

28. (ALL) Please provide copies of PowerPoint presentations, reports, recommendations, or letters from DoD and the Services' leadership to Congressional members and their staffs that pertain to sexual assault from January 2012- November 20, 2013, which have not been previously provided to the RSP.

DoD	<p>Provided at the below link are copies of forty-nine documents provided to Congressional members or their staff that pertain to sexual assault from January 2012- November 20, 2013, which have not been previously provided to the RSP.</p> <ul style="list-style-type: none"> <li>The forty-nine documents are divided into three PDFs labeled 1 -3 and are provided at Q#28 using the following link:  <a href="https://pmev2.bah.com/sites/DSAID/Document_Transfer/Forms/AllItems.aspx">https://pmev2.bah.com/sites/DSAID/Document_Transfer/Forms/AllItems.aspx</a></li> <li>A copy of the Congressional rollout brief for the FY12 Annual Report, dated May 16, 2013 is provided at Q#28 using the following link:  <a href="https://pmev2.bah.com/sites/DSAID/Document_Transfer/Forms/AllItems.aspx">https://pmev2.bah.com/sites/DSAID/Document_Transfer/Forms/AllItems.aspx</a></li> </ul>
USA	The requested products are included in the attachments.
USAF	<p>Attached are:</p> <p>CSAF Letter to Sen. McCaskill, 16 Apr 13 (Tab 2)</p> <p>SAF/LL Letter to Rep Davis, 25 Apr 13 (Tab 3)</p> <p>TJAG Letter to Sen. McCaskill, 29 Apr 13 (Tab 4)</p> <p>CSAF Letter to Sen. Levin, 20 May 13 (Tab 5)</p> <p>CSAF Letter to Sen. Inhofe, 31 May 13 (Tab 6)</p> <p>SecAF Letter to Rep Speier, 29 Jul 13 (Tab 7)</p>
USN	Attached is a June 14, 2013 21 page letter from the Secretary of the Navy to Senator Mikulski.
USMC	Attached is a joint letter from the service TJAGs and the Staff Judge Advocate to Commandant that lists technical concerns the judge advocate community has with the Senator Gillibrand proposal.
USCG	<p>Copies of reports, recommendations, and letters from the Coast Guard's leadership to Congressional members and their staffs pertaining to sexual assault from January 2012 – November 20, 2013 can be found in Enclosure 11 and are listed as follows:</p> <ul style="list-style-type: none"> <li>October 28, 2013 – Letter to Senator Inhofe from the Joint TJAGs</li> <li>October 28, 2013 – Letter to Senator Levin from the Joint TJAGs</li> <li>Question For the Record (QFR) #1157 – Military Justice System: Adequacy</li> <li>QFR #1158 – Military Justice System: Legislative Changes</li> <li>QFR #1159 – Adequate Number of Judge Advocates</li> <li>QFR #1160 – Projected Personnel End Strength</li> <li>QFR #1161 – Military Justice System: Role of Reserves</li> <li>QFR #1162 – Sexual Assault Case Prosecution/Defense: Role of the Reserves</li> <li>QFR #1163 – Afghanistan Drawdown = More Military Justice Cases</li> <li>QFR #1164 – UCMJ: Ability for Victims Provide Information to the Convening Authority</li> </ul>

**Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.**

	<ul style="list-style-type: none"> <li>• QFR #1165 – UCMJ: Change to Authority for victims of Crime</li> <li>• QFR #1166 – Manual For Courts-Martial Modification</li> <li>• QFR #1167 – Air Force Special Victims Council Pilot Demonstrates</li> <li>• QFR #1168 – Air Force Special Victims Counsel: Similar Capability</li> <li>• QFR #1169 – Establishing Special Victims Counsel</li> <li>• QFR #1170 – UCMJ: Abolished Convening Authorities</li> <li>• QFR #1171 – UCMJ: Abolished Convening Authorities</li> <li>• QFR #1172 – Has Aggressive Prosecution Gone Too Far</li> <li>• QFR #1173 – Convicted Sex Offenders: Should They All Be Discharged</li> <li>• QFR #1311 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1312 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1313 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1314 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1315 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1316 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1317 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1318 – SAPR: Legislative Proposal for New Disposition Authority</li> <li>• QFR #1319 – SAPR: Reprisal</li> <li>• QFR #1320 – SAPR: Opportunities for Women</li> <li>• QFR #1321 – SAPR: Opportunities for Women</li> <li>• QFR #1322 – SAPR: Health Care Options</li> <li>• QFR #1323 – SAPR: Sexual Assault Response Coordinators</li> <li>• QFR #1324 – SAPR: Sexual Assault Response Coordinators</li> <li>• QFR #1325 – SAPR: Sexual Assault and Suicide Prevention</li> <li>• QFR #1326 – SAPR: Sexual Assaults</li> <li>• QFR #1327 – SAPR: Training</li> <li>• QFR #1328 – SAPR: Training</li> <li>• QFR #1329 – SAPR: Training</li> <li>• QFR #1330 – SAPR: Retaliation</li> <li>• QFR #1331 – SAPR: Retaliation</li> <li>• QFR #1332 – SAPR: Command Accountability</li> <li>• QFR #1333 – SAPR: Victims Access to Sexual Assault Response Coordinators</li> </ul>
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# *Implementation of NDAA FY 12 Sexual Assault Prevention and Response*

## *Provisions*

### *27 Feb 2013*



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## Background

- This is in response to your request to Secretary Panetta for a briefing on the implementation of NDAA FY 12 Sexual Assault Prevention and Response (SAPR) provisions.
- Specifically, you requested the status of:
  - Expedited Transfers
  - Scope of SAPR Training and Education
  - Consistent Training
  - Inclusion in Professional Military Education (PME)
  - Full-time Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), to Include Prohibition on Use of Contractors
  - Extended Document Retention of Sexual Assault Related Records
  - Privileged Communications
  - Access to Legal Assistance and Services



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# Agenda

- DoD Implementation Update on SAPR Provisions
  - Expedited Transfers
  - Scope of SAPR Training and Education
  - Consistent Training
  - Inclusion in Professional Military Education (PME)
  - Full-time Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), to Include Prohibition on Use of Contractors
  - Extended Document Retention of Sexual Assault Related Records
- Victim Advocate Privilege
- Access to Legal Assistance and Services



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# Status Report

- **DoD Policy Implementation Status of Five SAPR Provisions**
  - Expedited Transfers: **Implemented**
  - SAPR Training:
    - Scope of SAPR Training and Education: **Partially Implemented**
    - Consistent SAPR Training: **Partially Implemented**
  - Inclusion in PME: **Implemented**
  - Full-time Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), to Include Prohibition on Use of Contractors: **Partially Implemented**
  - Extended Document Retention of Sexual Assault Related Records: **Implemented**
- **Victim Advocate Privilege: Implemented**
- **Access to Legal Assistance and Services: Implemented; Air Force Special Victims Counsel Pilot Underway**



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# Expedited Transfers

## NDA FY 12 Language:

“§ 673. “(a) TIMELY CONSIDERATION AND ACTION.—The Secretary concerned shall provide for timely determination and action on an **application for consideration of a change of station or unit transfer** submitted by a member of the armed forces serving on active duty who was a victim of a sexual assault or other offense covered by section 920, 920a, or 920c of this title (article 120, 120a, or 120c) so as to reduce the possibility of retaliation against the member for reporting the sexual assault or other offense.

“(b) REGULATIONS.—The Secretaries of the military departments shall issue regulations to carry out this section, within guidelines provided by the Secretary of Defense. These guidelines shall provide that the application submitted by a member described in subsection (a) for a change of station or unit transfer must be **approved or disapproved by the member’s commanding officer within 72 hours** of the submission of the application. Additionally, if the application is disapproved by the commanding officer, the member shall be given the opportunity to **request review by the first general officer or flag officer in the chain of command of the member, and that decision must be made within 72 hours** of submission of the request for review.”

## Status: Implemented

- Implemented in DoD Policy (DTM 063, 16 Dec 11)
  - For Unrestricted Cases
  - Inter or Intra base Transfers
- Policy Incorporated into Commander and SARC Training Objectives
- Data recorded in Defense Sexual Assault Incident Database (DSAID)
- **In FY 12/1Q FY 13, 334 of 336 Approved Expedited Transfers** thru 31 Dec 2012
  - **Army:** 121 of 123 Approved
    - Reasons: Member Admin Separation in progress at time of sexual assault (1); Case deemed not credible by CID (1)
  - **Navy:** 70 of 70 Approved
  - **Marine Corps:** 48 of 48 Approved
  - **Air Force:** 88 of 88 Approved
  - **ANG:** 2 of 2 Approved
  - **ARNG:** 5 of 5 Approved



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# Scope of SAPR Training & Education

## NDA FY 12 Language:

### SEC. 585. TRAINING & EDUCATION PROGRAMS FOR SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

#### (a) SAPR TRAINING AND EDUCATION.—

(1) DEVELOPMENT OF CURRICULUM.—**Not later than one year after the date of the enactment of this Act, the Secretary of each military department shall develop a curriculum to provide sexual assault prevention and response training and education for members of the Armed Forces under the jurisdiction of the Secretary and civilian employees of the military department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault. In developing the curriculum, the Secretary shall work with experts outside of the Department of Defense who are experts sexual assault prevention and response training.**

(2) SCOPE OF TRAINING AND EDUCATION.— **SAPR training and education shall encompass initial entry and accession programs, annual refresher training, professional military education, peer education, and specialized leadership training. Training shall be tailored for specific leadership levels and local area requirements.**

## Status: Partially Implemented

- **Military:** Services have developed SAPR curricula and are conducting training and education tailored to specific skill leadership levels:
  - Initial Entry and Accessions Training
  - Annual Refresher Training
  - Professional Military Education (PME)
  - Peer Education
  - Specialized Leadership Training
- **Civilian:** Services are currently developing SAPR curricula for training and education



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## Service Examples of SAPR Training & Education

- **Initial Entry and Accessions Training: Air Force**
  - Rights and Duties of an Air Force Trainee are presented at the Recruiting Station
  - Repeat training at Basic Training and Tech School
  - Bystander Intervention Training at USAFA
- **Annual Refresher Training: National Guard Bureau**
  - Unit Training: videos and facilitated discussion; small group exercises and interactive computer based training
  - Leader Training: Senior Leadership SAPR Summits using SMEs; command level videos and facilitated exercises
  - SARC/VA Annual Refresher Training: SME refresher workshops on victim advocacy skills/SA trauma; program management tasks; interactive policy/processes updates
- **PME: Army**
  - Implemented in 22 courses spanning multiple levels of career progression
  - NCO: Sgt to Sgt Major
  - Officer: Pre-commissioning thru War College
- **Peer Education: Marine Corps (Take a Stand)**
  - Taught by UVAs to all NCOs
  - Three hour interactive course
  - Consists of video messages from leaders, messages from victims, mini-lectures, guided small group discussions, and ethical decision games
  - Emphasizes bystander intervention
- **Specialized Leadership: Navy (SAPR-L)**
  - Targeted training for leaders E-7 thru O-10 by Mobile Training Teams
  - Primary elements: videos, facilitated discussion, and role playing scenarios
  - Focused on creating and maintaining a professional command climate
  - Addresses new legal and policy requirements



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# Consistent SAPR Training

## NDA FY 12 Language:

### SEC. 585. TRAINING & EDUCATION PROGRAMS FOR SEXUAL

### ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) SAPR TRAINING AND EDUCATION.—

**(3) CONSISTENT TRAINING.—**The Secretary of Defense shall ensure that the sexual assault prevention and response training provided to members of the Armed Forces and Department of Defense civilian employees is consistent throughout the military departments.

## Status: Partially Implemented (ECD: 30 Jun 13)

- On 18 January 2012, Secretary Panetta directed that each Service assess their Pre-Command and Senior Enlisted Training.
- Pre-Command and Senior Enlisted Training assessment report determined the need for greater consistency throughout development of **standardized core competencies and learning objectives (CC/LO)** for each type of training.
- Pre-Command & Senior Enlisted Assessment: May 2012
  - New Curricula for Classes starting after 30 Mar 13
- Standardized SAPR Training: ECD 30 June
  - Annual Refresher CC/LO
  - PME CC/LO
  - SARC/VA CC/LO
  - Chaplain CC/LO
  - Accessions CC/LO



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## Inclusion in PME

### **NDAA FY 12 Language:**

(b) INCLUSION IN PROFESSIONAL MILITARY EDUCATION.—

**The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module at each level of professional military education.**

The training shall be tailored to the new responsibilities and leadership requirements of members of the Armed Forces as they are promoted.

### **Status: Implemented**

- Services have implemented SAPR training spanning multiple levels of career progression
- Revised DoDI (TBP) requires SAPR training at multiple levels:
  - NCOs and officers training at developmental courses throughout military career
  - Commissioned officers at Pre-command courses
  - General/Flag Officers and SESs at initial executive level training
- Common elements of training to include:
  - Explaining why sexual assaults are crimes.
  - Explaining available reporting options.
  - Explaining the timing of and services for victim care.
  - Identifying prevention strategies and behaviors that may reduce sexual assault, including bystander intervention, risk reduction, and obtaining affirmative consent.



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# Full Time Sexual Assault Response Coordinators & Victim Advocates

## NDA FY 12 Language:

### SEC. 584. SEXUAL ASSAULT RESPONSE COORDINATORS AND SEXUAL ASSAULT VICTIM ADVOCATES.

(a) ASSIGNMENT OF COORDINATORS.—

(1) ASSIGNMENT REQUIREMENTS.—At least **one full-time Sexual Assault Response Coordinator shall be assigned to each brigade** or equivalent unit level of the armed forces. The Secretary of the military department concerned may assign additional Sexual Assault Response Coordinators as necessary based on the demographics or needs of the unit. An additional Sexual Assault Response Coordinator may serve on a fulltime or part-time basis at the discretion of the Secretary.

(2) ELIGIBLE PERSONS.—On and after October 1, 2013, **only members of the armed forces and civilian employees** of the Department of Defense may be assigned to duty as a Sexual Assault Response Coordinator.

(b) ASSIGNMENT OF **VICTIM ADVOCATES**.— (same as above)

## Status: Partially Implemented (ECD: 30 Sep 13)

- Services will transition to FTE military or govt. civilian SARC & SAPR VAs by 30 Sept 2013
- Service-specific approaches meet intent of law:
  - **Army:**
    - Approach: Assigning FTE to Brigade Level
    - Requirement/Fielded: 829/829
    - Additional Duty VAs: 16,000
  - **Navy:**
    - Approach: Assigning FTE per 5000 Sailors
    - Requirement/Fielded: SARC (66/38), VA (66/4)
    - Contract SARCs: 25 (to be discontinued)
    - Additional Duty VAs: 3,000+
  - **Air Force:**
    - Approach: Assigning FTE to Host Wing Level
    - Requirement/Fielded: SARCs (89/89), VA (70/0)
    - Additional Duty VAs: 3,000+
  - **Marine Corps:**
    - Approach: Assigning FTE to Base/MEF/DIV/WG/MLG
    - Requirement/Fielded: SARCs (32/21), VA (32/50)
    - Additional Duty VAs: 813
    - Additional Duty SARCs: 52
  - **National Guard:**
    - Approach: Assigning FTE to State Joint Force HQ
    - Requirement/Fielded: SARCs (54/54), VA (54/0)
    - Additional Duty ANG: SARCs 90, VA 180+
    - Additional Duty ARNG: SARCs 196, VAs 2000+



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## Extended Document Retention of Sexual Assault Records

### NDA FY 12 Language:

**Sec. 586. Department of Defense Policy and Procedures on Retention and Access to Evidence and Records Relating to Sexual Assaults Involving Members of the Armed Forces.**

(c) ELEMENTS. . . the Secretary of Defense shall consider, at a minimum, the following matters:

- (1) Identification of records, including non-DoD records, relating to an incident of sexual assault, that must be retained.
- (2) Criteria for collection and retention of records.
- (3) Identification of physical evidence and non-documentary forms of evidence relating to sexual assaults that must be retained.
- (4) **Length of time records, including DoD Forms 2910 and 2911, and evidence must be retained**, except that—
  - (A) length of time physical evidence & forensic evidence must be retained **not less than five years**;
  - (B) length of time documentary evidence relating to sexual assaults must be retained **not less than length of time investigative records** relating to reports of sexual assaults of that type (restricted or unrestricted reports) must be retained.

### Status: Implemented

- Implemented in DoD Policy (DTM 062—16 Dec 11)
  - For Unrestricted Cases – 50 years
    - Uploaded & retained in DSAID
  - For Restricted Cases – 5 years
    - DD Form 2910 Retained in hard copy locally by the servicing SARC
    - DD Form 2911 retained with anonymous tracking number by law enforcement
- NDA FY13 changed retention requirement for RR
  - At request of victim need to keep the RR records for 50 years
  - Retention location being determined
- Retention Policy to be incorporated into:
  - SAPR DoDI 6495.02, when reissued
  - IG DoDI 5505.18, issued 25 Jan 2013



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## Victim – Victim Advocate Privilege

**Status: Implemented-- Privilege created by Presidential EO, 13 Dec 11**

- Executive Order established Military Rule of Evidence 514, eff. Jan 2012
  - Protects communications between Victims and Victim Advocates.
  - Applies to any victim of sexual assault or crime of violence.
    - Case arising under UCMJ: post complaint, investigation, pretrial proceedings, trial.
  - Covers anyone providing victim advocacy advice or assistance, and assistants.
    - Includes SARCs by DoD Directives defining duties as including advocacy.
  - Applies to communications and records of communications & office files.
- Exceptions
  - Victim's Consent or Death;
  - Communication contemplates a future fraud or crime;
  - Threat to safety of victim, military personnel and dependents, military property, classified information, or accomplish of a military mission;
  - Constitutionally required.



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## Victim – Victim Advocate Privilege (cont.)

### Available Privileged and Confidential Communications

- Victim Advocates and assistants – **MRE 514 Privilege.**
- SARCs and others providing victim advocacy services – **MRE 514 Privilege + Regulation Provision That Includes SARCs.**
- Medical Personnel and assistants – Under DoD RR Policy of Confidentiality.
- Psychotherapists, clinical psychologists, licensed clinical social workers, others providing similar services when credentialed by military health care facility, and assistants – **MRE 513 Privilege.**
- Chaplain and assistants – **MRE 503 Privilege.**
- Attorney and representatives (including Legal Assistance Attorneys) - **MRE 502 Privilege.**
- Spouse - **MRE 504 Privilege** (except if joint crimes; proceedings where spouse charged with crime against other's spouse, spousal property, child of either spouse).
- Staff of RAINN's Safe Helpline for DOD community - Not "privileged communications", but are generally protected by staying anonymous, excluding PII, and limits on disclosure to Government and Privacy Act protections.



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## Access to Legal Assistance & Services

### NDA FY12 Language:

**“§ 1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates**

**“(a) AVAILABILITY OF LEGAL ASSISTANCE AND VICTIM ADVOCATE SERVICES.—**

**(1) A member of the armed forces, or a dependent of a member, who is the victim of a sexual assault may be provided the following:**

**“(A) Legal assistance provided by military or civilian legal assistance counsel pursuant to section 1044 of this title.”**

### Status: Implemented; Air Force Special Victim Counsel Pilot Underway

- In anticipation of § 1565b, Dr. Stanley (then USD P&R) issued guidance to further define the parameters of legal assistance
- All Services providing legal assistance to victims of sexual assault.
- LA provided as part of DoD’s multi-disciplinary, integrated, and holistic approach to victim support.
- All Services are enhancing their Victim Witness Assistance Programs.
- Implementation of Special Victims Capability is well underway.
  - Development of concept; standardized selection, training and certification.
  - Collaborative medical, investigative, prosecutorial, and support-based services.
- Air Force “Special Victims Counsel” one-year pilot program underway as of **28 Jan 13**.
- DoD Joint Service Committee on Military Justice to evaluate and analyze the results of the AF Pilot Program and to study all aspects of victim support and offender accountability.



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# Department of Defense (DoD) Fiscal Year (FY) 2012 Annual Report on Sexual Assault in the Military

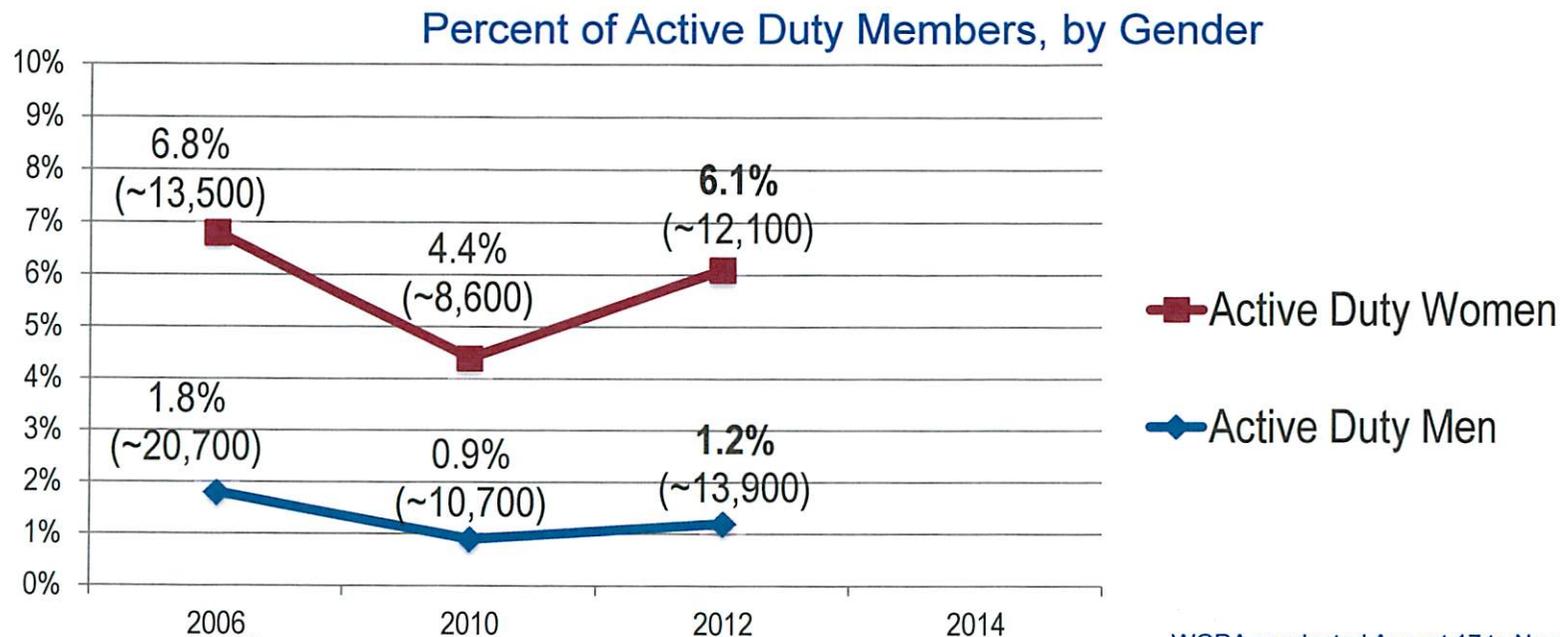
## Purpose

- Provide the integrated FY12 Annual Report statistics and survey results
- Summarize the DoD Sexual Assault Prevention and Response (SAPR) Strategic Plan
- Describe the Secretary of Defense's SAPR initiatives

## Prevention

- **Goal:** Reduce the number of sexual assaults involving Service members
  - **Key Metric:** Surveyed past year prevalence of USC; *WGRA* conducted by the Defense Manpower Data Center (DMDC)
  - **Finding:** USC increased significantly for Active Duty women from 2010 to 2012; remained the same for Active Duty men; no change for Reserve Component men or women
- **Other Metrics:**
  - **DEOCS** bystander intervention climate (473,000+ respondents)
    - Finding: Statistically significant increase in bystander intervention scores from April to August 2012; indicates improving bystander intervention in unit climates
  - **WGRA feedback** on prevention training
    - Finding: Statistically significant increase since 2010 in Service members indicating receipt of training covering bystander intervention (92% of women and 93% of men indicated receiving this kind of training; up from 87% and 89% respectively)
  - **WGRA feedback** on bystander intervention intention
    - Finding: In 2012, 96% of women and 91% of men indicated they would actively intervene in a situation at risk for sexual assault
      - Although the 2010 *WGRA* used slightly different question wording, 93% of women and 83% of men indicated they would actively intervene in 2010

# Past-Year Prevalence of Unwanted Sexual Contact



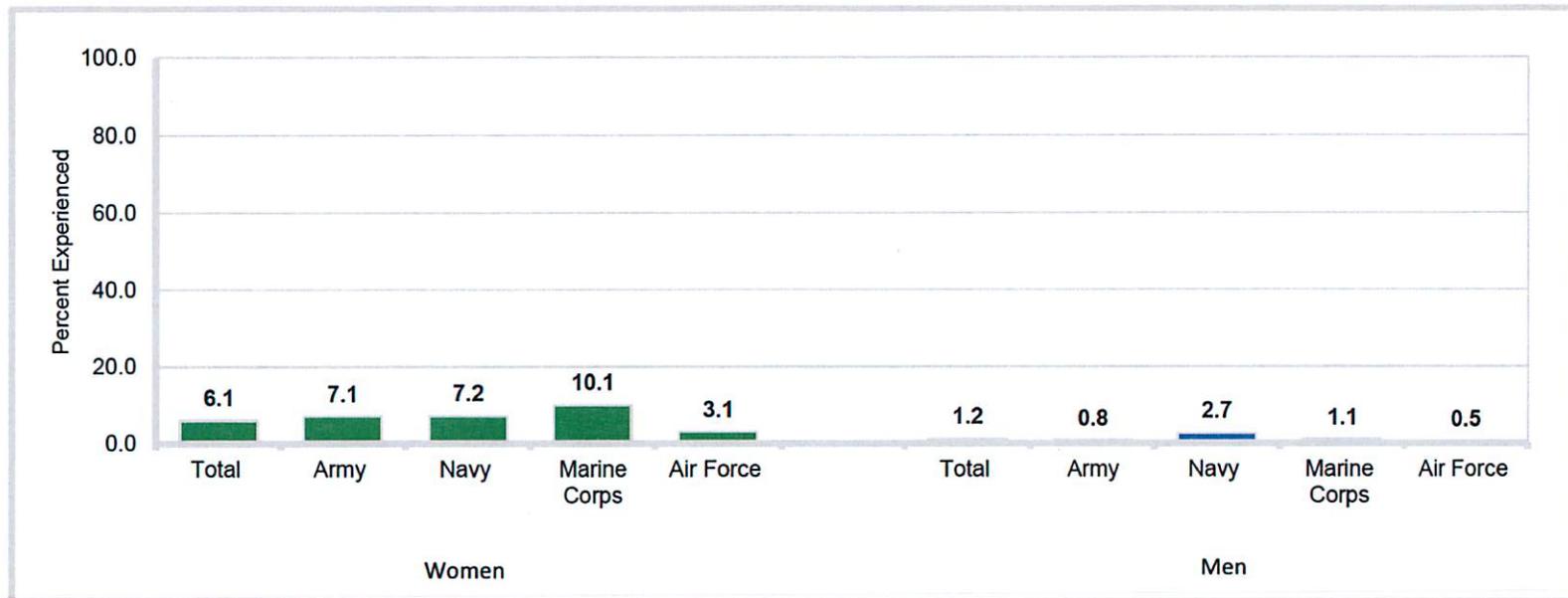
WGRA conducted August 17 to November 7, 2012

## Key findings:

- In 2012, 6.1% of women and 1.2% of men indicated experiencing USC
- For women, the 2012 percentage is statistically significantly higher than 2010; there are no statistically significant differences for men between 2012 and 2010
- Of the women and men who experienced USC in the past 12 months, 45% of these women and 19% of these men also experienced USC prior to entering the military
  - Confirms civilian research that a history of sexual assault is a significant risk factor for future sexual assault
- Only 18% of women and 22% of men indicated the offender was either unidentified or a person in the local community; the majority of offenders were primarily military members or DoD civilians/contractors

# Past-Year Prevalence of Unwanted Sexual Contact

Percent of Active Duty Women and Men, by Service



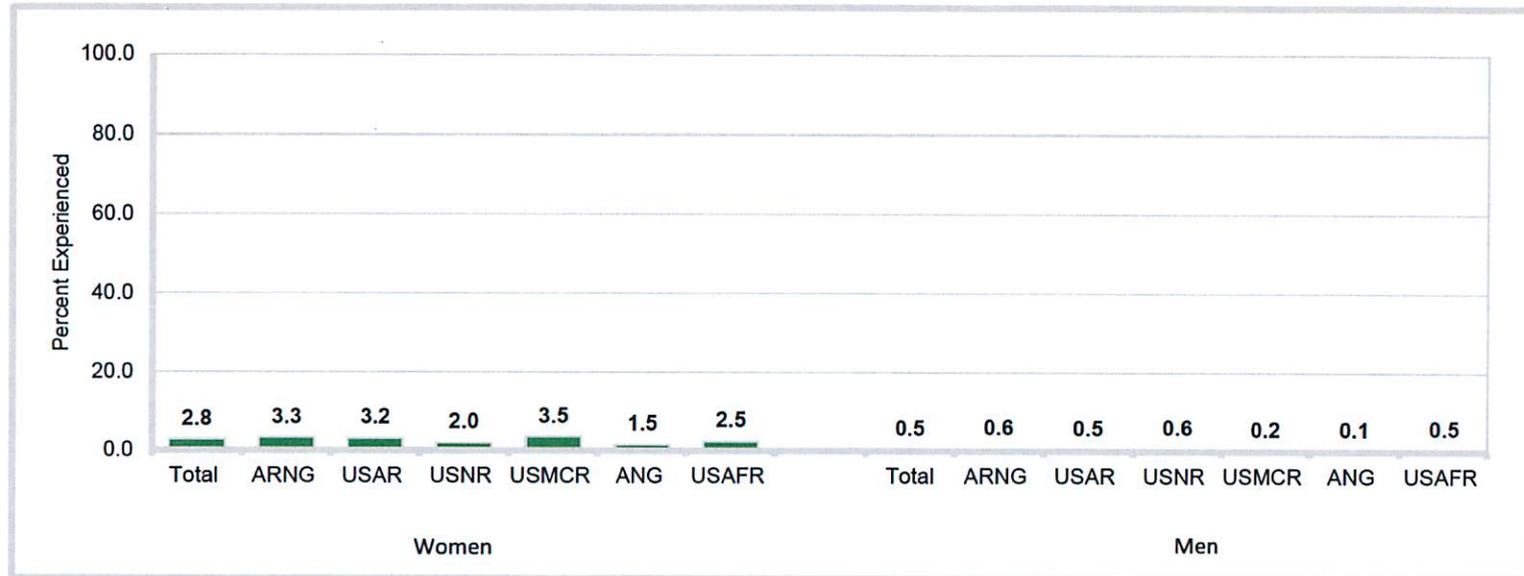
## Key findings:

- Marine Corps women were more likely than women in the other Services to indicate experiencing USC
- Air Force women were less likely than women in the other Services to indicate experiencing USC
- For Navy and Marine Corps women, the 2012 percentages are statistically significantly higher than 2010 (7.2% vs. 4.4% and 10.1% vs. 6.6%, respectively); there are no statistically significant differences for men between 2012 and 2010

# Past-Year Prevalence of Unwanted Sexual Contact

*Workgroup and Gender Relations Survey of the Reserve Component (WGRR)*

Percent of Reserve Component Women and Men, by Service



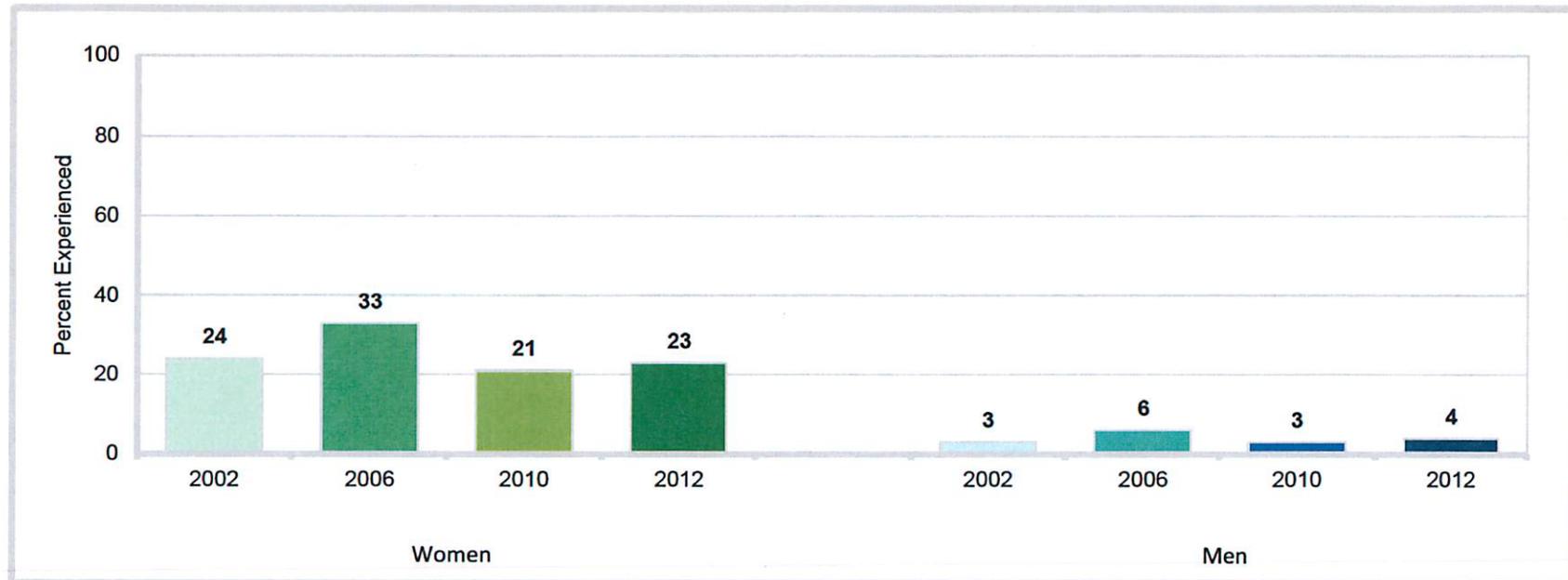
WGRR conducted April 23 to June 28, 2012

## Key findings:

- Overall, 2.8% of reserve component women and 0.5% of reserve component men indicated experiencing some form of USC in the year prior to being surveyed
  - No statistically significant differences among the Reserve components for 2012
  - No statistically significant differences for women or men by Reserve Component between 2012 and the survey's last administration in 2008

# Sexual Harassment Incident Rate

Percent of Active Duty Members, by Gender



## Key Findings:

- Survey results found that 23% of women and 4% of men indicated experiencing sexual harassment in the past year; these rates are statistically unchanged from 2010
- Members who experience USC also experience sexual harassment at a higher rate than members who do not experience USC
  - Of the 6.1% of women experiencing USC in the past year, 77% also experienced sexual harassment
  - Of the 1.2% of men experiencing USC in the past year, 52% also experienced sexual harassment

## Civilian Sector Comparisons: Prevalence

- **2010 National Intimate Partner and Sexual Violence Survey** – Centers for Disease Control and Prevention (2013) – *Gold Standard*
  - Risk for contact sexual violence (oral, anal, vaginal penetration or sexual contact without consent) is the same for women in the military and civilian sector, after adjusting for differences in age and marital status
    - Risk is the same for surveyed groups at past year, past three years, and lifetime prevalence
- **Campus Sexual Assault Study** – Krebs, et. al. (2007)
  - 19% of college women experienced a sexual assault (attempted or completed oral, anal, vaginal penetration or sexual contact without consent) at some point in their 4 year college career
  - 21% of active duty women (ages 18-24) experienced USC (attempted or completed oral, anal, vaginal penetration or sexual contact without consent) at some point in their military career (DMDC, 2012)
- **Drug-facilitated, Incapacitated, and Forcible Rape: A National Study** – Kilpatrick, et. al. (2007)
  - 0.9% of U.S. women (all ages) and 5.2% of U.S. college women experienced a sexual assault (attempted or completed oral, anal or vaginal penetration without consent) in the 12 months prior to the survey
  - About 3.5% of active duty women experienced a sexual assault (attempted or completed oral, anal or vaginal penetration without consent) in the 12 months prior to the survey (DMDC, 2012)

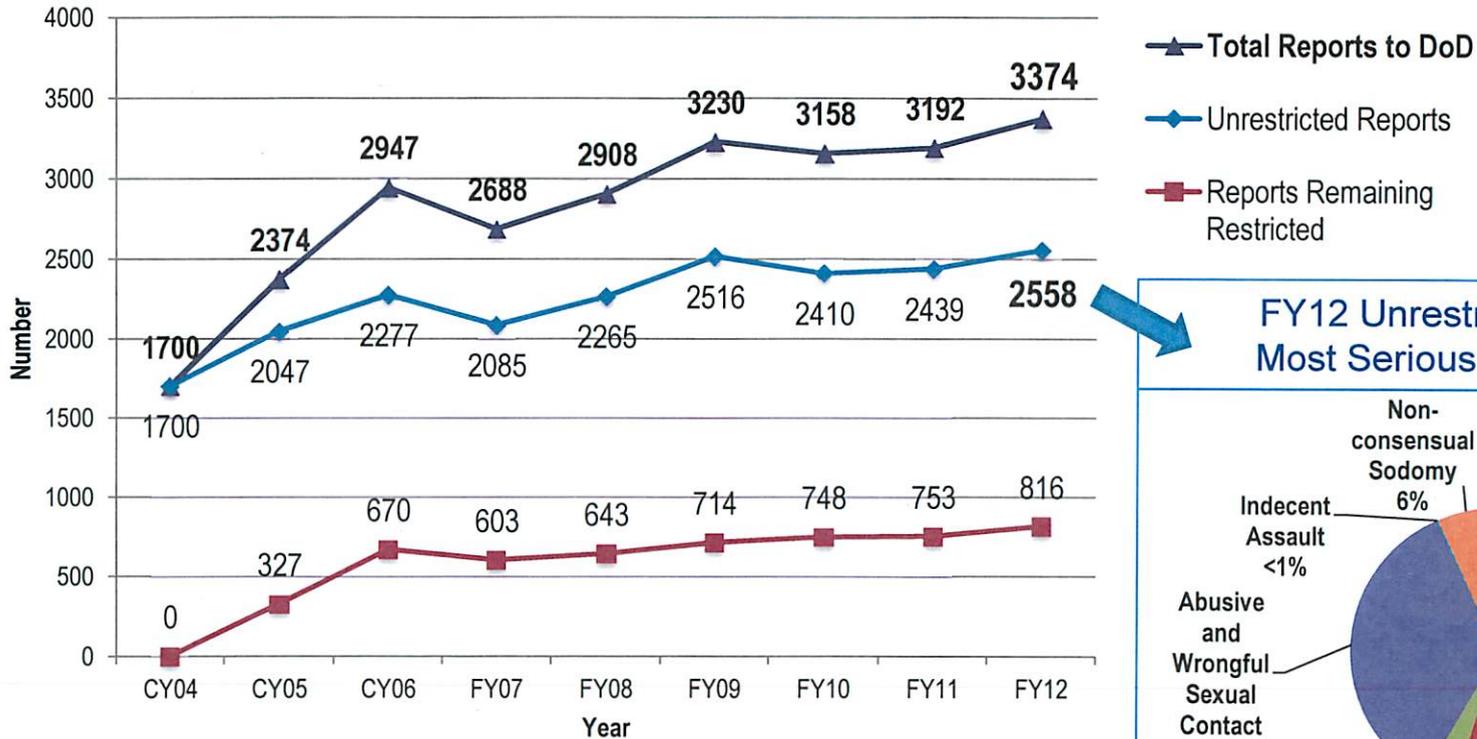
**Overall, most studies indicate the risk for sexual assault is about the same for women in the military and civilian sectors of U.S. society.**

## Victim Reporting and Confidence

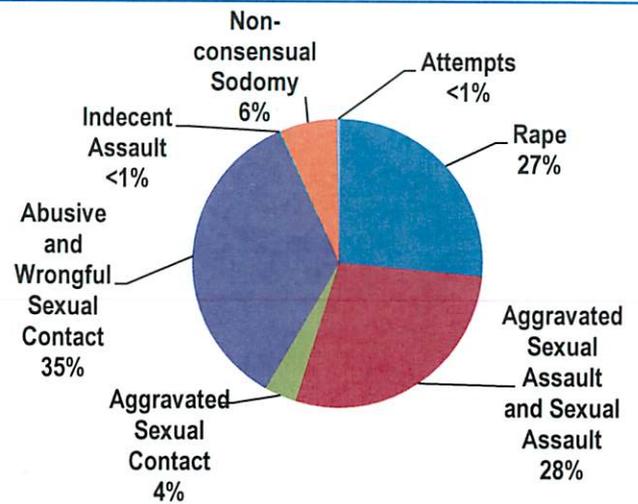
- **Goal:** Increase the number of sexual assault reports to DoD authorities
  - **Key Metric:** Number of Restricted and Unrestricted Reports received
  - **Findings:** Reports of sexual assault increased by 6% from FY11; Service members making sexual assault reports since CY04 have increased by 131%
  - **Challenge:** Increased USC prevalence for women suggests there was more crime to report in 2012
  - **Opportunity:** Increased reporting provides greater opportunity for victim care and offender accountability
- **Other Metrics:**
  - **DEOCS** - Sexual Assault Reporting Options Knowledge and Commanders' Influence on Unit Climate
    - Finding: Statistically significant increases in reporting knowledge and favorable evaluations of commanders' influence on unit sexual assault response climate
  - **WGRA feedback** - Annual SAPR Training
    - Finding: Over 90% of Service members surveyed indicated receipt of training addressing sexual assault reporting options, reporting points of contact, and services for victims (statistically significant increase since 2010)
  - **WGRA feedback** - Reporting Climate
    - Finding: 70% of women and 83% of men indicated that, to a large extent, they would feel free to report sexual assault without fear of reprisals (statistically significant increase from 2010: 65% women; 73% of men)

**Reports have increased substantially over the past eight years, however most sexual assaults still go unreported.**

# Reports of Sexual Assault: CY04-FY12



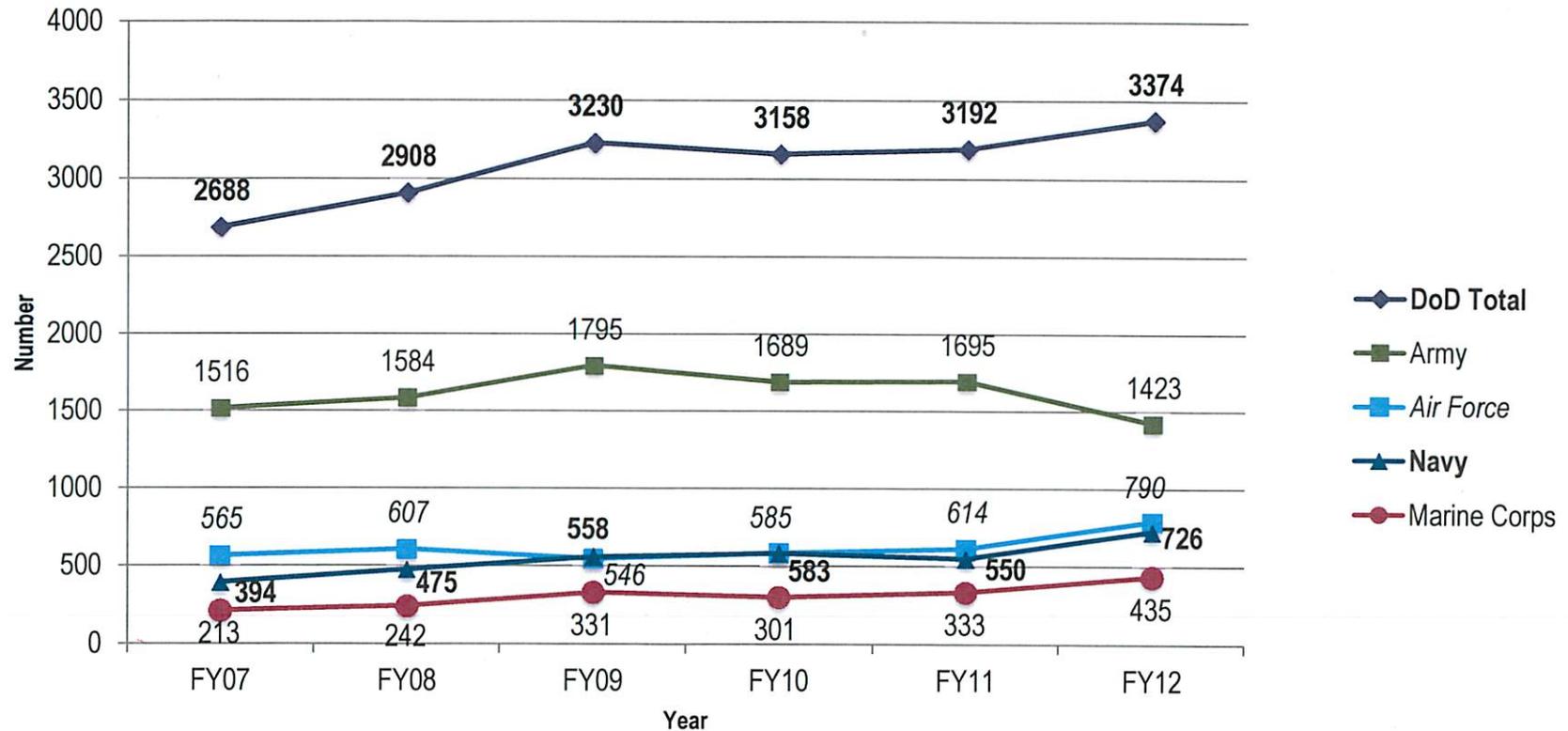
## FY12 Unrestricted Reports: Most Serious Crime Alleged



- Overall reporting increased 6% from FY11
  - Unrestricted Reporting increased by 5%
  - Reports remaining Restricted increased by 8%
- 121 reports in FY12 were for an incident occurring prior to service
- Restricted report conversions increased from 14.1% in FY11 to 16.8% in FY12

Increased reporting leads to greater opportunities for victim care and accountability.

# Sexual Assault Reports by Service, FY07-12



Three of four Services showed an approximate 30% increase in reporting in FY12.

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SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

MAR 12 2012

The Honorable Carl Levin  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

This is in reply to your letter regarding the policy on the expedited transfer of sexual assault victims. Our men and women in uniform put their lives on the line every day to keep America safe. In turn, we have a moral duty to keep them safe from those who would attack their dignity and their honor. This is one of the reasons why I directed the implementation of the new procedures for expedited transfers.

Under these procedures, a victim who files an unrestricted report of sexual assault can request an expedited transfer if he/she feels uncomfortable continuing to work in the unit. If that request is denied within the allocated 72 hours, the victim can request review by the first general officer or flag officer in the chain of command of the member, and the decision to approve or disapprove the request must be made within 72 hours of submission of the request for review. In order to protect the confidentiality of victims who file restricted reports, it is not possible under our procedures to extend the expedited transfer option to them.

The guidance on expedited transfers also requires the Military Departments to make "every reasonable effort to minimize disruption to the normal career progression of a Service member who reports he or she is a victim of a sexual assault." Accordingly, a victim's transfer requires the Service member's commander to counsel the Service member to ensure that he or she is fully informed regarding reasonably foreseeable career impacts or other possible consequences of granting the request. If transfer is to occur, the commander should find a location with an opening in the victim's career field at the appropriate level, so as not to negatively impact his/her career. This cannot be accomplished anonymously. In addition, the commander needs to backfill the position left vacant by the transferee. Filling the victim's position may be difficult depending on the level of responsibility and the commander may opt to transfer the suspect instead of the victim. My guidance clearly states the commanding officer shall consider first the Service member's reasons for the request, and then take into consideration the potential transfer of the alleged offender instead of the victim requesting the transfer. Transferring the suspect may be the least disruptive for the victim's private and professional life.

You also expressed concern that some victims may not alert their chain of command of the assault when the alleged perpetrator is in that chain. We encourage such victims to go outside the chain to report the offense to other commanding officers or an Inspector General. If filing an unrestricted report, these victims are also able to request an expedited transfer from



000258



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his/her unit. In addition, victims are made aware of their right to communicate with Members of Congress.

Sexual assault is an affront to the basic American values we defend and a stain on the good honor of the great majority of our troops and their families. I am committed to doing everything I can to ensure the safety, dignity, and well-being of our people. The Department will continue to review our existing policies to insure we address how to best care for the victims of sexual assault and maintain good order and discipline. I look forward to continuing to work with you and other Members of Congress on this very important issue.

Sincerely,

A handwritten signature in black ink, appearing to be "John" or similar, with a long horizontal stroke extending to the right.

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000260



# Comprehensive Policy Report Update

Report to the  
Congressional Defense Committees of the  
U.S. Senate and the U.S. House of Representatives

*Section 1602(a) of Public Law (P.L.) 111-383,  
the Ike Skelton National Defense Authorization Act (NDAA)  
for  
Fiscal Year (FY) 2011*

Preparation of this report cost the Department of Defense  
a total of approximately \$450.00 in FY12.

PR 848-12

000261

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## Purpose

Section 1602(a) of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011, P.L. 111-383 requires that the Secretary of Defense shall submit to the congressional defense committees a revised comprehensive Sexual Assault Prevention and Response (SAPR) Policy not later than March 30, 2012.

## Background

Department of Defense Directive (DoDD) 6495.01, *Sexual Assault Prevention and Response Program*, issued in 2005, and Department of Defense Instruction (DoDI) 6495.02, *Sexual Assault Prevention and Response Program Procedures*, issued in 2006, constitutes the DoD SAPR Policy developed in accordance with section 577 of P.L. 108-375, the Ronald W. Reagan NDAA for FY05. In 2008, both were modified to strengthen the initial policy by closing identified gaps and clarifying Military Department responsibilities.

Currently, the SAPR Policy addresses the responsibilities and procedures for the Department of Defense (DoD) SAPR Program. Specifically, it establishes a definition of sexual assault; requirements for prevention measures and education and training on prevention and response; investigation training; medical treatment of victims; confidential reporting of incidents; victim advocacy and intervention; commander oversight of administrative and disciplinary actions; disposition of sexual assault cases; collaboration with civilian agencies; and uniform collection of data on sexual assault incidents. The SAPR Policy also requires each Military Service to maintain its own SAPR program, document both Restricted and Unrestricted Reports of sexual assault, and establish command sexual assault awareness and prevention programs, as well as law enforcement and criminal justice procedures that enable persons to be held appropriately accountable for their actions.

## Required Changes to the SAPR Policy

From 2009 through 2011, working groups consisting of subject matter experts from the DoD Sexual Assault Prevention and Response Office (SAPRO), the Military Services, and other Department personnel with sexual assault expertise proposed revisions to clarify the SAPR Policy and to incorporate the requirements outlined in section 596 of P.L. 109-163, the NDAA for FY06; sections 532 and 583 of P.L. 109-364, the John Warner NDAA for FY07; sections 561, 562, and 563 of P.L. 110-417, the Duncan Hunter NDAA for FY09; sections 566 and 598 of P.L. 111-084, the NDAA for FY10; and sections 1602, 1611, 1612, 1614, 1621 and 1622 of P.L. 111-383, the Ike Skelton NDAA for FY11.

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## Reissuance Process and Deadline

Revising a DoD policy, including the SAPR Policy, requires completion of the rigorous "DoD reissuance process" in accordance with DoDI 5025.01, *DoD Directives Programs*. The five-stage process of development, pre-coordination, formal coordination, pre-signature, and posting takes approximately nine months to complete. In addition, as provisions in the SAPR Policy affect members of the public, it also must undergo the Federal Register process, requiring comments from other federal agencies and a comment period for the public. The Federal Register process takes approximately six months to complete.

Directive-Type Memoranda (DTMs) are also subject to the reissuance process, however, the process is slightly expedited and does not require the Federal Register process because the DTMs will be incorporated in the DoDI 6495.02, when the language will appear in SAPR Policy.

## SAPR Policy Progress

While undergoing the DoD issuance process for the SAPR Policy in December 2011, DoD SAPRO published two DTMs to provide critical and immediate policy guidance on expedited transfers for Service members who report being victims of sexual assault, and document retention guidance for certain sexual assault records to include the DD Form 2910, "Victim Reporting Preference Statement," and DD Form 2911, "DoD Sexual Assault Forensic Examination Report."

DTM-11-062, "Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault"<sup>1</sup>, was issued to establish DoD policy on the retention of certain sexual assault records pertaining to Service members who report being victims of sexual assault.

DTM-11-063, "Expedited Transfer of Military Service Members Who File Unrestricted Reports of Sexual Assault"<sup>2</sup>, established policy and procedures to expedite the transfer of a Service member who files an Unrestricted Report of sexual assault, if requested by the Service member and approved.

On January 23, 2012, the Deputy Secretary of Defense reissued DoDD 6495.01<sup>3</sup>. It underwent all five stages of the reissuance process as well as interagency review in the Federal Register process, and is currently posted for public comment; the comment period will end on March 27, 2012.

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<sup>1</sup> Available at [www.sapr.mil](http://www.sapr.mil)

<sup>2</sup> Available at [www.sapr.mil](http://www.sapr.mil)

<sup>3</sup> Available at [www.sapr.mil](http://www.sapr.mil)

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Revisions incorporated into DoDD 6495.01 include:

- Clarifying that the SAPR Policy is victim focused;<sup>4</sup>
- Directing that the Sexual Assault Response Coordinator (SARC) is the "single point of contact" for coordinating care for the victim;<sup>5</sup>
- Standardizing the terms SARC and SAPR Victim Advocate throughout the Department;<sup>6</sup>
- Requiring that sexual assault victims be considered priority cases to receive emergency care;<sup>7</sup>
- Providing Restricted Reporting and SAPR services to military dependents 18 years of age and older and who are eligible for treatment in military healthcare systems;
- Expanding SAPR services to DoD civilians outside of the United States and their family dependents 18 years of age and older and eligible for treatment in military healthcare systems and US citizen contractors that accompany the Armed Forces in a contingency operation OCONUS and their U.S. citizen employees;
- Adopting the U.S. Department of Justice, "A National Protocol for Sexual Assault Medical Forensic Examinations" to assure that the DoD forensic exams meet national standards;<sup>8</sup>
- Integrating congressionally mandated requirements for Military Protective Orders;
- Requiring the creation and maintenance of the Defense Sexual Assault Incident Database;<sup>9</sup>
- Stating that SAPR services are available to Service members who are sexually assaulted prior to enlistment or commissioning; and
- Informing that DoD SAPRO serves as the Department's single point of authority, accountability, and oversight for the SAPR Program.<sup>10</sup>

## SAPR Policy Next Steps

Due to the complexity of the subject matter and the length of the document (80+ pages), the DoDI 6495.02 will not be reissued by March 30, 2012. However, the revised DoDI is in the third stage of the reissuance process: formal coordination with DoD stakeholders and subject matter experts.

Once the DoD issuance process is completed, the DoDI 6495.02 will undergo the Federal Register process. A final published DoDI is anticipated in May 2012.

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<sup>4</sup> P.L. 111-383. (2011). NDAA. Section 1601.

<sup>5</sup> P.L. 111-383. (2011). NDAA. Section 1622.

<sup>6</sup> P.L. 111-383. (2011). NDAA. Section 1602. Subsection (e).

<sup>7</sup> P.L. 111-383. (2011). NDAA. Section 1621.

<sup>8</sup> P.L. 111-383. (2011). NDAA. Section 1621.

<sup>9</sup> P.L. 111-383. (2011). NDAA. Section 1613.

<sup>10</sup> P.L. 111-383. (2011). NDAA. Section 1611.

In addition to incorporating congressional requirements, the Department is working to include each applicable Defense Task Force on Sexual Assault in the Military Report recommendation in the DoDI 6495.02. As of this time, the Department has incorporated all 19 of the policy-related recommendations, which will be included when it is reissued.<sup>11</sup>

## Way Ahead

The Department will continue to make progress on the reissuance process for the DoDI 6495.02 in accordance with congressional, DoD, and federal requirements. SAPRO will provide an update to Congress upon completion.

The Department remains committed to its stated goal of building a culture free of sexual assault, through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well being of all persons covered by the SAPR Policy. The SAPR Program shall provide care that is gender-responsive, culturally competent, and recovery-oriented. The focus of the SAPR program shall remain on the victim and on doing what is necessary and appropriate to support victim recovery, and, if a Service member, to support that Service member to be fully mission capable and engaged.

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<sup>11</sup> DTF-SAMS submitted a report on its year-long assessment of the SAPR Program to Congress and the Secretary of Defense in December 2009. The Report listed 91 recommendations of which the Department has completed or closed 45 recommendations, is working to implement 45 recommendations, and has developed an action plan for the remaining recommendation if enacted by Congress.



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

PERSONNEL AND  
READINESS

The Honorable Carl Levin  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

MAR 30 2011

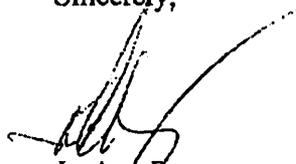
Dear Mr. Chairman:

Section 1602(a) of Public Law 111-383, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 requires the Secretary of Defense to submit to the congressional defense committees a revised comprehensive Sexual Assault Prevention and Response (SAPR) policy not later than March 30, 2012.

The enclosed review describes the extent to which revisions of the SAPR policy have been completed, the process by which the SAPR policy is being revised, and when Department of Defense Instruction 6495.02, *Sexual Assault Prevention and Response (SAPR) Procedures*, will be complete.

The Department stands committed to its goal of a culture free of sexual assault. The men and women of the Armed Forces deserve nothing less.

Sincerely,



Jo Ann Rooney  
Acting

Enclosure:  
As stated

cc:  
The Honorable John McCain  
Ranking Member

000266



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

PERSONNEL AND  
READINESS

The Honorable Howard P. "Buck" McKeon  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

MAR 30 . .

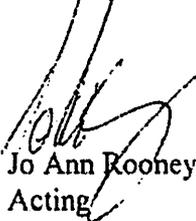
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Sincerely,



Jo Ann Rooney  
Acting

Enclosure:  
As stated

cc:  
The Honorable Adam Smith  
Ranking Member

000267



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

PERSONNEL AND  
READINESS

MAR 30

The Honorable Daniel K. Inouye  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 1602(a) of Public Law 111-383, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 requires the Secretary of Defense to submit to the congressional defense committees a revised comprehensive Sexual Assault Prevention and Response (SAPR) Policy not later than March 30, 2012.

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The Department stands committed to its goal of a culture free of sexual assault. The men and women of the Armed Forces deserve nothing less.

Sincerely,

Jo Ann Rooney  
Acting

Enclosure:  
As stated

cc:  
The Honorable Thad Cochran  
Vice Chairman

000268



PERSONNEL AND  
READINESS

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

March 30

The Honorable Harold Rogers  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

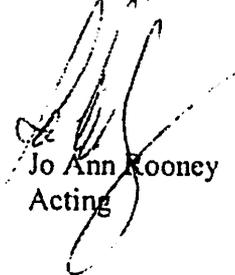
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Section 1602(a) of Public Law 111-383, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 requires the Secretary of Defense to submit to the congressional defense committees a revised comprehensive Sexual Assault Prevention and Response (SAPR) Policy not later than March 30, 2012.

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Sincerely,



Jo Ann Rooney  
Acting

Enclosure:  
As stated

cc:  
The Honorable Norman D. Dicks  
Ranking Member

000269

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000270



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Olympia Snowe  
United States Senate  
Washington, DC 20510

Dear Senator Snowe:

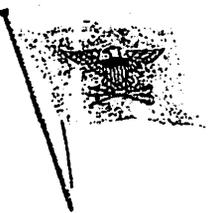
I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to be the name of the Secretary of Defense, with a long horizontal line extending to the right.

000271



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Bill Nelson  
United States Senate  
Washington, DC 20510

Dear Senator Nelson:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,



000272



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Kirsten Gillibrand  
United States Senate  
Washington, DC 20510

Dear Senator Gillibrand:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to be "John" or similar, with a long horizontal flourish extending to the right.

000273



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Barbara Boxer  
United States Senate  
Washington, DC 20510

Dear Senator Boxer:

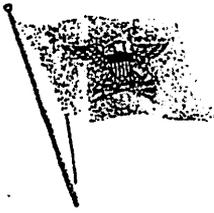
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With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to be "Johnston", written over a horizontal line.

000274



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Jeff Merkley  
United States Senate  
Washington, DC 20510

Dear Senator Merkley:

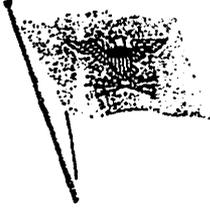
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With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to be the name of the Acting Under Secretary of Defense for Personnel and Readiness.

000275



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Jeanne Shaheen  
United States Senate  
Washington, DC 20510

Dear Senator Shaheen:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to be "Chris" or similar, with a long horizontal line extending to the right.

000276



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Barbara Mikulski  
United States Senate  
Washington, DC 20510

Dear Senator Mikulski:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

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THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Mary Landrieu  
United States Senate  
Washington, DC 20510

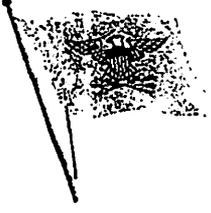
Dear Senator Landrieu:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

000278



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Mark Begich  
United States Senate  
Washington, DC 20510

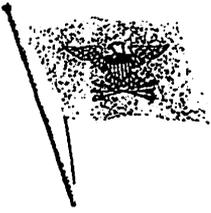
Dear Senator Begich:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

000279



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Claire McCaskill  
United States Senate  
Washington, DC 20510

Dear Senator McCaskill:

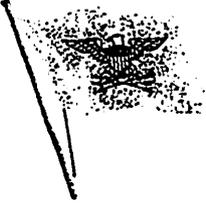
I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,



000280



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

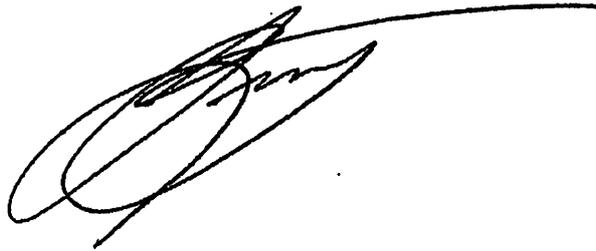
The Honorable Michael Bennet  
United States Senate  
Washington, DC 20510

Dear Senator Bennet:

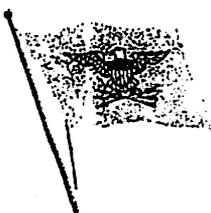
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With best wishes,

Sincerely,



000281



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Richard Durbin  
United States Senate  
Washington, DC, 20510

Dear Senator Durbin:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

000282



THE SECRETARY OF DEFENSE  
WASHINGTON

APR 11 2012

The Honorable Scott Brown  
United States Senate  
Washington, DC 20510

Dear Senator Brown:

I recently received your letter from you and your colleagues regarding long-term records retention of military sexual assaults. I have asked the Acting Under Secretary of Defense for Personnel and Readiness to look into your request in detail and get back to you as soon as possible.

With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to be the name of the Secretary of Defense, with a long horizontal line extending to the right.

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PERSONNEL AND  
READINESS

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

APR 25 2012 1

The Honorable Jon Tester  
United States Senate  
Washington, DC 20510

Dear Senator Tester:

On behalf of the Secretary of Defense, thank you for your letter dated February 23, 2012 to the Secretary of Defense concerning the Question 21 (Q21) on the Questionnaire for National Security Positions, Standard Form 86 (SF 86), and your concern about the requirement to report counseling relative to sexual assault. As you may be aware, the Department of Defense (DoD) does not have the authority to make unilateral modifications to the SF 86. However, we are taking systematic steps to protect the privacy of sexual assault victims.

We are also collaborating with the Director of National Intelligence (DNI) to devise a holistic approach to address broader underlying concerns expressed about the potential impact of Q21 on the willingness of our military members and Federal employees to seek mental health counseling. DoD remains committed to ensuring that sexual assault victims are encouraged to get any needed mental health counseling and our men and women view mental health counseling as a positive course of action. We are committed to making needed updates to policies to address any barriers to care. Below, we describe our past and future course of action.

Questions on the SF 86 reflect national policy implemented by multiple agencies. The purpose of Q21 is to "determine eligibility for access to classified information." The expressed goal is to protect our national security interests by assuring that individuals granted a clearance have the ability to protect our nation's secrets. Thus, when individuals submit applications for security clearances, they simultaneously relinquish some of their privacy rights. Investigators are limited in the questions they may ask by protections in the SF 86 medical information release form. We clarified this position and our intent on protecting the privacy of sexual assault victims in the enclosed November 20, 2009 memorandum, "Mental Health Counseling and Treatment and Security Clearances." This memorandum outlined guidance provided by Executive Order 12968, Access to Classified Information, also enclosed. This Executive Order states that "no negative inference concerning eligibility for access to classified information may be made solely on the basis of mental health counseling."

Our November 20, 2009 memorandum further reiterated that adjudicators must adhere to uniform national adjudicative guidelines when evaluating information concerning mental health counseling. These guidelines are explicit in their instruction to credentialed personnel security investigators to inquire only if the person under investigation has a condition that could impair his or her judgment, reliability, or ability to properly safeguard classified national security

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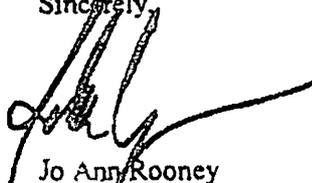
information. If a responding practitioner answers "no" to this question, no further questions are authorized.

This question is asked to determine if such treatment or counseling is relevant to the adjudication for eligible access to classified information or a sensitive national security position. As established by Executive Order 12968, the current policy also states that an affirmative answer to Q21 on the SF 86 regarding mental health counseling alone cannot form the basis of a security clearance denial. We communicated our commitment to ensuring that our Departmental leaders and staff view mental health counseling as a positive course of action and not something that, by itself, will jeopardize a security clearance.

In our continued efforts to protect the privacy of sexual assault victims, the Department also implemented Restricted Reporting, which allows a victim to confidentially disclose a sexual assault and receive the needed care without disclosing the information to command or law enforcement. We are currently participating in a DNI-led interagency process to tailor the question so that it provides the government with the information it needs, while taking into account an individual's privacy interests and supporting victims in getting all the help they may need.

The Department strongly endorses the practice of seeking professional help to address health-related concerns, especially for sexual assault victims. Please be assured that the Department is steadfast in its dedication to making the needed updates to its policies to ensure any concerns are expeditiously and appropriately managed.

Sincerely,



Jo Ann Rooney  
Acting

Enclosures:  
As Stated

5

000287



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Barbara Boxer  
United States Senate  
Washington, DC 20510

Dear Senator Boxer:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault.” issued in December 2011.

The Department recognized the importance of the records retention issue and worked closely with the Department of Veterans Affairs (DVA) to identify exactly which documents are necessary to establish a viable claim for benefits for a sexual assault victim. That determination of exactly which records are needed by the DVA, and for what length of time, formed the DTM 11-062 records retention policy.

The Department expanded the length of time for retaining Sexual Assault Forensic Examination (SAFE) Kits (including the Department of Defense (DD) Form 2911, “Forensic Report: Sexual Assault Examination”) and the DD Form 2910, “Victim Reporting Preference Statement,” in Restricted Reporting cases, as well. The Department believes, however, that it should have the flexibility to establish SAPR retention policies for Restricted Reporting cases that differ from those in Unrestricted Reporting cases. Maintaining the SAFE Kits (including the DD Form 2911) and the DD Form 2910 in Restricted Reporting cases is more challenging because the Department needs to balance the availability of documents to a victim with the victim’s request for confidentiality and privacy. The Department does not wish to establish SAPR policies that re-victimize sexual assault victims or impede their recovery by periodically reminding them that their documents are still in existence, if their wish is to put the event behind them. In addition, one of the hallmarks of the Restricted Reporting program is that sexual assault victims’ election to keep their report of assault confidential. Maintaining records in Restricted Reporting cases for 50 years or the lifetime of victims might lead future victims to doubt the confidentiality of the process and may have the unintended consequence of establishing a barrier to reporting for those victims. The five-year SAPR retention policy only applies to the SAFE Kits (including the DD Form 2911) and the DD Form 2910. The SAPR policy does not limit a victim’s access to his or her medical/psychological records or personnel records.

The Restricted Reporting victims are provided the opportunity to maintain their privacy and also to have possession of the DD forms 2910 and 2911 for their personal records and future needs. After one year has elapsed in the five-year retention period, the SARC will contact the

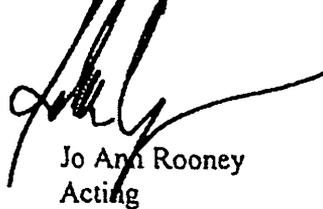
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victim to inquire whether the victim wishes to change his or her reporting option to Unrestricted and whether s/he needs another copy of the DD forms. The SARC shall assist the victim in accessing any of these requested forms within seven business days.

The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

6

000290



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Jeff Merkley  
United States Senate  
Washington, DC 20510

Dear Senator Merkley:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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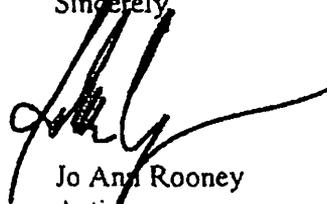
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,



Jo Ann Rooney  
Acting

**7**

**000293**



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Jeanne Shaheen  
United States Senate  
Washington, DC 20510

Dear Senator Shaheen:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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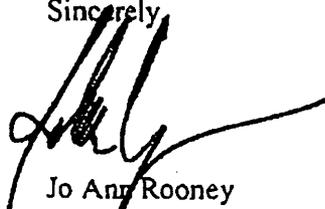
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,



Jo Ann Rooney  
Acting

8

000296



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Barbara Mikulski  
United States Senate  
Washington, DC 20510

Dear Senator Mikulski:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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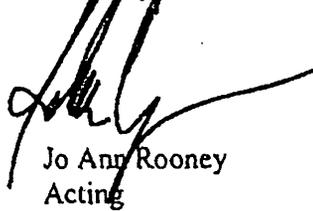
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

9

000299



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Mary Landrieu  
United States Senate  
Washington, DC 20510

Dear Senator Landrieu:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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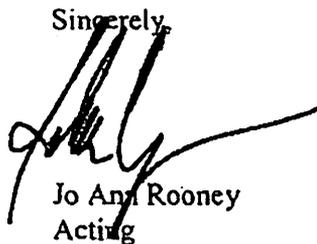
000300

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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

10

000302



PERSONNEL AND  
READINESS

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

APR 5 2012

The Honorable Mark Begich  
United States Senate  
Washington, DC 20510

Dear Senator Begich:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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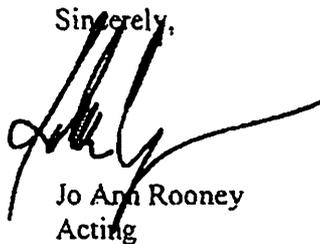
000303

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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

11

202 28

000305



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Claire McCaskill  
United States Senate  
Washington, DC 20510

Dear Senator McCaskill:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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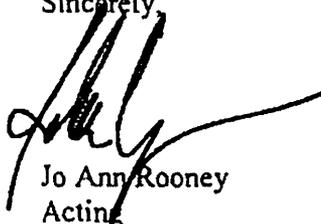
000306

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Sincerely,

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Jo Ann Rooney  
Acting

**12**

**000308**



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Michael Bennet  
United States Senate  
Washington, DC 20510

Dear Senator Bennet:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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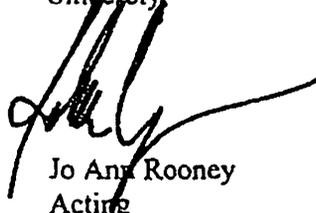
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victim to inquire whether the victim wishes to change his or her reporting option to Unrestricted and whether s/he needs another copy of the DD forms. The SARC shall assist the victim in accessing any of these requested forms within seven business days.

The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

13

000311



PERSONNEL AND  
READINESS

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

APR 15 2012

The Honorable Richard Durbin  
United States Senate  
Washington, DC 20510

Dear Senator Durbin:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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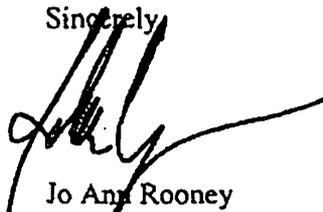
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

**14**

**000314**



PERSONNEL AND  
READINESS

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

April 23 2012

The Honorable Scott Brown  
United States Senate  
Washington, DC 20510

Dear Senator Brown:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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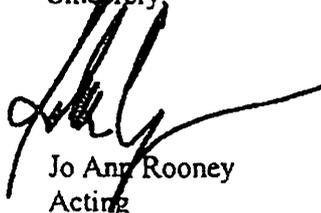
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victim to inquire whether the victim wishes to change his or her reporting option to Unrestricted and whether s/he needs another copy of the DD forms. The SARC shall assist the victim in accessing any of these requested forms within seven business days.

The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ann Rooney', with a long horizontal flourish extending to the right.

Jo Ann Rooney  
Acting

**15**

**000317**



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Kirsten Gillibrand  
United States Senate  
Washington, DC 20510

Dear Senator Gillibrand:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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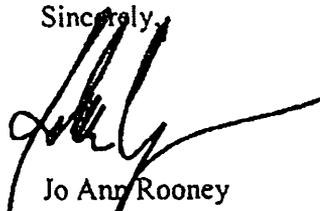
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,



Jo Ann Rooney  
Acting

**16**

**000320**



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Bill Nelson  
United States Senate  
Washington, DC 20510

Dear Senator Nelson:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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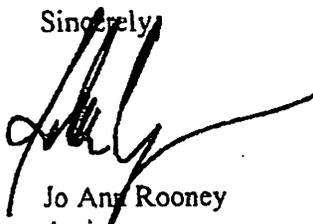
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,

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Jo Ann Rooney  
Acting

**17**

**000323**



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Olympia Snowe  
United States Senate  
Washington, DC 20510

Dear Senator Snowe:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies; which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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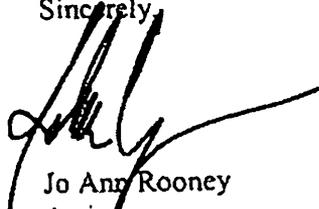
000324

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I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,



Jo Ann Rooney  
Acting

**18**

**000326**



PERSONNEL AND  
READINESS

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

APR 25 2012

The Honorable Army Klobuchar  
United States Senate  
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your letter to the Secretary of Defense concerning expanding the length of time for retaining records relating to sexual assault in Restricted Reporting cases. Sexual Assault Prevention and Response (SAPR) policy falls under my purview and I have been asked to respond. The Department believed that it was preferable to address retention of records through internal DoD policies, which it did through the Directive-Type Memorandum (DTM) 11-062 – “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault,” issued in December 2011.

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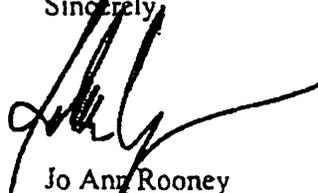
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The Department recognizes the importance of record retention as well as protecting the privacy of the individual victims. We will continue to evaluate our policies in this area to provide the highest level of support to our members.

I appreciate your commitment to address the issues of sexual assault victims. I look forward to continuing to work with you and your colleagues in the Senate on this very important issue. A similar letter has been sent to the Senators who co-signed your correspondence.

Sincerely,



Jo Ann Rooney  
Acting

19

000329



PERSONNEL AND  
READINESS

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

MAY 31 2012

The Honorable Niki Tsongas  
U.S. House of Representatives  
Washington, DC 20515

Dear Congresswoman Tsongas:

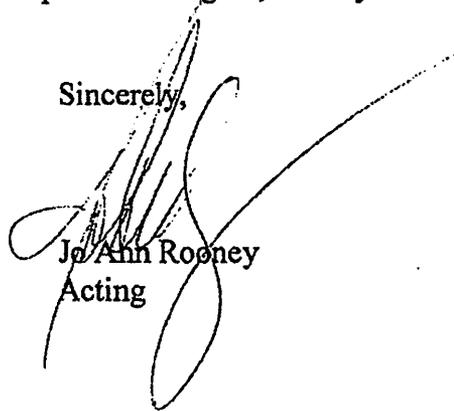
Thank you for your ongoing interest in prevention and response to sexual assault in the military. At the Women's Caucus on April 16 2012, you asked me whether military victims of sexual assault deployed at Forward Operating Bases or remote deployed locations are using technology to access support services. In fact, we have several ways we can support these Service members. I am enclosing an information paper which offers details on these services.

Our goal is to provide the highest level of care to a military victim of sexual assault, regardless of location. When feasible, we prefer to provide face-to-face support to these victims. Sexual Assault Prevention and Response Victim Advocates meet in person with victims, and are generally accessible at all Forward Operating Bases.

If an in-person support session is not possible, victims have several technology-enabled avenues to access support services. I believe you are familiar with the DoD Safe Helpline which Service members can click, call, or text from anywhere in the world. Please see the enclosed paper for additional detail on these many resources.

Please let me know if you have further questions. Again, thank you for your interest in this important topic.

Sincerely,



Jo Ann Rooney  
Acting

Enclosure:  
As stated

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## Information Paper

### *DoD Use of Technology to Support Military Victims of Sexual Assault*

*As requested by Congresswoman Niki Tsongas  
Prepared May 2012*

#### **BACKGROUND**

During the Question and Answer period of the Women's Caucus held on April 16, 2012, Congresswoman Tsongas asked how or if military victims of sexual assault deployed at Forward Operating Bases (FOBs) or remote deployed locations are using technology to access counselors or other helping services, e.g. VTCs, or Skype, or phones to speak to legal assistance personnel or chaplains or mental health counselors or the DoD Safe Helpline.

#### **RESPONSE**

**Victim Advocacy:** To ensure that victims receive the highest level of care possible, the focus is on providing face-to-face support so that reliance on technology is not necessary. Sexual Assault Prevention and Response (SAPR) Victim Advocates (VA) are generally available at all FOBs to assist victims in accessing local support services.

In those instances in which chaplains and/or mental health counselors are not immediately available on-location, SAPR VAs help contact support services, including chaplains and/or mental health counselors, at the victim's request. To access these advocacy services any means necessary would be utilized, e.g. a cell phone to make a call or to text, internet chats (like Skype), and even e-mail could be utilized to ensure that a victim receives advocacy services. Anytime a Service member deploys, he or she receives pre-deployment SAPR training and, upon arrival in-theater, Service members may also receive a briefing on SAPR procedures and resources.

**DoD Safe Helpline:** Provide referrals to Service members around the world three ways - (1) by texting, (2) via Safehelpline.org, and (3) by telephoning 1-877-995-5247.

- A person can text their zip code, installation or base name to 55-247 (inside the U.S.) or 202-470-5546 (outside the U.S.), from anywhere in the world, and Safe Helpline will text back contact information for the SARC, Medical Personnel, Judge Advocate General (JAG), and/or Chaplain on the victim's installation or base, and with off-base support resources, if no Service provider is available at the victim's location.
- Safe Helpline provides live, confidential help through a secure instant-messaging format at SafeHelpline.org. The website also contains vital information about referrals, and reporting a sexual assault. This website is also accessible from .mil addresses.
- Safe Helpline also provides live, confidential help over the traditional telephone. The telephone Helpline staff even transfer callers to installation and base Sexual Assault Response Coordinators (SARCs), Military One-Source, the National Suicide Prevention Lifeline, and civilian sexual assault service providers. Safe Helpline staff can also provide phone numbers and locations for the nearest on-base/installation resources located anywhere. The phone number is the same in the U.S. and worldwide via the Defense Switched Network (DSN).

- More -

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Additionally, the **Marine Corps DSTRESS Line** utilizes a 24/7, anonymous behavioral health telephone and chat counseling service with a "Marine-to-Marine" approach. The DSTRESS Line is Corps-wide and available around the globe through an international phone number or the DSTRESS Line website.

**Legal advice:** Legal advice is routinely provided by JAGs in a face-to-face setting and by telephone. In most locations phone service is available to contact legal assistance, defense counsel and victim/witness liaison personnel. Although most legal assistance offices do not have Video Teleconferencing capability, such capability can be made available on an as-needed basis, especially in the Army. The command will have access to legal assistance office contact information. We have no reports of usage of Skype to provide legal services. There are locations where facilities and internet connectivity are limited.

**Mental Health Care:** The Army medical care is provided through Tele Behavioral Health (TBH). TBH is a military version of Skype and provides Soldiers a means to reach out to a BH provider. Many Navy units operate in forward-deployed settings where maintaining the full spectrum of on-site support services is simply not feasible, and where internet or VTC connectivity is limited. In many settings, including onboard ships, communications bandwidth is inherently constrained. Most units have some level of organic medical capability, although many lack their own mental health counselors. If service members are deployed in a joint environment, the sister services will share technology, like TBH, so that any victim, from any service, can utilize mental health services.

**Chaplaincy:** Chaplain services are not offered via Skype because of connectivity and security concerns on isolated FOBs. Service members are given the opportunity for chaplain services by the Army via rotating chaplains (at the least every 30 days) to remote locations. Service members who wish to speak to a chaplain may contact a chaplain in their area or their unit chaplain. Chaplains are sent to FOBs when requested by Command and/or Service members are sent to a larger FOB to receive chaplain services. Army Chaplains are assigned at battalion level and located at battalion headquarters. Chaplains provide services to smaller formations by visiting those locations on a regular rotating cycle schedule. In the event that technology is limited, a unit can make arrangements to get the victim to a place where he/she can get access to supportive services, barring any operational constraints.

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

MAY 31 2012

The Honorable Bill Nelson  
United States Senate  
Washington, DC 20510

Dear Senator Nelson:

This is in reply to your letter to the Secretary of Defense on April 19, 2012, regarding the rates of sexual assault in the military. Sexual assault prevention and response falls under my purview and I have been asked to respond.

The men and women of the U.S. Military deserve an environment that is free from the threat of sexual assault. However, when a sexual assault does occur, Service members and their families and Department of Defense (DoD) civilians alike must feel secure and confident that they can report this crime without fear of retribution or reprisal. This confidence is based on the belief that the chain of command will act to ensure the safety and security of the victim and will take the complaint seriously. Commanders and leaders throughout the Department are charged with building an organizational climate based on mutual respect and trust as they convey "zero tolerance" for sexual assault. It is the Department's position that sexual assault cases remain under the purview of the chain of command as this is the foundation of good order and discipline.

Secretary Leon Panetta has made it clear that sexual assault will not be tolerated in the ranks and is incompatible with our values. He initiated his proactive campaign to stop sexual assault by appointing a two-star general to head the Sexual Assault Prevention and Response Office, and to maintain momentum and emphasis, he initiated significant changes to support victims, improve our reporting procedures, and ensure the efficacy of the military justice system. In addition to the expedited transfer directive that you mentioned, Secretary Panetta has authorized policies for providing additional legal assistance to victims and revised document retention periods for reports of sexual assault. Secretary Panetta has also met with Members of the House of Representatives to garner support of several new initiatives such as:

- Allowing National Guard and Reserve personnel who have been sexually assaulted to remain on active duty status to obtain the treatment and support afforded to active-duty members;
- Establishing a "special victim" capability within each Military Department composed of specially trained experts in evidence collection, and interviewing and working with victims and;

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- Requiring that sexual assault policies be explained to all Service members within 14 days of their entry into active duty.

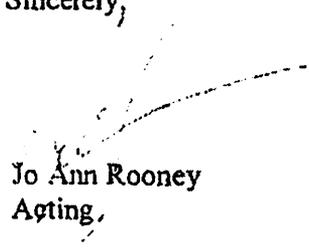
Secretary Panetta has also elevated the initial disposition authority for the most serious sexual assault offenses so that, at a minimum, these cases are addressed by a "Special Court Martial Convening Authority", who is at least an officer at the Colonel (or Navy Captain) level. Scheduled to take effect late June 2012, this directive will guarantee cases of sexual assault receive a high level of command attention and scrutiny.

Additionally, the DoD Inspector General (IG) initiated several projects that we believe will improve the investigation of sex crimes within the Department. Incorporating language from the 2012 National Defense Authorization Act concerning investigative requirements, the office of the IG is finalizing a DoD Instruction that provides overarching policy on investigating sexual assault cases within the Department. A Violent Crimes Division has also been established to provide oversight to violent crimes investigations. This division recently initiated two oversight projects that will further assess Military Criminal Investigative Organization sexual assault investigations and sexual assault investigative training. In sum, these oversight projects are far-reaching and will provide the Department with data to validate and inform our methodologies and techniques for investigating sexual assaults.

In closing, the Department is actively working to demonstrate how zero tolerance for sexual assault translates into our military culture. To make this a reality and ensure understanding, we are investing heavily in training and education to instill and foster this value to all organizational levels. We believe we are on the right path.

Thank you for your interest. I trust I have responded to your questions and the information is of benefit to you.

Sincerely,

  
Jo Ann Rooney  
Acting,

**21**

**000336**



OFFICE OF THE SECRETARY OF DEFENSE  
**SEXUAL ASSAULT PREVENTION  
AND RESPONSE OFFICE**

# **Implementation of NDAA FY 12 Sexual Assault Prevention and Response Provisions**

000337

27 Feb 2013



**OFFICE OF THE SECRETARY OF DEFENSE  
SEXUAL ASSAULT PREVENTION  
AND RESPONSE OFFICE**

# Background

- This is in response to your request to Secretary Panetta for a briefing on the implementation of NDAA FY 12 Sexual Assault Prevention and Response (SAPR) provisions.
- Specifically, you requested the status of:
  - Expedited Transfers
  - Scope of SAPR Training and Education
  - Consistent Training
  - Inclusion in Professional Military Education (PME)
  - Full-time Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), to Include Prohibition on Use of Contractors
  - Extended Document Retention of Sexual Assault Related Records
  - Privileged Communications
  - Access to Legal Assistance and Services

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**SEXUAL ASSAULT PREVENTION  
AND RESPONSE OFFICE**

# Agenda

- DoD Implementation Update on SAPR Provisions
  - Expedited Transfers
  - Scope of SAPR Training and Education
  - Consistent Training
  - Inclusion in Professional Military Education (PME)
  - Full-time Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), to Include Prohibition on Use of Contractors
  - Extended Document Retention of Sexual Assault Related Records
- Victim Advocate Privilege
- Access to Legal Assistance and Services

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- **DoD Policy Implementation Status of Five SAPR Provisions**
  - Expedited Transfers: **Implemented**
  - SAPR Training:
    - Scope of SAPR Training and Education: **Partially Implemented**
    - Consistent SAPR Training: **Partially Implemented**
  - Inclusion in PME: **Implemented**
  - Full-time Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), to Include Prohibition on Use of Contractors: **Partially Implemented**
  - Extended Document Retention of Sexual Assault Related Records: **Implemented**
- **Victim Advocate Privilege: Implemented**
- **Access to Legal Assistance and Services: Implemented; Air Force Special Victims Counsel Pilot Underway**

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# Expedited Transfers

## NDA FY 12 Language:

“§ 673. “(a) **TIMELY CONSIDERATION AND ACTION.**—The Secretary concerned shall provide for timely determination and action on an **application for consideration of a change of station or unit transfer** submitted by a member of the armed forces serving on active duty who was a victim of a sexual assault or other offense covered by section 920, 920a, or 920c of this title (article 120, 120a, or 120c) so as to reduce the possibility of retaliation against the member for reporting the sexual assault or other offense.

“(b) **REGULATIONS.**—The Secretaries of the military departments shall issue regulations to carry out this section, within guidelines provided by the Secretary of Defense. These guidelines shall provide that the application submitted by a member described in subsection (a) for a change of station or unit transfer must be **approved or disapproved by the member’s commanding officer within 72 hours** of the submission of the application. Additionally, if the application is disapproved by the commanding officer, the member shall be given the opportunity to **request review by the first general officer or flag officer in the chain of command of the member, and that decision must be made within 72 hours** of submission of the request for review.”

## Status: Implemented

- Implemented in DoD Policy (DTM 063, 16 Dec 11)
  - For Unrestricted Cases
  - Inter or Intra base Transfers
- Policy Incorporated into Commander and SARC Training Objectives
- Data recorded in Defense Sexual Assault Incident Database (DSAID)
- **In FY 12/1Q FY 13, 333 of 336 Expedited Transfers Approved** thru 31 Dec 12
  - **Army:** 120 of 123 Approved
    - Reasons: Offender Transferred (2); Member Admin Separation in progress at time of sexual assault (1)
  - **Navy:** 70 of 70 Approved
  - **Marine Corps:** 48 of 48 Approved
  - **Air Force:** 88 of 88 Approved
  - **ANG:** 2 of 2 Approved
  - **ARNG:** 5 of 5 Approved



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# Scope of SAPR Training & Education

## NDA FY 12 Language:

SEC. 585. TRAINING & EDUCATION PROGRAMS FOR SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) SAPR TRAINING AND EDUCATION.—

(1) DEVELOPMENT OF CURRICULUM.—Not later than one year after the date of the enactment of this Act, the Secretary of each military department shall develop a curriculum to provide sexual assault prevention and response training and education for members of the Armed Forces under the jurisdiction of the Secretary and civilian employees of the military department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault. In developing the curriculum, the Secretary shall work with experts outside of the Department of Defense who are experts sexual assault prevention and response training.

(2) SCOPE OF TRAINING AND EDUCATION.— SAPR training and education shall encompass initial entry and accession programs, annual refresher training, professional military education, peer education, and specialized leadership training. Training shall be tailored for specific leadership levels and local area requirements.

## Status: Partially Implemented

- Military: Services have developed SAPR curricula and are conducting training and education tailored to specific skill leadership levels:
  - Initial Entry and Accessions Training
  - Annual Refresher Training
  - Professional Military Education (PME)
  - Peer Education
  - Specialized Leadership Training
- Civilian: Services are currently developing SAPR curricula for training and education

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## Service Examples of SAPR Training & Education

• **Initial Entry and Accessions Training: Air Force**

- Rights and Duties of an Air Force Trainee are presented at the Recruiting Station
- Repeat training at Basic Training and Tech School
- Bystander Intervention Training at USAFA

• **Annual Refresher Training: National Guard Bureau**

- Unit Training: videos and facilitated discussion; small group exercises and interactive computer based training
- Leader Training: Senior Leadership SAPR Summits using SMEs; command level videos and facilitated exercises
- SARC/VA Annual Refresher Training: SME refresher workshops on victim advocacy skills/SA trauma; program management tasks; interactive policy/processes updates

• **PME: Army**

- Implemented in 22 courses spanning multiple levels of career progression
- NCO: Sgt to Sgt Major
- Officer: Pre-commissioning thru War College

• **Peer Education: Marine Corps (Take a Stand)**

- Taught by UVAs to all NCOs
- Three hour interactive course
- Consists of video messages from leaders, messages from victims, mini-lectures, guided small group discussions, and ethical decision games
- Emphasizes bystander intervention

• **Specialized Leadership: Navy (SAPR-L)**

- Targeted training for leaders E-7 thru O-10 by Mobile Training Teams
- Primary elements: videos, facilitated discussion, and role playing scenarios
- Focused on creating and maintaining a professional command climate
- Addresses new legal and policy requirements

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# Consistent SAPR Training

## NDA FY 12 Language:

SEC. 585. TRAINING & EDUCATION PROGRAMS FOR  
SEXUAL

ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) SAPR TRAINING AND EDUCATION.—

(3) CONSISTENT TRAINING.—The Secretary of  
Defense shall ensure that the sexual assault  
prevention and response training provided to  
members of the Armed Forces and Department of  
Defense civilian employees is consistent throughout  
the military departments.

## Status: Partially Implemented (ECD: 30 Jun 13)

- On 18 January 2012, Secretary Panetta directed that each Service assess their Pre-Command and Senior Enlisted Training.
- Pre-Command and Senior Enlisted Training assessment report determined the need for greater consistency throughout development of **standardized core competencies and learning objectives (CC/LO)** for each type of training.
- Pre-Command & Senior Enlisted Assessment: May 2012
  - New Curricula for Classes starting after 30 Mar 13
- Standardized SAPR Training: ECD 30 June
  - Annual Refresher CC/LO
  - PME CC/LO
  - SARC/VA CC/LO
  - Chaplain CC/LO
  - Accessions CC/LO

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**SEXUAL ASSAULT PREVENTION  
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# Inclusion in PME

## NDA FY 12 Language:

(b) INCLUSION IN PROFESSIONAL MILITARY EDUCATION.—

**The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module at each level of professional military education.**

The training shall be tailored to the new responsibilities and leadership requirements of members of the Armed Forces as they are promoted.

## Status: Implemented

- Services have implemented SAPR training spanning multiple levels of career progression
- Revised DoDI (TBP) requires SAPR training at multiple levels:
  - NCOs and officers training at developmental courses throughout military career
  - Commissioned officers at Pre-command courses
  - General/Flag Officers and SESs at initial executive level training
- Common elements of training to include:
  - Explaining why sexual assaults are crimes.
  - Explaining available reporting options.
  - Explaining the timing of and services for victim care.
  - Identifying prevention strategies and behaviors that may reduce sexual assault, including bystander intervention, risk reduction, and obtaining affirmative consent.



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**SEXUAL ASSAULT PREVENTION  
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# Full Time Sexual Assault Response Coordinators & Victim Advocates

## NDA FY 12 Language:

### SEC. 584. SEXUAL ASSAULT RESPONSE COORDINATORS AND SEXUAL ASSAULT VICTIM ADVOCATES.

(a) ASSIGNMENT OF COORDINATORS.—

(1) ASSIGNMENT REQUIREMENTS.—At least **one full-time Sexual Assault Response Coordinator shall be assigned to each brigade** or equivalent unit level of the armed forces. The Secretary of the military department concerned may assign additional Sexual Assault Response Coordinators as necessary based on the demographics or needs of the unit. An additional Sexual Assault Response Coordinator may serve on a fulltime or part-time basis at the discretion of the Secretary.

(2) ELIGIBLE PERSONS.—On and after October 1, 2013, **only members of the armed forces and civilian employees** of the Department of Defense may be assigned to duty as a Sexual Assault Response Coordinator.

(b) ASSIGNMENT OF VICTIM ADVOCATES.— (same as above)

## Status: Partially Implemented (ECD: 30 Sep 13)

- Services will transition to FTE military or govt. civilian SARC's & SAPR VAs by 30 Sept 2013
- Service-specific approaches meet intent of law:
  - **Army:**
    - Approach: Assigning FTE to Brigade Level
    - Requirement/Fielded: 829/829
    - Additional Duty VAs: 16,000
  - **Navy:**
    - Approach: Assigning FTE per 5000 Sailors
    - Requirement/Fielded: SARC (66/38), VA (66/4)
    - Contract SARC's: 25 (to be discontinued)
    - Additional Duty VAs: 3,000+
  - **Air Force:**
    - Approach: Assigning FTE to Host Wing Level
    - Requirement/Fielded: SARC's (89/89), VA (70/0)
    - Additional Duty VAs: 3,000+
  - **Marine Corps:**
    - Approach: Assigning FTE to Base/MEF/DIV/WG/MLG
    - Requirement/Fielded: SARC's (32/21), VA (32/50)
    - Additional Duty VAs: 813
    - Additional Duty SARC's: 52
  - **National Guard:**
    - Approach: Assigning FTE to State Joint Force HQ
    - Requirement/Fielded: SARC's (54/54), VA (54/0)
    - Additional Duty ANG: SARC's 90, VA 180+
    - Additional Duty ARNG: SARC's 196, VAs 2000+



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**SEXUAL ASSAULT PREVENTION  
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## Extended Document Retention of Sexual Assault Records

### NDA FY 12 Language:

Sec. 586. Department of Defense Policy and Procedures on Retention and Access to Evidence and Records Relating to Sexual Assaults Involving Members of the Armed Forces.

(c) ELEMENTS. . . the Secretary of Defense shall consider, at a minimum, the following matters:

(1) Identification of records, including non-DoD records, relating to an incident of sexual assault, that must be retained.

(2) Criteria for collection and retention of records.

(3) Identification of physical evidence and non-documentary forms of evidence relating to sexual assaults that must be retained.

(4) Length of time records, including DoD Forms 2910 and 2911, and evidence must be retained, except that—

(A) length of time physical evidence & forensic evidence must be retained **not less than five years**;

(B) length of time documentary evidence relating to sexual assaults must be retained **not less than length of time investigative records** relating to reports of sexual assaults of that type (restricted or unrestricted reports) must be retained.

### Status: Implemented

- Implemented in DoD Policy (DTM 062—16 Dec 11)
  - For Unrestricted Cases – 50 years
    - Uploaded & retained in DSAID
  - For Restricted Cases – 5 years
    - DD Form 2910 Retained in hard copy locally by the servicing SARC
    - DD Form 2911 retained with anonymous tracking number by law enforcement
- NDA FY13 changed retention requirement for RR
  - At request of victim need to keep the RR records for 50 years
  - Retention location being determined
- Retention Policy to be incorporated into:
  - SAPR DoDI 6495.02, when reissued
  - IG DoDI 5505.18, issued 25 Jan 2013



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## Victim – Victim Advocate Privilege

**Status: Implemented-- Privilege created by Presidential EO, 13 Dec 11**

- Executive Order established Military Rule of Evidence 514, eff. Jan 2012
  - Protects communications between Victims and Victim Advocates.
  - Applies to any victim of sexual assault or crime of violence.
    - Case arising under UCMJ: post complaint, investigation, pretrial proceedings, trial.
  - Covers anyone providing victim advocacy advice or assistance, and assistants.
    - Includes SARCs by DoD Directives defining duties as including advocacy.
  - Applies to communications and records of communications & office files.
- Exceptions
  - Victim's Consent or Death;
  - Communication contemplates a future fraud or crime;
  - Threat to safety of victim, military personnel and dependents, military property, classified information, or accomplish of a military mission;
  - Constitutionally required.

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**SEXUAL ASSAULT PREVENTION  
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## Victim – Victim Advocate Privilege (cont.)

### Available Privileged and Confidential Communications

- Victim Advocates and assistants – MRE 514 Privilege.
- SARCs and others providing victim services & assistants – MRE 514 Privilege + Regulation Provision That Includes SARCs.
- Medical Personnel and assistants – Under DoD RR Policy of Confidentiality.
- Psychotherapists, clinical psychologists, licensed clinical social workers, others providing similar services when credentialed by military health care facility, and assistants – MRE 513 Privilege.
- Chaplain and assistants – MRE 503 Privilege.
- Attorney and representatives (including Legal Assistance Attorneys) - MRE 502 Privilege.
- Spouse - MRE 504 Privilege (except if joint crimes; proceedings where spouse charged with crime against other's spouse, spousal property, child of either spouse).
- Staff of RAINN's Safe Helpline for DOD community - Not "privileged communications", but are generally protected by staying anonymous, excluding PII, and limits on disclosure to Government and Privacy Act protections.



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**SEXUAL ASSAULT PREVENTION  
AND RESPONSE OFFICE**

## Access to Legal Assistance & Services

### NDA FY12 Language:

“§ 1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates

“(a) AVAILABILITY OF LEGAL ASSISTANCE AND VICTIM ADVOCATE SERVICES.—

(1) A member of the armed forces, or a dependent of a member, who is the victim of a sexual assault may be provided the following:

“(A) Legal assistance provided by military or civilian legal assistance counsel pursuant to section 1044 of this title.”

### Status: Implemented; Air Force Special Victim Counsel Pilot Underway

- In anticipation of § 1565b, Dr. Stanley (then USD P&R) issued guidance to further define the parameters of legal assistance
- All Services providing legal assistance to victims of sexual assault.
- LA provided as part of DoD’s multi-disciplinary, integrated, and holistic approach to victim support.
- All Services are enhancing their Victim Witness Assistance Programs.
- Implementation of Special Victims Capability is well underway.
  - Development of concept; standardized selection, training and certification.
  - Collaborative medical, investigative, prosecutorial, and support-based services.
- Air Force “Special Victims Counsel” one-year pilot program underway as of **28 Jan 13**.
- DoD Joint Service Committee on Military Justice to evaluate and analyze the results of the AF Pilot Program and to study all aspects of victim support and offender accountability.



**OFFICE OF THE SECRETARY OF DEFENSE  
SEXUAL ASSAULT PREVENTION  
AND RESPONSE OFFICE**

4800 Mark Center Drive, Room 7G21

Alexandria, VA 22311

[sapro@wso.whs.mil](mailto:sapro@wso.whs.mil)

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PERSONNEL AND  
READINESS

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

APR 04 2013

The Honorable Mitch McConnell  
United States Senate  
Washington, D.C. 20510

Dear Senator McConnell:

This is in response to your letter to the Assistant Secretary of Defense for Legislative Affairs dated October 23, 2012, regarding the handling of cases of sexual harassment and sexual assault and the suggestion that legislation would improve senior leader accountability. As the Director of the Department of Defense Sexual Assault Prevention and Response Office, I have been asked to respond to your concerns.

One of the concerns raised in your constituent's letter centered on the accountability of command sergeants major who were alleged to have committed sexual harassment or other serious incidents.

Sexual harassment and sexual assault in the military cannot be tolerated. Service members deserve to be treated with dignity and respect in an environment free from sexual harassment and sexual assault. These offenses are an affront to the values we defend, and they erode unit cohesion. To this end, military commanders establish standards of behavior, enforce these standards and hold people accountable for meeting them, regardless of rank.

In order to strengthen accountability efforts, the Secretary of Defense implemented a policy change that became effective in June 2012, directing that in certain sexual assault cases the initial disposition authority under the Uniform Code of Military Justice be elevated to commanders who possess at least special court-martial convening authority and who are in the O-6 grade (i.e., colonel or Navy captain) or higher. The new policy ensures that serious cases of sexual assault receive a higher level of command attention from a more experienced commander. This policy has been in effect for nine months and is an element now taught to future commanders in pre-command training courses across all the Services.

I trust this information will be of benefit to you and to your constituent.

Sincerely,

GARY S. PATTON  
Major General, USA  
Director, Sexual Assault Prevention and  
Response Office

cc:  
U.S. Army Manpower and Reserve Affairs



OSD014023-12

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PERSONNEL AND  
READINESS

UNDER SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

JUN 12 2013

The Honorable Amy Klobuchar  
United States Senate  
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your May 9, 2013, letter to the Secretary of Defense concerning the personnel assigned to sexual assault prevention and response programs in the Services. The Sexual Assault Prevention and Response (SAPR) program falls under my purview and I have been asked to respond.

I share your concern over the problem of sexual assault in our military, and I am equally outraged over the troubling allegations brought against the Air Force Lieutenant Colonel assigned to administer the Air Force SAPR program. This matter is now pending before a civilian criminal court.

The SAPR program leadership in each of the Services is now uniformly at the General Officer/Flag Officer/Civilian Senior Executive level. In each instance these senior leaders have routine access to the Service Chief and Service Secretary. I have outlined below the management structure for each of the Service's SAPR programs.

- The Assistant Secretary of the Army for Manpower and Reserve Affairs exercises supervision of the Army Sexual Harassment/Assault Response and Prevention Program (SHARP) through a Senior Executive Service (SES) Deputy Assistant Secretary. The Army Deputy Chief of Staff for Personnel a Lieutenant General (O-9), is responsible for program execution with a Brigadier General (O-7), directly implementing the program. In turn, a GS-15 manages SHARP and provides updates on program implementation to Army senior leaders.
- The Department of the Air Force SAPR program is currently being reorganized and realigned. Formerly organized under the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services, the Air Force SAPR program will now be organized directly under the Air Force Vice Chief of Staff, and led by a Major General.
- The Department of the Navy (DON) SAPRO is led by an SES who reports directly to the Secretary and Under Secretary of the Navy. DON-SAPRO then engages with both the Headquarters of the Navy and Marine Corps to implement their respective SAPR programs. Navy SAPR is directly supervised by a Rear Admiral (O-7) while the policy is implemented by a GS-14. The Marine Corps SAPR program is overseen by a Brigadier General (O-7) and managed by a Colonel (O-6).

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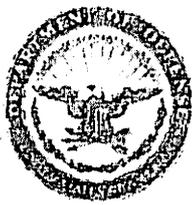
In conclusion, sexual assault is one of the most serious challenges facing the Department, and our leadership has no higher priority than the safety and welfare of our men and women in uniform. The Department will continue to examine this issue to develop the most effective leadership, oversight, and governance structure in the Department's effort to combat sexual assault in the military. A similar response is being sent to Senator McCaskill.

Sincerely,

  
Jessica L. Wright  
Acting

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PERSONNEL AND  
READINESS

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

JUN 12 2013

The Honorable Claire McCaskill  
United States Senate  
Washington, DC 20510

Dear Senator McCaskill:

Thank you for your May 9, 2013, letter to the Secretary of Defense concerning the personnel assigned to sexual assault prevention and response programs in the Services. The Sexual Assault Prevention and Response (SAPR) program falls under my purview and I have been asked to respond.

I share your concern over the problem of sexual assault in our military, and I am equally outraged over the troubling allegations brought against the Air Force Lieutenant Colonel assigned to administer the Air Force SAPR program. This matter is now pending before a civilian criminal court.

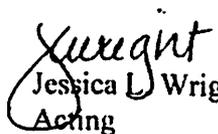
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In conclusion, sexual assault is one of the most serious challenges facing the Department, and our leadership has no higher priority than the safety and welfare of our men and women in uniform. The Department will continue to examine this issue to develop the most effective leadership, oversight, and governance structure in the Department's effort to combat sexual assault in the military. A similar response is being sent to Senator Klobuchar.

Sincerely,

  
Jessica L Wright  
Acting

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PERSONNEL AND  
READINESS

UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

JUN 20 2013

The Honorable Jeanne Shaheen  
United States Senate  
Washington, DC 20510

Dear Senator Shaheen:

Thank you for your letter to Secretary Chuck Hagel, requesting that the Department of Defense consider making Sexual Assault Prevention and Response (SAPR) positions nominative, and to make sure the personnel filling these positions are receiving all necessary and appropriate training and certification. SAPR falls under my purview, and I have been asked to respond.

I share your concern with ensuring the highest caliber individuals are assigned to the Department's critically important SAPR positions. These individuals play a vital role in our efforts to combat this crime and must possess both outstanding management skills and impeccable character. Currently, the Department does not require a formal nominative process for commanders to select their SAPR personnel.

Although not a formal nominative process, we do have a robust process for selection and certification of Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs). SARCs and SAPR VAs are required to complete a National Agency Background check to enter the position. As part of our current certification process, discussed in greater detail below, commanders must sign a letter attesting to each SARC's and SAPR VA's moral character, professional abilities, understanding of and willingness to perform the duties required, and to maintain victim privacy.

As mandated by section 585 of the National Defense Authorization Act for Fiscal Year 2012, our SARCs and SAPR VAs are being certified through the Department of Defense (DoD) Sexual Assault Advocate Certification Program (D-SAACP). D-SAACP was established to standardize sexual assault response to victims and professionalize the victim advocacy roles of SARCs and SAPR VAs. All SARCs and VAs must be D-SAACP certified by October 1, 2013 in order to serve in these positions. We receive support from the National Organization for Victim Assistance (NOVA), which administers the D-SAACP through a contract with the DoD Sexual Assault Prevention and Response Office, ensuring that DoD sexual assault responders meet national standards. In addition, SARCs and SAPR VAs must sign a code of ethics, provide an additional letter of recommendation from the first person in their chain of command, and complete at least 40 hours of NOVA-approved training for Level I certification. Certification at higher levels (Level II-IV) meets all the requirements of Level I plus additional years of specialized experience.

In light of recent events, at the Secretary of Defense's direction, the Services, National Guard, and the Combatant Commanders are conducting a DoD-wide SAPR stand-down that will

000361

require an active review of qualifications and credentials of all currently serving recruiters, SARCs, and SAPR VAs. This will be completed by our active forces by July 1, 2013, and by our reserve forces by September 1, 2013.

Finally, as the senior responsible DoD official in charge of Personnel and Readiness, I am personally engaged in ensuring we have the best people assigned to our SAPR effort. I trust that this information is helpful and appreciate your commitment in the well-being of our Service members. I look forward to continuing to work with you and your Senate colleagues on military sexual assault. A similar response has been provided to Senator McCaskill.

Sincerely,

  
Jessica L. Wright  
Acting

26

000363



PERSONNEL AND  
READINESS

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

JUN 20 2013

The Honorable Louise M. Slaughter  
U.S. House of Representative  
Washington, DC 20515

Dear Representative Slaughter:

Thank you for your letter to Secretary Chuck Hagel and Major General Gary Patton requesting that the Department of Defense Sexual Assault Prevention and Response Office undertake a formal review of all materials distributed to Service members as part of the official activities of the Sexual Assault Prevention and Response (SAPR) Program. SAPR falls under my purview and I have been asked to respond.

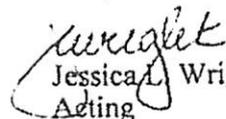
Secretary Hagel, General Patton, and I share your concerns about ensuring victims receive the appropriate support and resources. We have reviewed the Shaw Air Force Base brochure you mentioned in your letter. We share your concerns over some of the materials presented, and the Air Force has withdrawn the brochure from circulation.

The Department of Defense is fully committed to a culture of dignity and respect, where every Service member is valued. This work is most effectively accomplished by the Services engaging in every aspect of their SAPR programs, to include the development and distribution of program training and prevention materials.

As such, Department of Defense Sexual Assault Prevention Response Office and the Services have recently created consistent standards for all SAPR training conducted throughout the Department. Those standards were developed after significant review, evaluation, and the sharing of best practices. Curriculum and material development is underway, and in some cases, the new training is already being conducted. We are confident that this standardization will produce greater consistency across the Services on DoD-wide SAPR training, and SAPR-related materials. Our DoD and Service SAPRO staffs will continue to exercise oversight and quality control in this area to ensure these intended effects.

Sexual assault is one of the most serious challenges facing the Department and our leadership has no higher priority than the safety and welfare of our men and women in uniform. I deeply appreciate your assistance in helping us address this challenge.

Sincerely,

  
Jessica L. Wright  
Acting



OSD005740-13

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**27**

**000365**



PERSONNEL AND  
READINESS

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

JUN 20 2013

The Honorable Claire McCaskill  
United States Senate  
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your letter to Secretary Chuck Hagel, requesting that the Department of Defense consider making Sexual Assault Prevention and Response (SAPR) positions nominative, and to make sure the personnel filling these positions are receiving all necessary and appropriate training and certification. SAPR falls under my purview, and I have been asked to respond.

I share your concern with ensuring the highest caliber individuals are assigned to the Department's critically important SAPR positions. These individuals play a vital role in our efforts to combat this crime and must possess both outstanding management skills and impeccable character. Currently, the Department does not require a formal nominative process for commanders to select their SAPR personnel.

Although not a formal nominative process, we do have a robust process for selection and certification of Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs). SARCs and SAPR VAs are required to complete a National Agency Background check to enter the position. As part of our current certification process, discussed in greater detail below, commanders must sign a letter attesting to each SARC's and SAPR VA's moral character, professional abilities, understanding of and willingness to perform the duties required, and to maintain victim privacy.

As mandated by section 585 of the National Defense Authorization Act for Fiscal Year 2012, our SARCs and SAPR VAs are being certified through the Department of Defense (DoD) Sexual Assault Advocate Certification Program (D-SAACP). D-SAACP was established to standardize sexual assault response to victims and professionalize the victim advocacy roles of SARCs and SAPR VAs. All SARCs and VAs must be D-SAACP certified by October 1, 2013 in order to serve in these positions. We receive support from the National Organization for Victim Assistance (NOVA), which administers the D-SAACP through a contract with the DoD Sexual Assault Prevention and Response Office, ensuring that DoD sexual assault responders meet national standards. In addition, SARCs and SAPR VAs must sign a code of ethics, provide an additional letter of recommendation from the first person in their chain of command, and complete at least 40 hours of NOVA-approved training for Level I certification. Certification at higher levels (Level II-IV) meets all the requirements of Level I plus additional years of specialized experience.

In light of recent events, at the Secretary of Defense's direction, the Services, National Guard, and the Combatant Commanders are conducting a DoD-wide SAPR stand-down that will

000366

require an active review of qualifications and credentials of all currently serving recruiters, SARC's, and SAPR VAs. This will be completed by our active forces by July 1, 2013, and by our reserve forces by September 1, 2013.

Finally, as the senior responsible DoD official in charge of Personnel and Readiness, I am personally engaged in ensuring we have the best people assigned to our SAPR effort. I trust that this information is helpful and appreciate your commitment in the well-being of our Service members. I look forward to continuing to work with you and your Senate colleagues on military sexual assault. A similar response has been provided to Senator Shaheen.

Sincerely,

  
Jessica L. Wright  
Acting

28

000368



PERSONNEL AND  
READINESS

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

JUN 20 2013

The Honorable Kay R. Hagan  
United States Senate  
Washington, DC 20510

Dear Senator Hagan:

Thank you for your letter to the Secretary of Defense concerning the implementation of the sexual assault provisions contained in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, and your request for information about the current status of its implementation. The Department is actively working to implement the provisions from the NDAA for FY 2013 and will provide a response on all the provisions in the future. The Department's progress on sections 576, 573, and 575, as enumerated in your letter, are provided below.

Section 576 of the NDAA for FY 2013 required the Secretary of Defense to establish a Response Systems Panel to conduct an independent overview of the system and to investigate, prosecute, and adjudicate sexual assault in the military. With regard to the establishment of the independent review panel identified within section 576 of NDAA for FY 2013, Secretary of Defense Chuck Hagel appointed five members and the Chair and Ranking Members of the House and Senate Armed Service Committee each appointed one member to the Response Systems Panel. Secretary Hagel appointed the following members to the panel: former Representative Elizabeth Holtzman; James Houck, Vice Admiral, U.S. Navy (retired); Judge Barbara Jones, U.S. District Court for the Southern District of New York (retired); Ms. Mai Fernandez, National Center for Victims of Crime Executive Director; and Colleen McGuire, Brigadier General, U.S. Army (retired). The following members of the panel were appointed by Congress: Melinda Dunn, Brigadier General, U.S. Army (retired); Harvey Bryant, Commonwealth's Attorney of Virginia Beach, Virginia; Holly O'Grady Cook, Colonel, U.S. Army (retired); and Professor Elizabeth Hillman, Hastings Law School. The Response Systems Panel is tasked with conducting an independent review and assessment of the Department's systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses. The Secretary spoke with the members during their administrative meeting May 17, 2013, and urged them to complete their work in 12 months time, shorter than the 18 month timeframe mandated by the FY 2013 NDAA.

Section 573 of the NDAA for FY 2013 required the establishment of a special victim capability (SVC) for the investigation and prosecution of allegations of child abuse, serious domestic violence, or sexual offenses, and to provide support for such victims. The SVCs will include specially trained investigators from the military criminal investigative organizations, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel. A working group of members representing the Services' Judge Advocates General, Family Advocacy Program, Military Criminal Investigative Organizations, the Sexual Assault

000369

Prevention and Response Office (SAPRO), and my Office of Legal Policy has been working to develop the concept of operations and policy to implement the SVC throughout the Department and establish a common criteria to measure the effectiveness and impact of the SVC. The Department of Defense Inspector General has attended meetings as an observer/advisor and is independently developing a concept of operations and authoring policy to implement the investigative portion of a SVC for the Department while coordinating with the SAPRO and other disciplines to ensure a seamless, joint effort. In accordance with section 573 of the NDAA for FY 2013, DoD will provide our plans and timelines on establishment of the SVC to the Committees on Armed Services in September 2013.

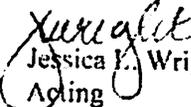
Finally, section 575 of NDAA for FY 2013 requires a number of new data elements for the Department's Annual Report on Sexual Assault in the Military. Some of the newly legislated data elements were already being recorded and were included in the FY 2012 Annual Report, delivered to Congress on May 7, 2013, including:

- The characterization of administrative discharges of Service members accused of sexual assaults;
- The nature of the non-judicial punishment rendered;
- The number of applications submitted and the number of applications denied for expedited transfer of Service members making an unrestricted report of sexual assault; and
- An analysis of the trends in the prevalence, disposition, and prosecution of sexual assault.

The remaining elements required by section 575 will be added to the Defense Sexual Assault Incident Database in future upgrades to the system. We are currently modifying the database to accept and report the new elements with an expected completion date of September 30, 2013.

I appreciate your commitment to the well being of our Service members. I look forward to continuing to work with you and your colleagues in the Senate on this critical issue to prevent sexual assault in our military.

Sincerely,

  
Jessica E. Wright  
Acting

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000371



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

PERSONNEL AND  
READINESS

The Honorable Louise M. Slaughter  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Slaughter:

Thank you for meeting with me several weeks ago to discuss sexual assault in the military and the Fiscal Year 2012 Annual Report on Sexual Assault in the Military. On May 14, 2013, I received your letter asking to review the items we discussed during our meeting to include the Shaw Air Force Base brochure, education of Service members about the Board of Correction for Military Records (BCMR), improvement of Department of Defense (DoD) Inspector General (IG) processes, and the reinforcement of bystander intervention responsibilities.

First and foremost, I share your concerns about the use and distribution of appropriate Sexual Assault Prevention and Response (SAPR) materials. The Air Force SAPR professionals have reviewed the Shaw Air Force Base brochure and pulled it from circulation. To avoid another occurrence, the Air Force has directed that materials like this go through a higher level headquarters review before publishing. I think it important to note that SAPRO does not agree with the advice to "submit" and the research indicates that victim self-protective measures reduce the chance of completed sexual assault and do not significantly increase a victim's chance of being injured. The pamphlet's information on managing environmental risk is offered as advice to consider, but does not constitute the DoD's or the Air Force's sole means of sexual assault prevention. It is never the victim's fault when a rape occurs, and messages that focus solely on managing environmental risk may give a false impression that it is the victim's responsibility to prevent sexual assault. Current prevention materials should reflect more comprehensive approaches to prevention, including accurate information about environmental risk. For example, the Air Force, and the rest of the Department, focuses much of their prevention efforts on Bystander Intervention Training, which empowers people to recognize situations at risk for sexual assault and safely step in to defuse the situation.

I have distributed the Shaw Air Force Base brochure to all of the Services as an example of what not to do in designing and developing SAPR materials. Additionally, I believe the standardization of SARC training along with the mandate that each SARC become certified will ensure the development of appropriate SAPR materials in the future.

As we also discussed, the Fiscal Year 2013 National Defense Authorization Act (NDAA) contains a provision for an education campaign to notify Service members of the option for correcting their military records when the member experiences retaliation for reporting sexual assault or sexual harassment, under Chapter 79 of Title 10, United States Code. The Service Secretaries are responsible for promulgating this guidance, as it is a Service Secretary statutory responsibility to maintain records and conduct boards to correct military records. The NDAA for FY 2013 directed that the Service policies be revised within 180 days. My office has connected with the Services on this matter. The Departments of the Navy and Air Force met this requirement and the Army is on track to meet the requirement by the NDAA deadline. I will

000372  
9 JUL 2013

continue to reinforce the importance of this education campaign in my interaction with the Services.

Third, I have referred your letter to the DoD IG for further review on ways to improve the process so that appropriate cases are properly investigated when reported.

Finally, our strategy for enhancing bystander intervention training continues to include ensuring awareness about situations in which an assault can occur. Indeed, it is critical that our entire military community work together to prevent criminal behavior from occurring and respond appropriately to incidents when they do occur. As we move forward, more emphasis is being placed on leader responsibilities. Sustained leader emphasis by commanders and first line supervisors is critical to this effort, as they are central in establishing the climate of dignity, and respect needed to fight this crime. To this end, the DoD is in the final stages of developing core competencies and learning objectives for all SAPR training. Effective April 2013, all Pre-command Training Courses for O-5/O-6 commanders and senior enlisted were revised in accordance with these SAPR principles. Training courses for chaplains, response coordinators, basic trainees and others will be standardized in a similar manner by August 2013. It is our goal that this SAPR training standardization will ensure consistent and enhanced learning and sustain heightened SAPR emphasis across the force.

Please let me know of additional questions or ideas you have for preventing and responding to sexual assault. I look forward to our continued dialogue on this critically important issue.

Sincerely,



GARY S. PATTON  
Major General, U.S. Army  
Director  
Sexual Assault Prevention and Response Office

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000374



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

PERSONNEL AND  
READINESS

The Honorable John D. Rockefeller IV  
United States Senator  
405 Capitol Street, Suite 508  
Charleston, West Virginia 25301

Dear Senator Rockefeller:

This is in response to your letter, dated April 30, 2013, regarding your constituent, Ms. Jollee T. Lenhart (Case #: 1103436; Case Code: WWH) and her experiences while serving in the U.S. Navy. As the present Director of the Sexual Assault Prevention and Response Office, I am responding to your inquiry.

We forwarded your initial letter to the Department of the Navy Sexual Assault Prevention and Response Office (DON SAPRO) and followed up with your current letter for a status update of the inquiry. Given the breadth of the allegations and issues raised by Ms. Lenhart, the DON SAPRO forwarded the inquiry to the Department of the Navy's Inspector General (IG) for further action. The Navy IG will be contacting your office directly with any further updates. The Navy IG case number is #201301598.

Subsequent to your follow-up letter, we have again engaged the Department of the Navy on this important matter. Our point of contact and the individual prepared to support further follow-up inquiries is:

Ms. Cheryl S. Miller  
Director, Hotline and Investigations Division  
Office of the Naval Inspector General  
1254 Ninth Street, S.E., Bldg. 172  
Washington Navy Yard, DC 20374-5006  
COM: (202) 433-4723 FAX: (202) 433-2613

I trust this information is of benefit to you. Thank you for your continued support.

Sincerely,

GARY S. PATTON  
Major General, U.S. Army  
Director, Sexual Assault Prevention and  
Response Office

cc: Department of the Navy Inspector General

000375

10 JUL 2013



PERSONNEL AND  
READINESS

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

The Honorable John D. Rockefeller IV  
United States Senate  
Washington, D.C. 20510

MAY 21 2012

Dear Senator Rockefeller:

This is an interim response to your letter, dated April 13, 2012, to the Assistant Secretary of Defense for Legislative Affairs (ASD (LA)) regarding your constituent, Ms. Jollee T. Lenhart and her experiences while serving in the U.S. Navy. The ASD (LA) King asked me to review Ms. Lenhart's letter and determine who best can respond to the issues raised.

I forwarded your letter to the Department of the Navy for review and direct response to you. Further, I have instructed my office to follow this inquiry until a response has been provided to your office.

I trust this information is of benefit to you.

Sincerely,

  
Mary Kay Hertog  
Major General, U.S. Air Force  
Director, Sexual Assault Prevention and  
Response Office

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PERSONNEL AND  
READINESS

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

JUL 24 2013

The Honorable Barbara A. Mikulski  
United States Senate  
Washington, DC 20510

Dear Senator Mikulski:

Thank you for your letter to the Secretary of Defense regarding the Response Systems Panel and oversight of the Military Service Academies. Sexual assault prevention and response falls under my purview, and I have been asked to respond to your request.

The mission of the panel has been established in accordance with section 576 of the Fiscal Year 2013 National Defense Authorization Act. Specifically, the panel is charged with conducting a systemic review and assessment of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses under Article 120 of the Uniform Code of Military Justice. In your letter, you request that the mission scope of the panel be expanded to include oversight and accountability of Superintendents. I am pleased to note that the panel's mission is already slated to cover effectiveness of commanders at all levels, which would include the command authority that rests with Academy Superintendents. The panel will develop and present to the Secretary recommendations to improve the effectiveness of those systems within a year.

In response to your specific questions pertaining to the Service Academies, the Service Secretaries are responsible for proposing an officer for nomination and appointment as Superintendent. Each Service Secretary employs a stringent method for selection, considering those possessing a highly successful performance record and demonstrating the utmost commitment to moral and ethical standards. The individual is nominated by the President and confirmed by the Senate. Upon confirmation, the Superintendent is detailed to the position by the President in accordance with title 10, U.S.C.

Superintendents are responsible for establishing successful programs, so that each graduate is a commissioned leader of character committed to their Services' core values, and prepared for a career of professional excellence and service to the Nation as an officer. The Service Academies are under the immediate supervision and control of their respective Service senior leadership. Decisions regarding continued service of the Superintendent rest with the President, the Secretary of Defense, and the Service senior leadership. In circumstances where Superintendents are determined to have failed to meet the high standards of their leaders and, by extension, the American people, Service leaders are within their authority to exercise the full range of tools at their disposal to correct the situation, to include removal and, with due process considerations adhered to, administrative or legal remedies.

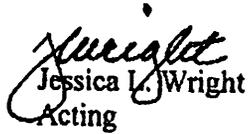


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Sexual harassment and sexual assault are a profound betrayal of our sacred oaths and trusts. Our mission is to reduce and ultimately eliminate incidences of sexual assault. To do this, we are committed to furthering an environment of mutual respect, trust, and dignity; a work place where the act is not tolerated; and an environment where subjects know they will be detected and held appropriately accountable by a fair system of justice. These objectives are as important at our Service Academies as they are throughout our Total Force. Thank you for your continued support and I look forward to working with you in addressing this issue.

Sincerely,

  
Jessica L. Wright  
Acting

32

000380



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

PERSONNEL AND  
READINESS

July 31, 2013

The Honorable Frank R. Wolf  
ATTN: Ms. Ann Potoznak  
13873 Park Center Road  
Suite 130  
Herndon, Virginia 20171

Dear Representative Wolf:

This is in response to your letter, dated July 1, 2013, regarding your constituent, Specialist Jennifer Rivera and her request to be transferred to the U.S. Army Wounded Warrior Program. Thank you for bringing this matter to my attention.

I am pleased to note that Specialist Rivera was accepted into the Army's Wounded Warrior Program and her unit has submitted a request for her assignment to the Wounded Warrior Brigade located at Walter Reed Medical Center.

This matter is being overseen by the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) (OASA (MRA)). Should you require additional information the designated point of contact is:

David M. Griffith, Colonel, U.S. Army  
Director, Leadership Programs  
Office of the Deputy Assistant Secretary of the Army  
(Diversity and Leadership)  
Phone: (703) 614-5311 Cell: (703) 839-0286  
Email: [david.m.griffith14.mil@mail.mil](mailto:david.m.griffith14.mil@mail.mil)

I trust this information is of benefit to you. Thank you for your continued support.

Sincerely,

GARY S. PATTON  
Major General, U.S. Army  
Director, Sexual Assault Prevention and  
Response Office

cc: OASA (MRA)

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**000382**



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

PERSONNEL AND  
READINESS

July 31, 2013

The Honorable Frank R. Wolf  
ATTN: Ms. Ann Potocnak  
13873 Park Center Road  
Suite 130  
Herndon, Virginia 20171

Dear Representative Wolf:

This is in response to your letter, dated July 1, 2013, regarding your constituent, Specialist Roxanne Ward, U.S. Army and her experiences with sexual harassment and reprisal.

Because sexual harassment of an Army Service member is under the direct purview of the U.S. Army Sexual Harassment/Assault Response and Prevention (SHARP) Program, we have discussed Specialist Ward's inquiry with the Department of the Army, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) (OASA(MRA)) and requested a review of this matter and direct response to you. The point of contact who will oversee a substantive response to this inquiry and be prepared to support any follow-up inquiry is:

David M. Griffith, Colonel, U.S. Army  
Director, Leadership Programs  
Office of the Deputy Assistant Secretary of the Army  
(Diversity and Leadership)  
Phone: (703) 614-5311 Cell: (703) 839-0286  
Email: [david.m.griffith14.mil@mail.mil](mailto:david.m.griffith14.mil@mail.mil)

I trust this information is of benefit to you. Thank you for your continued support.

Sincerely,

GARY S. PATTON  
Major General, U.S. Army  
Director, Sexual Assault Prevention and  
Response Office

cc: OASA (MRA)

000383

**000384**



SECRETARY OF THE ARMY  
WASHINGTON

11-01-2013 001

INFO MEMO

FOR: SECRETARY OF DEFENSE

FROM: John M. McHugh, Secretary of the Army

SUBJECT: Sexual Assault Prevention and Response (SAPR) - Enhancing Commander  
Accountability

- Your May 6, 2013, memorandum titled "Sexual Assault Prevention and Response" directed the services to enhance commander accountability by developing methods to assess commanders' performance in establishing command climates of dignity and respect and incorporating SAPR prevention and victim care principles in their commands.
- On September 27, 2013, I issued Army Directive 2013-20, "Assessing Officers and Noncommissioned Officers on Fostering Climates of Dignity and Respect and on Adhering to the Sexual Harassment/Assault Response and Prevention Program" (TAB A). This Directive changed the officer and noncommissioned officer (NCO) evaluation reporting system to ensure that the Army better evaluates, and holds accountable, its officers and NCOs with regard to their performance in establishing appropriate climates of dignity and respect and their adherence to SAPR principles.
- In particular, this Directive requires: (1) all raters to assess how well the rated officer or NCO performed meeting these goals and objectives; and (2) all raters and senior raters to document in the rated officer or NCO's evaluation any substantiated finding that the officer or NCO committed an act of sexual harassment or sexual assault, failed to report an incident of sexual harassment or assault, failed to respond to a reported incident or retaliated against a person for reporting an incident.
- Additionally, I expect to issue new policy in the coming weeks regarding command climate assessments. Importantly, this policy will mandate enhanced review of assessment results by a commanding officer's next higher commander. This policy will further help the Army assess our commanders' performance in establishing appropriate command climates.

COORDINATION: NONE

Attachment:  
As stated

Prepared by: LTC Geoffrey A. Catlett, 703-695-5512

200469



SECRETARY OF THE ARMY  
WASHINGTON

27 SEP 2013

MEMORANDUM FOR SEE DISTRIBUTION

**SUBJECT: Army Directive 2013-20 (Assessing Officers and Noncommissioned Officers on Fostering Climates of Dignity and Respect and on Adhering to the Sexual Harassment/Assault Response and Prevention Program)**

1. References:

- a. Memorandum, Secretary of Defense, May 6 2013, subject: Sexual Assault Prevention and Response.
- b. Army Regulation (AR) 600-20 (Army Command Policy), 18 March 2008, Rapid Action Revision Issued 20 September 2012.
- c. AR 623-3 (Evaluation Reporting System), 5 June 2012.
- d. Department of the Army (DA) Pamphlet 623-3 (Evaluation Reporting System), 5 June 2012.

2. Both officers and noncommissioned officers (NCOs) must commit themselves to eliminating sexual harassment and assault and to fostering climates of dignity and respect in their units. The Army is taking important steps to provide new training for our leaders, strengthen our training enterprise for all Soldiers, improve our investigative and military justice capabilities and further professionalize our first responders. Even with strong leader emphasis and innovative new programs, we continue to strive for greater progress in preventing sexual assault in our ranks. In response to the guidance in reference 1a, this directive enhances the Evaluation Reporting System to assess how officers and NCOs are meeting their commitments and to hold them appropriately accountable.

3. Effective immediately for any officer or NCO whose rating period begins after the date of this document, I direct the following changes to the Evaluation Reporting System:

- a. All officers and NCOs will include goals and objectives in furtherance of the commitments outlined in paragraph 2 when completing DA Form 67-9-1 (Officer Evaluation Report Support Form) or DA Form 2166-8-1 (NCOER Counseling and Support Form).
- b. When completing Part V, block b of DA Form 67-9 (Officer Evaluation Report), or Part IV, block d of DA Form 2166-8 (NCO Evaluation Report), raters will assess how

200470

**SUBJECT: Army Directive 2013-20 (Assessing Officers and Noncommissioned Officers on Fostering Climates of Dignity and Respect and on Adhering to the Sexual Harassment/Assault Response and Prevention Program)**

well the rated officer or NCO fostered a climate of dignity and respect and adhered to the Sexual Harassment/Assault Response and Prevention (SHARP) Program. This assessment should identify, as appropriate, any significant actions or contributions the rated officer or NCO made toward:

- promoting the personal and professional development of his or her subordinates;
- ensuring the fair, respectful treatment of assigned personnel; and
- establishing a workplace and overall command climate that fosters dignity and respect for all members of the group.

This assessment should also identify, as appropriate, any failures by the officer or NCO to foster a climate of dignity, respect and adherence to the SHARP Program. Additionally, if the rated officer or NCO had a substantiated incident of sexual harassment or sexual assault in his or her unit, the assessment must note the incident and explain how the officer or NCO addressed it.

4. Raters and senior raters will document any substantiated finding, in an Army or Department of Defense investigation or inquiry, that an officer or NCO:

- committed an act of sexual harassment or sexual assault;
- failed to report a sexual harassment or assault;
- failed to respond to a complaint or report of sexual harassment or sexual assault; or
- retaliated against a person making a complaint or report of sexual harassment or sexual assault.

In such cases, the rater and senior rater will take the following actions:

a. The rater will mark "No" in Part IV, block a5 (Respect) of DA Form 67-9 or Part IV, block a3 (Respect/EO/EEO) of DA Form 2166-8. The rater will also include a statement describing why he/she marked "No" in either Part V, block b of DA Form 67-9 or Part IV, block a of DA Form 2166-8 (for example, "Does not support the SHARP Program because of failure to report an incident.").

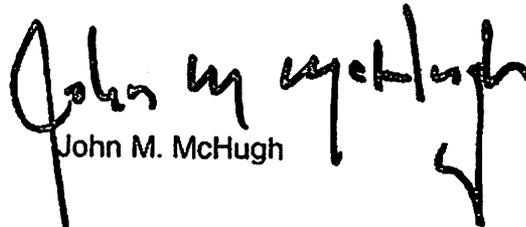
b. The senior rater will further comment on the matter in Part VII, block c of DA Form 67-9 or Part V, block e of DA Form 2166-8, as appropriate.

SUBJECT: Army Directive 2013-20 (Assessing Officers and Noncommissioned Officers on Fostering Climates of Dignity and Respect and on Adhering to the Sexual Harassment/Assault Response and Prevention Program)

5. The Deputy Chief of Staff, G-1 is the proponent for this policy and, in coordination with the Assistant Secretary of the Army (Manpower and Reserve Affairs), will issue appropriate guidance to implement this directive. This directive cancels and takes precedence over any contrary guidance in references 1b through 1d, or in any other relevant Army policy document.

6. The Deputy Chief of Staff, G-1 will incorporate this directive into the next revision of references 1b through 1d and will ensure that the policies set forth herein are incorporated into future versions of regulations, forms, policies, procedures and guidance for officer and NCO evaluations. This directive will remain in effect until each regulation and form is revised.

7. The point of contact for this action is U.S. Army Human Resources Command (AHRC-PDV-E), commercial 502-613-9019, DSN 983-9019, or [usarmy.knox.hrc.mbx.tagd-eval-policy@mail.mil](mailto:usarmy.knox.hrc.mbx.tagd-eval-policy@mail.mil).

  
John M. McHugh

**DISTRIBUTION:**

Principal Officials of Headquarters, Department of the Army  
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- U.S. Army Cyber Command
- U.S. Army Network Enterprise Technology Command/9th Signal Command (Army)
- U.S. Army Medical Command
- U.S. Army Intelligence and Security Command

(CONT)

**SUBJECT: Army Directive 2013-20 (Assessing Officers and Noncommissioned Officers on Fostering Climates of Dignity and Respect and on Adhering to the Sexual Harassment/Assault Response and Prevention Program)**

**DISTRIBUTION: (CONT)**

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**CF:**

Director, Army National Guard  
Director of Business Transformation  
Commander, U.S. Army Human Resources Command



SECRETARY OF THE ARMY  
WASHINGTON

03 OCT 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)

1. Reference: Memorandum, Under Secretary of Defense (Personnel and Readiness), Subject: Expedited Transfer Procedures for Victims of Sexual Assault, dated May 6, 2011.
2. It is Army policy that there is a presumption in favor of transferring or reassigning a sexual assault victim, at his/her request, following that victim's credible report of sexual assault. Commanders and civilian leaders shall consider requests for transfer or reassignment in an expedited manner. This policy applies to all Soldiers who report being the victim of a sexual assault. The Sexual Harassment/Assault Response and Prevention (SHARP) Program shall take steps to ensure victims are informed of this policy.
3. For any number of reasons, some victims of sexual assault may not wish to remain in their current units or organizations after the sexual assault incident. Requiring them to remain when they have a desire to leave the unit or organization may negatively affect their safety and emotional well-being, as well as the functioning of the unit/organization. Expediting review of, and action on, a victim's request for transfer or reassignment is an important component of a leader's response to a credible report of sexual assault.
4. For the purposes of this policy, a report of sexual assault is credible when the commander (battalion or above), after considering all available evidence and the advice of the supporting legal advisor, concludes that there are reasonable grounds to believe that an offense constituting sexual assault has been committed against the person requesting the transfer or reassignment. For purposes of this policy, a credible report is limited to unrestricted reports of sexual assault.
5. Requests for a transfer or reassignment must be in writing. Victims are encouraged to include any and all of their concerns in the written request to aid the commander in understanding their needs and in making an appropriate decision.
6. In making a decision on a victim's request, the commander shall start with a presumption in favor of transferring or reassigning the victim. A transfer or reassignment includes, but is not limited to, the victim's temporary or permanent movement to a unit within the same battalion or brigade, to a unit within the same division, to a unit on the same installation or to a unit at a different geographic location. For Reserve Component members, a transfer or reassignment might include provisions

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**SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)**

to perform inactive duty training on different weekends or at different times from the alleged offender or with a different unit in the home drilling location.

7. Commanders may consider the following factors in determining whether a transfer or reassignment is appropriate and, if so, the lowest level of transfer or reassignment that would meet both the needs of the victim and the Army:

- a. Concerns of the victim;
- b. Operational necessity, including situationally unique requirements in deployed areas;
- c. The nature and circumstances of the offense;
- d. The location of the alleged offender;
- e. Potential transfer or reassignment of the alleged offender instead of the victim;
- f. The alleged offender's status (Soldier or Civilian);
- g. Status of the investigation and the potential impact of the victim's transfer or reassignment on the investigation, future disposition of the allegation and potential prosecution or other adverse action that may be initiated against the alleged offender;
- h. Potential disposition of collateral misconduct; and
- i. Any other pertinent circumstances.

8. Commanders will take reasonable steps to prevent a transfer or reassignment from negatively impacting the victim's career to the extent practicable. Prior to approving a request, the commander shall ensure the victim is fully informed regarding reasonably foreseeable impacts on his/her career, the potential impact of the transfer or reassignment on the investigation and potential prosecution or initiation of other adverse action against the alleged offender, or any other possible consequences of granting the request. If, after being fully informed, the victim elects not to proceed with his/her request, the victim shall withdraw the request in writing.

9. This directive does not encompass requests for transfer or reassignment following a victim's receipt of threats of bodily harm or death. Any such threat to a victim should be reported immediately to command and law enforcement authorities. A victim's request under these circumstances will be handled in accordance with Army Regulation (AR)

**SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)**

614-100, Officer Assignment Policies, Details, and Transfers, and AR 614-200, Enlisted Assignments and Utilization Management.

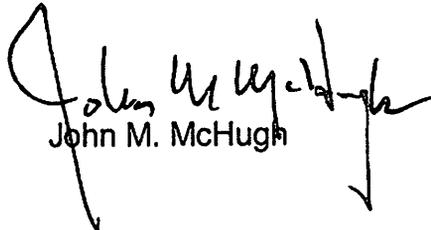
10. If a commander cannot approve a request at his/her level of command, the victim's request will be forwarded through the chain of command to the appropriate approving authority. Each commander in the chain of command through which the request is submitted will provide his/her written recommendation to the approving authority. Requests for permanent change of station transfers must be forwarded to U.S. Army Human Resources Command at [hrc.g3.plans@conus.army.mil](mailto:hrc.g3.plans@conus.army.mil).

11. A commander recommending disapproval of a request shall provide the reason(s) for the recommendation in writing. A victim's request may be disapproved **ONLY** by the first General Officer in the victim's chain of command, who may delegate disapproval authority to another General Officer within the command, or to a member of the Senior Executive Service. When a victim requests transfer to another installation, the authority to disapprove that request is reserved to the Commander, U.S. Army Human Resources Command.

12. The provisions of this directive are effective immediately. The policy established by this directive will be incorporated in the next revision of AR 600-20, Army Command Policy. This Army directive is rescinded upon publication of the revised AR 600-20 in which the policies at issue are incorporated. Implementation instructions will also be incorporated into AR 614-30, Overseas Service; AR 614-100, Officer Assignments Policies, Details, and Transfers; and AR 614-200, Enlisted Assignments and Utilization Management.

13. My points of contact are Colonel David M. Griffith, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), at [david.griffith@conus.army.mil](mailto:david.griffith@conus.army.mil), (703) 604-0585, and Ms Carolyn Collins, G-1, SHARP, at [carolyn.r.collins@conus.army.mil](mailto:carolyn.r.collins@conus.army.mil), (703) 604-0672.

Encl



John M. McHugh

**SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)**

**DISTRIBUTION:**

**Principal Officials of Headquarters, Department of the Army  
Commander**

**U.S. Army Forces Command**

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**U.S. Army North**

**U.S. Army South**

**U.S. Army Pacific**

**U.S. Army Africa**

**U.S. Army Special Operations Command**

**Military Surface Deployment and Distribution Command**

**U.S. Army Space and Missile Defense Command/Army Forces Strategic Command**

**Eighth U.S. Army**

**U.S. Army Network Enterprise Technology Command/9th Signal Command (Army)**

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**U.S. Army Test and Evaluation Command**

**U.S. Army Reserve Command**

**U.S. Army Installation Management Command**

**Superintendent, United States Military Academy**

**Director, U.S. Army Acquisition Support Center**

**CF:**

**Commander, U.S. Army Accessions Command**

**Commander, U.S. Army Cyber Command**

**Director, Business Transformation**

**Executive Director, Army National Cemeteries Program**

**Director, Army National Guard**



PERSONNEL AND  
READINESS

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

MAY 6 2011

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

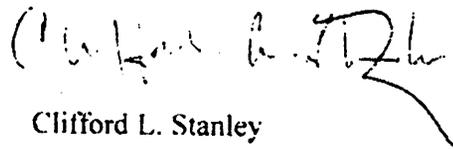
SUBJECT: Expedited Transfer Procedures for Victims of Sexual Assault

For any number of reasons, some victims of sexual assault may wish not to remain in their unit after the sexual assault incident. Requiring them to stay when they have a desire to transfer may negatively affect their safety and emotional well being, as well as the functioning of the unit. Providing an expedited process to transfer them is a positive step the unit commander may take in response to the victim's request. The Sexual Assault Prevention and Response (SAPR) Program Procedures Instruction currently under revision will provide for a standardized expedited transfer process.

Although the Military Departments are in the best position to determine the process and procedures for implementing expedited transfers for victims of sexual assaults, the procedures across the Department should be consistent, even if not identical. To that end, request that you provide an expedited transfer procedure for your Department. At a minimum the process should:

1. Establish a presumption in favor of transferring sexual assault victims, at their request, following a credible report of sexual assault;
2. Ensure a transfer under these circumstances does not negatively impact the victim's career;
3. Elevate the disapproval authority to the next level of command who is at least a General Officer or Flag Officer.

Request that you submit a response detailing your Services' expedited transfer procedure by 18 May. My POC is Ms. Sharon Cooper, 703-696-0909, sharon.cooper@osd.mil.

  
Clifford L. Stanley

200478

CARL LEVIN, MICHIGAN, CHAIRMAN

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**United States Senate**  
 COMMITTEE ON ARMED SERVICES  
 WASHINGTON, DC 20510-6050

PETER S. LEVIN, STAFF DIRECTOR  
 KRISTIA BRUCE, ASSISTANT STAFF DIRECTOR

May 9, 2013

General Raymond T. Odierno, USA  
 Chief of Staff of the Army  
 Army Pentagon  
 Washington, DC 20310

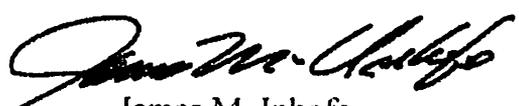
Dear General Odierno,

The Senate Armed Services Committee will consider possible changes to the Uniform Code of Military Justice regarding sexual assault issues in the military during our markup of the National Defense Authorization Act next month. In order to assist us in making informed decisions, we request your personal views on the following legislative proposals (attached):

- S.538, To amend Article 60, UCMJ;
- S.548, the "Military Sexual Assault Prevention Act of 2013"
- S.871, the "Combatting Military Sexual Assaults Act of 2013"
- The "Military Justice Improvement Act of 2013" (not yet introduced).

In order for us to fully consider your views, we request your response by May 17<sup>th</sup>. Thank you for your assistance in this matter.

Sincerely,

  
 James M. Inhofe  
 Ranking Member

  
 Carl Levin  
 Chairman

Enclosures

130538479

113TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title 10, United States Code, to modify various authorities relating to procedures for courts-martial under the Uniform Code of Military Justice, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend title 10, United States Code, to modify various authorities relating to procedures for courts-martial under the Uniform Code of Military Justice, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Military Justice Im-  
5 provement Act of 2013".

1 **SEC. 2. MODIFICATION OF AUTHORITY TO DETERMINE TO**  
2 **PROCEED TO TRIAL BY COURT-MARTIAL ON**  
3 **CHARGES ON OFFENSES WITH AUTHORIZED**  
4 **MAXIMUM SENTENCE OF CONFINEMENT OF**  
5 **MORE THAN ONE YEAR.**

6 (a) **MODIFICATION OF AUTHORITY.—**

7 (1) **IN GENERAL.—**With respect to charges  
8 under chapter 47 of title 10, United States Code  
9 (the Uniform Code of Military Justice), that allege  
10 an offense triable by court-martial under that chap-  
11 ter for which the maximum punishment authorized  
12 under that chapter includes confinement for more  
13 than one year, the Secretary of Defense shall require  
14 the Secretaries of the military departments to pro-  
15 vide for the determination under section 830(b) of  
16 such chapter (article 30(b) of the Uniform Code of  
17 Military Justice) on whether to try such charges by  
18 court-martial as provided in paragraph (2).

19 (2) **REQUIREMENTS AND LIMITATIONS.—**The  
20 disposition of charges pursuant to paragraph (1)  
21 shall be subject to the following:

22 (A) The determination whether to try such  
23 charges by court-martial shall be made by a  
24 commissioned officer of the Armed Forces des-  
25 ignated in accordance with regulations pre-  
26 scribed for purposes of this subsection from

1 among commissioned officers of the Armed  
2 Forces in grade O-6 or higher who—

3 (i) are available for detail as trial  
4 counsel under section 827 of title 10,  
5 United States Code (article 27 of the Uni-  
6 form Code of Military Justice);

7 (ii) have significant experience in  
8 trials by general or special court-martial;  
9 and

10 (iii) are outside the chain of command  
11 of the member subject to such charges.

12 (B) Upon a determination under subpara-  
13 graph (A) to try such charges by court-martial,  
14 the officer making that determination shall de-  
15 termine whether to try such charges by a gen-  
16 eral court-martial convened under section 822  
17 of title 10, United States Code (article 22 of  
18 the Uniform Code of Military Justice), or a spe-  
19 cial court-martial convened under section 823  
20 of title 10, United States Code (article 23 of  
21 the Uniform Code of Military Justice).

22 (C) The determination to try such charges  
23 by court-martial under subparagraph (A), and  
24 by type of court-martial under subparagraph  
25 (B), shall be binding on any applicable con-

1           vening authority for a trial by court-martial on  
2           such charges.

3           (D) The actions of an officer described in  
4           subparagraph (A) in determining under that  
5           subparagraph whether or not to try charges by  
6           court-martial shall be free of unlawful or unau-  
7           thorized influence or coercion.

8           (E) The determination under subpara-  
9           graph (A) not to proceed to trial of such  
10          charges by general or special court-martial shall  
11          not operate to terminate or otherwise alter the  
12          authority of commanding officers to refer such  
13          charges for trial by summary court-martial con-  
14          vened under section 824 of title 10, United  
15          States Code (article 24 of the Uniform Code of  
16          Military Justice), or to impose non-judicial pun-  
17          ishment in connection with the conduct covered  
18          by such charges as authorized by section 815 of  
19          title 10, United States Code (article 15 of the  
20          Uniform Code of Military Justice).

21          (3) CONSTRUCTION WITH CHARGES ON OTHER  
22          OFFENSES.—Nothing in this subsection shall be con-  
23          strued to alter or affect the disposition of charges  
24          under chapter 47 of title 10, United States Code  
25          (the Uniform Code of Military Justice), that allege

1 an offense triable by court-martial under that chap-  
2 ter for which the maximum punishment authorized  
3 under that chapter includes confinement for one  
4 year or less.

5 (4) POLICIES AND PROCEDURES OF THE MILI-  
6 TARY DEPARTMENTS.—

7 (A) IN GENERAL.—The Secretaries of the  
8 military departments shall revise policies and  
9 procedures as necessary to comply with this  
10 subsection.

11 (B) UNIFORMITY.—The General Counsel  
12 of the Department of Defense shall review the  
13 policies and procedures revised under this para-  
14 graph in order to ensure that any lack of uni-  
15 formity in policies and procedures, as so re-  
16 vised, among the military departments does not  
17 render unconstitutional any policy or procedure,  
18 as so revised.

19 (5) MANUAL FOR COURTS-MARTIAL.—The Sec-  
20 retary of Defense shall recommend such changes to  
21 the Manual for Courts-Martial as are necessary to  
22 ensure compliance with this subsection.

23 (b) REPORT.—Not later than 180 days after the date  
24 of the enactment of this Act, the Secretary of Defense  
25 shall, in consultation with the Secretaries of the military

1 departments, submit to Congress a report on the revisions  
2 of policies and procedures necessary to comply with sub-  
3 section (a). The report shall include such recommenda-  
4 tions for modifications to chapter 47 of title 10, United  
5 States Code (the Uniform Code of Military Justice), and  
6 the Manual for Courts-Martial as the Secretary of Defense  
7 considers appropriate for that purpose.

8 (c) **EFFECTIVE DATE AND APPLICABILITY.**—Sub-  
9 section (a), and the revisions required by that subsection,  
10 shall take effect on the date that is 180 days after the  
11 date of the enactment of this Act, and shall apply with  
12 respect to charges preferred under section 830 of title 10,  
13 United States Code (article 30 of the Uniform Code of  
14 Military Justice), on or after such effective date.

15 **SEC. 3. MODIFICATION OF MANUAL FOR COURTS-MARTIAL**  
16 **TO ELIMINATE FACTOR RELATING TO CHAR-**  
17 **ACTER AND MILITARY SERVICE OF THE AC-**  
18 **CUSED IN RULE ON INITIAL DISPOSITION OF**  
19 **OFFENSES.**

20 Not later than 180 days after the date of the enact-  
21 ment of this Act, Rule 306 of the Manual for Courts-Mar-  
22 tial (relating to policy on initial disposition of offenses)  
23 shall be amended to strike the character and military serv-  
24 ice of the accused from the factors to be considered by  
25 the disposition authority in disposing of charges.

1 **SEC. 4. MODIFICATION OF OFFICERS AUTHORIZED TO CON-**  
2 **VENE GENERAL AND SPECIAL COURTS-MAR-**  
3 **TIAL.**

4 (a) IN GENERAL.—Section 822(a) of title 10, United  
5 States Code (article 22(a) of the Uniform Code of Military  
6 Justice), is amended—

7 (1) by striking paragraphs (5) through (8);

8 (2) by inserting after paragraph (4) the fol-  
9 lowing new paragraph (5):

10 “(5) the Chief of Staff of the Army, the Chief  
11 of Naval Operations, the Chief of Staff of the Air  
12 Force, the Commandant of the Marine Corps, and  
13 the officers in the offices established pursuant to  
14 section 4(b) of the Military Justice Improvement Act  
15 of 2013 who are assigned such responsibility; or”;  
16 and

17 (3) by redesignating paragraph (9) as para-  
18 graph (6).

19 (b) OFFICES OF CHIEFS OF STAFF ON COURTS-MAR-  
20 TIAL.—

21 (1) OFFICES REQUIRED.—Each Chief of Staff  
22 of the Armed Forces specified in paragraph (5) of  
23 section 822(a) of title 10, United States Code (arti-  
24 cle 22(a) of the Uniform Code of Military Justice),  
25 as amended by subsection (a), shall establish an of-  
26 fice to do the following:

1           (A) To convene general and special courts-  
2 martial under sections 822 and 823 of title 10,  
3 United States Code (articles 22 and 23 of the  
4 Uniform Code of Military Justice), pursuant to  
5 paragraph (5) of section 822(a) of title 10,  
6 United States Code (article 22(a) of the Uni-  
7 form Code of Military Justice), as so amended.

8           (B) To detail under section 826 of title 10,  
9 United States Code (article 26 of the Uniform  
10 Code of Military Justice), judges of courts-mar-  
11 tial convened as described in subparagraph (A).

12           (C) To detail under section 827 of title 10,  
13 United States Code (article 26 of the Uniform  
14 Code of Military Justice), members of courts-  
15 martial convened as described in subparagraph  
16 (A).

17           (2) PERSONNEL.—The personnel of each office  
18 established under paragraph (1) shall consist of such  
19 members of the Armed Forces and civilian personnel  
20 of the Department of Defense as may be detailed or  
21 assigned to the office by the Chief of Staff con-  
22 cerned.

1 **SEC. 5. DEADLINE FOR MILITARY JUDGE TO CALL GEN-**  
2 **ERAL AND SPECIAL COURTS-MARTIAL INTO**  
3 **SESSION.**

4 In the case of trial by general or special court-martial  
5 of charges on an offense determined under section 2(a)(1)  
6 to be tried by such court-martial under 47 of title 10,  
7 United States Code (the Uniform Code of Military Jus-  
8 tice), the military judge shall call the court into session  
9 pursuant to section 839 of title 10, United States Code  
10 (article 39 of the Uniform Code of Military Justice), not  
11 later than 90 days after the date on which the authority  
12 determines to try such charges by court-martial.

13 **SEC. 6. MODIFICATION OF AUTHORITIES AND RESPON-**  
14 **SIBILITIES OF CONVENING AUTHORITIES IN**  
15 **TAKING ACTIONS ON THE FINDINGS AND**  
16 **SENTENCES OF COURTS-MARTIAL.**

17 (a) INCLUSION OF WRITTEN JUSTIFICATION FOR  
18 CERTAIN ACTIONS ON SENTENCES.—Paragraph (2) of  
19 section 860(c) of title 10, United States Code (article  
20 60(c) of the Uniform Code of Military Justice), is amend-  
21 ed by adding at the end the following new sentence: “In  
22 taking such an action (other than an action to approve  
23 a sentence), the convening authority or other person tak-  
24 ing such action shall prepare a written justification of such  
25 action, which written justification shall be made a part  
26 of the record of the court-martial.”.

1 (b) PROHIBITION ON DISMISSAL OF FINDING OR  
2 CHANGE TO FINDING OF GUILTY OF LESSER INCLUDED  
3 OFFENSE.—Such section (such article) is further amend-  
4 ed—

5 (1) in paragraph (3), by striking the second  
6 sentence; and

7 (2) by adding at the end the following new  
8 paragraph:

9 “(4) If a convening authority or other person acts  
10 on the findings of a court-martial, the convening authority  
11 or other person may not—

12 “(A) dismiss any charge or specification by set-  
13 ting aside a finding of guilty thereto; or

14 “(B) change a finding of guilty to a charge or  
15 specification to a finding of guilty to an offense that  
16 is a lesser included offense of the offense stated in  
17 the charge or specification.”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect on the date of the enactment  
20 of this Act, and shall apply with respect to findings and  
21 sentences of courts-martial reported to convening authori-  
22 ties under section 860 of title 10, United States Code (ar-  
23 ticle 60 of the Uniform Code of Military Justice), as so  
24 amended, on or after such effective date.

1 **SEC. 7. COMMAND ACTION ON REPORTS ON SEXUAL OF-**  
2 **FENSES INVOLVING MEMBERS OF THE**  
3 **ARMED FORCES.**

4 (a) **IMMEDIATE ACTION REQUIRED.**—A commanding  
5 officer who receives a report of a sexual-related offense  
6 involving a member of the Armed Forces in the chain of  
7 command of such officer shall act upon the report in ac-  
8 cordance with subsection (b) immediately after receipt of  
9 the report by the commanding officer.

10 (b) **ACTION REQUIRED.**—The action required by this  
11 subsection with respect to a report described in subsection  
12 (a) is the referral of the report to the criminal investiga-  
13 tion office with responsibility for investigating that offense  
14 of the military department concerned or such other inves-  
15 tigation service of the military department concerned as  
16 the Secretary of the military department concerned may  
17 specify for purposes of this section.

18 **SEC. 8. MONITORING AND ASSESSMENT OF MODIFICATION**  
19 **OF AUTHORITIES ON COURTS-MARTIAL BY**  
20 **INDEPENDENT PANEL ON REVIEW AND AS-**  
21 **SESSMENT OF PROCEEDINGS UNDER THE**  
22 **UNIFORM CODE OF MILITARY JUSTICE.**

23 Section 576(d)(2) of the National Defense Authoriza-  
24 tion Act for Fiscal Year 2013 (Public Law 112-239; 126  
25 Stat. 1762) is amended—

1           (1) by redesignating subparagraph (J) as sub-  
2 paragraph (K); and

3           (2) by inserting after subparagraph (I) the fol-  
4 lowing new subparagraph (J):

5           “(J) Monitor and assess the implementation  
6 and efficacy of the Military Justice Improvement  
7 Act of 2013, and the amendments made by that  
8 Act.”.



1 section 860(e) of title 10, United States Code (article  
2 60(e) of the Uniform Code of Military Justice), is amend-  
3 ed by adding at the end the following new sentence: "In  
4 taking such an action (other than an action to approve  
5 a sentence), the convening authority or other person tak-  
6 ing such action shall prepare a written justification of such  
7 action, which written justification shall be made a part  
8 of the record of the court-martial."

9 (b) PROHIBITION ON DISMISSAL OF FINDING OR  
10 CHANGE TO FINDING OF GUILTY OF LESSER INCLUDED  
11 OFFENSE.—Such section (such article) is further amend-  
12 ed—

13 (1) in paragraph (3), by striking the second  
14 sentence; and

15 (2) by adding at the end the following new  
16 paragraph:

17 "(4) If a convening authority or other person acts  
18 on the findings of a court-martial, the convening authority  
19 or other person may not—

20 "(A) dismiss any charge or specification by set-  
21 ting aside a finding of guilty thereto; or

22 "(B) change a finding of guilty to a charge or  
23 specification to a finding of guilty to an offense that  
24 is a lesser included offense of the offense stated in  
25 the charge or specification."

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act, and shall apply with respect to findings and  
4 sentences of courts-martial reported to convening authori-  
5 ties under section 860 of title 10, United States Code (ar-  
6 ticle 60 of the Uniform Code of Military Justice), as so  
7 amended, on or after that date.

113TH CONGRESS  
1ST SESSION

# S. 548

To amend title 10, United States Code, to improve and enhance the capabilities of the Armed Forces to prevent and respond to sexual assault and sexual harassment in the Armed Forces, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2013

Ms. KLOBUCHAR (for herself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to improve and enhance the capabilities of the Armed Forces to prevent and respond to sexual assault and sexual harassment in the Armed Forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Military Sexual Assault  
5 Prevention Act of 2013".

1 SEC. 2. PROHIBITION ON SERVICE IN THE ARMED FORCES  
2 BY INDIVIDUALS WHO HAVE BEEN CON-  
3 VICTED OF A SEXUAL OFFENSE.

4 (a) PROHIBITION.—Chapter 37 of title 10, United  
5 States Code, is amended adding at the end the following  
6 new section:

7 " 656. Prohibition on service in the armed forces by  
8 individuals convicted of a sexual offense

9 "(a) PROHIBITION ON COMMISSIONING OR ENLIST-  
10 MENT.—(1) A person who has been convicted of an offense  
11 specified in paragraph (2) under Federal or State law may  
12 not be processed for commissioning or permitted to enlist  
13 in the armed forces.

14 "(2) An offense specified in this paragraph is any fel-  
15 ony offense as follows:

16 "(A) Rape.

17 "(B) Sexual assault.

18 "(C) Forcible sodomy.

19 "(D) Incest.

20 "(b) ADMINISTRATIVE SEPARATION FOR CERTAIN  
21 OFFENSES NOT RESULTING IN PUNITIVE DISCHARGE.—

22 (1) Any member of the armed forces on active duty, and  
23 any member of a reserve component of the armed forces  
24 not on active duty but in active status, who is convicted  
25 of an offense specified in paragraph (2) and not punitively  
26 discharged from the armed forces in connection with such

1 conviction shall be separated administratively from the  
2 armed forces for such offense.

3       “(2) An offense specified in this paragraph is any of-  
4 fense as follows:

5           “(A) Rape or sexual assault under subsection  
6 (a) or (b) of section 920 of this title (article 120 of  
7 the Uniform Code of Military Justice).

8           “(B) Forceible sodomy under section 925 of this  
9 title (article 125 of the Uniform Code of Military  
10 Justice).

11           “(C) An attempt to commit an offense specified  
12 in subparagraph (A) or (B), as punishable under  
13 section 880 of this title (article 80 of the Uniform  
14 Code of Military Justice).

15       “(3) Under regulations prescribed by the Secretary  
16 of Defense, the Secretary of the military department con-  
17 cerned may waive the requirement in paragraph (1) with  
18 respect to a member if the waiver is determined appro-  
19 priate in the interests of the national security of the  
20 United States. Waivers under this paragraph shall be  
21 made on a case-by-case basis.”.

22       (b) CLERICAL AMENDMENT.—The table of sections  
23 at the beginning of chapter 37 of such title is amended  
24 by adding at the end the following new item:

“656. Prohibition on service in the armed forces by individuals convicted of a  
sexual offense.”.

1 SEC. 3. PERSONS WHO MAY EXERCISE DISPOSITION AU-  
2 THORITY REGARDING CHARGES INVOLVING  
3 CERTAIN SEXUAL MISCONDUCT OFFENSES  
4 UNDER THE UNIFORM CODE OF MILITARY  
5 JUSTICE.

6 (a) PERSONS WHO MAY EXERCISE DISPOSITION AU-  
7 THORITY.—

8 (1) DISPOSITION AUTHORITY.—With respect to  
9 any charge under chapter 47 of title 10, United  
10 States Code (the Uniform Code of Military Justice),  
11 that alleges an offense specified in paragraph (2),  
12 the Secretary of Defense shall require the Secre-  
13 taries of the military departments to restrict disposi-  
14 tion authority under section 830 of such chapter (ar-  
15 ticle 30 of the Uniform Code of Military Justice) to  
16 officers of the Armed Forces who have the authority  
17 to convene special courts-martial under section 823  
18 of such chapter (article 23 of the Uniform Code of  
19 Military Justice), but not lower than the following:

20 (A) In the case of a training command, the  
21 first brigadier general, or, in the case of the  
22 Navy, the first rear admiral (lower half), with  
23 a legal advisor (or access to a legal advisor) in  
24 the chain of command of the person accused of  
25 committing the offense.

1 (B) In the case of any other command, the  
2 first colonel, or in the case of the Navy, the  
3 first captain, with a legal advisor (or access to  
4 a legal advisor) in the chain of command of the  
5 person accused of committing the offense.

6 (2) COVERED OFFENSES.—Paragraph (1) ap-  
7 plies with respect to a charge that alleges any of the  
8 following offenses under chapter 47 of title 10,  
9 United States Code (the Uniform Code of Military  
10 Justice):

11 (A) Rape or sexual assault under sub-  
12 section (a) or (b) of section 920 of such chapter  
13 (article 120 of the Uniform Code of Military  
14 Justice).

15 (B) Forcible sodomy under section 925 of  
16 such chapter (article 125 of the Uniform Code  
17 of Military Justice).

18 (C) An attempt to commit an offense spec-  
19 ified in subparagraph (A) or (B), as punishable  
20 under section 880 of such chapter (article 80 of  
21 the Uniform Code of Military Justice).

22 (b) IMPLEMENTATION.—

23 (1) SECRETARIES OF MILITARY DEPART-  
24 MENTS.—The Secretaries of the military depart-

1       ments shall revise policies and procedures as nec-  
2       essary to comply with subsection (a).

3           (2) SECRETARY OF DEFENSE.—Not later than  
4       180 days after the date of the enactment of this Act,  
5       the Secretary of Defense shall recommend such  
6       changes to the Manual for Courts-Martial as are  
7       necessary to ensure compliance with subsection (a).

8       SEC. 4. POLICY OF THE UNITED STATES ON DISPOSITION  
9           OF CHARGES INVOLVING CERTAIN SEXUAL  
10          MISCONDUCT OFFENSES UNDER THE UNI-  
11          FORM CODE OF MILITARY JUSTICE THROUGH  
12          COURTS-MARTIAL.

13       (a) STATEMENT OF POLICY.—It shall be the policy  
14       of the United States that any charge regarding an offense  
15       specified in subsection (b) should be disposed of by court-  
16       martial, rather than by non-judicial punishment or admin-  
17       istrative action.

18       (b) COVERED OFFENSES.—An offense specified in  
19       this subsection is any of the following offenses under chap-  
20       ter 47 of title 10, United States Code (the Uniform Code  
21       of Military Justice):

22           (1) Rape or sexual assault under subsection (a)  
23       or (b) of section 920 of such chapter (article 120 of  
24       the Uniform Code of Military Justice).

1           (2) Foreible sodomy under section 925 of such  
2 chapter (article 125 of the Uniform Code of Military  
3 Justice).

4           (3) An attempt to commit an offense specified  
5 in paragraph (1) or (2), as punishable under section  
6 880 of such chapter (article 80 of the Uniform Code  
7 of Military Justice).

8           (c) JUSTIFICATION FOR DISPOSITION OTHER THAN  
9 BY COURT-MARTIAL.—In the case of any charge regard-  
10 ing an offense specified in subsection (b) that is disposed  
11 of by non-judicial punishment or administrative action,  
12 rather than by court-martial, the disposition authority  
13 provided for in section 3 shall include in the case file a  
14 justification for the disposition of the charge by non-judi-  
15 cial punishment or administrative action, rather than by  
16 court-martial.

17 SEC. 5. COMMAND ACTION ON REPORTS BY MEMBERS OF  
18                           THE ARMED FORCES OF SEXUAL OFFENSES  
19                           INVOLVING MEMBERS.

20           (a) MAXIMUM PERIOD FOR ACTION.—A commanding  
21 officer who receives a report of a sexual-related offense  
22 involving a member of the Armed Forces in the chain of  
23 command of such officer shall act upon the report in ac-  
24 cordance with subsection (b) by not later than 24 hours  
25 after receipt of the report by the commanding officer.

1 (b) REQUIRED ACTION.—The action required by this  
2 subsection with respect to a report described in subsection  
3 (a) is, at the election of the commanding officer concerned,  
4 one of the following:

5 (1) The submittal of the report to the next  
6 higher officer in the chain of command of the com-  
7 manding officer concerned.

8 (2) The referral of the report to the office of  
9 the special investigation of the military department  
10 concerned or such other investigation service of the  
11 military department concerned as the Secretary of  
12 the military department concerned may specify for  
13 purposes of this section.

14 SEC. 6. INCLUSION AND COMMAND REVIEW OF INFORMA-  
15 TION ON SEXUAL-RELATED OFFENSES IN  
16 PERSONNEL SERVICE RECORDS OF MEM-  
17 BERS OF THE ARMED FORCES.

18 (a) INFORMATION ON SUBSTANTIATED REPORTS ON  
19 SEXUAL-RELATED OFFENSES.—

20 (1) IN GENERAL.—If a complaint of a sexual-  
21 related offense is made against a member of the  
22 Armed Forces and the complaint is substantiated, a  
23 notation to that effect shall be placed in the per-  
24 sonnel service record of the member, regardless of  
25 the member's grade.

1           (2) PURPOSE.—The purpose of the inclusion of  
2 information in personnel service records under para-  
3 graph (1) is to alert commanders to the members of  
4 their command who have received courts-martial  
5 conviction, non-judicial punishment, or administra-  
6 tive action for sexual-related offenses in order to re-  
7 duce the likelihood that repeat offenses will escape  
8 the notice of commanders.

9           (b) LIMITATION ON PLACEMENT.—A notation under  
10 subsection (a) may not be placed in the restricted section  
11 of the personnel service record of a member.

12           (c) CONSTRUCTION.—Nothing in subsection (a) or  
13 (b) may be construed to prohibit or limit the capacity of  
14 a member of the Armed Forces to challenge or appeal the  
15 placement of a notation, or location of placement of a no-  
16 tation, in the member's personnel service record in accord-  
17 ance with procedures otherwise applicable to such chal-  
18 lenges or appeals.

19           (d) SUBSTANTIATED COMPLAINTS.—For purposes of  
20 implementing this section, the Secretary of Defense shall  
21 use the definition of substantiated developed for purposes  
22 of the annual report on sexual assaults involving members  
23 of the Armed Forces prepared under section 1631 of the  
24 Ike Skelton National Defense Authorization Act for Fiscal  
25 Year 2011 (10 U.S.C. 1561 note).

1 (e) COMMAND REVIEW OF HISTORY OF SEXUAL-RE-  
2 LATED OFFENSES OF MEMBERS UPON ASSIGNMENT OR  
3 TRANSFER TO NEW UNIT.—

4 (1) REVIEW REQUIRED.—Under uniform regu-  
5 lations prescribed by the Secretary of Defense, the  
6 commanding officer of a facility, installation, or unit  
7 to which a member of the Armed Forces described  
8 in paragraph (2) is permanently assigned or trans-  
9 ferred shall review the history of substantiated sex-  
10 ual offenses of the member in order to familiarize  
11 such officer with such history of the member.

12 (2) COVERED MEMBERS.—A member of the  
13 Armed Forces described in this paragraph is a mem-  
14 ber of the Armed Forces who, at the time of assigu-  
15 ment or transfer as described in paragraph (1), has  
16 a history of one or more substantiated sexual of-  
17 fenses as documented in the personnel service record  
18 of such member or such other records or files as the  
19 Secretary shall specify in the regulations prescribed  
20 under paragraph (1).

21 SEC. 7. COLLECTION AND RETENTION OF RECORDS ON DIS-  
22 POSITION OF REPORTS OF SEXUAL ASSAULT.

23 (a) COLLECTION.—The Secretary of Defense shall re-  
24 quire that the Secretary of each military department es-  
25 tablish a record on the disposition of any report of sexual

1 assault, whether such disposition is court-martial, non-ju-  
2 dicial punishment, or other administrative action. The  
3 record of any such disposition shall include the following,  
4 as appropriate:

5 (1) Documentary information collected about  
6 the incident reported.

7 (2) Punishment imposed, including the sen-  
8 tencing by judicial or non-judicial means including  
9 incarceration, fines, restriction, and extra duty as a  
10 result of military court-martial, Federal and local  
11 court and other sentencing, or any other punishment  
12 imposed.

13 (3) Reasons for the selection of the disposition  
14 and punishments selected.

15 (4) Administrative actions taken, if any.

16 (5) Any pertinent referrals offered as a result  
17 of the incident (such as drug and alcohol counseling  
18 and other types of counseling or intervention).

19 (b) RETENTION.—The Secretary of Defense shall re-  
20 quire that—

21 (1) the records established pursuant to sub-  
22 section (a) be retained by the Department of De-  
23 fense for a period of not less than 50 years; and

1           (2) a copy of such records be maintained at a  
2           centralized location for the same period as applies to  
3           retention of the records under paragraph (1).

4 SEC. 8. RETENTION OF CERTAIN FORMS IN CONNECTION  
5                         WITH RESTRICTED REPORTS ON SEXUAL AS-  
6                         SAULT INVOLVING MEMBERS OF THE ARMED  
7                         FORCES.

8           (a) REQUIREMENT FOR RETENTION.—Subsection (a)  
9           of section 577 of the National Defense Authorization Act  
10           for Fiscal Year 2013 (Public Law 112-239) is amended  
11           by striking “At the request of a member of the Armed  
12           Forces who files a Restricted Report on an incident of sex-  
13           ual assault involving the member, the Secretary of Defense  
14           shall” and inserting “The Secretary of Defense shall”.

15           (b) CONFORMING AMENDMENT.—The heading of  
16           such section is amended by striking “AT REQUEST OF  
17           THE MEMBER OF THE ARMED FORCES MAKING THE  
18           REPORT”.

○



113TH CONGRESS  
1ST SESSION

# S. 871

To amend title 10, United States Code, to enhance assistance for victims of sexual assault committed by members of the Armed Forces, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 7, 2013

Mrs. MURRAY (for herself, Ms. AYOTTE, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to enhance assistance for victims of sexual assault committed by members of the Armed Forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Combating Military  
5 Sexual Assault Act of 2013".

1 SEC. 2. SPECIAL VICTIMS' COUNSEL FOR VICTIMS OF SEX-  
2 UAL ASSAULT COMMITTED BY MEMBERS OF  
3 THE ARMED FORCES.

4 (a) SPECIAL VICTIMS' COUNSEL FOR VICTIMS OF  
5 SEXUAL ASSAULT COMMITTED BY MEMBERS OF THE  
6 ARMED FORCES.—

7 (1) IN GENERAL.—Not later than 180 days  
8 after the date of the enactment of this Act, the Sec-  
9 retaries of the military departments shall each im-  
10 plement a program on the provision of a Special Vic-  
11 tims' Counsel to victims of a sexual assault com-  
12 mitted by a member of the Armed Forces.

13 (2) QUALIFICATION.—An individual may not be  
14 designated as a Special Victims' Counsel under this  
15 subsection unless the individual is—

16 (A) a judge advocate who is a graduate of  
17 an accredited law school or is a member of the  
18 bar of a Federal court or the highest court of  
19 a State; and

20 (B) is certified as competent to be des-  
21 ignated as a Special Victims' Counsel by the  
22 Judge Advocate General of the Armed Force of  
23 which the individual is a member.

24 (3) DUTIES.—

25 (A) IN GENERAL.—Subject to subpara-  
26 graph (C), the duties of a Special Victims'

1 Counsel shall include the provision of legal ad-  
2 vice and assistance to a victim in connection  
3 with criminal and civil legal matters related to  
4 the sexual assault committed against the victim,  
5 including the following:

6 (i) Legal advice and assistance re-  
7 garding criminal liability of the victim.

8 (ii) Legal advice and assistance re-  
9 garding the victim's responsibility to tes-  
10 tify, and other duties to the court.

11 (iii) Legal advice regarding the poten-  
12 tial for civil litigation against other parties  
13 (other than the Department of Defense).

14 (iv) Legal advice regarding any pro-  
15 ceedings of the military justice process  
16 which the victim may observe.

17 (v) Legal advice and assistance re-  
18 garding any proceeding of the military jus-  
19 tice process in which the victim may par-  
20 ticipate as a witness or other party.

21 (vi) Legal advice and assistance re-  
22 garding available military or civilian re-  
23 straining or protective orders.

1 (vii) Legal advice and assistance re-  
2 garding available military and veteran ben-  
3 efits.

4 (viii) Legal assistance in personal civil  
5 legal matters in connection with the sexual  
6 assault in accordance with section 1044 of  
7 title 10, United States Code.

8 (ix) Such other legal advice and as-  
9 sistance as the Secretary of the military  
10 department concerned shall specify for  
11 purposes of the program implemented  
12 under this subsection.

13 (B) NATURE OF RELATIONSHIP.—The re-  
14 lationship between a Special Victims' Counsel  
15 and a victim in the provision of legal advice and  
16 assistance shall be the relationship between an  
17 attorney and client.

18 (b) ASSISTANCE AND REPORTING.—

19 (1) ASSISTANCE.—Section 1565b of title 10,  
20 United States Code, is amended—

21 (A) by redesignating subsection (b) as sub-  
22 section (c); and

23 (B) by inserting after subsection (a) the  
24 following new subsection (b):

1       “(b) AVAILABILITY OF SPECIAL VICTIMS’ COUNSEL  
2 FOR VICTIMS OF SEXUAL ASSAULT COMMITTED BY MEM-  
3 BERS OF THE ARMED FORCES.—(1) A member of the  
4 armed forces, or a dependent of a member, who is the  
5 victim of a sexual assault described in paragraph (2) may  
6 be provided assistance by a Special Victims’ Counsel.

7       “(2) A sexual assault described in this paragraph is  
8 any offense if alleged to have been committed by a member  
9 of the armed forces as follows:

10           “(A) Rape or sexual assault under section 920  
11 of this title (article 120 of the Uniform Code of Mili-  
12 tary Justice).

13           “(B) An attempt to commit an offense specified  
14 in subparagraph (A) as punishable under section  
15 880 of this title (article 80 of the Uniform Code of  
16 Military Justice).

17       “(3) A member of the armed forces or dependent who  
18 is the victim of sexual assault described in paragraph (2)  
19 shall be informed of the availability of assistance under  
20 paragraph (1) as soon as the member or dependent seeks  
21 assistance from a Sexual Assault Response Coordinator,  
22 a Sexual Assault Victim Advocate, a military criminal in-  
23 vestigator, a victim/witness liaison, a trial counsel, health  
24 care providers, or any other personnel designated by the  
25 Secretary of the military department concerned for pur-

1 poses of this paragraph. The member or dependent shall  
2 also be informed that the assistance of a Special Victims'  
3 Counsel under paragraph (1) is optional and may be de-  
4 clined, in whole or in part, at any time.

5       “(4) Assistance of a Special Victims’ Counsel under  
6 paragraph (1) shall be available to a member or dependent  
7 regardless of whether the member or dependent elects un-  
8 restricted or restricted (confidential) reporting of the sex-  
9 ual assault.”.

10           (2) REPORTING.—Subsection (c) of such sec-  
11 tion, as redesignated by paragraph (1)(A) of this  
12 subsection, is further amended in paragraph (2)—

13                   (A) by redesignating subparagraph (C) as  
14                   subparagraph (D); and

15                   (B) by inserting after subparagraph (B)  
16                   the following new subparagraph (C):

17                   “(C) A Special Victims’ Counsel.”.

18           (c) CONFORMING AMENDMENTS TO AUTHORITY ON  
19 SARC, SAVA, AND RELATED ASSISTANCE.—Subsection  
20 (a) of such section is amended—

21                   (1) in paragraph (1), by striking “may” and in-  
22                   serting “shall, upon request,”; and

23                   (2) in paragraph (2)—

1 (A) by inserting "a Special Victims' Coun-  
2 sel," after "a Sexual Assault Victim Advocate,";  
3 and

4 (B) by striking "or a trial counsel" and in-  
5 serting "a trial counsel, health care providers,  
6 or any other personnel designated by the Sec-  
7 retary of the military department concerned for  
8 purposes of this paragraph".

9 (d) CONFORMING AND CLERICAL AMENDMENTS.—

10 (1) HEADING AMENDMENT.—The heading of  
11 such section is amended to read as follows:

12 **"§ 1565b. Victims of sexual assault: access to legal as-**  
13 **sistance and services of Sexual Assault**  
14 **Coordinators, Sexual Assault Victim Ad-**  
15 **vocates, and Special Victims' Counsels".**

16 (2) TABLE OF SECTIONS.—The table of sections  
17 at the beginning of chapter 80 of such title is  
18 amended by striking the item relating to section  
19 1565b and inserting the following new item:

"1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Coordinators, Sexual Assault Victim Advocates, and Special Victims' Counsels."

1 SEC. 3. ENHANCED RESPONSIBILITIES OF SEXUAL AS-  
2 SAULT PREVENTION AND RESPONSE OFFICE  
3 FOR DEPARTMENT OF DEFENSE SEXUAL AS-  
4 SAULT PREVENTION AND RESPONSE PRO-  
5 GRAM.

6 (a) IN GENERAL.—Section 1611(b) of the Ike Skel-  
7 ton National Defense Authorization Act for Fiscal Year  
8 2011 (10 U.S.C. 1561 note) is amended by striking  
9 “shall—” and all that follows and inserting “shall do the  
10 following:

11 “(1) Oversee development and implementation  
12 of the comprehensive policy for the Department of  
13 Defense sexual assault prevention and response pro-  
14 gram, including guidance and assistance for the  
15 military departments in addressing matters relating  
16 to sexual assault prevention and response.

17 “(2) Serve as the single point of authority, ac-  
18 countability, and oversight for the sexual assault  
19 prevention and response program.

20 “(3) Undertake responsibility for the oversight  
21 of the implementation of the sexual assault preven-  
22 tion and response program by the Armed Forces.

23 “(4) Collect and maintain data of the military  
24 departments on sexual assault in accordance with  
25 section 1615.

1           “(5) Provide oversight to ensure that the mili-  
2           tary departments maintain documents relating to  
3           the following:

4                   “(A) Allegations and complaints of sexual  
5                   assault involving members of the Armed Forces.

6                   “(B) Courts-martial or trials of members  
7                   of the Armed Forces for offenses relating to  
8                   sexual assault.

9           “(6) Act as liaison between the Department of  
10           Defense and other Federal and State agencies on  
11           programs and efforts relating to sexual assault pre-  
12           vention and response.

13           “(7) Oversee development of strategic program  
14           guidance and joint planning objectives for resources  
15           in support of the sexual assault prevention and re-  
16           sponse program, and make recommendations on  
17           modifications to policy, law, and regulations needed  
18           to ensure the continuing availability of such re-  
19           sources.

20           “(8) Provide to the Secretary of Veterans Af-  
21           fairs any records or documents on sexual assault in  
22           the Armed Forces, including restricted reports with  
23           the approval of the individuals who filed such re-  
24           ports, that are required by the Secretary for pur-

1 poses of the administration of the laws administered  
2 by the Secretary.”.

3 (b) COLLECTION AND MAINTENANCE OF DATA.—  
4 Subtitle A of title XVI of such Act (10 U.S.C. 1561 note)  
5 is amended by adding at the end the following new section:  
6 “SEC. 1615. COLLECTION AND MAINTENANCE OF DATA OF  
7 MILITARY DEPARTMENTS ON SEXUAL AS-  
8 SAULT PREVENTION AND RESPONSE.

9 “In carrying out the requirements of section  
10 1611(b)(4), the Director of the Sexual Assault Prevention  
11 and Response Office shall do the following:

12 “(1) Collect from each military department on  
13 a quarterly and annual basis data of such military  
14 department on sexual assaults involving members of  
15 the Armed Forces in a manner consistent with the  
16 policy and procedures developed pursuant to section  
17 586 of the National Defense Authorization Act for  
18 Fiscal Year 2012 (10 U.S.C. 1561 note) that pro-  
19 tect the privacy of individuals named in records and  
20 the status of records.

21 “(2) Maintain data collected from the military  
22 departments under paragraph (1).

23 “(3) Assemble from the data collected and  
24 maintained under this section quarterly and annual

1 reports on the involvement of members of the Armed  
2 Forces in incidents of sexual assault.

3 “(4) Develop metrics to measure the effective-  
4 ness of, and compliance with, training and aware-  
5 ness objectives of the military departments on sexual  
6 assault prevention and response.

7 “(5) Establish categories of information to be  
8 provided by the military departments in connection  
9 with reports on sexual assault prevention and re-  
10 sponse, including, but not limited to, the annual re-  
11 ports required by section 1631, and ensure that the  
12 submittals of the military departments for purposes  
13 of such reports include data within such cat-  
14 egories.”.

15 (c) ELEMENT ON UNIT OF ACCUSED AND VICTIM IN  
16 CASE SYNOPSES IN ANNUAL REPORT ON SEXUAL AS-  
17 SAULTS.—

18 (1) IN GENERAL.—Section 1631(f) of such Act  
19 (10 U.S.C. 1561 note) is amended—

20 (A) by redesignating paragraphs (5) and

21 (6) as paragraphs (6) and (7), respectively; and

22 (B) by inserting after paragraph (4) the  
23 following new paragraph (5):

24 “(5) The case synopsis shall indicate the unit of  
25 each member of the Armed Forces accused of com-

1       mitting a sexual assault and the unit of each mem-  
 2       ber of the Armed Forces who is a victim of sexual  
 3       assault.”.

4           (2) APPLICATION OF AMENDMENTS.—The  
 5       amendments made by paragraph (1) shall apply be-  
 6       ginning with the report regarding sexual assaults in-  
 7       volving members of the Armed Forces required to be  
 8       submitted by March 1, 2014, under section 1631 of  
 9       the Ike Skelton National Defense Authorization Act  
 10      for Fiscal Year 2011.

11 **SEC. 4. DISPOSITION AND OTHER REQUIREMENTS FOR**  
 12           **RAPE AND SEXUAL ASSAULT OFFENSES**  
 13           **UNDER THE UNIFORM CODE OF MILITARY**  
 14           **JUSTICE.**

15       (a) DISPOSITION AND OTHER REQUIREMENTS.—

16           (1) IN GENERAL.—Subchapter VI of chapter 47  
 17       of title 10, United States Code (the Uniform Code  
 18       of Military Justice), is amended by inserting after  
 19       section 830 (article 30) the following new section  
 20       (article):

21 **“§ 830a. Art. 30a. Rape and sexual assault offenses:**  
 22           **disposition and other requirements**

23       “(a) IN GENERAL.—Notwithstanding any other pro-  
 24       vision of this chapter, charges on offenses specified in sub-  
 25       section (b) shall be subject to the disposition requirement

1 in subsection (c) and subject to the other requirements  
2 and limitations set forth this section.

3       “(b) COVERED OFFENSES.—The charges on offenses  
4 specified in this subsection are charges on the offenses as  
5 follows:

6           “(1) Rape or sexual assault under section 920  
7 of this title (article 120).

8           “(2) An attempt to commit an offense specified  
9 in paragraph (1) as punishable under section 880 of  
10 this title (article 80).

11       “(c) DISPOSITION REQUIREMENTS.—(1) Subject to  
12 paragraph (2), the charges on any offense specified in sub-  
13 section (b) shall be referred to an appropriate authority  
14 for convening general courts-martial under section 822 of  
15 this title (article 22) for disposition.

16       “(2) If the appropriate authority to which charges de-  
17 scribed in paragraph (1) would be referred under that  
18 paragraph is a member with direct supervisory authority  
19 over the member alleged to have committed the offense,  
20 such charges shall be referred to a superior authority com-  
21 petent to convene a general court-martial.

22       “(d) VICTIM’S RIGHTS.—A victim of an offense speci-  
23 fied in subsection (b) shall have rights as follows:

24           “(1) To a Special Victims’ Counsel provided  
25 under section 1565b(b) of this title.

1           “(2) To have all communications between the  
2 victim and any Sexual Assault Response Coordi-  
3 nator, Sexual Assault Victim Advocate, or Special  
4 Victims’ Counsel for the victim considered privileged  
5 communications for purposes of the case and any  
6 proceedings relating to the case.”.

7           (2) CLERICAL AMENDMENT.—The table of sec-  
8 tions at the beginning of subchapter VI of chapter  
9 47 of such title (the Uniform Code of Military Jus-  
10 tice) is amended by inserting after the item relating  
11 to section 830 (article 30) the following new item:

“830a. Art. 30a. Rape and sexual assault offenses: disposition and other re-  
quirements.”.

12           (b) REVISION OF MANUAL FOR COURTS-MARTIAL.—  
13 The Joint Service Committee on Military Justice shall  
14 amend the Manual for Courts-Martial to reflect the re-  
15 quirements in section 830a of title 10, United States Code  
16 (article 830a of the Uniform Code of Military Justice),  
17 as added by subsection (b), including, in particular, sec-  
18 tion 306 of the Manual relating to disposition of charges.

19 **SEC. 5. PROHIBITION ON SEXUAL ACTS AND CONTACT BE-**  
20 **TWEEN CERTAIN MILITARY INSTRUCTORS**  
21 **AND THEIR TRAINEES.**

22           (a) PROHIBITION.—Section 920 of title 10, United  
23 States Code (article 120 of the Uniform Code of Military  
24 Justice), is amended—

1           (1) by redesignating subsections (e) through (g)  
2 as subsections (f) through (h); respectively; and

3           (2) by inserting after subsection (d) the fol-  
4 lowing new subsection (e):

5           “(e) SEXUAL ACTS AND SEXUAL CONTACT BETWEEN  
6 CERTAIN MILITARY INSTRUCTORS AND TRAINEES.—

7           “(1) ENHANCED PROHIBITION ON SEXUAL AS-  
8 SAULT.—A military instructor who commits a sexual  
9 act upon a member of the armed forces while the  
10 member is undergoing basic training (or its equiva-  
11 lent) or within 30 days after completing such train-  
12 ing is guilty of sexual assault and shall be punished  
13 as a court-martial may direct.

14           “(2) ENHANCED PROHIBITION ON ABUSIVE  
15 SEXUAL CONTACT.—A military instructor who com-  
16 mits or causes sexual contact upon or by a member  
17 of the armed forces while the member is undergoing  
18 basic training (or its equivalent), or within 30 days  
19 after completing such training, which instructor was  
20 not the spouse of the member at the member’s com-  
21 mencement of such training, is guilty of abusive sex-  
22 ual contact and shall be punished as a court-martial  
23 may direct.

24           “(3) COVERED MILITARY INSTRUCTORS.—This  
25 subsection applies with respect to the following

1 members of the armed forces otherwise subject to  
2 this chapter:

3           “(A) Drill Sergeants in the Army.

4           “(B) Drill Instructors in the Marine  
5 Corps.

6           “(C) Recruit Division Commanders in the  
7 Navy.

8           “(D) Military Training instructors in the  
9 Air Force.

10           “(E) Company Commanders in the Coast  
11 Guard.

12           “(F) Such other members of the armed  
13 forces as the Secretary concerned may des-  
14 ignate as having supervisory authority over new  
15 recruits undergoing basic training (or its equiv-  
16 alent).

17           “(4) CONSENT.—Lack of consent is not an ele-  
18 ment and need not be proven in any prosecution  
19 under this subsection. Consent is not a defense for  
20 any conduct in issue in any prosecution under this  
21 subsection.”.

22           (b) CROSS REFERENCES TO DEFINITIONS.—Chapter  
23 47 of title 10, United States Code (the Uniform Code of  
24 Military Justice), is amended—

1 (1) in section 920b(h)(1) (article 120b(h)(1)),  
2 by striking “section 920(g) of this title (article  
3 120(g))” and inserting “section 920 of this title (ar-  
4 ticle 120)”; and

5 (2) in section 920c(d)(1) (article 120c(d)(1)),  
6 by striking “section 920(g) of this title (article  
7 120(g))” and inserting “section 920 of this title  
8 (article 120)”.

9 **SEC. 6. AVAILABILITY OF SEXUAL ASSAULT RESPONSE CO-**  
10 **ORDINATORS FOR MEMBERS OF THE NA-**  
11 **TIONAL GUARD.**

12 (a) AVAILABILITY IN EACH NATIONAL GUARD STATE  
13 AND TERRITORY.—Section 584(a) of the National De-  
14 fense Authorization Act for Fiscal Year 2012 (Public Law  
15 112–81; 125 Stat. 1433; 10 U.S.C. 1561 note) is amend-  
16 ed—

17 (1) by redesignating paragraph (2) as para-  
18 graph (3); and

19 (2) by inserting after paragraph (1) the fol-  
20 lowing new paragraph (2):

21 “(2) AVAILABILITY IN EACH NATIONAL GUARD  
22 STATE AND TERRITORY.—The National Guard of  
23 each State and Territory shall ensure that a Sexual  
24 Assault Response Coordinator is available at all  
25 times to the members of the National Guard of such

1 State or Territory. The Secretary of the Army and  
2 the Secretary of the Air Force may, in consultation  
3 with the Chief of the National Guard Bureau, assign  
4 additional Sexual Assault Response Coordinators in  
5 a State or Territory as necessary based on the re-  
6 source requirements of National Guard units within  
7 such State or Territory. Any additional Sexual As-  
8 sault Response Coordinator may serve on a full-time  
9 or part-time basis at the discretion of the assigning  
10 Secretary.”.

11 (b) AVAILABILITY TO PROVIDE ASSISTANCE FOR  
12 MEMBERS OF THE NATIONAL GUARD IN STATE STA-  
13 TUS.—Section 1565b of title 10, United States Code, as  
14 amended by section 2 of this Act, is further amended in  
15 subsection (a)—

16 (1) by redesignating paragraphs (2) and (3) as  
17 paragraphs (3) and (4), respectively; and

18 (2) by inserting after paragraph (1) the fol-  
19 lowing new paragraph (2):

20 “(2) In the case of a member of the National Guard  
21 in State status under title 32 who is the victim of a sexual  
22 assault, assistance provided by a Sexual Assault Response  
23 Coordinator shall be provided by the Sexual Assault Re-  
24 sponse Coordinator Assistance available in the State or  
25 Territory concerned under paragraph (2) of section 584(a)

1 of the National Defense Authorization Act for Fiscal Year  
2 2012 (10 U.S.C. 1561 note), but, with the approval of  
3 the Secretary of the Army or the Secretary of the Air  
4 Force, as applicable, may also be provided by Sexual As-  
5 sault Response Coordinator assigned under paragraph (1)  
6 of that section.”

○

ENI F.H. FALEOMAVAEGA  
AMERICAN SAMOA

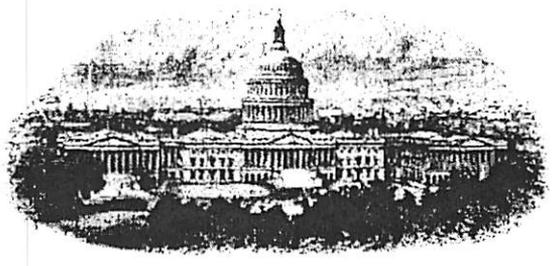
COMMITTEE ON FOREIGN AFFAIRS  
RANKING MEMBER  
SUBCOMMITTEE ON ASIA AND THE PACIFIC  
SUBCOMMITTEE ON THE WESTERN HEMISPHERE

COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON FISHERIES, WILDLIFE,  
OCEANS AND INSULAR AFFAIRS  
SUBCOMMITTEE ON INDIAN AND  
ALASKA NATIVE AFFAIRS

CONGRESSIONAL  
ASIAN PACIFIC AMERICAN CAUCUS

CONGRESSIONAL  
CAUCUS ON CENTRAL ASIA

NATIONAL GUARD AND RESERVES  
COMPONENTS CAUCUS



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Congress of the United States  
House of Representatives  
Washington, D.C. 20515-5201

May 9, 2013

The Honorable John M. McHugh  
Secretary of the Army  
101 Army Pentagon  
Washington, DC 20310-0101

Dear Secretary MacHugh:

I write to bring to your attention a military matter involving a constituent from my district whose military career was cut short because of an alleged sexual assault incident. CPL Elizabeth Hisatake was assigned to the Army Base at Fort Leonard Wood in Missouri where she claimed to have been raped by her superior NCO commanding officer.

According to CPL Hisatake, an investigation ensued immediately during the aftermath of the alleged incident and she was not satisfied with the way the unit handled the situation with regards to protecting her right to privacy as a victim in addition to denying her request for reassignment. Apparently, the perpetrator was found guilty of rape and was incurred a punishment of 45 days of hard labor and still remained on the same base.

Being denied for a reassignment, CPL Hisatake says that she had to endure shame and humiliation because seeing the perpetrator every day at work was very painful and challenging that she contemplated going AWOL. I am not privy to the details of the sexual incident let alone the investigation report, however, I find that the unit command at Ft. Leonard Wood appeared to have fallen short of its fiduciary duty and responsibility to the victim as well as executing an appropriate punishment to the perpetrator according to the full extent of the Army regulations under the uniformed code of military justice.

CPL Hisatake's deplorable dilemma is not an isolated incident. This might be another "tip of the iceberg" in the growing epidemic of sexual assault in the military. I have grave concerns that some of the victims may have been subjected to injustice and mistreatment, especially our Pacific Islander female soldiers like CPL Hisatake who expressed feeling helpless and vulnerable under the whim and will of the unjust superior NCO's in the ranks.

email: faleomavaega@mail.house.gov

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In light of the aforementioned circumstances, I am requesting your office to conduct a full investigation of CPL Hisatake's sexual assault incident to determine how the Army can improve its policies in dealing with the intricacies and complexities of these deplorable situations in our military. Thank you for your immediate attention to this matter and I look forward to your response.

Sincerely,



ENI F. H. FALEOMAVAEGA  
Member of Congress

**JACK KINGSTON**  
1st District, Georgia

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**Congress of the United States**  
**House of Representatives**  
August 26, 2013

**Committee On Appropriations**  
Chairman, Subcommittee on Labor, Health  
and Human Services, Education,  
and Related Agencies  
Defense Subcommittee  
State, Foreign Operations,  
and Related Agencies Subcommittee

SAVANNAH OFFICE  
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**John M. McHugh**  
Secretary of the Army  
101 Army Pentagon  
Washington, DC 20310-0101

Dear Secretary McHugh:

It is with considerable dismay that I forward the attached letter from SPC Emily Roberts, a former intern in my office. While the United States Army has begun taking action to address the continuing problem of sexual assault and harassment in the ranks, it cannot undo the traumatic events that have already occurred. In that light, I strongly urge the Army make every effort possible to create an environment that encourages victims to report, and to support them when they report these crimes. It is my sincere hope that the deplorable circumstances that surrounded SPC Roberts' case are never repeated.

Thank you for your attention to this matter and I look forward to continuing to work with you to ensure the United States Army is an institution where all soldiers are able serve honorably and without fear of sexual assault.

Sincerely,

  
Jack Kingston  
Member of Congress

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The Honorable Jack Kingston  
US House of Representatives  
Washington, DC

Dear Congressman Kingston:

As a US citizen and as a soldier defending my country's freedom, I place full loyalty and trust in those given leadership over me. I serve in the US Army honorably and dutifully, and I am thankful for the cause and work of the US Army. However, recent and very serious personal experiences within my immediate ranks of military personnel, prompt me to request your help in addressing and correcting practices and policies regarding sexual assaults in US military service.

On June 15, 2013, I was raped by a fellow service member in seniority to me. He was also a trusted friend whom I respected. Without my consent, he took from me what was never his to take. Subsequent to his confession to me on the following day about the sexual assault, I sought medical attention. A Sexual Assault Forensics Evidence (SAFE) kit was collected. While in the emergency room, a Sexual Harassment/Assault Response & Prevention (SHARP) representative came to see me. He advised me with legal counsel; he would serve as Victim's Advocate (VA).

After much thought, I informed the VA the next day that I wanted to make my case unrestricted. I wanted to pursue legal action and conviction of the soldier who raped me, and bring to light what all too often is preferred to be hidden.

My VA arranged an appointment for the following day to make paperwork changes. Upon arrival at the VA's office, I found he did not have copies of my Department of the Army (DA) form that the Sexual Assault Nurse Examiner (SANE) from the hospital had assisted me in completing. He asked me to complete the form again. I informed him that I preferred not to go through all the details again and that he could get a copy from the hospital.

On June 17, 2013, I returned to work after one day of quarters given to me by the hospital. I spent that day going to meetings with a representative from the Criminal Investigation Department (CID) and the El Paso Police Department, giving my statement, and providing additional information and evidence in support of my case. Subsequently, I was dropped back into my day's work routine.

On June 24, 2013, my unit returned from summer block leave. I presumed that during my down time, I would be able to go to my medical appointments, seek legal counsel regarding my case, and return to work. Although I was informed by my battalion commander that the moment my case was reported my discharge process was to have been frozen immediately, my NCO informed me that orders from my ISG to attend Army Career and Alumni Program (ACAP) classes, that is, administrative discharge classes, were still standing .

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While I was able to leave my ACAP classes because of my medical appointments, I was refused time to see and pursue matters with legal counsel. I lost one week's time of legal assistance.

During the week of June 24, 2013, I was contacted once by my command team (representatives from my company, battalion, and brigade) regarding my assault. That Monday I had a meeting with my 1SG. On that day I learned from my VA that my 1SG had commented to him that it had been two weeks since the incident, and I should be "over it" by now. This was just one example within a series of encounters with my 1SG over the assault matter that I felt completely degraded and disrespected by him. The incident of his derogatory remarks was reported to my battalion commander who immediately initiated an informal investigation of the matter with the 1SG. This informal investigation is still ongoing.

During the week of July 1, 2013, I had my initial contact with the battalion command team. This was over two weeks after my assault. To date, I have yet to hear from my brigade command team or any superior in the command.

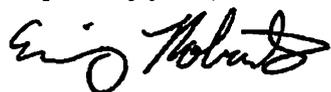
Although my case is beginning to be taken more seriously now by my chain of command, grievous mistakes have already been made that have set my case back and affected my trust in the command.

It is not the intent of my letter to speak poorly of the US Army or other military personnel serving our Nation. I believe I have no choice but to speak up for myself and other victims of sexual assault regarding the attitude, treatment, and misconduct we face in reporting sensitive, private matters. Military victims of sexual assault should not have to contend with hierarchal run-arounds, cover-ups, and mistreatments that I received in the aftermath of my own damaging personal experience.

In seeking your assistance in moving my case to legal resolution, I hope greater attention and action will be given by those in positions of authority and leadership in addressing practices and policies regarding sexual assault in the military services.

Thank you for your attention and much needed assistance in this my pending case.

Respectfully yours,



SPC Emily Roberts  
21200 Bayonet Avenue  
HHC, 125<sup>th</sup> BSB, 3/1 AD  
Ft Bliss, TX 79918

200530



**SECRETARY OF THE ARMY  
WASHINGTON**

**JUL 0 1 2013**

The Honorable Eni F.H. Faleomavaega  
United States House of Representatives  
Washington, DC 20515

Dear Representative Faleomavaega:

Thank you for your May 9, 2013 letter concerning your constituent, Private (E-2) Elizabeth Hisatake, who contacted you regarding the sexual assault she suffered while assigned to Fort Leonard Wood, Missouri.

Sexual assault has no place in the Army. I share your concerns about this problem and assure you that I and the entire senior leadership of the Army are fully engaged in seeking ways to prevent it. We are committed to ensuring that the Army responds appropriately to all reported incidents, takes care of victims and holds offenders accountable.

Upon receipt of your letter, my staff comprehensively reviewed the circumstances of Private Hisatake's case and found that Private Hisatake's command, and all those involved in responding to the incident, acted professionally, followed proper procedures and provided her with appropriate support. After Private Hisatake made an unrestricted report to her squad leader, both her chain of command and the U.S. Army Criminal Investigation Command (CID) were promptly notified and took action.

Upon reporting the incident, Private Hisatake immediately received assistance from her unit's Sexual Assault Prevention and Response Victim Advocate and from her brigade's Sexual Assault Response Coordinator. Having made an unrestricted report, she also met with an experienced female prosecutor and a Victim Witness Liaison who advised her of her rights and what she could expect throughout the process. This included her right to request reassignment. At no time before or after the incident did her assailant, Private First Class (E-3) Yazzie, have supervisory responsibilities over Private Hisatake. Private Yazzie was not a noncommissioned officer and never held any command position. After the incident, Private Yazzie's command ordered him to have no contact with her, and we are aware of no evidence that he had any such contact. Ultimately, Private Yazzie was placed in pretrial confinement at Fort Leavenworth, Kansas while he awaited trial.

After CID's investigation was completed, the Commanding General, who serves as the General Court-Martial Convening Authority, referred the case to trial by general court-martial. The prosecution team was supported by a Special Victim Prosecutor with expertise in prosecuting sexual assault cases and by one of the Army's Highly Qualified

Experts in sexual assault. Private Yazzie was convicted by the court-martial. He is now a registered sex offender and is no longer in the Army.

I hope this letter addresses your concerns. If you have additional questions, I can certainly arrange for you or your staff to be briefed on this case; however, it is important to note that without Private Hisatake's consent, the Privacy Act may limit the amount of detail we can provide.

Thank you for your interest in this case and your continued support of our Soldiers.

*Fbi - I hope  
this addresses  
your concerns -  
J - G*

Sincerely,

*John M. McHugh*  
John M. McHugh



**UNITED STATES ARMY**  
**THE CHIEF OF STAFF**  
**MAY 20 2013**

The Honorable Carl Levin  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your May 9, 2013 letter concerning sexual assault issues in the military and legislative proposals to amend the Uniform Code of Military Justice (UCMJ). I am keenly aware of the severity of this problem, and I believe we have a special responsibility to our Soldiers, Families and Civilians to do everything we can to prevent sexual assault, respond effectively to reports, take care of victims, and hold offenders accountable. I appreciate this opportunity to provide my personal views on the current legislative proposals. As such, they do not represent the views of the Secretary of the Army or the position of the Department of the Army or the Department of Defense on these matters.

After the Army's 12 years of sustained combat and based on my 37 years of command at every level, one truth is clearly evident to me – Soldier discipline is the foundation of a trained, focused force capable of winning our Nation's wars. Discipline is built, shaped and reinforced over a Soldier's career by commanders with authority. Effective discipline requires that a commander have the authority to dispose of criminal offenses quickly, visibly, and locally. Command authority, particularly in the context of military justice, is and will remain the most critical mechanism for ensuring discipline, accountability, cohesion and integrity of the force. Without equivocation, I believe maintaining the role of the commander in our military justice system is absolutely critical.

Sexual assault remains an unacceptable problem for our military and society. We cannot, however, simply "prosecute" our way out of this problem. At its heart, sexual assault is a discipline issue that requires a culture change. I need our commanders to instill that culture change as they continue to train our Soldiers to prevent sexual assault incidents. Commanders must be visible to our Soldiers on nights and weekends; address alcohol consumption; take care of our victims; and be involved at every stage of the disciplinary process. I am certain that removing a commander's role in military justice will, unfortunately, undermine a commander's ability to effect these culture changes. It will adversely impact discipline and may result in an increase in the problems we seek to resolve.

I am aware that the legislative proposals listed in your May 9, 2013 letter contemplate changes to the role of the commander and the UCMJ. I welcome vigorous, open and candid discussion of how we can improve our military justice system. For example, I am convinced that we must implement a process of checks and balances to ensure commanders and their legal advisors are reinforcing their mutual responsibilities to administer the UCMJ effectively. However, these legislative proposals call for dramatic changes without the benefit of that discussion, without adequate study, and without careful consideration of the second and third order effects of these proposed changes. With regard to Article 60, UCMJ, I understand that a commander's role in processing a case after trial can be controversial and that we may need to limit commander authorities in this area. I support the Secretary of Defense's recent response to you on Article 60, and I believe that the commander's role in the post-trial process should generally be preserved, particularly for the purpose of ensuring fairness to an accused when an appellate process may not be available.

The other legislative proposals are of greater concern. They require significant study and input by those most knowledgeable about our system. Any effort to remove commanders from disposition decisions, restrict venue options, impose sentencing minimums, or mandate administrative actions would be premature absent significant study and deliberation. At present, our system is a coherent whole; over the long-term, we need to ensure that this coherence remains and that any reforms not undercut the overall effectiveness of our military justice system. Change effected without measured study will directly and adversely impact command authority and discipline.

We are monitoring the Air Force's special victim counsel pilot program and recognize the value of all efforts that enhance victim care and satisfaction. Toward that end, we are engaged in hiring several hundred victim advocates, as directed by law. We are also training our legal assistance attorneys and victim-witness liaisons to better advocate on behalf of victims. The Department of Defense is currently in the process of fully implementing the "Special Victim Capability" mandated in the Fiscal Year 2013 National Defense Authorization Act (FY13 NDAA). I am confident that these capabilities provide the best opportunity for effective, sustainable victim care without undercutting accountability.

The FY13 NDAA established the Response Systems Panel to address issues surrounding the problem of sexual assault and the role of the commander in the military justice system. The panel members have been appointed and will conduct a comprehensive review and assessment comparing military and civilian justice systems, evaluating the role of the commander, determining best practices for victim care and treatment, considering the use of sentencing guidelines, and addressing legislative proposals. This panel is well suited for this task, and it is critical that this panel be allowed to conduct its review and provide its recommendations regarding the sweeping changes contemplated by the current proposed legislation.

Changes to the UCMJ must not be made in a piecemeal fashion, and poor decisions by a few of my commanders should not be the impetus for drastic and rapid legislative

amendments. We are not a perfect institution with perfect leaders, but we *are* accountable. I agree that improvements can and should be made, but I recommend we take a measured approach. The UCMJ of 1950 was carefully crafted over a two-year period, and its only major revision in 1968 was the culmination of months of study, hearings and testimony. There is too much at stake here for us to act without thorough and careful deliberation. We have the capability to do this well, and we owe our Soldiers, Families, Civilians and Nation our focused attention and best efforts in this endeavor.

I look forward to working with you to ensure a thoughtful, comprehensive process.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Odierno', with a stylized flourish at the end.

Raymond T. Odierno  
General, United States Army



**UNITED STATES ARMY**

**THE CHIEF OF STAFF**

**MAY 20 2013**

The Honorable James M. Inhofe  
Ranking Member  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Senator Inhofe:

Thank you for your May 3 and May 9, 2013 letters concerning sexual assault issues in the military and legislative proposals to amend the Uniform Code of Military Justice (UCMJ). I am keenly aware of the severity of this problem, and I believe we have a special responsibility to our Soldiers, Families and Civilians to do everything we can to prevent sexual assault, respond effectively to reports, take care of victims, and hold offenders accountable. I appreciate this opportunity to provide my personal views on the current legislative proposals and role of the commander in military justice. As such, they do not represent the views of the Secretary of the Army or the position of the Department of the Army or the Department of Defense on these matters.

After the Army's 12 years of sustained combat and based on my 37 years of command at every level, one truth is clearly evident to me – Soldier discipline is the foundation of a trained, focused force capable of winning our Nation's wars. Discipline is built, shaped and reinforced over a Soldier's career by commanders with authority. Effective discipline requires that a commander have the authority to dispose of criminal offenses quickly, visibly, and locally. Command authority, particularly in the context of military justice, is and will remain the most critical mechanism for ensuring discipline, accountability, cohesion and integrity of the force. Without equivocation, I believe maintaining the role of the commander in our military justice system is absolutely critical.

Sexual assault remains an unacceptable problem for our military and society. We cannot, however, simply "prosecute" our way out of this problem. At its heart, sexual assault is a discipline issue that requires a culture change. I need our commanders to instill that culture change as they continue to train our Soldiers to prevent sexual assault incidents. Commanders must be visible to our Soldiers on nights and weekends; address alcohol consumption; take care of our victims; and be involved at every stage of the disciplinary process. I am certain that removing a commander's role in military justice will, unfortunately, undermine a commander's ability to effect these culture changes. It will adversely impact discipline and may result in an increase in the problems we seek to resolve.

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I am aware that the legislative proposals listed in your May 9, 2013 letter contemplate changes to the role of the commander and the UCMJ. I welcome vigorous, open and candid discussion of how we can improve our military justice system. For example, I am convinced that we must implement a process of checks and balances to ensure commanders and their legal advisors are reinforcing their mutual responsibilities to administer the UCMJ effectively. However, these legislative proposals call for dramatic changes without the benefit of that discussion, without adequate study, and without careful consideration of the second and third order effects of these proposed changes. With regard to Article 60, UCMJ, I understand that a commander's role in processing a case after trial can be controversial and that we may need to limit commander authorities in this area. I support the Secretary of Defense's recent response to you on Article 60, and I believe that the commander's role in the post-trial process should generally be preserved, particularly for the purpose of ensuring fairness to an accused when an appellate process may not be available.

The other legislative proposals are of greater concern. They require significant study and input by those most knowledgeable about our system. Any effort to remove commanders from disposition decisions, restrict venue options, impose sentencing minimums, or mandate administrative actions would be premature absent significant study and deliberation. At present, our system is a coherent whole; over the long-term, we need to ensure that this coherence remains and that any reforms not undercut the overall effectiveness of our military justice system. Change effected without measured study will directly and adversely impact command authority and discipline.

We are monitoring the Air Force's special victim counsel pilot program and recognize the value of all efforts that enhance victim care and satisfaction. Toward that end, we are engaged in hiring several hundred victim advocates, as directed by law. We are also training our legal assistance attorneys and victim-witness liaisons to better advocate on behalf of victims. The Department of Defense is currently in the process of fully implementing the "Special Victim Capability" mandated in the Fiscal Year 2013 National Defense Authorization Act (FY13 NDAA). I am confident that these capabilities provide the best opportunity for effective, sustainable victim care without undercutting accountability.

The FY13 NDAA established the Response Systems Panel to address issues surrounding the problem of sexual assault and the role of the commander in the military justice system. The panel members have been appointed and will conduct a comprehensive review and assessment comparing military and civilian justice systems, evaluating the role of the commander, determining best practices for victim care and treatment, considering the use of sentencing guidelines, and addressing legislative proposals. This panel is well suited for this task, and it is critical that this panel be allowed to conduct its review and provide its recommendations regarding the sweeping changes contemplated by the current proposed legislation.

Changes to the UCMJ must not be made in a piecemeal fashion, and poor decisions by a few of my commanders should not be the impetus for drastic and rapid legislative

amendments. We are not a perfect institution with perfect leaders, but we are accountable. I agree that improvements can and should be made, but I recommend we take a measured approach. The UCMJ of 1950 was carefully crafted over a two-year period, and its only major revision in 1968 was the culmination of months of study, hearings and testimony. There is too much at stake here for us to act without thorough and careful deliberation. We have the capability to do this well, and we owe our Soldiers, Families, Civilians and Nation our focused attention and best efforts in this endeavor.

I look forward to working with you to ensure a thoughtful, comprehensive process.

Sincerely,

A handwritten signature in black ink, appearing to read "R. T. Odierno", with a stylized flourish at the end.

Raymond T. Odierno  
General, United States Army

~~200538~~

200538



THE SECRETARY OF THE AIR FORCE  
CHIEF OF STAFF, UNITED STATES AIR FORCE  
WASHINGTON DC



APR 16 2013

The Honorable Claire McCaskill  
United States Senate  
Washington, DC 20510

Dear Senator McCaskill:

The Air Force is committed to creating a command climate in which our culture of respect for every airman, and our core values of Integrity, Service, and Excellence are so deep and so strong that the crime of sexual assault would never occur. And when, regrettably, it does occur we remain committed to encourage victims of sexual assault to come forward, to care for those victims, and to pursue justice and hold perpetrators accountable!

In *United States v. Wilkerson*, the convening authority, Lieutenant General Craig Franklin, acted within his statutory authority and discretion to review this case and disapproved the findings of guilt after concluding that the entire body of evidence was insufficient to meet the burden of proof.

We have engaged in a substantive dialogue with you about issues related to this case since receiving your letter. General Mark Welsh and Lieutenant General Rich Harding met with you on March 12 to address the *Wilkerson* case and military convening authorities. This was followed by General Harding's testimony on this subject at a March 13 hearing of the Senate Armed Services Committee's Personnel Subcommittee (SASC-P) and by a March 20 follow-up meeting between you and General Harding.

Subsequently, Air Force legal counsel completed a detailed review of the *Wilkerson* record of trial and clemency matters. They concluded that all legal requirements were satisfied, that the rulings of the military judge were proper, and that there was no legal error in the pretrial, trial, and post-trial processing of this case. We provided a written review of the *Wilkerson* case and recommendations on Article 60, Uniform Code of Military Justice, to the Secretary of Defense and Acting General Counsel of the Department of Defense on March 20, and the SASC-P chairman and ranking member have requested these documents from the Secretary of Defense.

As you know, Secretary Hagel has announced that he will seek congressional support for amendments to Article 60, which we fully endorse. We have released copies of the record of the trial, clemency materials, Article 32 report, and other case-related materials to Congress, followed by public release of redacted case materials in response to Freedom of Information Act requests.

300491

It is our duty to protect the men and women under our care. Please be assured we take this responsibility very seriously. We thank you for your support for our Airmen and your steadfast advocacy for victims of sexual assault.

*Michael B. Donley*

Michael B. Donley  
Secretary of the Air Force

*Mark A. Welsh III*

Mark A. Welsh III  
General, USAF  
Chief of Staff



## DEPARTMENT OF THE AIR FORCE

WASHINGTON, D.C. 20330-1000

OFFICE OF THE SECRETARY

SAF/LL  
1160 Air Force Pentagon  
Washington, DC 20330-1160

2 5 APR 2013

The Honorable Susan A. Davis  
United States House of Representatives  
Washington, DC 20515

Dear Representative Davis:

Thank you for your letter of March 28, 2013 to Secretary Donley. The Air Force shares your commitment to improving how the military addresses sexual assault. We are prepared to offer our assistance to help you consider options that will strengthen the military's response to sexual assault and promote good order and discipline.

You have asked to meet with both the trial and defense counsel in the Wilkerson case. We arranged for your meeting with the senior trial counsel in the case, Colonel Don Christensen, and hope that meeting assisted in your understanding of the case. While both defense counsel are now civilians and beyond Air Force authority, we have provided your office the contact information for Lieutenant Colonel Wilkerson's lead civilian defense counsel. I also understand that you were able to attend the Military Sexual Assault Prevention Caucus on April 10, 2013. At that meeting, Lieutenant General Richard C. Harding, The Judge Advocate General, briefed the specifics of the Wilkerson case and explained Article 60, UCMJ, the convening authority's source of authority for modifying findings and sentences in courts-martial.

We hope this addresses your intent to more accurately understand the issues involved with this case in order to inform your consideration of the related legislative proposals. Please let us know if we can provide any additional assistance on this important issue.

Very respectfully,

A handwritten signature in black ink that reads "Tod D. Wolters".

TOD D. WOLTERS  
Major General, USAF  
Director, Legislative Liaison

300493



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE

Office of The Judge Advocate General  
HQ USAF/JA  
1420 Air Force Pentagon  
Washington, DC 20330

APR 29 2013

The Honorable Claire McCaskill  
United States Senate  
Washington, DC 20510

Dear Senator McCaskill:

When we spoke at the SWAN Conference on April 17, 2013, you asked me how many times Air Force commanders have declined to proceed to a court-martial for an offense or offenses where their servicing Staff Judge Advocate recommended trial by court-martial. While this data is not formally tracked, I requested our Major Command Staff Judge Advocates review their records from the past three years to answer your question.

The results of this data call are that in more than 99% of the 2,511 cases since 2010 where an SJA recommended trial by court-martial, a commander followed the SJA's advice and initiated the UCMJ court-martial process. In the less than 1% of cases where the convening authority did not proceed to court-martial, the convening authority most often used an administrative action, such as non-judicial punishment under Article 15, to address the offense. In the remaining cases, the commander concluded there was insufficient evidence to warrant any action.

As always thank you for your support to the Air Force and its Airmen.

Sincerely,

RICHARD C. HARDING  
Lieutenant General, USAF  
The Judge Advocate General



DEPARTMENT OF THE AIR FORCE  
OFFICE OF THE CHIEF OF STAFF  
UNITED STATES AIR FORCE  
WASHINGTON DC 20330

MAY 20 2013

HQ USAF/CC  
1670 Air Force Pentagon  
Washington, DC 20330-1670

The Honorable Carl Levin  
Chairman, Armed Services Committee  
United States Senate  
Washington, DC 20510

Dear Chairman Levin:

Thank you and Senator Inhofe for your letter dated May 9, 2013, regarding possible legislative changes to the Uniform Code of Military Justice (UCMJ). I have given considerable thought to the role of a fair, robust justice system in our national security strategy. My experience as a commander at all Air Force echelons reinforces my firm belief that the commander's role in the military justice system is essential to maintaining good order and discipline. I believe that commanders from all Service branches agree that good order and discipline is the key to effective combat capability.

I have reviewed the legislative proposals you provided and support aspects of these proposals which promote victim rights, access to legal counsel, and other victim support services. I am concerned, however, with proposals that artificially elevate disposition authority for certain types of offenses, create reporting arrangements that would have negative unintended consequences on the victim and undermine the chain of command, or further restrict and remove certain disposition alternatives from the commander's responsibility. I do support the initiatives of the Secretary of Defense to combat sexual assault and to modify Article 60 of the UCMJ in a manner which preserves a limited ability of a convening authority to grant clemency in certain cases that best serves the ends of justice.

I would be happy to meet with you to discuss this legislation in more detail and look forward to continuing to work with you on this important issue. An identical letter has been delivered to Senator Inhofe.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Welsh III".

MARK A. WELSH III  
General, USAF  
Chief of Staff

300495



DEPARTMENT OF THE AIR FORCE  
OFFICE OF THE CHIEF OF STAFF  
UNITED STATES AIR FORCE  
WASHINGTON DC 20330

MAY 31 2013

HQ USAF/CC  
1670 Air Force Pentagon  
Washington, DC 20330-1670

The Honorable James M. Inhofe  
United States Senate  
Washington, DC 20510

Dear Senator Inhofe:

Thank you for your letter dated May 3, 2013, regarding possible legislative changes to the Uniform Code of Military Justice (UCMJ). I agree with you that any proposed changes to the UCMJ must ensure our commanders are empowered to prepare our men and women to fight and win our Nation's wars. I outlined my thoughts on several pieces of proposed legislation to you and Senator Levin earlier this month.

As I previously stated, I support the initiatives of the Secretary of Defense to combat sexual assault and to modify Article 60 of the UCMJ. The proposed Article 60 modification would amend Article 60 to prohibit a convening authority from setting aside the findings of a court-martial except for a narrow group of qualified offenses. Convening authorities would retain their authority to execute pre-trial agreements and safeguard the interests of the command in every case by taking action on the sentence alone. My support for this modification is not based on loss of confidence in our leaders; rather it is due to improvements in the military judicial system and our robust appellate process. Secretary Donley and I are committed to preserving the authority and independence of commanders to promote good order and discipline within their units while at the same time advancing victim support and protecting the due process rights of the accused.

I look forward to continuing to work with you on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Welsh III".

MARK A. WELSH III  
General, USAF  
Chief of Staff



SECRETARY OF THE AIR FORCE  
WASHINGTON

JUL 29 2013

The Honorable Jackie Speier  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Speier:

Thank you for your June 21, 2013, letter concerning Lieutenant Colonel James Wilkerson. The letter calls for the Air Force to initiate an involuntary discharge action. Air Force practice is that discharge is initiated, if appropriate, by a senior commander in the officer's command of assignment. I have referred your letter to Lieutenant Colonel Wilkerson's chain of command for their consideration.

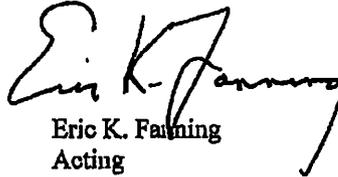
With respect to your request that the Air Force conduct a grade determination in this case, Lieutenant Colonel Wilkerson is eligible to retire based on his years of active duty service. If discharge proceedings are initiated, Lieutenant Colonel Wilkerson will have the right to apply for retirement in lieu of the discharge proceedings. Because Lieutenant Colonel Wilkerson is retirement-eligible, the Air Force does not have the discretion to administratively deny him the right to retire. It is important to understand that, whether involuntary discharge action is initiated or not, an officer grade determination is not made until the officer applies for retirement.

When a retirement-eligible officer applies for retirement, the member's unit commander or other appropriate authority, to include the Secretary of the Air Force or an authority designated by the Secretary, may initiate an officer grade determination if the commander or other authority believes a determination is appropriate. The factors to be considered include, but are not limited to, misconduct which has fallen short of criminal conviction or Article 15, Uniform Code of Military Justice punishment, or substandard performance of duty. The process is designed to inform the ultimate decision maker, the Secretary of the Air Force or designee, on the officer's appropriate retirement grade. The Secretary or designee may retire an officer in a grade lower than the highest grade held when a determination is made that the officer did not serve satisfactorily in the higher grade.

You may also recall that Secretary Donley took final action to remove Lieutenant Colonel Wilkerson from the colonel's promotion list this past January.

Thank you for your continued commitment and support of our service members and their families. A similar response is being sent to the other signatories to your letter.

Sincerely,

  
Eric K. Fanning  
Acting



SECRETARY OF THE AIR FORCE  
WASHINGTON

INFO MEMO

FOR: SECRETARY OF DEFENSE

THROUGH: UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS

FROM: Eric K. Fanning, Acting *EF* OCT 28

SUBJECT: Enhancing Commander Assessment and Accountability, Improving Response and Victim Treatment

- In your May 6, 2013, memorandum, you directed the Service Chiefs, through their respective Secretaries of the Military Departments, to develop methods to assess the performance of military commanders in establishing command climates of dignity and respect and incorporate sexual assault, prevention and response (SAPR) prevention and victim care principles in their commands and to hold them accountable.
- The Air Force is implementing the following methods to assess commanders and hold them accountable:
  - Modifying the feedback and evaluation forms for every Airman to ensure organizational climate is discussed during performance feedback sessions. Along with modifying the forms, we added language to Air Force Instruction (AFI) 36-2406, *Officer and Enlisted Evaluation Systems*, which defines the term “organizational climate” and holds all Airmen responsible for contributing to a healthy unit climate. We also added language to the AFI specifically addressing noncommissioned officer and officer responsibility to not only contribute to a healthy unit climate, but to also be responsible for creating a healthy unit climate. Finally, the Air Force Office of Personnel (AF/A1) added language to the AFI specifically addressing commanders’ special responsibility and authority to ensure their command has a healthy climate to include SAPR prevention and victim care. This requirement will be in place by January 1, 2014.
  - Increasing the frequency of required unit climate assessments. In accordance with the FY13 NDAA Section 572(a)(3), climate assessments are required within the first 120 days of assuming command and annually thereafter (prior requirement was every two years). This requirement became effective in the Air Force on July 31, 2013.
  - Implementing requirement for commanders to brief their immediate supervisor on climate assessment results. In your May 6, 2013, memorandum, you directed this briefing requirement and the Air Force implemented it on July 31, 2013.

- Implementing requirement to brief unit members on climate assessment results. Currently, commanders are required to report the results up the chain of command. Requiring commanders to brief unit members on the results will increase visibility of assessment results and create a feedback loop within the unit. This requirement will be effective on January 1, 2014.
- Transitioning from the current Unit Climate Assessment to the Defense Equal Opportunity Management Institute Organizational Climate Survey, which both expands the section on sexual assault and is standardized for use across the DoD. This transition will be effective on January 1, 2014.
- Establishing a Special Interest Item (SII) for The Inspector General's new Unit Effectiveness Inspection system. The SAPR SII will assess to what degree commanders have established a command climate of dignity and respect and to what degree SAPR prevention and care principles have been implemented in their commands. The SII will be established and in effect by January 1, 2014.
- In your May 6, 2013 memorandum, you directed the Secretaries of the Military Departments to implement and monitor methods to improve victim treatment by their peers, co-workers and chains of command. Most victims during our focus groups said many workplaces did not know what to do after an assault occurred. In order to improve understanding of victim trauma and care, on- and off-duty, the Air Force will implement additional training programs.
  - To improve victim care and trust in the chain of command, enhanced sensitivity training for peers, co-workers and chains of command will occur at all training venues to include professional military education, semi-annual sexual assault prevention standowns and professional development venues (e.g., First Term Airmen's Course, Pre-Command Course) throughout the Air Force.
  - An evaluation of training effectiveness will be solicited at every training venue and will be aggregated by the Air Force SAPR office. Commanders will be held accountable to properly and regularly train unit members within their chain of command.
  - Training development has commenced and will be in place across all training venues by mid-August 2014.
  - A select group of sexual assault survivors will be involved in the training curriculum and content development, as directed in your May 6, 2013, memorandum.

COORDINATION: USD P&R

Attachments:  
As stated

- Section 1.8 in the Officer and Enlisted Evaluation AFI documents Evaluator responsibility and is titled *Evaluator Accountability*

- A1 added the following paragraphs:

1.8.2. Organizational Climate: Organizational climate is defined as the way in which members in a unit perceive and characterize their unit environment. All Airmen are responsible for creating a unit climate in which every member is treated with dignity and respect, and one that does not tolerate unlawful discrimination, sexual harassment, or sexual assault in any form. NCOs and officers are not only responsible for creating this environment but are also accountable for it. NCOs and officers can build a healthy unit climate by: communicating clear direction at all levels of supervision; adhering to and enforcing standards; not tolerating and, when necessary, appropriately responding to any form of sexual harassment, sexual assault, hazing, unlawful discrimination, or any other conduct harmful to the good order and discipline of the unit; being accountable for their actions; and cultivating an environment where teamwork, unity and cohesiveness are the standard practice.

1.8.2.1. All NCO and officer evaluators will assess their ratee(s) on what the member did to ensure a healthy unit climate.

1.8.2.2. Commanders at every level have an even greater responsibility to create a healthy climate in their command. Additionally, they are responsible for ensuring adherence to Sexual Assault Prevention (SAPR) Program directives. Command climate, just like organizational climate, is the perception of a unit's environment by its members. Commanders are ultimately responsible for the good order and discipline in their unit and have unique responsibility and authority to ensure good order and discipline. Therefore, evaluators must take this special responsibility and authority into consideration when evaluating a commander's effectiveness in ensuring a healthy command climate.

- Section 2.8 in the Officer and Enlisted Evaluation AFI documents how to prepare the performance feedback worksheet and is titled *Preparing the PFW*

- A1 added paragraph 2.8.5.1.1

**2.8.5.1. WHAT THE AFI CURRENTLY SAYS (no changes recommended):** Since the primary purpose of the initial feedback session is to establish expectations for the upcoming rating period, a rater is not expected to have already developed a clear-cut opinion of an individual's performance by the time the session is conducted. Therefore, raters will mark the Initial Feedback block under each standard of performance and provide comments on their expectations.

**2.8.5.1.1** It is mandatory for raters to include expectations for contributing to a healthy unit climate for airmen up to the grade of Senior Airmen. NCO and officer raters must also ensure that these subordinates are accountable for creating a healthy unit climate. Raters must ensure that every Commander knows he/she is responsible for, and will be held accountable for, ensuring their command has a healthy command climate.

**2.8.5.2 WHAT THE AFI CURRENTLY SAYS (no changes recommended):** For all other feedback types, the rater will indicate how the ratee is meeting the established expectations by marking either "Does Not Meet", "Meets", "Above Average", or "Clearly Exceeds". These markings do not directly translate to a rating on the evaluation, but provide an indication of how the ratee is meeting the expectations set forth by the rater and provides the basis for the feedback session discussion. Use the following definitions of performance assessment ratings when filling out PFWs:

300501

- Section 3.1 in the Officer and Enlisted Evaluation AFI documents general guidelines in preparing OPRs and EPRs and is titled *General Guidelines*
- A1 added the language in red to the current verbiage in paragraph 3.1.7.

3.1.7. Performance Factors (Section III and IX) and Rater/Additional Rater Overall Assessment, (Sections IV and V) – AF Form 707, *Officer Performance Report (OPR)*. **Note:** Commanders are held responsible for the *command climate* (refer to para 1.8.2.2.) and overall readiness of their unit and are ultimately accountable for its performance. As such, overall *command climate*, readiness and performance should be a major contributing factor when assessing a commander's performance.

- Tables 7.1 and 7.2 in the Officer and Enlisted Evaluation AFI documents general guidelines in preparing General Officer reports.
- A1 added the language in red to the current verbiage in tables 7.1 (for Form 78) and 7.2 (for Form 77)

Table 7.1 Block 11. Type comments in Times New Roman, 12 pitch. Limit comments to space provided. Include comments concerning the ratee's personal and professional characteristics with emphasis on the ratee's potential to assume a higher grade or increased responsibilities. Also, consider ratee's success in contributing to a healthy organizational climate, or command climate (if ratee is a commander). As supporting rationale, identify specific jobs where he or she could be used in a higher grade. If not being recommended for promotion, but is being recommended for further service in his or her current grade, identify options for future use. If an officer is the subject of a substantiated allegation, complaint, or investigation, or if the officer was removed from duty for cause, use this section to address issue. Do not consider or comment on marital status or the employment, educational activities, or volunteer service activities of his/her spouse. As applicable, include comments on achievements in implementing the recommendations of the Secretary of Defense's Report to the President on Defense Management of July 1989.

- Table 7.2 Block 11. Hand-write comments in dark blue or black ink. Limit comments to space provided. Include comments concerning his or her personal and professional characteristics with emphasis on potential to assume a higher grade or increased responsibilities. Also, consider ratee's success in contributing to a healthy organizational climate, or command climate (if ratee is a commander). As supporting rationale, identify specific jobs where he or she could be used in a higher grade. If not being recommended for promotion but is being recommended for further service in his or her current grade, identify options for future use. If an officer is the subject of a substantiated allegation, complaint, or investigation, or if the officer was removed from duty for cause, use this section to address issue. Do not consider or comment on the marital status or the employment, educational activities, or volunteer service activities of his or her spouse. As applicable, include comments on achievements in implementing the recommendations of the Secretary of Defense's Report to the President on Defense Management of July 1989.



## CHIEF OF NAVAL OPERATIONS

September 17, 2013

The Honorable Nita M. Lowey  
House of Representatives  
Washington, DC 20515

Dear Ms. Lowey:

Thank you for your letter dated August 5, 2013 and your continuing interest in the Navy's sexual assault program.

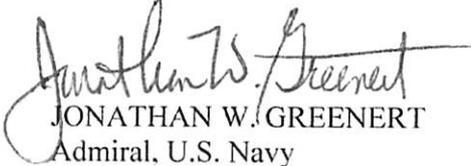
The United States Naval Academy has already implemented a series of actions in the areas of sexual assault prevention and victim support. These actions include best practices identified in the Great Lakes Sexual Assault Prevention and Response (SAPR) program, to include increased safety measures, alcohol de-glamorization, involvement with community civic and business leaders, and consistent messaging.

In addition to Great Lakes best practices, we have taken further actions to account for the unique aspects of life at a service academy. These actions include assigning the first specially trained, independent Victim's Legal Counsel to the Academy, tailored SAPR training for all students, faculty and staff, hiring two full-time civilian Sexual Assault Response Coordinators and two full-time civilian SAPR Victim Advocates, ensuring all students involved in sexual assault investigations sign confidentiality agreements, and screening all incoming students for prior sexual assault incidents.

All of these actions are now in effect at the Naval Academy. A detailed description of these actions can be found in VADM Mike Miller's letter dated July 30, 2013. We believe that incorporating the Great Lakes best practices with these additional measures will allow us to eradicate sexual assault from within our ranks.

I am closely monitoring progress at the Naval Academy and remain committed to ensuring Sailors and Midshipmen can work and live in a safe environment where they are treated with dignity and respect. I appreciate your support as we work to solve this problem.

Sincerely,

  
JONATHAN W. GREENERT  
Admiral, U.S. Navy

400456



## CHIEF OF NAVAL OPERATIONS

October 18, 2013

The Honorable Kirsten E. Gillibrand  
 United States Senate  
 Washington, DC 20350

Dear Senator Gillibrand:

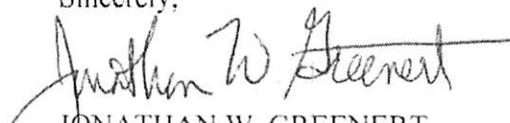
Thank you for your letter of September 30, 2013 concerning the Navy's process for evaluating personnel, and, in particular, Flag officers, on their contribution to command climate. I am committed to accountability at all levels and particularly for Navy Commanding Officers, Commanders, and Flag officers.

The process for evaluating the performance of Flag officers differs from that used for officers in the grades of O-6 and below. Navy O-7 Flag officers receive written fitness reports, and the guidance for completing those reports (chapter 19 (page 19-7/Block 37 – Military Bearing) of Bureau of Naval Personnel Instruction 1610.10C (attached)) was recently modified to specifically address cultivation of command climate. Flag officers are required to demonstrate they have cultivated or maintained command climates where discrimination of any kind, including sexual harassment, sexual assault, hazing, and other inappropriate conduct is not tolerated. Further, Flag officers must demonstrate they have created or maintained a command climate where all hands are treated with dignity and respect, and where professionalism is the norm. This written fitness report provides me and the O-8 selection board an evaluation of the individual officer's future potential.

Flag officers in the pay grades of O-8 to O-10 do not receive written fitness reports. Instead, I evaluate their performance through observation and consultation with my other four star Flag officers. Their annual command climate survey results are fully discussed with the next senior Flag officer in their chain of command to ensure full disclosure. Additionally, quarterly Sexual Assault Prevention and Response meetings provide an opportunity to evaluate trends across the fleet and identify where Flag officer leadership is having positive or negative impacts. Finally, I nominate O-8 Flag officers to positions at the O-9 and O-10 level based on their performance along several variables including their ability to execute guidance with regard to command climate.

I am committed to ensuring that every Sailor is treated with dignity and respect and that all Navy leaders are accountable for their command climates. Please let me know if I can be of further assistance on this important issue.

Sincerely,

  
 JONATHAN W. GREENERT  
 Admiral, U.S. Navy

Attachment: As stated

400457



DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
WASHINGTON NAVY YARD  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON DC 20374-5066

IN REPLY REFER TO

July 24, 2013

The Honorable Lindsey O. Graham  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Senator Graham:

Thank you for the opportunity to provide my position on current legislative proposals to remove commanders from the decision-making process for serious offenses under the Uniform Code of Military Justice (UCMJ). We share a common goal of eliminating sexual assault and other serious crimes from our ranks, providing adequate victim care and support, and ensuring offenders are held appropriately accountable. The right solution is one that responds to the problem and is properly tailored to avoid harmful second- and third-order effects. Most importantly, any legislative solution must account for both the critical role that commanders play in military justice and the due process rights of the accused. While I am receptive to legislative proposals that assist the military in confronting the challenge of sexual assault, proposals that seek to remove commanders from military justice may prove counterproductive to our efforts to respond effectively to allegations of sexual assault.

Effective, permanent change in our military must be implemented through commanders. The authority of the commander is the bedrock of our military structure. Commanders are responsible and accountable for the safety, health and welfare of their people; commanders must have authority commensurate with this responsibility, and that includes the authority to maintain good order and discipline. This authority is critical to the integrity and effectiveness of our fighting forces. Removing disciplinary authority over serious offenses denies commanders a vital enforcement tool to ensure a safe workplace, to maintain a healthy command climate promoting dignity and respect for all, and to field a force ready to execute the mission successfully – at sea and ashore, in peace and at war.

Some of the legislative efforts to eliminate or diminish the authority of the commander in the military justice system are premised on a belief that an independent decision-maker will encourage greater numbers of victims to come forward or will increase the number of offenders who are held accountable. Service members must be confident in our reporting process, and we must be sensitive to victims who fear that reporting an offense will lead to retaliation or stigmatization. The data suggest that victims choose not to report crimes of sexual assault for many reasons. Some may feel shame or embarrassment; others may feel that the accountability process will cause even greater trauma. Still others are concerned with retaliation; however, the retaliation they fear is typically from perpetrators and peers, not commanders. Removing the commander from the disciplinary decision-making process does not address this concern and may, in fact, exacerbate it. This conclusion is consistent with the experience of our allies, who have seen no correlation between victim reporting and their military justice systems. Regardless

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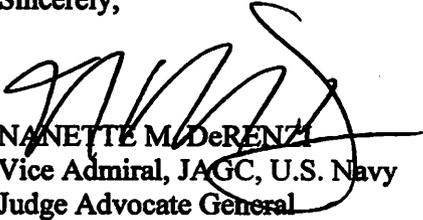
of who makes decisions to prosecute cases, commanders retain the responsibility to work proactively with victims in their commands to ensure they receive the care and support they require. That support includes providing medical treatment, victim advocacy and counseling assistance; facilitating expedited transfers upon request; issuing military protective orders; and, offering logistical and other support to assist the victim through the course of the investigation and military justice proceedings.

Today, commanders make informed disciplinary decisions with the advice of experienced Navy judge advocates who review investigative reports, assess the strength of each case, and make charging recommendations. Removing the commander from the decision-making process is, therefore, not likely to result in an increased rate of prosecution. In fact, contrary to the assumption that underlies the current legislative proposals, removing the commander from the decision-making process might result in fewer prosecutions and reduced confidence in our system. Unlike an independent judge advocate, commanders have a vested interest in the judicial process as a tool to further good order and discipline, and are therefore less likely to make disposition decisions based purely on the likelihood of conviction. The commander's interest is in the process, not necessarily the result. In my experience, commanders take their responsibility seriously and are committed to eradicating sexual assault, protecting the due process rights of the accused, and holding offenders appropriately accountable.

We must ensure that proposed changes to the military justice system do not adversely impact the interests of justice, the rights of crime victims, and the rights afforded the accused. This is particularly important as we consider legislative proposals that seek to fundamentally alter the structure of the current military justice system. To maintain the proper balance of these interests and ensure the system remains constitutionally sound and responsive, changes to the military justice system must be made with care, deliberation, and focused study. To that end, the Response Systems Panel created by Section 576 of the FY13 National Defense Authorization Act should be given the opportunity to complete its independent assessment of the systems used to investigate, prosecute, and adjudicate sexual assaults before legislating changes of this magnitude.

We remain committed to ensuring the military justice system works fairly, guarantees due process, maintains good order and discipline, provides justice to victims of crimes, and is accountable. I look forward to working with Congress on appropriate changes to the UCMJ that further these objectives. I am willing and ready to assist Members of Congress in understanding how various pieces of proposed legislation may help, or perhaps hinder, our efforts in this challenge. Thank you for the opportunity to provide my views.

Sincerely,



NANETTE M. DeRENZI  
Vice Admiral, JAGC, U.S. Navy  
Judge Advocate General

400459



DEPARTMENT OF THE NAVY  
CHIEF OF NAVAL OPERATIONS  
2000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

November 18, 2013

The Honorable Carl Levin  
Chairman, Committee on  
Armed Services  
United States Senate  
Washington, DC 20510-0000

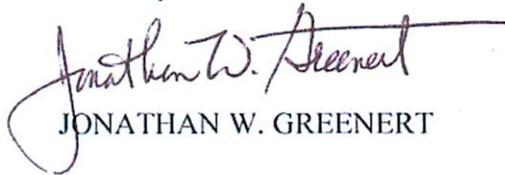
Dear Mr. Chairman:

This year the Navy implemented a series of actions to address sexual assault. These actions are divided along five specific lines of effort: prevention, investigation, accountability, advocacy, and victim support and assessment. Within these lines of effort, we are focused on providing comprehensive victim support, building trust in the system, ensuring professional command climates through commander leadership, and holding offenders appropriately accountable for their actions.

We are actively measuring progress along the five lines of effort through a variety of polls, surveys, and focus groups. While we are still compiling survey results for FY13, initial results indicate progress in our efforts. Enclosed is a summary of our 2013 Sexual Assault Prevention and Response program and initiatives; where available, metrics are also included.

Sexual assault is one of the greatest challenges we face in the Navy. I remain committed to ensuring all Sailors can work and live in a safe environment where they are treated with dignity and respect. I appreciate your support as we work to solve this problem.

Sincerely,

  
JONATHAN W. GREENERT

Enclosure:  
As stated

Copy to:  
The Honorable James Inhofe  
Ranking Minority Member

400460

## Navy 2013 Sexual Assault Prevention and Response Program and Initiatives Overview

Navy's Sexual Assault Prevention and Response (SAPR) Program is divided along five Department of Defense Lines of Effort: prevention, investigation, accountability, advocacy, and victim support, and assessment. Specific 2013 initiatives are detailed below by each line of effort, with a description of our efforts at the U.S. Naval Academy at bottom.

### **Prevention**

In FY13, Navy implemented a comprehensive, tailored Sexual Assault Prevention and Response training program that reached 100% of the Fleet. Training focused on consistent messaging, prevention, and intervention and was tailored to specific audiences from junior Sailors and new Accessions at Boot Camp, Reserve Officer Training Corps (ROTC) and Officer Candidate School (OCS), to fleet leadership.

In conjunction with the Department of the Navy's (DON) Sexual Assault Prevention and Response Office (DoN SAPRO), we conducted Fleet Workshops and Personnel Readiness Summits in Fleet concentration areas. These programs incorporated Bystander Intervention training and innovative sexual assault training (e.g., *Sex Signals, No Zebras*). We held a comprehensive Sexual Assault Awareness Month campaign in April along with a DoD-wide SAPR safety stand-down. These events provided opportunities to further open lines of communication and discuss safety and accountability.

Prevention best practices from the Great Lakes pilot program such as partnerships with local business and civic leaders and barracks patrols have been implemented in all Navy Fleet concentration areas. We are also leveraging the creativity and innovation of our junior Sailor-led Coalition of Sailors Against Destructive Decisions (CSADD) chapters and other peer-to-peer organizations in our sexual assault prevention efforts.

To get at factors contributing to sexual assault, we revamped our annual sexual harassment training curriculum to remove the "green light, yellow light, red light" system and have replaced it with a clear definition of acceptable and unacceptable behaviors. As part of our alcohol de-glamorization efforts Navy-wide, we removed all distilled spirits from MiniMarts (often co-located with barracks and ships), and restricted distilled spirit sales to main exchanges or dedicated package stores. We limited floor space dedicated to the sale and display of alcohol in locations other than package stores to no more than 10% of total retail floor space and moved them to the rear of facilities. Finally, we limited the hours for sale of alcohol to 0600-2200.

Navy SAPR Quick Poll results from FY13 indicate Navy's sexual assault prevention efforts are effective. 86% of Sailors surveyed agree that the Navy and their individual commands are taking actions to prevent sexual assault. Over 80% believe that their command leadership promotes a climate free of sexual assault and supports victims of sexual assault.

Additional prevention efforts include:

- Developed SAPR Strategic Roadmap
- Executed Navy wide SAPR-Leadership (officers and senior enlisted) and SAPR-Fleet (junior enlisted) training
- Developing SAPR-Sustainment training product that will leverage both SAPR-Leadership and SAPR-Fleet products and will be the foundational enduring training product

- In conjunction with DoN SAPRO, delivered (FY10 – FY13) Fleet Workshops and Personnel Readiness Summits to the Fleet concentration areas; programs incorporate Bystander Intervention training and innovative sexual assault training (e.g., *Sex Signals, No Zebras*)
- Deployed SAPR-Delayed Entry Program Training for future Sailors
- Established comprehensive, audience-focused SAPR training at every Navy entry point (Recruit Training Command, U.S. Naval Academy, ROTC, OCS)
- Updated prospective Commanding Officer/Senior Enlisted Academy SAPR course curriculum
- Made DoN SAPRO's Commander's Guide available to all prospective Commanding and Executive Officers and Senior Enlisted Leaders during Command Leadership Course
- Implemented annual Navy Flag Officer training
- Identified and implemented regional pilot program best practices throughout the Navy
- Implemented roving barracks patrols with the intent of increasing the visible presence of leadership to deter behavior that may lead to sexual assault or other misconduct
- Established Resident Advisors program for all Navy barracks and created indoctrination training requirements to improve safety of barracks residents
- Surveyed facilities to identify areas that require better lighting, visibility, or other safety improvements to reduce the vulnerability of Sailors
- Launched alcohol de-glamorization campaign and fielded Alcohol Detection Devices
- Made single-use alcohol detection devices available for sale in Navy Exchange facilities
- Created 16 SAPR Officer billets in the grade of O-4 or above for our most senior commands to improve program oversight
- Required SAPR-related Uniform Code of Military Justice training for all O-6 prospective Commanding Officers and Major Commanders, as well as most prospective O-5 Commanding Officers, Executive Officers and Officers in Charge
- Designated Flag Officers as the SAPR program leaders for each Navy installation/Fleet Concentration Area and associated local commands to increase the level of oversight of sexual assault cases
- Enhanced requirements for monthly Sexual Assault Case Management Group meetings for installation and unit leadership
- Mandated that command climate surveys be conducted within 90 days of a Commanding Officers assuming command and annually thereafter; results shall be reviewed by all units' Immediate Superior In Command (ISICs)
- Continued Sexual Assault Response Coordinator in-person briefings to Commanding Officers, Executive Officers and Senior Enlisted Leaders upon changes of command

### **Investigation**

All allegations of sexual assault (from contact to penetration offenses) are referred to the Naval Criminal Investigative Service (NCIS) for investigation. NCIS agents are specially trained to conduct adult sexual assault investigations. To decrease investigation timelines and increase capacity, the DON doubled sexual assault investigative resources in FY13, hiring 54 additional Special Agents, forensic scientists, and adult sexual crime investigators. There are now 108 agents dedicated to adult sexual assault cases, integrated into Adult Sexual Assault Program Teams deployed throughout fleet concentration areas. We have also increased sexual assault training resources for investigators and judge advocates who support the Navy's Special Victim Capability.

A multi-disciplinary approach allows investigators, trial counsel, and SAPR personnel to troubleshoot sexual assault investigations, prosecution, and victim care issues as they arise. This forms the basis of our Special Victim Capability. To further this goal, seamless coordination between NCIS and the Judge Advocate General (JAG) Corps is essential. Over the past year a pilot program was conducted initially with two NCIS Sexual Assault Task Forces, as part of their Adult Sexual Assault Program (ASAP), to ensure early collaboration and ongoing multidisciplinary review of cases at the senior trial counsel and supervisory special agent level. ASAP has been expanded to all fleet concentration areas except two, with plans to expand to those areas.

Furthermore, we instituted a comprehensive Sexual Assault Forensic Examination (SAFE) training program to enhance response to victims. To date, 97 Navy military treatment facilities (MTFs) are now capable of conducting SAFE. MTFs around the globe have trained a total of 324 Navy MTF SAFE providers. In U.S. Fleet Forces, 287 providers have been trained to provide SAFE care on 123 surface, air, expeditionary and submarine platforms. In U.S. Pacific Fleet, 191 providers have been trained to provide SAFE care on 142 surface, air, and submarine platforms. Additionally, 57 providers attached to the Military Sealift Command have undergone SAFE training.

Additional investigation efforts include:

- Mandated early trial counsel/NCIS collaboration & multidisciplinary review of cases
- Implemented Defense Sexual Assault Incident Database
- Continued specialized sexual assault training for military trial and defense counsel, including trial counsel attendance at the Army's Special Victim Unit Investigations Course

#### **Accountability**

The military justice system must be fair, effective and efficient. We have implemented O-6 level Sexual Assault-Initial Disposition Authority (SA-IDA) for cases involving allegations of rape, sexual assault, forcible sodomy, and attempts to commit those offenses.

Additional accountability efforts include:

- Integrated facilitated SAPR-Leadership training into the Navy's Command Leadership Course (mandatory for all prospective Commanding and Executive Officers and Senior Enlisted Leaders)
- Published court-martial outcomes on Navy public websites to make them available to both the Fleet and the general public
- Established Special Victim Capability
- Created and held first ever Special Victim Capability Course with judge advocates, Victim Advocates, paralegals and Legalmen
- Revised Fleet-wide message reporting requirements to include in-person Flag Officer notification and review
- Slated for assignment JAG Corps O-5s as Directors of Litigation in our three largest Region Legal Service Offices to enhance prosecution and mentoring

#### **Advocacy and Victim Support**

Our objective is to deliver consistent and effective victim support, response, and reporting options with the goal of providing high quality services and support. In so doing, we

will instill confidence and trust, strengthen resilience, and inspire victims to report. Reporting, advocacy coordination, medical services, legal support and counseling for the victim, as well as appropriate advocacy and legal support of the alleged offender, are the cornerstones of this effort.

Navy has seen an increase in both the total number of reported incidents of sexual assault and of victims converting from restricted to unrestricted reports. The number of reported incidents of sexual assault increased 50% from Q3 FY12 to Q3 FY13. We believe this increase is due to increased trust and confidence in Navy response systems. The category of reports with the largest percentage increase was for incidents occurring greater than 365 days prior to the report; this also suggests increased confidence and trust in the chain of command and the response system. Additionally, the rate of victims converting restricted sexual assault reports to unrestricted reports has steadily risen over the past several years, reaching a conversion rate of 19.1% in FY12. Conversion by victims making restricted reports may also indicate increased victim confidence and desire to participate in the military justice system.

Additional advocacy and victim support efforts include:

- Completed hiring and professionalization of Sexual Assault Response Coordinator (SARC) and SAPR Victim Advocate (VA) cadre, including establishment of SARC/SAPR VA certification program and specialized training
- Targeted assignment of SARCs in fleet concentration areas based upon sexual assault trend analysis to optimize intervention/prevention programs and victim support
- Targeted training by professional SAPR VAs to current cadre of over 3,000 volunteer uniformed VAs
- Published expedited transfer procedures. Enhanced victim command transfer requirements established to ensure timely adjudication of requests and transfer execution - includes provision for Flag Officer oversight of process.
- Redesigned victim response phone access
- Established SARC-certified civilian Deployed Resiliency Counselors (DRCs) program to ensure continuity of care for deployed victims. DRCs will deploy onboard aircraft carriers and amphibious assault ships to provide victims with another avenue for reporting and support. (First civilian SARC-certified DRC to be assigned in spring 2014.
- Implemented Victims' Legal Counsel (VLC) program by JAG Corps

#### **Assessment**

Our objective is to effectively standardize, measure, analyze, assess, and report program progress with the goal of incorporating responsive, meaningful, and accurate systems of measurement and evaluation into every aspect of the SAPR program.

Assessment occurs at multiple levels and will include Flag Officer engagements, Fleet Readiness Summits, quarterly reports to the Chief of Naval Operations (CNO), and face-to-face first Flag Officer reports of all sexual assault reports. Commanding Officers adhere to the established requirements to conduct the command climate assessment, which includes DoD-mandated sexual assault questions. Responses to these surveys are reviewed by the ISIC and briefed to members of the command. We will continue to monitor the Workplace and Gender Relations Survey and Navy Quick Poll results as metrics of survey reported sexual assaults in the Navy. We will continuously assess Navy's execution of SAPR lines of effort to achieve the behavioral and cultural change needed to drive down sexual assaults.

Additional assessment efforts include:

- Held quarterly 4-star Flag Officer SAPR discussions to review program progress with Fleet commanders and make adjustments as necessary to ensure effectiveness and responsiveness
- Formalized bi-weekly senior Navy leadership review of all incident reporting, trends and status of SAPR programs
- Established rigorous analysis of incidents to determine trends and identify causal factors to be addressed
- Required first Flag Officer reports to assess command climate factors
- Added Defense Equal Opportunity Survey SAPR questions to Navy command climate surveys
- Conducted SAPR Quick Poll (Apr 13)
- Launched DoN SAPRO SAPR Survey (Oct 13)
- Partnered with DoN SAPRO to establish recruit location/Military Entrance Processing Station assessments
- In conjunction with DoN SAPRO, implemented Initial Training schools (“A” School) site assessments
- Continued SAPR focused Quick Polling, and modified mandatory Command Climate surveying to provide improved SAPR feedback and assessment (FY10 – FY13)

### **U.S. Naval Academy**

In full partnership with DoN SAPRO, we have taken a series of comprehensive actions in 2013 at the Naval Academy to align their program with the five DoD lines of effort and DON resources and programs.

The year began with a Sexual Assault “Stampout” Stand-down where the Secretary of the Navy, CNO, Superintendent, Commandant of Midshipmen, and the SARC addressed the entire student body, faculty, and staff. This stand-down included SARC and SAPR VA-led small group discussions and training over a 3-day period. In addition to training, we implemented best practices identified in our Great Lakes pilot program such as increased safety measures, alcohol de-glamorization, involvement with community civic and business leaders, and consistent messaging.

To account for the unique aspects of life at a service academy, we have taken additional actions including assigning the first specially trained, independent VLC to the Academy, implementing tailored SAPR training for all students, faculty and staff, and professionalizing the victim advocacy and support cadre by hiring two full-time civilian SARCs and two full-time civilian SAPR VAs. All students involved in sexual assault investigations are now required to sign confidentiality agreements, and incoming students are now screened for prior sexual assault incidents.

Additional efforts include:

- Conducted SAPR-Fleet training for all Midshipmen
- Established a Sexual Harassment (SH)/Sexual Assault (SA) Task Force to assess Naval Academy culture, SH/SA education and response programs, including a detailed analysis by DoN SAPRO of the Naval Academy SAPR program. Task Force results have been implemented including:

- Hired two full-time civilian SARCs and two full-time civilian SAPR VAs
  - Moved SAPR advocacy services, including co-locating SARCs, SAPR VAs, and VLCs in offices removed from company common areas to promote confidentiality
  - Ensured SARC direct access to Superintendent and Commandant of Midshipmen
  - Created a standing advisory panel to ensure dynamic adjustment of SAPR program
- Enhanced watch standing on weekend nights to improve safety of the Brigade, including additional roving watches through living spaces from 2300-0600 and additional watches at external gates to the Academy
  - As part of an aggressive alcohol de-glamorization campaign, implemented Alcohol Detection Devices across the Brigade and provided Portable Alcohol Detection Devices in the Midshipmen Store. Incorporated alcohol training in Sponsor family training and the Sponsor Memorandum of Understanding.
  - Completed annual command climate survey for staff personnel, with appropriate follow-up to ensure the staff creates a proactive, positive culture that fosters core values and ethical behavior
  - Implemented a DoN SAPRO survey in May and focus groups in November to expand our insight into the incidents of sexual assaults and factors that contribute to reporting and to evolve Academy prevention and support programs



THE SECRETARY OF THE NAVY  
WASHINGTON DC 20350-1000

October 28, 2013

MEMORANDUM FOR SECRETARY OF DEFENSE

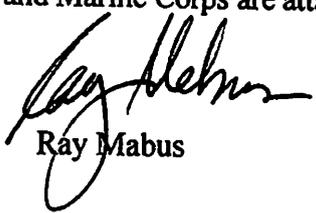
SUBJECT: Report on Enhancing Commander Accountability

Your memorandum of May 6, 2013, directed the military Service Chiefs to develop methods to assess and hold commanders responsible for their performance in establishing command climates of dignity and respect and incorporating Sexual Assault Prevention and Response (SAPR) prevention and victim care principles in their commands.

The Chief of Naval Operations, the Commandant of the Marine Corps, and I share a deep respect for the challenges faced by commanders at all levels, and we are equally committed to the fundamental tenant that commanders are ultimately responsible for the command climate of their units. This is not a new concept, and individual evaluation processes of both Services have long provided mechanisms for assessing commander performance.

In specific response to your tasking, the Navy has updated the rating criteria for officer fitness reports and enlisted evaluations, and has implemented additional initiatives to prevent sexual assaults – some focused directly on leadership presence. The magnitude of Marine Corps effort has been similar. They continue to implement and discuss additional methods to foster healthy command climates, to include reviewing their performance evaluation system, creating a standardized approach to reporting and reviewing command climate survey results, conceptualizing command climate as a key component of leadership instruction, and increasing the transparency of accountability for misconduct.

Individual responses from the Navy and Marine Corps are attached.

  
Ray Mabus

Attachments:  
As stated

cc:  
USD(P&R)

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ZEN/NAVADMIN

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SUBJ: NAVY PERFORMANCE EVALUATION CHANGES

UNCLASSIFIED/ PASS TO ALL OFFICE CODES:

FM CNO WASHINGTON DC//N1//

TO NAVADMIN

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NAVADMIN 216/13

MSGID/GENADMIN/CNO/WASHINGTON DC//N1/AUG//

SUBJ/NAVY PERFORMANCE EVALUATION CHANGES//

REF/A/DOC/BUPERS/20APR11//

REF/B/MSG/CNO WASHINGTON DC//N00/181228ZJUL13//

NARR/REF A IS BUPERSINST 1610.10C, THE NAVY PERFORMANCE EVALUATION SYSTEM.

REF B IS NAVADMIN 181/13, IMPLEMENTATION OF NAVY SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM INITIATIVES.

RMKS/1. This NAVADMIN is to announce the release of change transmittal 1 to

(a). This change to the performance system reinforces the importance of evaluating Sailors on their contributions to Command or Organizational Climate/Equal Opportunity and Military Bearing/Character, and provides guidance on evaluating performance in these two areas.

2. Every Sailor is accountable on every evaluation or fitness report for contributions to Command or Organizational Climate/Equal Opportunity and Military Bearing/Character. I want to reinforce to raters the importance of these two performance traits. These changes should be viewed as complementary and synchronized with the command climate survey outcomes provided to commanding officers and immediate superiors in command in ref (b). To achieve high marks in these areas, Sailors must demonstrate how they have cultivated or maintained command climates where improper discrimination of any kind, sexual harassment, sexual assault, hazing, and other inappropriate conduct is not tolerated; where all hands are treated with dignity and respect; and where professionalism is the norm.

3. A summary of the change transmittal follows:

- a. No changes were made to the actual FITREP and EVAL forms.
- b. Command or Organizational Climate/Equal Opportunity and Military Bearing/Character traits. The guidance reporting seniors should use when evaluating subordinates has changed. Blocks "34" and "35" on officer fitness reports, "35" and "37" on chief petty officer evaluations and blocks "35" and "36" on enlisted evaluations are now required to early evaluate how a Sailor has directly contributed to, improved, or maintained a productive and professional command climate.
- c. To achieve high marks in the above blocks, Sailors must demonstrate

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how they have cultivated or maintained a positive command climate. These blocks will be used to show how each Sailor reinforces a climate where sexual harassment, sexual assault, hazing, discrimination of any kind, and other appropriate conduct are not tolerated.

4. An electronic downloadable copy of this change transmittal is available at <http://www.public.navy.mil/BUPERS-NPC/REFERENCE/INSTRUCTIONS/BUPERSINSTRUCTIONS/Pages/default.aspx>

5. Point of contact is Mr. James A. Price at (901) 874-4857/DSN 882 or via e-mail at [james.a.price@navy.mil](mailto:james.a.price@navy.mil).

6. Released by Vice Admiral W. F. Moran, N1.//

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NAVADMIN 181/13

MSGID/GENADMIN/CNO WASHINGTON DC/N00/JUL//

SUBJ/IMPLEMENTATION OF NAVY SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM  
INITIATIVES//

REF/A/DOC/DODINST 6495.02/28MAR13//  
REF/B/DOC/OPNAVINST 1752.1B/29DEC06//  
REF/C/DOC/OPNAVINST 5354.1F CH-1/20SEP11//  
REF/D/DOC/OPNAVINST F3100.6J/4OCT11//  
NARR/ REF A IS DODINST 6495.02, SEXUAL ASSAULT PREVENTION AND RESPONSE  
PROGRAM  
PROCEDURES. REF B IS OPNAVINST 1752.1B, SEXUAL ASSAULT VICTIM INTERVENTION  
PROGRAM.  
REF C IS OPNAVINST 5354.1F CH-1, NAVY EQUAL OPPORTUNITY POLICY. REF D IS  
OPNAVINST F3100.6J, SPECIAL INCIDENT REPORTING PROCEDURES.//  
POC/PAUL ROSEN/CAPT/OPNAV N17/TEL: (703)604-5041/TEL: DSN 664-5041/E-MAIL:  
PAUL.S.ROSEN(AT)NAVY.MIL//

RMKS/1. This NAVADMIN directs organizational changes and Fleet-wide implementation of the initiatives successfully piloted in the San Diego Fleet Concentration Area and Fleet Training Center, Great Lakes in support of the Department of the Navy Sexual Assault Prevention and Response (SAPR) Program. These changes and initiatives will build upon the existing guidance and direction in references (b) through (d). Accountable personnel will make changes to applicable programs and instructions to institutionalize these endeavors.

2. The following organizational changes are effective immediately:
  - a. Director, Twenty-First Century Sailor Office (OPNAV N17) is designated as the Chief of Naval Operations SAPR Officer and will direct the implementation of Navy-wide SAPR efforts on behalf of the CNO and VCNO.
  - b. Chief of Naval Personnel will provide a dedicated SAPR Officer in the grade of O-4 or above to the following commands: U.S. Fleet Forces, U.S. Pacific Fleet, U.S. Naval Forces Europe, U.S. Naval Forces Central Command, Naval Surface Forces, Naval Submarine Forces, Naval Air Forces, Bureau of Medicine and Surgery, Navy Expeditionary Combat Command, the Systems Commands (NAVSEA, NAVAIR, SPAWAR, NAVFAC), and U.S. Fleet Cyber Command. These designated SAPR Officers will report directly to their respective Commander.
  - c. Commander, Navy Installations Command (CNIC), in conjunction with appropriate Navy Component Commands (BSO), will begin the process of hiring, training, and assigning Deployed Resiliency Counselors (DRC) to CVN and LHD/LHA commands. The DRC is a dedicated civilian professional with Sexual Assault Response Coordinator (SARC) training, certification, and credentials who is able to take restricted and unrestricted reports of sexual assault and

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connect victims with the spectrum of care and available assistance. DRCs will deploy with Carrier Strike Groups, Expeditionary Strike Groups, and Amphibious Ready Groups to provide professional support continuity to deployed Sailors to ensure victims remain connected to resources throughout their deployment. These individuals should be in place by the end of FY14.

3. Fleet Commanders (USFF, CPF, CNE, CUSNC) will be the Supported Commanders, and Regional/Installation Commanders will be the Supporting Commanders, for the implementation of the following actions no later than (NLT) 1 October 2013.

a. Institute roving barracks patrols with the intent of increasing the visible presence of leadership to deter behavior that may lead to sexual assault or other misconduct. All Fleet unit commands (afloat and shore) with Sailors living in barracks will participate in these patrols. For standardization, patrols will be conducted in accordance with region/base guidance and training. Roving patrols will be led by Chief Petty Officers and/or experienced Officers (O-3) and augmented with First Class Petty Officers. The timing, composition, frequency, and duration of these tours will be tailored at each location based on guidance from the Fleet Commander.

b. Ensure all Sailors residing in barracks attend indoctrination training within 30 days of occupancy.

c. Ensure personnel screened and assigned as barracks Resident Advisors (RA) are mature, effective leaders. Personnel selected as an RA must be First Class Petty Officers or above and are required to attend RA training. CNIC will verify standardized RA training, to include their role in preventing sexual assaults, is in place NLT 31 July 2013.

d. Conduct surveys of facilities to identify areas that require better lighting, visibility, or other safety improvements to reduce the vulnerability of Sailors while walking on base.

e. Designate a Flag Officer, reporting to you, as the SAPR program leader for each Navy installation/Fleet Concentration Area and associated local commands. This designated Flag Officer will establish routine coordination meetings with appropriate installation/local command representatives, and local community and civic leaders to review SAPR program efforts. This designated Flag Officer will also ensure that community outreach and engagement--including base and region commander cooperation, coordination and consultation with local law enforcement, hospitals and hotels--is part of each area's prevention and response measures. Operational Flag Officers assigned to command positions, but not designated as lead for an oversight group, will participate to the maximum extent practicable. Local Naval Criminal Investigative Service (NCIS) representatives, Region Legal Service Offices, and installation SARCs will be included in these coordination meetings whenever possible.

f. Ensure monthly Sexual Assault Case Management Group meetings, chaired by the installation Commanding Officer (CO) or Executive Officer (XO), are conducted as required by references (a) and (b). XOs must attend these meetings when their command has an active case and the unit is at home station. During periods when the unit is underway or deployed, the Immediate Superior in Command (ISIC) or another appropriate representative will attend.

g. Ensure installation and regional SARCs and Victim Advocates continue to have appropriate access to command spaces to perform their duties.

h. Provide quarterly consolidated reports to OPNAV N17 (reporting requirements to be published SEPCOR).

4. All commands are directed to take the following actions:

a. Review their compliance with reference (c) and ensure command climate surveys are conducted within 90 days of the CO assuming command, and annually

thereafter.

b. If not already completed, conduct a face-to-face debrief of their most recent command climate assessment with their ISIC using the Defense Equal Opportunity Management Institute Organizational Climate Survey, to include a plan of action and milestones for corrective actions. ISICs will certify completion via their administrative chain of command.

c. NLT 31 July 2013, ISICs will have full visibility of their units' command climate survey data and any future command climate surveys. This requirement for ISIC review and full visibility of command climate results complies with recent Department of Defense (DoD) guidance and applies to all commands.

d. Commanding Officers are to use the Sexual Assault Prevention and Response Commander's Guide in shaping their command program. Guides are distributed at Major Command, PCO, and PXO courses at Command Leadership School. An electronic copy of the guide may be viewed on the Navy Personnel Command's Sexual Assault page at the following link

<http://www.public.navy.mil/bupers-npc/support/readiness/Pages/SexualAssault.as>

px. Commands may request additional copies via email from the Department of Navy Sexual Assault Prevention and Response Office (DoN SAPRO). DoN SAPRO POC is Lori Zinck, lori.zinck(AT)navy.mil, COMM (703)695-4211.

e. In accordance with reference (a), COs, XO's, and Command Master Chiefs will complete the SARC Commander's Toolkit brief with the regional or installation SARC and report completion to their ISIC.

f. Review command policies to ensure adherence to reference (d) requirements regarding the submission of OPREPs/Unit SITREPs and Sexual Assault Incident Data Collection Reports (NAVPERS Form 1752/1).

5. For your awareness, the Acting Director, NCIS will be submitting a plan to the Department of the Navy Assistant for Administration to hire and fund sufficient NCIS Special Agents and Investigators to surge the initial response and further enhance the timeliness of sexual assault investigations.

6. The above actions have proven effective at Training Support Center, Great Lakes and in the San Diego Fleet Concentration Area in improving the safety of our Sailors and reducing incidents of sexual assault. Our leadership is demonstrated in our commitment to the safety and security of our Sailors. While these actions are primarily focused on prevention, they also serve as a deterrent and reinforce our Commander's responsibility for victim support. Victims of sexual assault must be assured that they will be supported, they will be provided options in accordance with DoD guidance, their allegations will be investigated, and that offenders will be held appropriately accountable. I appreciate your leadership and support of this important effort across the Fleet.

7. Released by the Chief of Naval Operations.//

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DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL RD.  
QUANTICO, VIRGINIA 22134-5103

SEP 19 2013

MEMORANDUM FOR THE SECRETARY OF THE NAVY

Subj: ENHANCING COMMANDER ACCOUNTABILITY

Ref: (a) Secretary of Defense Memorandum dated 06 May 2013

1. The reference directs each service develop methods to assess military commanders' performance in establishing command climates of dignity and respect and in incorporating Sexual Assault Prevention and Response (SAPR) principles in their commands. Furthermore, the reference directs each service to hold commanders accountable. This memorandum provides a response to this task.
2. Accountability for unit command climate is a time honored leadership responsibility and the Marine Corps holds accountable those Commanding Officers who negligently or willfully allow unhealthy command climates. Leadership is both art and science; command climate is an aspect of leadership that weights itself on the side of art. Our efforts to enhance commander accountability focus on engaged leadership, the power of example, and justice tempered with mercy.
3. The Commandant directed a Leadership Summit on July 15-16 for all Commanding Generals, Commanding Officers and their Senior Enlisted Advisors. Hosted by Lieutenant Generals, the summit underscored how the ripple effects of command climate impact the lives of individual Marines, the effectiveness of the unit, and the overall strength of the Corps. In addition, the Commandant hosted Commander's Course for new Commanding Officers has been updated to include several hours of instruction and small group discussion focused on ethical decision-making, accountability, and establishing a positive and professional command climate. Finally, ethics and accountability were main topics of discussion at the most recent Marine Corps General Officer Symposium.
4. We continue to implement and discuss additional methods to foster healthy command climates including; reviewing our performance evaluation system to ensure it promotes command climate accountability, creating a standardized approach to reporting and reviewing command climate survey results within the chain of command, conceptualizing command climate as a key component of leadership instruction within the continuum of our formal schools through ethical decision games, reviewing the potential benefits of conducting 360° assessments for O-5/O-6 Commanding Officers, and increasing the transparency of accountability for misconduct.
5. The Marine Corps continues to prioritize developing leaders and commanders who are characterized by the highest standards of personal character and professional competence. We will continue to employ and consider new assessment tools so that when commanders fail to meet these standards, they are held accountable, for the good of their units and the Marine Corps as a whole.

  
R. E. MILSTEAD, JR.  
Deputy Commandant for  
Manpower and Reserve Affairs

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# NLSC

## Military Justice Improvement Act

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Code 63

279012



# Impact of Military Justice Improvement Act

400475

- The Military Justice Improvement Act (MJIA) of 2013
- Offenses excluded by the act (CA can make the decision) are:
  - Articles 83 through 117
  - Article 133
  - Article 134 (all offenses)
  - Any other offense where the maximum punishment is less than one year
- All other offenses are included under the act (disposition would be outside of current CA construct).
- The numbers are based on CY disposition of a case
  - Disposition = conviction, acquittal, or withdrawal of a case.
    - Did not include cases that went to Alternate Disposition (e.g., NJP, Administrative Separation)
  - If one offense on the charge sheet fell under the Act (i.e., would not allow disposition by a current CA), then we counted the case because all known offenses are charged at the same forum.
- MJIA strikes all General Court-Martial Convening Authorities below the Secretary level.
  - All GCM offenses (including the excluded ones) would have to be referred to the new Convening Authority Offices.
  - As a practical matter, CNO will need to redesignate most or all GCMCAs, not only to convene courts in a timely manner for offenses not covered by the Act, but also to exercise the administrative responsibilities assigned to GCMCAs (e.g., reviewing administrative separations, Article 138 complaints, etc.).
  - It is unclear if CNO could redesignate existing GCMCAs without running afoul of Congressional intent.

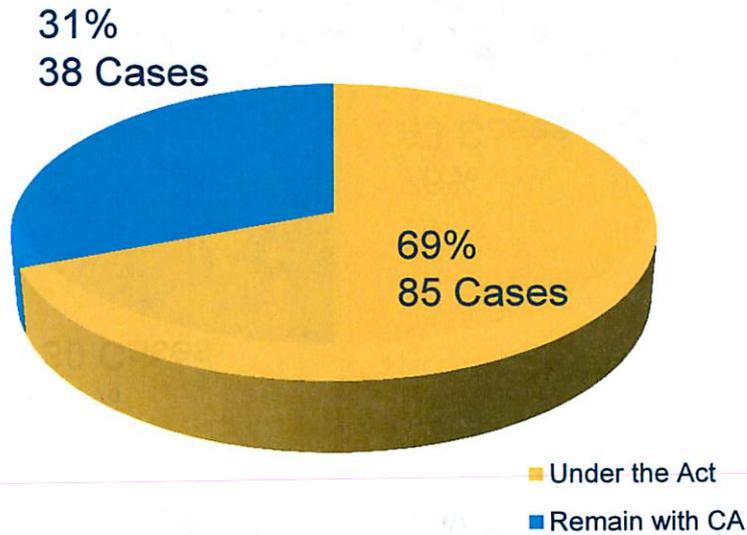


CY 2011

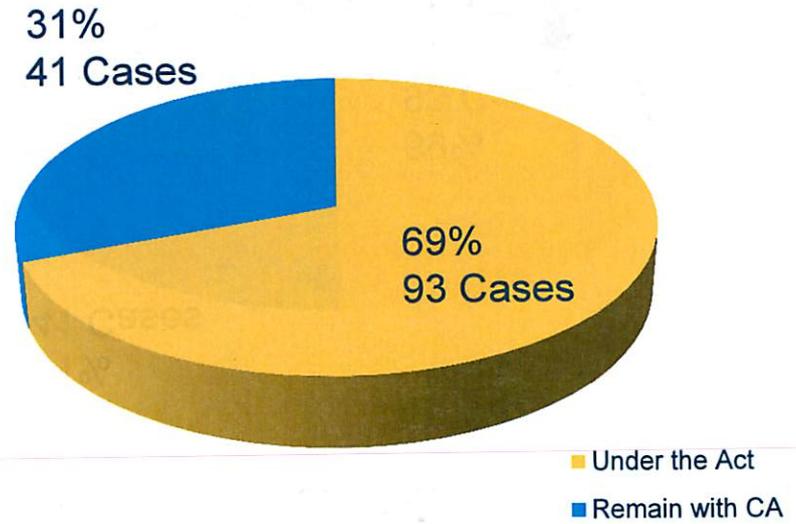
# Military Justice Improvement Act Potential Cases

400476

### General Courts-Martial



### Special Courts-Martial



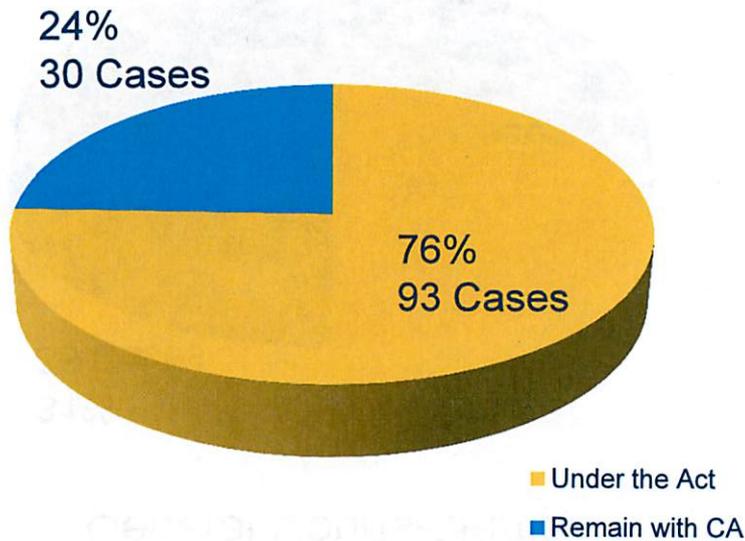


CY 2012

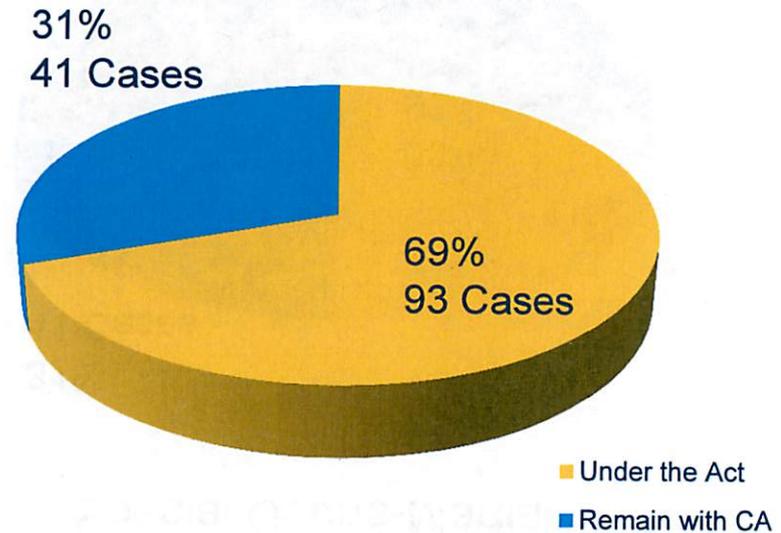
# Military Justice Improvement Act Potential Cases

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### General Courts-Martial



### Special Courts-Martial

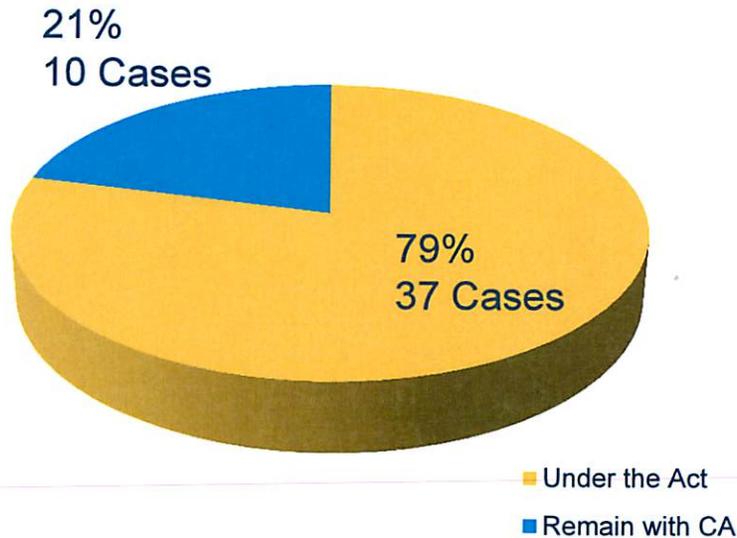




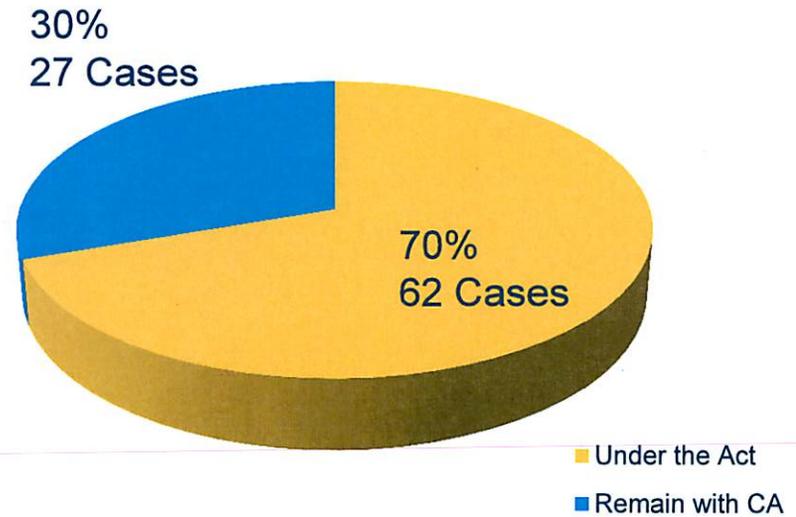
# CY 2013 (1 Jan – 31 May) Military Justice Improvement Act Potential Cases

400478

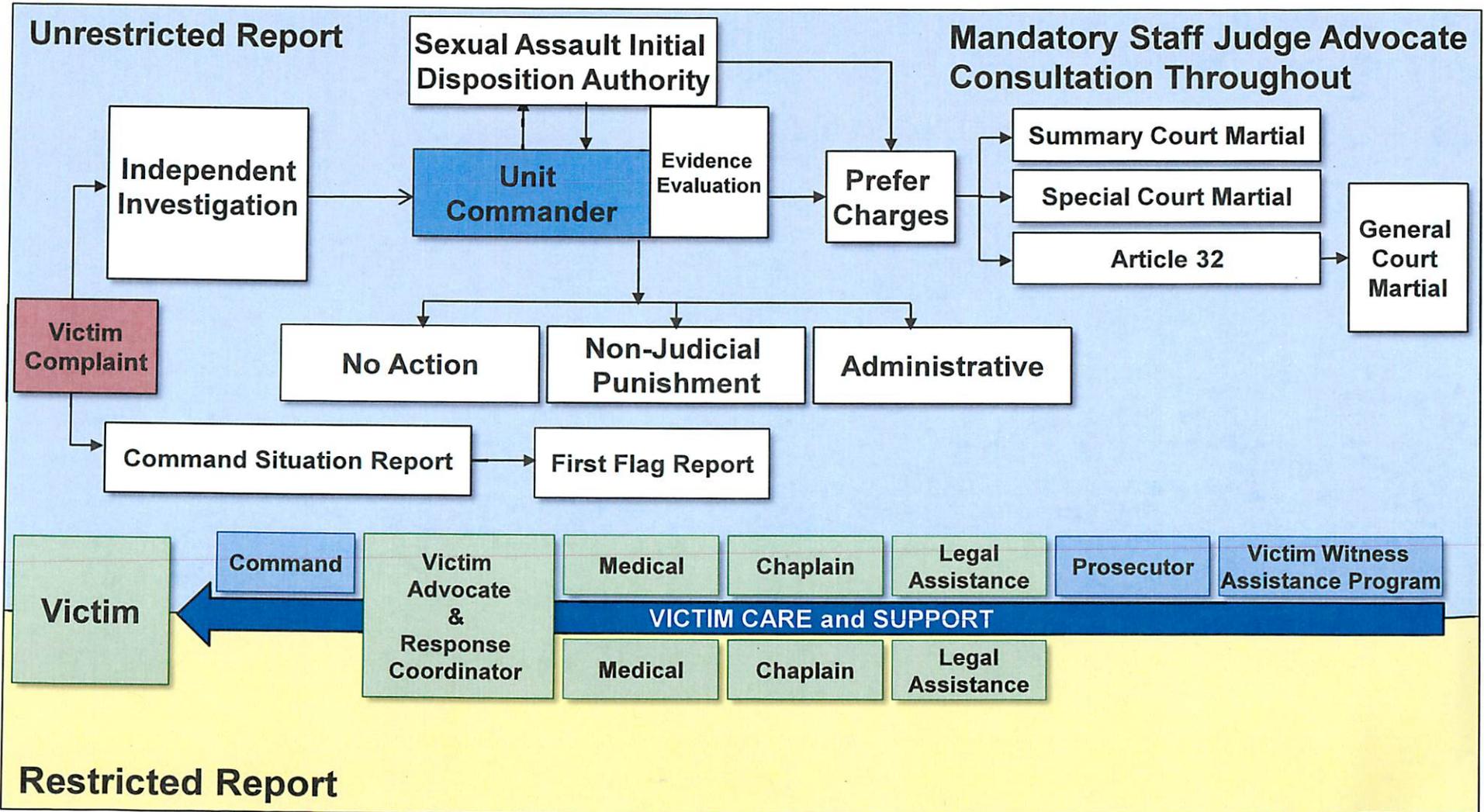
### General Courts-Martial



### Special Courts-Martial



# SAPR Process





THE SECRETARY OF THE NAVY  
WASHINGTON DC 20350-1000

June 14, 2013

The Honorable Barbara A. Mikulski  
United States Senate  
Washington, DC 20510-2003

*Mullen Chairman*  
Dear ~~Senator~~ Mikulski:

Thank you for your telephone call on June 4, 2013. I not only share your concern about sexual assaults in the military, I am angry about them. Civilian and uniformed Navy leaders must do all we can to protect Sailors and Marines on and off the deck plates and battlefields. We would not stand by if individual Sailors and Marines were attacked by someone wielding a gun. We will not accept any attacks against our own. Sexual assault is a crime and a crime that threatens the tradition and camaraderie essential to our warfighter ethos.

One of my first acts as Secretary was to create the Sexual Assault Prevention and Response Office, headed by one of the most senior Executive service members in the Department. Unique among the services, she reports directly to me. In three years, we have steadily implemented changes to prevent sexual assault; remove cultural and other barriers to reporting, including providing better support for victims; enhance our ability to investigate and prosecute cases; and measure our progress. We have seen real results at locations where we have tested new programs. In 2010, the Navy implemented sexual assault prevention efforts at Training Support Command Great Lakes. For 26 months, reported incidents of sexual assaults have declined 66 percent.

Along with this letter, I've included a summary of some of our most effective programs and a comprehensive list of every program, resource, or policy change directed at sexual assault prevention and response since 2009.

Despite all those efforts, it is clear that we have not done enough. One sexual assault is too many; one unreported sexual assault means we have not fixed the concerns that stop too many victims from coming forward. I am reviewing dozens of proposals; some long term, some requiring Congressional Action, to build on our prevention and response programs. But there are steps we can and will take immediately.

First, I have directed funds to hire additional specially trained and dedicated Naval Criminal Investigative Service (NCIS) agents for the Family and Sexual Violence (F&SV) Program. NCIS currently has 1,370 active F&SV investigations and 54 Special Agents. The appropriate caseload is 10-12 cases per F&SV Special Agent, but the

average today is 25 cases. These additional agents will help reduce individual caseloads and reduce the length of typical investigations from 180 to 80 days, and we will continue working to conclude investigations even more quickly.

Second, if a Sailor or Marine is removed from service because of a sexual assault conviction, we will make the dismissal public, regardless of the individual's rank. The Navy has a strong tradition of disclosing wrongful conduct of our Commanding Officers both as a deterrent, and as a demonstration of our commitment to the core values of honor, courage, and commitment. A Sailor or Marine convicted of sexual assault has brought dishonor on themselves and has sullied these values, and has no place in the military.

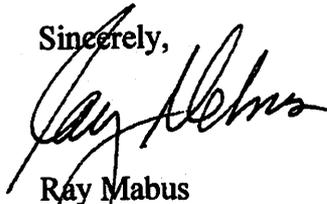
Third, we have started a pilot sexual assault prevention program for Sailors in San Diego using the Great Lakes programs as a model.

Finally, we are establishing evaluation standards so we can identify successful programs and execute Fleet-wide roll-outs as quickly as possible. For example, we are collecting data from the "A" School in Pensacola, including conducting an electronic survey of all graduates, which we will use to tailor the Great Lakes Program to the particular circumstances present at Pensacola Naval Air Station. I will soon release an updated Department-wide instruction on Sexual Assault Prevention and Response that includes requiring each service to identify four milestones for monitoring and reporting on the program's effectiveness directly to me.

We also need to change the culture in the military to remove two key obstacles to preventing assaults. First is the perception of some that sexual assault is not a real problem. I will continue to impress upon our leadership and our enlisted Sailors and Marines that sexual assault against a service member is a grievous crime, and we take it seriously. Accordingly, I have ordered a Fleet-wide stand down on sexual assault. The first 2-hour mandatory training session for every Sailor and Marine began this week. Second is the apparent perception that a victim who reports will be ostracized, will suffer in their career, or worse. We must change that perception and improve confidence in the process within the military.

I am grateful for your focus on this issue, and for your support of the military. I hope we can continue an open and productive dialogue as we move forward, and I am standing by to answer any questions you may have.

Sincerely,



Ray Mabus

*Thank you so much, Senator, for all you are doing.*

Enclosures:

As stated

## **Department of the Navy Highlights on Sexual Assault Prevention, Reporting, Victim Support, Investigation and Metrics**

### **Prevention**

- The Department of the Navy (DON) initiated more direct involvement by senior civilian and military leadership to emphasize the importance of preventing sexual assaults, supporting victims, and providing the resources necessary to fully investigate any allegations. During his Spring 2012 Heritage Brief Tour, which included stops at over 25 bases and stations, the Commandant of the Marine Corps (CMC) and Sergeant Major of the Marine Corps urged all senior enlisted members and officers to establish a command climate in which Marines are held to the highest traditions and standards of the U.S. Marine Corps (USMC). This tour helped to deepen the engagement of all leaders and to reinforce the message that leadership will take reports of sexual assault crime seriously. In 2013, the Secretary of the Navy, the Chief of Naval Operations, the U.S. Naval Academy (USNA) Superintendent and Commandant addressed the Brigade on sexual assault and the Superintendent, Commandant, and Sexual Assault Response Coordinator (SARC) addressed the Brigade during reform.
- In 2010, the Navy implemented sexual assault prevention efforts at Training Support Command Great Lakes. For 26 straight months, reported incidents of sexual assaults have declined a total of 66 percent. The Navy is applying lessons learned at Great Lakes to other areas.
- Alcohol is the single most often cited contributor to sexual assault. This year, the Navy implemented a fleet-wide program where duty sections reporting to work will take a breathalyzer test. A similar USMC program will begin later this year. The Alcohol Detection Device (ADD) will be used as a training and prevention tool to identify and direct appropriate counseling or treatment before any career or life-altering incidents happen, including sexual assault. Pilot programs using these tests have shown a marked reduction in alcohol related incidents.
- The Department of the Navy has reached hundreds of thousands of Sailors and Marines with training and information about sexual assault prevention in the military:
  - 300,000 Sailors have completed Sexual Assault Prevention and Response (SAPR) Leadership training for handling allegations sexual assault in their command or Fleet baseline training focusing on individual responsibility, bystander intervention and responsible decision-making. Innovative Bystander Intervention training at "A" Schools teaches Sailors how to recognize situations which may potentially result in negative outcomes and safely intervene.
  - Thousands of Sailors and Marines deployed around the world have attended live stage presentations designed to improve awareness about sexual assaults.
  - Through its SAPR CAMPAIGN PLAN initiated in June 2012, USMC has conducted General Officers SAPR Symposium; SAPR training at the Sergeants Major

Symposium; Command Team Training for all Commanding Officers and Sergeants Major; "Take A Stand," bystander intervention training, for noncommissioned officers; and All Hands training for every Marine. Training for prospective commanders and senior enlisted leaders was updated to meet all core competencies and set learning objectives as defined by the Secretary of Defense and includes further training direction from the CMC. USMC SAPR Campaign Plan training programs includes Ethical Decision Games (EDGs) and other training materials designed to reduce stigma and to promote bystander intervention.

- The Marine Corps Recruiting Command is requiring all Enlisted and Officer Applicants receive training on sexual assault.
- From 2009-2011, DON convened annual sexual assault seminars where senior military and civilian leaders met with civilian experts, victims of sexual assault, SARCs, shore installation and regional commanders.
- The Navy is providing grass roots peer-to-peer mentoring and SAPR strategic messaging through the over 200 chapters of the Coalition of Sailors Against Destructive Decisions (CSADD).

### **Reporting and Victim Support**

- Since 2009, DON Office of Sexual Assault Prevention and Response (SAPRO) has conducted over 100 specific site visits to Navy and Marine Corps locations world-wide to assess field-level SAPR program performance. The Navy hired 66 SARCs and 66 SAPR Victim Advocates (VA). The USMC has strengthened credentialing requirements for SAPR personnel and increased the number of SARCs and VAs in the field.
- Phase II of the USMC Campaign Plan is focused on victim care and the flagship initiative is the Sexual Assault Response Team (SART), on track for completion by September 2013. SARTs is a collaboration with NCIS, legal, medical, and other entities, working together in an effort to help keep the victim connected to the process. Phase III of the Campaign Plan has a conditions-based timeline and will focus on providing commanders at all levels the requisite support to effectively sustain SAPR initiatives.

### **Investigation**

- 5,000 Navy and Marine Corps officers and senior enlisted personnel received special leadership training by a civilian expert in sexual assault criminal investigation and offender profiling in an effort to improve their command-level case management decisions. The training was intended to give them new perspectives about victims and not dismiss the possibility that seemingly "nice guys" could actually be perpetrators.

- NCIS Sponsored three advanced training courses for investigators: Advanced Family and Sexual Violence training, the Advanced Adult Special Victims training and the NCIS/OJAG/JAM Mobile Training Team (MTT) course on "Sexual Assault Investigation and Prosecution." NCIS also created the Adult Sexual Assault Program (ASAP), which links specially trained investigators into teams to expedite the investigative process and enhance continuity between NCIS, judge advocates, healthcare providers and victim witness assistance personnel.
- In FY-12, hundreds of uniformed judge advocates from the Navy and Marine Corps received specialized training to improve their ability to assist clients involved in sexual assault cases.
- In 2012, DON-SAPRO distributed over 15,000 copies of their new SAPR Commander's Guide that includes specific suggestions on command management of local sexual assault cases.
- The Marine Corps reorganized its legal community to increase training and expertise available for prosecuting complex cases such as sexual assault. The new regional model became fully operational late last year and makes sure the right prosecutor, with the appropriate training, expertise, supervision, and support staff, on the right case, regardless of location.
- In October 2012, the Marine Corps implemented SAPR 8-Day Briefs, an additional tool designed to guarantee leadership engagement at the onset of each case. For all unrestricted reports of sexual assault, the victim's Commanding Officer must complete a SAPR 8-Day Brief to ensure that victim care resources are being provided. SAPR 8-Day Briefs include the Commanding Officer's assessment and a timely way ahead, and are briefed within eight days of the report to the first General Officer in the chain of command. The reports are briefed quarterly to the Assistant Commandant of the Marine Corps. The analysis of the data compiled utilizing SAPR 8-Day Briefs also provides us with a more immediate assessment and surveillance opportunity, helping us to identify trends to further inform our prevention and response efforts.

### **Metrics**

- Since 2009, DON-SAPRO has reviewed and categorized over 1900 case synopses from the Naval Criminal Investigative Services to identify those groups at greatest risk, their alleged assailants, and the circumstances surrounding reported assaults.
- In 2011, DON-SAPRO conducted an anonymous, web-based, Department-wide sexual assault survey of 115,000 Sailors and Marines to explore the underlying incidence of sexual assault and contributing factors. DON-SAPRO recently completed a similar survey of all Midshipmen at the United States Naval Academy.

- Navy identified locations for additional SARC/VA resources based on sexual assault trend analysis.
- Implementation of Regional Program best practices by tailoring our SAPR program to unique aspects of Navy Regions world-wide.

## **Department of Navy Sexual Assault Prevention and Response Office (DON-SAPRO) Initiatives**

### **Leadership Engagement:**

- Ongoing – Director, DON-SAPRO meets regularly with the Secretary of the Navy, every two weeks with the Under Secretary, with the Vice Chief and Assistant Commandant of the Marine Corps quarterly, and with Navy and Marine Corps flag officer program representatives weekly.
- Ongoing – Mini-Summits throughout the Navy and Marine Corps in an effort to better engage operational commanders in sexual assault prevention.
- Ongoing - Presently command climate surveys are provided within 90 days of a commander assuming command. Pending revisions to this requirement will include that the surveys be conducted annually thereafter, with reporting to the first general/flag officer in the chain of command.
- Ongoing - Sexual Harassment and Assault Prevention Education (SHAPE) is a tiered approach, explicitly aligned with the four-year U.S. Naval Academy (USNA) leadership curriculum. SHAPE approaches the subject-matter as both a cultural issue, deconstructing myths and accepted behaviors, and a leadership issue, providing practical tools to intervene proactively.
- Ongoing - At Navy's Recruit Training Command (RTC), new recruits received 1.5 hour training via PowerPoint AT presentation, open discussion, and video approximately 8 - 12 days after arrival (i.e., on 1 - 3 Day of Training) from Basic Naval Orientation instructors.
- Ongoing - For Navy Reserve Officer Training Corps (NROTC) candidates, training is provided at the command level during orientation and refreshed annually and as directed.
- Ongoing - At the Officer Training Command (OTC), incoming students receive SAPR training throughout the 9 week program as follows: (a) as part of new student orientation in the Fall; (b) 50 minutes of SAPR GMT conducted in week one of training by Command SAPR POC and the installation SARC; (c) 50 minutes of a Chaplain In Brief held within the first week that students are onboard to provide information on confidential communication; (d) fraternization, hazing and "Don't Ask, Don't Tell" training during the first week of being onboard; (e) refresher training during the 5<sup>th</sup> and 8<sup>th</sup> weeks of ODS and OCS training, respectively; and (f) SAPR-L training conducted prior to candidate officer phase for OCS (week 9) and prior to off base weekend liberty for ODS students (week 4).
- Ongoing - All instructors are expected to uphold Navy's core values at all times. Rules for instructor behavior are further delineated in the Standard Operating Procedures (SOPs) which include training on fraternization, inappropriate touching, reinforced physical training (RPT).
- June 2013 – USN memo to Navy from Vice Chief of Naval Operations to conduct SAPR training stand down.
- June 2013 - New command climate surveys, specifically directed by the Commandant, have been developed and are on track for distribution at the end of June 2013. Mandatory 30 days after assuming command and at the commanding officer's 12-month mark.
- April 2013 – Department of the Navy memo from Secretary Mabus regarding Sexual Assault Awareness Month (April)
- March 2013 – Guidance for Sexual Assault Awareness Month (SAAM) from Chief of Naval Operation to USN.
- March 2013 – Guidance for completion of SAPR- Fleet training by USN Enlisted- 6 and below personnel from Chief of Naval Operation.

- March 2012 – Department of the Navy memo from Secretary Mabus regarding Sexual Assault Awareness Month (April)
- February 2013 – Naval message announcing the 2013 monthly topics for peer mentorship program, coalition of sailors against destructive decisions (CSADD). Listed SAPR as topic for month of April.
- August 2012 – Guidance for completion of SAPR –Leadership training for USN Chief and above training from Chief of Naval Operation.
- March 2012 - Developed a one-page information sheet for leaders at all levels, to be distributed to the Navy and Marine Corps during Sexual Assault Awareness Month
- February 2012 - Developed a “Commander’s Guide” on Sexual Assault Prevention and Response to be distributed to Navy and Marine Corps Commanders.
- January 2012 – Spoke at Chaplains Conference regarding how Chaplains support the SAPR program. Continued, ongoing meetings with Chief of Navy Chaplains.
- May 2011 - DON Sexual Assault Prevention Summit to include Navy and Marine Corps Regional and Installation CO’s, SARC’s, and senior enlisted leadership. Secretary of the Navy, Under Secretary, ten civilian SMEs, two federal partners and White House staff
- March 2010 - First Department of the Navy Sexual Assault Response Coordinators’ Summit with combined Navy and Marine Corps SARC’s. Communicated DON leadership priorities and SME insights to SARC’s and other key stakeholders. Under Secretary, VCNO, ACMC, MCPON and SMMC were in attendance.
- September 2009 – Stand up of Department of Navy Sexual Assault Prevention and Response Office (DON-SAPRO) reporting directly to the Secretary of the Navy.

### Initiatives FY13

- USN/USMC - SAPR Stand-down. The intent of the 120 minute stand-down is to ensure service members and civilian personnel clearly understand they are accountable for fostering a climate where sexist behaviors, sexual harassment and sexual assault are not tolerated, condoned or ignored. This all hands training will be comprised of a focused facilitated engagement led by the Command Triad (commanding officer/executive officer/command master chief). This is in addition to the mandatory annual general military training on Sexual Assault Prevention and Response (SAPR GMT).
- USN - Visual Inspection of all Workspaces to be completed by 28 June 2013. All DON Commanding Officers, Officers-in-Charge and civilian directors shall direct comprehensive and regular inspections of all workplaces and common access spaces under their control to ensure that they are free from materials that create a degrading, hostile, or offensive work environment.
- USN - Complete hiring of full-time Sexual Assault Response Coordinators/Victim Advocates
- USN - Implementation of Regional Program best practices across Fleet
- USN - 21<sup>st</sup> Century Sailor Office established to provide a more coordinated and streamlined efforts in Sailor resiliency and readiness programs to support all sailors.
- USN - Navy is launching several major prevention-focused initiatives in FY13. In accordance with the SAPR Roadmap, prevention efforts will be focused around the theme of “Courage”: (a) the courage of victims to make a report, either restricted or unrestricted; (b) the courage of bystanders to intervene to prevent a potential sexual assault; and (c) the courage of leaders to own the effort to eliminate sexual assault from our ranks.
- USN - The Chief of Naval Operations (CNO) SAPR Cross Functional Team (CFT) is a multi-disciplinary forum that creates synergy and focused effort amongst stakeholders. This includes actively engaging leadership in efforts to reduce Sailor misconduct through a renewed emphasis on Navy Core Values and Ethos.

- USN - SAPR-Delayed Entry Program (DEP) Training rollout. Recruiting personnel are responsible for making sure DEP personnel are briefed on the navy core values as well as review a video on sexual assault prevention and response.
- USN – Sexual Assault Prevention and Response Fleet (SAPR-F) Training rollout.
- USN - Alcohol de-glamorization and fielding of Alcohol Detection Devices
- USN - Naval Flag Officer training
- USN - Sexual Assault Awareness and Prevention Month Campaign. Sexual Assault Awareness Month (SAAM) is an annual reminder of the Navy's values and commitments to a culture of gender respect where sexual assault is never tolerated, victims receive compassionate and coordinated support and where offenders are held accountable.
- USN - Update SAPR curriculum at Prospective Commanding Officer/Senior Enlisted Academy courses
- USN - Integrated facilitated Sexual Assault Prevention and Response for Leadership(SAPR-L) training into the Navy's Command Leadership Course (all prospective commanding officers (PCO), prospective executive officer (PXO),command master chiefs (CMCs), and Major Commanders)
- USN – Updated the reporting procedures to include notification to First Flag officer reports.
- USN - Complete hiring actions to professionalize SARC and VA cadre continues to focus efforts on increasing the skills of the SARCs as the local subject matter experts (SMEs) for shore based and afloat commands and to support commands' prevention initiatives.
- USN – US Fleet Forces command sent a team to conduct 12 Fleet Workshops Fleet Concentration Areas (FCAs) within the U.S. and overseas. To support commands compliance with required Annual GMT requirements, content was focused on a multi-level approach to prevention across command leadership levels utilizing subject matter experts in program/policy compliance, substance abuse prevention as it relates to SAPR, Bystander Intervention (BI), and victim resiliency.
- USN - Personal Readiness Summits, co-sponsored by OPNAV and COMPACFLT, reached out to more than 24 naval installations and 14,741 Sailors of all ranks in the AOR. SAPR briefings were provided to leadership, program managers and deck plate supervisors.
- USN - continues to leverage Mr. Christian Murphy and Dr. Gail Stern's "Sex Signals" promotions and Ms. Anne Munch's consulting services and presentations (e.g., "What Every Leader Should Know", "She Asked For It") to bring relevant and unique perspectives to our junior Sailors and leaders. FY12 presentations were expanded from previous years to include a more inclusive focus on alcohol abuse (e.g., "Shot of Reality") in an effort to address alcohol-related sexual assaults
- USN - Increasing the number of SARCs; targeting location based upon SA trend analysis to optimize intervention/prevention programs and victim support
- USN - Professionalizing the VA cadre by hiring 66 professional VAs; will co-locate with SARCs; new VAs will provide training and assistance to current cadre of over 3,000 volunteer uniformed VAs
- USN - Establishing SARC/VA certification program by end of FY 13
- USN - Expedited transfer procedures. Enhanced victim command transfer requirements established to ensure timely adjudication of requests and transfer execution - includes provision for Flag oversight of process
- USN - Throughout FY12 the Navy Audit Service reviewed the accuracy of the publicized 24/7 SAPR response telephone numbers at every naval installation. Due to these review efforts and the follow-up efforts of CNIC HQ SAPR, 24/7 SAPR response telephone numbers have been verified and updated on all Navy FFSC websites, the CNIC HQ SAPR website, and local print publications. . In addition, the use of the DoD SAFE Helpline – Navy's primary crisis intervention tool - has resulted in greater victim confidence in the SAPR Program by increasing

consistency of response through trained advocates who are able to connect the victim to SARCs or SAPR VAs at the appropriate installation, no matter where they are in the world.

- USN - Formalized bi-weekly senior OPNAV leadership review of all incident reporting, trends and status of SAPR programs
- USN - Established rigorous analysis of incidents to determine trends and identify causal factors to be addressed
- USN - Added SAPR questions to the Defense Equal Opportunity Management Institute (DEOMI) Survey. All respondents taking the DEOMI Organizational Climate Survey (DEOCS) began completing survey items associated with the sexual assault prevention and response (SAPR) climate within their workplace.
- USN - SAPR Quick Poll (Apr 13) this online survey is used to evaluate the effectiveness of the navy SAPR campaign. Participation is voluntary.
- USMC - Phase II of the USMC Campaign Plan: Updated SAPR training programs are being implemented across the Marine Corps commensurate with a Marine's experience and level of responsibility. This includes the customization of SAPR annual training requirements and new SAPR training programs for the following entities:
  - Delayed Entry Program: Prior to Recruit Training and Officer Candidates School, poolees receive training that focuses on the whole of character, ethical behavior, and bystander intervention. Sexual assault, sexual harassment, hazing, alcohol abuse and general ethics are included as part of this training.
  - Recruit Depots: Taught by either the Series 1st Sergeant or Series Commander within the first 14 days of recruit training. Toward the end of Recruit Training, footlocker discussions that specifically cover SAPR are conducted by Senior Drill Instructors.
  - Entry-Level Training: Includes Marine Combat Training and Military Occupational Specialty schools. SAPR programs specifically designed for these schools are conducted by UVAs.
  - Professional Military Education (PME): Includes SAPR training infused into the Corporals Course, Sergeants Course, Staff Academy, First Sergeants Course, Advanced Academy. Corporals and Sergeants Courses have incorporated SAPR training into their curriculum. HQMC SAPR provides the training at the Staff Academy, First Sergeants Course, and Advanced Academy.
  - Officer PME: Includes SAPR training infused into Expeditionary Warfare School (EWS) and Command and Staff (CSC). SAPR training programs are currently in development for inclusion into the curriculum for EWS and CSC. The programs will consist of two hours at EWS and three hours at CSC. Courses will be taught by HQMC SAPR and EWS/CSC staff. Evaluations for EWS and CSC training are pending.
  - Commanders Course: Training for prospective commanders and senior enlisted leaders was updated to meet all core competencies and set learning objectives as defined by OSD and in accordance with the Secretary of Defense Memo signed 25 September 2012, and includes further training direction from the CMC. This training is being conducted in four phases: a read-ahead, lecture, practical application, and designated brief by the Installation SARC within 30 days of assuming command or getting posted.
  - Pre-deployment environments: Conducted by UVAs or SARCs, the training includes prevention and risk reduction factors tailored to the specific deployment location; history of the area anticipated for deployment, addressing specific customs, norms, and religious practices; and procedures for reporting a sexual assault to ensure Marines are aware of the full range of options available at the deployed location.

- USMC - "Lost Honor" Video: Developed by the Judge Advocate Division, the video is a deterrence initiative that includes interviews with four Marines convicted of sexual assault, each recounting the various circumstances and decisions leading up to the incident.
- USMC - Sexual Assault Response Teams (SARTs): Multidisciplinary teams of first responders that are designed to respond proficiently to the many concerns of victims, ensuring efficient investigative practices, forensic evidence collection, and victim advocacy and care. SARTs will include, at minimum, the following personnel: Naval Criminal Investigative Service (NCIS), Military Police, SARC/VA, Judge Advocate/Trial Counsel, mental health services representative and Sexual Assault Forensic Examiner. On track for September 2013 implementation at all major installations.
- USMC - Up staffing of SAPR Personnel: Phased hiring throughout FY13 to add 47 full-time SAPR personnel. On track for October 2013 completion. The new hires will supplement a SAPR workforce that already includes 89 SARCs and 975 VAs/UVAs.
- USMC - Reorganization of Marine Corps Legal Community: Commandant-directed initiative that became effective October 2012. The new regional model allows sexual assaults and other complex cases to be prosecuted with the appropriate expertise, supervision, and support staff in place. The new regional model divides Marine Corps legal community into four geographic regions – the National Capital Region, East, West, and Pacific – each containing Complex Trial Teams, which are task-organized for specific cases and are supported by experienced prosecutors, criminal investigators, admin support, and civilian highly qualified experts.
- USMC - SAPR Conference: Scheduled for 27–29 August 2013 at MCB Quantico for SARCs and VAs. Agenda includes several key note lectures by subject matter experts. Evaluations for the conference will be distributed.
- USMC - Victim Feedback Assessment: The Marine Corps is exploring ways to monitor victim care and services more closely through SARC engagement, in an effort to improve and better utilize all resources available to victims and to help keep victims engaged in the process.
- NCIS - Prevent furloughs of NCIS personnel assigned to sexual assault Agent-Teams
- NCIS - NCIS Agent-Teams established in fleet concentration areas
- NCIS - Established NCIS Special Victim unit capability. By using dedicated advance trained personnel working sexual assault cases only.
- NCIS - Incorporated SA into NCIS Text-A-Tip Hotline program allows for military and civilians to make a safe and discreet anonymous report of criminal activity within the USN or USMC without concerns of retaliation through the use of Smartphone app, text or web access.
- BUMED - Broadened and enhanced SA Forensic Examination (SAFE) training for Medical personnel
- BUMED Continues to ensure that all Military Treatment Facilities (MTF) have a capability to provide 24/7 response to a victim of sexual assault and maintain a supply of Sexual Assault Forensic Exam (SAFE) kits. Continue training first responders at MTFs
- USN - (FY10 – FY13) Fleet Workshops and Personnel Readiness Summits delivered to the waterfront and Fleet concentration areas; programs incorporate Bystander Intervention training and innovative SA training (Sex Signals, No Zebras)
- USN - Update SAPR curriculum at Prospective Commanding Officer/Senior Enlisted Academy courses
- USN - Leveraging Navy's Coalition of Sailors Against Destructive Decisions (CSADD - over 200 Chapters) to provide peer-to-peer mentoring and SAPR strategic messaging
- USN - Developed and executing Navy wide SAPR-Leadership (all khaki) and SAPR-Fleet (E6 and below) Triad facilitated training conducted in the manner of DADT training model
- USN - Established comprehensive SAPR training at every Navy entry point (RTC, USNA, ROTC, OCS)

- USN - Currently developing SAPR-Sustainment training product that will leverage both SAPR-L and SAPR-F products and will be the foundational enduring training product
- USN - Required SAPR related UCMJ training for all PCOs and Major Commanders; conducted in conjunction with command leadership school.
- USN JAG - OJAG review of every sexual assault OPREP/SITREP Navy-wide
- USN JAG - Early Trial Counsel/NCIS collaboration and ongoing multidisciplinary review of active cases at Senior Trial Counsel / Supervisory Special Agent level
- USN JAG - Executing SA-Initial Disposition Authority (IDA) withholding, providing SJA advice and counsel to Sexual Assault Initial Disposition Authority
- USN JAG - Special Victim Capability – working with OSD and DoD SAPRO to define and implement requirements NLT Oct 2013
- USMC JAD - Complex Trial Teams (CTT) (1 Oct 12), Experienced O-4 Trial Counsels; embedded criminal investigators, admin, and paralegal support – created by 1 OCT? Deployed by then?
- USMC JAD - HQE's in the Regional Trial Counsel (RTC) offices provide direct mentoring and training of CTTs and all counsel in region
- USMC JAD - Trial Counsel Assistance Program (TCAP): The Marine Corps TCAP provides specific and detailed sexual assault prosecution training to Marine Corps trial counsel. Through the use of civilian experts in the field, reserve officers with vast amounts of civilian criminal litigation experience, and best practices, Marine Corps TCAP raised the level of practice with regard to the prosecution of sexual assault offenses.
- USMC JAD - "Lost Honor" training video to be incorporated in SAPR training (created by USMC Defense Services Organization)
- USMC JAD - SA-IDA disposition memos to improve data collection for DoD SAPRO Annual Report preparation.
- USMC JAD - New data fields in Case Management System to track unique aspects of SA courts-martial
- JAG Corps O-5 Directors of Litigation (senior prosecutors) by JUL 2014
- DON SAPRO -Developed DON-wide SAPR training with focus on civilian employees. "Sexual Assault Prevention: One Team, One Fight" is mandatory training for all DON civilians to complete prior to Oct 1, 2013.
- DON-SAPRO working with USNA to assess/improve command climate and victim support.
- DON SAPRO - Developing training with focus towards prospective Navy and Marine Corps officers who are in Reserve Officers' Training Corps (ROTC), attending the United States Naval Academy (USNA), or in Officer Candidate School (OCS). This course will be designed to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault.
- DON SAPRO – Provided twelve half-day leadership programs and training sessions. Each session combined summaries of Departmental insights and priorities, along with presentations by an outside civilian expert with unique experience in sexual assault criminal investigations and offender profiling, Steve Thompson.
- DON SAPRO – Created a ninety minute live-acted, vignette-based educational program "No Zebras ... No Excuses", which emphasized the importance of bystander intervention in preventing sexual assault, continues to be funded by DON SAPRO to present 60 training days to Navy and Marine Corps operational locations.

- DON-SAPRO & Navy initiating ongoing web-based sexual assault surveys of all departing "A" School students DON SAPRO - Phone Audit: In addition to coordinating Service-level strategies for implementing new requirements established in NDAA 2012 for full-time victim advocates and sexual assault response coordinators, the Under Secretary of the Navy worked directly with the Naval Audit Service and DON-SAPRO to assess the responsiveness of 24/7 telephone access to SAPR services for sexual assault victims. .
- DON SAPRO - Telemedicine: DON-SAPRO is partnered with the Department of Justice (DOJ) to develop a DOJ grant project with a major civilian entity to explore the efficacy of telemedicine support for Sexual Assault Forensic Exams at remote sites. The Department of the Navy is the only Military Department engaged with DOJ in this effort, and our insights have helped shape the focus of ongoing project development.
- DON SAPRO – In conjunction with the ongoing Recruiter Assessment examining the extent of sexual assault awareness in the Service's recruiter environment/arena, a DON SAPRO team visited the Military Entrance Processing Station (MEPS) Memphis, TN.
- DON SAPRO - Met with applicants in the Delayed Entry Program (DEP) at two Navy recruiting stations and conducted focus groups at both locations (total of 50 participants).
- DON SAPRO - June 2013– Visit MEPS (Ft. Lee, VA). Scheduled visit (Pensacola, FL) to the Navy Recruiting Schoolhouse, Navy Recruiting Orientation Unit (NORU) and two Navy recruiting stations to conduct focus groups. .
- DON SAPRO - July 2013– Scheduled visits to Garden City, NY Navy Recruiting District and 1<sup>st</sup> Marine Corps District Headquarters and Parris Island to the 6<sup>th</sup> Marine Corps Headquarters and Marine Corps Recruit Depot to conduct six focus groups with newly enlisted Marines.
- DON SAPRO - Audits May-June - Validating the performance (initial response) for assistance from Sexual Assault Response Coordinators (SARC) and/or Victim Advocates (VA). Completed 95% (18/19) of Marine Corps with a properly handled success rate of 90% (17/19). Called 47% (60/129) of Navy; 8.3% (5/60) improperly handled (didn't meet timeframe or answer). Audits to be completed by end of June.
- DON SAPRO - At the direction of the Secretary of the Navy (SECNAV), the Department of the Navy Sexual Assault Prevention and Response Office (DON-SAPRO), during October 2012 to January 2013, conducted site visits to 23 initial military training locations across the Navy and Marine Corps. DON-SAPRO undertook broad-based inquiries that focused on two major areas: the professionalism and oversight of instructors, and the overall command climate with respect to gender issues and sexual assault in particular. DON-SAPRO conducted a total of 180 focus groups with over 2,570 participants.
- DON SAPRO - Along with site visits, DON-SAPRO received data call information from 45 major Navy training commands and 32 major Marine Corps training commands involving instructors, internal controls, and Sexual Assault Prevention and Response programs for students.
- DON SAPRO - May 2013, a DON-SAPRO team led by the Director, DON SAPRO, visited Navy communities in Europe to gain insights about sexual assault risk factors and local Sexual Assault Prevention and Response (SAPR) efforts. Sites included Naval Air Station (NAS) Sigonella and Naval Support Activity (NSA) Naples in Italy and NSA Souda Bay in Greece. At each location, the team met with the base Commander, the Sexual Assault Response Coordinator (SARC), the Fleet and Family Support Center (FFSC) Director, Sexual Assault Nurse Examiners (SANEs) and other Naval Hospital (NH) medical personnel, Staff Judge Advocates (SJAs), Naval Criminal Investigative Service (NCIS) agents, and Chaplains. In addition, over 120 people participated in nine focus groups for victim advocates, female junior Sailors, and mixed-gender enlisted Sailors and 35 stakeholders were interviewed.
- DON SAPRO - April 2013, a DON-SAPRO team led by the Director, DON SAPRO, visited Diego Garcia, Naval Support Singapore and Joint Base Guam. Navy communities in Europe to

gain insights about sexual assault risk factors and local Sexual Assault Prevention and Response (SAPR) efforts. At each location, the team met with the base Commander, the SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains. In addition, over 60 people participated in three focus groups for victim advocates, female junior Sailors, and mixed-gender enlisted Sailors and 36 stakeholders were interviewed.

- DON SAPRO - February 2013, a DON-SAPRO team led by the Director, DON SAPRO visited Navy communities in Middle East to gain insights about sexual assault risk factors and local SAPR efforts. Sites included Naval Support Activity (NSA) Bahrain, and Isa Airbase. At each location, the team met with the base Commander, the SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains total of 12 interviews. There were 115 focus group participants who participated in five focus groups for victim advocates, female enlisted Sailors, and mixed-gender enlisted Sailors.

### Initiatives FY12

- USN JAG - Trained Navy legal assistance attorneys deliver direct legal assistance to victims to assist with a wide variety of legal issues, including making sure victims' rights and the court-martial process are understood
- USN JAG - Highly Qualified Experts at Headquarters, TCAP, and DCAP develop and implement training and provide reach-back and support
- USN JAG - Trained both prosecutors and defense counsel in military justice and trial advocacy with a special emphasis on the litigation of sexual assault cases. Enhancing the ability of JAGs to effectively litigate sexual assault cases in turn improves Service member confidence and victim participation in the investigative and military justice processes. A specific focus of training this year was on the new Article 120 sexual assault statutes that became effective in June.
- USN JAG - Hosted the second Conference on Providing Legal Assistance to victims of crime. This second course was held in San Diego, CA this past and was attended by over 59 judge advocates, legalmen, and civilian attorneys.
- USN JAG - Created a multi-disciplinary training module to train commanders on all aspects of the military justice system. This training was given to all newly reporting Region Commanders, who comprise the majority of the General Court-Martial Convening Authorities and are responsible for referring the majority of sexual assault cases to trial.
- USMC JAD - Legal reorganization and improved assignments increase available experience level and specialization of key billets, Experienced O-6 OIC's of Regional Legal Service Support Section (LSSS), Experienced O-5 Recruit Training Command (RTCs) and Recruit Division Commander (RDCs), 20% experience increase in trial bar from last year.
- USMC JAD - Detailing Requirements for Sexual Assault Cases: Marine Corps Bulletin 5813 was published on 2 July 2012, and sets specific experience requirements for Marine Corps judge advocates detailed as trial counsel, defense counsel, and Article 32, UCMJ investigating officers for cases involving allegations of sexual assault offenses. This ensures that only counsel with the right experience try sexual assault cases.
- USN - Distributed SAPR Commander's Guides to every Navy CO and command
- USN - Created SAPR website to promulgate all SAPR related info as well as tools (videos, posters, training curriculum, POD notes, etc) for commands to use
- USN - Leveraging Navy's Coalition of Sailors Against Destructive Decisions (CSADD - over 200 Chapters) to provide peer-to-peer mentoring and SAPR strategic messaging
- USN - Revised OPREP reporting requirements to include Flag Officer notification and review
- USN - Reserve Component option to retain/return members on active duty after reporting SA
- USN - Continuing to improve SARC network thru ongoing SARC webinars and summits.

- USMC - Developed by an Operational Planning Team comprised of officers and a senior enlisted leader handpicked by the Commandant, the SAPR Campaign Plan is a three-phase strategy whose purpose is “to reduce, with a goal to eliminate, incidents of sexual assault through prevention and engaged leadership. When a sexual assault does occur, to provide appropriate and timely victim care, investigations, and accountability that reflect our core values and promote good order and discipline.” The Campaign Plan was signed by the Commandant in June 2012. Phase I of the Campaign Plan implemented the following initiatives:
  - Reconfiguration of Headquarters Marine Corps SAPR branch: SAPR was separated from Behavioral Health as a stand-alone branch, staffed with a newly established team of experts, with leadership assigned to an O-6 from an operational command.
  - SAPR General Officer Symposium: For all general officers. Training included subject matter experts (SMEs) who spoke on topics relevant to prevention, including the effects of alcohol, inadvertent victim blaming, and dispelling myths.
  - Sergeants Major Symposium: For all sergeants major. Included one day of SAPR training, discussing prevention responsibilities in a leadership role. Also received briefs from SAPR SME to augment their role in the leadership team.
  - Command Team Training: For all commanding officers and sergeants major. Included guided discussions, case studies, ethical decision games, and Engaged Leadership Training. Engaged Leadership Training emphasized the importance of establishing a positive command climate and provided guidance of victim advocate selection process.
  - “Take A Stand” bystander intervention training: For all non-commissioned officers (E-4 and E-5). Included mini-lectures, guided group discussions, activities, and video recordings of the Commandant, the Sergeant Major of the Marine Corps, senior leaders, SMEs, NCOs, and victims.
  - All Hands SAPR Training: For all Marines. Conducted by commanders and sergeants major, the training included direct messages from the Commandant, as well as extensive instruction on SAPR services, resources, procedures, reporting options, and bystander intervention.
  - SAPR Training for chaplains and Religious Program Specialists: Focused on victim care role of chaplains, emphasizing responsibilities pertaining to maintaining confidentiality of victims who have filed restricted reports.
- USMC - Legal Assistance to Victims of Crime: During FY12, Marine legal assistance attorneys received training on their role of providing legal assistance to victims of crime, with a focus on victims of sexual assault.
- USMC - Heritage Brief Tour: From April to August 2012, the Commandant visited over 25 bases and stations and urging all officers and senior enlisted leaders to establish a command climate in which Marines are held to the highest traditions and standards of the Marine Corps. Accompanied by the Sergeant Major of the Marine Corps, the Commandant spoke specifically about sexual assault and its overall effects on the Corps.
- USMC - Ethical Decision Games (EDGs): Currently, six video-based EDGs have been developed and are in use in SAPR training programs across the Marine Corps. Eight additional video-based EDGs are in development for implementation at all levels. The EDGs contain scenarios related to

sexual assault and are designed to promote candid, healthy discussions by challenging pre-existing beliefs.

- USMC - SARC Conference: Held June 2012. Provided 40-hour victim advocacy training and extensive training on the Defense Sexual Assault Incident Database (DSAID) to all SARCs. Evaluations for the conference were distributed.
- NCIS - sponsored three advanced training courses designed to expand the capabilities of investigators. Specifically, comprehensive investigative training included NCIS Advanced Family and Sexual Violence training, the Advanced Adult Special Victims training and the NCIS/OJAG/JAM Mobile Training Team (MTT) course on "Sexual Assault Investigation and Prosecution."
- NCIS - created a model, the Adult Sexual Assault Program (ASAP), which links specially trained investigators into teams exclusively focused on adult sexual assault investigations. The team approach is expected to expedite the investigative process and enhance continuity between NCIS, judge advocates, healthcare providers and victim witness assistance personnel
- USN - Chaplain Corps briefs sailors and marines through command indoctrination programs for newly reporting personnel addressing the role of the Religious Ministry Team in SAPR programs, policies, intervention and prevention; heightening awareness and providing clear guidance on policies and prevention responses; and training chaplains and Religious Program Specialists (RPs) in sexual assault prevention policies and procedures, as well as the unique role of the chaplain in providing absolute confidential pastoral counseling to victims
- USN - Defense Manpower Data Center (DMDC) Gender Relations Survey on gender related issues. To help identify fundamental factors pertaining to sexual assault. Findings from the survey are used as a data source and foundation for future sexual assault program enhancements.
- DON SAPRO - Study of the Reserve Community and how to best meet the unique circumstances of the reservists.
- DON SAPRO - pilot project at Great Lakes Training Support Command (TSC) with A-School students- a unique concentration of at-risk new Sailors. Funding development of DON-wide SAPR training for all military and civilian employees.
- DON SAPRO - Provided training for Marine Corps and Navy JAG to be used for travel externships with local District Attorney Offices. This externship provided training from expert witnesses who frequently consult/testify in sexual assault cases (Toxicologist and Forensic Psychologist) and classes on: sex offender behavior and general military justice administrative skills.
- DON SAPRO - in FY12 distributed its newly-published Commander's Guide, which provides unit-level Navy and Marine Corps commanding officers with hard copy information in a polished format on Departmental priorities, background data, and specific suggestions on the command management of local sexual assault cases.
- DON SAPRO - Provided training for NCIS for dedicated sexual assault investigators. To prepare agents for "High Risk Response Team" concept.
- DON SAPRO - Created victim friendly interview room for victims of sexual assaults for project "Safe Harbor". These rooms provide a "softer" environment through use of more comfortable chairs, softer lighting with emphasis placed on making the room feel less like an interrogation room.
- DON SAPRO - Acquired Steve Thompson's participation in several US Fleet Forces Command, USFFC Suicide and Sexual Assault Prevention Workshops. Stephen M. Thompson is one of the country's foremost experts on sexual assault, stalking, harassment and threat assessment. His

unique approach is a result of over 30 years of research and street experience involving thousands of interviews with survivors and offenders.

- **DON SAPRO - June 2012**, a DON-SAPRO team led by the Director, DON SAPRO visited Navy communities in southeast region to gain insights about sexual assault risk factors and local SAPR efforts. Sites included NAS Jacksonville, Naval Station Mayport FL, and Sub base Kings Bay GA. At each location, the team met with the base Commander, SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains total of 17 interviews. There were 75 focus group participants who participated in five focus groups for victim advocates, female enlisted Sailors, and mixed-gender enlisted Sailors.
- **DON SAPRO - February 2012**, a DON-SAPRO team led by the Director, DON SAPRO visited Navy communities in Middle East to gain insights about sexual assault risk factors and local SAPR efforts. Sites included NSA Bahrain, and Isa Airbase. At each location, the team met with the base Commander, the SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains total of 12 interviews. There were 148 focus group participants who participated in eight focus groups for victim advocates, female enlisted Sailors, and mixed-gender enlisted Sailors.
- **DON SAPRO - April 2012**, a DON-SAPRO team led by the Deputy Director, DON SAPRO, visited communities in Guam. Focus groups and 12 interviews were scheduled with leadership, key SAPR program stakeholders (SARCs, Victim Advocates, NCIS, legal, and medical) and focus groups of Sailors and Marines to identify areas where further DON policy assistance and resources are needed. We also used the opportunity to provide some insight and small group training on Bystander Intervention philosophy. There were 17 focus group participants who participated in one focus group for victim advocates, female and mixed-gender Sailors.
- **DON SAPRO - November 2011**, a DON-SAPRO team led by the Deputy Director, DON SAPRO, visited Navy and Marine Corps communities in Hawaii. Focus groups and 33 interviews were scheduled with leadership, key SAPR program stakeholders (SARCs, Victim Advocates, NCIS, legal, and medical) and focus groups of Sailors and Marines to identify areas where further DON policy assistance and resources are needed. There were 148 focus group participants who participated in eight focus groups for victim advocates, female junior Marines, and mixed-gender enlisted Marines.
- **DON SAPRO - November 2011**, a three person team led by Deputy Director DON SAPRO visited Japan as an assist requested by the region Inspector General to do an assessment of a program onboard a ship home ported in Sasebo, Japan.
- **DON SAPRO - Provided half-day leadership programs** conducted at the following Navy and Marine Corps operational locations: VA, MS, Guantanamo Bay Cuba, HI, CT, Japan, IL, and CA. Each session combined summaries of Departmental insights and priorities, along with presentations by an outside civilian expert with unique experience in sexual assault criminal investigations and offender profiling, Steve Thompson.
- **DON SAPRO - Created a ninety minute, live-acted, vignette-based educational program** "No Zebras ... No Excuses", which emphasized the importance of bystander intervention in preventing sexual assault, was presented at the following Navy and Marine Corps operational locations: VA, MS, Guantanamo Bay Cuba, HI, CT, Japan, IL, and CA to packed theaters totaling roughly 15,000 Sailors and Marines.

### Initiatives FY11

- JAG - Stand up of Trial Counsel Assistance Program (TCAP) supports the trial counsel and the staff judge advocates in the field concerning their representation in the court-martial and post trial process.
- USMC JAD - Defense Counsel Assistance Program (DCAP): In September 2011, the Marine Corps Defense Services Organization (DSO) established the DCAP. The Marine Corps DCAP provides assistance and training to the DSO on sexual assault and other complex cases.
- USMC JAD - Trial Component Training Program (TCTP): Eight-hour pilot sessions conducted by senior trial counsels designed to prepare NCIS agents for common courtroom challenges, including guidance pertaining to testifying, direct examination, and cross examination.
- DON SAPRO - Conducted Sexual Assault Survey DON-wide; over 135,000 responses. During June-September 2011, DON-SAPRO conducted a Department-wide survey on sexual assault that was web-based, anonymous, and voluntary.
- DON SAPRO – Provided Most Valuable Player MVP Train the Trainer sessions to train Navy Instructors on Bystander Intervention (BI) to implement BI in the A-Schools (Great Lakes, Pensacola)
- DON SAPRO & USN - Sponsored two-day Strategy Summit with Key Stakeholders and DON SAPRO funded large group training, small group training, Bystander Intervention Training (Steve Thompson, Central Michigan University) for Great Lakes Sexual Assault Prevention Demonstration Project at Training Support Center.
- DON SAPRO - Bi-monthly social norms survey of Sailors who have completed their training at Great Lakes.
- DON SAPRO - Provided Victim Attorney Conference for Navy and Marine Corps JAG's
- DON SAPRO – Provided for the enhancement of the Navy / Marine Corps JAG / NCIS Mobile Training Teams (in Norfolk and San Diego) as well as to fund additional on-site Mobile Training Teams to meet with Regional Legal Service Offices to do individualized training on "Sexual Assault Investigation and Prosecution."
- DON SAPRO – Provided professional development training for NCIS Family and Sexual Violence Special Agents
- DON SAPRO - Steve Thompson "No Zebras, No Excuses ..." presentation to all students at Heritage Training weekend
- DON SAPRO - September 2011, a four person team visited Camp Lejuene. Focus groups and interviews were scheduled with leadership, key SAPR program stakeholders (SARCs, Victim Advocates, NCIS, legal, and medical) and focus groups of Sailors and Marines to identify areas where further DON policy assistance and resources are needed. There were 96 focus group participants who participated in six focus groups for victim advocates, female junior Marines, and mixed-gender enlisted Marines.
- DON SAPRO - August 2011, a DON-SAPRO team led by the Deputy Director, DON SAPRO, visited Navy and Marine Corps communities in Japan. The trip had two primary goals. One was to review the Secretary's priority on preventing sexual assaults with senior Navy and Marine Corps military leaders and to brief them on DON-SAPRO's most current insights and activities. In addition, DON-SAPRO staff conducted 32 interviews and 22 focus groups to build on insights about sexual assault risk factors and local Sexual Assault Prevention and Response (SAPR) efforts. At each location, the team met with base Commanders, SARCs, the FFSC Director, SANEs and other medical personnel, SJAs, NCIS agents, and Chaplains. Over 300 people participated in 22 focus groups for victim advocates and various separate groups of enlisted Sailors and Marines.

- DON SAPRO - August 2011, a three person team led by Deputy Director, DON SAPRO visited Navy communities in Mid Atlantic area. Focus groups and interviews were scheduled with leadership, key SAPR program stakeholders (SARCs, Victim Advocates, NCIS, legal, and medical) and focus groups of Sailors and Marines to identify areas where further DON policy assistance and resources are needed. There were 156 focus group participants who participated in twelve focus groups for victim advocates, junior enlisted in both gender separate and gender combined groups.
- DON SAPRO – August 2011, a two person team visited NMCB Gulfport. Focus groups and interviews were scheduled with leadership, key SAPR program stakeholders (SARCs, Victim Advocates, NCIS, legal, and medical) and focus groups of Sailors and Marines to identify areas where further DON policy assistance and resources are needed. There were 24 focus group participants who participated in three focus groups for victim advocates and various separate groups of enlisted sailors.
- DON SAPRO - July 2011, a four person team led by the Director, DON SAPRO, visited Guantanamo Bay Cuba. Focus groups and interviews were scheduled with leadership, key SAPR program stakeholders (SARCs, Victim Advocates, NCIS, legal, and medical) and focus groups of Sailors and Marines to identify areas where further DON policy assistance and resources are needed. There were 14 focus group participants who participated in one focus group for victim advocates.
- DON SAPRO - June 2011, three person team led by Director visited Navy communities in Camp Arfijan, Kuwait to gain insights about sexual assault risk factors and local SAPR efforts from individual augmentee (IA) sailors departing theater at the completion of their IA. There were 40 participants in 3 focus groups.
- DON SAPRO - May 2011, a three person team led by Director, DON SAPRO, visited Navy communities in Europe to provide briefing on “Fostering cultural change to promote healthy behavior and encourage bystander intervention” to over 600 sailors and marines. Sites included NAS Sigonella and NSA Naples in Italy, NS Rota in Spain, and NSA Souda Bay in Greece.
- DON SAPRO - April 2011, a two person DON-SAPRO team led by the Director. DON SAPRO visited Navy communities in Middle East to gain insights about sexual assault risk factors and local SAPR efforts. Guest Speaker for opening speech to Sexual Assault Awareness Month. Sites included NSA Bahrain, and Isa Airbase. At each location, the team met with the base Commander, the SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains total of 10 interviews.
- DON SAPRO - October 2010, a DON-SAPRO team led by the Director, DON SAPRO, visited Navy and Marine Corps communities in Guam and Hawaii. The trip had two primary goals. One was to review the Secretary’s priority on preventing sexual assaults with senior Navy and Marine Corps military leaders and to brief them on DON-SAPRO’s most current insights and activities. In addition, DON-SAPRO staff conducted 36 interviews and 22 focus groups to build on insights about sexual assault risk factors and local SAPR efforts. At each location, the team met with base Commanders, SARCs, the FFSC Director, SANEs and other medical personnel, SJAs, NCIS agents, and Chaplains. Over 300 people participated in 22 focus groups for victim advocates and various separate groups of enlisted Sailors and Marines.

**Initiatives FY10**

- USN JAG - Expanded NCIS Family and Sexual Violence Special Agents training from 5 to 8 days; 92 agents were trained on investigative theory focused on offender behavior and the impact of alcohol
- USN JAG/NCIS - Mobile Training Team, "Prosecuting Alcohol Facilitated Sexual Assault" taught 90 prosecutors and NCIS agents in three locations
- NCIS - Over 1,200 NCIS Special Agents are trained "first responders" to sexual assault and other types of criminal activities
- USN/USMC - Navy and Marine Corps Judge Advocates partnered with NCIS in a case study project to analyze convictions and acquittals in sexual assault cases. The findings will be used to enhance prosecutor training.
- USN/USMC JAG - 173 lawyers were trained in Basic Lawyer Class, Litigating Sexual Assault. PCO/PXO course, and Staff Judge Advocate training
- USN/USMC JAG - 73 JA's received Prosecutor Training
- USN - Focus for CNIC in FY10 was to ensure Navy-wide standardization in SARC service delivery and implementation of the SAPR Case Management System (CMS). SARCs attended 54 CNIC webinars covering eight different topics ranging from their new roles in data collection and case management, to facilitating SAPR annual general military training (GMT) and training for key SAPR personnel at command levels.
- USN - CNIC continues to provide SAPR information/tools for SARCs to conduct SAPR training at installation levels, such as the revised CO Toolkit presentations, key SAPR Command personnel training, local base Police Academies/Security department trainings, Regional Command Master Chief meetings, Command Duty Officer (CDO) trainings and training for civilian medical first responders/staff at Naval Health Clinics. Annual SAPR GMTs were often delivered directly by SARCs, SAPR POCs or VA's who had been trained by installation SARCs.
- USN - Annually required General Military Training (GMT) has been revised to include new language and programmatic elements. Navy provides two levels of training, (1) Basic Awareness and (2) Application of Concepts, both which support continual learning. GMT is required for all uniformed members of the Navy and by direction, will be delivered face-to-face with the involvement of Command senior leadership.
- USN - Commander Navy Installations command (CNIC) provided 54 webinars to SARCs on eight different subjects including the new Case Management System (CMS) training and SAPR GMT "Train the Trainer" that equips SARCS with skills to provide standard Sexual Assault Awareness training across all levels of the Navy.
- DON SAPRO - Created and executed Bystander Intervention Prevention Pilot (4 sites; 10 presentations to include leadership and "Train the Trainer"; 209 trained Sailor and Marine facilitators; 5900 Sailors and Marines impacted)
- DON SAPRO - DON-SAPRO sponsored JAG/NCIS Mobile Training Teams, "Sexual Assault Investigation and Prosecution"; additional FY11 training sessions planned
- DON SAPRO - DON-SAPRO sponsored hire at NCIS for case/data manager
- DON SAPRO - Hired nationally known highly qualified expert (HQE) for DON Sexual Assault Prevention Strategy, Dr. Alan Berkowitz- to use his expertise to support the Navy's Sexual Assault prevention strategy, weaving BI principles into current course content and developing new curricula where appropriate.
- DON SAPRO - Initiated a Sexual Assault Prevention Demonstration Project at Training Support Center, Naval Station Great Lakes - ongoing throughout 2011
- DON SAPRO - September 2010, a four-person DON-SAPRO team led by the Director, DON SAPRO, visited Navy communities in Europe to gain insights about sexual assault risk factors and local SAPR efforts. Sites included NAS Sigonella and NSA Naples in Italy, NS Rota in

Spain, and NSA Souda Bay in Greece. At each location, the team met with the base Commander, the SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains. In addition, over 120 people participated in nine focus groups for victim advocates, female junior Sailors, and mixed-gender enlisted Sailors.

- DON SAPRO - May-June 2010, a DON-SAPRO team visited training commands at six major CONUS locations to explore sexual assault risk factors in training environments, and to identify best practices in combating sexual assaults. Site visits included Great Lakes IL, Parris Island SC, Pensacola FL, Camp Johnson NC, Fort Leonard Wood MO, and Athens GA. At each location, the team conducted discussion groups with commanders, command management teams, senior enlisted leadership, and sexual assault program stakeholders. A total of 17 discussion groups included roughly 240 individuals.
- DON SAPRO - April 2010, a three person DON-SAPRO team led by the Director, DON SAPRO, visited Navy communities in Middle East to gain insights about sexual assault risk factors and local SAPR efforts. Sites included NSA Bahrain, Isa Airbase, and Camp Lemonnier Djibouti. At each location, the team met with the base Commander, the SARC, the FFSC Director, SANEs and other NH medical personnel, SJAs, NCIS agents, and Chaplains total of 23 interviews. In addition, over 90 people participated in six focus groups for victim advocates, female junior Sailors, and mixed-gender enlisted Sailors.

#### **Initiatives FY09**

- USN - Navy SARC online training and national conference
- USN - Distributed new interactive Commanders Toolkit for COs
- USN - Trained Senior Shore Station Leaders on SAPR responsibilities. Through training by subject matter experts provided leadership with tangible direction that included cultural change; a more robust and relevant education and awareness effort; and policy and procedure changes to ensure ownership by command leaders.
- USN - Developed video on SA reporting options
- USN - Changed program name from Sexual Assault Victim Intervention (SAVI) to SAPR
- DON SAPRO & USN & USMC - Navy and Marine teams visited numerous commands at over 45 U.S. Navy locations world-wide, including Bahrain, Kuwait, and Qatar. They interviewed roughly 360 individuals and conducted over 220 focus groups with 3,400 participants. Over 44,000 individuals (roughly 13% of all active-duty Sailors) participated in the Navy web-based survey. The IGMC team visited 29 locations across the Marine Corps, including Hawaii, Okinawa, and Japan. They interviewed over 500 individuals and conducted about 170 focus groups with 1,700 participants. Over 40,000 individuals (roughly 18% of all active-duty Marines) participated in the Marine Corps web-based survey.



THE SECRETARY OF THE NAVY  
WASHINGTON DC 20350-1000

June 14, 2013

The Honorable Barbara A. Mikulski  
United States Senate  
Washington, DC 20510-2003

*Mike Clavin*  
Dear ~~Senator Mikulski~~:

Thank you for your letter of June 10, 2013, regarding sexual assault at the service academies. I share your concerns about sexual assault not only at the United States Naval Academy but throughout the Navy and Marine Corps. I am committed to using every tool at my disposal to fight this crime which undermines the effectiveness of our force. Despite the fact that actual reports of sexual assault and sexual harassment decreased at the Naval Academy in 2012, surveys indicate continued underreporting of the crime due to fear of reprisal and other factors. This is unacceptable. Naval Academy graduates enter the Fleet as leaders. They must uphold the Navy's core values of Honor, Courage, and Commitment and that obligation begins the day they accept their appointment to the Academy. Because the Academy is where most of our future naval leaders are trained, we cannot treat it differently than we treat the Fleet.

After the Chief of Naval Operations (CNO) and I met with the Brigade at the beginning of the year to express our disappointment that sexual assaults and harassment remain issues at the Academy, I directed specific actions as stated in Enclosure (1) to address these issues. These actions were also outlined at the June 3, 2013 Board of Visitors meeting.

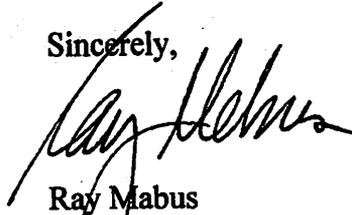
Regarding your specific questions, I am responsible for selecting the nominee for appointment as Superintendent of the United States Naval Academy. In making this decision, I rely on the advice and recommendations of the CNO and consider many factors. I seek a highly respected Flag Officer of great accomplishment and operational experience, one who demonstrates the highest integrity and commitment to ethical standards, in order to serve as a leader and role model. I also consider advanced education, which is critical as commander of the Navy's premier undergraduate institution.

The decision regarding the continued service of the Superintendent rests with me as well. When Vice Admiral Miller was chosen in 2010, there were a number of challenges he faced. I believe he has made substantial progress on many of those challenges. However, the CNO and I remain concerned that not enough is being done on sexual assault and harassment and we are monitoring this very carefully.

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Thank you for your many years of distinguished service as a member of the United States Naval Academy's (USNA) Board of Visitors. I appreciate the opportunity to share the Department of the Navy's views on this matter and I look forward to working closely with you on this critical issue.

Sincerely,



Ray Mabus

Enclosure: 1. USNA Sexual Assault/Sexual Harassment Prevention Actions

*Thank you so much for all you are doing. I want to work closely with you to once and for all finally solve this awful issue of sexual assault.*

# United States Naval Academy's (USNA) Sexual Assault/Sexual Harassment Prevention Actions

Updated June 11, 2013

Specific actions in response to the biennial gender relations survey received in December 2012:

## Conducted Immediate USNA Sexual Assault "Stampout" Stand-down

- The Stand-down was completed over Brigade Reform, January 5-7, 2013; with the Secretary of the Navy, the Chief of Naval Operations, Superintendent, Commandant of Midshipmen, and Sexual Assault Response Coordinator (SARC) addressing the entire student body. The SARC and Civilian Victim Advocates led small group discussions and training sessions with members of each class across the three day stand-down.

## Conducted Brigade-wide Priority Sexual Assault Prevention and Response (SAPR) - Fleet Training

- 100 percent of Midshipmen completed training prior to January 31, 2013 (within 25 days of Brigade reform).
- This training was in addition to training already provided through the Naval Academy's Sexual Harassment and Assault Prevention Education (SHAPE).

## Sexual Harassment/Sexual Assault (SH/SA) Task Force Conducted Assessment. Experts and local constituents assembled to assess USNA's culture and SH/SA education and response program.

- The Task Force was comprised of members of the staff of Department of the Navy's Sexual Assault Prevention and Response Office (SAPRO), PhDs who designed the SHAPE program at the Naval Academy, leadership of the Maryland Coalition against Sexual Assault, USNA faculty and staff, recent alumni, and Midshipmen.
- The Task Force provided several recommendations that USNA is actively responding to, including:
  - Beginning a formal, comprehensive assessment.
  - Engaging all-hands in the Commander's intent and beginning strategic planning. This should be achieved by leveraging input from a standing SH/SA advisory panel.
  - Increasing visible engagement and communication, including faculty and staff involvement and alignment, and better publicizing of the SH/SA reporting process.
  - Moving the SAPRO Senior Victim Advocate office away from company common areas.
  - Hiring a civilian Senior Sexual Assault Response Coordinator (SARC) and splitting SAPRO duties.
  - Integrating SHAPE Mentors, officers and Senior Enlisted Leaders (SELs) with peer educators and modifying the curriculum to incorporate their involvement.
- A follow-on, standing advisory panel is being stood up.

## Improved Safety of the Brigade

- Increased leadership, through enhanced watch-standing on weekend nights in addition to the normal presence of Company Officers (COs) and Senior Enlisted Leaders (SELs) serving as Officers of the Watch (OOW) and Staff Duty Officers (SDO).
  - Each of the two Regiments: CO, SEL, and roving Midshipman OOW now patrol from 2300-0300, providing a quality check of company Midshipmen patrols and conducting at least one after-hours unannounced muster.
  - Each of the 30 Companies: Juniors patrol the halls from 2300-0100, Seniors patrol from 0100-0600. The CO and SEL conduct at least one additional after-hours unannounced muster per month.

- Gate 1 Watch Standers: Two Seniors stand watch at the primary gate to downtown Annapolis, monitoring for inebriated Midshipmen and assisting with their safe return when required.
- Identified issues in initial months: One incident of consensual inappropriate sexual contact; 8 Unauthorized Absences.

#### Improved Victim Support

- Completed a detailed SAPRO manning assessment.
  - Recommendation to hire 2 civilian SARC's and 1 additional civilian Victim Advocate (VA) to service the Brigade.
  - Once civilian VA on board, intend to remove military SARC from Brigade response duties and responsibilities.
  - Hiring waiver approvals received from Assistant Secretary of the Navy for Manpower and Reserve Affairs and new SARC/VA positions are currently advertised.
- "Confidentiality Agreements" have been implemented for anyone questioned regarding SH/SA incidents. Intent is to reduce rumors, such that victims of sexual assault will be more willing to come forward and report.
- Victim's Counsel will be detailed to USNA.

#### Aligned and Integrated Best Fleet/Department of Defense (DoD) Practices

- The Superintendent visited the Training Support Command (TSC) at Great Lakes. Takeaways:
  - TSC has significant leadership involvement both inside and outside the lifelines.
  - TSC holds quarterly drumbeat meetings for major stakeholders.
  - TSC uses the Navy Center for Personal and Professional Development (CPPD) developed Bystander Intervention (BI) program.
  - TSC immediately indoctrinates new arrivals into the SAPR program.
- Commandant of Midshipmen visited the Naval Education and Training Command (NETC) in Pensacola. Similar to TSC, NETC has found success in using the CPPD developed BI program.
- USNA SARC visited the United States Air Force Academy (USAFA). Takeaways:
  - The USAFA SARC office is located in the Student Union, a general use area vice their living quarters. Their perspective is that this arrangement provides more privacy and discretion compared to the USNA arrangement in Bancroft Hall.
  - USAFA uses professionally produced video "vignettes" that feature cadets as the actors on location at the academy and stress subjects similar to those taught in the USNA SHAPE program.
- SH/SA Prevention and Response was a focus topic at the annual Conference of Service Academy Superintendents.
- Department of the Navy's SAPRO has shared best practices from recent Navy training center visits.
- Summary of actions taken to align with best practices:
  - Adding two civilian SARC's and an additional VA.
  - Established regular leadership drumbeat to address issues, challenges and progress regarding SH/SA at the Academy.
  - Improved Bystander Intervention program by incorporating portions of the Navy CPPD program where it enhances USNA's efforts.
  - Relocating SAPR Advocacy Services outside current location in Bancroft Hall to improve victim confidentiality and provide discrete location to increase likelihood of incident reporting.

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- Incorporating videos and role playing scenarios that feature Midshipmen facing difficult decisions requiring action to ensure the safety and dignity of their shipmates. The videos are professionally produced under the direction of the Stockdale Center for Ethical Leadership. Role-playing scenarios are stressed in peer-led SHAPE training.
- SH/SA training and role-playing scenarios were a substantial portion of the agenda at the first USNA sports captain's leadership retreat at Gettysburg prior to the most recent academic year. Extremely successful, the Gettysburg retreat will be expanded this summer to include Midshipmen Company Commanders and continue to address SH/SA challenges.
- Developed a process to screen incoming Plebes for prior sexual assault experiences. USNA will implement on I-Day, June 27<sup>th</sup>, for the Class of 2017. All Plebes will be provided information regarding resources available to discuss any sexual assault experiences. During follow-on education sessions the first few weeks of Plebe Summer, small group sessions will focus on SH/SA, USNA's SAPR program, avenues for victim reporting and support (counseling, medical, etc.). There will also be opportunities for more detailed private discussion.
- Increasing command involvement with local businesses that cater to Midshipmen.
- Established and will maintain involvement outside the lifelines. The USNA Alcohol and Drug Education Officer (ADEO) is working with local restaurant and bar owners to enforce underage drinking laws. The SAPRO has forged ties into the local police departments via the Anne Arundel Sexual Assault Response Team, and through NCIS. We also now educate parents, Blue and Gold Officers, and Sponsor parents on our program and expected standards of conduct.

#### Improved SHAPE Training

- Transitioned training to weekdays with Officer and SEL oversight and participation.
  - Implemented with positive feedback as Fleet examples were welcomed by the Brigade.
  - Currently reviewing optimal training balance (e.g., SAPR-F by CO/SEL, SHAPE by Peers with Officer and Chief Petty Officers participating as mentors).
- Deliver training as part of a regular course curriculum – currently reviewing how best to implement.

#### Addressed Contributing Factors

- Professional social media practices.
  - The Public Affairs Office published social media handbook with guidance, delivered training to the Brigade, and will continue to do so annually.
  - USNA Commandant reinforces at reform and during Battalion Calls.
- USNA random breathalyzer alignment with Fleet Alcohol Detection Device.
  - USNA waiver approved to continue to conduct adjudication (and thus deter) 4<sup>th</sup> Class Midshipmen (first year students) drinking, underage drinking, Driving Under the Influence (DUI), and drinking in Bancroft Hall.
- USNA alcohol education, screening, and restrictions are in concert with 21st Century Sailor initiatives.
  - Regular training includes robust online training resources and regular review of anonymous, real world cases.
  - Continued use of USNA's 21st Birthday Program which enables Midshipmen to celebrate this important milestone safely within the confines of the Yard while also learning about the hazards of their new freedoms with alcohol. Up to three drinks of beer or wine along with a meal of their choice is served while interacting with the ADEO and members

of the DoD police in an education process on alcohol and its effects, date rape drugs, DUI and other associated risks. Those that choose to drink during the celebration can, in an effort to further educate, elect to have their blood alcohol level measured.

- Non-alcohol tailgating initiatives.
- Shipmate Program (tipsy taxi).
- Portable Alcohol Detection Devices made available in the Midshipmen Store.
- Sponsor Memorandum of Understanding (MOU) and Training: MOU was updated to further emphasize alcohol standards, and sponsor training is in progress.
  - Training commenced in February and is scheduled through August. Of 1,600 sponsor families, 736 sponsors have completed the training to date.

#### Improving Understanding of Challenges

- Complete annual command climate surveys for staff personnel with appropriate follow-up to ensure the staff creates a proactive, positive culture that fosters core values and ethical behavior.
- Complete assessment of underlying trends for the past five years.
  - Currently in progress. Department of Navy SAPRO has lead.
- Implement semester surveys.
  - First survey was completed the week of May 13, 2013 – 100 percent contact with Midshipmen not away on summer training or other temporary duties. Voluntary participation was 91 percent, indicating that Midshipmen understand the importance of these efforts and desire to be engaged.

400500

NOT FOR PUBLICATION UNTIL  
RELEASED BY THE SENATE  
COMMITTEE ON ARMED SERVICES

**STATEMENT OF  
ADMIRAL JONATHAN GREENERT**

**U.S. NAVY  
CHIEF OF NAVAL OPERATIONS**

**AND**

**VADM NANETTE M. DERENZI**

**U.S. NAVY  
JUDGE ADVOCATE GENERAL**

**BEFORE THE**

**SENATE COMMITTEE ON**

**ARMED SERVICES**

**ON**

**SEXUAL ASSAULT IN THE MILITARY**

**4 JUNE 2013**

NOT FOR PUBLICATION UNTIL  
RELEASED BY THE SENATE  
COMMITTEE ON ARMED SERVICES

400507

Chairman Levin, Ranking Member Inhofe, distinguished members of the committee; thank you for the opportunity to testify today about our efforts to address sexual assault and how we can work together to improve our ability to prevent and respond to sexual assaults, support victims, and hold offenders accountable.

Sexual assault is a crime. It is an attack on a shipmate, violates the Navy's Core Values and tarnishes everything we stand for. Sexual assault threatens the safety of our Sailors, and degrades the readiness of our ships and squadrons. The Navy and our commanders are committed to eradicating this crime from our ranks; we owe this to our people and our Nation. I am deeply concerned by the extent to which this crime continues impact the Navy and undermine the trust our Sailors and the American people place in our military. This isn't who we are. However, I cannot afford to simply be outraged. I have to, and I am committed to, working each and every day to solve this problem.

We began a sustained and focused effort to improve our prevention of and response to sexual assault three years ago with the Department of the Navy's Sexual Assault Prevention Summit. This effort has expanded and evolved as we have learned more, particularly in the past year. We started with what became a successful pilot program instituted at our training command in Great Lakes, Illinois. Over the last two years, this initiative substantially reduced the prevalence of sexual assaults through a tailored approach combining training, safety and security measures in housing areas, peer monitoring, direct engagement with local business and civil authorities, and regulated liberty. Armed with these insights, we recently implemented regionally-focused pilot programs in additional Fleet Concentration Areas – San Diego, Naples, Italy and Yokosuka, Japan. So far progress in these areas is positive: feedback from Sailors; reduction in conduct violations (including sexual assault); and increased reporting of past sexual assaults in these Fleet Concentration Areas indicates awareness of, and confidence in, our reporting processes. The foundation of our efforts is focused and engaged leadership at every echelon of command, to include quarterly meeting I hold with my Navy four-star commanders.

We see some clear trends regarding sexual assault in the Navy which enable us to focus our efforts. Most sexual assaults are Sailors assaulting other Sailors; most victims and offenders are junior Sailors; more than half of incidents occur on base or on ship; and alcohol is a factor in the majority of sexual assaults that occur outside of the workspace. Using these insights I see the greatest opportunity for future success in three main areas:

- Disrupting the factors that contribute to sexual assault* – We continue to focus, in particular, on alcohol as a factor in sexual assault. This year we fielded alcohol detection devices in the fleet to help educate Sailors on their alcohol use. We are also addressing command climate and how it contributes to sexual assault, particularly the impact of sexual harassment and how it contributes to a culture that may enable sexual violence. As described below, we implemented improvements to our leadership development programs and put in place processes to better evaluate and hold leaders accountable for their efforts to keep their Sailors safe and for shaping proper command climate -- the way their commands treat their people and the environment in which their Sailors work. Since most incidents occur in areas we control, our commanders implemented more aggressive security measures in on-base housing areas including patrols by senior personnel, security cameras and improved lighting. Since most victims and offenders are junior Sailors, our training is targeted to those Sailors, and we support peer groups such as Coalition of Sailors Against Destructive Decisions (CSADD) who train, mentor and sponsor awareness-raising events for fellow junior Sailors.
- Fielding A Special Victim Capability* – Specially trained investigators, victim advocates, prosecutors, and paralegals form the core of our special victim capability to respond to incidents of sexual assault. We established dedicated Naval Criminal Investigative Service (NCIS) agent-teams in Norfolk, San-Diego, Bangor, and Okinawa that exclusively handle adult sexual assault investigations. NCIS is expanding this model during FY2013 to Yokosuka, Japan, Hawaii and Mayport, Florida. To improve the overall quality of Navy court-martial litigation, the JAG Corps established the Military Justice Litigation Career Track. Military Justice Litigation Qualified judge advocates lead trial and defense departments at Region Legal Service Offices and Defense Service Offices, which provide Navy prosecutors and defense counsel, respectively. These officers provide proven experience in the courtroom, personally conducting, adjudicating, or overseeing litigation in sexual assault and other complex cases. The Military Justice Litigation Career Track program leverages trial counsel, defense counsel, and judicial experience to enhance the effectiveness of complex court-martial practice. We also increased the seniority of commanders authorized to decide the disposition of sexual assault cases and required that commanders consult judge advocates in making disposition decisions. These and other improvements are discussed in further detail below.
- Support for victims* – The Navy is in the process of hiring 66 full-time credentialed Sexual Assault Response Coordinators (SARCs) and 66 full-time, professional, credentialed victim advocates (VAs) to augment the approximately 3,000 existing trained active duty command

VAs. We will have these SARCs and VAs at every one of our Fleet Concentration Areas and major overseas bases, with additional positions added proportionally to areas with larger populations. Complementing the support provided by SARCs and VAs, Navy prosecutors and legal assistance attorneys provide victims' with an understanding of their rights, the military justice process, and assistance with wide variety of issues related to being the victim of a crime.

### ***Proposed Changes to the Military Justice System***

A critical aspect of our focused efforts is ensuring a fair, efficient, and effective military justice system. Consistent with previous challenges such as drug abuse in the 70s and early 80s, the UCMJ and Manual for Courts Martial (MCM) must be able to evolve. We recently endorsed a significant change to Article 60 of the Uniform Code of Military Justice (UCMJ) to prohibit a convening authority from setting aside the findings of a court-martial except for a narrow group of qualified offenses (those ordinarily addressed through non-judicial punishment or adverse administrative action) and require a convening authority to explain any sentence reduction in writing. The process the Secretary of Defense followed in proposing an amendment to Article 60 of the UCMJ ensured a careful and full evaluation of the proposal both in terms of accomplishing intended objectives and avoiding unintended second and third-order effects.

As with the Department's Article 60 proposal, we must ensure that other proposed changes to the military justice system do not adversely impact the interests of justice, the rights of crime victims, and the rights afforded the accused. To maintain the proper balance of these interests and ensure the system remains constitutionally sound and responsive in peace and war we must continue to evaluate proposed changes to the UCMJ by carefully assessing their overall impact.

The Response Systems Panel created by Section 576 of the FY13 National Defense Authorization Act should be given the opportunity to conduct an independent assessment of the systems used to investigate, prosecute, and adjudicate sexual assaults prior to the adoption of sweeping structural changes to those systems. I look forward to the opportunity to work with Congress now and in the future to ensure our commanders have the right tools to help them prevent and respond to sexual assault. In addition to the Secretary of Defense's proposed amendment to Article 60 of the UCMJ, we should carefully consider other proposals, including:

enhanced protection for recruits and members of the armed forces in entry-level processing and training environments; prohibition against military service for any person with a conviction for sexual assault; enhanced authority for commanders to temporarily reassign or remove from a position of authority a member alleged to have committed a sexual assault offense; and elimination of the five-year statute of limitations applicable to sexual assault offenses other than rape.

### ***Sexual Assault Reporting***

In the Navy, there are two reporting options for victims of sexual assault: restricted and unrestricted. There are multiple means available for Sailors to make reports at all commands – afloat or ashore. Sexual assault reports can be made to personnel as described below inside or outside the victim’s command and can be confidential, as desired by the victim.

Restricted reports are kept confidential; an investigation is not initiated, and the command is notified that an assault has occurred with no identifying information regarding the victim or suspect. Victims can make restricted reports to SARC, VAs, medical personnel, or by contacting the DoD SafeHelpline by phone (877-995-5247) or online (<https://www.safehelpline.org/>), 24 hours per day, 7 days a week. SARC, VAs, and SafeHelpline personnel ensure victims understand their reporting options and available resources. Victims who make restricted reports will still receive medical treatment, including a Sexual Assault Forensic Examination, counseling services, victim advocacy support, chaplain support, and legal assistance as they desire.

Unrestricted reports provide victims the same support services as restricted reports. These reports are investigated by the Naval Criminal Investigative Service (NCIS) and reviewed for prosecution by a commander with the rank of O-6 or above with disposition authority for sexual assault cases. Victims who desire to make an unrestricted report are encouraged to report sexual assaults to a SARC or VA, medical personnel, command leadership, judge advocate, base police, master at arms, NCIS or civilian law enforcement as soon as possible after the incident. The decision to make a restricted or unrestricted report rests with the victim; a victim can make a restricted report and later change to an unrestricted report. Once a victim files an unrestricted report, investigation and reporting requirements are mandated. The Navy trained every Sailor on reporting procedures during our Sexual Assault Prevention and Response for Leaders and Fleet

training completed in April 2013. The Navy also implemented policies to ensure victim safety and support following an unrestricted report of a sexual assault. For example, victims may request an expedited transfer to another command or duty station. Additionally, commanders may issue military protective orders to order a military suspect to have no contact with the victim, temporarily transfer the accused pending resolution of the case, or place the accused in pretrial confinement.

Whether a victim chooses to make a restricted or unrestricted report of sexual assault, command SARC and VAs are specially trained to respond quickly to victims; provide information; accompany victims to medical, investigative interviews, and legal proceedings as the victim desires; make referrals for military and community assistance; and help victims through this potentially life altering event. The Navy is in the process of hiring 66 full-time credentialed SARCs and 66 full-time, professional, credentialed VAs to augment the approximately 3,000 existing trained active duty command VAs. This will be complete by June 2013. We will have these SARCs and VAs at every one of our Fleet Concentration Areas and major overseas bases, with additional positions added proportionally to areas with larger populations. By hiring these credentialed professionals, we are improving not only our capacity for victim support, but also program continuity and quality.

The Navy's legal professionals support sexual assault victims. The Navy has trained more than 150 Navy and Marine Corps attorneys, paralegals, and enlisted personnel to provide legal assistance to crime victims in order to ensure victims' rights are understood and protected. Navy prosecutors contact victims to provide them with explanations of victims' rights; the court-martial process; and available federal, state, or local victim services and compensation. Additionally, active-duty and dependent victims are eligible for military legal assistance services and may contact or be directed by VAs or prosecutors to legal assistance attorneys to receive help pertaining to victims' rights, understanding the court-martial process, and a wide variety of legal issues related to being the victim of a crime.

### ***Sexual Assault Investigation and Adjudication***

Prompt, thorough investigation is critical to the effective prosecution of sexual assault cases. Every unrestricted report of sexual assault triggers an independent investigation by NCIS. This includes sexual contact offenses, such as groping someone over their clothes. From the

outset of an investigation, NCIS works closely with Navy trial counsel (prosecutors) in order to ensure a thorough investigation sufficient to make an appropriate charging recommendation. To facilitate the prompt collection of evidence, the Navy will equip and certify all Medical Treatment Facilities and operational units to perform Sexual Assault Forensic Exams by the September 2013. To ensure appropriate care, each Navy unit with women Sailors has at least one female corpsman or physician. In the past two years, NCIS established specially-trained teams around the country and overseas that investigate only sexual assault cases. These NCIS agent teams better enables NCIS to effectively investigate each case of sexual assault. In Norfolk, for example, these teams reduced the average time to investigate sexual assaults from 300 days to about 80 days.

Once an NCIS investigation is complete, the case is forwarded to the accused's commander. In accordance with Secretary of Defense policy, the initial disposition decision for reports of rape, sexual assault, forcible sodomy, and attempts to commit these offenses must be made by Sexual Assault Initial Disposition Authorities (SA-IDAs), who are Navy Captains (pay grade O-6) or above designated as Special Court-Martial Convening Authorities. If the accused's commander is not an SA-IDA, the commander must forward the case to the appropriate SA-IDA in the chain of command for the initial disposition decision. SA-IDAs must consult with a judge advocate prior to making disposition decisions, ensuring that appropriate legal considerations for these major offenses are fully evaluated and balanced with good order and discipline. Having received legal advice from a trained and experienced staff judge advocate and/or prosecutor, based on the nature of the offenses and an analysis of the evidence available, the SA-IDA may recommend that the suspect face charges at a general court-martial. The SA-IDA also has the option, when appropriate, to send charges to a special court-martial, summary court-martial, or non-judicial punishment and may also process the suspect for administrative separation. If the SA-IDA does not recommend general court-martial, the SA-IDA can also return the case to the suspect's commanding officer for disposition deemed appropriate by that commanding officer, based on the nature of the offenses and an analysis of the evidence available, including special court-martial, summary court-martial, non-judicial punishment, or administrative separation processing.

Once charges are preferred (sworn to), the suspect becomes "the accused" and is provided a military attorney. The charges can immediately be referred to a summary court-

martial or special court-martial. However, before a case can be referred to a general court-martial, the accused has the right to have the charges considered at an Article 32 pre-trial investigation.

An Article 32 investigation is similar to a civilian preliminary hearing, and a victim may have to appear and testify at the hearing. The accused will be present at the Article 32 hearing along with the defense counsel who may cross-examine the victim. In the Navy, judge advocates serve as Article 32 investigating officers for sexual assault offenses. The Article 32 investigating officer will hear the evidence and write a report, which will include the investigating officer's determination as to whether there are reasonable grounds to believe that the accused committed the offenses charged and, if so, a recommendation on the forum for disposition of the charges. After considering the investigating officer's report and the recommendation of a staff judge advocate, the SA-IDA may decide to recommend to a general court-martial convening authority (generally an O-7 or above) that he or she convene a general court-martial, or the SA-IDA may send the accused to a special court-martial, summary court-martial, impose NJP or, if appropriate, dismiss the charges. The accused may also be processed for administrative separation. In the alternative, the SA-IDA may return the case to the suspect's commanding officer for appropriate disposition.

If the charges are referred to a general or special court-martial, the accused has the right to choose to be tried by a military judge alone or by a panel of service members who serve as jurors (or "members" in a court-martial). To convict a service member, a two-thirds majority of the court-martial panel members, or the military judge if the case proceeds with the military judge alone, must be convinced of the accused's guilt beyond a reasonable doubt. If the accused is found guilty, the case will proceed to the sentencing phase and the military judge or members decide what punishment to apply. During a sentencing hearing, both sides may again call witnesses to help determine an appropriate sentence. The victim can testify about the impact of the sexual assault, which may include the emotional, physical, and financial suffering the victim experienced.

Post-trial appeal and review processes under Articles 64, 66, and 69 of the UCMJ occur after the court martial proceedings. Article 66 reviews apply to cases in which a punitive discharge or sentence of confinement for one year or more was approved; those convicted are assigned appellate defense counsel, and cases on appeal are decided by senior judge advocates

servicing as Navy and Marine Corps Court of Criminal Appeals appellate judges or by civilian judges of the U.S. Court of Appeals for the Armed Forces. Article 69 reviews apply to general courts-martial where a punitive discharge or confinement for one year or more was not approved; the records of trial are reviewed by the Office of the Judge Advocate General. Article 64 reviews are conducted for all other courts-martial cases and are submitted to a judge advocate who must respond to any allegation of error made by the accused.

Throughout the legal process, the victim has certain basic rights. For example, a victim has the right to communicate his or her position about the disposition of the case and plea negotiations. Although the convening authority is not bound to dispose of the case as the victim desires, the victim's views must be carefully considered. In addition to the general guidance Navy prosecutors provide, victims can contact counsel, and active-duty and dependent victims also have access to legal assistance attorneys to provide information on the military justice process, victim's rights, and help with a wide variety of legal issues related to being the victim of a crime.

Under the Victim and Witness Assistance Program (VWAP), the victim has certain basic rights throughout a court-martial, including:

- Being treated with fairness and respect for the victim's dignity and privacy;
- Being reasonably protected from the accused;
- Being notified of court proceedings;
- Being present at all public court proceedings related to the offense, unless the investigating officer or military judge determines that the victim's testimony would be materially affected if he or she heard other testimony at the pretrial investigation or at trial;
- Conferencing with the trial counsel;
- Receiving available restitution, if appropriate; and
- Being provided information about the conviction, sentencing, imprisonment, and release of the offender.

### ***The role of the commander***

Preventing and responding to sexual assault is not just a legal issue – it is a leadership issue. The performance, safety and climate of a unit begin and end with the commander. As

described in the “Charge of Command” that all Navy officers sign in the presence of their reporting senior upon taking command, the commanding officer is responsible and accountable for everything that happens in their ship, squadron or unit. By virtue of experience, skill and training, our commanders are the best assessors of their people and are the key to sustaining the readiness of their unit. If we want to implement effective, permanent change in our military, we must do so through our commanders.

From our analysis of sexual assault reports and cases, we know many of the factors surrounding the majority of sexual assaults. The commander is responsible to address these factors by fostering an appropriate command climate of dignity and respect for everyone and ensuring a safe workplace and living areas. Overall, the commanding officer is responsible for good order and discipline of the unit and the well being of his or her Sailors.

The responsibility, authority, and accountability we repose in the commander requires that we provide him or her tools to maintain appropriate readiness and safety every day. Military justice is one of those tools. The fundamental structure of the military justice system and UCMJ, centered on the role of the commander as the convening authority, is sound. Navy commanders are often required to make independent decisions far from shore, in uncertain or hazardous conditions. In this environment, it is essential that our commanders be involved in each phase of the military justice process, from the report of an offense through adjudication under the UMCJ.

### *The importance of accountability*

The Navy continues to evaluate the tools we provide commanders to ensure they can execute their charge of command. In particular, we are focused on improving the development of leadership and character in our leaders on their way to command. Today, all of our leaders complete high-quality, tailored training on sexual assault prevention and response. This training, provided by professional mobile training teams, is designed to help leaders identify factors and environment that surround or contribute to sexual harassment or sexual assault, and understand the response requirements when a sexual assault occurs.

While tailored to sexual assault prevention and response, this training is not enough to fully prepare commanders to create an appropriate command climate. The Navy recently instituted a concerted leader development program to guide young officers and enlisted personnel to be effective commanders and senior enlisted leaders. Over the next year, we will

advance this program as a cornerstone of our training for future commanders and Senior Enlisted Advisors and leaders.

Because of the inherent responsibility of our commanders, our screening processes to select them are rigorous. They include:

- a formal command qualification program reviewed and approved by each community flag officer leader (normally, a Vice Admiral)
- professional qualification standards for each selected commander
- an oral qualification board for each candidate in front of former commanders
- a command screen board, led by flag officers
- full training on, and acknowledgement of, the “Charge of Command”

Despite the rigors of the selection and training process, we inevitably have failures and must hold commanders accountable for their command climate, their efforts to maintain a safe work environment of dignity and respect, and the good order and discipline of their commands. Today, we do this by requiring commanders to assess their organizational climate at regular intervals, while requiring those with multiple commands under their leadership to monitor the climates of subordinate commands. We also evaluate our commanders (and all officers) in their regular fitness reports (performance evaluations used for determination of advancement) in three areas: Command Climate / Equal Opportunity, Leadership and in written summary, where documentation of poor command climates would be listed. We hold our commanders responsible and accountable when they do not meet acceptable standards.

There are 1,254 command positions in the Navy. In 2012, Navy relieved 11 commanders for personal misconduct and eight commanders were relieved for failure to provide effective leadership; four of these eight were relieved for poor command climate. This year, we have relieved five commanders for failure to provide effective leadership, two of whom were relieved for poor command climate.

As part of the Navy’s accountability process, commanders are required to brief their Immediate Superior in Command and the first flag officer in the chain of command on each sexual assault incident occurring in their command. Commanders evaluate the command climate of the suspect’s command, as well as the factors surrounding the sexual assault, such as location and environment surrounding the incident, demographics, and the role of alcohol. Means to prevent further incidents are discussed.

Our Navy four-star flag officers reinforce accountability for command climate by reviewing these “first flag” reports. I meet with my four stars every quarter to review “first flag reports”: trends, demographics, common features and environments and best practices to prevent sexual assaults. We apply the insights from the reports to ongoing initiatives, particularly our regionally-focused programs in Great Lakes, San Diego, Japan and Europe.

### ***Conclusion***

We remain steadfastly committed to eradicating sexual assault within our ranks and ensuring that sexual assault cases are processed through a fair, effective, and efficient military justice system.

Sexual assault is a crime that threatens the safety of our Sailors, is utterly inconsistent with our Core Values, and impacts the ability of the Navy to execute our mission. We must more effectively prevent and respond to sexual assault, or our readiness and credibility as a fighting force will suffer.

The Navy is making progress in areas where we empowered commanders to undertake regionally-focused approaches that address the factors surrounding sexual assault. Our efforts must continue to focus on providing commanders the appropriate tools to remain effective, accountable leaders, and hold these commanders accountable for the safety and well being of all their Sailors. I look forward to working with Congress on a deliberate, thoughtful review of the systems used to investigate, prosecute, and adjudicate sexual assaults.



The Honorable James M. Inhofe  
 Ranking Member  
 United States Senate  
 Committee on Armed Services  
 Washington, DC 20510-6510

OCT 28 2013

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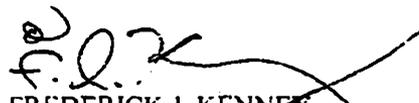
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400522



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Committee on Armed Services  
Washington, DC 20510-6510

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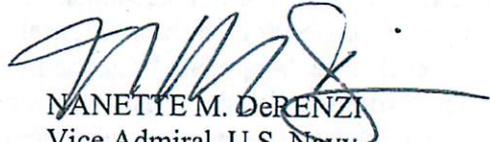
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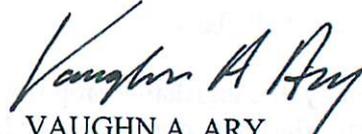
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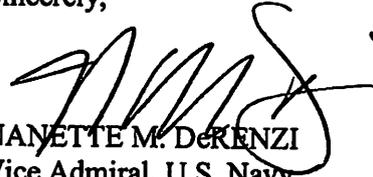


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## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01157

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**MILITARY JUSTICE SYSTEM: ADEQUACY**

**QUESTION:** Is the military justice system, as established by Title 10, U.S. Code, the Uniform Code of Military Justice (UCMJ), adequate for the mission of providing efficient, effective, and fair adjudication of sexual assaults?

**ANSWER:** The military justice system apparatus – with specific rules of procedure, evidentiary court rules, professionalized practitioners, and independent judicial bodies – has more in common with the federal civilian courts than differences. The United States military justice system today is one of the best, most fair and just systems in the world. However, we should not take the status quo for granted. And while the system works well, it is not perfect. There should be, and there is, a never-ending quest to improve it.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
Dir./Pgm. Release Auth.	RADM Kenney	CG-094		4/18/2013
CG-821 Reviewer				

**NOTES/REFERENCE MATERIALS:**

Place information below that you wish all levels of review to be aware of.  
HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01158

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**MILITARY JUSTICE SYSTEM: LEGISLATIVE CHANGES**

**QUESTION:** What legislative changes, if any, do you recommend to improve the military justice system to improve processing of sexual assault cases?

**ANSWER:** This nation can be proud of its military justice system. The modern system embraces the appropriate balance between maintaining good order and discipline within the ranks and protecting the civil liberties of those individuals accused of a crime. Since its inception, the UCMJ has been modified and amended, and it will continue to change in order to adapt to our evolving democratic and diverse nation. The modern military justice system has achieved legitimacy as a fair judicial process measured by its treatment in Supreme Court decisions and opinions of service members. Nevertheless, current aspects of military justice are worthy of robust examination and debate. However, it is important that serious thought goes to how the UCMJ should be changed, as to what should be changed.

With this aim in mind, the National Defense Authorization Act of 2013 creates two independent panels – the Response System Panel and the Judicial Proceedings Panel – that will provide an empirical data-driven study to assess criminal justice systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses. This deliberate and thoughtful study is an appropriate method to consider possible changes to the UCMJ.

The Coast Guard supports the Secretary of Defense’s recent decision to seek legislative changes to Article 60 by eliminating a convening authority’s ability to grant clemency on a courts-martial findings, except for certain minor offenses that would not ordinarily warrant trial by court-martial; and by requiring a convening authority to explain in writing any changes made to a court-martial sentence, as well as any changes to findings involving minor offenses.

**DRAFTER/REVIEW CONTACT INFORMATION**

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Dir./Pgm. Release Auth.	RADM Kenney	CG-094		4/18/2013
CG-821 Reviewer				

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01158

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01159

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**ADEQUATE NUMBER OF JUDGE ADVOCATES**

**QUESTION:** Do you have an adequate number of judge advocates, enlisted legal clerks and technicians, and civilian staff to meet requirements for military justice?

**Answer:** With the current criminal caseload levels, the Coast Guard maintains an adequate number of judge advocates and legal support staff to fulfill its military justice requirements.

To meet its legal service requirements, the Coast Guard has approximately 195 officers designated as judge advocates serving on active duty, of whom 150 are serving in legal billets and 45 are serving in "out-of-specialty" billets. Fourteen Staff Judge Advocates advise seventeen officers exercising general court-martial jurisdiction. Those fourteen SJAs as well as three additional independent duty SJAs at training centers advise approximately 350 officers exercising special court-martial jurisdiction. Responsibility for detailing trial and defense counsel to general and special courts-martial rests with the Chief, Office of Legal and Defense Services, a staff office reporting to the Deputy Judge Advocate General charged with providing defense and personal legal services to Coast Guard members. Pursuant to an inter-service memorandum of understanding, the U.S. Navy provides trial defense counsel for all Coast Guard courts-martial. In return, at least four Coast Guard attorneys are assigned to full time duty, typically for one-year or two-year assignments, at one or more Navy Defense Service Offices or Regional Legal Service Offices.

The Coast Guard has one general courts-martial judge and eight collateral-duty special courts-martial judges. The Coast Guard plans to reduce the number of collateral-duty special courts-martial judges to six by July 2013.

The Office of Military Justice at Coast Guard Headquarters is responsible for representing the United States in all courts-martial appeals and providing support to staff judge advocates and trial counsel (prosecutors) throughout the Coast Guard. The office is also responsible for developing military justice policy for the Coast Guard, including participation on the Joint Service Committee (JSC) on Military Justice. The Office of Legal and Defense Services is responsible for defense appellate representation.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**NOTES/REFERENCE MATERIALS:**

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QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01159

**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

**[CLEARANCE SHEET](#)** (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01160

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**PROJECTED PERSONNEL END STRENGTH**

**QUESTION:** What is your projected fiscal year 2013 end strength of officers, enlisted, and civilians?

**ANSWER:** Officers - 6,803  
 Chief Warrant Officers - 1,668  
 Enlisted Members - 32,635  
 Civilians - 8,305

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Mr. David McLeish	CG-12A	202-475-5230	28March2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	29March2013
<b>CG-821 Reviewer</b>	LCDR C Mundy	CG-821	202-372-3524	29 Mar 13

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

CG-823 received 17 Questions for the Record (QFRs) as a follow-up to RADM Kenney's March 13, 2013 hearing on "Sexual Assault in the Military" before the Senate Armed Services Committee.

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01161

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**MILITARY JUSTICE SYSTEM: ROLE OF RESERVES**

**QUESTION:** What is the role of the Reserve component in the military justice system?

**ANSWER:** Coast Guard Reserve Legal Program is a key provider of legal services, particularly during contingency operations such as the Deepwater Horizon Incident or the aftermath of Hurricane Katrina. The role individual reserve judge advocates play in the military justice system often depends on their prior training and experience, as well as their civilian legal specialty.

Last year, Coast Guard Director of Reserve and Military Personnel approved a reorganization plan of the Coast Guard Reserve Legal Program by creating deployable reserve legal teams that would maximize the delivering of quantifiable and quality legal services during incidents of national significance, as well as allowing reserve judge advocates and enlisted personnel to provide augmentation support to Coast Guard servicing legal offices. The reorganization plan offers structured training to reserve judge advocates to provide command advice in the military justice context. While the training, itself, does not provide them with the requisite knowledge to act as government or defense counsel in a court-martial, it does provide the legal skills necessary to provide military justice advice to Incident Commanders during a contingency operation and also to assist in initiating low-level disciplinary action for uniquely military-type offenses or minor misdemeanor type-crimes that are typically resolved at summary court-martial and non-judicial punishment. However, some reserve attorneys possess significant military justice experience gained from active duty service.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01161

[CLEARANCE SHEET](#) (click to annotate clearance)

500201

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01162

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**SEXUAL ASSAULT CASE PROSECUTION/DEFENSE: ROLE OF THE RESERVES**

**QUESTION:** What is the role of the Reserve component in the prosecution and defense of sexual assault cases?

**ANSWER:** Coast Guard Reserve Legal Program is a key provider of legal services, particularly during contingency operations such as the Deepwater Horizon Incident or the aftermath of Hurricane Katrina. The role individual reserve judge advocates play in the military justice system often depends on their prior training and experience, as well as their civilian legal specialty.

Last year, Coast Guard Director of Reserve and Military Personnel approved a reorganization plan of the Coast Guard Reserve Legal Program by creating deployable reserve legal teams that would maximize the delivering of quantifiable and quality legal services during incidents of national significance, as well as allowing reserve judge advocates and enlisted personnel to provide augmentation support to Coast Guard servicing legal offices. The reorganization plan offers structured training to reserve judge advocates to provide command advice in the military justice context. While the training, itself, does not provide them with the requisite knowledge to act as government or defense counsel in a court-martial, it does provide the legal skills necessary to provide military justice advice to Incident Commanders during a contingency operation and also to assist in initiating low-level disciplinary action for uniquely military-type offenses or minor misdemeanor type-crimes that are typically resolved at summary court-martial and non-judicial punishment. However, some reserve attorneys possess significant military justice experience gained from active duty service.

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01162

CLEARANCE SHEET (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01163

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**AFGHANISTAN DRAWDOWN = MORE MILITARY JUSTICE CASES**

**QUESTION:** As troops are redeployed to garrison as a result of the Administration's announced plan to reduce U.S. forces in Afghanistan, do you anticipate an increase in the overall rate of military justice cases and what plans are you taking in anticipation of any such increase?

**ANSWER:** Coast Guard military men and women have deployed abroad to support Operating Enduring Freedom. Because of the small number of expected redeploying members, the Coast Guard does not anticipate an increase in the overall rate of military justice cases.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

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## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01164

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**USMJ: ABILITY FOR VICTIMS PROVIDE INFORMATION TO THE CONVENING AUTHORITY**

**QUESTION:** Does any Article of the UCMJ codify the ability of the victims of crime to provide information for consideration by the convening authority, prior to action on the results of court-martial under Article 60?

**ANSWER:** There are no provisions in the UCMJ that specify that a victim of a crime may provide information to a convening authority after trial and prior to action. There is also no provision in the UCMJ that precludes a victim from submitting documentation to the convening authority. However, if the convening authority considers potentially adverse matters regarding the accused from outside the record of trial, the accused must be notified and provided an opportunity to respond.

At a contested trial, a victim may testify during the presentation of the government's case on the merits, and again during the sentencing phase to present evidence of aggravation directly relating to or resulting from the offenses of which the accused has been found guilty. Matters of aggravation include providing testimony on the impact of the crime, such as financial, social, psychological, and medical harm experienced by the victim. This testimony is captured in the verbatim transcript and may be provided to convening authority as a matter to consider in clemency decisions.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

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**QUESTIONS FOR THE RECORD (QFRS)**

**#QFRs-01164**

**500206**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01165

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**UCMJ: CHANGE TO AUTHORITY FOR VICTIMS OF CRIME**

**QUESTION:** Should the UCMJ include authority for victims of crime to provide information for consideration by the convening authority, prior to action on the results of courts-martial under Article 60? Or would a change to the Manual for Courts-Martial, perhaps to modify Rule 1107 be the more appropriate method to provide victims this opportunity to be heard?

**ANSWER:** The military justice process should provide an affirmative legal process affording victims an opportunity to submit written materials to the convening authority before they take final action on a court-martial case. Either an amendment to Article 60 or a change to the Manual for Courts-Martial would have the force of law. However, due process considerations should be studied to ensure than any changes in the rules do not adversely affect the due process rights of the accused.

The Joint Service Committee on Military Justice is currently studying the authorities and rules regarding post-trial processes, including drafting procedural rules to provide an opportunity for victims to submit post-trial matters to convening authorities without exposing cases to appellate relief. In addition, the Response Systems Panel, which is statutorily mandated under the NDAA FY13 to conduct a comparison study of military and civilian justice systems, will review the issue regarding the capacity of the military justice system to provide an appropriate voice to victims of sexual assault.

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

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QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01166

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**MANUAL FOR COURTS-MARTIAL MODIFICATION**

**QUESTION:** Should the Manual for Courts-Martial be modified to provide authority for victims of crime to provide information for consideration by the convening authority, prior to action on the results of courts-martial?

**ANSWER:** The military justice process should provide an affirmative legal process affording victims an opportunity to submit written materials to the convening authority before they take final action on a court-martial case. Either an amendment to Article 60 or a change to the Manual for Courts-Martial would have the force of law. However, due process considerations should be studied to ensure that any changes in the rules do not adversely affect the due process rights of the accused.

The Joint Service Committee on Military Justice is currently studying the authorities and rules regarding post-trial processes, including drafting procedural rules to provide an opportunity for victims to submit post-trial matters to convening authorities without exposing cases to appellate relief. In addition, the Response Systems Panel, which is statutorily mandated under the NDAA FY13 to conduct a comparison study of military and civilian justice systems, will review the issue regarding the capacity of the military justice system to provide an appropriate voice to victims of sexual assault.

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

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## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01167

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**AIR FORCE SPECIAL VICTIMS COUNSEL PILOT DEMONSTRATES**

**QUESTION:** If the Air Force Special Victims Counsel pilot demonstrates its effectiveness, what resourcing would be required to implement it, within current and projected end strength, in each branch of the armed services?

**ANSWER:** Implementation of a special victim counsel modeled after the Air Forces pilot program would significantly stretch the Coast Guard's current legal resources. In fiscal year 2013, the Coast Guard had 141 unrestricted reports of sexual assault. In fiscal year 2011, there were 83 unrestricted reports. The Office of the Judge Advocate General is closely monitoring the Air Force program and considering its options to implement a Coast guard Special Victim's Course/Program with available resources.

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**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

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QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01168

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**AIR FORCE SPECIAL VICTIMS COUNSEL: SIMILAR CAPABILITY**

**QUESTION:** Is there a requirement that the capability similar to the Air Force Special Victims Counsel must be a lawyer or could this capability, if it moves from pilot program, be effective with appropriately trained non-lawyers?

**ANSWER:** As presently devised, the Air Force Special Victims Counsel enters into an attorney-client relationship, makes legal representation on the victim's behalf, and promotes the individual interests of the victim without regard to how their legal actions affect the institutional interest of the military. Under this model, the Air Force's program requires a lawyer. However, if the purpose behind the program is to educate the victim on the military justice process, facilitate access to victim services, and build resiliency of the victim to endure the criminal process, then a trained non-lawyer could be used.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

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QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01169

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**ESTABLISHING SPECIAL VICTIMS COUNSEL**

**QUESTION:** What concern, if any, do you have that establishing Special Victims Counsel could be perceived as improperly undermining the necessary balance between the government and defense in the military justice system?

**ANSWER:** The Air Force Pilot Program has been in effect for less than three months. During this short period, the nascent program continues to evolve and adjust. To ensure that the program has the intended effect of assisting victims through the military justice process and facilitating prosecution of cases, further evaluation is required. Once sufficient information is received with regard to the program's efficacy, the Coast Guard will determine the best course of action on how to proceed.

In addition, the statutorily mandated Response Systems Panel is charged with comparing civilian and military jurisdictions, including best practices for providing support services to victims of sexual assault. Evaluation of this in-depth and thoughtful study will be helpful in proposing further implementation and avoiding unintended appellate law consequences. In the meantime, the Coast Guard is committed to providing the victims with professional support and services where victims and witnesses feel safe to come forward and report sexual assault.

A significant potential issue is whether Special Victim Counsel can or ought to have any role in court. Adding a Special Victims Counsel to the personnel of a court-martial (see Rule for Court-Martial 501(d)), could pose a variety of potential challenges, including suitability of existing trial procedures, confusion of court-martial members, and perceived or actual unfairness to the accused. The Coast Guard has reviewed the case of *LRM v. Kastenberg*, Misc. Dkt. No. 2013-05 (A.F. Ct. Crim. App. Apr. 2, 2013), where the Air Force Court of Criminal Appeals ruled that victim's Special Victims Counsel had no standing to compel production of evidence. We are monitoring this case closely to determine its potential impact on a Coast Guard Special Victim Course program.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01169

**CG-82 Notes (why changes were made to question):**

**CLEARANCE SHEET** (click to annotate clearance)

500212

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01170

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**UCMJ: ABOLISHED CONVENING AUTHORITIES**

**QUESTION:** Some have suggested that the authority of convening authorities under Article 60, UCMJ should be abolished. Is there a continued basis in military due process for the unfettered authority of convening authorities in Article 60?

**ANSWER:** Convening authorities have had the authority to approve or disapprove guilty findings, as well as to grant clemency on sentences, of military members convicted by courts-martial since the Revolutionary War. Ostensibly, the power was provided to commanders because there were no appellate courts to review court-martial cases, and thus the review and action by the convening authority provided some post-trial substantive protection to a convicted servicemember. Although the modern UCMJ introduced appellate review, it preserved the historical function of the convening authority to review a case as well as consider clemency.

On April 8, 2013, Secretary of Defense directed that new legislation be prepared for Congress to amend Article 60 in two ways; first, by eliminating the discretion for a convening authority to change the findings of court-martial, except for certain minor offenses that would not ordinarily warrant trial by court-martial; and second, by requiring the convening authority to explain in writing any changes made to court-martial sentences, as well as any changes to findings involving minor offense. As indicated by the Secretary, the Service Secretaries, the Joint Chiefs of Staff, and the Service Judge Advocates General, including the Judge Advocate General of the Coast Guard, support these changes.

The Joint Service Committee on Military Justice is further evaluating the underlying assumptions of the convening authority's post-trial powers and options for modifying Article 60 power, and the Coast Guard has been actively involved in these discussions. In addition, the Congressionally mandated panels directed under the National Defense Authorization Act of 2013 provides a process for a holistic review of the military justice system. These review processes will generate well-informed and evidenced-based policy reforms regarding the UCMJ.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01170

**CG-82 Notes (why changes were made to question):**

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QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01171

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**UCMJ: ABOLISHED CONVENING AUTHORITIES**

**QUESTION:** If Article 60, UCMJ, were abolished, eliminating the convening authority's power to review and take action on the results of trial, what would be the impact to the right of an accused to seek clemency in a timely manner?

**ANSWER:** The Court of Appeals for the Armed Forces has frequently noted that an accused's best chance of relief rests with the convening authority' power to grant clemency. *See e.g. United v. Davis*, 58 M.J. 100, 102 (C.A.A.F. 2003). Despite the recent attention to Article 60 power, convening authorities rarely exercise this authority as applied to findings. The Coast Guard Court of Criminal Appeals can, however, adjust sentences *sua sponte* on a finding of legal error.

Military appeal courts, whether it is the Coast Guard Court of Criminal Appeals or Court of Appeals for the Armed Forces, are not statutorily authorized to engage in exercises of clemency.

Once appellate review is complete, Article 74(a) grants the Secretary the authority to remit or suspend the unexecuted portions of any sentence. This authority has been delegated to the Coast Guard Commandant. Under Article 74(b), the Secretary may, for good cause, substitute an administrative form of discharge for a punitive discharge or dismissal executed in accordance with the sentence of a court-martial.

Without the authority vested in Article 60, the accused would have no viable opportunity to clemency with regard to findings, and the power to grant clemency to an adjudged sentence would be narrowed to those unexecuted portions by the Commandant, and as well as authorizing only discharge upgrades by the Secretary for good cause.

**DRAFTER/REVIEW CONTACT INFORMATION**

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01171

[CLEARANCE SHEET](#) (click to annotate clearance)

500216

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01172

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**HAS AGGRESSIVE PROSECUTION GONE TOO FAR**

**QUESTION:** Each branch of the armed services has taken steps to improve the professional training and oversight of the prosecution function. Has the pendulum swung too far in favor of the prosecution and what concerns, if any, do you have about the impact of these initiatives on the rights of accused in the military justice system?

**ANSWER:** The UCMJ establishes the foundation of expected standards of conduct for all service members, and creates the legal options by which commanders enforce those standards. Thus, the steps taken to enhance training and oversight of the prosecutorial function were not only appropriate, they were absolutely necessary. Rape and sexual assault are not compatible with a disciplined military service, and cannot be tolerated in the Coast Guard. The sexual assault programs and military justice reforms reinforce the Coast Guard's core values that each person in the military must be treated with respect and dignity and each service member will be held responsible for their actions.

The recent initiatives were important for increasing awareness of rape and sexual assault, providing greater response services to victims, requiring trained law enforcement agents to investigate such crimes, and providing trial counsel greater advocacy knowledge to prosecute sex crimes. However, these initiatives do not suggest that discipline should be summarily dispensed because commanders refer cases to court-martial. Courts-martial are, and continue to be, instruments of justice. The military justice system empowers independent judicial entities to safeguard constitutionally protected individual rights. The military justice system presumes the accused innocent and guilt must be proved beyond a reasonable doubt. The military justice system provides the necessary procedural checks and balances to prevent abuse of punitive powers. Maintaining the balance between the protection of fundamental Constitutional rights and the maintenance of military discipline is a challenging one. Therefore, any critical review of the UCMJ must ensure that the military justice system continues to render justice fairly and impartially and guard against the erosion of individual rights and due process of all service members who wear the uniform.

**DRAFTER/REVIEW CONTACT INFORMATION**

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QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01172

**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

**[CLEARANCE SHEET](#)** (click to annotate clearance)

500218

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01173

For CG-82 use only	March 13, 2013: Sexual Assaults (SASC)	DHS review required? Yes
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**CONVICTED SEX OFFENDERS: SHOULD THEY ALL BE DISCHARGED**

**QUESTION:** Service Women's Action Network, noted that 1 in 3 convicted sex offenders remain in the military and that of the Services only the Navy discharges all convicted sex offenders. What is your plan to prevent the continued service of those who commit these violent crimes?

**ANSWER:** Members convicted of a sexual assault at court-martial and sentenced to a punitive discharge will be separated from the service by operation of law upon completion of the member's term of confinement and the appellate review process.

By policy, the Coast Guard will initiate administrative discharge proceedings against members convicted of a serious offense at a civilian criminal trial or court-martial where no punitive discharge is imposed (Military Separations, COMDTINST M1000.4). Moreover, discharge from the Coast Guard for a serious offense does not require adjudication by judicial proceedings. An acquittal or finding of not guilty at a judicial proceeding does not prohibit discharge proceedings for serious misconduct. However, the offense must be established by a preponderance of the evidence. Police reports and reports of investigation may be used to make the determination that a member committed a serious offense.

In addition, Coast Guard policy mandates that any applicant convicted of a felony or a domestic violence offense is ineligible for enlistment or commission (Coast Guard Recruiting Manual, Commandant Instruction M1000.2E).

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
Dir./Pgm. Release Auth.	RADM Kenney	CG-094		4/18/2013
CG-821 Reviewer				

**NOTES/REFERENCE MATERIALS:**  
 Place information below that you wish all levels of review to be aware of.  
 HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

**QUESTIONS FOR THE RECORD (QFRS)**

**#QFRs-01173**

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01311

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, if legislation is enacted that requires that serious offenses be sent to a new disposition authority outside of the chain of command for a determination of whether the allegations should be prosecuted at a general or special court-martial, who would make the determination of whether an offense meets the threshold of a serious offense that must be referred to the new disposition authority for consideration?

**ANSWER:** Coast Guard policy requires all actual, alleged, or suspected felony violations of the UCMJ to be reported to Coast Guard Investigative Service (CGIS). This requires commands to report to CGIS a wide range of offenses, including rape, sexual assault, or abusive sexual contact. Presumably, legislation would define a serious offense. Otherwise, the Coast Guard would specify in policy what constitutes a "serious offense" requiring referral to an independent disposition authority. Our current reporting policy and practice suggests that all potential Article 120 offenses would reach the disposition authority.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR McCarthy	CG-821	2-3508	6/24/13

**NOTES/REFERENCE MATERIALS:**

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HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01312

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, if a sexual assault occurs on a ship or battlefield, what are the responsibilities of the on-site commander?

**ANSWER:** The first response and continuous obligation by unit commanders will always be ensuring the safety and security of a victim. Commanders will determine if the victim desires or needs any emergency medical care. If underway and a feasible port destination is not readily available, arrangements will be made to MEDEVAC the victim. Commanders will also determine if the victim desires or needs protection. In port, commanders will determine the nature of pretrial restraint to impose on the accused that may include pretrial confinement. The commander will also consider temporary or permanent reassignment of the accused or the victim and imposition of a military protective order to ensure the safety of the victim. If the incident occurs underway, commanders have the inherent authority to restrict or confine the offender.

Like any other unrestricted report of sexual assault, unit commanders must immediately report the incident to Coast Guard Investigative Service (CGIS) and the Sexual Assault Response Coordinator (SARC). Under Coast Guard policy, only CGIS may conduct a formal criminal investigation involving sexual assault offenses. Agency policy prohibits command field-level investigation into allegations of sexual assault.

While most cutters in the Coast Guard are less than a day's trip from the nearest port call, some High Endurance Cutters or Polar Icebreakers may be underway in remote localities. Because CGIS agents are not assigned to Coast Guard cutters, there may be situations where providing a CGIS agent will pose logistical challenges. The SARC, CGIS and the servicing legal office will work closely with the cutter's command to provide an agent to the cutter as expeditiously as possible.

In addition to addressing safety concerns and complying with Coast Guard reporting requirements, a commander is responsible for ensuring the victim understands the availability and benefits of having a victim advocate.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR J. McCarthy	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

Place information below that you wish all levels of review to be aware of.

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01312

HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

**[CLEARANCE SHEET](#)** (click to annotate clearance)

500223

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01313

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, does the on-site commander have to send the alleged perpetrator, victim, and witnesses back to a secure location so they are available to the disposition authority?

**ANSWER:** Current practice does not require transfer of witnesses, victims, or alleged offenders to the location of the disposition authority. Under Coast Guard's Sexual Assault Prevention and Response Program, a victim of sexual assault will be reassigned if requested by the victim or if in the victim's best interest and a transfer does not compromise or hamper ongoing investigative activity. Likewise, reassignment of the alleged offender is made when it is in the best interest of the victim and the unit. Reassignment decisions are made in conjunction with the commander, staff judge advocate, CGIS agent, victim advocate, and the victim.

Witnesses are advised to fully cooperate with the investigation, are made available to both government and defense counsel, and may be compelled to travel to an Article 32 hearing, a court-martial proceeding, or other required venue.

Initial disposition of cases occurs usually after CGIS agents have completed their investigation and the staff judge advocate has formally provided independent legal advice to the convening authority.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR J. McCarthy	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

**QUESTIONS FOR THE RECORD (QFRS)**

**#QFRs-01313**

**500225**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01314

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, what effect would this legislation have on the commander's authority to place an accused in pre-trial confinement pending investigation and disposition of the offense?

**ANSWER:** Unit commanders are not restricted by existing policy or this proposed legislation from taking all necessary discretionary actions related to the alleged offender. This would include placing a suspected offender in pretrial restraint, which includes the possibility of pretrial confinement, as well as issuing military protective orders.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR McCarthy	821	2-3508	6/24/13

<p><b>NOTES/REFERENCE MATERIALS:</b> Place information below that you wish all levels of review to be aware of. HOWEVER, Information from this point on will not be provided to the Witness.</p>
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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01315

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, if the new disposition authority does not refer an allegation to a general or special court-martial, can the commander offer the accused an Article 15 for the offense considered by the disposition authority, and if the accused refuses the Article 15 and demands trial by court-martial, what does the commander do?

**ANSWER:** A commander could dispose of a case by nonjudicial punishment (NJP) after an independent disposition authority chooses not to refer charges to a general or special court-martial. Administration of NJP would, however, be complicated by severing the convening authority function from commanders because some coordination between the independent disposition authority and commander would have to occur so the commander would be informed of the matter and the decision of the disposition authority not to proceed, and coordination would have to occur again where an accused declines NJP and a convening authority must decide whether and to what level of court-martial the case should be referred.

Except in rare situations where a service member is attached to or embarked on a vessel, a military member may reject NJP and demand trial by court-martial. In most cases, service members accept NJP when offered. Currently, a commander can refer a case to court-martial if a member refuses NJP. If a commander lacks the ability to refer cases to court-martial, we expect that a member would be more likely to refuse NJP knowing that an independent disposition authority has already declined to refer the charges to a courts-martial. This result would have negative consequences on the exercise of command authority. Commanders must ensure mission accomplishment and do so by maintaining unit readiness and enforcing discipline. Dividing the authority to impose NJP from the ability to refer cases to court-martial would weaken command authority, which would be exacerbated where accused have a structural incentive to refuse NJP.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR J. McCarthy	821	2-3508	6/24/13

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01315

**CG-82 Notes (why changes were made to question):**

**[CLEARANCE SHEET](#)** (click to annotate clearance)

500228

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01316

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Kenney, would the commander still have the authority to issue no-contact orders and to assign the alleged perpetrator and victim to duties so that they would not have to work with each other?

**ANSWER:** Yes. It is within the commander's inherent authority to issue military no-contact orders as well as reassign members within their command. Moreover, under the Coast Guard's Sexual Assault Prevention and Response Program, a victim of sexual assault will be reassigned if requested by the victim or its is in the victim's best interest and a transfer does not compromise or hamper ongoing investigative activity. Likewise, reassignment of the alleged offender is made when it is in the best interest of the victim and the unit. Reassignment decisions are made in conjunction with the commander, staff judge advocate, CGIS agent, victim advocate, and the victim.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR McCarthy	821		6/24/13

**NOTES/REFERENCE MATERIALS:**  
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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01317

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, would an accused have a right to be represented by a lawyer before the new disposition authority?

**ANSWER:** Yes. All accused are entitled to no-cost, independent military defense counsel or may seek civilian counsel. The right to consult with an attorney may be invoked when a service member is advised of Article 31(b) rights against self-incrimination. The right to representation by a military defense counsel attaches when charges are preferred against a service member.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR J. McCarthy	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

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HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01318

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: LEGISLATIVE PROPOSAL FOR NEW DISPOSITION AUTHORITY**

**QUESTION:** Admiral Kenney, how many of these new disposition authorities would you need and where would they be located?

**ANSWER:** Coast Guard judge advocates currently report to their local chain of command. Because the proposed legislation places judge advocates in a separate and independent entity outside the control of commanders, a detailed examination is required to thoroughly assess the required resources needed and potential geographic locations.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR J. McCarthy	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

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HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:****CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01319

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: REPRISAL**

**QUESTION:** Admiral Papp, many victims of sexual assault are afraid to come forward for fear of reprisal by lower level commanders or noncommissioned officers (NCO). Part of empowering officers with command responsibilities is to hold them accountable for maintaining good order and discipline. Reprisal or retaliation for victims that come forward is not good order and discipline. What steps need to be taken to truly hold members of a unit, their NCOs, and commanders accountable for retaliation against victims?

**ANSWER:**

The Military Whistleblower Protection Act, Title 10 U.S.C. § 1034, prohibits any person from taking, withholding, or threatening any personnel action against a member of the Armed Forces as reprisal for making or preparing any protected communications. A protected communication is any lawful communication to a Member of Congress or an Inspector General, as well as any communication made to a person or organization designated under competent regulations to receive such communications, which a member of the Armed Forces reasonably believes reports a violation of law or regulation, including sexual assault, sexual harassment, unlawful discrimination, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety.

The Coast Guard Whistleblower Protection Regulation, 33 C.F.R. Part 53, establishes policy and implements Title 10 U.S.C. § 1034 to provide protections against reprisal to members of the Coast Guard.

A reprisal occurs when a responsible management official takes or threatens to take an unfavorable personnel action, or withholds or threatens to withhold a favorable personnel action against a member of the Coast Guard because he or she made or was preparing to make a protected communication. A personnel action is any action taken against a member of the Coast Guard that affects or has the potential to affect that member's current position or career. Examples would include: performance evaluations, transfer or reassignment, changes to duties or responsibilities, disciplinary or other corrective actions, denial of reenlistment, decisions concerning awards, promotions or training, decisions concerning pay or benefits, referrals for mental health evaluations, access to classified material, and authorization to carry weapons.

Members who retaliate against a victim of sexual assault may be held accountable in a number of ways.

First, every military member – officer and enlisted – receives employee evaluations. To the extent the individual has failed to perform their expected duties – either negligently or willfully – that failure in performance or conduct will be captured in their evaluation. Members who take retaliatory action against a victim would receive poor evaluations, which have a range of negative career consequences such as: failure to promote, prohibitions on attending training, and failure to be selected for command cadre positions.

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01319

Second, members in command may be relieved for cause.

Third, in the case of officers, retaliation may be serious enough to warrant a Board of Inquiry to determine whether that officer should be separated from active duty. Similarly, enlisted personnel may be separated from the service through an administrative board process.

Lastly, if after a thorough investigation, there is probable cause to believe that a service member has committed an offense under the UCMJ, that member could face non-judicial punishment or, if the offense is more serious, trial by court-martial.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR Tasikas	CG-0946	2-3806	6/21/13
<b>Dir./Pgm. Release Auth.</b>	Mr. Lederer	DJAG	2-3728	6/21/13
<b>CG-821 Reviewer</b>	LCDR J. McCarthy	821	2-3508	6/24/13

**NOTES/REFERENCE MATERIALS:**

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HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01320

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: OPPORTUNITIES FOR WOMEN**

**QUESTION:** Admiral Papp, do you believe that opening up all military occupations and specialties to women would help end the sexual assault crisis?

**ANSWER:** All military occupations and specialties within the Coast Guard are open to women.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CWO3 Chris Siebenschuh	CG-1A	5-5055	6/20/13
<b>Dir./Pgm. Release Auth.</b>	CWO3 Chris Siebenschuh	CG-1A	5-5055	6/20/13
<b>CG-821 Reviewer</b>	MECM Eric Johnson	CG-821	2-3510	6/24/13

<p><b>NOTES/REFERENCE MATERIALS:</b>  Place information below that you wish all levels of review to be aware of.  HOWEVER, Information from this point on will not be provided to the Witness.</p>
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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

**CLEARANCE SHEET** (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01321

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: OPPORTUNITIES FOR WOMEN**

**QUESTION:** Admiral Papp, if women are allowed to serve in all occupations and in units currently closed to them, would that speed up the cultural change necessary to end this crisis?

**ANSWER:** Women officer and enlisted personnel are not restricted from any military occupation and/or from serving at any Coast Guard unit. However, there are some afloat units (cutters) that cannot accommodate women onboard because they do not have berthing areas that are segregated to allow for males and females to have the necessary privacy.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CAPT Ric Rodriguez	PSC-opm	703-872-6426	6/17/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/19/2013
<b>CG-821 Reviewer</b>	MECM Johnson	CG-821	2-3510	6/24/13

**INFORMATION FROM THIS POINT ON WILL NOT BE PROVIDED TO THE WITNESS.**

**NOTES/REFERENCE MATERIALS:** Please place information below that you wish all levels of review to be aware of but not the witness.

**Directorate/Program Notes:**

The Coast Guard has been assigned Questions for the Record (QFRs) as a follow-up to the Commandant and RADM Kenney's June 04th Senate Armed Service Committee hearing on Sexual Assaults in the Military.

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01322

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: HEALTH CARE OPTIONS**

**QUESTION:** Admiral Papp, the Government Accountability Office (GAO) issued a report of January 29, 2013, that found military health providers do not have a consistent understanding of the responsibilities associated with caring for sexual assault victims. The report also noted that many health care providers do not understand what restricted sexual assault reporting entails or what is expected of military health care providers in those cases. What has been done since the GAO report was issued to address this shortcoming and how will you commit to ensuring that all military health care providers have received this essential training?

**ANSWER:** Mandatory all hands training was conducted in April of 2013 at every unit (including medical facilities) to reinforce the policies and procedures regarding the report of sexual assault cases. In addition, the Coast Guard Director of Health and Safety Directorate (CG-11) tasked the Coast Guard Health, Safety, and Work Life Service Center (HSWL SC) with oversight of a mandatory sexual assault drill at every Coast Guard HSWL regional practice site during the month of April. Confirmation was received prior to the end of the month that all facilities had complied, as well as completing the Coast Guard-wide General Mandatory Training (GMT) on the subject.

The Coast Guard Operational Medical Division (CG-1121) and CG-111 are currently in the process of updating Section 6.J. of the SAPR Program Instruction governing the role and responsibilities of Medical Officers (MO) and Health Care Providers (HCP) in the Coast Guard when caring for a victim of sexual assault. This revision will clarify the importance of qualified personnel performing forensic examinations, the duty of MO and HCP to fully inform the victim of Restricted vs. Unrestricted Reporting options, and the duty to provide care to the victim even if not performing the forensic examination (consistent with the principles of the Patient Centered Wellness Home).

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Captain Deborah Noyes	CG-112	202-475-5169	6/17/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/19/2013
<b>CG-821 Reviewer</b>	MECM Eric Johnson	CG-821	202-372-3510	06/24/2013

**NOTES/REFERENCE MATERIALS:**

Place information below that you wish all levels of review to be aware of.  
HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:**

500236

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01322

The Coast Guard has been assigned Questions for the Record (QFRs) as a follow-up to the Commandant and RADM Kenney's June 04th Senate Armed Service Committee hearing on Sexual Assaults in the Military.

**CG-82 Notes (why changes were made to question):**

**[CLEARANCE SHEET](#)** (click to annotate clearance)

500237

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01323

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: SEXUAL ASSAULT RESPONSE COORDINATORS**

**QUESTION:** Admiral Papp, would you consider making victim's advocates and Sexual Assault Response Coordinators (SARC) competitive assignments selected by senior leaders through a board selection process?

**ANSWER:** No, Coast Guard Victim Advocates (VA) are volunteers and are therefore personally motivated to assist sexual assault victims and help with prevention efforts. Coast Guard SARCs are competitively hired GS-12s and the majority are mental health providers.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5163	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	MECM Johnson	CG-821	2-3510	6/24/13

**NOTES/REFERENCE MATERIALS:**

Place information below that you wish all levels of review to be aware of.  
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**Directorate/Program Notes:**

The Coast Guard has been assigned Questions for the Record (QFRs) as a follow-up to the Commandant and RADM Kenney's June 04th Senate Armed Service Committee hearing on Sexual Assaults in the Military.

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01324

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: SEXUAL ASSAULT RESPONSE COORDINATORS**

**QUESTION:** Admiral Papp, how can the personnel culture be changed so that these are highly sought after and competitive assignments?

**ANSWER:** These positions are already highly sought after and competitive.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5163	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	MECM Johnson	CG-821	2-3510	6/24/13

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

The Coast Guard has been assigned Questions for the Record (QFRs) as a follow-up to the Commandant and RADM Kenney's June 04th Senate Armed Service Committee hearing on Sexual Assaults in the Military.

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01325

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: SEXUAL ASSAULT AND SUICIDE PREVENTION**

**QUESTION:** Admiral Papp, sexual assault has been found to increase the risk for death by suicide by as much as 14 times for female victims compared to women who have never been assaulted, even after controlling for psychiatric diagnoses present prior to the assault. According to results of a new study by researchers at the University of Utah, military personnel have experienced increased risk of suicidal thoughts or actions if they were the victims of physical or violent sexual assault as adults. How does the current system respond to the psychological needs of a sexual assault victim and are there specific suicide prevention trainings and/or discussions with a victim?

**ANSWER:** Coast Guard Sexual Assault Response Coordinators (SARC) are also trained as Employee Assistance Program Coordinators (EAPC) and are fully aware of all the services available through both the Coast Guard Sexual Assault Prevention and Response (SAPR) Program and EAP.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5163	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	LCDR McCarthy	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

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HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:**

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**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01326

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: SEXUAL ASSAULTS**

**QUESTION:** Admiral Papp, the Department of Defense (DOD) has been trying to work on the issue of sexual assault for a significant period of time. DOD established the Sexual Assault Prevention and Response (SAPR) program in 2005. I am interested in your thoughts as to why we are still where we are today in terms of this terrible crime in the military. What have been the biggest hurdles and what has to be changed to stamp out this terrible crime which hurts our military in so many ways and what is most important in terms of fixing it as we move forward?

**ANSWER:** Sexual assault is a terrible crime across society, and as a microcosm of society, it is an issue that we all are dealing with. The military must be the catalyst for change and we must eliminate sexual assault from our ranks. It takes time to change a culture and societal attitudes and biases, and that is not an excuse but a reality. As leaders and members of the armed forces, we must eliminate sexual assault from our midst, but we know there is no "silver bullet" to solve this prevalent problem. We have stood up a Military Campaign Office to work with our SAPR Program, as well as with the DOD, to continue reviewing, strategizing, training, and looking at all angles to develop an effective strategy that will succeed.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5163	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	MECM Johnson	821		6/24/13

**NOTES/REFERENCE MATERIALS:**  
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**Directorate/Program Notes:**

The Coast Guard has been assigned Questions for the Record (QFRs) as a follow-up to the Commandant and RADM Kenney's June 04th Senate Armed Service Committee hearing on Sexual Assaults in the Military.

**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01327

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR; TRAINING**

**QUESTION:** Admiral Papp, please describe the sexual assault prevention training that takes place for new recruits to include basic training for new enlistees as well as for the Service Academies and other accessions.

**ANSWER:** New recruits at the Coast Guard Training Center in Cape May, NJ receive online training upon arrival to ensure they understand the reporting options and who the Sexual Assault Response Coordinators (SARC) and Victim Advocates (VA) are. Recruits also receive specific Sexual Assault Prevention and Response (SAPR) training during their 7 week basic training course. Cadets at the Coast Guard Academy (CGA) receive specialized training that is spread out during their four years, and there is also a cadet group titled "Cadets Against Sexual Assault." These cadets are specifically trained to assist their peers as well as help the CGA SARC with prevention efforts.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5613	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	LCDR McCarthy	821		6/24/13

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**Directorate/Program Notes:**

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**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

500242

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01328

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR; TRAINING**

**QUESTION:** Admiral Papp, after the initial training, how often is it repeated as these service members progress in their careers?

**ANSWER:** Sexual Assault Prevention and Response (SAPR) Training is an annual mandated requirement for all Coast Guard personnel. There are several career checkpoints that afford further SAPR Training, as well as involvement in additional SAPR Trainings, such as the events that occur during Sexual Assault Awareness Month (SAAM) each April.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5613	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	MECM Johnson	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

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**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

500243

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01329

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: SEXUAL ASSAULTS**

**QUESTION:** Admiral Papp, is it the same training or is it modified by where people are in their careers?

**ANSWER:** All personnel receive annual mandated Sexual Assault Prevention and Response (SAPR) Training, and additional trainings are being developed and modified for specific career levels.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5163	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	MECM Eric Johnson	CG-821	202-373-3510	06/25/2013

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

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**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

500244

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01330

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: RETALIATION**

**QUESTION:** Admiral Papp, what happens in your Service if a superior makes an unwanted sexual proposition toward a subordinate who rejects and is later subject to retaliation

**ANSWER:** If this situation were to occur, Commandant's Instruction M5350.4C, *Civil Rights Manual* directs all parties in what actions must be taken, by whom, and by when. Some of the relevant requirements follow:

- Commanding Officers and Officers-in-Charge (COs/OICs) must conduct an investigation into the matter within 30 days.
- COs/OICs must report the incident to the Civil Rights Directorate (which is in a separate reporting chain from local commands).
- COs/OICs must inform the aggrieved party of his/her right to pursue an EEO/EO complaint.
- If the aggrieved person reports the incident directly to the Civil Rights Directorate, the director will conduct an investigation in accordance with the EEO/EO complaint process.
- Matters that violate UCMJ or Federal law must be reported to Coast Guard Investigative Services.
- While the investigation proceeds, the Coast Guard directs involved units to take proactive steps to prevent retaliation, such as separating the parties.
- Any findings of reprisal are subject to penalties as explained in QFR 1319.

Civil Rights Service Providers (CRSPs) provide guidance and assistance to commands, employees and military members to ensure that all harassment complaints are addressed, and handled in a timely manner. CRSPs are stationed throughout the nation. Their names and contact information, along with procedures for entering the complaint process, are posted conspicuously at all Coast Guard units, to assist personnel who wish to raise claims of retaliation. As of 2010, CRSPs report up to the Commandant through the Civil Rights Directorate, not to local commands. The decisional authority for military retaliation claims is, therefore, neither the accused individual's nor the complainant's supervisory chain; claims are decided by the Commandant of the Coast Guard with appeal rights to the Secretary of Homeland Security.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR E. Hoernemann	CG-00H	2-4506	6/20/13
<b>Dir./Pgm. Release Auth.</b>	Ms. Dickerson	CG-00H	2-4500	6/20/13
<b>CG-821 Reviewer</b>	MECM Johnson	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

Place information below that you wish all levels of review to be aware of.

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01330

HOWEVER, Information from this point on will not be provided to the Witness.

**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**

**[CLEARANCE SHEET](#)** (click to annotate clearance)

500246

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01331

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: RETALIATION**

**QUESTION:** Admiral Papp, what protections are in place to ensure that the subordinate's career is not affected by retaliatory acts by the superior in the military chain of command?

**ANSWER:**

Subordinates are protected from retaliation in several ways. As discussed above, many penalties exist to deter retaliatory acts. Federal and military codes, regulations and policies (as summarized below) protect personnel from retaliation.

- Military personnel may be punished for illegal discrimination, harassment, and retaliation under Article 93 of the UCMJ – *Cruelty and Maltreatment*. The maximum punishment under this Article is a dishonorable discharge, forfeiture of all pay and allowance, and confinement for one year.
- Article 138 of the UCMJ affords rights to redress grievances against actions of commanding officers. In addition, a member may petition or present any grievance to any member of Congress (10 U.S.C. § 1034).
- *The Notification and Federal Employee Antidiscrimination and Retaliation Act* (No FEAR Act) of 2002 protects civilian employees against reprisal and allows them to report offenses directly to the Office of Special Counsel.
- 29 CFR 1614 contain provisions to protect employees against reprisal and make the aggrieved party "whole." While this regulation applies to civilian employees, through policy issuance, the Coast Guard affords military members the same protections to the extent possible under the UCMJ.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CDR E. Hoernemann	CG-00H	2-4506	6/20/13
<b>Dir./Pgm. Release Auth.</b>	Ms. Dickerson	CG-00H	2-4500	6/20/13
<b>CG-821 Reviewer</b>	MECM Johnson	821		6/24/13

**NOTES/REFERENCE MATERIALS:**

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**Directorate/Program Notes:**

**CG-82 Notes (why changes were made to question):**  
**CLEARANCE SHEET** (click to annotate clearance)

500247

QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01332

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: COMMAND ACCOUNTABILITY**

**QUESTION:** Admiral Papp, does your Service annotate in a commander's personnel records the data about the numbers of sexual assaults which were reported, investigated, prosecuted, dismissed, etc., during the term of their command? If not, I am interested in your thoughts on adding this information and maybe command climate information as part of the whole picture of the candidates as they are considered for future promotions and assignments.

**ANSWER:** Data about the numbers of sexual assaults which were reported, investigated, prosecuted, dismissed, etc., during the term of commander's tour is not consistently annotated in the records or evaluations of officer (commanding officer) or enlisted (officer-in-charge) personnel. Indicators of Command Climate deficiencies are monitored and addressed, if substantiated a Relief For Cause (RFC) could result. Corrective action resulting from a Command Climate issues become part of the member's permanent record and are considered in subsequent promotion, advancement, and assignment panels.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	CAPT Ric Rodriguez	PSC-opm	703-872-6426	6/17/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>	MECM Eric Johnson	CG-821	202-372-3510	06/24/2013

**NOTES/REFERENCE MATERIALS:**  
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**Directorate/Program Notes:**

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**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

## QUESTIONS FOR THE RECORD (QFRS)

#QFRs-01333

For CG-82 use only	June 4, 2013 (CCG/JAG): SASC Sexual Assault Hearing	DHS review required? Yes
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**SAPR: VICTIMS ACCESS TO SEXUAL ASSAULT RESPONSE COORDINATORS**

**QUESTION:** Admiral Papp, do you believe that victims of sexual assault in the military should have access to a SARC or a similarly trained individual who can support victims and help them access the support and care they need?

**ANSWER:** Absolutely.

**DRAFTER/REVIEW CONTACT INFORMATION**

	Name	Office Symbol	Phone #	Last Updated or Reviewed
<b>Drafter</b>	Ms. Shawn Wren	CG-111	202-475-5163	6/19/2013
<b>Dir./Pgm. Release Auth.</b>	CWO Chris Siebenschuh	CG-1A	202-475-5055	6/20/2013
<b>CG-821 Reviewer</b>				

**NOTES/REFERENCE MATERIALS:**

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**CG-82 Notes (why changes were made to question):**

[CLEARANCE SHEET](#) (click to annotate clearance)

500249