



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

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**MINUTES OF APRIL 21, 2022, PUBLIC MEETING**

**AUTHORIZATION**

The Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (“the Committee” or “DACIPAD”) 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 twenty-second public meeting on April 21, 2022, from 2:45 p.m. to 5:15 p.m.

**LOCATION**

The meeting was held virtually with dial-in access information provided to the public in the Federal Register and on the DAC-IPAD’s website.

**MATERIALS**

A verbatim transcript of the meeting and 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 <https://dacipad.whs.mil>.

## PARTICIPANTS

### Participating Committee Members

The Honorable Karla N. Smith, Chair  
Major General Marcia Anderson,  
U.S. Army, Retired  
Ms. Martha S. Bashford  
Ms. Margaret A. Garvin  
The Honorable Suzanne Goldberg  
The Honorable Paul W. Grimm  
Mr. A. J. Kramer  
Ms. Jennifer G. Long

Mr. James P. Markey  
Dr. Jenifer Markowitz  
The Honorable Jennifer M. O'Connor  
Brigadier General James R. Schwenk,  
U.S. Marine Corps, Retired  
Dr. Cassia C. Spohn  
Ms. Meghan A. Tokash  
The Honorable Reggie B. Walton

### Absent Committee Members

Mr. William E. Cassara

### Committee Staff

Colonel Jeff A. Bovarnick, U.S. Army,  
Executive Director  
Ms. Julie Carson, Deputy Director  
Mr. Dale Trexler, Chief of Staff  
  
Ms. Audrey Critchley, Attorney-Advisor  
Dr. Alice Falk, Technical Editor  
Ms. Theresa Gallagher, Attorney-Advisor  
Ms. Nalini Gupta, Attorney-Advisor  
Ms. Amanda Hagy, Senior Paralegal

Mr. Chuck Mason, Attorney-Advisor  
Ms. Marguerite McKinney, Analyst  
Ms. Meghan Peters, Attorney-Advisor  
Ms. Stacy Powell, Senior Paralegal  
Ms. Stayce Rozell, Senior Paralegal  
Ms. Terri Saunders, Attorney-Advisor  
Ms. Kate Tagert, Attorney-Advisor  
Ms. Eleanor Magers Vuono, Attorney-Advisor  
Mr. Pete Yob, Attorney-Advisor

### Other Participants

Mr. Dwight Sullivan, Designated Federal Officer (DFO)

## MEETING MINUTES

Quorum was established and Mr. Dwight Sullivan, Designated Federal Officer, opened the meeting at 2:45 p.m. Mr. Sullivan introduced the Honorable Karla N. Smith, Chair of the DAC-IPAD, who provided opening remarks welcoming those in attendance to the reconstituted committee's first meeting since December 4, 2020. She explained the purpose of the meeting and outlined the agenda. She introduced DAC-IPAD Executive Director Colonel Jeff Bovarnick, who provided a brief overview of the meeting and introduced the first session.

### DAC-IPAD Staff Presentation to Committee, Update and Summary of Events Since Last Meeting

Ms. Eleanor Magers Vuono, DAC-IPAD Attorney Advisor, and Mr. Dwight Sullivan, DFO, briefed the Committee on the key events and legislative changes from the previous two years related to sexual misconduct in the Armed Forces.

Ms. Vuono provided the Committee an overview of events surrounding the Fort Hood Independent Review Committee established by the Army, and the 90-day Independent Review Commission (IRC) on Sexual Assault in the Military established by the Secretary of Defense.

She explained that the Fort Hood report included over 90 policy reform recommendations to improve the local command climate and culture. She stated that the Army has begun to make changes and recently announced a comprehensive restructuring of the Criminal Investigative Division with an experienced civilian investigator leading the division. Additionally, investigating officers outside of the subject's unit will handle all sexual harassment complaints.

She explained that the IRC completed an independent, impartial assessment of the military's treatment of sexual harassment and sexual assault. The IRC's report made over 80 recommendations in the areas of accountability, prevention, climate and culture, and victim support and care. She stated that the Secretary of Defense accepted all the recommendations, some with modifications, and issued implementation guidance.

Ms. Vuono explained that the IRC report recommended that the DAC-IPAD conduct several studies. She noted that the studies include a study of the military's Article 32 preliminary hearing; a study of the military's Article 34 advice to convening authority before referral; a study of U.S. allies' responses for victims; and a study of military administrative boards. It was later noted that the Secretary of Defense's approved Revised Recommendations for Articles 32 and 34 tasked the Military Justice Review Panel with conducting those studies.

Next, Mr. Dwight Sullivan provided the Committee a summary of the changes enacted by the National Defense Authorization Act for Fiscal Year 2022. He noted that the statute requires 11 of approximately 104 UCMJ offenses move from the control of the commanders to the control of judge advocates. Within DoD, those judge advocates will be assigned to Offices of Special Trial Counsel (OSTC). He stated that the command-controlled and judge advocate-controlled systems will interact as parallel systems. He explained that each Lead Special Trial Counsel, by statute, will be a general or flag officer and report directly to the Secretary of the applicable military departments with no intervening authority.

Mr. Sullivan provided an overview of the 11 covered offenses over which the OSTCs will have authority:

Art. 117a	Wrongful broadcast or distribution of intimate visual images
Art. 118	Murder
Art. 119	Manslaughter
Art. 120	Rape and sexual assault
Art. 120b	Rape and sexual assault of a child
Art. 120c	Other sexual misconduct
Art. 125	Kidnapping
Art. 128b	Domestic violence
Art. 130	Stalking
Art. 132	Retaliation
Article 134	Child pornography

He also explained that the OSTCs will have discretionary authority over related offenses, as well as known offenses allegedly committed by someone over whom they are exercising authority. He stated that the effective date of the changes will apply to offenses that occur or after December 27, 2023.

Mr. Sullivan explained that when an OSTC defers action on a case, it would go to the commander to exercise certain action as deemed appropriate, though the commander will not have the authority to refer a covered offense for trial by special court-martial or general court-martial.

Mr. Sullivan closed his briefing with an overview of an executive order signed by the President of the United States on January 26, 2022, amending the Manual for Courts-Martial. He explained that the executive order amended Article 134, UCMJ, to include sexual harassment as a covered offense, while promulgating a maximum punishment and other implementing rules for the domestic violence punitive article that Congress enacted for the military in 2018. The executive order also fully implemented the criminalization of wrongful broadcast or distribution of intimate visual images and aggravated assault by suffocation or strangulation.

#### DAC-IPAD Staff Presentation to Committee. Update on DoD's March 2022 Report on the DAC-IPAD

Ms. Julie Carson, DAC-IPAD Deputy Director, briefed the Committee on the Report of the Department of Defense on the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, submitted in March 2022 in the absence of a constituted committee. She explained that the Committee's authorizing statute requires the submission of an annual report to the Secretary of Defense and Congress; however, due to the suspension of all the Department's federal advisory committees in January 2021, the Committee was precluded from completing its fifth annual report that was due March 30, 2021. She stated that in the interim, letters from the DoD Acting General Counsel were submitted to the House and Senate Committees on Armed Services in March 2021 and August 2021, explaining the suspension and status of the DAC-IPAD.

Ms. Carson explained that the DoD report submitted in March 2022 described the DAC-IPAD's activities from its March 2020 annual report through January 2021. She explained that prior to the suspension and the COVID-19 pandemic, the DAC-IPAD held 5 public meetings and 16 preparatory sessions via teleconference. She stated that the committee drafted and released standalone reports that made 17 recommendations to Congress and the Secretary of Defense. Ms. Carson closed her briefing by reminding the Committee that the next annual report is due March 30, 2023 and encouraged the members to begin thinking about potential topics to cover.

### Committee Deliberations and Planning Discussion

After a brief break, Chair Smith opened the deliberations and planning session and asked the Committee members to provide their thoughts on establishing and serving on subcommittees. DAC-IPAD Committee members supported the establishment of subcommittees stating that they allow the Committee to accomplish a great deal of work. Committee members agreed that a case review and a policy subcommittee should be established.

DAC-IPAD Committee member Ms. Meghan Tokash recommended establishing a special projects subcommittee to examine and advise the General Counsel and Secretary of Defense on the newly created OSTC; review the Article 32 and 34 report covering topics the Committee previously studied; and review the IRC recommendations for the DAC-IPAD. After deliberating on subcommittee options, the Committee voted unanimously to create case review, policy, special projects, and data subcommittees.

Chair Smith asked the Committee to consider the scope of the Committee's current charter, and whether there would be interest in expanding the charter to include minor victims and sexual harassment. After a brief discussion of the Committee's current tasks, Chair Smith asked the Committee members to consider the stakeholders that they would like to hear from in future meetings. She requested that the members submit via email their preferences along with any other priorities and issues they think the Committee should address.

### Public Comment

The Committee received comments from Navy Lieutenant Commander Manuel Dominguez who stated his concerns regarding the military justice process and the fundamental rights of service members that at times are deprived in the pursuit of convictions. His comments included areas of interest for the Committee to consider in its work. Those included non-unanimous verdicts, site visits to include incarceration facilities, and child sex assault cases.

### Meeting Wrap-Up

DAC-IPAD Attorney Advisor Ms. Terri Saunders provided a list of due-outs to the Committee, and Colonel Jeff Bovarnick provided closing remarks. Chair Smith thanked the members and staff for their commitment to the work of the DAC-IPAD and reported that the next scheduled public meeting for the DAC-IPAD is June 21-22, 2022. With no further comments or issues to address, the meeting concluded.

The DFO closed the public meeting at 5:15 p.m.

## CERTIFICATION

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



Honorable Karla N. Smith  
Chair

## MATERIALS

### Materials Provided Prior to and at the Public Meeting

1. Meeting Agenda, DAC-IPAD Public Meeting, April 21, 2022
2. Secretary of Defense Memo, Zero-Based Review, January 30, 2021
3. DAC-IPAD Member Professional Biographies
4. DAC-IPAD Staff Professional Biographies
5. DAC-IPAD Authorizing Statutes
6. DAC-IPAD Charter
7. Fort Hood Independent Review Committee Report (Excerpt)
8. Independent Review Commission (IRC) Report (Excerpt)
9. Secretary of Defense Memo, IRC Guidance and Implementation, September 22, 2021
10. Select Military Justice Provisions of the National Defense Authorization Act for FY21 and FY 22
11. Report of the Department of Defense on the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, March 2022