



THE DEFENSE ADVISORY COMMITTEE ON
INVESTIGATION, PROSECUTION, AND DEFENSE OF
SEXUAL ASSAULT IN THE ARMED FORCES

July 1, 2024

The Honorable Caroline Krass
General Counsel
United States Department of Defense
Pentagon
Washington, DC 20301

Dear Ms. Krass:

On the six-month anniversary of the rollout of the Offices of the Special Trial Counsel (“OSTCs”), this Committee writes to flag a few preliminary concerns regarding the operation of those offices as well as of their counterpart, Trial Defense Services (“TDS”)—the offices that, respectively, prosecute and defend sexual assault and related cases. Importantly, these concerns extend to the operations of other military justice stakeholders, including victims’ counsel and military criminal investigators’ offices, organizations that are critical to the Armed Forces’ mission to respond to sexual assault in its ranks.

For context, this year DAC-IPAD members have visited 11 military installations (Navy, Marine Corps, Army, and Air Force) to conduct non-attribution site visits in the field. Although we have not yet had the opportunity to study, in depth, the information received, military justice stakeholders are reporting that some OSTCs, TDS, victims’ counsel, and military criminal investigative organizations (MCIOs) have not been resourced or staffed appropriately to function at optimal levels. And while the DAC-IPAD has five more installation site visits this year, a delay in raising these concerns could impede the success of the restructuring of the military justice system following the creation of the OSTCs and could slow the crucial process of restoring Service members’ trust in the military justice system.

Preliminary feedback from DAC-IPAD site visits thus far indicates problems caused by the lack of human resources and the uneven allocation of experienced counsel. For example, some STCs suggested that while they could benefit from having more attorneys, additional support staff—paralegals, victim liaisons, investigators, administrative and data entry personnel—might reduce the number of additional attorneys needed. The need for additional support staff was echoed by personnel in victims’ legal counsel organizations and MCIOs. Moreover, some TDS practitioners reported serious workforce resourcing issues and disparities in both experience and rank in comparison with their OSTC counterparts. If these are systemic problems, they raise concerns about the ability to recruit and retain experienced military justice personnel, the independence of the OSTCs, the equity of experience across the prosecution, defense, and victims’ legal counsel bars, and the staffing of military justice offices writ large.

To assess whether these preliminary concerns from the field are systemic problems, the Department of Defense could conduct a quantitative assessment of how OSTC, TDS, victim’s legal counsel, and MCIO offices are being staffed. The findings could be shared with the DAC-

IPAD for inclusion in the site visit report we expect to issue in March 2025. While the DAC-IPAD intends to make recommendations on addressing these issues after appropriate review, attention to these resourcing and attorney assignment concerns should not be delayed. Such an assessment may be particularly important given that sexual harassment will become an additional OSTC offense on January 1, 2025, a change that could increase the stress on office staffing.

Finally, we want to emphasize that we are also hearing positive feedback from the site visit participants, which will be further detailed in our future discussions and reports. The members of the DAC-IPAD would like to express our sincere gratitude and appreciation for the opportunity to make use of our collective experience and expertise in this field to advise you and the Secretary of Defense on how to improve the military's response to sexual misconduct within its ranks. We will continue to keep you apprised of these and other issues.

CC: The Honorable Lloyd J. Austin III
The Honorable Carlos del Toro
The Honorable Frank Kendall III
The Honorable Christine E. Wormuth

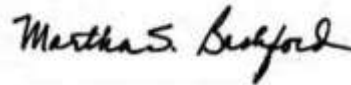
Respectfully submitted,



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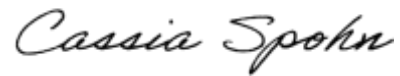
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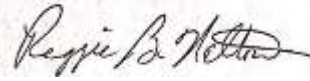
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