

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?

DOD	<p>DOD OGC: On August 14, 2013, the Secretary of Defense directed all of the Military Services to establish a program to provide legal representation to sexual assault victims with an initial capability by November 1, 2013 and full implementation by January 1, 2014. Those sexual assault victim legal representation programs will significantly aid victims who believe they have been subject to retaliation. Apart from other means by which Service members are informed of their procedural rights when they are the victims of retaliation, those legal representatives will be able to guide victims through the relevant procedures.</p> <p>DoD Directive 7050.06, “Military Whistleblower Protection” (July 23, 2007), requires the Secretaries of the Military Departments to “[e]stablish internal procedures for receiving, reporting, and investigating under this Directive and section 1030 of [Title 10, United States Code], allegations that the prohibitions” against reprisals for protected communications “have been violated.” Id. at ¶ 5.3.1.2.</p> <p>Article 138 provides a statutory mechanism to obtain an investigation of allegations of wrongs committed by a service member’s commanding officer. The Services have promulgated additional guidance concerning the procedures for filing complaints under Article 138.</p> <p>DOD SAPRO: An adult victim of sexual assault has multiple protections against coercion, retaliation, or reprisal. As prescribed by DoDI 6495.02, a victim can:</p> <ul style="list-style-type: none"> • Make a report of coercion, retaliation, or reprisal to his/her Commander directly or with the assistance of a SARC or SAPR VA; • Request an Expedited Transfer; <ul style="list-style-type: none"> ○ On page 38, in Enc. 5: “The commanding officer shall expeditiously process a transfer request from a command or installation, or to a different location within the command or installation. The CO shall request and take into consideration the Service member’s input before making a decision involving a temporary or permanent transfer and the location of the transfer. If approved, the transfer orders shall also include the Service member’s dependents or military spouse (as applicable). ... The CO must approve or disapprove a Service member’s request for a permanent change of station (PCS), permanent change of assignment (PCA), or unit transfer within 72 hours from receipt of the Service member’s request. The decision to approve the request shall be immediately forwarded to the designated activity that processes PCS, PCA, or unit transfers. ... If the Service member’s transfer
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request is disapproved by the CO, the Service member shall be given the opportunity to request review by the first G/FO in the chain of command of the member, or an SES equivalent (if applicable). The decision to approve or disapprove the request for transfer must be made within 72 hours of submission of the request for review.”

- Request a Military Protective Order;
 - On page 41, Enc. 5, sections (e) and (g): "Commander SAPR Response Procedures": "Issuing commanders fill out the DD Form 2873, Military Protective Order (MPO), and provide victims and alleged offenders with copies of the completed form. Verbal MPOs can be issued, but need to be subsequently documented with a DD Form 2873, as soon as possible." ... "If the commander's decision is to deny the MPO request, [commanders shall] document the reasons for the denial. Denials of MPO requests go to the installation commander or equivalent command level (in consultation with a judge advocate) for the final decision."
 - On page 41, Enc. 5, section (f) describes the MPO documentation requirement and CMG oversight: "DoD law enforcement agents [are required to] document MPOs for all Service members in their investigative case file, to include documentation for Reserve Component personnel in title 10 status. The appropriate DoD law enforcement agent representative to the CMG shall brief the CMG chair and co-chair on the existence of an MPO."
- Request a Civilian Protective Order;
 - On page 40, Enc. 5: "Victims desiring protections off base should seek a civilian protective order."
 - SARCs facilitate this action with victims.
- Report to SARC in Different Installation Facilitated by DoD SafeHelpline;
 - On page 63, Enc. 10: "SAPR Training Requirements" states that "[v]ictims shall be informed that they can also seek assistance from a legal assistance attorney or the DoD Safe Helpline."

Additional protections include:

- Request a Safety Transfer (Per Service policy);
- File a Service-level Equal Opportunity Complaint (Per Service EO Policy);
- Request a General Officer/Flag Officer Review of Administrative Separations;
 - §578 of NDAA FY 13, DoD Instruction 1332.30o, "Separation of Regular and Reserve Commissioned Officers" and DoD Instruction 1332.14e, "Enlisted Administrative Separations"
 - Request assistance from Trial Counsel and VWAP Personnel IAW Service policies;
- Request advice of Legal Assistance Attorney IAW 10 USC 1044 and Service policies;
- Request legal representation;
 - In August 2013, SecDef directed Services to provide legal representation through the Service "special victim's advocacy program" with a fully established program by January 1, 2014

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	<ul style="list-style-type: none"> • Report to the Inspector General citing the IG Whistle-blower Protections; <ul style="list-style-type: none"> ◦ IAW DoD Directive 7050.06, Military Whistleblower Protection, July 23, 2007 • File a complaint under Article 138, “Complaint of Wrongs”
CJCS	DODD 7050.6, Military Whistleblower Protection and the No Fear Act apply to Joint Staff Personnel. Joint Staff personnel who believe that they are victims of retaliation as a result of filing any complaint, are referred to the Joint Staff or DOD Inspector General offices. Both offices thoroughly and aggressively investigate such allegations as their substance violates professional, moral, and ethical standards within the military.
USA	<p>The Army provides procedures for a victim who believes he or she has been retaliated against under punitive articles of the Uniform Code of Military Justice (UCMJ), Article 138 Complaints of Wrong, the Inspector General’s office, or Department of Defense or Army hotlines and websites set up to allow victims to bypass the chain of command for redress.</p> <p>Professional retaliation by a member of chain of command may be a crime and, therefore, can be prosecuted as a violation of the UCMJ. Any retaliatory actions taken by a superior against a subordinate as a result of a report of sexual assault are punishable under the UCMJ as maltreatment, violation of regulations, conduct unbecoming or conduct prejudicial to good order and discipline. Victims may report retaliatory actions taken against them to CID, SARC/Victim Advocate, Victim Witness Liaison, Special Victim Counsel, the prosecutor, or established hotlines.</p> <p>Article 138, UCMJ, complaints, or “Complaints of Wrongs,” allow victims to request an investigation into the actions of their command. Legal Assistance Attorneys have always assisted Soldiers with filing Article 138 complaints and Special Victim Counsel may also assume that that duty. Soldiers are instructed on the availability of Article 138 complaints in annual legal training.</p> <p>Members of the military who are retaliated against are protected from such retaliation by section 1034 of title 10, United States Code, the Military Whistleblower Protection Act. The provisions of this act are further reinforced in Department of Defense Directive 7050.06, Military Whistleblower Protection; Army Regulation (AR) 20-1, Inspector General (IG) Activities and Procedures; and AR 600-20, Army Command Policy. Essentially, the statute and implementing regulations prohibit taking any unfavorable personnel actions in reprisal for a protected communication. Protected communications are the disclosures of information that one reasonably believes constitutes evidence of a violation of law or regulation.</p> <p>The statutory guidance and implementing regulations require all service Inspectors General to notify the Department of Defense IG (DOD IG) of reprisal complaints in accordance with established procedures. Although the DOD IG has oversight over all such reprisal complaints, most are referred to the particular Service IG at the headquarters level for investigation. The Office of the Department of the Army IG</p>

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	<p>decides who is in the best position to gather the evidence and address the facts, normally the local IG.</p> <p>If a local IG does conduct the investigation, there are protections built into the system. An IG may not investigate his or her supervisors and, where conflicts of interest exist, a higher level IG retains the case for investigation. Furthermore, all of the investigations are reviewed by the appropriate IG assigned to the appropriate Army command (or equivalent organization). That review is then forwarded back up to a whistleblower reprisal investigations specialist at the Department of the Army level, and then on to the DOD IG for final review.</p> <p>The approved results of an IG whistleblower reprisal investigation are turned over to the chain of command for disciplinary action as appropriate. Furthermore; the complainant has direct and priority access to the Army Board for Correction of Military Records, which retains broad, sweeping authority to correct any error or injustices in the complainant’s record on behalf of the Secretary of the Army.</p> <p>In AR 600-20, paragraph 5-12, d., lays out procedures for Soldiers who are threatened with reprisal or who experience reprisal. They are to report them to the DOD Inspector General and a variety of mechanisms are provided for reaching the DODIG. In paragraph 6-11, a., officers and noncommissioned officers are told to pursue appeals of their evaluation reports under the procedures specified in AR 623-3, “Evaluation Reporting System,” if the evaluation was based on allegations of unlawful discrimination, sexual harassment, or reprisal.</p> <p>Paragraph 8-5, o. (27)(a) states that, when a Special or General Court-Martial Convening Authority reviews the administrative separation actions involving sexual assault victims, unless directed otherwise by AR 635-200, “Active Duty Enlisted Separations,” or AR 600-8-24, “Officer Transfers and Discharges,” the review must consider if the separation appears to be in retaliation for the Soldier filing an unrestricted report. If so, the reviewer is to consult with a judge advocate.</p> <p>In Appendix I, 3b (8) (a), which describes SARC training requirements, one of the topics to be trained is safety planning regarding retaliation toward a victim (by command, peers, or offender) and avenues for redress if the victim has been subjected to retaliation or intimidation for making an unrestricted report, intimidation, separation of the victim and offender, and military protective orders.</p>
USAF	<p>(AF) SARCs/Sexual Assault Victim Advocates/Volunteer Victim Advocates discuss retaliation or reprisal with victims while going over the DD Form 2910 (Tab 5). Victims are told to immediately report back to them if there are any issues, including issues such as retaliation, retribution, issues in the workplace/socially. The duty to discuss these potential problems with victims is also reaffirmed in annual SARC training. Additionally, if a victim has a Special Victims’ Counsel, the SVC will also tell victims to let them know if there are any concerns. All installation victim advocacy</p>

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programs are very cognizant of making sure a victim knows they are taken care of should something occur.

Per TJAG's Policy Memorandum, dated 19 August 2013, the VWAP is a cornerstone of an effective military justice system. Additionally, as a part of the VWAP program, an individual will be appointed to the victim as a Victim Liaison. The liaison may be a medical or mental health care provider, judge advocate, paralegal, or other person appropriate under the circumstances of a particular case. A liaison is responsible for making contact between victims and service agencies and arranging for those services, when appropriate. Communications between a liaison and a victim are not confidential or privileged. A Victim Liaison is assigned to every victim of a sexual assault crime. This vital program ensures that statutorily mandated rights of victims are protected and that the roles of victims and witnesses in our disciplinary process are enhanced. An effective VWAP program can mitigate the stress that often accompanies interaction with the military justice system. Victim liaisons will be proactive in maintaining regular contact with the victims they support, both through counsel and directly. The victim liaison is a source of support for a victim who feels he/she is being retaliated against.

Every base legal office has a VWAP program; a victim liaison is assigned to every crime victim to provide assistance during the military justice process. Sixty victim liaisons were trained at the National Center for Victims of Crime Conference in September 2012. A full day of AF VWAP specific instruction was provided. There was a Sexual Assault Awareness Training briefing template provided to the field in FY 13. An AF standalone VWAP course was approved by TJAG to field at the AF JAG School in FY13. There is an ongoing participation in DoD/DoJ initiative - Strengthening Military - Civilian Community Partnerships to Respond to Sexual Assaults." This three person JAG/SARC/Civ Provider team provides instruction to civilian providers and VWAPs, with a goal to establish working relationships between military and civilian victim advocates and strengthen the civ-mil community response in support of sexual assault victims.

Per the tenets of the VWAP program, the Local Responsible Official (normally the installation commander) has enumerated responsibilities. The installation commander will normally fulfill these responsibilities via the Victim Liaison. These responsibilities include:

- Inform victims about sources of medical and social services;
- Inform victims of restitution or other relief to which they may be entitled;
- Assist victims in obtaining financial, legal, and other social services;
- Inform victims concerning protection against threats or harassment;
- Provide victims notice of the status of investigation or court-martial, preferral of charges, acceptance of a guilty plea or announcement of findings, and the sentence imposed;
- Safeguard the victim's property if taken as evidence and return it as soon as possible;
- Consult with victims and consider their views on preferral of court-martial charges,

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<p>pretrial restraint, dismissal of charges, pretrial agreements, discharge in lieu of court-martial, and scheduling of judicial proceedings;</p> <ul style="list-style-type: none"> -- Designate a victim liaison when necessary; -- Notify authorities of threats and assist in obtaining restraining orders; -- Provide a waiting area removed from and out of the sight and hearing of the accused and defense witnesses; <p>-- Assist in obtaining necessary services such as transportation, parking, child care, lodging, and court-martial translators/interpreters;</p> <ul style="list-style-type: none"> -- If the victim/witness requests, take reasonable steps to inform his/her employer of the reasons for the absence from work, as well as notify creditors of any serious financial strain incurred as a direct result of the offense; -- Provide victims and witnesses necessary assistance in obtaining timely payment of witness fees and related costs. <p>Additionally, the victim of a sexual assault is assigned a Victim Advocate (VA) to whom they can turn for assistance if they feel that they are being subjected to some form of retaliation. The Victim Advocate's responsibilities include providing crisis intervention, referral, and ongoing nonclinical support, including information on available options and resources to assist the victim in making informed decisions about the case. VA services will continue until the victim states support is no longer needed. VAs are volunteers who must possess the maturity and experience to assist in a very sensitive situation. Only active duty military personnel and DoD civilian employees selected by the SARC may serve as VAs. VAs do not provide counseling or other professional services to a victim. Appropriate agencies will provide clinical, legal, and other professional services. VAs may accompany the victim, at the victim's request, during investigative interviews and medical examinations. However, they and the victims they accompany must be made aware that their presence could later result in them being called as witnesses in court-martial or administrative proceedings.</p> <p>The victims of sexual assaults may also rely on the assistance of their commanders. Commanders notified of a sexual assault through unrestricted reporting must take immediate steps to ensure the victim's physical safety, emotional security and medical treatment needs are met, and that the Air Force Office of Special Investigations (AFOSI) or appropriate criminal investigative agency is notified. Attachment 4 to the Air Force Sexual Assault Policy is a checklist for assisting commanders in responding to allegations of sexual assault. Its primary objective is to assist commanders in safeguarding the rights of the victim and the subject, as well as addressing appropriate unit standards and interests. In all cases, commanders should seek the advice of the SJA in using the checklist before taking action. The appropriate commanders should determine whether temporary reassignment or relocation of the victim or subject is appropriate. Commanders should consider whether no contact orders or Military Protective Orders (DD Form 2873) are required.</p>

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	<p>Moreover, Article 138 of the Uniform Code of Military Justice (UCMJ) gives every member of the Armed Forces the right to complain that he or she was “wronged” by his or her commanding officer. Matters appropriate to address under Article 138 include discretionary acts or omissions by a commander that adversely affects the member personally and are:</p> <ul style="list-style-type: none"> -- In violation of law or regulation; -- Beyond the legitimate authority of that commander; -- Arbitrary, capricious, or an abuse of discretion; or -- Clearly unfair, e.g., selective application of administrative standards/actions. <p>The Military Whistleblower Protection Act, Title 10 U.S.C. § 1034, as amended, 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, an Inspector General, as well as a member of a Department of Defense investigation or law enforcement agency, any person or organization in the chain of command, or any person or organization designated pursuant to regulations or other established administrative procedures for such communications. An Inspector General receiving an allegation covered under the Act shall expeditiously determine, in accordance with regulations prescribed, whether there is sufficient evidence to warrant an investigation of the allegation. In such cases where an investigation is determined to be warranted, the investigation will be conducted in an expeditious manner as well.</p> <p>Victims of sexual assault offenses in the Air Force have multiple avenues with which to file a complaint for redress if they feel they have been retaliated against. Primarily these include, law enforcement investigators, victim liaisons or victim advocates, military justice trial counsel or special victims counsel as well as the Inspector General or commanding officers within their chains of command. While all of these individuals may be available to a victim, the victim may only feel comfortable or familiar with a few of these sources of potential relief. This is, in part, why there are so many individuals available who may assist a victim who feels he or she is subjected to unlawful retaliation. Victims are made aware of these and other services in numerous ways, primarily through the operation of the VWAP program.</p>
USN	<p>A victim who believes he/she is being retaliated against will be advised of services available via their VLC at the earliest stages of their professional relationship. Complaints of Wrong (1150/138) are specifically addressed in the Scope of Representation Letter signed by both the VLC and the client under the section dealing with Scope of Legal Services provided. Additionally, victims may call an IG hotline or seek the assistance of defense counsel in order to determine their options or pursue a complaint.</p>
USMC	<p>The Marine Corps takes allegations of reprisal very seriously and designs our training programs to reduce the stigma of, and increase confidence in, reporting. The approximately 85% increase in reporting from FY12 to FY13 is a positive endorsement of these and other SAPR initiatives designed to encourage victims to come forward.</p>

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There are a number of steps that victims may take if they feel they have been subject to a reprisal. There are several formal methods for requesting redress of grievances, including: (1) a complaint through the chain of command (including a victim advocate or Sexual Assault Response Coordinator); (2) a complaint to law enforcement; (3) correspondence with a Member of Congress; (4) an Inspector General (IG) complaint for instances of fraud, waste, and abuse; (5) an Equal Opportunity complaint for instances of discrimination or sexual harassment; (6) an Article 138 (UCMJ) complaint, for instances of specific abuse, discriminatory practices of a superior officer, or where the command is not following regulations; (7) an Article 139 (UCMJ) complaint, where personal property is taken or destroyed; (8) a Navy Regulation Article 1150 complaint for redress of wrong against any superior the victim believes retaliated against him or her; and (9) a petition the Board for Correction of Military Records to change adverse items, or make other corrections, in a member's official record.

The following includes detailed explanations of a few of these options. First, under the Military Whistleblower Protection Act, the victim has a broad range of protections in making "protected communications." Such communications include, among many others, a communication to "any person or organization in the chain of command" (subsection b(1)(B)(iv)) regarding "a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination" (subsection c(2)(A)): "No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing [the communication]." Subsection b(1).

Second, the victim could initiate a Complaint of Wrongs under Article 138, UCMJ, which requires redress by a commanding officer if that commanding officer wronged the petitioner. If the commanding officer refuses to redress the wrong, the complaint is forwarded to the next officer exercising general court-martial convening authority.

Finally, if the retaliation negatively impacted the victim's records, he or she may petition the Board for Correction of Naval Records, which has authority under 10 U.S.C. 1552 to correct errors or remove injustices from current and former Marine Corps member's official military personnel file.

If a command learns that a member of the command took reprisal or retaliation action against a victim who came forward to report a sexual assault, the commander may fully investigate the issue and take appropriate administrative or punitive action. Additionally, under Department of Defense Instruction 5505.18 (implemented Jan 25, 2013), "[w]hen an MCIO initiates an adult sexual assault investigation, it will also initiate and conduct subsequent investigations relating to suspected threats against the sexual assault victim, to include minor physical assaults and damage to property." The party taking the wrongful action can be

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	<p>charged with violating Article 92 (dereliction of duty, specifically for not complying with The Military Whistleblower Protection Act (10 U.S.C. § 1034); Article 134 (obstructing justice); and Article 134 (wrongful interference with an adverse administrative proceeding).</p>
USCG	<p>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.</p> <p>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.</p> <p>A victim may seek administrative relief by petitioning his or her commanding officer for relief under Article 138, UCMJ. Article 138 provides service members with the opportunity to challenge the wrongs of commanding officers, whereby an officer exercising general court-martial over the offending commander hears the complaint and takes measures to remedy the wrong. Under Coast Guard policy, a "wrong" is "A discretionary action by a commanding officer under the color of federal military authority, which was unauthorized, unfair, or discriminatory, resulting in personal detriment, harm, or injury to the complainant, and is capable of redress in command channel without resort to trial by court-martial. The wrong may consist of either an affirmative action or a passive action."</p> <p>If a retaliation negatively effects a victim's military records, the victim may seek a remedy through the Board of Correction for Military Records (BCMR). The BCMR is empowered by federal law with the authority to correct errors or expunge injustices</p>

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	<p>from a Coast Guardsman's records.</p> <p>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. Second, members in command may be Relieved for Cause (RFC). 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.</p> <p>A service member is informed of these procedures by a Special Victim Counsel, Legal Assistance Attorney, SARC, VA, and Command.</p>
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VICTIM REPORTING PREFERENCE STATEMENT

(Read Privacy Act Statement before completing this form.)

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 113 note, Department of Defense Policy and Procedures on Prevention and Response to Sexual Assaults Involving Members of the Armed Forces; 10 U.S.C. 136; 32 U.S.C.; DoD Directive 6495.01; DoD Instruction 6495.02; 10 U.S.C. 3013; Army Regulation 600-20, Chapter 8; 10 U.S.C. 5013; Secretary of the Navy Instruction 1752.4A; Marine Corps Order 1752.5A; 10 U.S.C. 8013; Air Force Instruction 36-6001; and E.O. 9397 (SSN), as amended.

PRINCIPAL PURPOSE(S): Information will be used to document elements of the sexual assault response and/or reporting process and comply with the procedures set up to effectively manage the sexual assault prevention and response program. At the local level, Service SAPR Program Management, Major Command Sexual Assault Response Coordinator(s) (SARCs), Installation and Brigade SARCs use information to ensure that victims are aware of services available and have contact with medical treatment personnel and DoD law enforcement entities. At the DoD level, only de-identified data is used to respond to mandated congressional reporting requirements. The DoD Sexual Assault Prevention and Response Office has access to identified closed case information and de-identified, aggregate open case information for congressional reporting, study, research, and analysis purposes. Collected information is covered by DHRA 06 DoD, Defense Sexual Assault Incident Database (<http://dpclo.defense.gov/privacy/SORNS/component/osd/DHRA06DoD.html>).

ROUTINE USE(S): The DoD blanket routine uses found at http://dpclo.defense.gov/privacy/SORNS/blanket_routine_uses.html may apply to this record. Note: Any release made as a blanket routine use will be consistent with the principal purpose of its original collection.

DISCLOSURE: Voluntary. However, if you decide not to provide certain information, it may impede the ability of the SARC to offer the full range of care and support established by the sexual assault prevention and response program. You will not be denied benefits via the Restricted Reporting option. The Social Security Number (SSN) is one of several unique personal identifiers that may be provided. This form will be stored electronically in the Defense Sexual Assault Incident Database (DSAID) for 50 years for Unrestricted Reports.

1. REPORTING PROCESS AND OPTIONS DISCUSSED WITH THE SAPR VA OR SARC **DSAID CASE NUMBER:**

a. I, (full name) _____ (Social Security Number) _____, had the opportunity to talk with a Sexual Assault Prevention and Response Victim Advocate (SAPR VA) or a Sexual Assault Response Coordinator (SARC) before selecting a reporting option.

b. UNRESTRICTED REPORTING - REPORTING A CRIME WHICH IS INVESTIGATED.

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| INITIALS | (1) I understand that law enforcement and my command will be notified that I am a victim of sexual assault. An investigation into the crime will be started by an MCIO. I can receive medical treatment, support services, and counseling. I can also choose to have a sexual assault forensic examination if indicated. I will be provided a DD Form 2701 which contains important information about my rights as a victim from the law enforcement or MCIO. I should retain the DD Form 2701. If reporting a sexual assault that occurred prior to or while not performing active service or inactive training, National Guard and Reserve Component members are eligible to receive SAPR support services from a SARC and a SAPR VA and are eligible to file an Unrestricted Report. |
| | (2) As a service member, I understand that:
(a) (Through a separate form) I may request an Expedited Transfer (temporary or permanent) from my installation or to a different location within my installation. My family will be included.
(b) Depending on the facts of my case, I may request a Military Protective Order (MPO). If a written and/or verbal MPO is issued, my commander will provide me with a copy of the DD Form 2873.
(c) I also have the option of requesting a Civilian Protective Order (CPO) from civilian courts. |
| | (3) My Commanding Officer may take appropriate punishment action if there is evidence I committed misconduct around the time of the sexual assault. However, my Commanding Officer is to take into account the sexual assault investigation and circumstances when considering how to address my misconduct. |
| | (4) If the crime is prosecuted under the UCMJ, any communication with my SARC or SAPR VA are confidential under the "Victim-Victim Advocate Privilege" unless an exception applies. |

c. RESTRICTED REPORTING - CONFIDENTIALLY REPORTING A CRIME WHICH IS NOT INVESTIGATED.

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| INITIALS | (1) I understand that I can confidentially receive medical treatment, advocacy services, and counseling. I can also choose to have a sexual assault forensic examination, if indicated. Law enforcement and my command will NOT be notified. My report will NOT cause an investigation of the crime. No action will be taken against the offender(s) as the result of my report. If reporting a sexual assault that occurred prior to or while not performing active service or inactive training, National Guard and Reserve Component members are eligible to receive SAPR support services from a SARC and a SAPR VA and are eligible to file a Restricted Report. |
| | (2) I understand that there are exceptions to "Restricted Reporting" (see Page 2) and they have been explained to me. If an exception applies, the details of my assault may be revealed. |
| | (3) I understand the evidence collected from my Sexual Assault Forensic Exam (SAFE) will be stored for 5 years from the date I sign this form. I will be contacted in 1 year by my SARC to discuss my options as they relate to this evidence. If the case is handled in civilian court, civilian law enforcement would handle the SAFE kit storage. |
| | (4) All state laws, local laws or international agreements that may limit some or all of DoD's Restricted Reporting protections have been explained to me. In the (state, city/county of _____), medical authorities must report the sexual assault to _____. |
| | (5) I understand that the SARC will provide information that does not reveal my identity, nor that of my offender, to the responsible senior commander. This notification takes place within 24 hours of my "Restricted Report". If I am at a deployed location or there are extenuating circumstances, the notification will be made within 48 hours. Commanders require this information for public safety and other responsibilities. |
| | (6) I understand that certain protective actions, such as an MPO and/or a CPO against the offender, or an expedited transfer and my victim's rights, will NOT be available to me if I choose Restricted Reporting. |
| | (7) I understand that speaking to others about my sexual assault may result in the crime being reported to command and law enforcement. This could lead to an investigation. I may keep my report confidential by only talking to those persons covered under the "Restricted Reporting" option (SARC, SAPR VA, or healthcare personnel). Communications with Chaplains and Legal Assistance Attorneys are also privileged and may not be disclosed without my consent. |
| | (8) I understand that I may change my mind and report this offense at a later time as an "Unrestricted Report", and law enforcement and my command will be notified. However, delays in changing the report from restricted to unrestricted may affect the amount of evidence gathered by an investigation and may impact the ability to hold offender(s) appropriately accountable. |

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1.c. RESTRICTED REPORTING (Continued)			
INITIALS	(9) If the crime is prosecuted under the UCMJ, any communications with my SARC or SAPR VA are confidential under the "Victim-Victim Advocate Privilege". However, there are exceptions to this privilege that may allow our communications to become evidence in military court. This privilege does not extend to civilian courts proceedings.		
d. I also understand that:			
	(1) If I do not choose a reporting option right now or if I refuse to sign this form, the SARC or SAPR VA has no obligation to inform investigators or commanders about my sexual assault. The SARC or SAPR VA may only disclose information about our conversation according to the exceptions to the Victim-Victim Advocate privilege.		
	(2) I have the right to decline any or all SAPR services. I may also ask for a different SAPR VA if one is available.		
	(3) I have been advised to keep a signed and dated copy of this form for my records. This form may be used in other matters before other agencies (e.g., Department of Veterans Affairs) or for other lawful purposes. Restricted Reports: By signing this form I am giving consent that for Restricted Reports, this form will remain with the SARC for 50 years; if not requested, it will be retained, by policy, for 5 years (See block 8 below). Unrestricted Reports: By signing this form I am giving consent that for Unrestricted Reports, this form will be stored electronically in DSAID for 50 years.		
2. CHOOSE A REPORTING OPTION (Initial)			
a. I elect Unrestricted Reporting. I have decided to report that I am a victim of sexual assault to my command, law enforcement, or other military authorities for investigation of this crime. I understand that a Restricted Report is no longer available to me.			
b. I elect Restricted Reporting. I have decided to confidentially report that I am a victim of sexual assault. Law enforcement or other military authorities will NOT be notified unless one of the exceptions applies. I understand the information I provide will NOT start an investigation or be used to hold the offender(s) accountable. I understand that I can switch to Unrestricted Reporting at any time.			
RESTRICTED REPORT CASE NUMBER:			
3.a. SIGNATURE OF VICTIM		b. DATE (YYYYMMDD)	4.a. SIGNATURE OF SARC/SAPR VA
			b. DATE (YYYYMMDD)
5. I have reconsidered my previous selection of "Restricted Reporting" and am now choosing to make an Unrestricted Report.			
a. SIGNATURE OF VICTIM		b. DATE (YYYYMMDD)	c. SIGNATURE OF SARC/SAPR VA
			d. DATE (YYYYMMDD)
EXCEPTIONS TO "RESTRICTED REPORTING"			
There are exceptions to Restricted Reporting. This means that sometimes circumstances require that your Restricted Report of sexual assault must be disclosed. The following persons or organizations may be told about your sexual assault report for the following reasons:			
1. Command officials or law enforcement when you provide written authorization.			
2. Command officials or law enforcement to prevent or lessen a serious and imminent threat. This may be a threat to the health or safety of you or another person. Multiple reports involving the same alleged suspect may also meet this criteria.			
3. Disability Evaluation Boards, Medical Evaluation Boards, and the officials participating in the boards. The report may be disclosed to these parties when it is required for fitness for duty or disability retirement determinations. Disclosure is limited to only that information necessary to make a determination for disability processing.			
4. SARC, SAPR VA or healthcare personnel when required for the direct supervision of victim services.			
5. Military or civilian courts when ordered, or if disclosure is required by Federal or state statute.			
Before disclosing any information, SARCs, SAPR VAs and healthcare personnel will first consult with the servicing legal office. The legal office will determine if any of the above exceptions apply, if there is a duty to disclose the information, and who will make the disclosure when required.			
6. VICTIM CONSENTED TO TRANSFER OF (RR/UR) CASE DOCUMENTS TO ANOTHER SARC: (X and complete as applicable)			
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes: Date (YYYYMMDD) _____ Location of Transfer: _____			
7. VICTIM CONTACTED AT 1-YEAR MARK OF THE RESTRICTED REPORT: (X and complete as applicable)			
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes: Date (YYYYMMDD) _____ If not, document how the SARC attempted to locate the victim:			
8.a. VICTIM REQUESTED TO KEEP RESTRICTED REPORT DD FORM 2910 FOR 50 YEARS: (X one)			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
8.b. VICTIM REQUESTED TO KEEP RESTRICTED REPORT DD FORM 2911 FOR 50 YEARS: (X one)			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
9. VICTIM REQUESTED A SECOND COPY OF THE DD FORM 2910: (X and complete as applicable)			
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes: Date (YYYYMMDD) _____			
10. VICTIM REQUESTED A COPY OF THE DD FORM 2911 FROM SAFE KIT. I FACILITATED THIS REQUEST: (X and complete as applicable)			
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes: Date (YYYYMMDD) _____			
11. I understand that I cannot request an Expedited Transfer, a Military Protective Order, or a Civilian Protective Order through this form. (X one)			
<input type="checkbox"/> Yes <input type="checkbox"/> No			