

DEPARTMENT OF THE AIR FORCE  
OPENING STATEMENT

TO THE SUBCOMMITTEE ON PERSONNEL

COMMITTEE ON ARMED SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

UPDATE ON IMPLEMENTATION OF RECOMMENDATIONS OF THE INDEPENDENT  
REVIEW COMMISSION ON SEXUAL ASSAULT IN THE MILITARY AND THE  
ESTABLISHMENT OF THE OFFICE OF SPECIAL TRIAL COUNSEL

STATEMENT OF:

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## **INTRODUCTION**

Good afternoon, Chairwoman Speier, Ranking Member Gallagher, distinguished members of this subcommittee. Thank you for the opportunity to appear before you today.

The Department of the Air Force (DAF) is committed to supporting our service members and their families, removing every barrier to create an environment in which everyone who is ready and willing to support and defend the Constitution has the opportunity to serve to their full potential.

While there have been important policy changes, due in part to the leadership of the members of this subcommittee, to address sexual assault and sexual harassment in the military we have frankly not made enough progress in preventing or reducing either. The bottom line is we have more work to do.

Our Airmen, Guardians, and families are our greatest competitive advantage. We do not have time or talent to lose. Over the past year, the DAF has continued its focus on providing the absolute best care, while cultivating an inclusive environment.

Sexual assault and sexual harassment undermine our force lethality, operational readiness, and mission success. They also infect command climate, erode unit cohesion, and undermine good order and discipline. If we are to successfully fulfill our mission to protect and defend our nation, addressing sexual harassment and sexual assault must remain a priority. This is a warfighting issue, a readiness issue, and a leadership issue.

The Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year 2021 showed the DAF estimated prevalence of sexual assault behaviors has increased based on the current reporting processes. We are encouraged that the total number of restricted and unrestricted reports has increased by 2% from FY20 to FY21. At the same time, we know we have more work to do, as the overall DAF reporting rate among Airmen who experienced sexual assault decreased by 10% compared to FY18 data.

Accessing better data and understanding that data will be crucial to combating the scourge of sexual assault and sexual harassment. More data fosters transparency, which in turn fosters more accountability—for leaders and for the force.

In addition to enhancing accountability and increasing efforts aimed at data-driven prevention strategies, we are committed to making significant, measurable progress to close the gap between the prevalence of sexual harassment and sexual assault, and the number of reports. This is fundamentally about trust in the process, and we are committed to providing comprehensive support and response services for sexual harassment and sexual assault victims.

## **IMPLEMENTATION OF THE INDEPENDENT REVIEW COMMISSION ON SEXUAL ASSAULT RECOMMENDATIONS**

As members of this subcommittee are aware, the Independent Review Commission (IRC) on Sexual Assault made recommendations related to accountability, prevention, climate and culture, and victim care and support. This year, the DAF continued implementing the recommendations of the IRC, including the establishment of the Office of Special Trial Counsel (OSTC). Our commitment

to thoughtful and thorough implementation has accelerated our momentum while resourcing changes to the processes around prevention of, and response to, sexual harassment and sexual assault.

### *Accountability*

The DAF is fully committed to implementing Section 532 of the FY22 NDAA, which created the OSTC to oversee the investigation and prosecution of sexual assault and other victim-based offenses, independent from the command reporting structure and reporting directly to the Secretary of the Air Force. These transformational changes in the law place prosecution decisions for the most serious victim-centric crimes directly with experienced and specialized military prosecutors to further enhance trust and credibility in the military justice system. These changes will positively impact the proficiency and integration of the investigators, attorneys, and paralegals charged with handling these cases to ensure we hold offenders accountable for their crimes and ensure victims of these crimes are treated with dignity and respect.

The DAF anticipates the O-7 lead special trial counsel will lead a headquarters element of attorneys and paralegals, as well as six field offices with attorneys and paralegals focused on executing OSTC's mission of prosecuting covered offenses and known or related offenses. All personnel filling OSTC positions will have significant military justice experience. Each field office will be run by a Chief Special Trial Counsel, who will be responsible for subordinate Special Trial Counsel and paralegals, similar to a civilian district attorney's office. Further, these staffs will have delineated duties and be organized into three primary functions, including administrative coordination and processing cases, investigation and prosecution support teams, and case litigation.

The DAF is utilizing a multi-phased approach to ensure the OSTC will be at full operational capability on its statutory effective date. The organization achieved initial operational capability on June 15, 2022. OSTC is currently staffed by members of The Judge Advocate General's Corps serving as Special Trial Counsel, who advise on and prosecute cases involving covered offenses. In May 2022, the DAF conducted its initial Special Trial Counsel qualification course. The course included expert instructors from a variety of fields, including prosecuting sexual assault and domestic violence, pediatric medicine, advanced criminal investigations, and Department of Justice prosecutorial offices specializing in online and child crimes. In furtherance of the critical partnership between law enforcement investigators and prosecutors, nine agents from the DAF Office of Special Investigations attended the course as well. Following the course, The Judge Advocate General certified the first cadre of Special Trial Counsel. The DAF is also making significant strides to meet the FY22 NDAA requirements and the IRC recommendations in areas of resource analysis, training plan development, and establishing standard operating procedures for the OSTC's integration with investigators. The DAF remains fully committed to meeting Congressional and IRC intent.

Additionally, the DAF recently published DAF Instruction 36-3211: *Military Separations*, which outlines increased support to sexual assault survivors, strengthens sexual assault prevention and accountability efforts, and combines several discharge instructions. Under the previous policy, Airmen and Guardians who committed sexual assault offenses were subject to mandatory initiation of discharge proceedings. The updated policy ensures the discharge decision is objective and focuses decision makers on the relevant evidence of each case. The new departmental policy explicitly states members who commit sexual assault will face mandatory initiation of discharge and

only, if certain limited circumstances exist, can a member be considered for an exception to the presumption of discharge. Further, the separation authority and board members can no longer consider the following factors when determining whether a basis for a sexual assault discharge exists, whether a waiver is appropriate, and whether a member should be discharged if they have committed a sexual assault: personal, family, or financial circumstances; good military character or service record; or a medical or mental health condition.

### *Prevention*

In 2015, the DAF established a dedicated prevention workforce and policy, which served as a model for some of the IRC's recommendations in this area. In FY21, the DAF hired over 90 prevention workforce professionals. At the end of FY21, we received additional Office of the Secretary of Defense funding to hire an additional 30 prevention workforce positions. However, we recognized this was not sufficient to meet the Department's growing prevention needs. As part of the DAF's ongoing and IRC-recommended prevention efforts, in early 2022 we authorized four distinct, independent, dedicated positions at every installation across the DAF beginning in FY24. All installations have permission to hire against these authorizations effective immediately and have been directed to execute these hiring actions as soon as possible. These installation, operational, and strategic-level experts integrate primary prevention efforts and promote research-based practices to reduce risk factors and increase protective factors for our Airmen and Guardians. Our team is focused on activities specifically addressing the prevention of all forms of Interpersonal and Self-Directed Violence (ISDV). This dedicated prevention workforce will lead, develop, plan, evaluate, and coordinate integrated primary prevention across the DAF. When combined with 103 new positions authorized and funded for 2022, we anticipate having onboarded 227 full-time dedicated prevention professionals by the end of 2023.

### *Climate and Culture*

The DAF is addressing attitudes and beliefs that are associated with increased risk of sexual harassment and sexual assaults through the implementation of IRC initiatives. Already, cyber harassment is criminally prohibited by Air Force Instruction 1-1, *Air Force Standards*, which currently applies to both Airmen and Guardians. Depending on the facts of each case, offenders are subject to punishment for cyber harassment under a number of UCMJ articles. Moreover, commanders are required under DoD and DAF policy to act in these cases and are receiving training on the full scope of administrative and punitive actions available to them. Currently, policy is being drafted to increase leader accountability by including a meaningful narrative section in Officers and Non-Commissioned Officers' performance evaluations. Effective with the rollout of myEval 2.0—projected for officers in February 2023 and enlisted personnel in May 2023—there will be an evaluation of culture; these efforts are in the final stages of development now. In addition, DAF recently updated our policy to require commanders with Defense Equal Opportunity Climate Survey scores at least 25% below the average to develop, in partnership with their higher-level commands, corrective action plans to improve the culture. The DAF will also assess Airman and Guardian leadership qualities, which will include assessment of their ability to create inclusive environments. The new evaluation will also include a narrative section to address performance, including climate and culture, and is in the final stages of development.

The DAF is also modernizing prevention training for all forms of ISDV by shifting from a “one-size-fits-all” approach to proficiency-based tailored training (PBTT). This approach utilizes predictive analytics to allow members to efficiently receive the relevant and individualized content. Our initial PBTT training was the Sexual Communication and Consent (SCC) course, a tailored SAPR training based on risk factors that was successfully piloted at Basic Military Training (BMT). Data on the pilot program demonstrated positive increase in retention of content and positive changes in attitudes, cognitions, and behaviors.

In 2022, the U.S. Air Force Academy adapted SCC onto a web-based platform to increase accessibility, ease implementation, and decrease costs. Ultimately, the goal is for all ISDV trainings to be tailored to an individual’s risk and protective factors, rank, career, and/or experiences. A PBTT for sexual assault bystander intervention skills is scheduled to launch in 2024. This effort will establish a baseline for sexual assault bystander knowledge and will inform adaptation of the training so that members receive the most appropriate content at the appropriate dosage. Finally, the DAF is increasing the number of evaluation and analysis personnel to enhance our ability to ensure our efforts are having the desired impact.

By addressing attitudes and beliefs that lead to an environment tolerant of harmful and violent behaviors, we can design actions that mitigate risk factors and increase protections for our Airmen and Guardians. By empowering and equipping leaders at all levels, these initiatives will increase critical intervention skills, and promote a positive unit culture that is rooted in treating fellow servicemembers with dignity and respect and enforces accountability when those basic tenets are violated.

### *Victim Care and Support*

DAF response programs are increasing our SAPR workforce, expanding restricted and unrestricted reporting processes, and ensuring trauma-informed victim advocacy, mental health, and healthcare. I directed the DAF to initiate a six-month integrated response pilot program, a recommendation from the IRC on co-locating services to improve the response to, and outcomes for, personnel who have experienced harm and violence (e.g., sexual assault, sexual harassment, domestic violence, stalking, and cyber harassment). This effort was launched on July 29, 2022. Through the collection of objective metrics as well as clinician and survivor feedback, the DAF will evaluate the co-location pilot process, execution, and outcomes before DAF-wide expansion. The pilot program prioritizes a survivor-centered approach that aims not only to minimize the trauma of victims having to re-tell their stories, but also facilitates the coordination of care across helping agencies. Supportive service agencies will ensure victims and their families have support from initial reporting through resolution and post-care. Additionally, the recently established DAF “Safe to Report” policy decreases barriers to reporting by affording amnesty from minor collateral misconduct, like underage drinking or fraternization, that may create barriers to reporting the sexual assault.

Other implemented changes to improve survivor support include: flexibility to take non-chargeable time off for sexual assault victims; expanded victim service options and restricted reporting; and maximized survivor preferences in expedited transfers. We are also strengthening the SAPR workforce by increasing the number of full-time advocates and phasing out the reliance on collateral duty victim services personnel to ensure this critical support to victims is provided by professionals well-versed in the response to sexual trauma. Further, the DAF is developing a plan to ensure a

reporting structure for our Sexual Assault and Response Coordinators (SARC) outside of the chain of command. This independent oversight will empower our SARCs to support victims while maintaining their direct access to commanders. The DAF is also expanding victim-centered advocacy and other services focused on sexual assault to ensure effective advocacy and a support from the SAPR Program and trained investigators. The program was further augmented to extend SAPR support to victims of military sexual harassment — including online harassment, which we recognize as a growing challenge—to create a continuum of survivor advocacy.

## **CONCLUSION**

The DAF is resolute in its responsibility to ensure our Airmen and Guardians live and work in an environment safe from sexual harassment and sexual assault. We are leaning forward to shrink the gap between reporting and prevalence. By implementing the IRC recommendations, to include establishing the OSTC, we are strengthening accountability at all levels, and enhancing prevention efforts.

We must remember what is at stake—the safety and well-being of our Airmen, Guardians, and their families, as well as the trust of the American people. Combatting this continuum of harm is paramount to our ability to deliver air and space power anytime, anyplace. Our ability to remain competitive as an employer of choice requires that we prioritize and resource what is most important: our people. Continued Congressional support and advocacy will help us achieve that end.

Thank you for the opportunity to testify before you today and for your continued oversight of the implementation of IRC recommendations on sexual assault. I look forward to your questions.