

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.)

DoD	<p>SAPRO maintains system compliance with the 50-year retention of records requirement. DSAID maintains the DD Form 2910 for Unrestricted reports for 50 years. SAPRO periodically performs spot checks to ensure closed cases within DSAID contain the completed DD Form 2910.</p> <p>Services currently maintain Restricted report documentation in accordance with Service regulations, until such time that DSAID can be modified to store and recall DD Form 2910 (Restricted) without compromising victim confidentiality.</p> <p>All SARCs and MCIO investigators are trained on document retention. DoDI 6495.02 and DoDI 5505.18 require the SARC and MCIO to maintain the forms.</p> <p>DOD IG: The 50-year retention of records is accomplished by the MCIOs; the requirement to do so, in compliance with FY12 NDAA § 586, is memorialized in DoDI 5505.18. DoDI 5505.18 states that “[a]ll MCIO adult sexual assault investigative reports will be retained for a period of 50 years. If the investigation was referred to another agency, the MCIO must obtain disposition and final investigative reports and retain them for 50 years.”</p>
USA	<p>Law Enforcement Records: The US Army Crime Records Center (USACRC) is responsible for ensuring compliance with the 50-year retention of records requirement. The System of Records Notification (SORN) has been changed to reflect the 50-year retention of not only sexual assault investigations but of all investigations conducted by the US Army Criminal Investigation Command, commonly known as the CID. Since all CID investigative records were previously retained for a 40-year period, the increase of the retention period for another 10 years only required a general announcement to the employees working at the USACRC. Only the Director and her two deputy directors are allowed to authorize the destruction of any CID files. All three of these personnel have been with CID for over 20 years. Excerpts from Army regulations governing the preservation of law enforcement evidence and records are provided separately.</p> <p>Personnel Records: Sexual Assault Response Coordinators and Victim Advocates are responsible for ensuring compliance with the requirements for five-year retention of the hard copy of restricted reports, 50-year retention of unrestricted reports, and access to sexual assault case evidence and records.</p> <p>Army SARCs and VAs receive training in the completion of Department of Defense (DD) Form 2910, Victim Reporting Preference Statement, data entry into DSAID of the sexual assault and reporting preference, and the safeguarding and retention of sexual assault records when they attend the Certification Course. They are also taught to follow-up at the one-year mark with victims and tactfully and compassionately ask</p>

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	<p>victims whether they wish the Army to retain the restricted report DD Forms 2910 and 2911 (DOD Sexual Assault Forensic Examination (SAFE) Report) for 50 years, whether they want a second copy of the DD Form 2910, and whether they want a copy of the DD Form 2911 (SARCs and VAs are expected to facilitate this request). In accordance with DODI 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures, the DD Form 2910 for a restricted report once entered by the SARC/VA is retained in DSAID for 50 years from the date the victim signed the form. The DD Form 2911 is required to be retained in accordance with DODI 5505.18, Investigation of Adult Sexual Assault in the Department of Defense, incorporating Change 1, 1 May 2013. The SARC retains a hard copy of the restricted report DD Form 2910 for five years, consistent with DOD guidance for the storage of personally identifiable information (PII).</p> <p>Medical Records: Medical personnel are responsible for compliance with retention of medical records related to sexual assault. Medical personnel receive training regarding any evidence they collect and related medical treatment records. They follow Medical Command (MEDCOM) Regulation 40-36, Medical Facility Management of Sexual Assault, 23 December 2004, in terms of responding to sexual assault victims, conducting forensic examinations, the handling of evidence and the treatment of sexual assault victims.</p>
USAF	<p>a. IAW AFI 33-322, 4 June 2012; Records professionals must protect record content and comply with FOUO, sensitive, Privacy Act, and other policies and legal requirements. Records professionals send AF records of 30+ years to National Archive Records Agency (NARA) using NA Form 13148, "Report to NARA".</p> <p>b. The following personnel are trained on records retention requirements: Air Force Records Office (AFRO), Command and Agency Records Managers (CRM/ARM), Base Records Managers (BRM), Functional Area Records Managers (FARM), Chiefs of Office of Record (COR) and Records Custodians (RC).</p> <p>c. IAW AFI 33-322, 4 June 2012; Training consists of initial and annual role based training requirements for all appointed records professionals and the Chief of Office of Records (CORs). (Training is provided via ADLS and consists of Vital records, PII records, AFRIMS, Staging (retention and disposal), electronic file plans, etc.; Functional Area Records Manager (FARM) provide one-on-one specialized training).</p>
USN	<p><i>Compliance</i></p> <p>DoD ensures compliance with the 50-year retention of record requirement through DSAID, requiring electronic uploading of DD Form 2910s for all unrestricted cases.</p> <p><i>Training Overview</i></p> <p>All personnel with SAPR-related responsibilities are trained on record retention requirements. This includes SARCs, health care providers, and NCIS personnel. Training for personnel varies according to their responsibilities (i.e., SARC vs health care providers). Details are also provided below on evidence retention as pertains to</p>

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the overall SAPR record.

Training Program Details

Navy SARCs. Navy SARCs receive training specific to compliance with the 50-year retention of records. This includes training to on how to upload the DD Form 2910 (Victim Reporting Preference Statement) Defense Sexual Assault Incident Database (DSAID) and on informing victims of the following:

How to obtain copies of documents, including information that may be contained in medical records

- How long NCIS is responsible for maintaining evidence from SAFE Kits;
- Their eligibility to get copies of court martial proceedings if they testify; and
- How to get info pertaining to them from DSAID

NCIS Records. DoD Instruction 5505.18, "Investigation of Adult Sexual Assault in the Department of Defense," requires all Military Criminal Investigative Organizations (MCIO) retain adult sexual assault investigative reports for a period of 50 years. NCIS employs Program Support Assistants (PSA) in the field and within NCISHQ. Both field and HQ PSA's are trained internally on DoD Instructions regulating records retention. Specifically, NCIS PSA's are trained to DoD standards enumerated within NCIS policy chapter "File Retention and Disposal of Closed Investigations, Operations, Sources and Security Clearance Adjudication Cases." The NCISHQ Records Management Division is responsible for the physical retention of NCIS investigative records.

Medical Records. Active Duty medical records are retired upon the member's discharge or retirement from Active Duty. Starting January 1, 2014, they will be scanned into the Health Artifacts Imaging System (HAIMS), to be maintained by DOD for 75 years. Currently, the paper record of an Active Duty Service member is maintained for 75 years by the VA's Records Management Center. SECNAVINST 1752.4B (encl. 8) covers retention of the DD Form 2910, DD Form 2911 and SAFE kit.

Evidence Retention for Unrestricted and Restricted Reports. NCIS receives forensic evidence from the healthcare provider if not already in custody, and labels and stores evidence in accordance with established procedures. The designated DoD law enforcement agency or MCIO representative is trained in collecting and preserving evidence in Restricted Reports prior to assuming custody of the evidence using established chain of custody procedures. The NCIS Consolidated Evidence Facility representative shall be trained and capable of collecting and preserving evidence to assume custody of the evidence using established chain of custody procedures, consistent with the guidelines published under the authority and oversight of the DoD Inspector General.

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	<p>Any evidence and the SAFE Kit in Restricted Reporting cases (to include the DD Form 2911) shall be stored for 5 years from the date of the victim’s Restricted Report of the sexual assault, thus allowing victims additional time to accommodate, for example, multiple deployments or deployments exceeding 12 months. The SARC will contact the victim at the 1-year mark of the report to inquire whether the victim wishes to change their reporting option to Unrestricted. If the victim does not change to Unrestricted Reporting, the SARC will explain to the victim that the SAFE Kit, DD Form 2911, and the “Victim Reporting Preference Statement” (DD Form 2910) will be retained for a total of 5 years from the time the victim signed the DD Form 2910 (electing the Restricted Report) and will then be destroyed. The SARC will emphasize to the victim that his or her privacy will be respected and he or she will not be contacted again by the SARC. The SARC will stress it is the victim’s responsibility from that point forward, if the victim wishes to change from a Restricted to an Unrestricted Report, to affirmatively contact a SARC before the 5-year retention period elapses. However, at the request of a Service member who files a Restricted Report on an incident of sexual assault, the DD Forms 2910 and 2911 filed in connection with the Restricted Report shall be retained for 50 years. The victim will be advised again to keep a copy of the DD Form 2910 and the DD Form 2911 in his or her personal permanent records as these forms may be used by the victim in other matters with other agencies (e.g., Department of Veterans Affairs) or for any other lawful purpose. If the victim needs another copy of either of these forms, he or she can request it at this point and the SARC shall assist the victim in accessing the requested copies within 7 business days. The SARC will document this request on the DD Form 2910.</p> <p>At least 30 days before the expiration of the 5-year storage period, NCIS Consolidated Evidence Facility representative shall notify the installation SARC that the storage period is about to expire and confirm with the SARC that the victim has not made a request to change to Unrestricted Reporting or made a request for any personal effects. If there has been no change, then at the expiration of the storage period in compliance with established procedures for the destruction of evidence, NCIS Consolidated Evidence Facility may destroy the evidence maintained under that victim’s RRCN.</p> <p>If, before the expiration of the 5-year storage period, a victim changes his or her reporting preference to the Unrestricted Reporting option, the SARC shall notify NCIS, which shall then assume custody of the evidence maintained by the RRCN from NCIS Consolidated Evidence Facility or applicable Service law enforcement agency, according to established chain of custody procedures. NCIS procedures for documenting, maintaining, and storing the evidence shall thereafter be followed.</p>
USMC	<p>All SARCs and VAs are trained on record retention requirements. SARCs are responsible for collecting and maintaining all victim case information in a secure, locked location. They are also informed that all sexual assault case files will be maintained for 50 years from the date the Victim Reporting Preference Statement (VRPS) was signed. The VRPS for unrestricted reports is uploaded into DSAID and</p>

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	<p>maintained under the DoD System of Records Notices. All SARCs are required to complete an on-line 2-hour training on DSAID to ensure proper record documentation and maintenance.</p> <p>Compliance with record retention requirements is reviewed as part of the Inspector General Inspection Program.</p>
USCG	<p>The Coast Guard keeps all sexual assault records indefinitely. Coast Guard members complete an annual training requirement for DHS Records Management. The purpose of this training is to provide DHS employees with basic information on Records Management. This includes the following focus areas: distinguishing Federal records from other documentary materials including personal files, and recognizing best practices for managing personnel and federal records upon entering or leaving Federal service.</p>

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Army Regulations Governing Law Enforcement Records and Evidence Retention

AR 25-200-2, 195-5, 190-45, and AR 600-20 provide valuable guidance about the proper application of procedures related to the chain of custody and evidence preservation:

- AR 195-5, Criminal Investigation Evidence Procedures, 22 February 2013, outlines command level responsibilities for prescribing policies and procedures for processing and securing sexual assault evidence, and custodian appointment procedures. This includes procedures for those who may have temporary custody of records and/or evidence on a temporary basis as part of their official responsibilities. At a minimum, AR 195-5, Appendix B, provides basic internal control evaluation test questions for evidence handlers, evidence custodians, evidence room inspectors, leaders, and commanders, to include Department of the Army law enforcement officers and Army criminal investigators.
- AR 25-200-2, The Army Records Information Management System (ARIMS), 2 October 2007, governs the maintenance and disposition of Army information. It implements recordkeeping requirements and policy for the maintenance of records and has implications for sexual assault records.
- AR 190-45, Law Enforcement Reporting, 30 March 2007, since it discusses evidentiary and management controls, and management control training. AR 195-5 since it more completely discusses general evidentiary processes, evidence handling, retention, and disposition, while specifically addressing the various types of sexual assault evidence.
- AR 600-20, Army Command Policy, RAR 20 September 2012, since it addresses sexual assault evidence collection.
- AR 195-5 and AR 190-45 address training. AR 600-20 and AR 190-45 both reference AR 195-5 with regard to documenting, maintaining, and storing the potential evidence.
- AR 25-200-2 was released prior to the passage of FY12 NDAA § 586, FY13 NDAA § 577, so it states that the duration for Military Police records is 40 years.