



DEPUTY SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1010

DEC 26 2023

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

SUBJECT: Department of Defense Actions to Implement Recommendations from the Internal Review Team on Racial Disparities in the Investigative and Military Justice Systems

We owe our Service members fair and just systems. Racial disparities in the investigative and military justice systems undermine justice, erode trust, and compromise cohesion, which all stand to harm readiness. I established the Internal Review Team (IRT) on Racial Disparities in the Investigative and Military Justice Systems on May 3, 2022, to identify root causes of racial disparities in these systems and provide actionable recommendations to address them. I approve its 17 recommendations, as revised by the Executive Working Group.

I hereby direct the Offices of Primary Responsibility (OPRs), listed in the attachment, to develop a plan of action and milestones (POA&M) for each recommendation, issue guidance, and initiate policy changes to facilitate implementation. The OPRs will consolidate execution plans from the Military Departments (MilDeps), Joint Staff, and other relevant stakeholders. POA&Ms will be submitted to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) for review, approval, and implementation tracking within 120 days of this memorandum. The USD(P&R) will coordinate with the Under Secretary of Defense (Comptroller), the Director of Cost Assessment and Program Evaluation, and OPRs to validate resourcing requirements of each recommendation. The USD(P&R), in consultation with uniform and civilian DoD leadership, will provide an update on the implementation of these recommendations to the Deputy's Workforce Council within one year. I further direct all components to allocate resources during the implementation process for program evaluation. Pending resource availability, these recommendations should reach full operational capability by Fiscal Year 2030, sustaining momentum to address racial disparities.

I also direct Secretaries of the MilDeps, the USD(P&R), and DoD General Counsel to initiate policy changes to increase Service member protections, as detailed in Recommendations 6-10 and 12. Policy changes for each recommendation should be initiated by the OPR(s) listed in the attachment concurrent with the POA&Ms.

The trust our Service members place in leadership and our ability to fairly enforce good order and discipline are fundamental to our mission. I expect leaders across the DoD to support the implementation of these recommendations.

Attachment:
As stated



OSD010029-23/CMD013420-23

Attachment: Recommendations and Offices of Primary Responsibility (OPRs).

The table below provides a summary of each Internal Review Team (IRT) on Racial Disparities in the Investigative and Military Justice Systems recommendation, revised as applicable, and the Service and Office of the Secretary of Defense OPRs.

Rec. #	Recommendation Description	OPRs
Training and Education		
1*	Create Leadership and Development Competency Model 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, by improving their understanding of human behavior, and increasing 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) and MILDEPs
4*	Develop and mandate appropriate training for all military police investigators who conduct criminal investigations and for investigating officers who conduct command-directed investigations.	OUSD(I&S)
Service Member Protections		
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 consult with counsel before the nonjudicial punishment proceeding occurs, subject to such exceptions as may be appropriate due to military exigencies. Provide all Service members upon whom nonjudicial punishment was imposed with a right to consult with counsel concerning available opportunities to appeal and whether such opportunities should be pursued.	OGC
7*	Promulgate updated policies to ensure application of the “vessel exception” to the right to refuse nonjudicial punishment comports with how courts have interpreted the provision to protect Service member rights and ensure the fair and consistent administration of justice.	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 controls for titling, indexing, and expungement of information in the Defense Central Index of Investigations and the Department of Justice National Criminal Information Center/Interstate Identification Index.	OUSD(I&S) and 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 careers.	OUSD(P&R) and MILDEPs
Oversight and Transparency		
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 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

Note: An asterisk (*) denotes IRT recommendations revised by the EWG.