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SCRIPT

Thank you for being here today and agreeing to participate in this focus group. My name is <insert names of all IRT members/facilitators> and we will be leading the focus group today.

We are here in our roles as a members of the Internal Review Team on Racial Disparities in the Investigative and Military Justice Systems of the Department of Defense, or IRT for short. On June 1st, the Deputy Secretary of Defense established the IRT to address the root causes of racial disparities in DoD investigations and the military justice system. Not later than August 24th, the IRT must provide the Deputy with actionable recommendations the Department can implement to improve programs, policies, and resources to address these disparities.

We know that military leaders like you have a duty to take actions and make decisions to address misconduct and poor performance “on the ground,” as it occurs. Thus, we believe that your experiences, observations, and insights—gleaned from your time as a military leader, will be of great value to the IRT in accomplishing its mission. As indicated by the Office of Management and Budget control number [give each respondent a printed hard copy of the OMB information and Agency Disclosure Notice above] these focus groups have been authorized by OMB. This authorization will expire on XXXXXX.

First, please know that your participation in this focus group is both **voluntary** and **confidential**. You are here now and we appreciate you being here, but you can terminate your participation at any time, and you may decline to answer any of the questions that we ask or matters we raise for discussion by the group. Neither your name, unit of assignment, nor any other personally identifiable information, or PII, will be recorded or documented. We are accompanied here today by <insert> who will serve as our note taker(s)—so that we can focus all of our attention on our discussion. He/she/they understand(s) these rules. To help us adhere to these rules, we would also ask that in your participation today, you refrain from disclosing PII. Finally, **nothing** you might say here in this room will be attributed to you by the IRT in any way going forward, and **nothing** you say will be shared by the IRT with any member of your chain of command. Key findings from across all of the focus groups we are conducting will be summarized and reported to the IRT, but the IRT will not know who participated in the focus groups or who made any specific comment.

In our session today, we will ask you to candidly discuss your experiences, observations, perceptions, and insights as they relate to DoD's law enforcement investigative and military justice systems. When we talk about the military justice system, we are using that term broadly. or purposes of this session matters like counseling and corrective training, letters of reprimand, and administrative separations are considered to be a part of the military justice system, just like an Article 15 or court-martial.

Does anyone have any questions for me? Let's take a five-minute break before we begin. Again, your participation in this focus group is voluntary and should you choose not to participate further, you need not return after the break.

*****TAKE BREAK*****RETURN FROM BREAK*****

Again, thank you for being here. We will now begin. I will note that this focus group is scheduled for a period of 90 minutes.

NOTE: IRT members/focus group facilitators are not expected to ask every question listed below. Rather, the following questions comprise a menu from which the facilitator may draw, depending on the flow of the dialogue.

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KEY QUESTIONS

1. What happens in your unit when a Soldier/Sailor/Airman/Marine/Guardian is late for work? [NOTE: This is a foundational question and should generate extensive discussion and back and forth]
2. Thinking back to your unit...was there ever a time that something different, or unusual, happened in your unit with regard to a service member who was late for work? What happened that was different? What is your perception of why "something different" happened on that occasion? (If things are handled the same way on each and every occasion, ask: Do you think it is fair and right to treat everyone who is late for work in exactly the same way? Can you tell me more about your thoughts on this?)
3. What factors do you consider before taking action against a service member under your responsibility who may have engaged in misconduct of any kind? What about against a service member who is not performing to standard in his or her job? How do you weigh those factors and come to a decision about what to do?
4. Think back to a situation in your leadership experience when you had an option either to recommend non-judicial punishment (Article 15/Captain's Mast/Office Hours) against a service member for something he/she had done OR to recommend an administrative action. How did you decide which option to recommend? What factors did you consider?

5. Think back across your leadership assignments to date. Think about the times you had to discipline your service members. What were the common types of misconduct you typically had to deal with? How did you handle this common types of misconduct? What factors did you consider in deciding how you addressed these common types of misconduct?
6. When you were called on to make decisions about disciplining your service members for these common types of misconduct, what goals did you expect your approach to discipline would achieve? Can you provide an example of an action you would take or recommend if your goal was to improve the service member's conduct or rehabilitate the service member's performance? What types of actions would you take, and under what circumstances would you take such actions, if your objective was to punish the service member? To make an example of the service member with a view to deterring like misconduct on the part of others? How did the objective of "maintaining good order and discipline" in the unit fit in to your disciplinary philosophy—did "maintaining good order and discipline" play any role in your thinking? When you perceived it necessary to remove a service member from your unit, how would you decide whether to recommend a rehabilitative transfer to another unit as compared to elimination from the Service? Understanding that decision makers in the military justice system are trained to consider each case on its own merits, how did you ensure fairness across the full range of cases you were called on to address?
7. When you were called on to make decisions about disciplining service members in your unit for common types of misconduct, how did the climate or culture of your unit affect your approach to discipline in individual cases?
8. Was there ever a situation in your leadership experience in which you decided to take "no action" or very minor action against a service member, even though that member had engaged in some form of misconduct? What factors did you consider in deciding that "no action" was appropriate in that case?
9. Was there ever a case in which you decided to give the "benefit of the doubt" to a service member suspected or accused of misconduct? What factors did you consider in deciding to give that service member the "benefit of the doubt"?
10. Think back across the entirety of your leadership experience. Do you feel that you have had all of the tools you need to address misconduct or poor performance by a service member under your responsibility? Is there some other tool that you wish was available to you? Is there some "other option" that you think could have been of use to you in dealing with service member misconduct or poor performance?
11. Think back to the military schools you have attended. Which schools included education or training on matters of leadership, specifically your role as a leader in maintaining good order and discipline? In maintaining fairness and trust? What were your takeaways from this schools regarding your role as a leader in maintaining good order and discipline? In maintaining fairness and trust? Which school(s) do you believe best prepared you for that aspect of being a leader?

12. What are your perceptions of Military Law Enforcement and the federal law enforcement agencies who support your service (OSI (Air Force and Space Force), CID (Army), or NCIS (Navy and Marine Corps))?
13. The Government Accountability Office conducted a significant study. In that study, GAO analyzed all of the offenses under the Uniform Code of Military Justice and found that Black and Hispanic service members were more likely than white service members to be the subjects of law enforcement investigations in all of the Military Services. In addition, Black and Hispanic service members were more likely to be tried by courts-martial in the Army, Navy, Marine Corps, and Air Force. Given your leadership experience, what do you think might be causing these different outcomes—these racial disparities?

ALL QUESTIONS (as needed)

I'd like to begin with a very straightforward question:

1. If you are currently in a leadership role in which you are responsible for other service members, I would like you to think about your current assignment to your current unit. If you are not currently in a leadership role in which you are responsible for other service members, I would like you to think back to your most recent assignment and unit in which you had such responsibilities.
2. What happens in your unit when a Soldier/Sailor/Airman/Marine/Guardian is late for work? [NOTE: This is a foundational question and should generate extensive discussion and back and forth]
3. Thinking back to your unit . . . was there ever a time that something different, or unusual, happened in your unit with regard to a service member who was late for work? What happened that was different? What is your perception of why “something different” happened on that occasion? (If things are handled the same way on each and every occasion, ask: Do you think it is fair and right to treat everyone who is late for work in exactly the same way? Can you tell me more about your thoughts on this?)
4. How do you categorize the behavior of being “late for work”—do you view it as misconduct? Poor performance? Something else?
5. What factors do you consider before taking action against a service member under your responsibility who may have engaged in misconduct of any kind? What about against a service member who is not performing to standard in his or her job? How do you weigh those factors and come to a decision about what to do?
6. Think back to a situation when you were in a leadership role and you had the option either to counsel a service member for something he/she had done OR to bring the matter to the attention of the platoon sergeant/platoon leader or First Sergeant/Company Commander. Did you ever find yourself in such a situation? How did you decide which option to take? What factors did you consider?

7. Think back to a situation in your leadership experience when you had an option either to recommend non-judicial punishment (Article 15/Captain's Mast/Office Hours) against a service member for something he/she had done OR to recommend an administrative action. How did you decide which option to recommend? What factors did you consider?
8. Think back to a situation in your leadership experience when a service member for whom you were responsible was being administratively separated from the Service—essentially, the service member was being fired. Were you asked for whether the service member should be discharged? If so, how did you decide on your recommendation? What factors did you consider in making your recommendation?
9. Was there ever a situation in your leadership experience in which you decided to take “no action” or very minor action against a service member, even though that member had engaged in some form of misconduct? What factors did you consider in deciding that “no action” was appropriate in that case?
10. Was there ever a case in which you decided to give the “benefit of the doubt” to a service member suspected or accused of misconduct? What factors did you consider in deciding to give that service member the “benefit of the doubt”?
11. Think back across the entirety of your leadership experience. Do you feel that you have had all of the tools you need to address misconduct or poor performance by a service member under your responsibility? Is there some other tool that you wish was available to you? Is there some “other option” that you think could have been of use to you in dealing with service member misconduct or poor performance?
12. Think back to the military schools you have attended. Which schools included education or training on matters of leadership, specifically your role as a leader in maintaining good order and discipline? In maintaining fairness and trust? What were your takeaways from this schools regarding your role as a leader in maintaining good order and discipline? In maintaining fairness and trust? Which school(s) do you believe best prepared you for that aspect of being a leader?
13. When you have a service member who is late for work . . . and you are contemplating what to do about it . . . is there anyone with whom you discuss the situation or from whom you would seek advice before making a decision about what action to take? What is it about that person that makes you go to him/her for advice in these circumstances?
14. Insubordination and disrespect are “unique” military crimes that civilians aren't punished for. Have you ever taken action against a service member you believed was insubordinate to you or to someone else? If so, what type of behavior did that service member exhibit that you deemed to be insubordinate or disrespectful? Why did you perceive that conduct as insubordinate? What type of action did you take or recommend and why? [NOTE: Repeat for each instance of insubordination the respondent recalls].

15. Think back to your first leadership assignment—the first time you were responsible for the care, oversight, and discipline of other service members. Did you feel “well prepared” for that responsibility? Why or why not?
16. Did you receive training or education to prepare you for your first leadership assignment? Specifically, did you receive any training about investigations or the UCMJ? Did you receive any training on other forms of discipline . . . like how to counsel effectively or how to initiate an administrative separation?
17. As time went on and you became more senior, did you receive such training/additional training at any point in time?
18. What type of training did you receive? From whom? At what point in your career? How did the training affect you? Did you find it helpful in carrying out your responsibilities for imposing or recommending discipline? Did you ever think back to the training or was it “one and done”?
19. Have you ever received training on implicit or subconscious bias and the way it affects our thoughts and decisions? If so, what kind of training did you receive? From whom? At what point in your career? How did the training affect you? Did you find it helpful in your leadership role? In carrying out your responsibilities for imposing or recommending discipline? Did you ever think back to the training or was it “one-and-done”?
20. Have you ever received training on diversity and inclusion? If so, what kind of training did you receive? From whom? At what point in your career? How did the training affect you? Did you find it helpful in your leadership role? Did you ever think back to the training or was it “one-and-done”? Have you ever thought back to this training when making decisions or recommendations related to disciplinary issues?
21. Is there any leadership training that you did not receive that you wished you had received? Training that you thought would have been helpful in your leadership role? What kind of training would that have been and what point in your career would it have been most useful to you?
22. Think back across your leadership assignments to date. Think about the times you had to discipline your service members. What were the common types of misconduct you typically had to deal with? How did you handle this common types of misconduct? What factors did you consider in deciding how you addressed these common types of misconduct?
23. When you were called on to make decisions about disciplining your service members for these common types of misconduct, what goals did you think your approach to discipline would achieve? Can you provide an example of an action you would take or recommend if your goal was to improve the service member’s conduct or rehabilitate the service member’s performance? What types of actions would you take, and under what circumstances would you take such actions, if your objective was to punish the service member? To make an example of the service member with a view to deterring like misconduct on the part of

others? How did the objective of “maintaining good order and discipline” in the unit fit in to your disciplinary philosophy—did “maintaining good order and discipline” play any role in your thinking? Understanding that decision makers in the military justice system are trained to consider each case on its own merits, how did you ensure fairness across the full range of cases you were called on to address?

24. When you were called on to make decisions about disciplining service members in your unit for common types of misconduct, how did the climate or culture of your unit affect your approach to discipline in individual cases?
25. What are your perceptions of the Military Equal Opportunity System?
26. Thinking back across all of your leadership assignments to date. Did you have an Equal Opportunity Advisor (EOA) assigned to your unit? If so, did you ever consult with that adviser about whether or how to discipline a service member under your responsibility? If so, did you find the consultation to be helpful? Why or why not?
27. Do you think the race or ethnicity of a service member plays a role in whether or not that service member “gets caught up in” the military justice system? Can you tell me more about your thoughts on this?
28. What are your perceptions of Military Law Enforcement and the federal law enforcement agencies who support your service (OSI (Air Force and Space Force), CID (Army), or NCIS (Navy and Marine Corps))?
29. How would you characterize your interactions with Military Law Enforcement?
30. The Government Accountability Office conducted a significant study. In that study, GAO analyzed all of the offenses under the Uniform Code of Military Justice and found that Black and Hispanic service members were more likely than white service members to be the subjects of law enforcement investigations in all of the Military Services. In addition, Black and Hispanic service members were more likely to be tried by courts-martial in the Army, Navy, Marine Corps, and Air Force. Given your leadership experience, what do you think might be causing these different outcomes—these racial disparities?
31. If you could make any recommendation to address these disparities, what recommendation would you make?

Have any of you served in a military police or security forces role at any time in your career? If any participant answers “yes,” the following group of questions may be asked. If none of the participants answers “yes,” disregard the following group of questions:

1. When you served in that role and responded to a call for an incident like disorderly conduct, how did you decide whether to “break up” the situation or detain some or all participants for further action?

- a. What factors did you consider?
 - b. Do you use different factors if you personally knew some of the service members or others involved in the incident? Can you tell me more about this?
2. If you were called to respond to a domestic disturbance:
- a. What factors did you consider in determining how to address the situation?
 - b. Are there other factors you would consider if you knew the people involved in the disturbance? Can you tell me more about this?
 - c. Did the rank/duty position/ unit of those involved affect your thinking about how to address the situation?
3. What criteria did you use in deciding whether to make a traffic stop?
- a. Once you had made a traffic stop, what criteria did you use to determine whether any further actions were appropriate (such as removing the driver from the vehicle, a more detailed interview of the driver or passenger with a view to ascertaining whether there was probable cause to search the vehicle)?
4. In your role as a military police or security forces officer, did you ever receive implicit/unconscious bias or cultural sensitivity training?
- a. If yes, what type of training was it and when and how often did you receive this training?
 - b. If yes, what did you think of the training [may need to prompt with “did you find it useful”]?
 - c. If yes, do you think the training affected the way in which you responded to certain incidents? How?

Questions in regard to the role of the Commander.

1. In your opinion, what is the appropriate “role of the commander” in regard to ensuring that law enforcement investigations, administrative separations, and military justice actions are fair and consistent across the command?
2. A commander can’t be everywhere and touch everything. How should a commander ensure that fairness and consistency are cascaded throughout the command?
3. Think back over the course of your career, to a particular commander or senior enlisted leader you admired, perhaps someone who “walked the talk,” as they say.

- a. How did you perceive the overall climate in the organization over which this leader exercised command or control? What was the leader's role in establishing or influencing this climate?
- b. How, if at all, did this leader establish and enforce standards related to warfighting readiness in the organization?
- c. How, if at all, did this leader tackle issues of trust and fairness in the organization?
- d. Did this leader ever communicate directly with members of the organization—yourself included—about issues of trust and fairness? If so, what did he or she say or do?
- e. Did you perceive this communication as “effective”? Why or why not?
- f. Did you ever have the opportunity to work with or advise this leader in regard to the discipline of another service member? In what context?
- g. How did this commander/leader solicit your advice or input on the disciplinary matter at hand?
- h. How did you provide your advice or input to this commander/leader?
- i. Did you have any concerns about providing this commander/leader with your candid advice and input on the matter at hand?
- j. Did you feel “heard” by this commander/leader? If so, what did the commander/leader do that made you feel “heard”? If not, what could the commander/leader have done to make you feel as though your advice and input had been “heard.”?