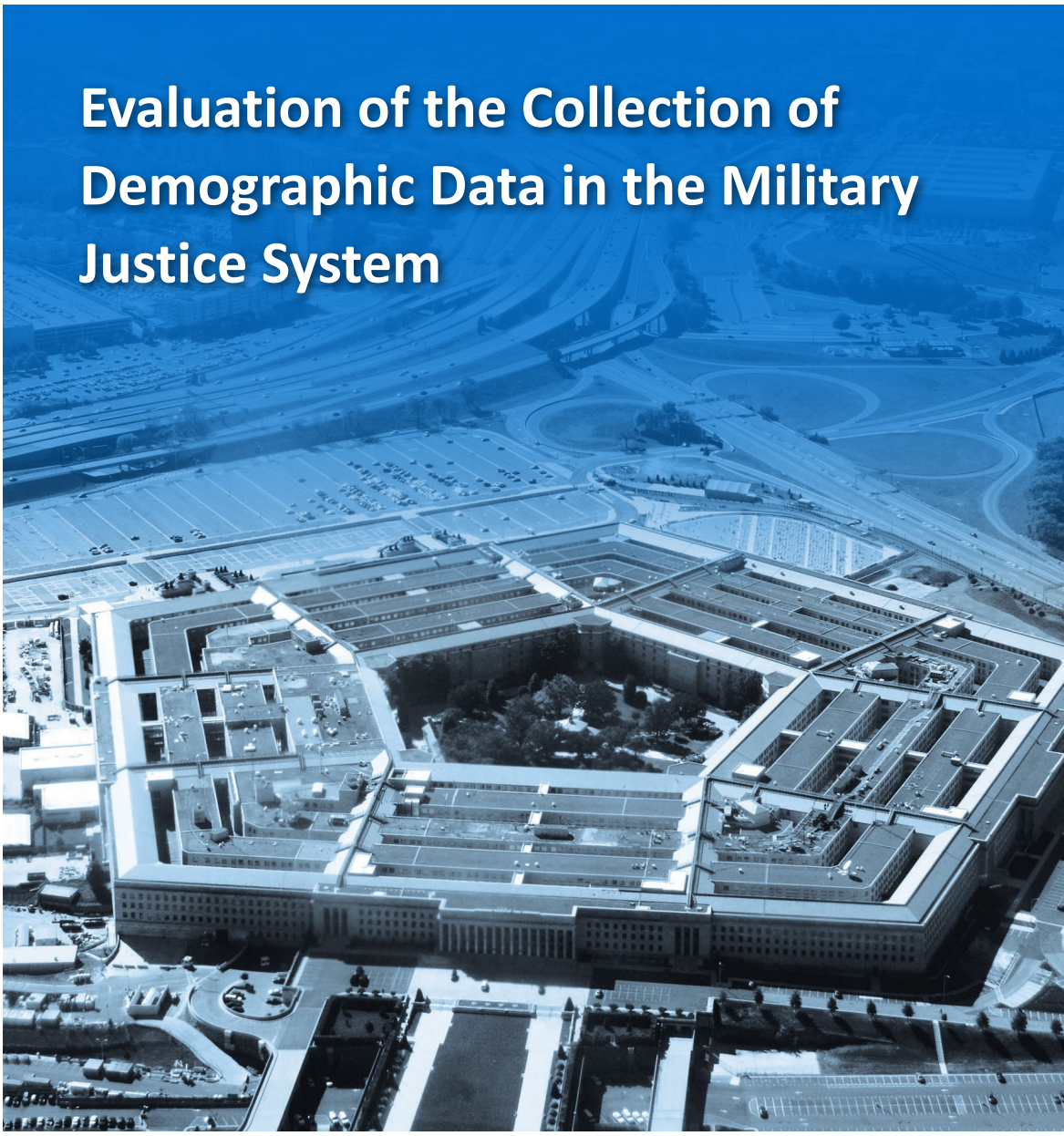
Report No. DODIG-2023-083

INSPECTOR GENERAL

U.S. Department of Defense

JUNE 7, 2023

Evaluation of the Collection of Demographic Data in the Military Justice System



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Results in Brief

Evaluation of the Collection of Demographic Data in the Military Justice System

June 7, 2023

Objective

The objective of this evaluation was to determine the extent to which the Services are collecting uniform demographic data specific to race and ethnicity in accordance with the Military Justice Act requirements included in the FY 2017 National Defense Authorization Act, as defined by Office of Management and Budget (OMB) Statistical Policy Directive No. 15.

Background

The Military Justice Act of 2016, passed as part of the FY 2017 National Defense Authorization Act, requires the Secretary of Defense to prescribe uniform standards and criteria for conducting each of the functions in the military justice system, which include case management, data collection, and accessibility of information. In December 2018, the DoD General Counsel issued a memorandum that prescribed uniform standards and criteria for these functions, based in part on standards established by OMB Statistical Policy Directive No. 15. The OMB directive provides minimum standards for collecting, maintaining, and presenting Federal data and presenting data on race and ethnicity for all Federal reporting purposes. Additional criteria and standards for data collection are included in DoD Instruction 1020.05, section 5.

Finding

The Services track demographic data for Service members involved in the military justice system using racial and ethnic data from Service members' personnel records. However, DoD does not collect or verify demographic data in the military justice system in the categories required by OMB Statistical Policy Directive No. 15, the Uniform Standards and Criteria, or DoD Instruction 1020.05, section 5.3.

There is no requirement for the DoD to maintain a central database for the military justice system, and the DoD does not have one. Rather, each Service tracks its demographic data in its own Service-approved database. The use of various Service databases has resulted in inconsistent military justice system demographic data categories across the military justice system. Inconsistent data collection occurred because the Services' guidance for tracking demographic categories comes from requirements established in multiple policies and instructions.

As a result, the Services will be less likely to achieve DoD and Government-wide goals for reporting consistent and comparable demographic data. These data are required for Federal reporting purposes and for the Office of Diversity, Equity, and Inclusion Director's use in evaluating DoD diversity and inclusion efforts in accordance with DoD Instruction 1020.05.

Recommendations

We recommend that the Under Secretary of Defense for Personnel and Readiness establish and define demographic categories, require consistent use of demographic data in Service personnel and military justice system databases across all Services, and determine whether a single military justice system database for use by all Services would be beneficial. If the single database is beneficial, the Under Secretary of Defense for Personnel and Readiness should develop and implement one.

Results in Brief

Evaluation of the Collection of Demographic Data in the Military Justice System

Management Comments and Our Response

The Under Secretary of Defense for Personnel and Readiness partially agreed with the recommendations in the report. The Under Secretary stated the DoD will direct the Services to use existing standardized aggregated data elements from the Defense Manpower Data Center (DMDC) for reporting in DoD-wide analyses of military justice disparities instead of individual Service data elements. The Under Secretary also agreed to establish a process that requires consistent use of demographic categories in Service personnel and military justice system databases across all Services. Finally, the Under Secretary agreed that a standardized data repository for analyses is necessary, but did not agree that a single military justice system case management database is necessary. Rather, the Department will create a single centralized Office of the Secretary of Defense-managed system to extract data.

We disagree that requiring the Services to use DMDC standardized race/ethnicity data elements for reporting requirements will assist in reporting because the data elements do not align with the military justice system data requirements. We will close the recommendations when we receive documentation illustrating that the DoD has developed consistent data elements for reporting and that demonstrates the single centralized Office of the Secretary of Defense-managed system can extract data and documents for analytical purposes.

Please see the Recommendations Table on the next page for the status of recommendations.

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Under Secretary of Defense for Personnel and Readiness	1.a	1.b, 1.c, and 1.d	

Please provide Management Comments by July 7, 2023.

Note: The following categories are used to describe agency management's comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – DoD OIG verified that the agreed upon corrective actions were implemented.


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June 7, 2023

MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE
UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS

SUBJECT: Evaluation of the Collection of Demographic Data in the Military Justice System (Report No. DODIG-2023-083)

This final report provides the results of the DoD Office of Inspector General's evaluation. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

The Under Secretary of Defense for Personnel and Readiness agreed to address some recommendations presented in the report; therefore, we consider the recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when you provide us documentation showing that all agreed-upon actions to implement the recommendations are completed.

This report contains recommendations that are considered unresolved because the Under Secretary of Defense for Personnel and Readiness did not fully address the recommendations in the report. Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, the recommendations remain open. We will track these recommendations until an agreement is reached on the actions that you will take to address the recommendations, and you have submitted adequate documentation showing that all agreed-upon actions are completed.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, within 30 days please provide us your response concerning specific actions in process or alternative corrective actions proposed on the recommendations. Send your response to [redacted]

If you have any questions, please contact [redacted]

FOR THE INSPECTOR GENERAL:

Bryan Clark

Bryan T. Clark
Acting Assistant Inspector General for Evaluations
Programs, Combatant Commands, and Overseas
Contingency Operations

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Introduction

Objective

The objective of this evaluation was to determine the extent to which the Services are collecting uniform demographic data specific to race and ethnicity in accordance with the Military Justice Act requirements included in the FY 2017 National Defense Authorization Act, as defined by Office of Management and Budget (OMB) Statistical Policy Directive No. 15.

Background

The Uniform Code of Military Justice (UCMJ) is the legal framework that governs members of the military. The UCMJ, enacted by Congress in 1950, contains the substantive and procedural laws governing the military justice system (MJS). The Military Justice Act of 2016, passed as part of the FY 2017 National Defense Authorization Act, requires the Secretary of Defense to prescribe uniform standards and criteria for conduct in each of the functions in the MJS, which include case management, data collection, and accessibility of information. In December 2018, the DoD General Counsel issued a memorandum that prescribed uniform standards and criteria for military justice case management, data collection, and accessibility, based in part on standards established by OMB Statistical Policy Directive No. 15.[1] Additional criteria and standards for data collection and reporting requirements are included in DoD Instruction 1020.05, section 5.[2] DoD decision makers use the data collection and reporting requirements to measure and statistically validate the progress and effectiveness of DoD diversity and inclusion efforts.

Uniform Code of Military Justice

The UCMJ gives military courts jurisdiction over all Service members, depending on their status.[3] The military courts consist of three tiers: courts-martial, courts of criminal appeals, and the U.S. Court of Appeals for the Armed Forces. A court-martial is the trial level of the military justice system.

There are four Service courts of criminal appeals, also known as intermediate courts: the Army Court of Criminal Appeals, the Navy–Marine Corps Court of Criminal Appeals, the Air Force Court of Criminal Appeals, and the Coast Guard Court of Criminal Appeals. One of the intermediate courts reviews the case for

[1] OMB Circular No. 15, "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity," October 30, 1997.

[2] DoDI 1020.05, "DoD Diversity and Inclusion Management Program," September 9, 2020.

[3] Per 10 U.S.C. § 802, the UCMJ and its guidelines apply to anyone on active duty or undergoing inactive-duty training.

legal error, factual sufficiency, and sentence appropriateness if a sentence includes death; dismissal of a commissioned officer, cadet, or midshipman; dishonorable discharge or bad-conduct discharge; or confinement for 2 years or more.

Finally, the U.S. Court of Appeals for the Armed Forces reviews decisions of the military courts of criminal appeals. In some instances, such as death penalty cases, the U.S. Supreme Court reviews military court decisions. Service-level officials track courts-martial and appeals using a military justice case management system.

Members of the Reserve Components are subject to the UCMJ when meeting certain criteria, such as full-time support personnel on active duty orders. Additionally, members of the National Guard are subject to the UCMJ if activated in a Federal capacity.

Offenses involving military personnel that do not meet criteria for courts-martial can instead result in administrative and disciplinary actions, defined as follows.

- Administrative action or counseling: a corrective or rehabilitative action.
- Nonjudicial punishment: action taken for minor offenses requiring immediate corrective action.

Uniform Standards and Criteria

"Revised Uniform Standards and Criteria Required by Article 140a, UCMJ," issued by the DoD General Counsel as a memorandum on January 17, 2023, prescribes uniform standards and criteria for military justice case management, data collection, and accessibility.[4] To ensure uniform data collection, these standards and criteria direct that data concerning race and ethnicity are to be collected according to the definitions established by OMB Statistical Policy Directive No. 15. The memorandum further states that a Service may have its military justice case processing system capture additional categories for race and ethnicity, but those categories must aggregate to the categories established by OMB Statistical Policy Directive No. 15. The memorandum lists six categories for race, two categories for ethnicity, and two categories for sex.

OMB Statistical Policy Directive No. 15

OMB Statistical Policy Directive No. 15 provides minimum standards for collecting, maintaining, and presenting Federal data and data on race and ethnicity for all Federal reporting purposes. The purpose of using these categories is to provide "compatible, non-duplicated, and exchangeable racial and ethnic data by Federal agencies." There are five categories for data on race and two categories

[4] This memorandum canceled "Uniform Standards and Criteria Required by Article 140a, UCMJ" issued on December 17, 2018. However, both memorandums are consistent in regard to demographic data.

for data on ethnicity. OMB encourages more detailed collection; however, any additional data must aggregate into the minimum categories for race and ethnicity. Directive No. 15 does not include guidance on a process for categorizing individuals who identify as more than one race or ethnicity. The Directive was issued in 1997, and is in the process of being updated.

DoD Instruction 1020.05, DoD Diversity and Inclusion Management Program

DoDI 1020.05 specifies DoD-wide standards for collecting demographic data for military and civilian personnel. DoDI 1020.05 includes six categories for race, two categories for ethnicity, and two categories for sex.

Finding

The Services Do Not Consistently Collect or Verify Demographic Data in the Military Justice System

The Services track demographic data for Service members involved in the military justice system by using racial and ethnic data from Service members' personnel records. However, the DoD does not collect or verify demographic data in the MJS by the categories required by OMB Statistical Policy Directive No. 15, the Uniform Standards and Criteria memorandum, or DoD Instruction 1020.05, section 5.

There is no requirement for the DoD to maintain a central database for the MJS, and the DoD does not have one. Rather, each Service tracks its demographic data in its own Service-approved database. The Services use the following databases.

- Army: Military Justice Online (MJO)
- Marine Corps and Navy: Wolverine and Quarterly Criminal Activity Reports (QCARs)
- Air Force and Space Force: Air Force Automated Military Justice Analysis and Management System (AMJAMS)
- National Guard: Administrative Control System (ADCON)[5]

The use of the multiple Service-approved databases has resulted in inconsistent MJS demographic data categories across the Services. For example, the Air Force military justice system database tracks ethnicity in at least 21 different categories, while the Navy military justice system tracks ethnicity in 11 categories.

The Services collect demographic data in inconsistent categories because the Services' guidance for tracking demographic categories comes from requirements established in multiple policies and instructions. While the demographic data guidance establishes minimum categories for reporting and allows for additional race and ethnicity categories, the Services must be able to aggregate the data into the minimum categories for reporting purposes. For example, according to OMB Statistical Policy Directive No. 15, the Services must report race in five categories: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. Because the Service MJS databases rely on the categories used in the military personnel

[5] The Air National Guard developed ADCON to track MJS actions, as well as relying on the Air Force's AMJAMS system. The Army National Guard relies on the Army's tracking system and does not separately track MJS cases.

databases, and the information in the personnel databases follows the criteria set forth in DoDI 1336.05, the information used for reporting does not align with MJS requirements.[6]

As a result, the Services will be less likely to achieve DoD and Government-wide goals for reporting consistent and comparable demographic data according to the established OMB guidance. These data, in accordance with DoDI 1020.05, are required for Federal reporting purposes and for use in evaluating DoD diversity and inclusion efforts.

Military Justice System Users Do Not Verify Demographic Data in the Military Justice System Databases

The Military Services track demographic data for Service members involved in the MJS. The Service-specific military justice system databases capture the demographic data, and the data are readily available for reporting. However, the demographic data are drawn from information collected in military personnel databases. The military personnel databases do not collect consistent data across the Services, and military justice system users do not verify the data.

- Army demographic data are collected from at least 27 Army personnel databases with at least 38 race combinations, at least 23 ethnicity options, and 3 categories for sex.[7]
- Marine Corps demographic data are taken from the Marine Corps Total Force System, which offers the 5 minimum categories for race required by OMB policy, at least 26 ethnicity options, and 2 categories for sex.
- Navy demographic data are taken from the Navy Standard Integrated Personnel System, which offers the 5 minimum categories for race required by OMB policy, at least 23 ethnicity options, and 2 categories for sex.
- Air Force demographic data are taken from the Military Personnel Data System, which collects at least 26 different races or race combinations, at least 23 ethnicity options, and 2 categories for sex.
- The National Guard Bureau uses the demographic data from the Army and Air Force personnel systems.

[6] DoDI 1336.05, "Automated Extract of Active Duty Military Personnel Records," July 28, 2009 (Incorporating Change 3, August 26, 2021). This criterion is applicable to the personnel databases and is not applicable to the requirements for data collection in the military justice system databases.

[7] On January 17, 2023, the Army released the Integrated Personnel and Pay System, which allows data collection from a single Army database.

The Services Maintain Separate Military Justice System Databases

There is no requirement for the DoD to maintain a central database for the military justice system, and the DoD does not have one. Each Service tracks demographic data for Service members in its own Service-approved database. For the MJS, the Services use the same databases that they use for tracking demographic data—MJO (Army), Wolverine and QCARs (Navy and Marine Corps), AMJAMS (Air Force and Space Force), and ADCON (National Guard).

Army

The Army collects its demographic data in the MJO system for active and reserve Army and Army National Guard Service members. This secure application is a primary case management system for military justice and tool for creating, processing, and managing administrative reprimands, administrative separations, nonjudicial punishments, courts-martial, and case management. The MJO system is a record of legal services provided to the command.

When a court-martial case is created in MJO, the user inputs the accused Service member's Social Security number, which pulls the demographic data from the Integrated Total Army Personnel Database. The MJO populates the Service member's name, race, ethnicity, and gender. Representatives from the Army reported that users of their military justice case management system cannot save or proceed with a new case entry if specific pre-determined data fields are left blank. Demographic data is required for gender in the MJO system.

Marine Corps and Navy

The Marine Corps and Navy use the Wolverine electronic case management system to collect and manage all court-martial cases. Wolverine is owned and managed by the Marine Corps. Demographic data are collected only for active and reserve Service members. Demographic data for the accused are manually pulled from the Marine Corps Total Force System personnel database. A victim's demographic data are also sourced from that personnel database when the victim is a Service member. At the creation of a new court-martial case entry, demographic data for the accused are entered, along with identification of the Service that owns the case.

The Marine Corps and Navy use QCARs Excel spreadsheets to track military justice actions under Article 15, nonjudicial punishments. Demographic data categories for race, ethnicity, and gender are manually input in the QCARs spreadsheet for each case.

Air Force and Space Force

The Air Force and Space Force use AMJAMS, which tracks demographic data for both court-martial and nonjudicial punishment cases for active and reserve Service members. The system requires demographic data to be collected only for the accused and victims who are uniformed Service members. Demographic information is automatically drawn from the Air Force and Space Force personnel system. AMJAMS contains drop-down boxes for race, ethnicity, and gender. Users are limited to the options available in the drop-down boxes.

National Guard

The Air National Guard developed the ADCON system to track MJS data for Air National Guard personnel. ADCON is a restricted access site on the Air National Guard's SharePoint site. In January 2021, the Air Force published AFI 36-2907, which included instructions for reporting demographic data for adverse administrative actions.[8] As a result of this instruction, in May 2021 the Air National Guard modified the ADCON database and updated the demographic information for cases tracked in that system, starting with cases dated January 15, 2021. Service members' demographic data are manually populated using data drawn from the Military Personnel Data System. The ADCON system contains drop-down boxes for race, ethnicity, and gender. Users are limited to the options available to be selected in the drop-down boxes.

Demographic Data Requirements Are Inconsistent in Guidance

The requirements for collecting demographic data contained in OMB Statistical Policy Directive No. 15, the Uniform Standards and Criteria memorandum, and DoD Instruction 1020.05, section 5, are inconsistent. For example, OMB Statistical Policy Directive No. 15 provides five categories for race, while the Uniform Standards and Criteria memorandum and DoDI 1020.05 each include six.

[8] Air Force Instruction 36-2907, "Adverse Administrative Actions," May 22, 2020 (Incorporating Change 1, January 15, 2021). This instruction was reissued with updates on October 14, 2022.

Table 1 shows the requirements for reporting demographic data for OMB Statistical Policy Directive No. 15, the Uniform Standards and Criteria memorandum, and DoD Instruction 1020.05, section 5. The table demonstrates the differences in each requirement by category.

Table 1. Required Demographic Data Categories

Demographic Data Category	OMB Directive No. 15 Requirements	Uniform Standards and Criteria Memorandum Requirements	DoDI 1020.05 Requirements
Race	1. American Indian or Alaska Native 2. Asian 3. Black or African American 4. Native Hawaiian or Other Pacific Islander 5. White	1. American Indian or Alaska Native 2. Asian 3. Black or African American 4. Native Hawaiian or Other Pacific Islander 5. White 6. Other	1. American Indian or Alaska Native 2. Asian 3. Black or African American 4. Native Hawaiian or Other Pacific Islander 5. White 6. Multiracial
Ethnicity	1. Hispanic or Latino 2. Not Hispanic or Latino	1. Hispanic or Latino 2. Not Hispanic or Latino	1. Hispanic or Latino 2. Non-Hispanic or non-Latino
Sex	No requirements specified	1. Male 2. Female	1. Male 2. Female

Source: The DoD OIG.

The Services Collect Demographic Data in Inconsistent Race Categories

There were inconsistencies throughout the MJS demographic data collection for categorizing race. Table 2 shows the options found in the race category for the military justice system databases, by Service. The table demonstrates that each Service uses different race categories.

Table 2. Race Category Language Used for MJS Data, by Service

Army	Marine Corps	Navy	Air Force and Space Force	Air National Guard
1. American Indian or Alaska Native 2. Asian 3. Asian/Pacific Islander 4. Black 5. Data not provided 6. Hispanic 7. Other 8. Other/ Unknown 9. Unknown 10. White	1. American Indian or Alaska Native 2. Asian 3. Black or African American 4. Caucasian 5. Hispanic 6. Native American 7. Native Hawaiian or Other Pacific Islander 9. Other 10. Undisclosed or Unknown 11. White	1. American Indian or Alaska Native 2. Asian 3. Black 4. Black or African American 5. Caucasian 6. Declined to Provide 7. Hispanic 8. Native Hawaiian or Other Pacific Islander 9. Other 10. Undisclosed or Unknown 10. White 11. [blank]	1. American Indian or Alaskan Native 2. Asian 3. Black or African American 4. Declined to respond 5. Native Hawaiian or other Pacific Islander 6. Pending 7. Two or More 8. White 9. Blank	1. American Indian/Alaskan Native, Native Hawaiian/ Pacific Islander 2. American Indian/Alaskan Native, Native Hawaiian/ Pacific Islander, White 3. American Indian/Alaska Native 4. Asian 5. Black/African American, White 6. Black/African American 7. Declined to Respond 8. Native Hawaiian/ Other Pacific Islander 9. Null 10. White

Source: The DoD OIG.

The Services Collect Demographic Data in Inconsistent Ethnicity Categories

There were inconsistencies throughout the military justice system demographic data collection for categorizing ethnicity. Table 3 shows the options found in the ethnicity category for the MJS databases, by Service. The table demonstrates that each Service uses different ethnicity categories.

Table 3. Ethnicity Category Language Used for MJS Data, by Service

Army	Marine Corps	Navy	Air Force and Space Force	Air National Guard
1. Hispanic or Latino 2. Not Hispanic or Latino 3. Other 4. Unknown 5. None	1. Hispanic or Latino 2. Not Hispanic or Latino 3. Undisclosed or Unknown 4. Blank*	1. Hispanic or Latino 2. Not Hispanic or Latino	1. Hispanic or Latino 2. Not Hispanic or Latino 3. Declined to Answer 4. Blank	1. Hispanic-Multi-Racial 2. Hispanic-Not Identified/Declined to Respond 3. Hispanic-White 4. Not Hispanic 5. Not Hispanic-Asian 6. Not Hispanic-Black/ African American 7. Not Hispanic-Multi Racial 8. Not Hispanic-Native American/Alaskan Native 9. Not Hispanic-Native/Hawaiian/ Other Pacific Islander 10. Not Hispanic-Not Identified/Declined to Respond 11. Not Hispanic-White 12. Null

*"Blank" indicates the field did not include an assigned category.
Source: The DoD OIG.

The Services and Air National Guard Collect Demographic Data in Inconsistent Sex or Gender Categories

There were inconsistencies throughout the MJS demographic data collection for category titles; both "sex" and "gender" are used. For example, the Army, Air Force, and Air National Guard used the category titled "gender" for data collection, while the Navy and Marine Corps used the category titled "sex."

The Services May Be Unable to Report Consistent and Comparable Demographic Data

The Services were unable to report demographic data as required for Federal reporting purposes and for use in evaluating DoD diversity and inclusion efforts. As a result, the Services may not have the demographic data required for DoD and Government-wide goals for reporting consistent and comparable demographic data. If the demographic data are not comparable, the DoD will not be able to determine the progress made in its diversity and inclusion efforts.

Joint Service Committee on Military Justice

In the Joint Service Committee on Military Justice Combined 146a Report to Congress for FY 2021 (the Combined 146a report), the Services did not report demographic data in the categories established by the OMB because the Services were unable to aggregate the data into the categories required by OMB Statistical Policy Directive No. 15 and the Uniform Standards and Criteria memorandum. The data that the Military Services submitted for the Combined 146a report include the two categories for ethnicity and the five minimum categories for race. However, data regarding ethnicity submitted by three of the Services include an additional category, "unknown/other," and data regarding race submitted by all four Services include two additional categories, "Other" and "Unknown."

The demographic data submitted by the Air Force were consistent with the requirements with regard to ethnicity. However, the demographic data submitted by the Army, Air Force, Navy, and Marine Corps included data for both the accused and the victims regarding ethnicity in three categories:

- Hispanic/Latino;
- Non-Hispanic/Latino; and
- Unknown/Other.

The demographic data for race submitted by Army, Navy, and Marine Corps used seven categories:

- American Indian/Alaska Native;
- Asian;
- Black or African American;
- Native Hawaiian/Pacific Islander;
- White;
- Other; and
- Unknown.

The Air Force noted in its report:

> Racial and ethnic demographic data is self-reported by service members and pulled from AFPC [Air Force Personnel Center] databases by AMJAMS. Any unaccounted for numbers in ethnic demographic data reflects either "unknown," "none," or "declined to respond," answers from service members. The results of AMJAMS data pulls for ethnicity yield only Hispanic and non-Hispanic categories such that the specific numbers for each of the other categories is unknown.

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

The Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) is a Federal advisory committee established under section 546 of the FY 2015 National Defense Authorization Act. The DAC-IPAD was established to review and assess racial disparities in the investigation and prosecution of penetrative and contact sexual offenses.[9] In its December 2020 report, the DAC-IPAD stated that it "found more questions raised by the Services' FY 19 data responses than answers provided by them," because of inadequacies in race and ethnicity data collection in the DoD, specifically; by the Service military criminal investigative organizations; and by military justice databases.[10]

The DAC-IPAD report also stated: "Because the Military Services do not report race and ethnicity in standardized categories, the [DAC-IPAD] was unable to make comparisons across the Military Services or assess the Armed Forces as a whole. In addition, no Military Service consistently records the race and ethnicity of victims of a sexual offense."

According to the DAC-IPAD, the single consistent finding from every review of racial and ethnic disparities in the MJS over the past 50 years is the inadequacy of the Services' data collection on race and ethnicity. The December 2020 DAC-IPAD report stated that, in its May 2019 report to Congress, the Government Accountability Office determined that the Services "do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases." The report added, "This limits the military services' ability to collectively or comparatively assess these demographic data to identify any racial or ethnic disparities in the military justice system within and across the services."

In a September 13, 2018 letter to the Secretary of Defense regarding implementation of section 5504 of the Military Justice Act of 2016, the DAC-IPAD recommended that the Services develop a plan to transition to one uniform case management system across all of the Services. The DAC-IPAD restated this recommendation in 2020 with regard to tracking contact and penetrative sexual offenses.

[9] Section 546 of the Carl Levin and Howard P. "Buck"' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 546, 128 Stat. 3292 (2014). Additionally, the FY 2020 NDAA, Pub. L. No. 116-92, § 535, 133 Stat. 1198 (2019), extended the DAC-IPAD's term from 5 to 10 years.

[10] The DAC-IPAD Report on Racial and Ethnic Data Relating to Disparities in the Investigation, Prosecution, and Conviction of Sexual Offenses in the Military, December 2020.

Management Comments on the Finding and Our Response

Although not required to comment, the Air Force Deputy Judge Advocate General provided comments on the Finding. For the full text of the Deputy Judge Advocate General's comments, see the Management Comments section of the report.

Air Force Comments

The Air Force Deputy Judge Advocate General agreed with the report's finding on the lack of consistency in the demographic data collected in the military justice systems. The Deputy Judge Advocate General also stated that the Disciplinary Case Management System, which is currently in development, will be able to adapt to any demographic category changes.

Our Response

We acknowledge the Air Force Deputy Judge Advocate General's comments on the Finding.

Navy and Marine Corps Comments

Although not required to comment, the Navy Assistant Judge Advocate General for Military Law and the Deputy Staff Judge Advocate to the Commandant of the Marine Corps provided comments on specific wording in the report.

Our Response

We acknowledge the comments from the Navy Assistant Judge Advocate General for Military Law and the Deputy Staff Judge Advocate to the Commandant of the Marine Corps. We incorporated updated information in footnotes where applicable, but made no changes to table information.

Recommendations, Management Comments, and Our Response

Recommendation 1

We recommend that the Under Secretary of Defense for Personnel and Readiness:

a. Establish and define demographic categories in Service personnel and military justice system databases across all Services.

Under Secretary of Defense for Personnel and Readiness Comments

The Under Secretary of Defense for Personnel and Readiness partially agreed and stated that the Services can currently aggregate data to meet the minimum requirement of OMB Statistical Policy Directive No. 15 and DoD Instruction 1020.05 to report disparities consistently. The Under Secretary acknowledged that the Services have flexibility in collecting data at the level of granularity they require, while ensuring compliance with the minimum requirements. Rather than dictating the level of granularity to the Services, the Under Secretary stated that the DoD will direct the Services to use existing standardized aggregated data elements for reporting for DoD-wide analyses. In addition, the DoD will ensure the Services comply with Defense Manpower Data Center (DMDC) database requirements specified in DoDI 1336.05. The DoD will also recommend the Services use the DMDC-standardized race/ethnicity data elements as the definitive source for analyzing military disparities for their annual reporting requirements instead of using individual Service data elements for race/ethnicity.

Our Response

Comments from the Under Secretary partially addressed the recommendation; therefore, this recommendation is unresolved. We acknowledge the DoD will recommend the Services use the DMDC-standardized race/ethnicity data elements for reporting requirements. However, those data elements align with the criteria set forth in DoDI 1336.05, which does not align with the military justice system data requirements set forth in OMB Statistical Policy Directive No. 15 and DoDI 1020.05. We request that the Under Secretary provide additional comments in response to the final report to describe how the DoD will ensure the Services are able to aggregate demographic data for Federal reporting requirements.

b. Establish a process that requires consistent use of demographic categories in Service personnel and military justice system databases across all Services.

Under Secretary of Defense for Personnel and Readiness Comments

The Under Secretary of Defense for Personnel and Readiness agreed with recommendation and stated it aligns with recent recommendations the DoD has agreed to and is working to implement from the U.S. Government Accountability Office (GAO) report (GAO 19-344) and new statutory requirements. GAO recommended the DoD develop the capability to present Service members' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases. Section 547 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 required the development of consistent data elements for reporting. The DoD's guidance will be updated after OMB Statistical Policy No. 15 is revised.

Our Response

Comments from the Under Secretary addressed the specifics of the recommendation; therefore, this recommendation is resolved, but will remain open. We will close this recommendation when the Under Secretary provides documentation supporting the development of consistent data elements for reporting based on the revised OMB Statistical Policy No. 15.

c. Conduct a review to determine whether a single military justice system database for use by all Services would be beneficial.

Under Secretary of Defense for Personnel and Readiness Comments

The Under Secretary of Defense for Personnel and Readiness partially agreed that a standardized data repository for analyses is warranted, but did not agree that a single military justice system case management database is warranted. As an alternative, the Under Secretary stated the DoD will create a single centralized Office of the Secretary of Defense-managed system to extract data and documents from the existing Armed Forces databases that maintain information on military justice matters pursuant to section 547 of the NDAA for FY 2022 for analytic purposes. The DoD has also convened two working groups to create codebooks and data dictionaries to facilitate the aggregation of data from each Armed Forces system into a new umbrella system, with final products to be completed in the summer 2023 timeframe.

Our Response

Comments from the Under Secretary addressed the specifics of the recommendation; therefore, this recommendation is resolved, but will remain open. We will close this recommendation when the Under Secretary provides documentation demonstrating the single centralized Office of the Secretary of Defense-managed system is able to extract data and documents for analytical purposes.

d. Develop and implement a single military justice system database if found beneficial based on the review.

Under Secretary of Defense for Personnel and Readiness Comments

The Under Secretary of Defense for Personnel and Readiness partially agreed and stated that the DoD will implement the actions outlined in the response to Recommendation 1c.

Our Response

Comments from the Under Secretary addressed the specifics of the recommendation; therefore, this recommendation is resolved, but will remain open. We will close this recommendation when the Under Secretary provides documentation demonstrating the single centralized Office of the Secretary of Defense-managed system is able to extra data and documents for analytical purposes.

Air Force Comments

Although not required to comment, the Air Force Deputy Judge Advocate General provided comments on the recommendations. The Deputy Judge Advocate General stated that they agree with Recommendations 1.a and 1.b, but suggested that additional demographic categories should be added for individuals who identify with more than one race or choose not to identify with a race.

The Air Force Deputy Judge Advocate General also stated that they do not agree with Recommendations 1.c and 1.d because they do not think a single, DoD-wide military justice system or database would be beneficial and could potentially have negative impacts on all the Services.

Our Response

We acknowledge the Air Force Deputy Judge Advocate General's comments on the recommendations. While the Deputy Judge Advocate General does not agree that a single military justice system would be beneficial, our recommendation is not to implement a single system; rather, our recommendation is that the Under Secretary of Defense for Personnel and Readiness conduct a review to determine whether it would be beneficial.

Appendix

Scope and Methodology

We conducted this evaluation from May 2022 through January 2023 in accordance with the "Quality Standards for Inspection and Evaluation," published in December 2020 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

To accomplish the objective, we contacted the Office of the Under Secretary of Defense for Personnel and Readiness; Defense Manpower Data Center; and Office of Diversity, Equity, and Inclusion to discuss MJS demographic data requirements. We also held meetings with the Army, Navy, Marine Corps, Air Force, National Guard, and Space Force offices responsible for capturing demographic data in the military justice system databases. We held the meetings to observe the demographic data in the databases and to determine if any Service-specific policies exist.

We also collected and analyzed demographic data from the Service databases to determine the demographic categories and how each category is defined by the DoD and the Services. We looked for inconsistencies and gaps in the collection and categorization process. We obtained testimonial and documentary evidence from the Services that are used to capture and track the demographic data related to offenses in the MJS. We determined what internal controls exist to ensure consistency in data categorization, and we determined if any barriers related to data collection and categorization exist.

Finally, we reviewed the Military Justice Act of 2016 and OMB Statistical Policy Directive No. 15, which requires the Services to collect and categorize demographic data in the MJS. We also reviewed DoDI 1020.05 and the Uniform Standards and Criteria memorandum issued by the General Counsel of the DoD. We reviewed these criteria to determine if gaps exist in the current demographic data collection and reporting processes.

We reviewed the Services' annual reports to Congress regarding the military justice system to identify any deficiencies related to collection and categorization of demographic data.

Use of Computer-Processed Data

We did not use computer-processed data to perform this evaluation.

Prior Coverage

During the last 5 years, the GAO and the DAC IPAD issued three reports discussing demographic data in the military justice system.

GAO

GAO 21-105000, "Military Justice: DoD and Coast Guard Improved Collection and Reporting of Demographic and Nonjudicial Punishment Data, but Need to Study Causes of Disparities," August 30, 2021

> The military services have implemented 8 of 11 recommendations made in the 2019 GAO report, aimed at improving their ability to collect and report consistent demographic data. However, DoD has not identified when disparities should be further reviewed or studied the causes of disparities in the military justice system.

GAO Report No. GAO-19-344, "Military Justice: DoD and the Coast Guard Need to Improve Their Capabilities to Assess Racial and Gender Disparities," May 30, 2019

> The military services collect gender information, but they do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases. This limits their ability to collectively or comparatively assess the data to identify any disparities in the military justice system within and across the services. GAO made 11 recommendations.

DAC-IPAD

"Report on Racial and Ethnic Data Relating to Disparities in the Investigation, Prosecution, and Conviction of Sexual Offenses in the Military," December 15, 2020

> This report reviewed race and ethnicity data provided by the Military Services for all adult-victim cases involving penetrative and contact sexual offenses completed in FY 2019. The report stated that the Military Services do not report race and ethnicity in standardized categories, and therefore, the Committee was unable to make comparisons across the Military Services. In addition, no Military Service consistently records the race and ethnicity of victims of a sexual offense.

Management Comments

Under Secretary of Defense for Personnel and Readiness

PERSONNEL AND READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

MAY 1 8 2023

MEMORANDUM FOR INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Response to Department of Defense Office of the Inspector General Draft Report, "Evaluation of the Collection of Demographic Data in the Military Justice System" (Project No. D2022-DEV0PF-0130.000)

This memorandum responds to the DoD Office of the Inspector General draft report, "Evaluation of the Collection of Demographic Data in the Military Justice System" (Project No. D2022-DEV0PF-0130.000). Responses and justifications are attached for recommendations 1a, 1b, 1c, and 1d. My office partially concurs with recommendations 1a, 1c, and 1d and concurs with recommendation 1b.

For recommendation 1a, the Department will direct the Services to utilize existing standardize aggregated data elements from the Defense Manpower Data Center for reporting in Department-wide analyses of military justice disparities instead of individual Service data elements.

Recommendation 1b aligns with existing recommendations and statutory requirements, including recommendations from the U.S. Government Accountability Office; section 547 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022; and DoD Instruction 1020.05, "DoD Diversity and Inclusion Management Program," September 9, 2020, that direct the Department to establish a process that ensures consistent collection and reporting of race and ethnicity military justice data. These efforts are currently underway.

For recommendations 1c and 1d, the Department agrees that a standardized data repository for analyses is warranted, but this does not require creation of a single military justice case management system for use at the collection phase to replace current Armed Forces systems that the Services use in their Military Criminal Investigative Organizations for administrative purposes. Instead, the Department will create a single centralized Office of the Secretary of Defense-managed database to extract data and documents from the existing Armed Forces systems that maintain information on military justice matters pursuant to section 547 of the NDAA for FY 2022 for analytic purposes. To this end, the Department has also convened two working groups to facilitate the aggregation of data from each Armed Forces system into this new umbrella system, with final products to be complete in summer 2023.

My point of contact for this effort is [redacted]

Gilbert R. Cisneros, Jr.

Attachment:
As stated

Under Secretary of Defense for Personnel and Readiness (cont'd)

Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) Response to Department of Defense Office of the Inspector General Report, "Evaluation of the Collection of Demographic Data in the Military Justice System" (Project No. D2022-DEV0PF-01300.000)

Recommendation 1a. Establish and define demographic categories in Service personnel and military justice system databases across all Services.

- OUSD(P&R) Comment: Partially concur.
- Justification: With current data collection systems, the Services and Components can aggregate data up to the level required by the Office for Management and Budget's Statistical Policy Directive No. 15 (SPD 15) and Department of Defense Instruction (DoDI) 1020.05, "DoD Diversity and Inclusion Management Program," September 9, 2020, to report out disparities consistently. However, the Services have great latitude in collecting data at the level of granularity that they require while ensuring compliance with the minimum categories described in SPD 15. Instead of dictating the level of granularity in which these data are collected at the Service level, the Department will direct the Services to use existing standardized aggregated data elements for reporting for Department-wide analyses. To this end, the Department will ensure the Services comply with Defense Manpower Data Center (DMDC) database requirements specified in DoDI 1336.05, "Automated Extract of Active Duty Military Personnel Records," July 28, 2009, as amended; DoDI 7730.54, "Reserve Components Common Personnel Data System (RCCPDS)," May 20, 2011; and Department of Defense Manual (DoDM) 7730.54, Volume 1, "Reserve Components Common Personnel Data System (RCCPDS): Reporting Procedures," May 25, 2011, as amended; and DoDM, Volume 2, "Reserve Components Common Personnel Data System (RCCPDS): Domain Values for Reserve Component (RC) Personnel Reports," May 25, 2011. The Department will recommend the Services use the DMDC-standardized race/ethnicity data elements as the definitive source for analyzing military disparities for their annual reporting requirements instead of using individual Service data elements for race/ethnicity, as has been done in recent Department studies.

Recommendation 1b. Establish a process that requires consistent use of demographic categories in Service personnel and military justice system databases across all Services.

- OUSD(P&R) Comment: Concur.
- Justification: This recommendation aligns with recent recommendations the Department has already concurred with and is working to implement from the U.S. Government Accountability Office (GAO 19-344) and new statutory requirements. In particular, GAO recommended the Department develop the capability to present Service members' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases. Moreover, section 547 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 requires the development of

Under Secretary of Defense for Personnel and Readiness (cont'd)

consistent data elements for reporting. To meet these similar requirements, the Department will leverage Section 5 of DoDI 1020.05 for establishing standardized means of collecting data Department-wide on race and ethnicity. Once SPD 15 is updated, the Department will revise guidance accordingly.

- The Department will align the additional Uniform Standards and Criteria (10 U.S.C. § 140a standards) to DoDI 1020.05 by removing the "other" category and incorporating the "multiracial" reporting category. "Multiracial" aligns with SPD reporting category "Two or More Races," which is used by other Federal statistical agencies.

Recommendation 1c. Conduct a review to determine whether a single military justice system database for use by all Services would be beneficial.

- OUSD(P&R) Comment: Partially concur.
- Justification: The Department agrees that a standardized data repository for analyses is warranted, but this does not require creation of a single military justice system case management database for use at the collection phase to replace current Armed Forces systems that the Services use in their Military Criminal Investigative Organizations for administrative purposes. Instead, the Department will create a single centralized Office of the Secretary of Defense-managed system to extract data and documents from the existing Armed Forces databases that maintain information on military justice matters pursuant to section 547 of the NDAA for FY 2022 for analytic purposes. To this end, the Department has also convened two working groups to create codebooks and data dictionaries to facilitate the aggregation of data from each Armed Forces system into this new umbrella system, with final products to be complete in summer 2023.

Recommendation 1d. Develop and implement a single military justice system database if found beneficial based on the review.

- OUSD(P&R) Comment: Partially concur.
- Justification: The Department will implement actions as described in recommendation 1c for the centralized aggregation of standardized data elements from existing Armed Forces case management systems and DMDC race/ethnicity data.

2

Marine Corp Judge Advocate

SELECT A CLASSIFICATION
DoD ISSUANCE COORDINATION RESPONSE

COMPONENT COORDINATOR RESPONSE

April 19, 2023

SUBJECT: Choose an item. DoD IG, Evaluation of the Collection of Demographic Data in the Military Justice System

On behalf of my Component, my formal response to this issuance is: Nonconcur. Below are comments that detail my Component's objections to this issuance.

My point of contact for this action is [redacted]

X [redacted]
Double-click the 'X' to insert a digital signat...
or print and sign a hard copy.

Coordinating Official's Name: Col C. G. Tolar, U.S. Marine Corps
Coordinating Official's Position Title: Deputy Staff Judge Advocate to the Commandant of the Marine Corps
Coordinating Official's Component: HQMC (JA)

DD FORM 818, AUG 2016 **SELECT A CLASSIFICATION**

Marine Corp Judge Advocate (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
Choose an item.	1	1-2	Uniform Code of Military Justice	☐	**Coordinator Comment and Justification**: The paragraph inaccurately summarizes the functions of the Courts of Criminal Appeals, the U.S. Court of Appeals for the Armed Forces, and the U.S. Supreme Court as established in Article 66–67a, UCMJ. For example, pursuant to an amendment of Article 66 in the FY23 NDAA, the review of cases by the CCAs is not limited by the nature of the sentence; the CAAF reviews decisions of the CCAs in only certain circumstances; and the Supreme Court only reviews decisions of CAAF by writ of certiorari, and there is no requirement that it review death penalty cases. **Coordinator Recommended Change**: Update the paragraph consistently with Articles 66–67a, UCMJ. **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]
Choose an item.	2	9	Table 2	☒	**Coordinator Comment and Justification**: The categories for race in the Marine Corps column are incorrect. The Marine Corps reports race in compliance with the Revised Uniform Standards and Criteria Required by Article 140a. In Wolverine, the categories for race of the accused are as follows: American Indian or Alaskan Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White; Other. In Wolverine, the categories for race of the victim are as follows: American Indian or Alaskan Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White; Other. In the QCAR, the categories for race of the accused are as follows:	[redacted]

DD FORM 818, AUG 2016 REPLACES SD FORM 818, WHICH IS OBSOLETE

SELECT A CLASSIFICATION 2

Marine Corp Judge Advocate (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					American Indian/Alaskan Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White; Other. In the QCAR, the categories for race of the victim are as follows: American Indian/Alaskan Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White; Other. There are also options to select "Victim Declined to Respond" and "N/A," but those are not *categories*. Not all QCAR entries will involve a victim, so an option for "N/A" is logical and not violative of any requirement. Also, some victims are civilians, so there is no personnel database from which to draw demographic data, as there is with Marines. The draft report identifies no authority to require the disclosure by a civilian victim of demographic characteristics. "Victim Declined to Respond" represent a lack of data to fall within a category; it does not represent category itself. This is wholly logical and appropriate. **Coordinator Recommended Change**: Update Table 2 to accurately reflect the categories for race in the Marine Corps MJS databases. **Originator Response**: Choose an item. **Originator Reasoning**:	
Choose an item.	3	10	Table 3	☒	**Coordinator Comment and Justification**: The categories for ethnicity in the Marine Corps column are incorrect. The Marine Corps reports ethnicity in compliance with the Revised Uniform Standards and Criteria Required by Article 140a. In Wolverine, the categories for ethnicity of the accused are as follows: Hispanic or Latino; Not Hispanic or Latino.	[redacted]

DD FORM 818, AUG 2016 REPLACES SD FORM 818, WHICH IS OBSOLETE

SELECT A CLASSIFICATION 3

Marine Corp Judge Advocate (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					In Wolverine, the categories for ethnicity of the victim are as follows: Hispanic or Latino; Not Hispanic or Latino. In the QCAR, the categories for ethnicity of the accused are as follows: Hispanic or Latino; Not Hispanic or Latino. In the QCAR, the categories for ethnicity of the victim are as follows: Hispanic or Latino; Not Hispanic or Latino. There are also options to select "Victim Declined to Respond" and "N/A." As discussed in the comment above about race, these are not categories and do not represent a violation of any requirement. **Coordinator Recommended Change**: Update Table 3 to accurately reflect the categories for ethnicity in the Marine Corps MJS databases. **Originator Response**: Choose an item. **Originator Reasoning**:	
Choose an item.	4	11-12	Joint Service Committee on Military Justice	☒	**Coordinator Comment and Justification**: Footnote 10 says, "While the FY2022 report was due December 31, 2022, the 2022 Combined 146a report has not yet been issued as of March 21, 2023." This is inaccurate and misrepresents the requirement of Article 146a. Article 146a requires, "Not later than December 31 of each year the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report [to the SASC, HASC, SECDEF, and the Secretaries of the military departments], with respect to the preceding fiscal year . . . ." The SJA to CMC met that requirement for FY22. Also, the Services' combined reports for FY22 are available here: https://jsc.defense.gov/Annual-Reports/	[redacted]

DD FORM 818, AUG 2016 REPLACES SD FORM 818, WHICH IS OBSOLETE

SELECT A CLASSIFICATION 4.

Marine Corp Judge Advocate (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					Further, the paragraph misrepresents the Marine Corps' FY21 Article 146a report by stating that it includes "Unknown/Other" as a category of ethnicity for accused and victims. There is simply no column for "Other." While there is a column and there are entries for "Unknown," as discussed above, that is not a *category*. It merely reflects the absence of data to fall within a category. The alternative would be for those involved in the collection and reporting of demographic data to make assumptions about the characteristics of an individual. The paragraph further states that the Marine Corps report uses a race category of "Unknown." As discussed above, "Unknown" is not a *category*, but only the absence of data to fall within a category. **Coordinator Recommended Change**: Delete the second sentence of footnote 10 and amend the paragraph to accurately reflect the contents of the Marine Corps FY21 Article 146a report. **Originator Response**: Choose an item. **Originator Reasoning**:	

DD FORM 818, AUG 2016 REPLACES SD FORM 818, WHICH IS OBSOLETE
SELECT A CLASSIFICATION 5

Marine Corp Judge Advocate (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

HOW TO FILL OUT THE DD 818 MATRIX

GENERAL GUIDANCE:

- **To sort table** by page/paragraph number, hover your mouse over the top of the first cell in the "page" column until a downward arrow appears; click and drag to the right to select both page and para columns. Under Paragraph on the Home ribbon, select A-Z button, set to sort by Column 3 and then Column 4, and select "OK." **To add new rows,** copy and paste a blank row to keep consistent formatting. **To add automatic numbering to column 2**, select entire column and click on the Numbering button under Paragraph on the Home ribbon.

COORDINATING OSD AND DOD COMPONENTS:

- Do not use the DD Form 818-1.
- Fill in the memo indicating your Component's position on the issuance. Fill in the authorized coordinator's name, position, and Component. The authorized coordinator (digitally) signs the response after the comment matrix has been completed. **Making additional changes after filling in a digital signature invalidates and removes the signature.**
- Use the comment matrix to provide comments to the OSD Component that created the issuance. Complete the header and footer and Columns 1 -7:

Column 1	Enter the classification of the comment. If any material is **classified**, follow DoDM 5200.01 guidance for marking the document. If all comments are unclassified, mark the header and footer and ignore the column.
Column 2	Order comments by the pages/paragraphs that they apply to in Columns 3 and 4.
Columns 3&4	Cite the page on which the paragraph appears; cite the paragraph number as it appears in the text, e.g. 2.1.a..
Columns 5	Only mark this box if you non-concur with the issuance and the comment in the applicable row is part of the basis for that non-concur. A nonconcur is typically used only when an issuance contains: (a) a violation of the law or contradiction of Executive Branch policy or of existing policy in a DoDD, DoDI, or other instrument approved by the Secretary or Deputy Secretary of Defense; or (b) an unnecessary risk to safety, life, limb, or DoD materiel; waste or abuse of DoD appropriations; or unreasonable burden on a DoD Component's resources.
Column 6	Place only one comment per row. Enter your comment, justification, and recommended changes in the first two areas provided. If any material is **classified** or **controlled unclassified information**, follow DoDM 5200.01 or DoDI 5200.48 guidance for marking the document.
Column 7	As stated.

- **Review** the comments, **resolve** any conflicting views, and **confirm** that the completed matrix accurately represents your Component's position. Upload the form to the DoD Directives Program Portal in **Microsoft Word format (.docx)**, with the signed memo representing your Component's position.

Navy Judge Advocate General

SELECT A CLASSIFICATION
DoD ISSUANCE COORDINATION RESPONSE

COMPONENT COORDINATOR RESPONSE

March 31, 2023

Choose an item.

SUBJECT: DODIG Project Number D2022-DEVOPF-0130.000, "Evaluation of the Collection of Demographic Data in the Miltary Justice System" Department of Defense Instruction

On behalf of my Component, my formal response to this issuance is: Concur with comment. Below are comments for your consideration.

My point of contact for this action is [redacted]

3/31/2023

X Donald J. Riley Jr.
Double-click the 'X' to insert a digital signature or print and sign a hard copy.
Signed by: RILEY.DONALD.JOSEPH.JR[redacted]

Coordinating Official's Name: Colonel Donald J. Riley, Jr, USMC
Coordinating Official's Position Title: Assistant Judge Advocate General (Military Law)
Coordinating Official's Component: Office of the Judge Advocate General

DD FORM 818, AUG 2016 **SELECT A CLASSIFICATION**

Navy Judge Advocate General (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
	1	4	3	☐	**Coordinator Comment and Justification**: Unclear what "Navy military justice system" is being referred to. Wolverine tracks ethnicity across 3 categories (Hispanic, non-Hispanic, and Undisclosed/Unknown). Likewise, QCAR tracks ethnicity across two categories (Hispanic and Not Hispanic). **Coordinator Recommended Change**: Delete the words while the Navy military justice system tracks ethnicity in 11 categories. **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]
Choose an item.	2	14	1	☐	**Coordinator Comment and Justification**: The Navy does not object to Recommendation 1a **Coordinator Recommended Change**: None **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]
Choose an item.	3	14	1	☐	**Coordinator Comment and Justification**: The Navy does not object to Recommendation 1b **Coordinator Recommended Change**: **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]

DD FORM 818, AUG 2016 **REPLACES SD FORM 818, WHICH IS OBSOLETE**

SELECT A CLASSIFICATION 2

Navy Judge Advocate General (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
Choose an item.	4	14	1	☐	**Coordinator Comment and Justification**: The Navy does not object to Recommendation 1c, although the Navy does desire that review include comment on the feasibility of utilizing the Services existing military justice databases as part of any future single DOD-wide system **Coordinator Recommended Change**: **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]
Choose an item.	5	14	1	☐	**Coordinator Comment and Justification**: The Navy does not object to Recommendation 1d, although the Navy does desire that review include comment on the feasibility of utilizing the Services existing military justice databases as part of any future single DOD-wide system **Coordinator Recommended Change**: **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]
Choose an item.	6			☐	**Coordinator Comment and Justification**: General Comment: As the proposed report notes on page 3, OMB guidance (specifically OMB Statistical Policy Directive No. 15) does not allow for individuals who refuse to provide demographic data or for individuals who do not believe the available choices correctly categorize their own race and/ethnicity. The Service's use of	[redacted]

DD FORM 818, AUG 2016 **REPLACES SD FORM 818, WHICH IS OBSOLETE**

SELECT A CLASSIFICATION 3

Navy Judge Advocate General (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					"unknown" in the Article 146 reports seems an appropriate response when reporting under these facts. **Coordinator Recommended Change**: allow for a separate category to account of "unknown" to account for this issue. **Originator Response**: Choose an item. **Originator Reasoning**:	
Choose an item.	7	1, 2	3, 1	☐	**Coordinator Comment and Justification**: Document notes "U.S. Court of Appeals for the Armed Services" **Coordinator Recommended Change**: Delete the word "Services" and replace with "Forces". **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]
Choose an item.	8	1	Footnote 3	☐	**Coordinator Comment and Justification**: Footnote incorrectly limits the applicability of court-martial jurisdication. **Coordinator Recommended Change**: Delete footnote 3 and replace with "*See* 10 U.S.C. § 802". **Originator Response**: Choose an item.	[redacted]

DD FORM 818, AUG 2016 **REPLACES SD FORM 818, WHICH IS OBSOLETE**

SELECT A CLASSIFICATION 4

Navy Judge Advocate General (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					Originator Reasoning:	
Choose an item.	9	2	4	☐	**Coordinator Comment and Justification**: Violations of state and federal law are triable under the UCMJ within Article 134. **Coordinator Recommended Change**: Delete "not triable under the UCMJ" and insert "under 10 U.S.C. § 134" **Originator Response**: Choose an item. **Originator Reasoning**:	[redacted]

DD FORM 818, AUG 2016 **REPLACES SD FORM 818, WHICH IS OBSOLETE**

SELECT A CLASSIFICATION 5

Navy Judge Advocate General (cont'd)

SELECT A CLASSIFICATION

DoD ISSUANCE COORDINATION RESPONSE: Issuance Type and Number, "Title"

HOW TO FILL OUT THE DD 818 MATRIX

GENERAL GUIDANCE:

- **To sort table** by page/paragraph number, hover your mouse over the top of the first cell in the "page" column until a downward arrow appears; click and drag to the right to select both page and para columns. Under Paragraph on the Home ribbon, select A-Z button, set to sort by Column 3 and then Column 4, and select "OK." **To add new rows,** copy and paste a blank row to keep consistent formatting. **To add automatic numbering to column 2**, select entire column and click on the Numbering button under Paragraph on the Home ribbon.

COORDINATING OSD AND DOD COMPONENTS:

- Do not use the DD Form 818-1.
- Fill in the memo indicating your Component's position on the issuance. Fill in the authorized coordinator's name, position, and Component. The authorized coordinator (digitally) signs the response after the comment matrix has been completed. **Making additional changes after filling in a digital signature invalidates and removes the signature.**
- Use the comment matrix to provide comments to the OSD Component that created the issuance. Complete the header and footer and Columns 1 -7:

Column 1	Enter the classification of the comment. If any material is **classified**, follow DoDM 5200.01 guidance for marking the document. If all comments are unclassified, mark the header and footer and ignore the column.
Column 2	Order comments by the pages/paragraphs that they apply to in Columns 3 and 4.
Columns 3&4	Cite the page on which the paragraph appears; cite the paragraph number as it appears in the text, e.g. 2.1.a..
Columns 5	Only mark this box if you non-concur with the issuance and the comment in the applicable row is part of the basis for that non-concur. A nonconcur is typically used only when an issuance contains: (a) a violation of the law or contradiction of Executive Branch policy or of existing policy in a DoDD, DoDI, or other instrument approved by the Secretary or Deputy Secretary of Defense; or (b) an unnecessary risk to safety, life, limb, or DoD materiel; waste or abuse of DoD appropriations; or unreasonable burden on a DoD Component's resources.
Column 6	Place only one comment per row. Enter your comment, justification, and recommended changes in the first two areas provided. If any material is **classified** or **controlled unclassified information**, follow DoDM 5200.01 or DoDI 5200.48 guidance for marking the document.
Column 7	As stated.

- **Review** the comments, **resolve** any conflicting views, and **confirm** that the completed matrix accurately represents your Component's position. Upload the form to the DoD Directives Program Portal in **Microsoft Word format (.docx)**, with the signed memo representing your Component's position.

DD FORM 818, AUG 2016 REPLACES SD FORM 818, WHICH IS OBSOLETE

SELECT A CLASSIFICATION 6

Air Force Deputy Judge Advocate General

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON DC

28 April 2023

MEMORANDUM FOR DoD OIG

FROM: HQ USAF/JA
1420 Air Force Pentagon
Washington, DC 20330-1420

SUBJECT: Response to Draft DoD OIG Report on Evaluation of the Collection of Demographic Data in the Military Justice System

1. Purpose: The DoD Office of the Inspector General (OIG) provided the Department of the Air Force (DAF), Military Justice and Discipline Directorate (JAJ) a draft of their Evaluation of the Collection of Demographic Data in the Military Justice System (Project No. D2022-DEV0PF-0130.000) (Report) for review and comment before the Report was published. The draft Report includes five findings and four recommendations.

2. Findings Review: We concur with the Report's findings on the lack of consistency in the demographic data collected in the military justice systems, and that providing standard guidance across the services would provide consistent and comparable demographic data. As stated in the Report, each Service tracks its own demographic data in its own Service-approved database. On 17 December 2018, OSD issued Uniform Standards and Criteria for all Services in the collection of military justice data and records. The OSD mandate included a requirement to comport with race and ethnicity categories established by the Office of Management and Budget (OMB) Statistical Policy Directive No. 15. AMJAMS, the DAF military justice database, already collected detailed data on all stages of military justice actions but it was updated in June 2020 to comply with OMB Directive No. 15. AMJAMS has the capability to collect the DoD-required racial, ethnic and gender demographic data categories. The current OMB No. 15 categories for race and ethnicity, along with the additional categories for "declined to respond" and "more than one race", should adequately capture all individuals without requiring a Servicemember to select only one race. The Disciplinary Case Management System (DCMS), currently under development, will be able to adapt to changes with respect to demographic categories.

3. Recommendations Review:

a. *The Under Secretary of Defense for Personnel and Readiness should establish and define demographic categories in Service personnel and military justice system databases across all services.*

RESPONSE: We concur with the recommendation, but we recommend you also consider adding additional categories to account for individuals who identify with more than one race or choose not to identify with a race. This will ensure accuracy and consistency when the data is later analyzed.

Air Force Deputy Judge Advocate General (cont'd)

b. *The Under Secretary of Defense for Personnel and Readiness should establish a process that requires consistent use of demographic categories in Service personnel and military justice system databases across all Services.*

RESPONSE: We concur with this recommendation. AMJAMS/DCMS will be able to adapt to any changes coming out of the personnel system, with respect to demographic categories.

c. *The Under Secretary of Defense for Personnel and Readiness should conduct a review to determine whether a single military justice system database for use by all Services would be beneficial.*

RESPONSE: We nonconcur with this recommendation. Reviews have already been conducted that concluded a single, DoD-wide military justice system/database would not be beneficial. As acknowledged in the Report, the topic of implementing a single military justice system for all Services was reviewed by the Article 140a Subcommittee to the Joint Service Committee on Military Justice (JSC) in 2017/2018. Between October 2017 and July 2018, a Subcommittee comprised of representatives from all the Service's military justice policy divisions met to discuss and make recommendations on a variety of Article 140a (case management, data collection, accessibility, etc.) topics. Wide-ranging research and a series of discussions were held by the Subcommittee to evaluate the possibility of using a single system throughout the DoD. In addition to considering the adoption of one of the existing systems, the Subcommittee also reviewed and analyzed systems used in other Federal agencies and state courts. In the end, the final recommendation of the Subcommittee to the full JSC was against a "common, monolithic data system" instead focusing on the adoption of clear standards and criteria for use by each Service's military justice system. These uniform standards were ultimately announced in the DoD General Counsel Memorandum dated 17 December 2018, with an implementation date of 23 December 2020 and were subsequently revised by memorandum dated 27 January 2023.

The Report also mentions the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assaults in the Military (DAC-IPAD) FY2019 report which noted the inconsistency of data collection (of demographic data) amongst the Services. However, the data used in the DAC-IPAD report was collected prior to the DoD Uniform Standards and Criteria implementation date (23 Dec 20), thus making any reliance on the DAC-IPAD report problematic. The Air Force and Navy have been in the development process for new systems designed to replace legacy systems. These upgrades are, at least in part, driven by the need to standardize data collection.

d. *The Under Secretary of Defense for Personnel and Readiness should develop and implement a single miliary justice database, if found beneficial based upon the review.*

RESPONSE: We non-concur with this recommendation. A single military justice database, if adopted, could potentially have wide-ranging negative impacts on all the Services.

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Air Force Deputy Judge Advocate General (cont'd)

While each Service conducts courts-martial in accordance with the Manual for Courts-Martial, they process those courts in accordance with their Service-specific regulations resulting in distinctive characteristics in the data each Service collects. A single DoD system for all Services would not gain any efficiencies and would require each Service to compromise on the data collected to achieve standardization. Additionally, the benefits achieved by a single system database would not offset the time, money, and resources already invested. The complexity and size of such a system would require a lengthy development process with significant impacts to stakeholders across all the Services. Recent experience in DAF has shown that developing such a large, complex, and unwieldly IT system comes with the great risk of cost, schedule overruns, and failure.

A better solution is to allow each Service to collect and maintain their own demographic data in their military justice database systems, but require standardization of common data and, potentially, require that each Services' data be aggregated post-processing to a single separate DoD database.

4. Thank you for your continued efforts to improve our military justice system in the DAF. If you have any questions, please contact my POC for this matter, [redacted].

REBECCA R. VERNON
Major General, USAF
Deputy Judge Advocate General

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Acronyms and Abbreviations

ADCON	Administrative Control System
AMJAMS	Air Force Automated Military Justice Analysis and Management System
DAC IPAD	Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces
DoDI	DoD Instruction
MJO	Military Justice Online
MJS	Military Justice System (lowercase in text)
OMB	Office of Management and Budget
QCARs	Quarterly Criminal Activity Reports
UCMJ	Uniform Code of Military Justice

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