
Adapting Military Sex Crime Investigations to Changing Times

Summary Report
June 1999

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Foreword

P *eople of differing races, gender, ethnicities, and backgrounds serve the U. S. Armed Forces with dedication and devotion. They draw duty around the world, often in harm's way, to make and preserve peace for the nation and its allies. These military personnel are a source of pride and honor for all Americans.*

The Armed Forces are justly proud of their progressive history in race relations, ethnic diversity, and, more recently, the increasing number of women in their ranks. The Services clearly have been in the forefront of major cultural and social changes that have helped to show the way for all Americans and for the world. Yet, success does not always come without some pain. In this environment of these rapidly evolving changes, the National Academy of Public Administration examined the capabilities of the military criminal investigative organizations to investigate allegations of sexual misconduct competently, independently, and fairly.

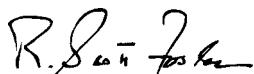
The Academy is pleased to have been asked by Congress to prepare this important report. It breaks some new ground for the Academy into the unique area of military criminal investigations under the Uniform Code of Military Justice.

The panel of experts assembled to guide this study benefited from the involvement of lawyers with extensive experience in the Department of De-

fense and the military, as well as individuals with a wide breadth of experience in governmental personnel and policy issues. In addition, law enforcement managers and professional investigators were engaged to review the Services' policies and practices down to the individual case level and to compare them with benchmark agencies elsewhere in government.

The Academy believes this report will serve well the Congress, the Department of Defense, the Services, and the military criminal investigative organizations. The panel strongly believes that sexual misconduct incidents deserve special attention not only during the investigative phase, but also in the support services integral to proper treatment of victims. Improvements, it finds, are needed from the unit to the departmental level. It has designed a set of recommendations that will go a long way toward ensuring impartial investigations and toward ameliorating the tragic consequences of these crimes.

We want to thank the Congress and the Department of Defense for their assistance and support in this study. We are particularly grateful for the cooperation and assistance of the military criminal investigative organizations which provided not only access to their files and headquarters and field personnel, but also invaluable advice and support borne of their experience and dedication as law enforcement professionals. Let me also express my thanks to the Academy panel, and especially the chair, Sean O'Keefe, as well as the staff, for producing this important report.



*R. Scott Fosler
President*

Preface

The Academy's Panel on Military Investigative Practices is recommending major changes in the Department of Defense's (DoD) policies, practices, and organizations to improve the conduct of sex crime investigations. They apply most directly to the military criminal investigative organizations (MCIOs), the focus of the study that Congress requested us to conduct, and, specifically, to felony sex crimes. But, they also impact other key elements of DoD with responsibilities for criminal investigations and military personnel.

Sex crimes and criminal sexual misconduct are violent, injurious acts that inflict acute physical, emotional, and psychological harm. The Panel believes they occur in the Armed Forces with unacceptable frequency. In 1997, for example, the MCIOs initiated over 3,700 sex crime cases, 900 of which involved child sexual abuse, a particularly disturbing form of criminal sexual misconduct. Consequently, it is imperative that the military be able to effectively investigate charges of criminal sexual misconduct and treat the consequences of founded allegations.

The traumatic and extremely personal nature of sex crimes poses unique demands on agents that are less prevalent in the investigation of other crimes. MCIOs charged with investigating allegations of criminal sexual activity confront this dilemma: the skills and approaches required to manage such cases effectively and appropriately are not fully consistent with the investigative procedural norms for other alleged felonious behavior. For example, investigators must be very sensitive to victims' emotional condition when obtaining vital investigative information; they must recognize their need for both physical treatment and psychological care. Agents also must have specialized knowledge of the techniques and tactics of evidence collection and interviewing that pertain to successful sex crimes investigations — expertise which is typically gained through careful training and extensive field experience. In addition, agents must often be aware of, and work with, medical, counseling, legal, and social service personnel. Finally, agents must be prepared to handle the considerable attention given sex crime cases by the families of victims, the media, and the public.

The Panel concludes that, because sex crimes are different from other crimes, they demand organizational and operational arrangements that recognize their unique characteristics. The Department needs a well-trained cadre of experienced agents organized to investigate serious sex crimes. In many respects, this mirrors developments in other areas of modern military operations where highly skilled and specialized individuals carry out complex and demanding tasks. These agents must be knowledgeable of the range of services that victims need and that DoD is in a position to provide. They also must be reinforced by institutions supportive of, and policies and procedures conducive to, investigative objectivity and judicial impartiality.

The Panel's report addresses the specific areas relevant to sex crime investigations which it was directed to study. For each area, it covers three key points: (1) the issues sex crimes pose, (2) the competencies and deficiencies of MCIO policies and practices, and (3) actions the MCIOs, DoD, and Congress can take to improve their ability to address the investigation and management of sex crimes cases. The recommended actions are the product of the substantial research conducted by the study team coupled with the extensive experience and judgment of the expert panel formed expressly for this study. Specifically, the Panel and staff brought professional investigative, legal and human resources skills as well as broad familiarity with the military and the operations of DoD to bear on the areas of study. While the recommended actions were developed to address and most directly respond to the needs of sex crime investigations, the Panel believes they are also broadly applicable to crimes involving domestic violence and child abuse.

We hope the Secretary of Defense and Congress will work together to address these recommendations and take the steps to achieve the benefits they hold for improving criminal sexual misconduct investigations in the military.

Executive Summary

At Congress' behest, this report addresses sex crime investigations in the armed forces by the military criminal investigative organizations (MCIOs) — the Army Criminal Investigation Command (CID), the Naval Criminal Investigative Service (NCIS), and the Air Force Office of Special Investigations (OSI).

MCIOs investigate most allegations of “felony” sex crimes — rape, indecent assault, and child sexual abuse — in the military. On the other hand, “non-felony” crimes, including sexual harassment, improper sexual advances, adultery, homosexuality, and fraternization, are typically investigated by command personnel, not the MCIOs. Completed MCIO investigations are turned over to commanders for action. MCIOs have no control over command, court-martial, or punishment decisions made in the cases they investigate. Thus, they operate within a military criminal justice system that provides commanders substantial authority to investigate, adjudicate, and punish those accused of criminal misconduct.

The Panel formed by the National Academy of Public Administration to conduct this study dealt only with the tasks assigned by Congress. It focused on MCIO investigations of sexual misconduct. It did not review other Department of Defense (DoD), Service, or MCIO investigative activities nor the administrative decisions or corrective actions resulting from MCIO investigations. Thus, other facets of the military criminal justice system, beyond those associated with MCIO sex crime investigations, were not addressed. In coming to its findings and recommendations, the Academy Panel and staff:

- reviewed past studies on DoD investigative capabilities and gender issues
- interviewed numerous DoD, Service, and MCIO headquarters officials
- evaluated relevant investigative policies, directives, and manuals
- visited MCIO laboratories, regions, units, and related federal training facilities

- analyzed randomly selected case files of closed sexual misconduct investigations
- assessed workload, workforce, and financial resource data
- reviewed comparable activities of the FBI and other law enforcement agencies
- conducted outreach to potential MCIO critics

The trauma of sex crimes is unique, and sex crime investigators must have skills and take approaches that differ from those of other investigators. Victims often require psychological, social, mental, and emotional care, as well as physical treatment. Investigator sensitivity is vital in order to avoid “re-victimization” in interviews. Also needed is expertise in the needs of sex crime victims and the resources available to meet them. Child sex crime investigators, in particular, must have unique and specialized interviewing skills and techniques in order to protect an alleged victim as well as to avoid false allegations. Commonly, family members or other care-providers are involved, a factor which complicates the job of investigators. Finally, modern forensics increase the demand and pressure for prompt and complete physical evidence collection.

In sum, sex crime investigators must have the skills to obtain detailed information to assist victims, collect detailed physical evidence, get verbal statements from frequently distraught victims, and provide them with psychological and physical reassurance. Competency in these skills is rarely taught, and, often, must be learned on the job. Well-trained journeymen investigators who are skilled, mature, and experienced seem to do best.

The Panel believes that sex crime investigations demand organizational and operational arrangements different from existing military structures and processes and that the application of general investigative resources to sex crimes is not adequate. Consequently, the Panel is proposing changes in the MCIOs’ organization, processes, and procedures to improve the effectiveness of sex crime investigations. The summary below highlights the Panel’s major findings and recommendations in relation to the congressionally mandated tasks and the major areas of the Panel’s review.

AUTHORITY AND AUTONOMY

To conduct competent investigations, the MCIOs must have the authority to obtain relevant information and sufficient independence to pursue appropriate investigative approaches. Thus, the Panel reviewed the MCIOs' basic authorities, their subordination within the Services, their independence and command interaction, the incidence of command interference in investigations, and limitations on the MCIOs' investigative approaches.

The MCIOs do not have an explicit statutory base or clear DoD direction on their law enforcement role, their responsibilities for felony crime investigations, or the nature of criminal, including sexual, misconduct. As evidenced by the recent Secretary of Defense-level reviews of adultery, fraternization, and gender-integrated training, DoD needs to take a more proactive role setting the investigative standards and clarifying the ambiguities that exist in the military criminal justice system. A comprehensive DoD directive is best-suited for correcting the uncertainties which currently result from ad hoc decision making by commands and MCIOs on their roles and responsibilities. **Thus, the Panel recommends that DoD provide direction to the Services on the MCIOs' roles in criminal investigations that includes clarifying guidance on their investigative responsibilities in criminal sexual misconduct cases.**

Subordination alone does not seem to influence MCIO investigations. But the Navy's decision to place NCIS immediately under the Secretary's office, civilianize its leadership, and strengthen its charter has clearly produced the appearance of greater independence and autonomy inside as well as outside NCIS. Consequently, **the Panel recommends that DoD provide common subordination of all the MCIOs to the Services' Secretaries, with a strong recommendation that this authority not be delegated below the Services' Under Secretaries.**

The Panel believes that CID and NCIS would especially benefit from closer liaison and greater understanding of their Service's major command elements and priorities. This can be achieved without radical restructuring. **Rather, the Panel recommends that each MCIO reexamine its command support role with a view toward integrating command investigative priorities with its own.** In the area of crimi-

nal sexual misconduct, the Panel believes that this would produce a convergence of command and MCIO priorities.

Improper interference in investigations strains the MCIO-command interaction so vital to the military criminal justice system. While many interviewees felt command interference had declined, allegations of command interference persist, notwithstanding existing DoD guidance. **Therefore, the Panel recommends that the Secretary of Defense strengthen and vigorously enforce guidance against command interference in MCIO investigations.**

MCIO headquarters and field personnel did not cite their law enforcement authorities and controls on the use of more intrusive investigative techniques as critical problems in sex crime investigations. Consequently, **the Panel recommends retention of current procedural constraints on the MCIOs' use of intrusive techniques such as wiretaps, electronic monitoring, and polygraphing.** With respect to subpoena authority, **the Panel recommends that DoD consider providing approval authority to the Services' General Counsels or another appropriate Service official.** MCIOs can detain civilians on military installations pending arrival of civil law enforcement personnel, and according to some case law, MCIO agents also possess civilian arrest authority on military facilities. However, given the growing number of civilians employed on military installations and the increased concern for base and force protection, **the Panel recommends that Congress enact legislation that clarifies that MCIO agents have authority to arrest civilians on military installations.**

MCIO ORGANIZATION AND MANAGEMENT

Properly equipped with authority and autonomy, the MCIOs must also have sound organization and management structures. The Panel compared and evaluated their structure and headquarters management, approaches to investigations, and handling of criminal sexual misconduct cases. This was done to determine if reforms were needed that could significantly improve performance or if it was necessary to drastically restructure Defense criminal investigative activities.

The Panel believes significant improvements in the MCIOs' performance and in how they handle individual sex crimes, domestic violence cases, and broader incidents of sexual misconduct are reasonably attainable. Therefore, it rejected radical remedies such as creating a single Defense Bureau of Investigation or greatly civilianizing the workforce of all the MCIOs. Such reforms would disrupt long-standing traditions of command responsibility and the system of military justice, cause resentment, and be counterproductive to the goal of identifying and prosecuting serious offenders.

The Panel strongly believes, however, that each MCIO needs a cadre of sex crime investigators and managers with specialist competencies. **Therefore, the Panel recommends the establishment of a trained cadre in each MCIO which is focused on sex crimes and includes:**

- **a headquarters program manager and supporting staff capable of monitoring all MCIO sex crime and domestic violence investigations, advising and assisting the field investigators, and coordinating the MCIO's prevention briefing programs; furthermore, they should be responsible for maintaining an inventory of trained personnel, advising on assignments, assuring quality control, and providing MCIO commanders/directors with current and in-depth perspectives on sex crime incidents and investigations.**
- **on-call regional specialists who can provide expert advice on sex crime investigations and assistance on medical, psychological, and forensic issues in such investigations.**
- **installation-level sex crime and domestic violence units composed of both police and MCIO investigators who are knowledgeable about, and have access to, physical, family, and psychological counseling and social services.**

The Panel believes this approach is compatible with using more civilians in specialist positions since military agents are at greater risk of being pigeon-holed in long-term specialist assignments to the detriment of their careers. **Therefore, the Panel recommends increasing opportunities for civilian investigators, particularly in the types of specialist positions required for sex crime investigations.** In addi-

tion, the MCIOs should provide better opportunities for civilians to advance and progress, just as military agents should be encouraged to assume higher management positions. **Thus, the Panel recommends that qualified civilians and military personnel be equally eligible for leadership positions at all levels in the MCIOs.** Finally, the Panel believes the MCIOs should have strategic plans with explicit goals and objectives and with resource, personnel, and management information systems that support operations. **It recommends that DoD foster, and the MCIOs adopt, resource, planning, and management information systems that are appropriate to the era of government reinvention and DoD management reform.**

DEPARTMENTAL OVERSIGHT AND LEADERSHIP

The MCIOs fit within a larger organizational framework, DoD, which has broad leadership and oversight responsibilities for military personnel, the Services, and the MCIO investigative activities. The Panel examined departmental policy making, inspection and review, and resource management activities to determine whether the Department exercised appropriate leadership, established reasonably uniform and comprehensive policies, provided oversight of investigative quality and deficiencies, and furnished the necessary resources for corrective actions.

The Panel reaffirms the need for stronger departmental leadership in criminal investigative matters recognized by the 1995 Defense Advisory Board (DAB) report. Departmental leadership and oversight of the MCIOs, their role in investigations of serious sexual misconduct and other felonies that violate the Uniform Code of Military Justice (UCMJ), and their personnel and resource needs require a DoD focal point. This office would also help to improve interaction with Congress on these sensitive areas of criminal misconduct. In the Panel's view, the creation of the Board on Investigations (BOI), as recommended by the DAB, has not produced strong departmental leadership in the areas of policy development, oversight, and resources.

Burdened by a perceived need to achieve consensus, poorly staffed, and focused more on legal rather than investigative issues, the BOI has been reluctant to address these areas. It has completed most of the near-term DAB actions that could be reasonably implemented, but it has not aggressively pursued its broader charter tasks or undertaken a more proactive agenda. **The Panel recommends that the BOI be abolished.**

The Panel believes several steps must be taken to redress the fragmentation of policy, resource, and oversight responsibilities that are associated with criminal investigative activities in general, and criminal sexual misconduct investigations in particular. **It recommends:**

- **The Under Secretary of Defense for Personnel and Readiness [USD(P&R)] be responsible for overseeing the formulation and ensuring the implementation of criminal investigative and sexual misconduct policies and assessing resource allocations for investigations of general crimes, including criminal sexual misconduct.**
- **The DoD General Counsel continue to act as the Secretary's principal advisor on the legal and procedural aspects of criminal investigations.**
- **The Defense Criminal Investigative Organizations' Enterprise-wide Working Group be assigned increased responsibility for resource coordination and efficiency; it should annually recommend initiatives to USD(P&R) to improve MCIO cooperation and promote practices that enhance MCIO performance.**
- **As part of its increased oversight responsibilities, the USD(P&R) should conduct regular management reviews of the MCIOs to determine program effectiveness.**

In the longer term, the Panel believes there will be significant pressures to rationalize the MCIOs' activities through collocation, coordination, common practices and standards, and cooperation. Greater commonality in a wide range of management and operational practices could and should be encouraged without major disruptions or disturbances to critical Service-unique programs and approaches.

PERSONNEL HIRING AND RETENTION

Sound investigations require competent investigators; attracting and retaining quality personnel is paramount. Consequently, the Panel examined how the MCIOs screen and hire agent applicants, the experience and expertise of their agents, and the diversity of the MCIO investigator workforce.

The Panel found that the MCIOs use adequate background screening processes to select new agents. However, though the hiring standards used meet the minimum standards of most civil law enforcement agencies, they fall far short of those used by many federal investigative agencies, especially in the area of education. The combination of modest experience levels and minimal educational requirements raise valid concerns about the ability of some MCIO agents to conduct complex and sensitive investigations.

The Panel is concerned that current hiring practices lower instead of raise standards. **Therefore, it recommends that the MCIOs raise the educational level of the agent workforce, rather than lowering standards.** The MCIOs should adopt interim strategies to accomplish this by hiring more civilians, paying recruitment and/or reenlistment bonuses to skilled applicants, and providing education benefits and other incentives.

The experience of MCIO agents is also clearly of concern. Too many have relatively little experience. Also, assignment policies do not assure the necessary mix of experience and expertise at the unit level, plus they fail to take advantage of the expertise that exists. Efforts should be made to provide investigators with sufficient expertise to MCIO units, especially those with relatively high sex crime caseloads. **Therefore, the Panel recommends that the MCIOs consider special training and experience when assigning agents to field positions.**

The maximum age requirement for hiring civilian investigators and the current reduction in retirement pay for some retired service members who take civilian positions often prevent retired military investigators from being rehired into the MCIOs. By re-hiring the most competent retired military agents as civilians, the MCIOs could continue to make use of their training and experience. Therefore, the Panel

recommends MCIOs temporarily increase the use of waivers of (1) the maximum age requirement for hiring civilian agents and (2) the restrictions on retirement pay for military retirees who take MCIO civilian investigator positions.

The MCIOs have tried to diversify the composition of their workforce, but still do not have enough minority and female agents. Additional steps need to be taken. **Therefore, the Panel recommends that the MCIOs establish recruiting objectives for hiring more female and minority investigators in order to be more reflective of the populations they serve.** The MCIOs should expand their outreach beyond the Military Police and/or the Security Forces. The Services should also improve diversity in these traditional recruiting pools. **Therefore, the Panel recommends that DoD try to improve diversity in traditional recruiting pools, such as the Military Police and the Security Forces, in order to make them more reflective of the populations they serve.**

TRAINING

Even if the MCIOs employ high-quality personnel, extensive training is required to produce competent investigators. Training is critical in areas such as evidence collection, crime scene processing, interview and interrogation techniques, elements of proof, and report writing. Much of the training that is needed for sex crime investigations is the same as that which is needed for any criminal investigation. However, because of the uniqueness of sex crime investigations, investigators also require high-quality specialized training. Also, investigators need to be sensitive and have specialized knowledge in interpersonal relations, the needs of sex crime victims, and other areas in order to avoid retraumatizing victims. The Panel reviewed the MCIOs' basic and advanced training with an emphasis on identifying and highlighting training that is most critical for effective, high-quality sex crime investigations.

The Panel considered various options for improving the training of MCIO investigators. It believes the greatest potential for improved training rests in the consolidation of basic training with most other federal agencies at the Federal Law Enforcement Training Center

(FLETC). This closely parallels the findings of the DAB that basic investigator training be consolidated at a single site. While the Panel appreciates the concerns expressed by CID and OSI officials about sending new MCIO agents to FLETC, it believes those concerns do not outweigh the potential benefits from cross-fertilization and networking with other federal agencies. Notwithstanding these benefits, DOD has been unable to bring about this change. **Therefore, the Panel recommends that Congress legislate consolidated MCIO basic criminal investigator training at FLETC.**

Training consolidation could also foster focused training on sex crime investigations that could make new agents more aware of the greater sensitivity and special needs of such investigations. It would also give them the skills to initiate such investigations successfully and provide information about when and where to seek more help. **Therefore, the Panel recommends that the MCIOs require the inclusion of a specific block of sex crime instruction in basic investigator training.** It should cover the skills and information related to child sexual abuse and include the appropriate procedures for activating all the necessary social services and family counseling resources.

With respect to advanced training in sex crime investigations, the Panel believes that a cadre of agents in each MCIO should take relevant courses to improve or reinforce their skills. In discussing MCIO Organization and Management, the Panel recommends a structure at the headquarters, regional, and unit levels to assure that there is enough agent expertise. Advanced training courses are needed for that structure to attain its full potential. **Therefore, the Panel recommends that the MCIOs develop an advanced sex crime course for MCIO agents.** The cadre of agents who receive this training would be a resource for training, problem solving, oversight, investigating cases involving children, and conducting major sex crime investigations. They could serve in specialized units, or be available to smaller installations where such units do not exist.

Although the MCIOs have various means by which to identify agents who have had special training or experience, there is no centralized office in MCIO headquarters that can provide a comprehensive record of agent training. Furthermore, assignments to field units do not consider the special training of individual agents. Such knowledge is

necessary to effectively implement the Panel's recommendation to train a cadre of experts, or to meaningfully assign agents to specialized units. **Therefore, the Panel recommends that each MCIO develop a central training database.** This information should be used to match unit needs with individual agent skills when making assignments.

INVESTIGATIVE DIRECTIVES

Law enforcement directives and operations manuals are the road maps of the criminal investigative process. Ideally, they represent an amalgamation of the best practices and standards and reflect historical precedence, technological advances, and court decisions. When possible, common directives and manuals promote a common language, interoperability, and greater confidence that the best law enforcement services possible are being offered. Each MCIO has published and distributed investigative policy directives and manuals. They provide military investigators with information on agency mission, jurisdiction, structure, policies and practices, as well as "how to" guidance on specific facets of agent work. The Panel reviewed whether MCIO policy directives and manuals provide adequate investigative guidance.

Each MCIO has its own investigative operations manual, which often addresses common issues differently. Furthermore, they do not provide all MCIO agents with a complete picture of the best available investigative practices, plus agents from one MCIO would have difficulty using another's manual. The MCIOs investigate similar crimes under the UCMJ and are engaged more and more in joint or common operations. They would best be served by a single investigative operations manual. **Therefore, the Panel recommends that the MCIOs develop a single criminal investigative manual for their common operational procedures. It should cover topics such as basic crime investigation, agent ethics, sensitivity, forensics, procedure and policy, fingerprinting, common identification terminology, titling, and reporting.** Separate publications may continue to cover agency-specific issues, including organization, administrative details and advanced training. The Panel also suggests that pocket investigation manuals or handbooks be developed or retained for use by agents while in the field. Also, the MCIOs should retain paper copies of all manuals to

supplement computer data and allow for manual access when computers are unavailable.

INVESTIGATIVE TACTICS

If investigative manuals are the road maps agents use, tactics represent the specific investigative steps that are taken. Whether they are being performed by a military agent or other law enforcement personnel, law enforcement agency tactics should follow legal procedures and state-of-the-art investigative techniques. Securing a crime scene, collecting evidence, identifying witnesses, interviewing victims, and apprehending and interrogating suspects are common to all law enforcement organizations. The Panel evaluated the consistency of the MCIOs' investigative tactics by comparing investigative approaches, assessing investigator sensitivity and competence, and reviewing the quality of investigative reports. This multi-pronged approach included a review of selected closed sex crime investigations, interviews with field agents and supervisors, and discussions with victims and critics.

MCIOs' tactics and reports met most of their investigative tasks. Case reviews did not reveal serious problems, but discussions with stakeholders and legal offices suggest that CID agents are less confident about the investigative and legal processes than their NCIS and OSI counterparts. Consequently, CID investigations could be more susceptible to improper interference. Their field units also could benefit from a more even distribution of female agents who can facilitate the investigative process, especially when crime victims or witnesses prefer being interviewed by a woman. The CID might also benefit from an infusion of managers who are career criminal investigators.

The Panel makes no recommendations on specific investigative tactics. But recommendations in other areas of this report that pertain to structure and authority, child sex crimes, hiring practices, and training are based on the accumulated information from this study, including field interviews and case file reviews discussed above. Improved agent investigative training and a more effective framework for carrying out and overseeing department-wide investigative operations should produce steady improvements in sex crime field investigations.

CHILD SEX ABUSE

When children are sex crime victims, investigators face even greater challenges. Interviewing children is a formidable task. Investigators must determine their ability to interpret questions, and understand that children are very susceptible to the power of suggestion. Moreover, investigators must have the skills to deal with parents who do not always support crime investigations, especially if they are suspects.

Congress' mandate did not specifically identify child sexual abuse as an issue for study. Nonetheless, because of its importance and significant number of incidents (nearly one-third of MCIO sex crime investigations), the Panel made a limited review in areas specifically related to other areas of this study. These included the emphasis and priority MCIO policies, guidance, and training place on child sexual abuse investigations, whether relevant policies are implemented consistently and uniformly, implementation of policies, agent aptitude and training, and the availability of support and resources for agents as they conduct child sexual abuse investigations. However, the Panel believes a more in-depth review is warranted.

Currently, DoD and MCIO policies do not clearly or adequately elucidate the techniques for quality child sexual abuse investigations. Nor do they fully account for the critical differences between child and adult sex crimes. Frequently, the Services offer guidance that differs from branch to branch; moreover, there can be inconsistent implementation of these policies within an MCIO. **Accordingly, the Panel recommends that:**

- **The MCIOs and DoD pay much more attention to investigations into child sexual abuse by implementing consistent policies, improving training, and examining the benefits of using specialized, child-oriented investigative techniques.**
- **The MCIOs incorporate into their guidance and protocols a uniform set of investigative policies and techniques on child sexual abuse which are based on findings and recommendations by child psychology and sex crimes experts.**
- **DoD and the MCIOs establish a trained cadre of child sex crimes investigators within each MCIO.**

- **Basic training instruction for all MCIO agents focus on child sexual abuse investigations as a distinct subject.**

The Panel believes that the kind of training provided should enable agents to conduct investigations with greater knowledge and skill. Basic training for agents alone is inadequate. While advanced training of at least one investigator per field unit for the sake of institutional expertise may be ideal, it is difficult to achieve, especially for small field units. Nonetheless, the goal should be to have trained and experienced agents interview child victims. Advanced training of agents should be continuous so they are informed about the latest law enforcement techniques and procedures. Because investigating child sexual abuse is often most effective as a team approach, social workers and other parties who participate in victim interviews should have proper training as well. Panel recommendations which advocate a strong support structure of professionals with dedicated competencies—for example, program managers, regional specialists, and domestic violence units—also pertain to child sexual abuse investigations.

TITLING

To be useful, information about crimes and suspects must be tracked and analyzed. Consequently, the MCIOs use a process referred to as titling. This is where investigators place the name—and other identifying data—of an individual or entity in the subject block of an investigative report and a central index for potential retrieval and analysis by law enforcement and security officials. Because there are concerns that titling information could be abused and harm the careers and futures of some civilian and military personnel, the Panel examined the standard and practices MCIOs use to title crime suspects, plus the procedures for correcting erroneous titling information.

Since suspect information is often shared among law enforcement agencies, it is important that a common standard be developed and used for the identification of crime suspects. To improve the titling standard MCIOs use and the operational aspects of titling, **the Panel recommends that:**

- **DoD amend the DoD Instruction 5505.7 titling standard, replacing the term “credible information” with the term “probable cause,” as found in *Black’s Law Dictionary*. Titling data should be entered into the Defense Clearance and Investigations Index (DCII) at the point when probable cause is determined.**
- **DoD amend standards and procedures for the removal of titling information from the DCII to permit the removal of a titled person’s name by the head of the submitting Defense Criminal Investigative Organization when there is reason to believe that the titling is in error; a person is falsely accused, no crime occurred, or the entry does not serve the interests of justice.**
- **DoD establish a common Defense Criminal Investigative Organization procedure for reviewing applications for untitling, and maintain records of the annual number of applications, their source, and the reasons given for each request. From these records, determine whether there is a systemic problem with the titling process and take corrective action where necessary.**

FORENSIC LABORATORIES

Criminal forensic laboratories are vital links in the chain of evidence. They perform microscopic inspection, special photographic techniques, comparative microscopy or chemical analyses of evidence. These labs are particularly important for investigating sex crimes because they extract forensic information from DNA as well as body fluids and remains.

DNA testing has been especially successful in identifying perpetrators of sex crimes, as well as exonerating people who are wrongly accused. The rapid development of this science has shortened the period for identification with scientific certainty from months to days, and it has also highlighted the importance of crime laboratories in the criminal justice process. Thus, the Panel sought to examine how the MCIOs use such laboratories and whether improvements in forensic support are needed.

The laboratories the MCIOs use appear to function well. All are accredited facilities, and there is a high degree of customer satisfaction. All three MCIOs said the laboratories' services are not always delivered fast enough. However, the Panel found that, in light of case volume, limited resources, and the time it takes to properly process evidence, the response time by laboratories seemed reasonable. Plans to increase the staff and upgrade the facility at the U.S. Army Criminal Investigation Laboratory should diminish delays.

Similarly, a central DoD computer laboratory, like the one operated under the aegis of the OSI, appears to be a sound and necessary resource for computer-age crimes. The Defense Forensic Science Committee's support of sharing forensics information among laboratories should continue. Furthermore, DoD should maintain its periodic review of the use and quality of its forensic laboratories to ensure continuous high quality and timely service to DoD investigators.

REPORTING

Capturing accurate criminal data in a central and accessible system is crucial to the criminal justice process. Fingerprint records permit law enforcement agencies to identify or eliminate suspects or to meet sex crime registration laws. In addition, tabulating crimes committed within the United States allows governments to identify the causes of crimes and to effectively allocate anti-crime resources. Therefore, all law enforcement agencies must capture and submit these data in a standard and consistent manner. Among other things, the Panel explored whether the MCIOs accurately and expeditiously collect and provide data to the Department of Justice's national crime indices.

The importance of taking accurate fingerprints and submitting fingerprint cards to the FBI in a timely manner cannot be overstated, especially as different levels of government move toward a more common philosophy on issues such as the identification of convicted sex offenders. "Megan's Laws," which mandate the registration of sex offenders, require that all such persons be identified. Though it is required by law, and to be implemented by the Defense Incident Based Reporting System (DIBRS), MCIOs are not reporting many crime incidents to the FBI's National Incident Based Reporting System (NIBRS), nor are they consis-

tently submitting criminal suspect fingerprints to the FBI. The same is true for command investigators and military police. Indeed, all military investigative bodies appear deficient in this regard.

The Panel is concerned that the 1998 DoD fingerprint instruction fails to address the fingerprinting of civilians, and generally ignores the fact that DoD enforces Title 18 of the U.S. Code, fraud, and other criminal laws besides those in the UCMJ. To improve DoD reporting practices, **the Panel recommends that:**

- **MCIOs comply with those DIBRS requirements which establish a standard DoD criminal case category list for all crimes investigated by Defense criminal investigative bodies, as well as the other law enforcement reporting functions of the DoD.**
- **DoD complete the Defense crime reporting system in order to meet the congressionally mandated NIBRS requirements. Data transmittal to the NIBRS system should begin no later than October 1, 1999.**
- **DoD amend Defense Instruction 5505.11 dated December 1, 1998 to require completion and submission of criminal suspect fingerprint cards and disposition reports to the FBI for all criminal offenses, including, where applicable, those committed by civilians, within the jurisdiction of the Department, including military commands, and investigative and police organizations, except for those crimes excluded by the FBI.**
- **DoD require military and civilian criminal suspects to be fingerprinted at the time the arresting/investigating officer or agent determines, with probable cause, that the person is logically identified as a crime suspect. In addition, suspect fingerprint cards should be submitted to the FBI within two working days from the date they are taken.**
- **DoD require each military law enforcement report of investigation case file to indicate whether a suspect was fingerprinted and, where applicable, the date officials submitted the prints to the FBI. Also, DoD should require that each**

case file contain one copy of suspect fingerprints taken during the investigation.

- **DoD require each military law enforcement agency to establish a fingerprint review process which will ensure that fingerprints are taken and submitted properly, and which can offer training or advice to field officers and agents. Each MCIO should establish a liaison with the FBI that focuses on fingerprinting.**

AGENT MISCONDUCT

Ultimately, the professionalism of any law enforcement organization largely depends on two elements: first, its ability to fairly and competently investigate crimes and present findings; secondly its ability to gain public acceptance, instill integrity, and maintain high professional standards. Without these characteristics, public trust wanes, and the law enforcement agency and its parent community are subject to criticism. Most agencies establish internal review systems which investigate complaints against employees. They strive to achieve the highest standard of integrity, vigorously conduct internal reviews, and widely distribute reports of their findings. Because of the highly personal and sensitive nature of sex crimes, the Panel assessed the priority MCIOs give to agent misconduct matters and the adequacy of existing agent misconduct monitoring systems.

Special agent misconduct is not easily discussed because it is embarrassing and detracts from the accomplishments of the organization and its members. Because the law enforcement profession has considerable autonomy and is routinely involved in sensitive investigations such as sex crimes, the Panel believes it is critical that police meet high standards of professionalism. Consequently, issues of agent misconduct should be given high priority and the results of investigations into them should be reported to a central location for systematic analysis so that effective corrective actions can be taken. Such actions should be monitored for their impact and adjusted accordingly. The Panel believes that increased management attention to agent conduct will increase trust and confidence in the MCIOs. The FBI's approach to professional responsibility should serve as a model for the MCIOs.

To enhance the MCIOs' ability to deal with instances of agent misconduct, **the Panel recommends that:**

- **MCIO managers elevate the issue of agent misconduct within the MCIOs through publicity, training aids, and ethics conferences. To gain public confidence, misconduct allegations, proven and otherwise, should be included in semi-annual statistical reports similar to those published by the FBI.**
- **DoD initiate a centrally maintained Special Agent Misconduct Reporting System at the DoD level to monitor misconduct issues, analyze specific instances for patterns, identify systemic problems, and track corrective actions for consistency and appropriateness.**
- **MCIOs develop a single ethics and professional standards training course, either during basic agent training or as an add-on or graduate course. Agent attendance at the course should be mandatory.**

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