

**Comparative Systems Subcommittee  
Of the Response Systems to Adult Sexual Assault Crimes Panel**

**TERMS OF REFERENCE**

These terms of reference establish the Secretary of Defense (SecDef) objectives for an independent subcommittee review of military and civilian systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses. At SecDef direction, the Comparative Systems Subcommittee has been established under the Response Systems to Adult Sexual Assault Crimes Panel (Response Systems Panel) to conduct this assessment.

**Mission Statement:** Assess and compare military and civilian systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses, under 10 U.S.C. 920 (Article 120, Uniform Code of Military Justice (UCMJ)).

**Issue Statement:** Section 576(d)(1) of the FY 2013 National Defense Authorization Act provides that in conducting a systems review and assessment, the Response Systems Panel shall provide recommendations on how to improve the effectiveness of the investigation, prosecution, and adjudication of crimes involving adult sexual assault and related offenses, under 10 U.S.C. 920 (Article 120 of the UCMJ). This includes a comparison of military and civilian systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses. In addition, the Subcommittee should identify systems or methods for strengthening the effectiveness of military systems.

**Objectives and Scope:** The Subcommittee will address the following specific objectives.

- Assess the effectiveness of military systems, including the administration of the UCMJ, for the investigation, prosecution, and adjudication of adult sexual assault crimes during the period of 2007 through 2011.
- Compare military and civilian systems for the investigation, prosecution, and adjudication of adult sexual assault crimes.
- Examine advisory sentencing guidelines used in civilian courts in adult sexual assault cases to assess whether it would be advisable to promulgate sentencing guidelines for use in courts-martial.
- Compare and assess the training level of military defense and trial counsel, including their experience in defending or prosecuting adult sexual assault crimes and related offenses, to the training level of prosecution and defense counsel for similar cases in the Federal and State court systems.
- Assess and compare military court-martial conviction rates for adult sexual assault crimes with those in the Federal and State courts for similar offenses and the reasons for any differences.
- Identify best practices from civilian jurisdictions that may be incorporated into any phase of the military system.
- Assess the strengths and weaknesses of current and proposed legislative initiatives, not including those addressing the role of the commander in the system or victim services initiatives, to modify the administration of military justice and the investigation, prosecution, and adjudication of adult sexual assault crimes.

The Subcommittee shall develop conclusions and recommendations on the above matters and report them to the Response Systems Panel.

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**Methodology:**

1. The Subcommittee assessment will be conducted in compliance with the Federal Advisory Committee Act (FACA).
2. The Subcommittee is authorized to access, consistent with law, documents and records from the Department of Defense and military departments, which the Subcommittee deems necessary, and DoD personnel the Subcommittee determines necessary to complete its task. Subcommittee participants may be required to execute a non-disclosure agreement, consistent with FACA.
3. The Subcommittee may conduct interviews as appropriate.
4. As appropriate, the Subcommittee may seek input from other sources with pertinent knowledge or experience.

**Deliverable:**

The Subcommittee will complete its work and report to the Response Systems Panel in a public forum. The Response Systems Panel will then report to the Secretary of Defense.

**Support:**

1. The DoD Office of the General Counsel and the Washington Headquarters Services will provide any necessary administrative and logistical support for the Subcommittee.
2. The DoD, through the DoD Office of the General Counsel, the Washington Headquarters Services, and the Office of the Under Secretary of Defense for Personnel and Readiness, will support the Subcommittee's review by providing personnel, policies, and procedures required to conduct a thorough review of civilian and military systems used to investigate, prosecute, and adjudicate adult sexual assault crimes.