

## RSP REQUESTS FOR INFORMATION

### **I. SUSPENSE: Nov. 5, 2013**

#### **Metrics**

1. (ALL) What metrics have DoD and/or the Services developed to measure success in combating sexual assault in the military? Please include statistics or other feedback mechanisms that will be used to measure success, and how effectiveness will be measured for:
  - a. Prevention programs,
  - b. Training of service members,
  - c. Personnel leadership and legal training of commanders and accountability of commanders,
  - d. Training and performance of trial, defense, and victims' counsel,
  - e. Training of Sexual Assault Response Coordinators (SARCs) and victim satisfaction with SARCs' services,
  - f. Training of Civilian and Uniformed Victim advocates and victim satisfaction with advocates' services,
  - g. Victim Witness Liaisons and victim satisfaction with their services,
  - h. The investigation of sexual assault cases,
  - i. The prosecution and/or final disposition of sexual assault cases,
  - j. Overall victim satisfaction, and
  - k. Any other related metrics that DoD or the Services intend to implement in the near future.

#### **Information concerning victims' services, reporting, and retaliation concerns for the November 7-8, 2013 RSP Public Meeting**

2. (ALL) Please provide the most recent FY13 sexual assault reporting data and include analysis by DoD and each of the Services to explain what they believe accounts for fluctuations from the previous year.
3. (DoD) Please provide any guidance DoD has provided to the Services regarding implementation of sexual assault victim attorney programs by the Services.
4. (Services) Please provide the program plans, procedures, and status for the victim attorney programs required by DoD to be established by November 1, 2013. Please include:
  - a. The Service's program status;
  - b. The description of the services that the victim attorney will provide to sexual assault victims including scope and duration of representation;
  - c. How the victim attorneys will be integrated with existing legal assistance or victim advocate services also offered by the Service and how the Service intends to de-conflict any overlap;
  - d. The cost and resources required to support the program, including the number of JAGs and paralegals, the reporting structure and the impact it has on the overall JAG Corps structure;
  - e. Any legal services which are being eliminated or curtailed in order to resource the victim attorney program;
  - f. The screening and selection process, rank, experience level, training requirements, and whether these positions be filled by active duty, Reserve Component JAGs, or civilian attorneys;
  - g. How victim attorneys will resolve ethical concerns or cases of first impression;
  - h. Information regarding any civilian programs or organizations consulted or researched to develop the separate Services' programs;
  - i. Whether DoD and the Services will work to standardize training and services and how this will be managed, and

- j. Copies of the most recent curriculum for each Service's victim attorneys.
5. (ALL) Please provide policies, training and procedures in place to protect service members who report sexual assault from being subjected to professional retaliation, retaliatory administrative action, or social retaliation.
6. (ALL) What are the procedures for a victim who believes he/she is being retaliated against to file a complaint and, if appropriate, use Article 138, the Military Whistleblower Act, or other systemic procedures to handle retaliation complaints? How are Service members informed of these procedures?
7. (ALL) How many Service members who made reports of sexual assault in FY12 have been, or are in the process of being, involuntarily separated?
8. (ALL) Please describe your Uniformed Victim Advocate (UVA) program, including:
  - a. Average rank and eligibility criteria;
  - b. Screening and selection process (including databases checked for background misconduct);
  - c. Training (curriculum, duration, certification, and continuing education);
  - d. Number of full-time, part-time, volunteer, and deployable UVAs;
  - e. Breakdown by age, gender, rank, education, and certification status;
  - f. Average caseload;
  - g. Reporting structure;
  - h. How performance is evaluated and how often; and
  - i. Average length of assignment.
9. (ALL) Please describe your (civilian) Victim Advocate program, including:
  - a. Average pay grade and eligibility criteria;
  - b. Screening and selection process (including databases checked for background misconduct);
  - c. Training (curriculum, duration, certification, continuing education);
  - d. Number of full-time, part-time, volunteer, and deployable civilian Victim Advocates;
  - e. Breakdown by age, gender, rank, education, and certification status;
  - f. Average caseload and desired caseload;
  - g. Reporting structure;
  - h. How is performance evaluated and how often; and
  - i. Average length of assignment.
10. (ALL) Please describe your Uniformed Sexual Assault Response Coordinator program, including:
  - a. Average rank and eligibility criteria;
  - b. Screening and selection process (including databases checked for background misconduct);
  - c. Training (curriculum, duration, certification, continuing education);
  - d. Number of full-time, part-time, volunteer, and deployable Uniformed SARCs;
  - e. Breakdown by age, gender, rank, education, and certification status;
  - f. Average caseload;
  - g. Reporting structure;
  - h. How is performance evaluated and how often; and
  - i. Average length of assignment.
11. (ALL) Please describe your civilian Sexual Assault Response Coordinator program, including:
  - a. Average pay grade and eligibility criteria;
  - b. Screening and selection process (including databases checked for background misconduct);
  - c. Training (curriculum, duration, certification, continuing education);

- d. Number of full-time, part-time, volunteer, and deployable civilian SARCs;
- e. Breakdown by age, gender, rank, education, and certification status;
- f. Average caseload and desired caseload;
- g. Reporting structure;
- h. How is performance evaluated and how often; and
- i. Average length of assignment.

### **Role of the Commander**

- 12. (ALL) Please provide any regulations, instructions, directives, or memoranda establishing Service policies for a commander's accountability for preventing and responding to sexual assault.
- 13. (ALL) How does the chain of command affect reporting of incidents of sexual assault?
- 14. (ALL) What impact would removing prosecutorial authority from the chain of command have on sexual assault reporting, and what tangible evidence supports this conclusion?
- 15. (ALL) Some assert that a commander's decision-making process is compromised in sexual assault cases because of an inherent conflict of interest between the commander's responsibility to enforce the UCMJ and his or her relationships with, and responsibility for, assigned personnel. Is this concern about a conflict of interest valid?
- 16. (ALL) If a potential conflict of interest exists for commanders in these cases, what mechanisms can and do the Services employ to ensure appropriate response to sexual assault allegations?
- 17. (ALL) Some have argued that removing the commander from his or her criminal disposition role would reduce unlawful command influence concerns and improve the chain of command's ability to build enforce unit cultures more resistant and responsive to incidents of sexual assault. Would commanders be more effective in sustaining unit culture if they were not responsible for the criminal disposition of sexual assault cases?
- 18. (ALL) Some assert that a convening authority's decision-making process is compromised in sexual assault cases because of an inherent conflict of interest between the convening authority's responsibility to enforce the UCMJ and his or her relationships with, and responsibility for, assigned personnel. Is this concern about a conflict of interest valid?
- 19. (ALL) If a potential conflict of interest exists for convening authorities in these cases, what mechanisms can and do the Services employ to ensure appropriate response to sexual assault allegations?
- 20. (ALL) What impact would it have on the Services to replace the commander's disposition authority for sexual assault cases with JAGs in the rank of O-6? (Please address specific details other than the good order and discipline concerns that were expressed during the September public meeting.) Specifically comment on: the cost associated with substituting JAGs as the disposition authority and centralizing the convening authority as suggested in recent legislative proposals, and any other logistical or resourcing issues or any other issues DoD and the Services foresee.
- 21. (ALL) Please provide all views memos on any pending legislation affecting military justice or the investigation, prosecution, and adjudication of sexual assault offenses in the military.

## Article 32, UCMJ

- 22.** (Services) Please provide a copy of the investigator reports, to include the verbatim or summary transcript for the following Article 32, UCMJ hearings (Note: please provide the FOIA exemption or statutory justification for any information redacted from the reports and/or transcripts):
- a. (Navy) The Article 32 hearing involving sexual assault allegations against the three football players (Tra'ves Bush, Eric Graham, and Joshua Tate) at the U.S. Naval Academy in Annapolis, Maryland. (August 2013)
  - b. (Army) The Article 32 hearing involving sexual assault allegations against BG Sinclair at Fort Bragg, North Carolina. Please provide the investigator's report and transcript from November 2012 by the suspense noted above, November 5, 2013. Please provide the report and transcript from the October 2013 Article 32 by December 19, 2013, or sooner if it is complete and becomes available.
  - c. (Air Force) An Article 32 hearing involving sexual assault allegations where a victim was represented by a Special Victim Counsel and interjected by exercising victims' rights issues during the proceeding. (Within the last 6 months)
  - d. (Marines and Coast Guard) An Article 32 hearing involving sexual assault allegations which involved MRE 412 issues or other victim rights' concerns.
- 23.** (ALL) What privacy protections are available for a victim at an Article 32 hearing?
- 24.** (DoD) The JSC's review, analysis, and recommendation to the DoD Acting General Counsel for any amendments to Article 32, UCMJ, were due on October 4, 2013. Please provide a copy of the JSC's review, analysis and recommendations to the Response Systems Panel. If the General Counsel or Secretary of Defense has issued a position regarding possible amendments to Article 32, please provide that information as well.
- 25.** (Services) Please list any reviews being done by your Service to analyze the utility of Article 32 proceedings in sexual assault cases and provide a copy of said review. If no such review has been undertaken, please provide to the Response Systems Panel your Service position regarding the utility of Article 32 hearings, to include whether Article 32 proceedings should be replaced by a grand jury or preliminary hearing-type of proceeding.
- 26.** (DoD) The JSC's review, analysis, and recommendation to the DoD Acting General Counsel for any amendments to Article 32, UCMJ, were due on October 4, 2013. Please provide a copy of the JSC's review, analysis and recommendations to the Response Systems Panel. If the General Counsel or Secretary of Defense have issued a position regarding possible amendments to Article 32, please provide that information as well.
- 27.** (Services) Please list any reviews being done by your Service to analyze the utility of Article 32 proceedings in sexual assault cases and provide a copy of said review. If no such review has been undertaken, please provide to the Response Systems Panel your Service position regarding the utility of Article 32 hearings, to include whether Article 32 proceedings should be replaced by a grand jury or preliminary hearing-type of proceeding.

## **II. Suspense: November 21, 2013**

### **General Information & Reports**

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.
29. (ALL) Please provide a comprehensive list and either an electronic copy of or link to any DoD and Service Directives, Instructions, DTMs, Policy Memorandums (by DoD, Service Secretaries, TJAGs, Surgeons General, MCIO Commands, Service IGs, etc.), or service-specific Standard Operating Procedures pertaining to sexual assault, including any Memorandums of Understanding with civilian jurisdictions concerning investigations, prosecutions, and victims.
30. (Services) Please provide copies of any reports other than the DoD SAPRO report that reflect military crime data which would include information about sexual assault to include the CAAF and ABA reports, from October 1, 2007 – September 30, 2013.
31. (ALL) Please list any working groups, task forces, or reviews that were initiated between October 1, 2007 – November 20, 2013 by DoD (to include JSC and DoD IG) or by the separate Services to identify problems and solutions regarding sexual assault in the military (to those still in progress). Please provide copies or Web sites for any completed reports not previously provided.
32. (DoD) Please provide a copy of the JSC Sexual Assault Subcommittee report and supporting documentation.

### **Surveys**

33. (DoD) Please provide the following information regarding the DEOMI command climate surveys:
  - a. What questions used in the DEOMI climate surveys and the methodology used to develop the questions and administer the surveys?
  - b. How are the results of the DEOMI surveys used?
  - c. Who in DoD has access to these results?
  - d. How long are survey results retained, and where?
  - e. How is survey data compiled for review by senior commanders and Service/Department leadership?
  - f. Any trends identified in DEOMI surveys, including, but not limited to, issues noted in different types of command, for example, training commands or deployed commands.
34. (Services) (Nov 21) Please provide information about the DEOMI surveys, including:
  - a. All DEOMI Organizational Climate Survey (DEOCS) & Air Force Unit Climate Assessment Survey data and reports from 2007-2013 (*see* FY12 SAPRO Report. p.7);
  - b. Tabulated results for all questions on these surveys;
  - c. Any summaries of the DEOMI surveys provided by DEOMI to each Service;
  - d. A description of how the results of the DEOMI surveys are used;
  - e. A description of who has access to these results;
  - f. An explanation for how long survey results are retained, and where;
  - g. An explanation of how survey data is compiled for review by senior commanders and Service/Department leaders;
  - h. Any additional questions asked by each Service on the DEOMI survey;

- i. Identification of any and all adverse actions taken to hold commanders accountable based on complaints in command climate surveys between October 1, 2011 – November 1, 2013. Specify how many of those complaints were for commanders fostering an environment that prevented service members from reporting, feared retaliation, or failed to take action in sexual assault cases.
- 35.** (Services) Please provide a description and copy of results for surveys done regarding sexual harassment or sexual assault from October 1, 2007 – November 20, 2013, which have not been previously provided to the RSP. These may include, for example, work done by U.S. Army Research Institute, Department of the Navy SAPRO’s survey on sexual assault, Air Force SAPR program’s survey of Air Force personnel, victim satisfaction surveys, etc. (Note: if the Service believes part of the information should be redacted, please include the FOIA exemption as the justification for the redaction(s).)
- 36.** (Services) Please provide policy, regulations, and procedures established by each Service for conducting organizational climate assessments. (*See* FY13 NDAA § 572.)
- 37.** (DoD) Please provide survey questions, training, and all survey data and reports related to the DoD Inspector General Victim Experience Survey. If this has not yet been implemented, please provide the timeline and implementation plan. (*See* FY12 SAPRO Report, p.19.)
- 38.** (DoD) Please provide updates on DoD SAPRO inputs to the development and refinement of Workplace and Gender Relations Survey of Active Component Members (WGRA), Workplace and Gender Relations Survey of Reserve Component Members (WGRR), Quick Compass of Sexual Assault Response Coordinators (QSARC) and Service Academy Gender Relations Surveys in FY13 (*See* FY12 SAPRO Report, p. 42).

### Statistics & Information Management

- 39.** (ALL) Please provide a copy and explanation of DoD and the Service’s “waterfall slides,” if your organization uses that illustrative tool which displays the number of reports and disposition through civilian or military channels and final prosecution and conviction rates.
- 40.** (DoD) Please provide all data from FY07-FY12 DoD SAPRO reports’ appendices in Microsoft Excel Format. Many of the tables are not readable in the current PDF formats.
- 41.** (ALL) Please provide sexual assault-related military justice statistics (FY 2007- FY 2013, unless otherwise noted; if this information was not previously tracked, please provide the data for at least FY13), including the following:
- a. Cases overturned per Art 60,
  - b. Conviction rates for sexual assault and related cases (listed by offense),
  - c. Number of sexual assault cases referred to court-martial in FY13,
    - i. Please list by type of court-martial, and
    - ii. Include whether an Article 32 hearing occurred,
  - d. Number of cases involving sexual assault allegations resulting in nonjudicial punishment,
  - e. Number of cases in which an SJA advised a commander to dispose of a case in a particular way and the commander declined to follow that advice,
  - f. Number of cases involving sexual allegations resulting in an officer’s resignation in lieu of a court-martial,
  - g. Number of cases involving sexual allegations resulting in an enlisted member’s administrative discharge in lieu of a court-martial,

- h. Number of sexual assault cases in FY11, FY12, and FY13 that were guilty pleas versus contested trials,
  - i. Number of service members 'processed' for administrative separation after conviction of a sexual assault offense when they did not receive punitive discharges,
  - j. Number of service members administratively separated after a conviction of a sexual assault offense when they did not receive punitive discharges,
  - k. The number of sexual assault cases the military prosecuted after being declined by civilian jurisdictions, and
  - l. Any other military justice statistics that may be helpful for the RSP to conduct a comparison with civilian jurisdictions.
- 42.** (Coast Guard) Please provide an extract of any and all databases of demographic or statistical information of reports and dispositions of sexual assault in the from Fiscal Years 2010 through 2013, to include the same data fields contained for the other Services in the Department of Defense's Sexual Assault Incident Database (DSAIID).
- 43.** (Services) Does your Service use DSAIIDs as the primary system of recording reported incidents of sexual assaults that involve Armed Forces, or is there a separate database the Service uses?
- a. If the Service previously used a separate database, such as the Army's Sexual Assault Data Management System (SADMS) used from 2007-2013, will that information be transferred over to DSAIIDs?
  - b. What information is tracked in the Service specific database that is different than DSAIIDs?
- 44.** (Services) Please provide information from the databases used by each Service to track data related to sexual assault and sexual harassment incidents and include all fields of data recorded (other than DSAIID). Please include:
- a. Information about the investigation, prosecution, defense, adjudication, and final disposition of sexual assault cases (other than DSAIID); and
  - b. A listing of the specific data fields currently used to track sexual assault cases.
- 45.** (ALL) Please provide the DoD and Service policies concerning DSAIIDs, including data entry procedures used to maintain accurate and current information, including:
- a. Who is responsible for entering data into DSAIID; and
  - b. When information must be entered following a report of sexual assault.
- 46.** (DoD) Please provide any reports and documents related to DoD SAPRO Post-Implementation Review (PIR) of the Defense Sexual Assault Incident Database (DSAIID) database (*See* FY12 SAPRO Report, p. 41).
- 47.** (Services) How do you collect information and data for substantiated incidents of sexual harassment involving members of the Armed Forces and identify cases in which a member is accused of multiple incidents of sexual harassment? (*See* FY13 NDAA § 579.)
- 48.** (Services) Please provide data on substantiated incidents of sexual harassment for FY12 and FY13 including: the branch, rank, and gender of the accused and the accuser; unit or installation; punishment administered (where relevant); and whether the accused has been accused of multiple incidents of sexual harassment.
- 49.** (ALL) For each fiscal year from 2007 to 2013, how many instances has the service member who made a report of sexual assault been subjected to disciplinary action as a result of collateral misconduct? Please specify if the adverse action was taken as a result of the sexual assault report

being deemed unfounded? If data does not exist, please provide any information available to address public concerns that victims are punished, but perpetrators are not.

### **Special Victim Capability**

50. (ALL) Please provide all of the current policies and guidance concerning the Service's Special Victim Capability (SVC). This should include an explanation of the:
  - a. Training/selection standards and curriculum for all personnel involved,
  - b. Echelons at which they are established,
  - c. How they are addressed at joint bases,
  - d. Status of implementation of the SVC,
  - e. Planned measures of effectiveness, any data received, and timelines for collection of data (FY13 NDAA § 573), and
  - f. Any statistics or other information that may be important for the RSP to know.
51. (DoD) Please provide a copy of the DTMs for the Special Victim Capability as soon as it is completed (and, if not already completed, anticipated date of completion).
52. (DoD) Please provide implementation plan for establishment of the Special Victim Capability and date submitted to Congress. (*See* FY13 NDAA § 573.)

### **First Response and Investigations**

53. (Services) Please provide your training materials and related protocols for responding patrol officers regarding their actions when responding to alleged incidents of sexual assault. Please specify the procedures for interacting with and transferring information to the MCIOs.
54. (Services) Please provide your training materials and related protocols for medical personal in emergency rooms or who are the first responders to alleged incidents of sexual assault. Please specify the procedures for interacting with and transferring information to the MCIOs.
55. (Services) At any time, from 2007 to the present, could the person responsible for initiating the investigation of an unrestricted sexual assault report take into account the value of the accused to the unit in determining whether to report the incident to the MCIO? If yes, please explain. If not, what policies are in place to ensure commanders report all sexual assault allegations to MCIOs?
56. (ALL) DODI 5505.18, Para. 3a, dated Jan. 25, 2013, requires MCIOs to initiate an investigation of all offenses of adult sexual assault. In practice, does this include offenses such as fraternization, indecent exposure, and adultery, or other similar misconduct often associated with sexual assault cases?
57. (ALL) When a MCIO investigates a sexual assault allegation, how do investigators determine if the suspect has previously been accused of committing sexual assault (or related offenses)?
58. (ALL) Prior to FY 2011, how did DoD and each Service's MCIOs define: substantiated, unsubstantiated, founded, and unfounded?
59. (ALL) What are the current terms and definitions used by MCIOs and/or Commanders when referring to a sexual assault case as (un)substantiated and/or (un)founded?

60. (Services) Do any of the Services video tape the interviews of the accused and/or the victim? What are the policy reasons governing those decisions?
61. (DoD) For each fiscal year from 2007 to 2013, please state what actions, audits, and/or reviews the DoD IG has taken to oversee sexual assault investigations in accordance with DoD Instruction 6495.02. Please also provide any initiatives currently in progress or planned for the near future.
62. (DoD) What, if anything, has the DoD IG done in response to the U.S. Government Accountability Office's (GAO) finding that the DoD IG "has not developed a policy specifically for investigations of sexual assault incidents," nor is it "monitoring or evaluating the services' investigations of sexual assault and the related training of investigators"? (GAO Report to the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives, *Oversight and Better Collaboration Needed for Sexual Assault Investigations and Adjudications* (June 2011), GAO-11-579, p.9.) If nothing has been done, please provide any and all reasons for not responding to this GAO finding.
63. (DoD) What, if anything, has the DoD IG done in response to the GAO's finding that the DoD IG is not performing its responsibilities of overseeing sexual assault investigations and related training within the DoD investigative community? (GAO Report to the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives, *Oversight and Better Collaboration Needed for Sexual Assault Investigations and Adjudications* (June 2011), GAO-11-579, p.13.) If nothing has been done, please provide any and all reasons for not responding to this GAO finding.

#### Disposition Decisions

64. (Services) Please provide any policies in place regarding how (a) investigators and (b) commanders handle an alleged victim's collateral misconduct arising from the circumstances of the alleged sexual assault incident.
65. (Services) If a sexual assault report is deemed unfounded, is there any ramification for the service member(s) who made the report (e.g., investigation for false report or transfer)? If yes, what ramifications occur and under what circumstances?
66. (Services) Please describe whether it is the Service's policy to have the MCIO or a commander determine whether sexual assault allegations are considered substantiated or founded. In light of the variation amongst the Services, indicate why the Service believes the investigator or commander is the appropriate decision maker (according to Page 71 of DoD's FY11 Annual Report on Sexual Assault variation exists amongst the Services.)
67. (ALL) Please provide any general policies or rules that contain guidance regarding a commander's charging decision for preferral and referral, or declining to proceed to court-martial in a sexual assault case. (Please note: the RSP is familiar with the rules and requirements to avoid undue command influence. This question is directed at whether there are any other set of factors or considerations to guide commanders in their decision making process to take further adverse action against an accused in a sexual assault case.)
68. (Services) Describe the procedures for entering into a guilty plea in a sexual assault case, to include the role of the SJA, prosecutor, defense counsel, accused, victim, direct and intermediate commanders, as well as the Convening Authority.

69. (Services) What are the requirements for military investigators, JAG officers, or commanders to provide written justifications when declining to pursue a sexual assault case in the military? In order to specifically indicate if any written opinion or declination is required at any time in the military justice process, please describe the process and communication requirements between the investigator, prosecutor, and commander when declining to proceed with a sexual assault case:
- a. Prior to preferral,
  - b. Before an Article 32,
  - c. After the Article 32 hearing, and
  - d. After referral.
70. (Services) Please provide examples when alternative dispositions to courts-martial may be appropriate and discuss the benefits of having options such as article 15s, administrative separations for misconduct, or resignation or discharge in lieu of a court-martial. Also provide all policies regarding characterizing the discharge of the accused, who was pending sexual assault charges, but resigns or is discharged in lieu of court-martial.
71. (Services) Please provide any and all policies that provide guidance regarding the DoD's or a Service branch's decision whether to approve the resignation, retirement, or discharge of the subject of a sexual assault report, including if the accused is pending an investigation.

#### Forensic Exams in Sexual Assault Cases

72. (Services) Please describe your Sexual Assault Medical Forensic Examiner (SAMFE) and Sexual Assault Nurse Examiner (SANE) programs, including:
- a. Credentialing requirements and certification programs for military SAMFEs/SANEs;
  - b. Ability to meet the SAMFEs/SANEs requirements at every military installation worldwide; specifically, does the Service:
    - i. Provide training and staffing of SAMFE/SANEs at every installation (in house support),
    - ii. Contract with a civilian SAMFE/SANEs in the local community to travel onto the installation to provide forensic collection services, if so, describe the procedures used,
    - iii. Establish agreements and contracts with local civilian hospitals who in turn provide the SAMFE/SANE support, if so describe the procedures used and a sample of the MOU/MOAs,
    - iv. Prefer one of the above three models as the most efficient and effective way to obtain SAMFE/SANE support for sexual assault cases,
    - v. Note any particular problems with any of the three approaches listed in "i-iii" above,
    - vi. Please specify which installations do and do not have SAMFE/SANE capabilities on the installation;
    - vii. Describe procedures used on any installations that do not have resident SAMFE/SANE services;
  - c. What resources would be helpful to improve the SAMFE/SANE support at the Services' installations – large, small, CONUS, OCONUS;
  - d. Any statistics or other information that may be important for the Panel to know.
73. (Services) What interaction do investigators have with SAMFEs/SANEs and the collection of evidence?
74. (Services) Do the Services use suspect kits in sexual assault cases in addition to the rape kits used for victim of sexual assaults?

### Training & Experience Level of Investigators & Counsel

75. (Services) Please describe the minimum experience, education, and rank required for the following military personnel to be assigned to a sexual assault case, and describe all relevant training and provide all relevant training materials used for:
- a. An investigator,
  - b. Prosecutors/trial counsel who handle non-penetrative sexual assault cases
  - c. Special Victim Prosecutors/Senior Trial Counsel who handle the more complex sexual assault cases, including penetrative offenses,
  - d. Defense counsel.
76. (Services) If the Services have a military justice career track for attorneys handling sexual assault and other complex cases, please describe those programs to include the requirements and promotion rates.

### Panel Selection

77. (Services) For each Service, please describe the panel pool selection process, to include the Convening Authority's role? Please provide sample templates and/or questionnaires, if not previously provided.
78. (Services) Please describe the panel member selection process at trial (to include challenges, voir dire, etc.) between the military judge, prosecution and defense counsel.

### **III. Suspense: December 19, 2013**

#### **Prevention & Training Service Members**

- 79. (ALL)** Please provide any information addressing the development of DoD or Service-specific sexual assault prevention programs from 2007 to the present. Please address:
- The training methods and materials deemed most successful for each Service,
  - Note the training approaches that were not as effective and have been replaced since 2007,
  - How the Services determine whether training is successful or effective,
  - Information on particular commands or types of commands where sexual assaults have risen or fallen and whether that has been attributable to training techniques.
  - Other initiatives directed at sexual assault prevention, how those initiatives are implemented, and how their success or lack thereof is measured.
- 80. (Services)** Please address sexual assault training for military service members, including:
- How you ensure all Service members are receiving training on sexual assault,
  - Resources available to service members for reporting and prevention,
  - Procedures to be followed by a member seeking access to those resources within 14 days of the member's initial entrance on active duty (or entrance into duty status with a reserve component) (FY13 NDAA § 574),
  - Curriculum, implementation requirements, and measures of effectiveness for SAPR training for commanders (and others) at all levels, and
  - Any other statistics or information concerning sexual assault training that may be important for the RSP to know.
- 81. (ALL)** For recent, standardized training across DoD and within the Services, please provide:
- (DoD) Any DoD Memorandum or other instructions to the Services directing the sexual assault "Stand-Downs" across the Services by July 2013.
  - (Services) All Service-level training and any other materials from the mandated "Stand-Downs" conducted by each Service in July of 2013, as well as any other Service-level directed sexual assault training from August 2013 to December 18, 2013.
- 82. (Services)** How is information disseminated to service members regarding the resources available to them to report an allegation of sexual assault and how to respond to an incident of sexual assault? (See FY13 NDAA § 572.) Please provide examples of these materials provided to service members.
- 83.** What type of training is being done to reach out to male victims of sexual assault?

#### **Undue Command Influence in Sexual Assault Cases**

- 84. (Services)** What UCI motions or complaints have the Services received in sexual assault cases from Jan. 1, 2012 – Dec. 18, 2013. Please provide a copy of motions or complaints (such as pre-trial motions, Art. 138 complaints, IG complaints, etc.) and the Government's response.
- 85. (Services)** Please identify all efforts to prevent unlawful command influence in cases involving sexual assault allegations.

## Victim Advocates, Services & Programs

86. (DoD) What experts outside of DoD were consulted in developing the curriculum and certification requirements for SARCS and VAs? (*See* FY12 NDAA § 584.)
87. (DoD) How was The National Organization for Victim Assistance (NOVA) chosen to administer the D-SAACP certification for SARCs and SAPR VAs?
88. (DoD) Please provide a copy of the contract with NOVA for the administration of the certification of SARCs and SAPR VAs.
89. (DoD) What is the “Competencies Framework” referenced in the D-SAACCP Overview?
90. (DoD) What actions has DoD taken to ensure that SAPR training provided to members and civilians is consistent throughout the Military Services? Is SAPR training consistent throughout the Services? (*See* FY12 NDAA § 585.)
91. (DoD) Please provide Defense Equal Opportunity Management Institute (DEOMI) curriculum materials, including integrated SAPR education. (*See* FY12 SAPRO Report, p.19.)
92. (Services) What opportunities does a victim of sexual assault have to be heard during the pretrial, merits, sentencing, and post-trial phases of a court-martial?
93. (DoD) Please provide policies and regulations related to the DoD Safe Helpline (Launched April 2011) and Safe HelpRoom (Launched 2013), including training materials, procedures, detailed data collected, and terms of the contract with Rape, Abuse and Incest National Network (RAINN). (*See* FY12 SAPRO Report, p. 30.) Please also provide any assessments conducted by DoD to evaluate the Safe Helpline and Safe HelpRoom.
94. (DoD) Please provide DoD SAPRO Standards for Victim Assistance-related Programs. (*See* FY12 SAPRO Report, p. 31.) Please also provide any assessments conducted by DoD to evaluate the victim assistance-related programs.
95. (DoD) Please provide information about the Victim Assistance Leadership Council, including a summary of meeting dates and number/demographics of attendees, and meeting materials. (*See* FY12 SAPRO Report, p. 31.)
96. (DoD) Please provide documents and materials describing the DoD SAPRO collaborative training partnership with the Department of Justice’s Office for Victims of Crime (OVC) (Initiatives I, II and III). (*See* FY12 SAPRO Report, p. 32.)
97. (DoD) Please provide documents related to the DoD SAPRO Survivor Summit & SARC Summit hosted in FY12, including a summary of the number and demographics of attendees and materials, reports, and recommendations that resulted from the meetings. (*See* FY12 SAPRO Report, p. 32.)
98. (DoD) Please provide materials and other documents related to the SAPRO briefs to Wounded Warrior Care and Transition Policy Recovery Care Coordinators and Veteran Affairs Military Sexual Trauma Coordinators regarding sexual assault victims’ transition out of Active Duty service. (*See* FY12 SAPRO Report, p. 35.)

- 99.** (DoD) Please provide materials from the DoD SAPRO instruction to mental health providers and chaplains at the Center for Deployment Psychology in Bethesda, Maryland, and any other locations where this training was provided. (*See* FY12 SAPRO Report, p. 35). How many chaplains and mental health providers were trained, and how were they selected?
- 100.** (DoD) In January 2012, the Secretary of Defense directed an assessment of SAPR training provided by the Military Services to officers selected for command and also to senior enlisted leaders. Please provide copies of Services' assessments and report(s) provided to the Secretary of Defense and the directive or memorandum from DoD requesting the assessment (*See* FY12 SAPRO Report, p. 39.)
- 101.** (DoD) DoD directed a comprehensive assessment of all initial military training of enlisted personnel and commissioned officers by the Military Services in response to misconduct at Lackland Air Force Base. This report was due to the Secretary of Defense by 1Q FY13. Please provide copy of the Services' reports and DOD's combined results of those reports. (*See* FY12 SAPRO Report, p. 9.)

### **Victims' Rights Issues**

- 102.** (Services) At what stages of the military justice process (for example, during the investigation, preferral, referral, guilty plea negotiations, post-trial) is the government required to confer with the victim and what communication is required to occur (written/oral)? Please provide a copy of any Service specific guidance that is in addition to the DoD policy regarding victim rights.
- 103.** (Services) Since the implementation of DoD's expedited transfer policy, please provide the current data by Service and installation or unit regarding the number of victims who have requested to be transferred or who have requested the suspected service member be transferred, and how many of those requests were granted. If denied, please provide reasons why the requests were denied. (*See* FY12 NDAA § 582.)
- a. How many expedited transfer requests were acted upon within 72 hours of submission of application? For those requests not acted upon within 72 hours, what delayed consideration of the request?
  - b. If disapproved, how many requests for review by a G/FO were made by Service members? What were the outcomes?
  - c. Since the implementation of DoD's expedited transfer policy, how many alleged perpetrators have transferred (instead of the victims of sexual assault)?
  - d. Please provide any other information that you believe is important for the RSP to know concerning this policy.
- 104.** (ALL) Please state how the Services ensure the implementation of Directive-Type Memorandum 11-063: Expedited Transfer of Military Service Members Who File Unrestricted Reports of Sexual Assault.
- 105.** (ALL) How are victims of sexual assault notified of their right to receive a copy of all prepared records of the proceedings of the court-martial if they testify? (*See* FY12 NDAA § 586.)

106. (ALL) How are you protecting the confidentiality of information in Restricted Reports as required by DoD memorandum JTF-SAPR-009? (*See* FY13 NDAA § 577.)

#### Character Evidence of the Accused / Good Soldier Defense

107. (ALL) What impact would it have to eliminate the portion of the discussion in MCM, Part II Rules for Courts-Martial, RCM 306, which permits the commander from considering the character and military service of the accused when making the initial disposition decision in sexual assault cases?
108. (ALL) Please describe what the “Good Soldier Defense” is and what types of evidence it permits. What impact would it have to eliminate the admissibility of character evidence submitted as the “Good Soldier Defense” on the merits of courts-martial, or evidence relating to the service of the accused as permitted by RCM 1001 in the sentencing phase of courts-martial?
109. (ALL) How do the Services’ prosecutors and military defense counsel compare the rules surrounding the accused’s character evidence as part of the “Good Soldier Defense” with the rules of evidence applied in civilian courts.

#### Sentencing/Post Trial/Clemency

110. (ALL) What impact does DoD and each of the Services foresee on sexual assault cases if sentencing guidelines or mandatory minimums were implemented for sexual assault offenses (including collateral impacts on sexual assault reporting, guilty pleas, and conviction rates)? If the Service has established a position regarding sentencing guidelines or mandatory minimums for sexual assault offenses, please state the reasons for that position for the RSP to consider.
111. (ALL) Please provide all policies or proposals indicating which categories of crimes are considered military or non-military offenses for the purposes of the Secretary of Defense’s proposed changes to Art. 60, UCMJ.
112. (ALL) Please describe DoD and the Services’ interpretation of the Secretary of Defense’s proposed change to Article 60 and explain how that will be implemented by each service and the anticipated impact it will have on post-trial procedures.
113. (ALL) For each Service, what is the procedure to initiate administrative separation for any member convicted of a sexual assault offense who is not punitively discharged as a result of a conviction at court-martial? Please also describe the Service’s due process procedures for administrative separation of a member convicted of sexual assault but not punitively discharged. (*See* FY13 NDAA Sect. 572.)
114. (Services) What is each service branch’s policy or practice regarding whether to retain a service member who has been convicted of sexual assault in a civilian court by court-martial?
115. (Services) What are the procedures to ensure service members convicted of sexual assault offenses comply with the sex offender registration requirements. Please be sure to describe under what circumstances the subject of a substantiated sexual assault report is required to register as a sex offender with civilian police upon separating from the armed forces?

## Status of DoD Initiatives, Previous Reports & NDAA Requirements

- 116.** (DoD) Please provide documents relating to the DoD SAPRO oversight of progress and completion of the recommendations of the Defense Task Force on Sexual Assault in the Military (DTF-SAMS) (2009) and recommendations of the Government Accountability Office (GAO), including a report of current status through FY13. (*See* FY12 SAPRO Report, p. 42.)
- 117.** (ALL) Section 575 of the FY13 NDAA mandated the Services to include specific additional information in the case synopses portion of their annual reports to Congress. Please provide the status of implementation for this requirement, and all additional information for FY12 and FY13 Unrestricted Reports of sexual assault.
- 118.** (Services) Please provide information concerning the following additional requirements for the annual reports to Congress (FY13 NDAA § 575):
- a. An analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by units, commands, and installations during the year covered by the report, including trends relating to prevalence of incidents, prosecution of incidents, and avoidance of incidents.
  - b. An analysis of the specific factors that may have contributed to sexual assault during the year covered by the report, an assessment of the role of such factors in contributing to sexual assaults during that year, and recommendations for mechanisms to eliminate or reduce the incidence of such factors or their contributions to sexual assaults.
  - c. An assessment of the adequacy of SAPR activities carried out by training commands during the year covered by the report.
- 119.** (ALL) How are military records relating to sexual assaults accessed by victims, Department of Veterans' Affairs, alleged assailants, law enforcement and others? (*See* FY12 NDAA § 586.)
- 120.** (DoD) Was the DoD records retention policy developed in coordination with the Department of Veterans' Affairs? (*See* FY12 NDAA § 586.) Please provide any documents related to coordination with the Department of Veterans' Affairs.
- 121.** (ALL) Who is responsible for ensuring compliance with the 50-year retention of records requirement? Who is trained on record retention requirements? What does the training consist of? (*See* FY12 NDAA § 586, FY13 NDAA § 577.)
- 122.** (ALL) Please discuss any educational efforts or programs for notifying members of the authorities available under federal law for correction of military records when a Service member experiences any retaliatory personnel action for making a report of sexual assault or harassment? (FY13 NDAA § 572).
- 123.** (Services) Please describe any regulations or policies concerning sexual assault procedures for alleged victims who are or were members of the reserve component. (*See* FY 13 NDAA § 571.)
- 124.** (DoD) If a reserve component member is expected to be released from active duty before the determination is made regarding whether the Service member was sexually assaulted while in the line of duty, has DoD established a policy to retain the member on active duty until the completion

- of the line of duty determination? (*See* FY13 NDAA § 571.) Please provide the DoD instruction or directive.
- 125.** (DoD) If a reserve component member is not on active duty, but was the alleged victim of a sexual assault that occurred while on active duty, has DoD established a policy allowing the member to be ordered to active duty for such time as necessary for completion of the line of duty determination? (*See* FY13 NDAA § 571.) Please provide the DoD instruction or directive.
- 126.** (DoD) Has DoD provided guidance to the Services requiring that a request to retain or recall a reserve component member who has been a victim of sexual assault must be decided within 30 days from date of the request, and that if denied, the member may appeal to the first G/FO in their chain of command, who shall make a decision within 15 days from date of the appeal? (*See* FY13 NDAA § 571.) Please provide the policy or status of implementation.
- 127.** (DoD) Has DoD developed a comprehensive policy to prevent and respond to sexual harassment in the Armed Forces? Has this report been provided to Congress? Please provide the report? (*See* FY13 NDAA § 579.)
- 128.** (DoD) Has DoD developed a plan to collect information and data regarding substantiated incidents of sexual harassment involving members of the Armed Forces including the identification of cases in which a member is accused of multiple incidents of sexual harassment (or related misconduct)? Has this report been provided to Congress? Please provide the report. (*See* FY13 NDAA § 579.)
- 129.** (ALL) What additional tools, resources, or Congressional acts are needed to comply with the FY12 and FY13 NDAA requirements pertaining to the prevention of and response to sexual assault in the military?
- 130.** (DoD) Please provide dates of meetings, a summary of number/demographics of attendees, and materials presented at the bi-monthly SAPR Integrated Process Team (IPT) meetings with the Military Service SAPR leadership from FY10-FY13. (*See* FY12 SAPRO Report, p. 42.)
- 131.** (DoD) Please provide copies of all SAPR IPT briefings to the Undersecretary of Defense for Personnel and Readiness (USD(P&R)) or the Secretary of Defense, including the dates, a summary of number/demographics of attendees, and materials (*See* FY12 SAPRO Report, p. 42.)