



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

MINUTES OF JANUARY 19, 2017 PUBLIC MEETING

AUTHORIZATION

The Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (“the Committee”) is a federal advisory committee established by the Secretary of Defense in February 2016 in accordance with section 546 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 and section 537 of the NDAA for FY 2016. The Committee is tasked to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces based on its review of such cases on an ongoing basis.

EVENT

The Committee held its initial public meeting on January 19, 2017 from 10:04 a.m. to 3:54 p.m. The Committee received informational presentations on the court-martial process, recent legislation involving sexual assault in the U.S. military, and the two most recent predecessor Department of Defense panels on sexual assault: the Judicial Proceedings Since 2012 Amendments Panel (JPP) and the Response Systems to Adult Sexual Assault Crimes Panel (RSP). Following the briefs, the Committee held a planning session for Committee members to discuss the statutory taskings, topical priorities, and development of the Committee’s strategic plan.

LOCATION

The meeting was held at the Holiday Inn Arlington at Ballston, The Grand Ballroom, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

MATERIALS

A verbatim transcript of the meeting, as well as preparatory materials provided to the Committee members prior to and during the meeting, are incorporated herein by reference and listed individually below. The meeting transcript and materials received by the Committee are available on the website at: <http://dacipad.whs.mil>.

PARTICIPANTS

Committee Members

Ms. Martha Bashford, Chair
Major General Marcia Anderson, U.S. Army
Reserve (Retired)
The Honorable Leo Brisbois
Ms. Kathleen Cannon
Ms. Meg Garvin
The Honorable Paul Grimm
Dean Keith Harrison
Mr. A.J. Kramer
Ms. Jennifer Long

Sergeant James Markey, Phoenix Police
Department (Retired)
Dr. Jenifer Markowitz
Chief Master Sergeant of the Air Force
Rodney McKinley, U.S. Air Force
(Retired)
Dr. Cassia Spohn
Brigadier General James Schwenk, U.S.
Marine Corps (Retired)
Ms. Meghan Tokash
The Honorable Reggie Walton

Committee Staff

Captain Tammy Tideswell, JAGC, U.S. Navy, Staff Director
Lieutenant Colonel Patricia Lewis, JAGC, U.S. Army, Deputy Staff Director
Mr. Dale Trexler, Chief of Staff
Ms. Julie Carson, Legislative Liaison and Staff Attorney
Dr. Janice Chayt, Investigator
Ms. Theresa Gallagher, Staff Attorney
Ms. Nalini Gupta, Staff Attorney
Ms. Amanda Hagy, Senior Paralegal
Ms. Meghan Peters, Staff Attorney
Ms. Stayce Rozell, Senior Paralegal and Meeting Recorder
Ms. Tiffany Williams, Supervising Paralegal

Other Participants

Lieutenant Colonel Jacqueline M. Stingl, U.S. Air Force, Office of the General Counsel,
Department of Defense Alternate Designated Federal Official (Alternate DFO)

Presenters

The Honorable Jennifer M. O'Connor, General Counsel, Department of Defense
Mr. Dwight Sullivan, Office of the General Counsel, Department of Defense
Captain Warren Record, JAGC, U.S. Navy, Chair, Joint Services Committee on Military Justice
Ms. Maria Fried, Office of the General Counsel, Department of Defense

MEETING MINUTES

The Alternate DFO opened the public meeting at 10:04 a.m. Chair Martha Bashford provided opening remarks and summarized the agenda for the meeting.

Welcome Remarks

The Honorable Jennifer M. O'Connor, General Counsel, Department of Defense, welcomed the Committee members and thanked them for their service. She outlined a number of reforms

already made in the area of sexual assault in the military and encouraged the Committee to consider certain topics as they develop their strategy. She noted that the Committee has the opportunity to make a lasting impact on the lives of those serving in the Armed Forces.

Overview of the Court-Martial Process

Mr. Dwight Sullivan provided an overview of the military justice system, including the court-martial process and non-judicial punishment. He highlighted the differences between summary courts-martial, special courts-martial, and general courts-martial. Mr. Sullivan answered questions from the Committee about jurisdiction and recent legislative requirements, such as the requirement that all penetrative sexual assaults referred to a court-martial must be tried at a general court-martial.

Legislative Highlights and the History of Sexual Assault Issues in the Armed Forces Since 2012

Captain Warren Record provided an overview of changes to military justice since 2012, highlighting that there have been more changes since 2012 than there had been in the previous 61 years. He noted that reaction to the RAND survey, which estimated that 26,000 Servicemembers were the victims of sexual assault, brought tremendous attention to the problem in the Armed Forces. His presentation focused on changes since 2012, including changes in the Fiscal Year 2014 National Defense Authorization Act. These changes included the requirement for all Services to provide victims with their own legal counsel. Captain Record also discussed the newly passed Military Justice Act of 2016, which mandates significant changes to the military justice system to further align it with civilian practices. Captain Record answered questions from the Committee members regarding the prevalence of sexual assault as compared to the number of Servicemembers court-martialed.

History of the Response Systems to Adult Sexual Assault Crimes Panel and the Judicial Proceedings Panel

Ms. Maria Fried provided a historical overview of the membership, tasks, and work of the RSP and JPP. The RSP and JPP were established by Congress as part of an effort to understand and address sexual assault in the military. The RSP conducted a comprehensive review of responses to sexual assault. As part of this review, the RSP addressed the role of commanders in the military justice system and resources for victims, and conducted a comparison between the military justice system and civilian processes and procedures. The RSP issued 132 recommendations. The JPP was tasked more narrowly to review the implementation of certain Uniform Code of Military Justice reforms related to sexual assault, restitution and compensation, and victims' rights. The JPP has released five reports and is expected to release at least one more before it concludes its work in September 2017. The Department of Defense and Congress have implemented a number of the RSP recommendations while the JPP recommendations remain under review. Ms. Fried answered the Committee members' questions on the differences in the scope of the panels.

Committee Planning Session

Chair Martha Bashford led a discussion about the scope of the Committee's work and its methodology. The Committee agreed to meet quarterly. The Committee agreed it would use Subcommittees to conduct much of the fact gathering but felt it was premature to decide the focus or membership of the Subcommittees until the Committee members had additional time to familiarize themselves with the issues. The Committee members further agreed that it would conduct case reviews, which would include review of both investigative files and records of trial. The Committee members did not feel they were limited to examining only those adult sexual assault cases that did not involve a domestic relationship, but would include all adult sexual assault cases in their review. The Committee members added they may look at cases involving minors in the future, but not during the initial review.

The Committee members agreed that they needed time to review prior reports and studies so they could make an informed decision on the scope and methodology that would provide the best data for their analysis. The Committee tasked the staff to provide them with previous reports and studies on sexual assault in the military and other reference materials to allow them to study the materials prior to their next meeting.


Public Comment

Mr. Don Christensen, President of Protect Our Defenders provided public comment. Mr. Christensen asked the Committee to review the reports by the Human Rights Watch and to consider the need to have experienced investigators and litigators handle sexual assault cases.

The Alternate DFO closed the public meeting at 3:54 p.m.

CERTIFICATION

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.



Martha Bashford
Chair

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in
the Armed Forces

MATERIALS

Meeting Records

1. Transcript of January 19, 2017 Committee meeting, prepared by Neal R. Gross and Co., Inc.

Read Ahead Materials Provided Prior to and at the Public Meeting

2. Meeting Agenda
3. Biographies of Committee Staff

4. Biographies of Meeting Presenters
5. Biographies of Committee Members
6. Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces Authorizing Legislation
7. Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces Charter
8. Federal Advisory Committee Act (FACA) Brochure
9. U.S. Department of Defense Standards of Conduct Office: An Ethics Guide for Special Government Employees, Including Consultants and Experts (Such as Advisory Committee Members)
10. Code 20 Sidebar: Fiscal Year 2017 National Defense Authorization Act (NDAA) and the Military Justice Act of 2016
11. Response Systems Panel Report Recommendations
12. Judicial Proceedings Panel Recommendations
13. Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces Committee Planning Session Outline
14. Ethics for Federal Advisory Committee Members Presentation Slides
15. Overview of the Military Justice System Presentation Slides
16. Legislative Highlights and the History of Sexual Assault Issues in the Armed Forces Since 2012 Presentation Slides
17. Response Systems to Adult Sexual Assault Crimes Panel and Judicial Proceeding Panel Since Fiscal Year 2012 Amendments Presentation Slides