OSD Components to implement and evaluate the IRC recommendations as approved by the Secretary of Defense.