Annex
to the

Report of
The Defense Task Force
on
Sexual Assault
in the
Military Services

December 2009

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ANNEX A: LEGISLATION ESTABLISHING THE TASK FORCE

H.R. 1588 – NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

(Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 526. Defense Task Force on Sexual Harassment and Violence at the Military Service Academies.

(a) ESTABLISHMENT - The Secretary of Defense shall establish a Department of Defense task force to examine matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy.

(b) RECOMMENDATIONS - Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary of Defense a report recommending ways by which the Department of Defense and the Department of the Army and the Department of the Navy may more effectively address matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy, respectively. The report shall include an assessment of, and recommendations (including any recommended changes in law) for measures to improve, with respect to sexual harassment and violence at those academies, the following:

(1) Victims' safety programs.

(2) Offender accountability.

(3) Effective prevention of sexual harassment and violence.

(4) Collaboration among military organizations with responsibility or jurisdiction with respect to sexual harassment and violence.

(5) Coordination between military and civilian communities, including local support organizations, with respect to sexual harassment and violence.

(6) Coordination between military and civilian communities, including civilian law enforcement relating to acts of sexual harassment and violence.

(7) Data collection and case management and tracking.

(8) Curricula and training, including standard training programs for cadets at the United States Military Academy and midshipmen at the United States Naval Academy and for permanent personnel assigned to those academies.

(9) Responses to sexual harassment and violence at those academies, including standard guidelines.

(10) Other issues identified by the task force relating to sexual harassment and violence at those academies.

(c) METHODOLOGY - The task force shall consider the findings and recommendations of previous reviews and investigations of sexual harassment and violence conducted for those academies as one of the bases for its assessment.

(d) REPORT - (1) The task force shall submit to the Secretary of Defense and the Secretaries of the Army and the Navy a report on the activities of the task force and on the activities of the United States Military

Academy and the United States Naval Academy to respond to sexual harassment and violence at those academies.

(2) The report shall include the following:

(A) Any barriers to implementation of improvements as a result of those efforts.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law as the task force considers appropriate, including whether cases of sexual assault at those academies should be included in the Department of Defense database known as the Defense Incident-Based Reporting System.

(3) Within 90 days after receipt of the report under paragraph (1) the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(e) REPORT ON AIR FORCE ACADEMY - Simultaneously with the submission of the report under subsection (d)(3), the Secretary of Defense, in coordination with the Secretary of the Air Force, shall submit to the committees specified in that subsection the Secretary's assessment of the effectiveness of corrective actions being taken at the United States Air Force Academy as a result of various investigations conducted at that Academy into matters involving sexual assault and harassment.

(f) COMPOSITION - (1) The task force shall consist of not more than 14 members, to be appointed by the Secretary of Defense. Members shall be appointed from each of the Army, Navy, Air Force, and Marine Corps, and shall include an equal number of personnel of the Department of Defense (military and civilian) and persons from outside the Department of Defense. Members appointed from outside the Department of Defense may be appointed from other Federal departments and agencies, from State and local agencies, or from the private sector.

(2) The Secretary shall ensure that the membership of the task force appointed from the Department of Defense includes at least one judge advocate.

(3) In appointing members to the task force, the Secretary may—

(A) consult with the Attorney General regarding a representative from the Office of Violence Against Women of the Department of Justice; and

(B) consult with the Secretary of Health and Human Services regarding a representative from the Women's Health office of the Department of Health and Human Services.

(4) Each member of the task force appointed from outside the Department of Defense shall be an individual who has demonstrated expertise in the area of sexual harassment and violence or shall be appointed from one of the following:

(A) A representative from the Office of Civil Rights of the Department of Education.

(B) A representative from the Centers for Disease Control and Prevention of the Department of Health and Human Services.

(C) A sexual assault policy and advocacy organization.

(D) A civilian law enforcement agency.

(E) A judicial policy organization.

(F) A national crime victim policy organization.

(5) The members of the task force shall be appointed not later than 120 days after the date of the enactment of this Act.

(g) CO-CHAIRS OF THE TASK FORCE - There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel on the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by those members.

(h) ADMINISTRATIVE SUPPORT - (1) Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.

(2) The Deputy Under Secretary of Defense for Personnel and Readiness, under the direction of the Under Secretary of Defense for Personnel and Readiness, shall provide oversight of the task force. The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the task force's duties.

(3) The Deputy Under Secretary shall coordinate with the Secretary of the Army to provide visits of the task force to the United States Military Academy and with the Secretary of the Navy to provide visits of the task force to the United States Naval Academy.

(i) TERMINATION - The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (d)(3).

H.R. 4200 – Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

(Enrolled as Agreed to or Passed by Both House and Senate)

Subtitle K--Sexual Assault in the Armed Forces

SEC. 576. Examination of Sexual Assault in the Armed Forces by the Defense Task Force Established to Examine Sexual Harassment and Violence at the Military Service Academies.

(a) EXTENSION OF TASK FORCE - (1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1466) to examine matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

(3) Before the task force extended under this subsection begins to carry out the functions specified in this section, the Secretary of Defense may, consistent with the qualifications required by section 526(f) of Public Law 108-136, change the composition of the task force as the Secretary considers appropriate for the effective performance of such functions, except that—

> (A) any change initiated by the Secretary in the membership of the task force under this paragraph may not take effect before the task force has completed its functions under section 526 of Public Law 108-136; and
>
> (B) the total number of members of the task force may not exceed 14.

(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES- The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

(c) RECOMMENDATIONS - The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for changes in law) for measures to improve, with respect to sexual assault, the following:

> (1) Victim care and advocacy programs.
>
> (2) Effective prevention.
>
> (3) Collaboration among military investigative organizations with responsibility or jurisdiction.
>
> (4) Coordination and resource sharing between military and civilian communities, including local support organizations.
>
> (5) Reporting procedures, data collection, tracking of cases, and use of data on sexual assault by senior military and civilian leaders.

(6) Oversight of sexual assault programs, including development of measures of the effectiveness of those programs in responding to victim needs.

(7) Military justice issues.

(8) Progress in developing means to investigate and prosecute assailants who are foreign nationals.

(9) Adequacy of resources supporting sexual assault prevention and victim advocacy programs, particularly for deployed units and personnel.

(10) Training of military and civilian personnel responsible for implementation of sexual assault policies.

(11) Programs and policies, including those related to confidentiality, designed to encourage victims to seek services and report offenses.

(12) Other issues identified by the task force relating to sexual assault.

(d) METHODOLOGY - In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

(e) REPORT - (1) Not later than one year after the initiation of its examination under subsection (b), the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

(2) The report shall include the following:

(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law that the task force considers appropriate.

(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(f) TERMINATION- The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3).

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ANNEX B: SEX-RELATED CRIMES

The Uniform Code of Military Justice (UCMJ), Title 10, United States Code Sections 801-946, MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.) prior to 2007, set forth a wide range of sex-related criminal offenses (i.e., rape, carnal knowledge, sodomy (forcible and consensual), indecent assault, indecent acts or liberties with a child, indecent exposure, indecent language, indecent acts with another, pandering, prostitution, adultery, and bigamy). Congress amended and consolidated numerous criminal articles into **Article 120, UCMJ for offenses occurring on and after October 1, 2007**. The former Article 134 offenses of indecent assault, indecent acts or liberties with a child, indecent exposure, and indecent acts with another were subsumed into the comprehensive Article 120 entitled, "Rape, Sexual Assault, and Other Sexual Misconduct." Article 120, UCMJ, as amended, sets forth new sex-related offenses constituting degrees of sexual assault offenses. This amendment also included the former Article 134, UCMJ offense of communicating indecent language in the presence of a child. The Article 134, UCMJ offense of indecent language communicated to another (other than in the presence of a child) remains in Article 134. The definition of "indecent" was also modified. The Article 134, UCMJ, "Pandering and Prostitution," was amended to include a new offense of patronizing a prostitute. In addition, a new offense of pandering that is "compelled" was added to Article 120. Please see the following list of sex-related crimes as of 2005 and the revised Article 120, UCMJ.

UCMJ ARTICLES FOR OFFENSES PRIOR TO 2007

Article 120 Rape and Carnal Knowledge

a. Text.

"(a) Any person subject to this chapter who commits an act of sexual intercourse by force and without consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct."

(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—

(1) who is not his or her spouse; and

(2) who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(c) Penetration, however slight, is sufficient to complete either of these offenses.

(d)(1) In a prosecution under subsection (b), it is an affirmative defense that—

(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

(B) the accused reasonably believed that the person had at the time of the alleged offense attained the age of 16 years.

(2) The accused has the burden of proving a defense under subparagraph (d)(1) by a preponderance of the evidence.

b. Elements.

(1) Rape. (*Death*)

(a) That the accused committed an act of sexual intercourse; and

(b) That the act of sexual intercourse was done by force and without consent.

(2) Carnal Knowledge. (*12 and over—20 years; under 12—life without parole*)

(a) That the accused committed an act of sexual intercourse with a certain person;

(b) That the person was not the accused's spouse; and

(c) That at the time of the sexual intercourse the person was under 16 years of age.

Article 125 Sodomy[1]

a. Text.

"(a) Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

(b) Any person found guilty of sodomy shall be punished as a court-martial may direct."

b. Elements. (*5 years*)

(1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal. (Note: Add either or both of the following elements, if applicable)

(2) That the act was done with a child under the age of 16. (*12 and over—20 years; under 12—life without parole*)

(3) That the act was done by force and without the consent of the other person. (*life without parole*)

Article 134 Adultery[2]

a. Text. See paragraph 60.*

b. Elements. (*1 year*)

(1) That the accused wrongfully had sexual intercourse with a certain person;

(2) That, at the time, the accused or the other person was married to someone else; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Article 134 Indecent Assault

a. Text. See paragraph 60.*

b. Elements. (*5 years*)

(1) That the accused assaulted a certain person not the spouse of the accused in a certain manner;

(2) That the acts were done with the intent to gratify the lust or sexual desires of the accused; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

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[1] These punitive articles remain in the UCMJ after 2007

[2] Id.

Article 134 Assault with Intent to Commit Murder, Voluntary Manslaughter, Rape, Robbery, Sodomy, Arson, Burglary, or Housebreaking

a. Text. See paragraph 60.*

b. Elements. (*murder or rape—20 years; all others except housebreaking—10 years; housebreaking—5 years*)

(1) That the accused assaulted a certain person;

(2) That, at the time of the assault, the accused intended to kill (as required for murder or voluntary manslaughter) or intended to commit rape, robbery, sodomy, arson, burglary, or housebreaking; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Article 134 Indecent Acts or Liberties with a Child

a. Text. See paragraph 60.*

b. Elements. (*7 years*)

(1) Physical Contact.

(a) That the accused committed a certain act upon the body of a certain person;

(b) That the person was under 16 years of age and not the spouse of the accused;

(c) That the act of the accused was indecent;

(d) That the accused committed the act with intent to arouse, appeal to, o gratify the lust, passions, or sexual desires of the accused, the victim, or both; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) No physical Contact.

(a) That the accused committed a certain act;

(b) That the act amounted to the taking of indecent liberties with a certain person;

(c) That the accused committed the act in the presence of this person;

(d) That this person was under 16 years of age and not the spouse of the accused;

(e) That the accused committed the act with intent to arouse, appeal to, o gratify the lust, passions, or sexual desires of the accused, the victim, or both; and

(f) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Article 134 Indecent Exposure

a. Text. See paragraph 60.*

b. Elements. (*6 months*)

(1) That the accused exposed a certain part of the accused's body to public view in an indecent manner;

(2) That the exposure was willful and wrongful; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Article 134 Indecent Language

a. Text. See paragraph 60.*

b. Elements. (*to a child under 16—2 years; otherwise 6 months*)

(1) That the accused orally or in writing communicated to another person certain language;

(2) That such language was indecent; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(Note: In appropriate cases add the following element after element (1): That the person to whom the language was communicated was a child under the age of 16.)

Article 134 Indecent Acts with Another

a. Text. See paragraph 60.*

b. Elements. (5 years)

(1) That the accused committed a certain wrongful act with a certain person;

(2) That the act was indecent; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

*60. Article 134 General Article

a. Text.

"Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court."

Article 120, UCMJ for Offenses Occurring on or After October 1, 2007

(a) *Rape.* Any person subject to this chapter who causes another person of any age to engage in a sexual act by—

(1) using force against that other person;

(2) causing grievous bodily harm to any person;

(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm or kidnapping;

(4) rendering another person unconscious; or

(5) administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairs the ability of that other person to appraise or control conduct; is guilty of rape and shall be punished as a court-martial may direct.

(b) *Rape of a Child.* Any person subject to this chapter who—

(1) engages in a sexual act with a child who has not attained the age of 12 years; or

(2) engages in a sexual act under the circumstances described in subsection (a) with a child who has attained the age of 12 years; is guilty of rape of a child and shall be punished as a court-martial may direct.

(c) *Aggravated Sexual Assault.* Any person subject to this chapter who—

(1) causes another person of any age to engage in a sexual act by—

(A) threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping);or

(B) causing bodily harm; or

(2) engages in a sexual act with another person of any age if that other person is substantially incapacitated or substantially incapable of—

(A) appraising the nature of the sexual act;

(B) declining participation in the sexual act; or

(C) communicating unwillingness to engage in the sexual act; is guilty of aggravated sexual assault and shall be punished as a court-martial may direct.

(d) *Aggravated Sexual Assault of a Child.* Any person subject to this chapter who engages in a sexual act with a child who has attained the age of 12 years is guilty of aggravated sexual assault of a child and shall be punished as a court-martial may direct.

(e) *Aggravated Sexual Contact.* Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

(f) *Aggravated Sexual Abuse of a Child.* Any person subject to this chapter who engages in a lewd act with a child is guilty of aggravated sexual abuse of a child and shall be punished as a court-martial may direct.

(g) *Aggravated Sexual Contact With a Child.* Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (b) (rape of a child) had the sexual contact been a sexual act, is guilty of aggravated sexual contact with a child and shall be punished as a court-martial may direct.

(h) *Abusive Sexual Contact.* Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (c) (aggravated sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

(i) *Abusive Sexual Contact With a Child.* Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (d) (aggravated sexual

assault of a child) had the sexual contact been a sexual act, is guilty of abusive sexual contact with a child and shall be punished as a court-martial may direct.

(j) *Indecent Liberty With a Child.* Any person subject to this chapter who engages in indecent liberty in the physical presence of a child—

(1) with the intent to arouse, appeal to, or gratify the sexual desire of any person; or

(2) with the intent to abuse, humiliate, or degrade any person; is guilty of indecent liberty with a child and shall be punished as a court-martial may direct.

(k) *Indecent Act.* Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be punished as a court-martial may direct.

(l) *Forcible Pandering.* Any person subject to this chapter who compels another person to engage in an act of prostitution with another person to be directed to said person is guilty of forcible pandering and shall be punished as a court-martial may direct.

(m) *Wrongful Sexual Contact.* Any person subject to this chapter who, without legal justification or lawful authorization, engages in sexual contact with another person without that other person's permission is guilty of wrongful sexual contact and shall be punished as a court-martial may direct.

(n) *Indecent Exposure.* Any person subject to this chapter who intentionally exposes, in an indecent manner, in any place where the conduct involved may reasonably be expected to be viewed by people other than members of the actor's family or household, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall by punished as a court-martial may direct.

(o) *Age of Child.*

(1) *Twelve years.* In a prosecution under subsection (b) (rape of a child), subsection (g) (aggravated sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 12 years. It is not an affirmative defense that the accused reasonably believed that the child had attained the age of 12 years.

(2) *Sixteen years.* In a prosecution under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 16 years. Unlike in paragraph (1), however, it is an affirmative defense that the accused reasonably believed that the child had attained the age of 16 years.

(p) *Proof of Threat.* In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.

(q) *Marriage.*

(1) *In general.* In a prosecution under paragraph (2) of subsection (c) (aggravated sexual assault), or under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), subsection (j) (indecent liberty with a child), subsection (m) (wrongful sexual contact), or subsection (n) (indecent exposure), it is an affirmative defense that the accused and the other person when they engaged in the sexual act, sexual contact, or sexual conduct are married to each other.

(2) *Definition.* For purposes of this subsection, a marriage is a relationship, recognized by the laws of a competent State or foreign jurisdiction, between the accused and the other person as spouses. A marriage exists until it is dissolved in accordance with the laws of a competent State or foreign jurisdiction.

(3) *Exception.* Paragraph (1) shall not apply if the accused's intent at the time of the sexual conduct is to abuse, humiliate, or degrade any person.

(r) *Consent and Mistake of Fact as to Consent.* Lack of permission is an element of the offense in subsection (m) (wrongful sexual contact). Consent and mistake of fact as to consent are not an issue, or an affirmative defense, in a prosecution under any other subsection, except they are an affirmative defense for the sexual conduct in issue in a prosecution under subsection (a) (rape), subsection (c) (aggravated sexual assault), subsection (e) (aggravated sexual contact), and subsection (h) (abusive sexual contact).

(s) *Other Affirmative Defenses not Precluded.* The enumeration in this section of some affirmative defenses shall not be construed as excluding the existence of others.

(t) *Definitions.* In this section:

(1) *Sexual act.* The term 'sexual act' means—

(A) contact between the penis and the vulva, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

(B) the penetration, however slight, of the genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(2) *Sexual contact.* The term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

(3) *Grievous bodily harm.* The term 'grievous bodily harm' means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose. It is the same level of injury as in section 928 (article 128) of this chapter, and a lesser degree of injury than in section 2246(4) of title 18.

(4) *Dangerous weapon or object.* The term 'dangerous weapon or object' means—

(A) any firearm, loaded or not, and whether operable or not;

(B) any other weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used, or is intended to be used, is known to be capable of producing death or grievous bodily harm; or

(C) any object fashioned or utilized in such a manner as to lead the victim under the circumstances to reasonably believe it to be capable of producing death or grievous bodily harm.

(5) *Force.* The term 'force' means action to compel submission of another or to overcome or prevent another's resistance by—

(A) the use or display of a dangerous weapon or object;

(B) the suggestion of possession of a dangerous weapon or object that is used in a manner to cause another to believe it is a dangerous weapon or object; or

(C) physical violence, strength, power, or restraint applied to another person, sufficient that the other person could not avoid or escape the sexual conduct.

(6) *Threatening or placing that other person in fear.* The term 'threatening or placing that other person in fear' under paragraph (3) of subsection (a) (rape), or under subsection (e) (aggravated sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-

compliance will result in the victim or another person being subjected to death, grievous bodily harm, or kidnapping.

(7) *Threatening or placing that other person in fear*.

(A) *In general*. The term 'threatening or placing that other person in fear' under paragraph (1)(A) of subsection (c) (aggravated sexual assault), or under subsection (h) (abusive sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another being subjected to a lesser degree of harm than death, grievous bodily harm, or kidnapping.

(B) *Inclusions.* Such lesser degree of harm includes—

(i) physical injury to another person or to another person's property; or

(ii) a threat—

(I) to accuse any person of a crime;

(II) to expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

(III) through the use or abuse of military position, rank, or authority, to affect or threaten to affect, either positively or negatively, the military career of some person.

(8) *Bodily harm.* The term 'bodily harm' means any offensive touching of another, however slight.

(9) *Child.* The term 'child' means any person who has not attained the age of 16 years.

(10) *Lewd act.* The term 'lewd act' means—

(A) the intentional touching, not through the clothing, of the genitalia of another person, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

(B) intentionally causing another person to touch, not through the clothing, the genitalia of any person with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

(11) *Indecent liberty*. The term 'indecent liberty' means indecent conduct, but physical contact is not required. It includes one who with the requisite intent exposes one's genitalia, anus, buttocks, or female areola or nipple to a child. An indecent liberty may consist of communication of indecent language as long as the communication is made in the physical presence of the child. If words designed to excite sexual desire are spoken to a child, or a child is exposed to or involved in sexual conduct, it is an indecent liberty; the child's consent is not relevant.

(12) *Indecent conduct.* The term 'indecent conduct' means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations. Indecent conduct includes observing, or making a videotape, photograph, motion picture, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material, without another person's consent, and contrary to that other person's reasonable expectation of privacy, of—

(A) that other person's genitalia, anus, or buttocks, or (if that other person is female) that person's areola or nipple; or

(B) that other person while that other person is engaged in a sexual act, sodomy (under section 925 (article 125)), or sexual contact.

(13) *Act of prostitution.* The term 'act of prostitution' means a sexual act, sexual contact, or lewd act for the purpose of receiving money or other compensation.

(14) *Consent.* The term 'consent' means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. A person cannot consent to sexual activity if—

(A) under 16 years of age; or

(B) substantially incapable of—

(i) appraising the nature of the sexual conduct at issue due to—

(I) mental impairment or unconsciousness resulting from consumption of alcohol, drugs, a similar substance, or otherwise; or

(II) mental disease or defect which renders the person unable to understand the nature of the sexual conduct at issue;

(ii) physically declining participation in the sexual conduct at issue; or

(iii) physically communicating unwillingness to engage in the sexual conduct at issue.

(15) *Mistake of fact as to consent.* The term 'mistake of fact as to consent' means the accused held, as a result of ignorance or mistake, an incorrect belief that the other person engaging in the sexual conduct consented. The ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. To be reasonable the ignorance or mistake must have been based on information, or lack of it, which would indicate to a reasonable person that the other person consented. Additionally, the ignorance or mistake cannot be based on the negligent failure to discover the true facts. Negligence is the absence of due care. Due care is what a reasonably careful person would do under the same or similar circumstances. The accused's state of intoxication, if any, at the time of the offense is not relevant to mistake of fact. A mistaken belief that the other person consented must be that which a reasonably careful, ordinary, prudent, sober adult would have had under the circumstances at the time of the offense.

(16) *Affirmative defense.* The term 'affirmative defense' means any special defense which, although not denying that the accused committed the objective acts constituting the offense charged, denies, wholly, or partially, criminal responsibility for those acts. The accused has the burden of proving the affirmative defense by a preponderance of evidence. After the defense meets this burden, the prosecution shall have the burden of proving beyond a reasonable doubt that the affirmative defense did not exist.

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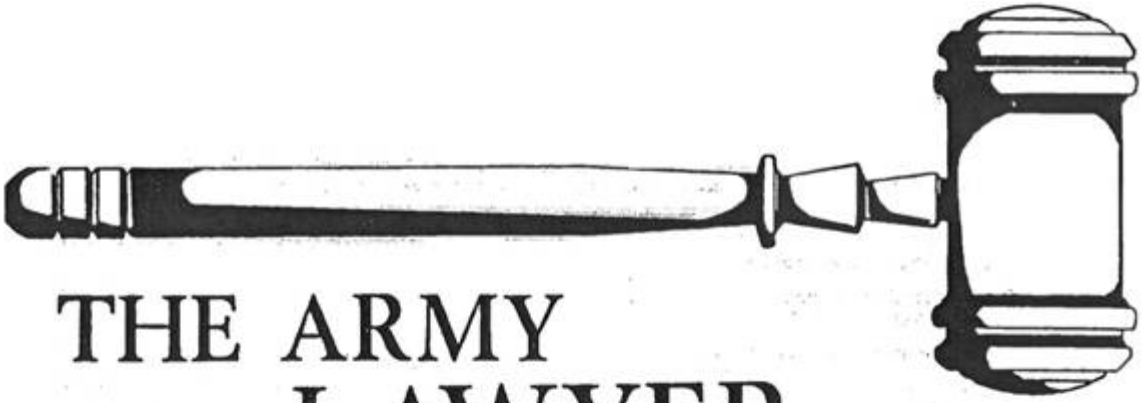
ANNEX C: BILL OF RIGHTS AND SERVICE MEMBERS ARTICLE



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The Bill of Rights and Service Members

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This article is intended to be a resource document for judge advocates who may encounter questions about the military justice system in light of the Supreme Court's recent decision in United States v. Solorio.[1] Solorio *overruled* O'Callahan v. Parker[2] *and its service connection test as a basis for court-martial jurisdiction. Now court-martial jurisdiction depends solely on the accused's status as a member of the armed forces.* O'Callahan *had characterized courts-martial as "not yet an independent instrument of justice" and "singularly inept in dealing with the nice subtleties of constitutional law."*[3] *This article discusses the constitutional protections provided in the military justice system and compares them to our civilian criminal system.*

Recent events have shown that at least some civilians misunderstand the military justice system. The *Washington Post*, on its editorial page of July 2, 1987, claimed that defense counsel at courts-martial are not always attorneys.[4] The dissenting Justices in *Solorio* stated that the new ruling will "sweep an entire class of Americans beyond the reach of the Bill of Rights."[5] In February 1987, former Associate Justice Arthur J. Goldberg stated that Lieutenant Colonel Oliver North and Admiral Poindexter could be compelled, without a grant of immunity, to give statements relating to arms shipments to Iran and funding the Contras.[6] He assumed this would not violate the fifth amendment. All of these statements are wrong.

These misunderstandings concern the application of the Constitution that members of the armed forces are sworn to defend. The rights given to service members in the pretrial, trial, and post-trial stages are often more protective than the rights given citizens in both the federal and state courts.

What are the sources of these rights? The first source of rights in the military is the Constitution itself, especially the Bill of Rights.[7] The most important rights for service members come from the fourth, fifth, sixth, and eighth amendments to the Constitution. In addition to the Constitution, another source of rights are federal statutes. The main statute is the Uniform Code of Military Justice,[8] which sets forth various procedural rules and the law of substantive crimes. A third source is federal case law. A fourth source of rights are executive orders, including the Manual for Courts-Martial.[9] Included within this executive order are the procedural rules,[10] rules of evidence,[11] and rules of substantive crimes of military criminal practice.[12] Another source of rights are regulations issued by the Department of Defense or by a service secretary.[13] These sources are set forth in an hierarchical scheme, the first source, the Constitution being paramount. If a lower source sets forth a more stringent provision to protect individual rights, it will prevail. Thus, for example, when the Manual for Courts-Martial, including the Military Rules of Evidence, sets forth a more stringent requirement than required by the Bill of Rights, that rule will apply to protect service members.

The debate on how the fourth amendment rules on search and seizure,[14] the fifth amendment rules on self incrimination,[15] and the sixth amendment rules on the right to counsel[16] apply to service members is often mooted by the Military Rules of Evidence. In some instances, the rights afforded service members in the Military Rules are broader than those applied to civilians in the federal courts.

Right to Privacy

Service members have a right to privacy. A military official generally must obtain a warrant before searching a soldier.[17] Warrants can be issued by military judges, magistrates, and commanders.[18] Regardless of who issues the

[1] 107 S. Ct. 2924 (1987).

[2] 395 U.S. 258 (1969).

[3] *Id.* at 265.

[4] Wash. Post, July 2, 1987, at A20, col. 1: "Trials can take place far from the jurisdiction where the crime was committed. Defense counsel are not always attorneys."

[5] *Solorio*, 107 S. Ct. at 2941 (Marshall, J., dissenting).

[6] Goldberg, Wash. Post, Feb. 17, 1987, at A17, col. 1 (op. ed.).

[7] U.S. Const. amends. I–X.

[8] 10 U.S.C. §§ 801–940 (1982) [hereinafter UCMJ].

[9] Manual for Courts-Martial, United States, 1984 [hereinafter MCM, 1984].

[10] MCM, 1984, Part II.

[11] *Id.* Part III.

[12] *Id.* Part IV.

[13] Dep't of Air Force, Reg. No. 111-1, Military Justice, Military Justice Guide (1 Aug. 1984) [hereinafter AFR 111-1]; Dep't of Army, Reg. No. 27-10, Legal Services, Military Justice (1 July 1984) [hereinafter AR 27-10]; Dep't of Navy, Manual of The Judge Advocate General (C5, May 26, 1986) [hereinafter JAGMAN]; Dep't of Transportation, Coast Guard, Military Justice Manual, COMDTINST M5810.1A (Apr. 10, 1985) [hereinafter COMDTINST].

[14] Mil. R. Evid. 311–17.

[15] Mil. R. Evid. 301–06.

[16] Mil. R. Evid. 321.

[17] *See, e.g.*, United States v. Muniz, 23 M.J. 201, 207 n.7 (C.M.A. 1987).

[18] Mil. R. Evid. 315(d)(1).

warrant, the individual must be neutral and detached,[19] understand probable cause,[20] and grant the warrant upon probable cause[21] specifically describing the place to be searched[22] and the things to be seized.[23] There are, however, exceptions to the warrant requirement. These include search incident to arrest,[24] stop and frisk,[25] inventories,[26] and inspections.[27] Both the civilian and military courts permit warrantless inspections of pervasively regulated industries and businesses. It is under this rationale that the commander has the right to inspect troops to ensure that they are properly prepared, equipped, trained, and combat ready. In conducting these inspections, it is appropriate for the commander and the delegees of the commander to inspect lockers, rooms, persons, and equipment. The exceptions listed have been recognized in the Military Rules of Evidence.

There are also many instances when there is no right to privacy, that is, no fourth amendment coverage. Most of these are not covered in the Military Rules of Evidence, and reference must be made to federal cases, both military and civilian, to determine the extent of privacy. It has been argued that military commanders and law enforcement officials should have greater leeway to conduct searches and seizures than those that are granted in the Military Rules of Evidence.[28] There is a substantial basis for this argument in a 1985 decision by the Supreme Court.[29]

The argument goes further, reasoning that the military should not apply civilian search and seizure rules because the governmental interests are different. Certainly military law should not be civilianized to the extent that it is a detriment to discipline and the maintenance of an effective fighting force. Based on this premise it has been argued that a discipline exception should be established.[30]

In at least one area the courts have applied separate standards. That is in the area of the oath. The information given to the judge or the commander need not be under oath, although an oath is preferred.

On the other hand, to ensure the right to privacy, military regulations have applied more stringent standards concerning wiretaps, including non-consensual and consensual wiretaps and the use of pen registers.[31]

Right Against Self-Incrimination

The fifth amendment also applies to service members through the Code,[32] the Manual,[33] and case law.[34] Contrary to the assertion of Associate Justice Goldberg, it would be unlawful for the President to order Lieutenant Colonel Oliver North or Admiral John Poindexter to make a statement concerning the alleged sale of arms to Iran or the funding of the Contras.[35] If Colonel North or Admiral Poindexter refused to give a statement, they could not be prosecuted for disobeying an order.[36] If Poindexter and North testified or gave a statement pursuant to such an order, it would prevent these statements from serving as a basis for criminal prosecution. The prosecution would have to establish that any evidence used to convict them was independent of the statements made pursuant to an unlawful order.[37] While there has been debate in the civilian courts and in the media concerning the wisdom of the *Miranda*[38] decision, the protection afforded a service member under the Code is broader than that afforded in the civilian community. Before an individual accused or suspected of a crime under the Code is interrogated by a person subject to the Code, the suspect must be warned of the nature of the accusation, the right to remain silent and the consequences of foregoing that right,[39] and the right to appointed counsel

[19] *See, e.g.*, United States v. Ezell, 6 M.J. 307 (C.M.A. 1979).

[20] Shadwick v. City of Tampa, 407 U.S. 345 (1972).

[21] *Id.*

[22] Dep't of Army, Pamphlet No. 27-22, Legal Services—Military Criminal Law—Evidence, para. 21-6c(1) (15 July 1987) [hereinafter DA Pam 27-22].

[23] *Id.*, para 21-6c(2).

[24] Mil. R. Evid. 314(g)(1); *see* United States v. Cordero, 11 M.J. 210 (C.M.A. 1981); United States v. Dianane, 1 M.J. 309 (C.M.A. 1976).

[25] United States v. Yandell, 13 M.J. 616 (A.F.C.M.R. 1982); United States v. Thomas, 10 M.J. 687 (A.C.M.R. 1981); United States v. Swinson, 48 C.M.R. 197 (A.F.C.M.R. 1974).

[26] *See generally* Anderson, *Inventory Searches*, 110 Mil. L. Rev. 95 (1985).

[27] Mil. R. Evid. 313(b).

[28] Wright, *How to Improve Military Search and Seizure Law*, 116 Mil. L. Rev. 157 (1987).

[29] New Jersey v. T.L.O., 469 U.S. 325 (1985).

[30] Wright, *supra* note 28.

[31] *See* Raezer, *Needed Weapons in the Army's War on Drugs: Electronic Surveillance and Informants*, 116 Mil. L. Rev. 1 (1987).

[32] UCMJ art. 31.

[33] Mil. R. Evid. 301-07.

[34] *See, e.g.*, United States v. Middleton, 10 M.J. 123 (C.M.A. 1981).

[35] Goldberg, *supra* note 6.

[36] United States v. Heyward, 22 M.J. 35 (C.M.A. 1986) ("When compelled disclosures have an incriminating potential, the Government need for disclosure must be balanced against the individuals right against self-incrimination." When "the witness . . . is . . . an accessory or principal to the illegal activity . . . the privilege against compelled self-incrimination may excuse his non-compliance."); United States v. Ruiz, 23 C.M.A. 181, 48 C.M.R. 797 (1974) (a soldier is "entitled to rely on his Article 31 protection and to refuse obedience" to an order to incriminate himself); United States v. Brunton, 24 M.J. 566 (N.M.C.M.R. 1987) (applying *Heyward* to excuse non-compliance).

[37] Mil. R. Evid 304(a) & (b)(3) (a statement obtained in violation of the privilege against self-incrimination and any derivative evidence may not be received in evidence unless the judge finds by a preponderance of the evidence that "the evidence was not obtained by use of the statement"); *cf.* United States v. Gardner, 22 M.J. 28 (C.M.A. 1986) ("Once a defendant demonstrates that he has testified under a . . . grant of immunity . . . authorities have the burden of showing that their evidence is not tainted by establishing that they had an independent, legitimate source for the disputed evidence").

[38] Miranda v. Arizona, 384 U.S. 436 (1966).

[39] UCMJ art. 31(b).

free of charge or civilian counsel at no expense to the government.[40] Any waiver of these rights must be voluntary.[41] The Supreme Court decided last Term that *Miranda* does not require civilian police to give a warning as to the nature of the offense.[42] The dissenter argued this omission deprived the individual of a knowing waiver. Additionally, *Miranda* does not apply until there is a custodial interrogation.[43] The rights warning requirements in the military, however, is triggered earlier. When an individual is suspected of an offense, the warning must be given prior to questioning, even if the suspect is not in custody.[44]

Service members are granted more rights than their civilian counterparts in the area of eyewitness identification as well.[45] In the civilian community, individuals are not entitled to lawyers at line-ups until "the initiation of the adversary judicial criminal proceeding."[46] This occurs when the suspect is faced with the prosecutorial forces of an organized society.[47] While it is unclear exactly when the right to counsel accrues, the Supreme Court has held that it accrues at the initiation of formal adversarial proceedings, which in the usual case begins with a formal charge, preliminary hearing, indictment, information, or arraignment.[48] While the Supreme Court has not set forth a specific stage when the accused is entitled to counsel, the military has. In the military, an accused or suspect is entitled to counsel when placed in a lineup after charges have been preferred,[49] or upon initiation of pretrial restraint.[50] This restraint need not be pretrial confinement; it includes restricting an individual to the barracks or placing a condition on the liberty on the individual such as putting certain places off limits.[51]

Pretrial Confinemen

The Manual and Code provide that pretrial confinement should only be used as the last resort.[52] A person may only be ordered into pretrial confinement if the commander believes upon probable cause that an offense has been committed under the code, the confinee committed it, and confinement is necessary to ensure appearance at trial,[53] or, that it is foreseeable the confinee will engage in serious misconduct and less severe forms of restraint would be inadequate.[54] When an individual is placed in confinement, three reviews take place.[55] All of these must take place in a timely fashion.[56] The last review is by a military judge.[57] Unlike a civilian judge's ruling, the military judge's order releasing the individual from confinement may not be appealed.[58]

Right to Counsel

The right to counsel in the armed forces stems from the Constitution,[59] the Code,[60] and the Manual.[61] It is fair to say that the right to counsel afforded service members is far broader than that afforded most civilians because all members of the armed forces have a right to free military counsel, regardless of indigency. The right to a lawyer arises in virtually all cases in which a member's legal rights are in issue.[62] A service member has a right to counsel at

[40] *Miranda v. Arizona.*

[41] United States v. Quintana, 5 M.J. 484 (C.M.A. 1978) ("the purpose of informing a suspect or accused of the nature of the accusation is to orient him to the transaction or incident in which he is allegedly involved").

[42] *Colorado v. Spring,* 107 S. Ct. 851 (1987).

[43] *Miranda,* 384 U.S. at 444.

[44] UCMJ art. 31(b).

[45] *See generally* Gilligan & Hahn, *Eyewitness Identification and Military Law,* 110 Mil. L. Rev. 1 (1985).

[46] Kirby v. Illinois, 406 U.S. 682, 689 (1972).

[47] *Id.*

[48] *Id.*

[49] Mil. R. Evid. 321(b)(A); *see also* Gilligan & Hahn *supra note* 45, at 6.

[50] Mil. R. Evid. 321(b)(A). The accused is entitled to counsel after preferral of charges or imposition of pretrial restraint under MCM, 1984, Rule for Courts-Martial 304 [hereinafter R.C.M.]. Pretrial restraint includes conditions on liberty, confinement, and restriction.

[51] R.C.M. 304.

[52] R.C.M. 305(h)(2)(B)(iii)(*b*). There is no bail provision in the military. The facts justifying bail in the civilian sector do not exist in the military because a service member continues to receive pay and allowances while in pretrial confinement. Courts-martial must take place within 90 days of confinement, absent exclusion of certain days. Moreover, the military accused does not lose his or her job.

[53] R.C.M. 305(h)(2)(b)(iii)(*a*).

[54] *Id.*

[55] The first review is by the commander. R.C.M. 305(h)(2). If the commander is the individual ordering pretrial confinement, there is no requirement for a second review by the commander. United States v. Freeman, 24 M.J. 547 (A.C.M.R. 1987). Major Finnegan first noted that it would be superfluous for the commander who ordered confinement to review his or her own order. Finnegan, *Pretrial Restraint and Pretrial Confinement,* The Army Lawyer, Mar. 1985, at 15. The second review is by a magistrate or a neutral and detached officer. R.C.M. 305(i). The third review is by the military judge. R.C.M. 305(j).

[56] The commander's review must be made within 72 hours of the report of pretrial confinement. R.C.M. 305(h)(2)(A). The magistrate's or the neutral and detached officer's review must take place within seven days of the imposition of confinement, although the reviewing officer for good cause may extend the time limit to 10 days. R.C.M. 305(i)(1)(4).

[57] R.C.M. 305(j).

[58] *Cf.* United States v. Shakur, 817 F.2d 189 (2d Cir. 1987). Under the Bail Reform Act of 1984, 18 U.S.C. § 3142(e) (Supp. III 1985), the government may appeal a release order. A similar provision does not appear in the Manual.

[59] U.S. Const. amend. VI.

[60] UCMJ art. 27.

[61] R.C.M. 503(c); R.C.M. 506; Mil. R. Evid. 305(d)2.

[62] *See* Mil. R. Evid. 305(b)2 and analysis.

interrogations[63] and, as indicated earlier, this right accrues much earlier than it does to a civilian suspect. The service member also has the earlier right to counsel at line-ups.[64] Additionally, the right to counsel in the Army accrues when the individual is placed in confinement.[65] Counsel is required to consult with the accused within seventy-two hours of confinement.[66] Additionally, the accused has the right to counsel when he or she is directed to undergo psychiatric examinations after charges have been preferred.[67]

In addition to having counsel during pretrial stages, the accused has the right to appointed counsel, individual military counsel, or civilian counsel at trial.[68] The appointed counsel, in most of the services, is independent of commanders and staff judge advocates for the installation.[69] These lawyers are members of a separate organization that is not responsible to or subject to the orders at a given post or installation.[70] If an individual is convicted at a court-martial, he or she is also entitled to free counsel on appeal, regardless of indigency.[71] The counsel on appeal is normally different than the trial defense counsel, thus serving as a check on the effectiveness of counsel.[72] In the civilian community the lawyer at trial is normally the lawyer on appeal and normally does not raise the issue of his or her effectiveness. Additionally, military appellate courts have the right to review factual findings and the sentence.[73]

While the defendant is entitled to free appointed counsel regardless of indigency at the general and special court-martial, the accused does not have the right to counsel at a summary court-martial under the Code,[74] the Manual,[75] or the sixth amendment.[76] The Supreme Court has indicated that confinement of under six months does not require a public defender in state proceedings.[77] The maximum period of confinement at a summary court-martial is one month. Therefore, constitutionally there would not be a right to a public defender in a state system.

The defendant can ensure counsel by demanding a special court-martial. Although there is no right to counsel at a summary court-martial, current practice permits representation by civilian counsel at no expense to the government. All services appear to permit, if not require, the accused to consult with defense counsel prior to determining whether to accept or reject trial by summary court-martial,[78] and Air-Force regulations provide that a lawyer will be provided free of charge at a summary court-martial.[79]

Grand Jury—Article 32 Investigation

By its express terms, the fifth amendment right to grand jury indictment is not applicable to service members.[80] This has been one of the reasons that the military system has been criticized.[81] One should question the extent of the protection provided by the grand jury, in comparison to military practice.[82] Most prosecutors will tell you that the grand jury serves as a common sense yardstick as to whether charges should be brought against an individual. When the prosecutor does not have an unanimous vote from the jurors, it would indicate some weakness in the case. And when a true bill cannot be delivered, it certainly is the ultimate test that the individual should not be prosecuted. In place of the grand jury, the military provides that an individual may not be tried by general court-martial unless there has been an Article 32 investigation or its equivalent. The Article 32 investigation performs four primary purposes. First, it protects the accused from baseless charges; second, it provides a convening authority with information on which to determine whether to refer charges to trial by

[63] UCMJ art. 31(b).

[64] *See supra* notes 45–51 and accompanying text.

[65] *See* Mil. R. Evid. 305(d)(1)(B); 321(b)(2)(A).

[66] AR 27-10, para. 5-13b.

[67] United States v. Wattenbarger, 21 M.J. 41 (C.M.A. 1985) (failure to grant the right to counsel under facts of this case was harmless).

[68] UCMJ art. 38(b).

[69] AR 27-10, ch. 6; AFR 111-1, paras. 3-6, 13-3.

[70] *Id.* The Navy has removed defense counsel from the post commander's chain of command. JAGMAN § 0100-0104, 041(a)-(c). In the Marine Corps, fitness reports of defense counsel are prepared by independent regional defense counsel. Marine Corps Order 58.11A (Nov. 15, 1985). The Coast Guard has also taken steps to ensure that counsel are independent. COMDTINST § 302-2.

[71] R.C.M. 1202(b).

[72] *See, e.g.*, United States v. Dupas, 14 M.J. 28, 30 (C.M.A. 1982). (the Court of Military Appeals seems to have taken the view that duties devolve upon appellate counsel without any formality); United States v. Palenius, 2 M.J. 86 (C.M.A. 1977) (duties of trial defense counsel continue until relieved of the duty by a judge or court having jurisdiction); United States v. Howard, 24 M.J. 897, 906 (C.G.C.M.R. 1987) (Baum C.J., concurring).

[73] UCMJ art. 66(c); United States v. Crider, 46 C.M.R. 108, 111 (C.M.A. 1973).

[74] UCMJ art. 16(3). The summary court-martial is a single officer court analogous to a justice of the peace. *See* UCMJ art. 20. An accused has an absolute right to refuse trial by summary court, *id.*, in which case charges will normally be referred to a higher level court.

[75] R.C.M. 1301(b).

[76] U.S. Const. amend. VI; Middendorf v. Henry, 425 U.S. 25 (1976) (The Supreme Court held that the right to counsel was inapplicable to summary courts-martial.).

[77] Argersinger v. Hamlin, 407 U.S. 25 (1972).

[78] *See, e.g.*, AR 27-10, para. 5-21b. The Chief of the U.S. Army Trial Defense Service (USATDS) may permit defense counsel to represent soldiers before summary courts on a case-by-case basis. USATDS Standing Operating Procedure, para. 1-5d (1 Oct. 1985).

[79] AFR 111-1, para. 3-6d. The Court of Military Appeals has limited the use of summary court-martial convictions where the accused was not represented by counsel. United States v. Booker, 5 M.J. 238 (C.M.A. 1977).

[80] U.S. Const. amend. V. "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases rising in the land or naval forces, or in the Militia, when in actual service in time of War. . . ."

[81] O'Callahan v. Parker, 395 U.S. 258 (1969).

[82] *Cf.* Morganthal, N.Y. Times, June 23, 1987, at A31, col. 1. *See generally* Moyer, *Procedural Rights of the Military Accused: Advantages over a Civilian Defendant*, 51 Mil. L. Rev. 1 (1971); Sandell, *The Grand Jury and the Article 32: A Comparison*, 1 N. Ky. St. L.F. 25 (1973).

court-martial; third, it provides the convening authority with information with which to determine a specific disposition of a case; and fourth, it provides the defense with pretrial discovery of evidence that may be introduced by either side, the prosecution or the defense.[83]

Insofar as the Article 32 investigation is an inquiry into the facts surrounding the charges against the accused and thus an important pretrial screening device, it is functionally similar to both the preliminary hearing and the grand jury. It is an unique hybrid, however, and dissimilar in large part to both civilian proceedings. At its core, the Article 32 investigation is composed of an open hearing[84] at which the accused and counsel are present with the right to cross-examine adverse witnesses and to present a defense. As it also supplies the convening authority with information,[85] it has far broader scope than the normal preliminary hearing.[86] In addition, unlike the Article 32 investigation, the grand jury is a secret proceeding that deprives a testifying accused of the right to confrontation, to present evidence,[87] and generally the right to counsel before the grand jury when the accused does testify.[88] Consequently, the Article 32 investigation is far more protective than the analogous civilian proceeding.[89] It is, however, also more limited in that the recommendation of the investigating officer is advisory only and may be ignored by the convening authority. In the civilian procedure a finding by a magistrate at a preliminary hearing that there is no probable cause to hold an accused has greater legal effect[90] and refusal to indict on the part of the grand jury is final subject only to the possible indictment of the defendant by another grand jury.[91]

Discovery

In the area of discovery, unlike many civilian jurisdictions, the military criminal legal system clearly favors full discovery. As a matter of general practice, the government customarily supplies a great deal of material to the defense. In addition, both the Code and the Manual provide specific discovery rights for the defense that are far broader than those available to the civilians. Such disclosure by the prosecution includes papers accompanying the charges,[92] the names of witnesses,[93] witness statements,[94] all statements oral or written made by the accused,[95] all evidence seized from the person or property of the accused,[96] and all evidence of prior identification of the accused at a lineup or other identification procedure.[97]

Right to Speedy and Public Trial

When charges are brought, the accused has a right to a speedy trial. Trial must commence within ninety days of confinement, or within 120 days of notice of preferral of charges or imposition of some lesser pretrial restraint, whichever is earlier.[98] These rules are more stringent on the government than the rules in most jurisdictions. In addition to the right to a speedy trial, both the civilian and military accused have a right to a public trial.[99] The right to a public trial covers the entire trial, including questioning potential jurors,[100] pre-trial motions, preliminary hearings,[101] opening statements, presentation of evidence,

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[83] *See, e.g.*, Hutson v. United States, 19 C.M.A. 437, 42 C.M.R. 39 (1970); United States v. Samuels, 10 C.M.A. 206, 27 C.M.R. 280 (1959).

[84] Although most Article 32 hearings are open to the public, there is a procedure to close them. R.C.M. 405(h)(3).

[85] Such information extends to more than a decision as to whether probable cause exists to believe the accused committed the offense. It includes consideration of nonjudicial dispositions, and the policy question of, conceding that the accused committed the offense, whether the accused should be tried or otherwise punished for it.

[86] Although grand juries serve as the "conscience" of the community and may choose not to indict individual notwithstanding sufficient evidence, Y. Kamisar, W. LaFave & J. Israel, Modern Criminal Procedure 1026 (5th ed. 1980) [hereinafter Modern Criminal Procedure], magistrates are not generally recognized as having such authority. *Id.* at 994 (citing F. Miller, Prosecution: The Decision to Charge a Suspect with a Crime 93 (1970)). Although valuable discovery *may* be obtained from some preliminary hearings, discovery is not generally recognized as a proper purpose of a preliminary hearing, *see, e.g.*, Modern Criminal Procedure, *supra*, at 966–67, 1001 n.a, and the limited nature of many examinations renders even the pragmatic opportunity to obtain discovery a limited one at best. *Id.* at 966–67.

[87] In most jurisdictions, a grand jury "target" may volunteer to give testimony.

[88] United States v. Mandujano, 425 U.S. 564, 581 (1976); Fed. R. Crim. P. 6(d). *See generally* Modern Criminal Procedure, *supra* note 86, at 782 (stating that approximately twelve states permit at least some witnesses to have counsel with them in the grand jury room). Witnesses before a grand jury may interrupt their testimony to consult with counsel outside the grand jury room. *Id.* at 783.

[89] *See generally*, Moyer, *supra* note 82, at 6–11; Sandell, *supra* note 82.

[90] Fed. R. Crim. P. 5(c). *See generally* Modern Criminal Procedure, *supra* note 86, at 975–84, 995. In some states, the government may be able to appeal a dismissal. *Id.* at 995.

[91] Some states limit resubmission. Modern Criminal Procedure, *supra* note 86, at 1027.

[92] R.C.M. 701(a)(1). This rule is different than Federal Rule of Criminal Procedure 16. These documents are usually given to the defense counsel as a package before the case is referred to trial.

[93] R.C.M. 701(a)(3). Part of this rule is based on Federal Rule of Criminal Procedure 12.1(b). The rule only seems to provide for the disclosure of witnesses to be called in the case in chief. *Cf.* Colo. R. Crim. P. 16(b)(1)(I)

[94] R.C.M. 701(a)(1)(C) requires the disclosure of "any" statement relevant to any offense charged and in possession of the prosecutor. There is no relevancy requirement under Mil. R. Evid. 401.

[95] Mil. R. Evid. 304(d)(2)(A). To be disclosed, a statement must be relevant. There is no duty to disclose the statement by the accused if its relevancy is not foreseen until after the defense case. United States v. Callara, 21 M.J. 259 (C.M.A. 1986).

[96] Mil. R. Evid. 311(d)(2)(B).

[97] Mil. R. Evid. 321(c)(2)(B).

[98] R.C.M. 707(a), (d). This rule is similar to 18 U.S.C. §§ 3161–3174 (1982).

[99] U.S. Const. amend. I.

[100] Press-Enterprise Co. v. Superior Court, 464 U.S. 501 (1984) (The Court extended the first amendment right to a public trial to the voir dire proceeding.).

[101] Waller v. Georgia, 467 U.S. 39 (1984) (The Court held it was improper to close the hearing on the motion to suppress wiretaps. The hearing was closed for seven days even though the tapes lasted only two and one-half hours.).

arguments of counsel, instruction of court members, and return of the verdict. In both communities, there is a presumption that the trial should be open.[102] The parties seeking to close the trial to the public must advance an overriding interest.[103] The presumption of an open trial is important because it is necessary to permit the public, the media, and friends of the accused and victim to determine the fairness of the hearing or trial.

Double Jeopardy

The fifth amendment protects a service member from being tried twice for the same offense.[104] The Code[105] and the Manual[106] protect a service member from being tried by a federal civilian court and then by a court-martial, or vice versa, for the same offense. None of these provisions, however, would prohibit a retrial unless the trial was terminated after the presentation of the evidence on the question of guilt or innocence.[107] In addition to the double jeopardy protection, collaterel estoppel also applies to the military. With the impetus in the military to combine all known offenses at the same trial,[108] the military prosecutor will seldom use multiple trials against a single accused. Where there are multiple trials, fairness prevents the prosecution from relitigating the same facts at a second trial.[109] The key Supreme Court case[110] on the subject applies in the military and in the federal and state courts.

Right to Trial by Military Judge

The Military Justice Act of 1968 replaced the law officer with a military judge, an attorney especially selected by The Judge Advocate General of the service based on experience and expertise in military criminal law.[111] In cases tried by general court-martial, the judge is a subordinate of The Judge Advocate General of the service, not the convening authority. In some of the armed forces this is also true of the special court-martial judge. The same act gives the service member the option of a trial by a judge or a trial with court members. The Military Justice Act of 1983 eliminated all vestiges of command control over military judges by divesting the convening authority of the authority to designate the trial judge of a particular case. Trial judges must be detailed to a court-martial by other persons who are assigned judicial duties.[112]

Since 1969, service members have had the option of requesting a bench trial with a military judge.[113]

Like many state judges, military judges do not have tenure. The military judges will typically serve for three or four years. A service member is no more entitled to a federal district court judge, who has tenure, than is any other citizen in the fifty states who was tried for a local crime.[114] The failure to have a tenured judge does not deprive the accused of due process of the law.[115]

Absence of Command Influence

Like military judges, defense counsel are now appointed by individuals assigned defense duties in the Army and Air Force. These services have separate defense counsel corps under the supervision of the service Judge Advocate General. Such organizations remove defense counsel from the command of the convening authority and further insulate them from any hint or possibility of command influence. The Navy has also created a system that separates defense counsel from the convening authority's chain of command[116] and the Coast Guard has taken steps to ensure that defense counsel are independent.[117]

Guilty Plea

Whether the accused elects to be tried by judge alone or by court members, the accused must decide whether to enter a plea of guilty or not guilty. Guilty plea practice is significantly different in the military. The Supreme Court has held that a defendant may constitutionally plead guilty while expressly maintaining innocence of the charges to which the plea is entered.[118] Military law, on the other hand, rejects this approach and requires an accused who chooses to plead guilty to expressly admit factual guilt in open court.[119] Indeed, if the trial judge's inquiry following the plea reveals even a potential defense, the judge must reject the plea and submit the case to trial. Some have argued that the military rule, which developed at a time when service members had a limited right to counsel, is not obsolete

[102] Press-Enterprise Company v. Superior Court, 106 S. Ct. 2735 (1986) (The public's first amendment right to access to criminal proceedings applies to preliminary hearings similar to the "elaborate preliminary hearings" held in California. The closure of such a preliminary hearing for the purpose of protecting the accused's right to a fair trial is permitted only upon the demonstration that there is a substantial probability that the right to a fair trial will be prejudiced by publicity that the closure will prevent, and reasonable alternatives to closure cannot adequately protect the accused's right to a fair trial.).

[103] Waller v. Georgia, 467 U.S. at 45; Press-Enterprise Co. v. Superior Court, 464 U.S. 501 (1984).

[104] U.S. Const. amend V.

[105] UCMJ Art. 44.

[106] R.C.M. 907(b)(2)(C).

[107] United States v. Cook, 12 M.J. 448 (C.M.A. 1982).

[108] R.C.M. 401(c) discussion.

[109] R.C.M. 905(g); Ashe v. Swenson, 397 U.S. 436 (1970).

[110] Ashe v. Swenson, 397 U.S. 436 (1970).

[111] *See, e.g.*, UCMJ art. 26(b); COMDTINST para. 303–2; Army JAGC Personnel Policies, para. 8–1 (Selection of Military Judges) (Oct 1987).

[112] R.C.M. 503(b).

[113] R.C.M. 903(a)(2). The right to elect a trial by judge alone does not apply in a capital case. R.C.M. 201(f)(1)(C).

[114] Valmar v. United States, 411 U.S. 389, 410 (1973).

[115] *Id.*

[116] JAGMAN para 0120b. *See supra* notes 69–70 and accompanying text.

[117] COMDTINST para. 32–2.

[118] North Carolina v. Alford, 400 U.S. 25 (1970). The Federal Rules of Criminal Procedure now accept the *Alford* result. Fed. R. Crim. P. 11(d), (f).

[119] R.C.M. 910(c); Shepardson v. Roberts, 14 M.J. 354 (C.M.A. 1983); United States v. Logan, 47 C.M.R. 1 (C.M.A. 1973).

and should be changed. It would seem better that the military rule remain because the Supreme Court's rule casts doubt on the fairness and justice of the system.

Another difference in guilty plea cases deals with pretrial agreements. The military accused can enter into a pretrial agreement with the prosecution as to the offenses to which the accused will plead guilty and place a binding ceiling upon the sentence.[120] In most civilian jurisdictions, the prosecutor will agree to recommend a specific sentence to the judge. The judge is not bound by this recommendation. In the military, the accused has a chance to "beat the deal." The accused can decide whether to be sentenced by the judge or by court members. If the sentencing authority imposes a less severe sentence than agreed upon, the accused gets the lesser sentence. The sentence can never exceed that agreed upon.

Rules of Evidence

How do the Military Rules of Evidence compare with those in the civilian court? The military applies the Federal Rules of Evidence, with minor variations, in trials.[121] These same rules are applied in all federal trials and in civilian criminal trials in at least twenty-seven states. There are some variations that protect the accused and the victims. The rules concerning the introduction of character evidence by the accused, that is evidence to show the good character of the accused and the good reputation of the accused in the community, have been expanded to allow the introduction of more evidence in a court-martial.[122] Additionally, if there is a finding of guilty, rather than relying on a pre-sentence report, the court holds an open hearing. The rules of evidence are relaxed for the accused and the accused may require the personal attendance of various witnesses to speak about his or her background, character, potential for rehabilitation, and good military and civilian record. This is much more desirable than relying on a cold document. As to victims, the rape shield law in the military has been greatly expanded from the Federal Rule of Evidence to protect the rights of victims of all sexual offenses, not just rape.[123]

Additionally, the rules as to when the defense can require immunity be granted to defense witnesses appear to be expanded in the military courts.[124]

Verdicts

Like some state courts, the verdict of members in the military is reached on a less than unanimous verdict. The Supreme Court in *Apodaca v. Oregon*,[125] upheld felony convictions by 11–1 and 10–2 votes. The Court indicated that the sixth amendment does not require jury unanimity. The essential feature of the jury is to interpose between the accused and his accuser the common sense judgement of the group or lay persons. In upholding a 9–3 verdict in *Johnson v. Louisiana*,[126] the Court rejected the argument that unanimity is required to ensure the proof of guilt beyond a reasonable doubt. The Court noted that the reasonable doubt standard developed separately from the right to trial by jury and in any event that the lack of unanimity did not violate the reasonable doubt standard. Unanimity does not necessarily lead to a better verdict. Many have considered the trial by court members in the military to be a trial by a blue ribbon jury which ensures that the various viewpoints will be represented.[127] Another benefit of the less than unanimous verdict in the military is that it prevents a hung jury and thus saves the accused the mental distress of undergoing another trial as a result of such a hung verdict.[128] As for an offense for which the death penalty is not mandatory, the verdict in a military trial must be based upon at least two-thirds of the members present at the time of the vote. A finding of guilty of an offense for which the death penalty is mandatory requires an unanimous verdict. In computing the number of votes, any fraction of a vote is rounded up to the next whole number; for example, if there were seven members, the concurrence of at least five would be necessary to convict. While the Court has upheld less than unanimous verdicts, it has not indicated what departure from unanimity would be approved. Justice Blackmun noted in *Johnson* that a 7–5 standard rather than a 9–3 or 75% minimum would afford him great difficulty. Justice Powell, who supplied the critical fifth vote in *Apodaca*, explained his vote on the basis that unanimity was part of the jury trial right that was not incorporated by the due process clause.

With the Court having approved less than twelve member juries[129] and a less than unanimous verdict it was not long before the Court had to rule on the question of a less than unanimous verdict by less than twelve persons. In *Burch v. Louisiana*,[130] a unanimous Court struck down a misdemeanor statute that would allow punishment by more than six months confinement to be tried before a jury of six persons, five of whom must concur to render verdict. The Court noted that the lines must be drawn somewhere if the right to trial by jury is to be preserved. The Court noted that only two states allowed non-unanimous verdicts by six person juries and this fact provided a useful guide in deciding the line between those jury practices that are constitutionally permissible and those that were not.

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[120] *See* R.C.M. 705(b).

[121] Mil. R. Evid. analysis.

[122] *Compare* United States v. Hewitt, 634 F.2d 277 (5th Cir. 1981) *with* United States v. Clemons, 16 M.J. 44 (C.M.A. 1983) *See also* Mil. R. Evid. 404 analysis.

[123] *Cf.* United States v. Saipaia, 24 M.J. 172 (C.M.A. 1987); United States v. Hollimon, 16 M.J. 164 (C.M.A. 1983). *See also* Mil. R. Evid. 412 analysis.

[124] *Compare* United States v. Zayas, 24 M.J. 132 (C.M.A. 1987) *with* United States v. Villines, 13 M.J. 46 (C.M.A. 1982).

[125] 406 U.S. 404 (1972).

[126] 406 U.S. 356 (1972).

[127] Speech by F. Lee Bailey at Bicentennial Celebration at the Court of Military Appeals (June 9, 1987).

[128] It can be argued that the accused does not have a benefit because the government has nothing to lose in terms of time and expense in a retrial.

[129] *Apodaca*, 406 U.S. at 414 (Powell, J., concurring) (citing his concurring opinion in *Johnson*, 406 U.S. at 366).

[130] 441 U.S. 130 (1979). The rule announced in *Burch* arguably gives more protection than that afforded at a general court-martial; both the number of court members and the percentage to convict at a general court-martial may be less than what was struck down in *Burch*.

The Code provides that a general court-martial must consist of at least five members and a special court must consist of at least three members.[131] While the sixth amendment right to trial by jury does not apply to a service member, the question is whether the rationale of the Supreme Court in *Ballew v. Georgia*[132] might. In *Ballew*, the Court found that the quality of justice provided by group deliberation decreases as the size of the group is reduced to the point that the product delivered by a group of less than six is unacceptably poor. The Court in *Ballew* unanimously held that a trial by a five member jury deprived the accused of his constitutional right to a trial by jury. Historically, the argument in *Ballew* should be rejected as it might be applied to the military.[133] Military court members are selected from a more homogeneous group and are more attuned to what is necessary to have a functioning military justice system. Likewise, the military courts have been unwilling to apply the empirical data referred to in *Ballew*, as the material was compiled from juries randomly selected in civilian communities. The qualification for court members is different than selecting from a jury wheel. Additionally, there has been no showing that five-member courts would result in the conviction of an innocent individual.

Appellate Rights

Military practice affords military prisoners significant appellate rights. During the appellate process, the accused can request deferral of punishment, a formal release pending review that is similar to bail pending appeal. As mentioned earlier, the accused also has the right to a lawyer during the appellate process regardless of indigency.

Each service has an intermediate appellate court, the court of military review. The courts of military review consist of senior judge advocates appointed directly by their respective Judge Advocates General;[134] they are completely independent of the field commanders. Their scope of review is much broader than their civilian counterparts'. Unlike a civilian appellate court, the courts of military review have plenary authority to correct errors. They can review de novo factual findings and legal holdings.[135]

The court that oversees the entire military justice system, the Court of Military Appeals, is a civilian court composed of three prominent civilian jurists who have been nominated by the President and confirmed by the Senate. These individuals stand as a clear check as to any abuses that may occur.[136]

The Military Justice Act of 1983 gave a new right to military accused when it provided for Supreme Court review by writ of certiorari[137] of decisions by the Court of Military Appeals. Any case the Court of Military Appeals has agreed to consider is subject to further Supreme Court review. This would even allow appeals of summary dispositions, and in some instances, the Court of Military Appeals may grant a summary disposition to allow the service member to make an appeal. If there is an appeal to the Supreme Court, military appellate counsel are appointed for the service member free of charge.[138]

Conclusion

There are a number of messages in this article. First there is an attempt to portray the unfounded misunderstandings held by many in the civilian community. Service members do enjoy broad rights. Sometimes they are broader than constitutionally required. While recognizing that discipline in the service is essential, Congress and the President have tried to protect the service member against unbridled discretion by a commander. It is for these reasons that broader rights are given to the service member. Second, one might ask whether the service member needs to have broader rights that constitutionally required when we consider the nature and purpose of the armed forces. At least, these broad rights should be touted in the civilian community. The services should be proud of these constitutional rights and members of these services should speak about these rights to our civilian counterparts. It is because service members have not talked about the extent of these extensive rights that there have been mis-statements from well intentioned people: the media, former Justices, and even present Justices of the Supreme Court. A combat fighting force does have broad constitutional rights.

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[131] UCMJ art. 16.

[132] 435 U.S. 223 (1978).

[133] *Cf.* United States v. Wolff, 5 M.J. 923 (N.C.M.R. 1978). See Appendix A as to jury size and unanimity chart as of 1987. This appendix was prepared by Michele Lewane while working as an intern for the Criminal Law Division at The Judge Advocate General's School.

[134] UCMJ art. 66(a).

[135] UCMJ art. 66(c).

[136] These judges are not tenured because the Court of Military Appeals in an article I rather than an article III court.

[137] UCMJ art. 67(h); *see also* R.C.M. 1205.

[138] R.C.M. 1202(b)(2).

Appendix A

Jury Size and Unanimity Chart in Criminal Actions—1987

State	*Jury Size*	*Verdict*
Alabama	12	unanimous
Alaska	no more than 12 & no less than 6	"
Arizona	capital—12 all others—no less than 6	"
Arkansas	12 or less if parties stipulate	"
California	felony—12 nonfelony—12 or less if parties stipulate	"
Colorado	6 or less if parties stipulate but no less than 3 petty offenses—3 or more if demand but no more than 6	"
Connecticut	capital—12 otherwise—6	"
Delaware	12	"
Florida	capital—12 otherwise—6	"
Georgia	superior court—12 state court—6 unless demand 12	"
Hawaii	12 or less if parties stipulate	"
Idaho	felony—12 misdemeanor (1 yr or less)—6	"
Illinois	12 or less if parties stipulate	"
Indiana	Class A, B & C felonies—12 or less if parties stipulate all others—6	"
Iowa	12	"
Kansas	felony—12 misdemeanor—6	"
Kentucky	felony—12 misdemeanor—6	"
Louisiana	capital—12 necessary confinement offense—12 possibility of confinement offense—6	capital—unanimous necessary confinement offense—10–2 possibility of confinement offense—unanimous
Maine	12	unanimous
Maryland	12 or less if parties stipulate	"
Massachusetts	superior court—12 district court—6	"
Michigan	felony—12 misdemeanor—6	"
Minnesota	gross misdemeanor & felony—12 misdemeanor—6 petty—no jury	unanimous
Mississippi	12	"
Missouri	12 or less if parties stipulate but no less than 6	"
Montana	district court—12 justice of peace court—6	"
Nebraska	12 or less if parties stipulate	"
Nevada	12 or less if parties stipulate but no less than 6	"
New Hampshire	12	"
New Jersey	12	"
New Mexico	misdemeanor—6	"
New York	12	"
North Carolina	12	"
North Dakota	12	"
Ohio	misdemeanor—8	"
Oklahoma	12 misdemeanor—6	"
Oregon	felony—12 misdemeanor—6	murder & misdemeanors—unanimous all other felonies—10–2
Pennsylvania	12	unanimous
Rhode Island	12	"
South Carolina	12 magistrate ($200 or less)—6	"
South Dakota	12 or less if parties stipulate	unanimous or less if parties stipulate
Tennessee	12	unanimous
Texas	district courts—12 county courts—6	felonies—unanimous nonfelonies—9–3
Utah	capital—12 all others—8	unanimous
Vermont	12	"
Virginia	felony—12 misdemeanor—7	"
Washington	12	"
West Virginia	circuit court—12 magistrate—6	"
Wisconsin	12 or less if parties stipulate	"
Wyoming	felony—12 misdemeanor—less than 12 but no less than 6	"
ABA Standard	parties may stipulate to less than 12	parties may stipulate to less than unanimous

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ANNEX D: ON SITE DATA COLLECTION TOOLS

1. FOCUS GROUP QUESTIONS

Focus Group Questions – For All Groups When Participants Are Not In A Command Position

DATE/TIME _____. **LOC: _____.**

Facilitator: _____. **Recorder: _____.**

Focus Group: _____. Number in group _____.

(Indicate total number and M/F)

I. ISSUE AWARENESS

1. What is sexual assault?

ANSWER:

After the group gives their definitions the facilitator will display a visual aid of the Department of Defense definition of sexual assault which will remain in place as a reference tool for the remainder of the group session.

2. How common do you think incidents of sexual assault are in the military community?
- **A. Do you think many incidents go unreported?**
- **B. Do you think there are many false reports? (Why or Why not?)**

ANSWER:

3. What factors do you think contribute to an environment where sexual assault occurs?

Discussion Points

A. Alcohol
B. Stress from the military environment (If explanation needed, say long hours, operational TEMPO)
C. Deployment stress
D. Peer pressure

ANSWER:

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II. CLIMATE/SAFETY

1. How safe do you feel from sexual assault in your unit? On your installation?

ANSWER:

2. How do deployments impact sexual assault?

A. What measures would increase safety from sexual assault in a deployed environment?

ANSWER:

3. Do you think your immediate supervisor and your senior supervisors take the issue of sexual assault seriously? Why/Why not?

A. What involvement do your supervisors and commanders have in your training?

ANSWER:

III. TRAINING EFFECTIVENES

1. By a show of hands, how many of you have not had training on sexual assault prevention and response? *(Note taker will record number of hands raised of those present* ***(#/10)***

ANSWER: _____/_____
Hands / Present

2. What is the most effective training experience that you have had concerning sexual assault?

A. What could make the training better?

ANSWER:

3. Do you know who your Sexual Assault Response Coordinator/Victim Advocate (SARC/VA) are and how to contact them?

A. If you didn't know how to contact them, how would you get this information?

ANSWER:

4. By a show of hands, have you been trained on the difference between Restricted and Unrestricted reporting? (Note taker will record number of hands raised of those present **(#/10**)

ANSWER: _____/_____
Hands / Present

A. What is the difference between a Restricted and an Unrestricted report?
B. To whom can you make a restricted report?

ANSWER:

(*After the group answers these questions a visual aid showing the definitions of a restricted and an unrestricted report will be displayed)*

5. Have you received training on your responsibility to intervene to prevent a sexual assault? Under what circumstances?

ANSWER:

IV. <u>HOW IS THE PROGRAM WORKING/GAPS</u>

1. If you were a victim of sexual assault:
A. What would stop you from reporting a sexual assault?
B. Do you think your privacy would be maintained if you made a restricted report?
C. How do you think an unrestricted report of sexual assault would affect the cohesion and morale of your unit when the victim and offender are both in the same unit?

ANSWER:

2. What more can the (Army/Navy/Marine Corps/ Air Force) do to improve the program and eliminate sexual assault in the military?

ANSWER:

<u>ADDITIONAL QUESTIONS TO ASK IF TIME PERMITS</u>
1. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

ANSWER:

Focus Group Questions – Commanders & Senior Enlisted Advisors

DATE/TIME: _____. **LOC: _____.**

Facilitator: _____. **Recorder: _____.**

Focus Group: _____/.Number in group: _____.
(Indicate total number and M/F)

I. ISSUE AWARENESS

1. What is sexual assault?

ANSWER:

After the group gives their definitions the facilitator will display a visual aid of the Department of Defense definition of sexual assault which will remain in place as a reference tool for the remainder of the group session.

2. How common do you think incidents of sexual assault are in the military community?
- **A. Do you think many incidents go unreported?**
- **B. Do you think there are many false reports? (Why or Why not?)**

ANSWER:

3. What factors do you think contribute to an environment where sexual assault occurs?
Discussion points
- **E. Alcohol**
- **F. Stress from the military environment (If explanation needed, say long hours, operational TEMPO)**
- **G. Deployment stress**
- **H. Peer pressure**

ANSWER:

II. CLIMATE/SAFETY

1. What measures have you and your Command implemented to ensure that your personnel are safe from sexual assault on the installation or in a deployed environment?
- **A. What measures have worked well?**
- **B. What resources do you need to improve these measures?**

ANSWER:

III. TRAINING EFFECTIVENES

1. How do you receive training on sexual assault prevention and response?
- **A. Do you think the training is adequate?**

B. What is the most effective type of training you've received?

ANSWER:

2. How do you ensure your troops receive training on sexual assault prevention and response?

A. How is training handled for individual augmentees and those deploying/returning from theatre?

B. What role do you play in the training of your troops?

ANSWER:

3. Do you train your troops on their responsibility to intervene to prevent sexual assault? How?

ANSWER:

4. What is your understanding of a restricted vs. an unrestricted report?

ANSWER:

(*After the group answers this question a visual aid showing the definitions of a restricted and an unrestricted report will be displayed)*

IV. COMMAND RESPONSE/COMMANDER'S ROLE

1. Let's discuss how you have or how you would handle a sexual assault case.

- **A. Talk about your working relationship with the SARC.**
- **B. What is your role on the Sexual Assault Review Board?**
- **C. How do you approach**
  - **1.) Meeting with victim advocates and victims.**
  - **2.) Collateral misconduct.**
    - **a.) Alcohol related incidents.**
  - **3.) Rumor control and confidentiality.**
  - **4.) Temporary reassignment of quarters and/or duty sites for the victim and/or the accused.**
  - **5.) Military protective orders.**

ANSWER:

2. If you've had experience handling a sexual assault case, describe how well you feel it was handled by all components? (Law enforcement, MCIO, SARC, medical, legal, etc.)

A. Have you had experiences handling a sexual assault case in a deployed setting? If yes, how was that different than in a non-deployed setting?

ANSWER:

3. In addition to any legal action you may take against an offender, would you support non-legal remediation/rehabilitation for those offenders who are to be retained? For example, the Case Review Committee for Family Advocacy that recommends treatment programs.

ANSWER:

V. HOW IS THE PROGRAM WORKING/GAPS?

1. What more could the Navy/Marine Corps/Army/Air Force do to improve the Sexual Assault Prevention and Response program and reduce sexual assault in the military?

ANSWER:

ATTITIONAL QUESTIONS IF TIME PERMITS

1. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

ANSWER:

2. INTERVIEW PROTOCOLS

On Site Data Collection Tools

INTERVIEW QUESTIONS CHAPLAINS

DATE/TIME _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Include total number interviewed M/F breakout)

1. Are you familiar with the SAPR/SAVI Program and how it works? How does it work here in your command? Do you know your SARC? Do you know the unit victim advocates?

2. Tell us about your training in the area of sexual assault (basic training, annual training etc)?

3. Do all chaplains approach the issue of confidentiality the same way? In specific, how do they approach the issue in regards to sexual assault.

4. What type of training is provided to the junior/senior enlisted and junior/senior officers in regards to sexual assault? Is the training effective? Do your young enlisted know where to turn if they are assaulted-and do they know the difference between restricted and unrestricted reporting?

5. Do you participate in the sexual assault review board? How often does the SARB meet?

6. How do we get more victims to come forward for assistance?

7. What would you want the Task Force to know, and what improvements would you make to the SAPR/SAVI system to ensure that all your people were afforded an environment of dignity and respect?

8. What would a culture that does not tolerate sexual assault look like?

- **a. What are you doing now to create this culture?**
- **b. What are the other things you think you can do to accomplish this?**
- **c. What are the current resources you have and that you can leverage to ensure the cultural transition takes place? If not, what else would you need?**
- **d. How are you measuring the effectiveness of your prevention efforts and ensuring awareness?**
- **e. Identify what information you rely on to make decisions.**
- **f. What other information do you need?**

On Site Data Collection Tools
INTERVIEW QUESTIONS CIVILIAN LAW ENFORCEMENT

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.
(Indicated total number interviewed and M/F Breakdown)

1. Have you responded to a sexual assault complaint on the local military installation? If yes, what is your role?
- **a. Who is your Installation point of contact**
- **b. Describe your interaction with the SARC, Victim Advocate, Victim Witness Liaison**
- **c. Can a Victim Advocate be present during interviews?**

2. Have you responded to a sexual assault complaint off the installation involving military members?
- **a. How do you notify military authorities?**
- **b. Describe your interaction with the SARC, Victim Advocate, Victim Witness Liaison**
- **c. Can a Victim Advocate be present during interviews?**

3. Describe your experience in investigating reports of sexual assault involving military members?
- **a. Approximate number of cases**
- **b. Alcohol facilitated cases?**
- **c. Did you encounter any procedural problems during the investigation?**
  - **i. Do you have any recommendations to improve the sexual assault investigative process?**

4. What is the protocol for handling jurisdictional issues when dealing with a sexual assault complaint involving a military member as either the victim or alleged perpetrator?
- **a. On the installation**
- **b. Off the installation**
- **c. Across jurisdictional boundaries**

5. Does your agency have a Memorandum of Understanding (MOU) or an informal agreement with the military installation's law enforcement and/or security concerning sexual assault cases? If yes, what is the nature of the agreement? How often is it reviewed? Is it effective?

On Site Data Collection Tools
INTERVIEW QUESTIONS CIVILIAN LAW ENFORCEMENT

6. What are your procedures for establishing probable cause in a sexual assault complaint?

7. What are your evidence collection procedures for sexual assault?

- **a. Do you receive forensic evidence collected by a Health Care Provider (HCP)? If yes, how is the evidence labeled and maintained? What procedures are followed to maintain chain of custody?**
- **b. How long do you keep evidence collected? Is there a statutory limit?**

8. What procedures are in place to ensure the victim remains protected from having contact with the alleged offender in waiting areas and while working with investigator/police?

9. What is the average length of time of an investigation from when the criminal complaint is filed and the when it is handed over to the local prosecutor's office for consideration? Who makes the determination that a particular sexual assault investigation will be handed over to the local prosecutors?

10. What information is released to a victim concerning the status of the investigation? How often is the victim updated on the status of the investigation? Who does the update and how is the update made (e.g., by phone, in person)?

11. If other violations are discovered during the course of an investigation, how are they handled?

12. Do you provide briefings to the installation commander concerning law enforcement activities on or near the installation with respect to sexual assault?

13. Who in your chain of command makes the final probable cause determination on a sexual assault complaint? What has been your experience with sexual assault investigations that have ended due to a lack of evidence and/or a lack of probable cause?

14. What training have you received on the military Sexual Assault Prevention and Response program?

- **a. Have you attended any joint training sessions with the installation's law enforcement?**

On Site Data Collection Tools
INTERVIEW QUESTIONS CIVILIAN LAW ENFORCEMENT

15. What recommendations do you have to improve the investigative process and/or the overall program?

16. Is there anything else that you would like the Task Force to know about sexual assault and this installation and its effect on community law enforcement efforts?

On Site Data Collection Tools
INTERVIEW QUESTIONS
OFF SITE RESOURCES

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Medical Facilities

Person/Position Interviewed: _____.
(Indicate total number interviewed M/F)

1. **Do you provide services for active duty military victims of sexual assault? If yes, what services do you provide? Do you also provide a Sexual Assault Forensic Exam (SAFE)**
   a. **What are the qualifications of the person performing SAFE**
   b. **How are you reimbursed for the services provided, including the SAFE?**

2. **Does your facility collect DNA/forensic evidence from an alleged military offender? If so, who pays for it?**

All Resources

Person/Position Interviewed: _____.
(Indicate total number interviewed M/F)

1. **Have you received training on the military's Sexual Assault Prevention & Response program? If yes, by whom? How often? What is your understanding of the Restricted Reporting option?**

2. **Where are you located in reference to the base (in miles)? What transportation is available for victims to reach your location? Do you have 24/7 response capability?**

3. **Do you have a Memorandum of Understanding in place with the installation?**
   ***If Yes*: how often is it reviewed?**
   a. **What other agreements govern the services you provide to military victims and your coordination with installation resources?**

4. **Are there any roadblocks that impact your ability to provide services to military victims? If so, please describe.**

Revised as of 081106

On Site Data Collection Tools
INTERVIEW QUESTIONS
OFF SITE RESOURCES

5. **What recommendations would you make to improve services for military sexual assault victims?**

Revised as of 081106

On Site Data Collection Tools
INTERVIEW QUESTIONS
Trial Defense Services

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. **Have you defended a military client in a sexual assault case?**

2. **What training have you received on the SAPR program?**
   a. **What training, if any, have you had in cases involving alcohol-facilitated sexual assault?**

3. **Would you subpoena a victim's medical or mental health records in a sexual assault case? For what purpose?**

4. **Would you subpoena a victim advocate, SARC or their records in a case? For what purpose?**

5. **Do you support a VA being present during all interactions with a sexual assault victim?**

6. **Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?**

Revised 081212-DMDC

1

On Site Data Collection Tools
INTERVIEW QUESTIONS
DEPLOYED VICTIM ADVOCATES

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

Today we want to ask you questions about the experiences you had being a deployable VA. All of the following questions ask you about your experiences while being deployed. Please don't answer them as you would today here at Ft. Leonard Wood.

1. **Were you a VA prior to being deployed?**
    a. **How long have you been a VA?**

2. **When were you last deployed as a VA?**
    a. **Did you receive VA training prior to being deployed?**
    b. **Did you receive specialized training upon reaching theatre? Was this training adequate? Did it cover:**
        i. **Availability and location of services in theatre**
        ii. **List of resources (e.g., Sexual Assault Response Coordinators (SARC) and other VAs)**
        iii. **Sexual Assault Forensic Exam (SAFE) procedures unique to theatre operations**

3. **Was there an adequate number of victim advocates for this deployed location?**

4. **Were there trained SAFE personnel at your deployed location? If not, where was the closest facility?**
    a. **Have you ever transported a victim to a facility? If yes, how was the victim transported?**
        i. **Did the transport go smoothly?**
        ii. **Were there any problems?**

5. **What procedures did you follow to get services for a victim who filed a restricted report while in theatre?**
    a. **To get these services, were you required to give the Command additional information because you were in theatre?**

Revised 081117

1

On Site Data Collection Tools
INTERVIEW QUESTIONS
DEPLOYED VICTIM ADVOCATES

6. Was it more of a challenge to keep sexual assault cases confidential in a deployed environment? If yes, what are those challenges? How did you address them?

7. In a joint forces environment, how was case ownership and case management determined? Did this affect victims receiving services?

8. What data were collected and reported to the SARC? How were they reported?

9. What records were kept on victims or their cases?
- **a. Was there written guidance on maintaining records?**
- **b. Who had access to those records?**
- **c. When were those records destroyed?**
- **d. How were the records destroyed?**

10. What, if any, barriers to implementing the Sexual Assault Prevention and Response (SAPR) did you encounter in theatre? Gaps in service?

11. Did you have the time and resources to fulfill your duties as VA while deployed? If not, what was missing?

12. What recommendations would you make to improve the SAPR program in a deployed environment?

13. Is there anything about a deployed environment that would make it more or less likely for a sexual assault to occur? If more likely, what could we change about the culture and/or the environment?

14. Is there anything else you would like the Task Force to know about sexual assault in the military?

Revised 081117

2

On Site Data Collection Tools
INTERVIEW QUESTIONS
EQUAL OPPORTUNITY OFFICE

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. Have you personally received any complaints of sexual harassment that turned out to be sexual assault?

- **a. Did you make a sexual assault referral? If yes, explain how the referral was made.**
- **b. What is the process and protocol for referring a victim of sexual assault to the sexual assault prevention and response program?**

2. Have you received training on the SAPR program? Who provided the training? Is it effective?

3. Have you collaborated or assisted with the SAPR program in conducting trainings or any other type of prevention initiatives for the installation?

4. Are you on the Sexual Assault Review Board? If so, what is your role?

5. Do you maintain any documentation on sexual assaults that have been reported to you? If yes, where is the information stored?

- **a. Who has access to the documentation?**
- **b. When is the documentation destroyed?**
- **c. How is it destroyed?**

6. Do you report any form of contact with a victim or an alleged offender of sexual assault, regardless of their original reason for visiting your office? If yes, who receives the information and how is it used?

7. Do you collaborate with any of the following in regard to sexual assault cases:

- **a. Command/Senior Enlisted Leaders**
- **b. Sexual Assault Response Coordinator**
- **c. Victim Advocate**
- **d. Victim Witness Liaison**
- **e. Law Enforcement**
- **f. Military Justice**
- **g. Military Criminal Investigative Office**

Revised 081106

1

On Site Data Collection Tools
INTERVIEW QUESTIONS
EQUAL OPPORTUNITY OFFICE

8. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

9. Is there anything else you would like the Task Force to know about the Sexual Assault program?

Revised 081106

2

On Site Data Collection Tools
INTERVIEW QUESTIONS
FAMILY ADVOCACY PROGRAM MANAGERS/FAR/FAO

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.
(Indicate total number interviewed M/F)

1. Approximately what percentage of spouse abuse cases on your installation involves sexual assault?
   a. What actions are taken when a domestic violence case involves sexual assault?

2. Do the FAP victim advocates also work with sexual assault victims?
   If yes:
   a. Is there a FAP Victim Advocate 24/7 response capability?
   b. Are there a sufficient number of advocates to provide services for all victims?
   c. What is the status of the FAP Victim Advocates? (volunteer, contract, GS)
   d. Whose budget pays the salaries?
   e. Who has administrative responsibility for the FAP Victim Advocates? (scheduling, etc.)
   f. Who provides sexual assault program training for the FAP Victim Advocates?
   g. To whom do the FAP Victim Advocates report when working on a sexual assault case?
   h. Who is responsible for hiring FAP VA's? Is sexual assault experience required?
   i. What information do you receive on unrestricted reports? Restricted reports?
   j. Do you keep any files concerning sexual assault cases?

3. Describe your collaboration/coordination with the SARC on installation:
   a. Training
   b. Prevention efforts
   c. Response efforts

4. What training have you received on the SAPR program? Is it effective?

5. Do you attend the Sexual Assault Review Board? If yes, what is your role?

6. Are you able to effectively collaborate and coordinate with the SAPR program on your installation to ensure that victims are receiving the services they require? If not, what recommendations do you have to correct the problems?

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On Site Data Collection Tools
INTERVIEW QUESTIONS
FAMILY ADVOCACY PROGRAM MANAGERS/FAR/FAO

7. Is there anything else you would like the Task Force to know about the sexual assault program?

On Site Data Collection Tools
INTERVIEW QUESTIONS
General Court-Martial Convening Authority

DATE/TIME: _____ **LOC:** _____

Interviewed By: _____

Person/Position Interviewed: _____

(Indicate total number interviewed M/F)

1. Tell me about your experience as a general court-martial convening authority prior to this assignment?

2. Did you convene any general courts-martial involving sexual assault cases?

3. Have you convened any courts-martial while at your present assignment? Were any of those cases involving sexual assault offenses and if so, please elaborate?

4. Are you the only general court-martial convening authority on this installation? If no, who else is a general court-martial convening authority?

5. Are there any units on the installation which utilize a general court-martial convening authority who is not located at this installation? Does that general court-martial convening authority usually exercise his/her authority? How do you coordinate (if at all) with that general court-martial convening authority regarding exercising jurisdiction?

6. Are there service members from other services on your installation? If yes, who exercises general court-martial convening authority jurisdiction for cases involving those service members?

7. How much of your time do you devote to your responsibilities as the general court-martial convening authority? How does this exercise of responsibility relate to your other duties as a commander?

8. Have you been involved in any cases with foreign nationals who were suspected of sexual assault offenses? If yes, what if any problems did you observe during the investigative and adjudicative process of those cases?

9. Please describe your relationship with the NCIS, CID, or OSI that serve your command.

On Site Data Collection Tools
INTERVIEW QUESTIONS
General Court-Martial Convening Authority

10. Please describe your relationship with your Staff Judge Advocate.

11. Please describe your relationship with the Sexual Assault Response Coordinator in your command.

On Site Data Collection Tools

INTERVIEWS WITH THE INSPECTOR GENERAL

DATE/TIME _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

1. **Have you reported issues concerning sexual assault to a senior installation commander (e.g., Commanding General, Commanding Officer, Wing Commander, etc.)?**
    a. **How frequently has this happened?**
    b. **How do you typically become aware of sexual assault issues?**
    c. **What details do you report to senior installation commanders?**
    d. **What is your role after you have reported a sexual assault to a commander?**
    e. **What records do you keep in regards to sexual assault?**

2. **Are you required to report sexual assault incidents to any office not located on the installation (higher headquarters or external agency)?**
    a. **To whom do you provide that report?**
    b. **How often is that report required? (Request a copy of any reports submitted after FY07)**

3. **What is your involvement in the Sexual Assault Prevention and Response Program (SAPR)?**
    a. **Do you participate in the Monthly Sexual Assault Review Board (SARB)?**
    b. **Do you review SAPR and SARB procedures and effectiveness?**

4. **When you become aware of sexual assault incidents, what is your responsibility with respect to the DoD restricted/unrestricted reporting policies? For example, if a Service member reveals a sexual assault to you and requests that a restricted report be made, what do you do?**

5. **Have you or your office ever been contacted by a sexual assault victim or the family member of a victim?**
    a. **What role does the IG play when contacted by a victim?**
    b. **What types of issues are raised by victims and their families and how are these issues resolved?**

6. **How would you describe your relationship with the following offices with respect to sexual assault matters?**
    a. **SJA**
    b. **OSI, CID or NCIS**
    c. **SARC.**
    d. **Would you give your assessment of how these groups work together?**

On Site Data Collection Tools

INTERVIEWS WITH THE INSPECTOR GENERAL

7. **Do you conduct periodic Sexual Assault/Safety Inspections? How often? Could you provide a copy of the checklist and most recent inspection report?**

8. **How would you assess whether the military (either overall or at a particular location) has a culture that does not tolerate sexual assault?**
    a. **What can DoD do to move toward such a culture?**
    b. **What metric would you use to access progress?**
    c. **To what extent does current military leadership consider sexual assault to be a significant problem (as evidenced by involvement in SAPR programs, personal attention to cases, etc.)?**

9. **What more can the (Army/Air Force/Marine Corps/Navy) do to improve the Sexual Assault Prevention and Response Program?**

On Site Data Collection Tools
INTERVIEW QUESTIONS
INSTALLATION SARC

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. How long have you been a SARC?

2. What is your status? (DoD Civilian, Military, Contractor)

3. What SARC training and/or experience have you had?
- **a. How often do you receive refresher training?**
- **b. Was your training adequate to prepare you for supporting victims? If not, what additional elements should be incorporated?**

4. What specific services do you provide victims of sexual assault?

5. What services do you provide for military dependents and under what circumstances?

6. How many victim advocates (Uniformed/Civilian/Contract) do you oversee? If 1 or more, how are VAs identified as first responders? Please describe the training that VAs receive and tell me how often they receive it?

7. Are you responsible for ensuring there is adequate staffing to provide 24/7 response to sexual assault victims? If yes: Are there challenges to providing 24/7 response capability with the number of victim advocates assigned? If so, what difficulties have you encountered in meeting required response time? If no: who does ensure there is adequate staffing?

8. What measures are in place for your safety and the safety of the victim advocates when responding to an initial report or while working on a case?

9. Do you share victim advocates with Family Advocacy or are they dedicated to your program? If you do share them, how is this working?

10. Do you maintain documentation on sexual assaults that have been reported to you?
- **a. Where is it stored and who has access to the documentation?**

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On Site Data Collection Tools
INTERVIEW QUESTIONS
INSTALLATION SARC

b. When is the documentation destroyed?
c. How is the documentation destroyed?
d. How and when are you notified that the one year is about to expire for evidence in a Restricted Report case?
e. What is the procedure for notifying the victim? What if the victim has changed station or is National Guard/Reserve member?

11. How do you ensure continuity of care for members who are changing stations/returning from deployment?
   a. Can you describe the process of "handing-off" a sexual assault case of a member who is changing stations or when a National Guard/Reserve member is returning to their community?
   b. Do you think that the existing process is the best way to ensure continuity of care? Are there any enhancements you would like to see?

12. Do you have a formal Memorandum of Understanding (MOU) or informal agreements with local off-base resources? How are these working?

13. Do state/local laws concerning reporting requirements conflict with the Restricted Reporting option at your location? If yes, what collaboration have you sought from civilian and military authorities? What progress have you made in addressing this issue?

14. Tell us about your working relationship with the senior Commander to whom you report?
   a. What information on a restricted report do you convey to your Commander?
   b. How often do you update your Commander on any sexual assault case?
   c. Do you find your senior Commander is difficult to get in to see?

15. Describe your collaboration efforts with the Military Treatment Facility, Military Criminal Investigation Organization, legal office, and other agencies to establish protocols and procedures for responding to victims.

16. How is ownership of a case determined in a joint-basing environment?
   a. Who captures the data to report to the chain of command?
   b. Who provides case management/services?
   c. How are conflicts resolved?

On Site Data Collection Tools
INTERVIEW QUESTIONS
INSTALLATION SARC

17. What is your role on the Sexual Assault Review Board (SARB)? Who chairs the SARB? How do you monitor the quality and effectiveness of the SARB?

18. What is the procedure for handling complaints or suggestions about the SAPR program or victim advocates?

19. What public events do you conduct to promote sexual assault awareness (such as local events for Sexual Assault Awareness Month)?

20. What, if any, barriers to implementing the Sexual Assault Prevention and Response program have you encountered?

a. Have you identified gaps in the program, if so, how can it be improved to serve your installation?

21. Some people think a change in military culture is necessary to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

22. Is there anything else you want the task force to know about SA in the military?

Revised as of 081212-DMDC

On Site Data Collection Tools
INTERVIEW QUESTIONS
INSTALLATION VICTIM ADVOCATE

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. **How long have you been a VA?**

2. **What is your status? (Military, DoD Civilian, Contractor, Volunteer)**

3. **What VA training and/or experience have you had?**
   a. **How often do you receive refresher training?**
   b. **Do you feel your training was adequate? If not, what training could benefit you in supporting victims?**

4. **What specific services do you provide victims of sexual assault?**

5. **Are there challenges to providing 24/7 response capability with the number of victim advocates assigned?**
   a. **What difficulties do you encounter meeting required response time?**

6. **What measures are in place for your safety when responding to an initial report or while working on a case?**

7. **Do you also serve victims of domestic violence? If yes, how does that impact providing service to victims of sexual assault?**

8. **Are there provisions in the program for assisting victims with basic necessities? (e.g., clothing items if needed, transportation home or to a community facility, food or drink while at the medical facility, etc.)**

9. **Are there challenges in explaining reporting options to victims so that they fully understand restricted and unrestricted reporting? If yes, how do you think this could be improved?**

On Site Data Collection Tools
INTERVIEW QUESTIONS
INSTALLATION VICTIM ADVOCATE

10. From a victim support perspective, have you identified any issues that could negatively impact victims during Sexual Assault Forensic Examines (SAFE) or while receiving medical care in relation to a sexual assault?

11. Tell us about your collaboration with chain of command and base agencies in providing adequate safety planning for victims of sexual assault (e.g., Military Protective Orders and moving the victim's quarters and/or duty station).

12. Do you have a formal Memorandum of Understanding (MOU) or informal agreements with local off-base resources? How are these working?

13. How do you coordinate/collaborate with the Victim Witness Liaison?

14. Are mental health/counseling services readily available and easily attainable for victims who request them?

15. Do you refer sexual assault victims to Military One Source? If yes, what has been their feedback on this service?

16. What is the protocol for you to accompany a victim during an interview or deposition with the Judge Advocate General (JAG) office and/or a Military Criminal Investigative Organization (MCIO) interview?

17. Have you ever been called to testify or have your files been subpoenaed in a legal proceeding involving a victim? If yes, what was the result?

18. Do you provide services to joint-forces installations? If yes, how is a joint-forces case handled?

a. Who collects the data?
b. Who provides the services?
c. Who follows up/reports back to victim?

19. Do you have any other duties/roles in addition to being a victim advocate? If so, how do those duties impact your ability to provide victim advocate services?

On Site Data Collection Tools
INTERVIEW QUESTIONS
INSTALLATION VICTIM ADVOCATE

20. What records were kept on victims or their cases?

a. Was there written guidance on maintaining records?

b. Who had access to those records?

c. When were those records destroyed?

d. How were the records destroyed?

21. What, if any, barriers to implementing the Sexual Assault Prevention and Response program have you encountered?

22. What recommendations would you make to improve the SAPR program on your installation? (or in your unit)

23. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

24. Is there anything else you would like the Task Force to know about sexual assault in the military?

On Site Data Collection Tools
INTERVIEW QUESTIONS
MEDICAL TREATMENT FACILITY (MTF) STAFF

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. Who in your MTF is the central point of contact for Sexual Assault Prevention and Response (SAPR) policies and updates?

2. Are Sexual Assault Forensic Exams (SAFE) performed at your facility?
- **a. If yes, how many Health Care Providers are qualified to perform SAFE? Is the number sufficient to provide 24/7 capability?**
- **b. If no, who performs them for your installation personnel?**
  - **i. Do you have a formal Memorandum of Understanding in place with this facility?**
  - **ii. How is the victim transported to this facility?**
  - **iii. Are there different procedures for a restricted report?**
  - **iv. Is there 24/7 capability?**

3. Are there state and/or local laws that could potentially impact your compliance with restricted reporting? If yes, how are you addressing them?

4. When and how do you notify the Sexual Assault Response Coordinator (SARC) and/or VA for a sexual assault incident?
- **a. Timeline for notification**

5. How do you maintain victim confidentiality following an assault?
- **a. Having to give reason for visit to reception personnel**
- **b. Being made to wait in same area as alleged offender**

6. Do you allow victim advocates to be in the exam room with a victim?

7. What medical services are offered to the victim?
- a. **What information goes into the medical record concerning a SAFE or other treatment for victims?**
- b. **Who has access to the information in the medical record?**
- c. **Is there a hospital/medical database where information concerning sexual assaults is kept?**

Revised as of 081117

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On Site Data Collection Tools
INTERVIEW QUESTIONS
MEDICAL TREATMENT FACILITY (MTF) STAFF

d. **Are incidents of sexual assault reported up the medical chain of command and what information is placed in that report?**

8. What is the procedure for referring a victim who requests counseling/mental health services?

9. In the case of a victim who has made a restricted report and requires further medical appointments, how are the appointments handled to ensure confidentiality?

a. **What is listed as the reason for the appointment?**

10. **In the case of an unrestricted report, to whom is the evidence given and how is the chain of custody maintained? How does this differ for a restricted report?**

11. Are your procedures for treating sexual assault victims and performing SAFEs part of a hospital inspection checklist?

12. Describe the training you received on the SAPR program. Was it adequate?

13. Describe any training you received in medical school or nursing school on working with sexual assault victims.

14. Do you feel that you can effectively treat victims of sexual assault and implement the SAPR program at your installation (unit)? If not, what are the barriers to effective treatment and implementation?

15. Is there anything else you would like for the Task Force to know about the SAPR program?

On Site Data Collection Tools
INTERVIEW QUESTIONS
MENTAL HEALTH/COUNSELING SERVICES

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.
(Total number interviewed M/F)

1. **How long have you been a mental health counselor?**

2. **Have you worked with sexual assault victims? If so, please tell us about your experience working with sexual assault victims.**

3. **Have you received training to help you work with sexual assault victims?**
   a. **Have you had any Sexual Assault Prevention and Response training? If so, who provided the training and how often do you go? Was this training helpful to you? If not, what training could benefit you in supporting victims?**

4. **Are alleged offenders referred for counseling? If yes, what types of services are provided?**

5. **How do you receive referrals for sexual assault victims (e.g., EO officer, victim advocate)?**
   a. **How soon after receiving the referral will the victim be seen?**

6. **What actions do you take if a military patient discloses being a victim of sexual assault during a therapy session?**

7. **Where are the victims' treatment records kept?**
   a. **Who has access to them?**
   b. **How long are they kept**
   c. **When are the records destroyed?**
   d. **How are they destroyed?**

8. **Have you been asked to testify or submit records for a legal proceeding in a sexual assault case? If yes, describe the outcome.**

9. **In the case of a victim who has made a restricted report, how are appointments handled to ensure confidentiality?**

On Site Data Collection Tools
INTERVIEW QUESTIONS
MENTAL HEALTH/COUNSELING SERVICES

a. **If they need time off from duty to attend appointments, what guidance do you give them regarding how to respond to inquires about why they need time off?**

10. Do you work with the VA/SARC on safety planning for the victim?

11. Do you feel that you can effectively provide services to sexual assault victims on your installation? If not, what recommendations do you have to improve the SAPR program or victim's services?

12. What information do you present at the Sexual Assault Review Board?

13. Have you been a mental health counselor in a deployed environment? If so,

a. **How do you provide confidentiality for the victim in a deployed environment?**
b. **Is it more of a challenge to keep sexual assault cases confidential in a deployed environment? If yes, what are those challenges? How do you address them?**
c. **What is the procedure for coordinating counseling services for deployed personnel?**
    i. **How do you send someone out of theatre without breaking confidentiality?**

14. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

15. Is there anything else you would like the task force to know concerning sexual assault in the military?

On Site Data Collection Tools
INTERVIEW NOTES
LEGAL OFFICE
Military Judge

DATE/TIME: 14 September 2009 . **LOC: Bowling Air Force Base, MD .**

Interviewed By: COL Grant and BG (ret.) Cuthbert .

Person/Position Interviewed: Col
(Indicate total number interviewed M/F)

1. How long have you been in the judiciary? What is your previous background as a judge advocate?

2. How many sexual assault cases have you presided over?

3. How many sexual assault cases have you presided over that involved the new Article 120?

4. How many of the sexual assault cases you presided over were panel cases?

a. How many of those cases were guilty pleas?

b. How many of sexual cases involved alcohol?

c. How many of those cases involved no corroborating evidence except forensic evidence indicating sexual contact occurred? (he said-she said cases)

4. What issues have you seen regarding the new Article 120?

5. Have you had any cases where the Sexual Assault Response Coordinator or a victim advocate testified? Did they testify for the government or defense? Did you see any problem areas?

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6. Have you seen any sexual assault cases where the psychotherapist privilege was an issue? If you had to rule on release of information under MRE 513, what was your ruling?

7. Do you think victim advocates should have a privilege in order to have protected communications with a victim? Why or why not?

8. What other issues have you seen that the Task Force should address?

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On Site Data Collection Tools
INTERVIEW QUESTIONS
LAW ENFORCEMENT (MCIO/MP/SP)

Notes will identify the agency of the interviewee, i.e., MP, SP, CID, NCIS, OSI.

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.
(Indicate total number interviewed M/F)

1. **Have you ever investigated a report of sexual assault? If so, describe your experience:**
    a. **Approximate number of cases**
    b. **Did you encounter any procedural problems during the investigation?**
        i. **Do you have any recommendations to improve the sexual assault investigative process?**
    c. **Do you respond to sexual assault victims at the Medical Treatment Facility (MTF) and/or a civilian hospital?**
    d. **If collateral misconduct is discovered during the course of an investigation, how is it handled?**
    e. **What has been your experience with sexual assault investigations terminating in unfounded allegations? If 'unfounded' is not used, how is a case closed out?**
        i. **Who determines if a case is unfounded?**

2. **Is there a priority assigned to a sexual assault investigation? If yes, what is it? What actions are associated with that priority?**

3. **Do you receive forensic evidence collected by a Health Care Provider? If yes, how is this evidence labeled and maintained? What procedures are followed to maintain chain of custody?**

4. **What information, if any, do you receive for a restricted report?**

5. **For a restricted report, how and when do you notify the Sexual Assault Response Coordinator (SARC) of the one year storage expiration date for forensic evidence?**

6. **What procedures are in place to ensure the victim remains protected from having contact with the alleged offender in waiting areas and while working with investigator/police?**

Revised as of 081117

On Site Data Collection Tools
INTERVIEW QUESTIONS
LAW ENFORCEMENT (MCIO/MP/SP)

7. What is the average length of time from when a report is made by the victim to the final report to the Command/Judge Advocate General?

8. Please describe your working relationship with the SARC, Victim Advocate (VA) and Victim Witness Liaison.

a. Do you support the VA being present during interviews with the victim? If not, why not?

9. Do you participate in the Sexual Assault Review Board? What is your role?

10. What information is released to a victim concerning the status of the investigation? How often is the victim updated on the status of the investigation? Who does the update and how is the update made (e.g., by phone, in person)?

11. Does your agency have a Memorandum of Understanding or an informal agreement with civilian law enforcement? If yes, what is the nature of the agreement? When was it last reviewed? Is it effective?

12. How is jurisdiction determined in a joint-basing environment?

13. How is jurisdiction determined in a joint-forces environment?

14. How are cases involving military victims and foreign nationals handled?

15. How often do you receive training on your role in the Sexual Assault Prevention and Response program? Is it adequate?

16. Is there anything else that you would like the Task Force to know about sexual assault in the military?

On Site Data Collection Tools
INTERVIEW QUESTIONS
LEGAL OFFICE
Prosecutors/SJA

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. **Have you prosecuted any sexual assault cases in the military?**

2. **What training have you had in prosecuting sexual assault cases?**
   a. **Have you received training on working with sexual assault victims?**
   b. **What training, if any, have you had in cases involving alcohol-facilitated sexual assault?**
   c. **What training have you received on the SAPR program?**

3. **When do you become involved in a sexual assault case?**

4. **How do you prepare a victim for trial? Who does the preparation?**
   a. **Have you ever prosecuted a sexual assault case without the victim's testimony? Under what circumstances would you prosecute a sexual assault case without the victim's testimony?**
   b. **Would you ever request that a victim submit to a polygraph? If yes, under what circumstances?**

5. **How do you coordinate with the SARC/Victim Advocate/Victim Witness Liaison/Law Enforcement to ensure the victim's rights are protected?**
   a. **Do you support the victim advocate being present during all interactions with the victim?**

6. **What procedures are in place to ensure that the victim remains separated from the alleged offender during the trial outside of the courtroom?**

7. **What criteria do you use to evaluate the evidence in a sexual assault case?**

8. **Who in your chain of command decides whether to prosecute a case?**
   a. **What are the critical factors in deciding to advise a courts martial convening authority to move forward on a case?**

On Site Data Collection Tools
INTERVIEW QUESTIONS
LEGAL OFFICE
Prosecutors/SJA

b. What are the criteria used to forward the case to an article 32? How important is an article 32 officer's opinion on the evidence?

9. How do address collateral misconduct in a sexual assault case?

10. In your experience, is there a primary cause for so few sexual assault cases being prosecuted?

11. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

Revised 081212-DMDC

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On Site Data Collection Tools
INTERVIEW QUESTIONS
PERSON WHO SARC REPORTS TO ON INSTALLATION

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.
(Indicate total number and M/F)

1. How often do you meet with the Sexual Assault Response Coordinator (SARC) to discuss the progress of the program?

2. Do you function as both operational and administrative supervisor? If not, who fulfills the other role?

3. Does your role in the SAPR program conflict with any other duty?

4. What elements of the program do you personally monitor? Please describe.

5. What is the procedure for handling complaints about the SARC and/or the SAPR program?

6. How is the Sexual Assault Prevention and Response (SAPR) program working at your installation?

- **a. Do you have enough VAs?**
- **b. Is your chain of command supportive?**
- **c. Do you have enough resources?**
- **d. Do you believe victims are receiving adequate care?**
- **e. Do you believe victims who make a restricted report are adequately protected?**

7. **Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?**

8. **Is there anything else you would like the Task Force to know about sexual assault in the military?**

Revised 081117

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On Site Data Collection Tools

OFFICE CALLS WITH SENIOR COMMANDERS and SENIOR ENLISTED ADVISORS

DATE/TIME _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Include total number interviewed M/F breakout)

1. The DoD SAPR Program has been in place for more than three years. Would you talk about your impressions of the program and outline its strengths and weaknesses.

2. Would you describe your command's approach to sexual assault and how you. a-Proactively, and b-Reactively deal with the issue?

3. Our elected representatives have highlighted sexual assault in the military as epidemic in numbers and our response as inadequate. Do you support this view? What can we do to more aggressively address their concerns?

4. The DoD has emphasized prevention of and response to sexual harassment and sexual assault as critical issues for commanders to consider. How well are these programs working?

5. Do you provide logistical support for these programs? If not are these logistics adequate?

6. How would you describe your relationship with the following offices?

- **a) SJA**
- **b) OSI, CID or NCIS**
- **c) SARC.**
- **d) Would you give your assessment of how these groups work together?**

7. Would you describe any specialized education or training you received to assist you in exercising your responsibilities as a convening authority in regard to sexual assault?

8. How effectively does the military justice system support your efforts to eliminate sexual assault?

Revised 081202 1

On Site Data Collection Tools
INTERVIEW QUESTIONS
SUBSTANCE ABUSE OFFICE

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. **How long have you been a substance abuse officer?**

2. **Have you received training to help you work with sexual assault victims?**
   a. **Have you had any Sexual Assault Prevention and Response training? If so, who provided the training and how often do you go? Was this training helpful to you? If not, what training could benefit you in supporting victims?**

3. **What is your role in the SAPR program?**
   a. **Have you collaborated or participated with the SAPR program in any installation education/prevention/awareness programs?**

4. **In what capacity, if any, do you work with the Sexual Assault Response Coordinator and/or Victim Advocate on providing services?**

5. **Do you attend the Sexual Abuse Review Board? If yes, what is your role?**

6. **What confidentiality do sexual assault victims have in reporting substance use?**

7. **What information are you required to give to the Command on a Command referral? Self referral?**

8. **Do you maintain documentation on sexual assaults that have been reported to you? If yes, under what written guidance?**
   a. **Where is the information stored?**
   b. **Who has access to the documentation?**
   c. **When is the documentation destroyed?**
   d. **How is it destroyed?**

9. **Have you, your staff, or your agency's records ever been subpoenaed in a military sexual assault case or a collateral misconduct case? If yes, how was that handled?**

Revised 081124

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On Site Data Collection Tools
INTERVIEW QUESTIONS
SUBSTANCE ABUSE OFFICE

10. Do you feel that you can effectively provide services to sexual assault victims on your installation? If not, what recommendations do you have to improve the SAPR program or victim's services?

11. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. What do you think DoD could do to create a culture that does not tolerate sexual assault?

12. Is there anything else that you would like the Task Force to know about sexual assault in the military?

Revised 081124

2

On Site Data Collection Tools
INTERVIEW QUESTIONS
UNIFORM SARC – DEPLOYED ENVIRONMENTS

(These questions are for SARCs currently in the AOR or who have previously been deployed to the AOR.)

DATE/TIME: _____. LOC: _____.

Interviewed By: _____.

Person/Position Interviewed: _____.

(Indicate total number interviewed M/F)

1. **How long have you been a SARC?**
    a. **Were you a SARC prior to your deployment?**
    b. **How were you selected to be a SARC?**
        i. **What qualifications contributed to your selection?**

2. **Did you receive SARC training prior to your deployment?**
    a. **Did you receive specialized training upon reaching theatre? Was this training adequate? If not, what training could benefit you in supporting victims?**
        i. **How often do you receive refresher training?**

3. **What specific services do you provide victims of sexual assault?**
    a. **When a sexual assault is reported, what is your role?**

4. **Do you oversee the victim advocates (Uniformed/Civilian/Contractor)?**
    a. **If so, how many VAs do you monitor?**
        i. **If more than 1, how are they identified as first responders?**
    b. **Please describe the training that VAs receive and tell me how often they receive it?**
    c. **Are you responsible for ensuring there is adequate staffing to provide 24/7 response to sexual assault victims? If yes: Are there challenges to providing 24/7 response capability with the number of victim advocates assigned? If so, what difficulties have you encountered in meeting required response time? If no: who does ensure there is adequate staffing?**

5. **What measures are in place for your safety and the safety of the victim advocates when responding to an initial report or while working on a case?**

6. **Are there trained Sexual Assault Forensic Examiners (SAFE) personnel at your location? If not, where is the closest facility? Are you aware of any problems with the victim being transported to this facility? If yes, please describe.**

On Site Data Collection Tools
INTERVIEW QUESTIONS
UNIFORM SARC – DEPLOYED ENVIRONMENTS

7. What procedures do you follow to get services for a victim who files a restricted report?
- **a. To get these services, are you required to give the Command additional information because you are in theatre?**

8. Is it more of a challenge to keep sexual assault cases confidential in a deployed environment? If yes, what are those challenges? How do you address them?

9. What is the procedure for coordinating medical and counseling services for deployed personnel?

10. Describe your collaboration efforts with commanders and other first responders to establish protocols and procedures for responding to victims?

11. In a joint forces environment, how is case ownership and case management determined? Does this affect victims receiving services?

12. What records are kept on victims or their cases?
- **a. Is there written guidance on maintaining records?**
- **b. Who has access to those records?**
- **c. When were those records destroyed?**
- **d. How were the records destroyed?**
- **e. How and when are you notified that the one year is about to expire for evidence in a Restricted Report case?**

13. Tell us about your working relationship with the senior Commander to whom you report?
- **a. Did you receive an orientation briefing upon reaching theatre?**
- **b. How often do you update your Commander on a sexual assault case?**

14. Do you have the time and resources to fulfill your duties as SARC while deployed? If not, what is missing?

15. What, if any, barriers to implementing the Sexual Assault Prevention and Response (SAPR) have you encountered in theatre? Gaps in service?

On Site Data Collection Tools
INTERVIEW QUESTIONS
UNIFORM SARC – DEPLOYED ENVIRONMENTS

16. What is your role on the Sexual Assault Review Board (SARB)? Who chairs the SARB? How do you monitor the quality and effectiveness of the SARB?

17. What public events do you conduct to promote sexual assault awareness (such as local events for Sexual Assault Awareness Month).

18. Is there anything about a deployed environment that would make it more or less likely for a sexual assault to occur? If more likely, what could we change about the culture and/or the environment?

19. Is there anything else you want the task force to know about sexual assault in the military?

On Site Data Collection Tools

INTERESTED PARTY INTERVIEW QUESTIONS

DATE/TIME: **Interviewed By:**

VICTIM INFORMATION:

Gender: **Branch of Service:** **Year of Incident:**

General Circumstances Surrounding the Incident:

1. **Did the incident occur on or off an installation:**
2. **What is the gender of the perpetrator?**
3. **Did you report the incident?**
    a. **If yes, to whom did you report?**
    b. **If military, was it a Restricted or Unrestricted Report?**
4. **Were you informed of all the processes and procedures surrounding your case? Was information presented to you in a way that you could understand (verbally & written)?**
    a. **Were you given an opportunity to receive services (i.e., Victim Advocate, VWAP/VWL)?**
    b. **Did anyone discuss any actions regarding collateral misconduct (i.e., underage drinking)?**
5. **How was treatment from the judicial system (MPs, Investigators, JAG)?**
    a. **If the case went to court, did you receive a transcript of the proceedings?**
    b. **Were any of your statements made to counselors, SARC, VA, or VWL used against you in any judicial proceedings (i.e. during cross examination)?**
6. **How was treatment from your leadership/command? Was your chain of command responsive?**
    a. **What was the environment/command climate like?**
    b. **Do you think the Command's training and awareness programs are effective in reaching people?**
7. **What was/is your overall view of the program and everyone involved? (i.e., First Responders)?**

On Site Data Collection Tools

INTERESTED PARTY INTERVIEW QUESTIONS

a. **What is the extent of the training and awareness programs to reach people?**

b. **What wasn't provided that you wanted/needed?**

c. **Should any guidelines/rules be changed?**

On Site Data Collection Tools
INTERVIEW QUESTIONS
VICTIM WITNESS LIAISON (VWL)

DATE/TIME: _____. **LOC:** _____.

Interviewed By: _____.

Person/Position Interviewed: _____.
(Indicate total number interviewed M/F)

1. **When do you become involved in a sexual assault report?**
   a. **Do you have 24/7 response capability?**

2. **What services and resources do you provide?**
   a. **Do you serve in any other role or perform other duties in addition to being the VWL? If yes, how does this impact providing services to sexual assault victims?**
   b. **Do you provide the victim a 2701 form (victim's rights form). If yes, do you maintain these forms?**

3. **Victim safety throughout the process is a concern.**
   a. **What provisions are in place to ensure the separation of victim and alleged offender in waiting areas, during office visits etc.?**
   b. **What do you do if the victim reports being threatened or harassed during the investigation or criminal justice proceedings?**

4. **Do you coordinate with the Victim Advocate and Sexual Assault Response Coordinator? If yes, can you describe how you work together to support a victim?**

5. **What is your role, if any, on the Sexual Assault Review Board?**

6. **Do you have a role if the case will be handled in a civilian court? If yes, what is that role?**

7. **Have you ever been involved in a sexual assault case while in a deployed environment? If yes, how was your role different in a deployed environment? (*to be asked of uniformed personnel only*)**

8. **What documentation do you keep on sexual assault victims? Is there a database for maintaining victim information?**
   a. **Who has access to the documentation?**

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On Site Data Collection Tools
INTERVIEW QUESTIONS
VICTIM WITNESS LIAISON (VWL)

b. **Has anyone ever requested as part of discovery in a criminal case or a subpoena, your notes, your records, and/or documentation you have maintained about your discussions with a sexual assault victim?**
c. **How is the documentation destroyed?**
d. **When is the documentation destroyed?**

9. What training have you received to prepare you for working with victims of sexual assault? Do you feel that it is adequate?

a. **At your installation, do you feel you've received adequate training on the Sexual Assault Prevention Response program to help you do your job as a VWL?**
b. **Have you been involved in any prevention/awareness efforts on your installation?**

10. What recommendations do you have to improve the effectiveness of VWLs in supporting victims and the effectiveness of the overall SAPR program?

11. Some people advocate that a change in military culture is necessary in order to prevent sexual assault. As a VWL, what do you think DoD could do to create a culture that does not tolerate sexual assault?

12. Is there anything else you would like the Task Force to know about the sexual assault program?

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ANNEX E: QUICK COMPASS SURVEYS

QUICK COMPASS SURVEY

Three separate Quick Compass surveys were fielded from April 9 to April 29, 2009 to assess the resources, processes, and effectiveness of the SAPR program. Respondents came from three groups of interest: Sexual Assault Response Coordinators (SARCs), their supervisors (SARC supervisors) and Victim Advocates (VAs).

Samples and Response Rates

Potential respondents were identified by their Service SAPR program manager for inclusion and a request for participation was sent electronically to all government civilian and uniformed members of the three identified groups. The process of identification was not straightforward, and the composition of the samples obtained limits the conclusions that can be made based on these data.

Sexual Assault Response Coordinators (SARCs)

The Services provided lists of 342 SARCs for inclusion in our sample. The weighted response rate was 47%. Nineteen percent of SARCs who responded said they were deployed, and an additional 8% indicated they had previously served as a deployed SARC. SARCs indicated they served an average of 8,016 personnel, and 23% of them indicated the majority of personnel they served were located at geographically dispersed locations. Deployed SARCs were more likely to serve dispersed personnel (48%) than were non-deployed SARCS (17%).

Status. Of the SARCs who responded to our survey, 40% were Service Members and 58% were DOD civilians. Two percent of respondents indicated they were contractors, and their data were retained despite our intent not to include contractors in the sample.

Rank. Forty-one percent of SARCs who responded indicated they were mid-grade or senior-enlisted Service Members (E5-E9). Twenty-one percent were junior officers (O1-O3) and 36% were field grade officers (O4-O6). Most civilians who responded indicated they were NSPS employees. Pay band stratification was not available.

Duty Status. Fifty-seven percent of SARCs who responded to this survey indicated they performed SARC duties as collateral duties to another primary job. Twenty-five percent indicated SARC duties were their primary duties among others, and 25% of the sample indicated SARC duty was their sole duty. Air Force SARCs who responded were more likely to say they performed their duties as sole or primary duties, while Army and Marine Corps SARCs were more likely to perform their duties collateral to other primary responsibilities.

A cross-check with data collected from SARC supervisors reveals this sample over-represents collateral duty SARCs and under-represents sole duty SARCs, probably because many contractors who were excluded from our survey perform their duties as sole duty and Service Members were relatively more likely to perform SARC duties as collateral duties. This may be a hidden “advantage” of contractor status.

Other duties SARCs performed included service as a sexual assault trainer (70%), as a Victim Advocate (51%), as a backup SARC (24%), as an Equal Opportunity Adviser (7%), and as an Inspector General (6%). Forty-four percent of respondents indicated they performed other primary duties than these.

Experience. Many SARCs in our sample indicated they have served as a SARC for three years or more, with Air Force SARCs reporting the highest average tenure. Deployed SARCs were, on average, less experienced than non-deployed SARCs, with a full 60% indicating they have served as a SARC for less than one year. A summary of SARCs' tenure is provided in Table 1.

Table 1. Tenure of SARCs in the survey sample.

	Army	Navy	Marines	Air Force	Deployed	Not Deployed	Percent of All Respondents
Less than one year	41	34	44	5	60	22	29
One year but less than two years	26	16	16	19	40	16	20
Two years but less than three years	5	6	19	18	NR	15	12
Three years or more	28	44	22	58	NR	48	39

Note: NR indicates Not Reportable based on fewer than 5 responses or high relative standard error.

Deployable Victim Advocates

The Services provided contact information for 848 deployable Victim Advocates. The weighted response rate was 34%. Nearly all Victim Advocates performed their duties as collateral duties, and 77% of our sample indicated they volunteered to perform this function. Sixty percent of Victim Advocates who responded indicated they had no prior experience serving as a Victim Advocate before assuming their current position.

Status. Ninety-six percent of victim advocates who responded indicated they were active duty military, 4% were DOD civilians. Because we asked for "deployable" Victim Advocates for the purpose of this survey, we under-sampled DOD civilians who performed this function in many garrison locations.

Rank. More than 85% of Victim Advocates in our sample were mid-grade or senior enlisted Service Members. The remainder were junior officers (10%) or junior enlisted (3%).

Experience. Nearly half of Victim Advocates who completed the survey say they served as a Victim Advocate for less than one year. Nearly three quarters indicated they served less than two years in this role. Because individual Victim Advocates may have worked with victims infrequently, it seems safe to say the Victim Advocate corps we surveyed was relatively inexperienced. This implies the need for well-known operating procedures and robust refresher training.

SARC Supervisors

The Services provided contact information for 241 SARC supervisors. The weighted response rate was 45%. These individuals had direct oversight of the SAPR Program at their installations, and across the Services, these individuals were primarily DOD civilians or Service Members. Supervisors were also in a position to assess the placement of the program in the organizational structure and the adequacy of current resources to achieve program goals. Responses from SARC supervisors allowed us to collect information about the status of the SAPR Program at installations whose SARCs were contractors.

Status. Half of SARC supervisors who responded were Service Members, and half were DOD civilians. Air Force and Marine Corps SARCs were likely to be supervised by Service Members (primarily field grade officers) whereas Navy SARCs were more likely to be supervised by civilians. Most SARC supervisors indicated they were NSPS employees. Pay band stratification was not available.

Number of supervisees. Most supervisors in our sample indicated they had supervisory responsibilities for only one SARC. Fewer than 10% indicated they supervised two SARCs.

Limitations: How Respondents Differ from Target Populations

Our survey of SARCs has some severe limitations. Because many Army (59%) and Navy (53%) SARCs are contractors, they were not included in our sample. The Army does train and deploy uniformed SARCs to the AOR, and these individuals were included in our sample. Our over-sampling of active duty and deployed SARCs means that our sample may be less experienced and more likely to be doing SARC duty as collateral than SARCs in the population.

Our lists of Victim Advocates from the Air Force and Army included only those already deployed to Afghanistan or Iraq, rather than all deployable Victim Advocates in the program (i.e., all uniformed VAs) because service program managers did not have ready access to a list of all deployable Victim Advocates on stateside installations. That means there were fewer VAs in our sample from these Services (i.e., Navy and Marine Corps VAs were over-represented), and an underrepresentation of the opinions of uniformed VAs who served stateside and in other overseas installations. Because we chose to survey deployable VAs, we cannot know how civilian victim advocates' would rate this program. Note that civilian Victim Advocates were more likely to be more experienced and have served as professional (rather than volunteer) Victim Advocates.

Our list of SARC supervisors represents a census of individuals in this position. The strong response rate means we can confidently use results from this sample to make inferences about the population of SARC supervisors.

1. Quick Compass Survey of Victim Advocates

Survey Instrument

Sexual Assault Victims' Advocates

BACKGROUND INFORMATION

1. **Are you currently a Victims' Advocate (also referred to as a SAVI)? *Mark "Yes" or "No".***
   - ☒ Yes
   - ☒ No

2. **When you are performing your Victims' Advocate duties, what is your status? *Mark one.***
   - ☒ Active duty military
   - ☒ National Guard/Reserve
   - ☒ DoD civilian employee
   - ☒ Contractor

3. *[Ask if Q2 = Active duty military]* **Of which Service are you a member? *Mark one.***
   - ☒ Army
   - ☒ Navy
   - ☒ Marine Corps
   - ☒ Air Force

4. *[Ask if Q2 = National Guard/Reserve]* **Of which Reserve component are you a member? *Mark one.***
   - ☒ Army National Guard
   - ☒ Army Reserve
   - ☒ Naval Reserve
   - ☒ Marine Corps Reserve
   - ☒ Air National Guard
   - ☒ Air Force Reserve

5. *[Ask if Q2 = Active duty military OR National Guard/Reserve]* **What is your paygrade? *Mark one.***

☒ E-1	☒ E-6	☒ W-1	☒ O-1/O-1E
☒ E-2	☒ E-7	☒ W-2	☒ O-2/O-2E
☒ E-3	☒ E-8	☒ W-3	☒ O-3/O-3E
☒ E-4	☒ E-9	☒ W-4	☒ O-4
☒ E-5		☒ W-5	☒ O-5
			☒ O-6 or above

6. *[Ask if Q2 = DoD civilian employee]* **For which Department of Defense (DoD) component do you work? *Mark one.***
   - ☒ Army
   - ☒ Navy
   - ☒ Marine Corps
   - ☒ Air Force
   - ☒ DoD Office, Agency, or Field Activity

7. *[Ask if Q2 = DoD civilian employee]* **What is your pay plan? *Mark one.***
   - ☒ GS/GM
   - ☒ WG
   - ☒ WL
   - ☒ WS
   - ☒ SES
   - ☒ NSPS pay plan
   - ☒ Demonstration/alternative project pay system
   - ☒ Other

8. *[Ask if Q2 = DoD civilian employee AND Q7 = GS/GM]* **What is your paygrade? *Mark one.***
   - ☒ GS 1
   - ☒ GS 2
   - ☒ GS 3
   - ☒ GS 4
   - ☒ GS 5
   - ☒ GS 6
   - ☒ GS 7
   - ☒ GS 8
   - ☒ GS 9
   - ☒ GS 10
   - ☒ GS 11
   - ☒ GS 12
   - ☒ GS/GM 13
   - ☒ GS/GM 14
   - ☒ GS/GM 15
   - ☒ GS/GM 16
   - ☒ GS/GM 17
   - ☒ GS/GM 18

9. What is the status of the individual who supervises your duties as a Victims' Advocate? *Mark one.*

- ☒ Active duty military
- ☒ National Guard/Reserve
- ☒ DoD civilian employee
- ☒ Contractor

10. Is there a SARC at your military location? *Mark "Yes" or "No".*

- ☒ Yes
- ☒ No

11. How long have you served in the capacity of Victims' Advocate? *Mark one.*

- ☒ Less than one year
- ☒ One year but less than two years
- ☒ Two years but less than three years
- ☒ Three years or more

12. Have you been deployed as a Victims' Advocate? *Mark one.*

- ☒ Yes, I am currently deployed as a Victims' Advocate
- ☒ Yes, I have been previously deployed as a Victims' Advocate, but am not currently deployed
- ☒ No, I have not been deployed as a Victims' Advocate

13. Which of the following best describes your military location (i.e., ship, installation, base, post)? *Mark one.*

- ☒ In one of the 50 states, DC, Puerto Rico, a U.S. territory or possession
- ☒ Europe (e.g., Bosnia-Herzegovina, Germany, Italy, Serbia, United Kingdom)
- ☒ Former Soviet Union (e.g., Russia, Tajikistan, Uzbekistan)
- ☒ East Asia and Pacific (e.g., Australia, Japan, Korea)
- ☒ Iraq or Afghanistan
- ☒ Near East, South Asia, or Africa but not Iraq or Afghanistan (e.g., Bahrain, Diego Garcia, Kuwait, Saudi Arabia, Kenya, South Africa)
- ☒ Western Hemisphere (e.g., Cuba, Honduras, Peru)
- ☒ Other or not sure

14. How many Victims' Advocates serve the population that you serve? *Mark one.*

- ☒ I am the only one
- ☒ There is ONE other Victims' Advocate in addition to me
- ☒ There are TWO other Victims' Advocates in addition to me
- ☒ There are THREE OR MORE other Victims' Advocates in addition to me

15. How many total personnel (including active duty, National Guard, and Reserve members) comprise the population you serve?

[ ] Personnel

TRAINING

16. Have you received training... *Mark "Yes" or "No" for each item.*

	Yes	No
a. To prepare you for assisting victims of sexual assault?	☒	☒
b. Specific to assisting victims of sexual assault in a deployed environment?	☒	☒
c. To prepare you to perform SARC duties?	☒	☒

17. How well prepared are you to perform the following duties? *Mark one answer for each item.*

	Very poorly prepared	Poorly prepared	Neither well nor poorly prepared	Well prepared	Very well prepared
a. Personally interact with victims	☒	☒	☒	☒	☒
b. Perform case management responsibilities	☒	☒	☒	☒	☒
c. Advise victims of restricted and unrestricted reporting options	☒	☒	☒	☒	☒
d. Work with on-base agencies for victim care	☒	☒	☒	☒	☒
e. Work with off-base agencies for victim care	☒	☒	☒	☒	☒
f. Work with the local SARC for program execution	☒	☒	☒	☒	☒
g. Work with victims from other Services or Reserve components	☒	☒	☒	☒	☒

18. How would you respond to each of the following statements regarding your duties assisting victims of sexual assault? ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. I willingly volunteered for duties assisting victims of sexual assault	☐	☐	☐	☐	☐
b. During or after training, I shadowed someone who was already providing assistance to victims of sexual assault	☐	☐	☐	☐	☐

19. *[Ask if Q12 = Yes, I am currently deployed as a Victims' Advocate OR Yes, I have been previously deployed as a Victims' Advocate, but am not currently deployed]* **When you were deployed as a Victims' Advocate, did you...** ***Mark "Yes" or "No" for each item.***

	Yes	No
a. Shadow the departing person who had been responsible for providing assistance to victims of sexual assault?	☐	☐
b. Receive an orientation to medical resources available for sexual assault victims (e.g., location of Sexual Assault Forensic Examination [SAFE] kits)?	☐	☐
c. Receive an orientation on options for transporting victims to service provider locations?	☐	☐
d. Receive an orientation by the local commander on how to handle notifications of a sexual assault?	☐	☐
e. Work with the departing person who had been responsible for providing assistance to victims of sexual assault to transition existing cases?	☐	☐
f. Receive an orientation on the records management procedures used at the deployed location?	☐	☐
g. Receive an orientation on how to coordinate victim services when a restricted report is chosen?	☐	☐
h. Have prior experience working in a Sexual Assault Prevention and Response (SAPR) program?	☐	☐

PROGRAM

20. To what extent has the Sexual Assault Prevention and Response (SAPR) program been provided the following resources to conduct your duties assisting victims of sexual assault? ***Mark one answer for each item.***

	Not at all	Small extent	Moderate extent	Large extent	Very large extent
a. Time to perform your duties assisting victims	☐	☐	☐	☐	☐
b. Administrative support	☐	☐	☐	☐	☐
c. SAFE kits	☐	☐	☐	☐	☐
d. Clothing for victims	☐	☐	☐	☐	☐
e. Transportation	☐	☐	☐	☐	☐
f. Safe space to meet with victims	☐	☐	☐	☐	☐
g. Private space to meet with victims	☐	☐	☐	☐	☐
h. *[Ask if Q12 = Yes, I am currently deployed as a Victims' Advocate OR Yes, I have been previously deployed as a Victims' Advocate, but am not currently deployed]* Reachback support (i.e., the ability to call stateside and get help/ advice dealing with a case)	☐	☐	☐	☐	☐

21. To what extent do you agree or disagree with the following statements? ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. I am recognized as the "go to" person for issues related to sexual assault (policy/program matters, victim care coordination, training, etc.)	☐	☐	☐	☐	☐
b. I have access to local commanders	☐	☐	☐	☐	☐

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
c. My other duties interfere with my duties assisting victims of sexual assault	☒	☒	☒	☒	☒
d. I can depend on my SARC to provide professional guidance and advice	☒	☒	☒	☒	☒
e. Use of alcohol and/or other intoxicating substances by installation personnel contributes to our sexual assault problem	☒	☒	☒	☒	☒
f. Programs to promote responsible drinking and reduce substance abuse have reduced the risk of sexual assault at my military location	☒	☒	☒	☒	☒

22. In your experience, to what extent do you agree or disagree that commanders and supervisors at your military location... ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. Are supportive of the restricted reporting option?	☒	☒	☒	☒	☒
b. Understand restricted and unrestricted reporting options?	☒	☒	☒	☒	☒
c. Demonstrate a zero-tolerance attitude toward sexual assault?	☒	☒	☒	☒	☒
d. Make sexual assault awareness and prevention a priority?	☒	☒	☒	☒	☒
e. Make sexual assault response a priority?	☒	☒	☒	☒	☒
f. Understand their option to defer punishing the victim for any collateral misconduct until after the military justice process is completed?	☒	☒	☒	☒	☒

23. In your opinion, how effective is the SAPR program in... ***Mark one answer for each item.***

	Very ineffective	Ineffective	Neither effective nor ineffective	Effective	Very effective
a. Promoting awareness of sexual assault as a military readiness issue?	☒	☒	☒	☒	☒
b. Promoting prevention strategies (e.g., bystander intervention, safe drinking practices)?	☒	☒	☒	☒	☒
c. Responding to unrestricted reports of sexual assault?	☒	☒	☒	☒	☒
d. Explaining the consequences of committing sexual assault (e.g., administrative/ disciplinary actions, impact on military career)?	☒	☒	☒	☒	☒
e. Advertising the SAPR program and how to contact a SARC?	☒	☒	☒	☒	☒
f. Explaining the difference between restricted and unrestricted reporting options?	☒	☒	☒	☒	☒
g. Explaining what behaviors constitute sexual assault?	☒	☒	☒	☒	☒
h. Training Victims' Advocates to provide high quality assistance to victims?	☒	☒	☒	☒	☒

24. *[Ask if Q10 = Yes]* **How often do you discuss the progress of your cases with the SARC?** ***Mark one.***

- ☒ At least daily
- ☒ At least weekly, but not daily
- ☒ At least monthly, but not weekly
- ☒ Less than once a month

25. Does the SAPR program have clear procedures for... ***Mark one answer for each item.***

	Don't know	No	Yes
a. Handling cases in a joint operating environment?	☒	☒	☒
b. Handling cases involving foreign nationals?	☒	☒	☒

	Yes	No	Don't know
c. Handling cases involving civilians (DoD civilian employees, dependents)?	☒	☒	☒
d. Handling cases involving contractors?	☒	☒	☒
e. Ensuring the SARC's and Victims' Advocate's personal safety when handling cases?	☒	☒	☒
f. Establishing a military protective order?	☒	☒	☒
g. Ensuring victims' safety when handling cases?	☒	☒	☒
h. Handling cases involving visiting personnel, such as trainees, National Guard and Reserve members?	☒	☒	☒

VICTIM CARE

26. To what extent do you agree or disagree with the following statements about victim care within the SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
a. Victims of sexual assault receive the best care possible	☒	☒	☒	☒	☒
b. There are sufficient personnel to handle the sexual assault victim caseload	☒	☒	☒	☒	☒
c. I am readily available to handle victims' needs	☒	☒	☒	☒	☒
d. Personnel understand the resources available if they or a peer experience sexual assault	☒	☒	☒	☒	☒
e. Commanders place priority on victim care	☒	☒	☒	☒	☒
f. Victim care is a higher priority than dealing with collateral misconduct, such as underage drinking	☒	☒	☒	☒	☒
g. Victims are protected from further physical harm (e.g., from offenders)	☒	☒	☒	☒	☒
h. Female and male victims of sexual assault receive the same level of care and support	☒	☒	☒	☒	☒
i. A trained representative of the SAPR program is available 24/7 for victim care	☒	☒	☒	☒	☒
j. Victims of sexual assault are well informed about the range of support services available to them	☒	☒	☒	☒	☒
k. First responders other than Victims' Advocates are adequately prepared to assist victims	☒	☒	☒	☒	☒

[Ask if Q26 a-k = Disagree OR Strongly disagree]

Please explain how victim care could be improved within the SAPR program.

27. To what extent do you agree or disagree with the following statements about the reporting process within the SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
a. Commanders respect the confidentiality aspects of restricted reports	☒	☒	☒	☒	☒
b. Victims are protected from negative consequences for participating in the SAPR program	☒	☒	☒	☒	☒
c. Restricted reporting policies have benefited victims of sexual assault	☒	☒	☒	☒	☒
d. Current policies (as implemented) encourage victims to report sexual assault	☒	☒	☒	☒	☒
e. Current procedures make it possible for a victim to truly make a restricted report	☒	☒	☒	☒	☒

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[Ask if Q27 a-e = Disagree OR Strongly disagree]
Please explain how the reporting process could be improved within the SAPR program.

28. In your experience, do victims understand the implications of choosing between restricted and unrestricted reporting at the time they make their decision? *Mark one.*

- ☒ Yes
- ☒ No
- ☒ Sometimes, but not always

[Ask if Q28 = No OR Sometimes, but not always]
Please explain how victims could be better prepared for making their choice between restricted and unrestricted reporting.

PROGRAM COORDINATION

29. To what extent do you agree or disagree with the following statements about interactions among agencies that provide victim care within the SAPR program? *Mark one answer for each item.*

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Not applicable
a. The SARC takes the lead in forging/ maintaining collaborative relationships among military responders (e.g., medical, legal, investigative, chaplains) for victim care	☒	☒	☒	☒	☒	☒
b. The SARC has strong working relationships with local civilian agencies (e.g., local rape crisis center, hospitals, police) for victim care	☒	☒	☒	☒	☒	☒
c. The SARC(s) or someone else on the SAPR staff collaborates with the alcohol/ substance abuse program manager to promote an understanding of the relationship between alcohol/ substance abuse and sexual assault	☒	☒	☒	☒	☒	☒
d. The SARC(s) or someone else on the SAPR program staff collaborates with equal opportunity program representatives to promote an understanding of the difference between sexual harassment and sexual assault	☒	☒	☒	☒	☒	☒
e. Family assistance/ awareness program staff refer sexual assault victims to the SARC	☒	☒	☒	☒	☒	☒

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Not applicable
f. The SARC refers victims of domestic violence to the Family Advocacy Program or other service agencies	☒	☒	☒	☒	☒	☒
g. *[Ask if Q12 = Yes, I am currently deployed as a Victims' Advocate OR Yes, I have been previously deployed as a Victims' Advocate, but am not currently deployed]* While deployed, I have coordinated with another Service or Reserve component to care for a sexual assault victim from their Service	☒	☒	☒	☒	☒	☒
h. *[Ask if Q12 = Yes, I am currently deployed as a Victims' Advocate OR Yes, I have been previously deployed as a Victims' Advocate, but am not currently deployed]* While deployed, I have coordinated with a federal partner or coalition force to care for a sexual assault victim from their organization	☒	☒	☒	☒	☒	☒

PROGRAM EVALUATION

30. Have you received any complaints about the following in the past 24 months? *Mark "Yes" or "No" for each item.*

	Yes	No
a. Training received through the SAPR program	☒	☒
b. Victim care	☒	☒
c. Disclosure of confidential "covered communications"	☒	☒
d. Commanders' lack of access to restricted case details	☒	☒
e. Other aspects of the SAPR program	☒	☒

[Ask if Q30 e = Yes] **What other complaint did you receive?**

[Ask if Q30 a-e = Yes] **How did you handle the complaint(s) you received?**

RECOMMENDATIONS

31. *[Ask if Q12 = Yes, I am currently deployed as a Victims' Advocate OR Yes, I have been previously deployed as a Victims' Advocate, but am not currently deployed]* **Please describe anything about the deployed environment that makes it particularly challenging to execute the SAPR program.**

32. What are the most challenging aspects of executing the SAPR program at your military location?

33. What recommendations do you have to improve sexual assault prevention and response at your military location?

TAKING THE SURVEY

262. Thank you for participating in the [Name of Survey]. There are no more questions on this survey. If you would like to receive a message advising you of when and where the results will be available, please provide your e-mail address. Your address will only be used for this purpose.

263. If you have comments or concerns that you were not able to express in answering this survey, please enter them in the space provided. Your comments will be viewed and considered as policy deliberations take place. Any comments you make on this questionnaire will be kept confidential, and no follow-up action will be taken in response to any specifics reported. Your feedback is useful and appreciated.

2. Quick Compass Survey of SARC Supervisors

Survey Instrument

Supervisors of Sexual Assault Response Coordinators

BACKGROUND INFORMATION

1. In your current position, do you have the following supervisory responsibilities for Sexual Assault Response Coordinators (SARCs)? *Mark "Yes" or "No" for each item.*

	Yes	No
a. Performance evaluation	☒	☒
b. Work assignment	☒	☒
c. Case management	☒	☒
d. Administrative oversight	☒	☒
e. Other	☒	☒

[Ask if Q1 e = Yes] **What other supervisory responsibilities do you have for SARCs?**

2. How many SARCs do you directly supervise?

_____ SARCs

3. When you are performing your duties as supervisor of a SARC(s), what is your status? *Mark one.*

- ☒ Active duty military
- ☒ National Guard/Reserve
- ☒ DoD civilian employee
- ☒ Contractor

4. *[Ask if Q3 = Active duty military]* **Of which Service are you a member? *Mark one.***

- ☒ Army
- ☒ Navy
- ☒ Marine Corps
- ☒ Air Force

5. *[Ask if Q3 = National Guard/Reserve]* **Of which Reserve component are you a member? *Mark one.***

- ☒ Army National Guard
- ☒ Army Reserve
- ☒ Naval Reserve
- ☒ Marine Corps Reserve
- ☒ Air National Guard
- ☒ Air Force Reserve

6. *[Ask if Q3 = Active duty military OR National Guard/ Reserve]* **What is your paygrade? *Mark one.***

☒ E-1	☒ E-6	☒ W-1	☒ O-1/O-1E
☒ E-2	☒ E-7	☒ W-2	☒ O-2/O-2E
☒ E-3	☒ E-8	☒ W-3	☒ O-3/O-3E
☒ E-4	☒ E-9	☒ W-4	☒ O-4
☒ E-5		☒ W-5	☒ O-5
			☒ O-6 or above

7. *[Ask if Q3 = DoD civilian employee]* **For which Department of Defense (DoD) component do you work? *Mark one.***

- ☒ Army
- ☒ Navy
- ☒ Marine Corps
- ☒ Air Force
- ☒ DoD Office, Agency, or Field Activity

8. *[Ask if Q3 = DoD civilian employee]* **What is your pay plan? *Mark one.***

- ☒ GS/GM
- ☒ WG
- ☒ WL
- ☒ WS
- ☒ SES
- ☒ NSPS pay plan
- ☒ Demonstration/alternative project pay system
- ☒ Other

9. *[Ask if Q3 = DoD civilian employee AND Q8 = GS/GM]* **What is your paygrade? *Mark one.***

- ☒ GS 1
- ☒ GS 2
- ☒ GS 3
- ☒ GS 4
- ☒ GS 5
- ☒ GS 6
- ☒ GS 7
- ☒ GS 8
- ☒ GS 9
- ☒ GS 10
- ☒ GS 11
- ☒ GS 12
- ☒ GS/GM 13
- ☒ GS/GM 14
- ☒ GS/GM 15
- ☒ GS/GM 16
- ☒ GS/GM 17
- ☒ GS/GM 18

10. Which of the following best describes your military location (i.e., ship, installation, base, post). *Mark one.*

- ☒ In one of the 50 states, DC, Puerto Rico, a U.S. territory or possession
- ☒ Europe (e.g., Bosnia-Herzegovina, Germany, Italy, Serbia, United Kingdom)
- ☒ Former Soviet Union (e.g., Russia, Tajikistan, Uzbekistan)
- ☒ East Asia and Pacific (e.g., Australia, Japan, Korea)
- ☒ Iraq or Afghanistan
- ☒ Near East, South Asia, or Africa but not Iraq or Afghanistan (e.g., Bahrain, Diego Garcia, Kuwait, Saudi Arabia, Kenya, South Africa)
- ☒ Western Hemisphere (e.g., Cuba, Honduras, Peru)
- ☒ Other or not sure

11. *[Ask if Q2 = 1]* **Which one of the following best describes the military location of the SARC you supervise? *Mark one.***

- ☒ In one of the 50 states, DC, Puerto Rico, a U.S. territory or possession
- ☒ Europe (e.g., Bosnia-Herzegovina, Germany, Italy, Serbia, United Kingdom)
- ☒ Former Soviet Union (e.g., Russia, Tajikistan, Uzbekistan)
- ☒ East Asia and Pacific (e.g., Australia, Japan, Korea)
- ☒ Iraq or Afghanistan
- ☒ Near East, South Asia, or Africa but not Iraq or Afghanistan (e.g., Bahrain, Diego Garcia, Kuwait, Saudi Arabia, Kenya, South Africa)
- ☒ Western Hemisphere (e.g., Cuba, Honduras, Peru)
- ☒ Other or not sure

12. *[Ask if Q2 > 1]* **Which of the following best describe the military locations of the SARCs you supervise? *Mark all that apply.***

- ☒ In one of the 50 states, DC, Puerto Rico, a U.S. territory or possession
- ☒ Europe (e.g., Bosnia-Herzegovina, Germany, Italy, Serbia, United Kingdom)
- ☒ Former Soviet Union (e.g., Russia, Tajikistan, Uzbekistan)
- ☒ East Asia and Pacific (e.g., Australia, Japan, Korea)
- ☒ Iraq or Afghanistan
- ☒ Near East, South Asia, or Africa but not Iraq or Afghanistan (e.g., Bahrain, Deigo Garcia, Kuwait, Saudi Arabia, Kenya, South Africa)
- ☒ Western Hemisphere (e.g., Cuba, Honduras, Peru)
- ☒ Other or not sure

13. Do you supervise a SARC(s) from another Service or Reserve Component than your own? *Mark "Yes" or "No".*

- ☒ Yes
- ☒ No

14. How many total personnel (including active duty, National Guard, and Reserve members) comprise the population your SARC(s) serve?

[ ] Personnel

15. How geographically dispersed is the population served by your SARC(s)? (If more than one SARC, consider the SARC who serves the greatest number of personnel.) *Mark one.*

- ☒ The personnel my SARC(s) serves are all located at the same military location (i.e., ship, installation, base, post)
- ☒ The majority of personnel my SARC(s) serves are located at the same military location with a few at other locations
- ☒ The majority of personnel my SARC(s) serves are located at geographically dispersed locations

16. How many hours do you spend per week supervising each of your SARC(s)?

[ ] Hours per week

17. To what extent do your responsibilities as the supervisor of SARCs interfere with your other duties? *Mark one.*

- ☒ Not at all
- ☒ Small extent
- ☒ Moderate extent
- ☒ Large extent
- ☒ Very large extent

18. *[Ask if Q2 = 1]* **Which one of the following statements best describes the duties of the SARC you supervise? *Mark one.***

- ☒ Being a SARC is the individual's sole duty
- ☒ Being a SARC is typically the individual's primary duty, among multiple responsibilities
- ☒ Being a SARC is a collateral duty

19. *[Ask if Q2 > 1]* **Which of the following statements best describe the duties of the SARCs you supervise? *Mark all that apply.***

- ☒ Being a SARC is an individual's sole duty
- ☒ Being a SARC is typically an individual's primary duty, among multiple responsibilities
- ☒ Being a SARC is a collateral duty

[Ask if Q18 = Being a SARC is a collateral duty OR Q19 c = Marked] **When being a SARC is a collateral duty, what are the primary duties of the SARC(s)?**

[ ]

20. *[Ask if Q18 = Being a SARC is a collateral duty OR Q19 c = Marked]* **To what extent do collateral duties interfere with the SARC's ability to perform as a SARC? *Mark one.***

- ☒ Not at all
- ☒ Small extent
- ☒ Moderate extent
- ☒ Large extent
- ☒ Very large extent
- ☒ Don't know

21. *[Ask if Q2 = 1]* **Is the SARC you supervise a... *Mark one.***

- ☒ Government service civilian?
- ☒ Contractor civilian?
- ☒ Military personnel?

22. *[Ask if Q2 > 1]* **Are the SARCs you supervise... *Mark all that apply.***

- ☒ Government service civilians?
- ☒ Contractor civilians?
- ☒ Military personnel?

23. *[Ask if Q2 = 1 AND Q21 = Government service civilian]* **What is the pay plan of the SARC you supervise? *Mark one.***

- ☒ GS/GM
- ☒ WG
- ☒ WL
- ☒ WS
- ☒ SES
- ☒ NSPS pay plan
- ☒ Demonstration/alternative project pay system
- ☒ Other

24. *[Ask if Q2 > 1 AND Q22 a = Marked]* **What are the pay plans of the SARCs you supervise?** ***Mark all that apply.***

- ☒ GS/GM
- ☒ WG
- ☒ WL
- ☒ WS
- ☒ SES
- ☒ NSPS pay plan
- ☒ Demonstration/alternative project pay system
- ☒ Other

25. *[Ask if Q2 = 1 AND Q21 = Government service civilian AND Q23 = GS/GM]* **What is the paygrade of the SARC you supervise?** ***Mark one.***

- ☒ GS 1
- ☒ GS 2
- ☒ GS 3
- ☒ GS 4
- ☒ GS 5
- ☒ GS 6
- ☒ GS 7
- ☒ GS 8
- ☒ GS 9
- ☒ GS 10
- ☒ GS 11
- ☒ GS 12
- ☒ GS/GM 13
- ☒ GS/GM 14
- ☒ GS/GM 15
- ☒ GS/GM 16
- ☒ GS/GM 17
- ☒ GS/GM 18

26. *[Ask if Q2 > 1 AND Q22 a = Marked AND Q24 a = Marked]* **What are the paygrades of the SARCs you supervise?** ***Mark all that apply.***

- ☒ GS 1
- ☒ GS 2
- ☒ GS 3
- ☒ GS 4
- ☒ GS 5
- ☒ GS 6
- ☒ GS 7
- ☒ GS 8
- ☒ GS 9
- ☒ GS 10
- ☒ GS 11
- ☒ GS 12
- ☒ GS/GM 13
- ☒ GS/GM 14
- ☒ GS/GM 15
- ☒ GS/GM 16
- ☒ GS/GM 17
- ☒ GS/GM 18

27. *[Ask if Q2 = 1 AND Q21 = Contractor civilian]* **What is the military paygrade equivalent of the SARC you supervise?** ***Mark one.***

- ☒ O1-O3
- ☒ O4-O6
- ☒ E1-E4
- ☒ E5-E7
- ☒ E8-E9

28. *[Ask if Q2 > 1 AND Q22 b = Marked]* **What are the military paygrade equivalents of the SARCs you supervise?** ***Mark all that apply.***

- ☒ O1-O3
- ☒ O4-O6
- ☒ E1-E4
- ☒ E5-E7
- ☒ E8-E9

29. *[Ask if Q2 = 1 AND Q21 = Military personnel]* **What is the military paygrade of the SARC you supervise?** ***Mark one.***

☒ E-1 ☒ E-6 ☒ W-1 ☒ O-1/O-1E

☒ E-2 ☒ E-7 ☒ W-2 ☒ O-2/O-2E
☒ E-3 ☒ E-8 ☒ W-3 ☒ O-3/O-3E
☒ E-4 ☒ E-9 ☒ W-4 ☒ O-4
☒ E-5 ☒ W-5 ☒ O-5
☒ O-6 or above

30. *[Ask if Q2 > 1 AND Q22 c = Marked]* **What are the military paygrades of the SARCs you supervise?** ***Mark all that apply.***

☒ E-1
☒ E-2
☒ E-3
☒ E-4
☒ E-5
☒ E-6
☒ E-7
☒ E-8
☒ E-9
☒ W-1
☒ W-2
☒ W-3
☒ W-4
☒ W-5
☒ O-1/O-1E
☒ O-2/O-2E
☒ O-3/O-3E
☒ O-4
☒ O-5
☒ O-6

31. On average, how long do the SARCs you supervise stay in the position? ***Mark one.***

☒ Less than one year
☒ One year but less than two years
☒ Two years but less than three years
☒ Three years or more

32. *[Ask if Q31 = Less than one year OR One year but less than two years]* **To what extent has turnover impacted your Sexual Assault Prevention and Response (SAPR) program?** ***Mark one.***

☒ Not at all
☒ Small extent
☒ Moderate extent
☒ Large extent
☒ Very large extent

[Ask if Q32 = Large extent OR Very large extent]
Please explain how turnover has impacted your SAPR program.

33. Overall, does your SARC(s)... ***Mark "Yes" or "No" for each item.***

	Yes	No
a. Attend the Sexual Assault Case Management Group/Sexual Assault Review Board?	☒	☒
b. Lead the Sexual Assault Case Management Group/Sexual Assault Review Board?	☒	☒
c. Receive updates on cases of sexual assault that have occurred at their military location?	☒	☒
d. Participate in the selection of Victims' Advocates?	☒	☒
e. Use your Service or Reserve component's records management system for tracking cases?	☒	☒
f. Understand the chain of command for reporting incidents of sexual assault?	☒	☒
g. Train Victims' Advocates?	☒	☒
h. Ask for feedback from victims on the quality of care they received?	☒	☒
i. Ensure sexual assault data is analyzed to identify trends and areas of concern?	☒	☒
j. Promote active bystander intervention at your military location?	☒	☒

2009 QuickCompass of Supervisors of Sexual Assault Response Coordinators

TRAINING

34. Overall, to what extent has your SARC(s) received training to do his/her job effectively? *Mark one.*

- ☒ Very large extent
- ☒ Large extent
- ☒ Moderate extent
- ☒ Small extent
- ☒ Not at all

[Ask if Q34 = Small extent OR Not at all] **What additional training does your SARC(s) need to do his/her job effectively?**

35. Overall, how well prepared are your SARC(s) to perform the following duties? *Mark one answer for each item.*

	Not applicable	Very poorly prepared	Poorly prepared	Neither well nor poorly prepared	Well prepared	Very well prepared
a. Personally interact with victims	☒	☒	☒	☒	☒	☒
b. Perform case management responsibilities	☒	☒	☒	☒	☒	☒
c. Develop prevention and outreach programs/ activities (e.g., Sexual Assault Awareness Month programs, hotline advertisements/ awareness campaigns)	☒	☒	☒	☒	☒	☒
d. Develop training (e.g., annual personnel training, training for commanders/ first sergeants and Victims' Advocates)	☒	☒	☒	☒	☒	☒
e. Deliver training	☒	☒	☒	☒	☒	☒
f. Work with victims from other Services or Reserve components	☒	☒	☒	☒	☒	☒

PROGRAM

36. To what extent has your SAPR program been provided resources for the following? *Mark "Yes" or "No" for each item.*

	Not at all	Small extent	Moderate extent	Large extent	Very large extent
a. Promotional items/ advertising	☒	☒	☒	☒	☒
b. Training development	☒	☒	☒	☒	☒
c. Training delivery	☒	☒	☒	☒	☒
d. Awareness/outreach programs	☒	☒	☒	☒	☒
e. Administrative support	☒	☒	☒	☒	☒
f. Sexual Assault Forensic Examination (SAFE) kits	☒	☒	☒	☒	☒
g. Private space for meeting with victims	☒	☒	☒	☒	☒
h. Safe space for meeting with victims	☒	☒	☒	☒	☒
i. Conference/training support	☒	☒	☒	☒	☒
j. Personnel	☒	☒	☒	☒	☒

[Ask if Q36 a-j = Not at all OR Small extent] **What additional resources are needed at your SARC(s) military location(s) to support the SAPR program?**

37. To what extent do you agree or disagree with the following statements? ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. The SARC(s) is recognized as the "go to" person for issues related to sexual assault (policy/ program matters, victim care coordination, training, etc.)	☒	☒	☒	☒	☒
b. The SARC(s) has direct access to local commanders	☒	☒	☒	☒	☒
c. The SARC(s) has the full support of local commanders	☒	☒	☒	☒	☒
d. The SARC(s) provides updates to senior commanders on a recurring basis	☒	☒	☒	☒	☒
e. There are procedures in place to protect SARCs and Victims' Advocates from negative consequences for following SAPR directives	☒	☒	☒	☒	☒
f. Use of alcohol and/or other intoxicating substances by installation personnel contributes to our sexual assault problem	☒	☒	☒	☒	☒

38. To what extent do you agree or disagree that commanders and supervisors at your SARC's military location... ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. Would bring issues of sexual assault to the SARC (e.g., program matters, victim care, training)?	☒	☒	☒	☒	☒
b. Are supportive of the restricted reporting option?	☒	☒	☒	☒	☒
c. Understand restricted and unrestricted reporting options?	☒	☒	☒	☒	☒
d. Demonstrate a zero-tolerance attitude toward sexual assault?	☒	☒	☒	☒	☒
e. Make sexual assault awareness and prevention a priority?	☒	☒	☒	☒	☒
f. Make sexual assault response a priority?	☒	☒	☒	☒	☒
g. Understand their option to defer punishment of the victim for collateral misconduct until after the military justice process is completed?	☒	☒	☒	☒	☒
h. Participate actively in the Sexual Assault Case Management Group/ Sexual Assault Review Board?	☒	☒	☒	☒	☒

39. In your opinion, how effective is your SAPR program in... ***Mark one answer for each item.***

	Very ineffective	Ineffective	Neither effective nor ineffective	Effective	Very effective
a. Promoting awareness of sexual assault as a military readiness issue?	☒	☒	☒	☒	☒
b. Promoting prevention strategies (e.g., bystander intervention, safe drinking practices)?	☒	☒	☒	☒	☒
c. Responding to unrestricted reports of sexual assault?	☒	☒	☒	☒	☒
d. Explaining the consequences of committing sexual assault (e.g., administrative/ disciplinary actions, impact on military career)?	☒	☒	☒	☒	☒
e. Advertising the SAPR program and how to contact a SARC?	☒	☒	☒	☒	☒

	Very ineffective	Ineffective	Neither effective nor ineffective	Effective	Very effective
f. Explaining the difference between restricted and unrestricted reporting options?	☒	☒	☒	☒	☒
g. Explaining what behaviors constitute sexual assault?	☒	☒	☒	☒	☒
h. Training Victims' Advocates to provide high quality assistance to victims?	☒	☒	☒	☒	☒
i. Ensuring personnel understand the resources available if they or a peer experience sexual assault?	☒	☒	☒	☒	☒
j. Providing targeted training to first responders?	☒	☒	☒	☒	☒
k. Ensuring commanders understand the value of the restricted reporting option?	☒	☒	☒	☒	☒

40. Does your SAPR program have clear procedures for... *Mark one answer for each item.*

	Don't know	No	Yes
a. Handling cases in a joint operating environment?	☒	☒	☒
b. Handling cases involving foreign nationals?	☒	☒	☒
c. Handling cases involving civilians (DoD civilian employees, dependents)?	☒	☒	☒
d. Handling cases involving contractors?	☒	☒	☒
e. Ensuring the SARC's and Victims' Advocate's personal safety when handling cases?	☒	☒	☒
f. Establishing a military protective order?	☒	☒	☒
g. Ensuring victims' safety when handling cases?	☒	☒	☒
h. Handling cases involving visiting personnel, such as trainees, National Guard and Reserve members?	☒	☒	☒
i. Handing off cases to the SARC at the victim's next duty location?	☒	☒	☒

41. To what extent do the following have a positive or negative impact on fulfilling the goals of the SAPR program? *Mark one answer for each item.*

	Very negative	Negative	Neither positive nor negative	Positive	Very positive
a. Placement of the SARC within the organizational structure	☒	☒	☒	☒	☒
b. Victims' Advocates	☒	☒	☒	☒	☒
c. Restricted reporting	☒	☒	☒	☒	☒
d. Commanders' attitudes toward victims of sexual assault	☒	☒	☒	☒	☒
e. Commanders' attitudes toward prosecution of offenders	☒	☒	☒	☒	☒
f. Case management/ reporting systems (Sexual Assault Case Management Group/ Sexual Assault Review Board meetings)	☒	☒	☒	☒	☒
g. Programs to promote responsible drinking and reduce substance abuse	☒	☒	☒	☒	☒

[Ask if Q41 a-g = Very negative OR Negative] **Please explain how the SAPR program has been negatively impacted at your military location by each item you marked as having a negative impact.**

VICTIM CARE

42. To what extent do you agree or disagree with the following statements about victim care within your SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
a. Victims of sexual assault receive the best care possible	☒	☒	☒	☒	☒
b. There are sufficient Victims' Advocates to handle the caseload	☒	☒	☒	☒	☒
c. The SARC(s) is readily available to handle victims' needs	☒	☒	☒	☒	☒
d. Commanders place priority on victim care	☒	☒	☒	☒	☒
e. Victim care is a higher priority than dealing with collateral misconduct, such as underage drinking	☒	☒	☒	☒	☒
f. Victims are protected from further physical harm (e.g., from offenders)	☒	☒	☒	☒	☒
g. Female and male victims of sexual assault receive the same level of care and support	☒	☒	☒	☒	☒
h. The SARC(s) documents services that victims request or to which victims are referred during the entire victim care cycle (e.g., from initial report through final disposition)	☒	☒	☒	☒	☒
i. A trained representative of the SAPR program is available 24/7 for victim care	☒	☒	☒	☒	☒
j. Victims of sexual assault are well informed about the range of support services available to them	☒	☒	☒	☒	☒
k. First responders other than Victims' Advocates are adequately prepared to assist victims	☒	☒	☒	☒	☒

[Ask if Q42 a-k = Strongly disagree OR Disagree]

Please explain how victim care could be improved within your SAPR program.

43. To what extent do you agree or disagree with the following statements about the reporting process within your SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
a. Commanders respect the confidentiality aspects of restricted reports	☒	☒	☒	☒	☒
b. Victims are protected from negative consequences for participating in the SAPR program	☒	☒	☒	☒	☒
c. Restricted reporting policies have benefited victims of sexual assault	☒	☒	☒	☒	☒
d. Current policies (as implemented) encourage victims to report sexual assault	☒	☒	☒	☒	☒
e. Current procedures make it possible for a victim to truly make a restricted report	☒	☒	☒	☒	☒

[Ask if Q43 a-e = Strongly disagree OR Disagree]

Please explain how the reporting process could be improved within your SAPR program.

PROGRAM COORDINATION

44. To what extent do you agree or disagree with the following statements about interactions among agencies that provide victim care within your SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Not applicable
a. SARCs take the lead in forging/ maintaining collaborative relationships among military responders (e.g., medical, legal, investigative, chaplains) for victim care	☒	☒	☒	☒	☒	☒
b. SARCs have strong working relationships with local civilian agencies (e.g., local rape crisis center, hospitals, police) for victim care	☒	☒	☒	☒	☒	☒
c. SARCs collaborate with the alcohol/ substance abuse program manager to promote an understanding of the relationship between alcohol/ substance abuse and sexual assault	☒	☒	☒	☒	☒	☒
d. SARCs collaborate with equal opportunity program representatives to promote an understanding of the difference between sexual harassment and sexual assault	☒	☒	☒	☒	☒	☒
e. Family assistance/ awareness program staff refer sexual assault victims to the SARC	☒	☒	☒	☒	☒	☒
f. SARCs refer victims of domestic violence to the Family Advocacy Program or other service agencies	☒	☒	☒	☒	☒	☒

PROGRAM EVALUATION

45. Has your SAPR program been evaluated by any of the following within the past 24 months? ***Mark one answer for each item.***

	Yes	No	Don't know
a. Sexual Assault Prevention and Response Office (SAPRO)	☒	☒	☒
b. DoD Inspector General's office	☒	☒	☒
c. Service Inspector General's office	☒	☒	☒
d. Installation/Command Inspector General's office	☒	☒	☒
e. Civilian agency	☒	☒	☒
f. Joint Commission on Accreditation of Health Care Organizations (JCAHCO)	☒	☒	☒

	Yes	No	Don't know
g. Other	☒	☒	☒

[Ask if Q45 g = Yes] **What other agency or office evaluated your SAPR program?**

46. Have you received any complaints about the following in the past 24 months? *Mark "Yes" or "No" for each item.*

	Yes	No
a. Training received through your SAPR program	☒	☒
b. The SARC(s) you supervise	☒	☒
c. Victims' Advocates	☒	☒
d. Victim care	☒	☒
e. Disclosure of confidential "covered communications"	☒	☒
f. Commanders' lack of access to restricted case details	☒	☒
g. Other aspects of your SAPR program	☒	☒

[Ask if Q46 g = Yes] **What other complaints did you receive?**

[Ask if Q46 a-g = Yes] **How did you handle the complaint(s) you received?**

RECOMMENDATIONS

47. What are the most challenging aspects of executing the SAPR program for you and/or the SARC(s) you supervise?

48. What recommendations do you have to improve sexual assault prevention and response at your military location and/or the military location of the SARC(s) you supervise?

TAKING THE SURVEY

49. If you have comments or concerns that you were not able to express in answering this survey, please enter them in the space provided. Your comments may be viewed and considered as policy deliberations take place. Any comments you make on this questionnaire will be kept confidential, and no follow-up action will be taken in response to any specifics reported. Your feedback is useful and appreciated.

3. Quick Compass Survey of SARCs

Survey Instrument

Sexual Assault Response Coordinators

BACKGROUND INFORMATION

1. **Are you a Sexual Assault Response Coordinator (SARC)? *Mark one.***
   - ☒ Yes, I am currently performing SARC duties
   - ☒ Yes, but I am not currently performing SARC duties
   - ☒ No, I am not a SARC

2. **When you are performing your SARC duties, what is your status? *Mark one.***
   - ☒ Active duty military
   - ☒ National Guard/Reserve
   - ☒ DoD civilian employee
   - ☒ Contractor

3. *[Ask if Q2 = Active duty military]* **Of which Service are you a member? *Mark one.***
   - ☒ Army
   - ☒ Navy
   - ☒ Marine Corps
   - ☒ Air Force

4. *[Ask if Q2 = National Guard/Reserve]* **Of which Reserve component are you a member? *Mark one.***
   - ☒ Army National Guard
   - ☒ Army Reserve
   - ☒ Naval Reserve
   - ☒ Marine Corps Reserve
   - ☒ Air National Guard
   - ☒ Air Force Reserve

5. *[Ask if Q2 = Active duty military OR National Guard/Reserve]* **What is your paygrade? *Mark one.***

☒ E-1	☒ E-6	☒ W-1	☒ O-1/O-1E
☒ E-2	☒ E-7	☒ W-2	☒ O-2/O-2E
☒ E-3	☒ E-8	☒ W-3	☒ O-3/O-3E
☒ E-4	☒ E-9	☒ W-4	☒ O-4
☒ E-5		☒ W-5	☒ O-5
			☒ O-6 or above

6. *[Ask if Q2 = DoD civilian employee]* **For which Department of Defense (DoD) component do you work? *Mark one.***
   - ☒ Army
   - ☒ Navy
   - ☒ Marine Corps
   - ☒ Air Force
   - ☒ DoD Office, Agency, or Field Activity

7. *[Ask if Q2 = DoD civilian employee]* **What is your pay plan? *Mark one.***
   - ☒ GS/GM
   - ☒ WG
   - ☒ WL
   - ☒ WS
   - ☒ SES
   - ☒ NSPS pay plan
   - ☒ Demonstration/alternative project pay system
   - ☒ Other

8. *[Ask if Q2 = DoD civilian employee AND Q7 = GS/GM]* **What is your paygrade? *Mark one.***
   - ☒ GS 1
   - ☒ GS 2
   - ☒ GS 3
   - ☒ GS 4
   - ☒ GS 5
   - ☒ GS 6
   - ☒ GS 7
   - ☒ GS 8
   - ☒ GS 9
   - ☒ GS 10
   - ☒ GS 11
   - ☒ GS 12
   - ☒ GS/GM 13
   - ☒ GS/GM 14
   - ☒ GS/GM 15
   - ☒ GS/GM 16
   - ☒ GS/GM 17
   - ☒ GS/GM 18

2009 QuickCompass of Sexual Assault Response Coordinators

9. How long have you served in the capacity of SARC? *Mark one.*

- ☒ Less than one year
- ☒ One year but less than two years
- ☒ Two years but less than three years
- ☒ Three years or more

10. Have you been deployed as a SARC? *Mark one.*

- ☒ Yes, I am currently deployed as a SARC
- ☒ Yes, I have been previously deployed as a SARC, but am not currently deployed
- ☒ No, I have not been deployed as a SARC

11. *[Ask if Q10 = Yes, I am currently deployed as a SARC OR Yes, I have been previously deployed as a SARC, but am not currently deployed]* **Prior to deploying as a SARC, were you given the opportunity to work in the Sexual Assault Prevention and Response (SAPR) program to gain experience? *Mark "Yes" or "No".***

- ☒ Yes
- ☒ No

12. What is the status of the individual who supervises your duties as a SARC? *Mark one.*

- ☒ Active duty military
- ☒ National Guard/Reserve
- ☒ DoD civilian employee
- ☒ Contractor

13. Which of the following best describes your military location (i.e., ship, installation, base, post). *Mark one.*

- ☒ In one of the 50 states, DC, Puerto Rico, a U.S. territory or possession
- ☒ Europe (e.g., Bosnia-Herzegovina, Germany, Italy, Serbia, United Kingdom)
- ☒ Former Soviet Union (e.g., Russia, Tajikistan, Uzbekistan)
- ☒ East Asia and Pacific (e.g., Australia, Japan, Korea)
- ☒ Iraq or Afghanistan
- ☒ Near East, South Asia, or Africa but not Iraq or Afghanistan (e.g., Bahrain, Diego Garcia, Kuwait, Saudi Arabia, Kenya, South Africa)
- ☒ Western Hemisphere (e.g., Cuba, Honduras, Peru)
- ☒ Other or not sure

14. How many SARCs serve the population that you serve? *Mark one.*

- ☒ I am the only one
- ☒ There is ONE other SARC in addition to me
- ☒ There are TWO other SARCs in addition to me
- ☒ There are THREE OR MORE other SARCs in addition to me

15. How many total personnel (including active duty, National Guard, and Reserve members) comprise the population you serve?

[ ] Personnel

16. How geographically dispersed is the population you serve? *Mark one.*

- ☒ The personnel I serve are all located at my military location
- ☒ The majority of personnel I serve are located at my military location with a few at other locations
- ☒ The majority of personnel I serve are located at geographically dispersed locations

17. In your current position as SARC, did you... *Mark one answer for each item.*

	Yes	No	Does not apply
a. Volunteer to be a SARC?	☒	☒	☒
b. Shadow the departing SARC?	☒	☒	☒
c. Receive an orientation on options for transporting victims to service provider locations?	☒	☒	☒
d. Receive an orientation by the local commander on how to handle notifications of a sexual assault?	☒	☒	☒
e. Work with the departing SARC on transition of existing cases?	☒	☒	☒
f. Receive an orientation on the records management procedures?	☒	☒	☒

18. As a SARC, do you... *Mark "Yes" or "No" for each item.*

	Yes	No
a. Attend the Sexual Assault Case Management Group/Sexual Assault Review Board?	☒	☒
b. Lead the Sexual Assault Case Management Group/Sexual Assault Review Board?	☒	☒
c. Receive updates on cases of sexual assault that have occurred at your military location?	☒	☒
d. Participate in the selection of Victims' Advocates?	☒	☒

	Yes	No
e. Use your Service or Reserve component's records management system for tracking cases?	☒	☒
f. Understand your chain of command for reporting incidents of sexual assault?	☒	☒
g. Train Victims' Advocates?	☒	☒
h. Ask for feedback from victims on the quality of care they received?	☒	☒
i. Ensure sexual assault data is analyzed to identify trends and areas of concern?	☒	☒
j. Promote active bystander intervention at your military location?	☒	☒

19. Are your duties as SARC... *Mark one.*

- ☒ Your sole duty?
- ☒ Your primary duty, among multiple responsibilities?
- ☒ A collateral duty?

20. *[Ask if Q19 = Your primary duty, among multiple responsibilities OR A collateral duty]* **To what extent do other duties interfere with your duties as SARC? *Mark one.***

- ☒ Not at all
- ☒ Small extent
- ☒ Moderate extent
- ☒ Large extent
- ☒ Very large extent

[Ask if Q19 = Your primary duty, among multiple responsibilities OR A collateral duty AND Q20 <> Not at all] **Please explain how your other duties interfere with your duties as SARC.**

21. Do you perform any of the following duties in addition to being a SARC? *Mark "Yes" or "No" for each item.*

	Yes	No
a. Victims' Advocate/SAVI	☒	☒
b. Sexual Assault Trainer	☒	☒
c. Alternate/Backup/Deployable SARC	☒	☒
d. Equal Opportunity Advisor	☒	☒
e. Inspector General	☒	☒
f. Other	☒	☒

[Ask if Q21 f = Yes] **Please describe the other duties you perform in addition to being a SARC.**

TRAINING

22. Have you received any of the following types of training? *Mark "Yes" or "No" for each item.*

	Yes	No
a. SARC training	☒	☒
b. Additional training to prepare you for SARC duties in a deployed environment	☒	☒
c. Victims' Advocate training	☒	☒

23. How well prepared are you to perform the following duties? *Mark one answer for each item.*

	Very poorly prepared	Poorly prepared	Neither well nor poorly prepared	Well prepared	Very well prepared
a. Personally interact with victims	☒	☒	☒	☒	☒
b. Perform case management responsibilities	☒	☒	☒	☒	☒
c. Develop prevention and outreach programs/ activities (e.g., Sexual Assault Awareness Month programs, hotline advertisements/awareness campaigns)	☒	☒	☒	☒	☒
d. Develop training (e.g., annual personnel training, training for commanders/ first sergeants and Victims' Advocates)	☒	☒	☒	☒	☒
e. Deliver training	☒	☒	☒	☒	☒
f. Work with victims from other Services or Reserve components	☒	☒	☒	☒	☒

2009 QuickCompass of Sexual Assault Response Coordinators

PROGRAM

24. To what extent has your SAPR program been provided the following resources? ***Mark one answer for each item.***

	Not at all	Small extent	Moderate extent	Large extent	Very large extent
a. Time to do SARC duties	☐	☐	☐	☐	☐
b. Space for delivering training	☐	☐	☐	☐	☐
c. Training supplies and equipment	☐	☐	☐	☐	☐
d. Promotional items/ advertising	☐	☐	☐	☐	☐
e. Sexual Assault Forensic Examination (SAFE) kits	☐	☐	☐	☐	☐
f. Clothing for victims	☐	☐	☐	☐	☐
g. Transportation	☐	☐	☐	☐	☐
h. Administrative support	☐	☐	☐	☐	☐
i. Safe space to meet with victims	☐	☐	☐	☐	☐
j. Private space to meet with victims	☐	☐	☐	☐	☐
k. *[Ask if Q10 = Yes, I am currently deployed as a SARC OR Yes, I have been previously deployed as a SARC, but am not currently deployed]* Reachback support (i.e., the ability to call stateside and get help/ advice dealing with a case)	☐	☐	☐	☐	☐

25. To what extent do you agree or disagree with the following statements? ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. I am recognized as the "go to" person for issues related to sexual assault (policy/program matters, victim care coordination, training, etc.)	☐	☐	☐	☐	☐
b. I have direct access to local commanders	☐	☐	☐	☐	☐
c. Local commanders support me fully	☐	☐	☐	☐	☐
d. I provide updates to senior commanders on a recurring basis	☐	☐	☐	☐	☐
e. Use of alcohol and/or other intoxicating substances by installation personnel contributes to our sexual assault problem	☐	☐	☐	☐	☐
f. Programs to promote responsible drinking and reduce substance abuse have reduced the risk of sexual assault at my military location	☐	☐	☐	☐	☐

[Ask if Q25 a-f = Disagree OR Strongly disagree]

Please explain why you disagreed with one or more of the previous statements.

26. In your experience, to what extent do you agree or disagree that commanders and supervisors at your military location... ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. Would bring issues of sexual assault to you (e.g., program matters, victim care, training)?	☐	☐	☐	☐	☐
b. Are supportive of the restricted reporting option?	☐	☐	☐	☐	☐
c. Understand restricted and unrestricted reporting options?	☐	☐	☐	☐	☐
d. Demonstrate a zero-tolerance toward sexual assault?	☐	☐	☐	☐	☐
e. Make sexual assault awareness and prevention a priority?	☐	☐	☐	☐	☐

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
f. Make sexual assault response a priority?	☒	☒	☒	☒	☒
g. Understand their option to defer punishment of the victim for collateral misconduct until after the military justice process is completed?	☒	☒	☒	☒	☒
h. Participate actively in the Sexual Assault Case Management Group/ Sexual Assault Review Board?	☒	☒	☒	☒	☒

[Ask if Q26 a-h = Disagree OR Strongly disagree]

Please explain why you disagreed with one or more of the previous statements.

27. In your experience interacting with personnel at your military location, to what extent do you agree or disagree that they... ***Mark one answer for each item.***

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
a. Know how to contact the SAPR program?	☒	☒	☒	☒	☒
b. Understand restricted and unrestricted reporting options?	☒	☒	☒	☒	☒
c. Understand what behaviors constitute sexual assault?	☒	☒	☒	☒	☒
d. Understand the resources available if they or a peer experience sexual assault?	☒	☒	☒	☒	☒

[Ask if Q27 a-d = Disagree OR Strongly disagree]

Please explain why you disagreed with one or more of the previous statements.

28. In your opinion, how effective is your SAPR program in... ***Mark one answer for each item.***

	Very ineffective	Ineffective	Neither effective nor ineffective	Effective	Very effective
a. Promoting awareness of sexual assault as a military readiness issue?	☒	☒	☒	☒	☒
b. Promoting prevention strategies (e.g., bystander intervention, safe drinking practices)?	☒	☒	☒	☒	☒
c. Responding to unrestricted reports of sexual assault?	☒	☒	☒	☒	☒
d. Explaining the consequences of committing sexual assault (e.g., administrative/ disciplinary actions, impact on military career)?	☒	☒	☒	☒	☒
e. Training Victims' Advocates to provide high quality assistance to victims?	☒	☒	☒	☒	☒
f. Providing targeted training to first responders?	☒	☒	☒	☒	☒
g. Ensuring commanders understand the value of the restricted reporting option?	☒	☒	☒	☒	☒

29. Does your SAPR program have clear procedures for... ***Mark one answer for each item.***

	Don't know	No	Yes
a. Handling cases in a joint operating environment?	☒	☒	☒
b. Handling cases involving foreign nationals?	☒	☒	☒
c. Handling cases involving civilians (DoD civilian employees, dependents)?	☒	☒	☒
d. Handling cases involving contractors?	☒	☒	☒
e. Ensuring the SARC's and Victims' Advocate's personal safety when handling cases?	☒	☒	☒
f. Establishing a military protective order?	☒	☒	☒
g. Ensuring victims' safety when handling cases?	☒	☒	☒

	Yes	No	Don't know
h. Handling cases involving visiting personnel, such as trainees, National Guard and Reserve members?	☒	☒	☒
i. Handing off cases to the SARC at the victim's next duty location?	☒	☒	☒

VICTIM CARE

30. To what extent do you agree or disagree with the following statements about victim care within your SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
a. Victims of sexual assault receive the best care possible	☒	☒	☒	☒	☒
b. There are sufficient Victims' Advocates to handle the caseload	☒	☒	☒	☒	☒
c. I am readily available to handle victims' needs	☒	☒	☒	☒	☒
d. Commanders place priority on victim care	☒	☒	☒	☒	☒
e. Victim care is a higher priority than dealing with collateral misconduct, such as underage drinking	☒	☒	☒	☒	☒
f. Victims are protected from further physical harm (e.g., from offenders)	☒	☒	☒	☒	☒
g. Female and male victims of sexual assault receive the same level of care and support	☒	☒	☒	☒	☒
h. I document services that victims request or to which victims are referred during the entire victim care cycle (e.g., from initial report through final disposition)	☒	☒	☒	☒	☒
i. A trained representative of the SAPR program is available 24/7 for victim care	☒	☒	☒	☒	☒
j. Victims of sexual assault are well informed about the range of support services available to them	☒	☒	☒	☒	☒
k. First responders other than Victims' Advocates are adequately prepared to assist victims	☒	☒	☒	☒	☒

[Ask if Q30 a-k = Disagree OR Strongly disagree]

Please explain how victim care could be improved within your SAPR program.

31. To what extent do you agree or disagree with the following statements about the reporting process within your SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
a. Commanders respect the confidentiality aspects of restricted reports	☒	☒	☒	☒	☒
b. Victims are protected from negative consequences for participating in the SAPR program	☒	☒	☒	☒	☒
c. Restricted reporting policies have benefited victims of sexual assault	☒	☒	☒	☒	☒
d. Current policies (as implemented) encourage victims to report sexual assault	☒	☒	☒	☒	☒
e. Current procedures make it possible for a victim to truly make a restricted report	☒	☒	☒	☒	☒

[Ask if Q31 a-e = Disagree OR Strongly disagree]

Please explain how the reporting process could be improved within your SAPR program.

32. In your experience, do victims understand the implications of choosing between restricted and unrestricted reporting at the time they make their decision? ***Mark one.***

- ☒ Yes
- ☒ No
- ☒ Sometimes, but not always

[Ask if Q32 = No OR Sometimes, but not always]
Please explain how victims could be better prepared for making their choice between restricted and unrestricted reporting.

PROGRAM COORDINATION

33. To what extent do you agree or disagree with the following statements about interactions among agencies that provide victim care within your SAPR program? ***Mark one answer for each item.***

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Not applicable
a. I take the lead in forging/ maintaining collaborative relationships among military responders (e.g., medical, legal, investigative, chaplains) for victim care	☒	☒	☒	☒	☒	☒
b. I have strong working relationships with local civilian agencies (e.g., local rape crisis center, hospitals, police) for victim care	☒	☒	☒	☒	☒	☒
c. I collaborate with the alcohol/ substance abuse program manager to promote an understanding of the relationship between alcohol/ substance abuse and sexual assault	☒	☒	☒	☒	☒	☒
d. I collaborate with equal opportunity program representatives to promote an understanding of the difference between sexual harassment and sexual assault	☒	☒	☒	☒	☒	☒
e. Family assistance/ awareness program staff refer sexual assault victims to me	☒	☒	☒	☒	☒	☒
f. I refer victims of domestic violence to the Family Advocacy Program or other service agencies	☒	☒	☒	☒	☒	☒

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Not applicable
g. *[Ask if Q10 = Yes, I am currently deployed as a SARC OR Yes, I have been previously deployed as a SARC, but am not currently deployed]* While deployed, I have coordinated with another Service or Reserve component to care for a sexual assault victim from their Service	☒	☒	☒	☒	☒	☒
h. *[Ask if Q10 = Yes, I am currently deployed as a SARC OR Yes, I have been previously deployed as a SARC, but am not currently deployed]* While deployed, I have coordinated with a federal partner or coalition force to care for a sexual assault victim from their organization	☒	☒	☒	☒	☒	☒

PROGRAM EVALUATION

34. Has your SAPR program been evaluated by any of the following within the past 24 months? ***Mark one answer for each item.***

	Yes	No	Don't know
a. Sexual Assault Prevention and Response Office (SAPRO)	☒	☒	☒
b. DoD Inspector General's office	☒	☒	☒
c. Service Inspector General's office	☒	☒	☒
d. Installation/Command Inspector General's office	☒	☒	☒
e. Civilian agency	☒	☒	☒
f. Joint Commission on Accreditation of Health Care Organizations (JCAHCO)	☒	☒	☒
g. Other	☒	☒	☒

[Ask if Q34g = Yes] **What other agency or office evaluated your SAPR program at your military location?**

35. Have you received any complaints about the following in the past 24 months? ***Mark "Yes" or "No" for each item.***

	Yes	No
a. Training received through your SAPR program	☒	☒
b. Victims' Advocates	☒	☒
c. Victim care	☒	☒
d. Disclosure of confidential "covered communications"	☒	☒
e. Commanders' lack of access to restricted case details	☒	☒
f. Other aspects of your SAPR program	☒	☒

[Ask if Q35 f = Yes] **What other complaints did you receive?**

[Ask if Q35 a-f = Yes] **How did you handle the complaint(s) you received?**

RECOMMENDATIONS

36. *[Ask if Q10 = Yes, I am currently deployed as a SARC OR Yes, I have been previously deployed as a SARC, but am not currently deployed]* **Please describe anything about the deployed environment that makes it particularly challenging to execute the SAPR program.**

37. What are the most challenging aspects of executing the SAPR program at your military location?

38. What recommendations do you have to improve sexual assault prevention and response at your military location?

TAKING THE SURVEY

300. Thank you for participating in the [Name of Survey]. There are no more questions on this survey. If you would like to receive a message advising you of when and where the results will be available, please provide your e-mail address. Your address will only be used for this purpose.

301. If you have comments or concerns that you were not able to express in answering this survey, please enter them in the space provided. Your comments will be viewed and considered as policy deliberations take place. Any comments you make on this questionnaire will be kept confidential, and no follow-up action will be taken in response to any specifics reported. Your feedback is useful and appreciated.

ANNEX F: LIST OF STRATEGIC AND OPERATIONAL LEVEL INTERVIEWS

Office of the Secretary of Defense

- Former Under Secretary of Defense (Personnel and Readiness)
- Acting Under Secretary of Defense (Personnel and Readiness)
- Deputy Under Secretary of Defense (Plans)
- Senior Representatives from the DOD Office of the Inspector General
- Senior Representative from the DOD Office of the General Counsel
- Acting Assistant Secretary of Defense (Health Affairs)
- Director, Sexual Assault Prevention and Response Office
- Deputy Director, Sexual Assault Prevention and Response Office
- Senior Policy Advisor, Sexual Assault Prevention and Response Office
- SAAC Training Subcommittee Co-Chair

Office of the Chairman of the Joint Chiefs of Staff

- J-1 (Human Resources)

Department of the Air Force

- Senior Representative from the Office of the Assistant Secretary of the Air Force, Manpower & Reserve Affairs
- Director, Air Force Services (A-1)
- The Judge Advocate General

Department of the Army

- Senior Representative from the Office of the Assistant Secretary of the Army, Manpower & Reserve Affairs
- Director, Human Resources Policy Directorate (G-1)
- The Judge Advocate General

Department of the Navy

- Senior Representatives from the Office of the Assistant Secretary of the Navy, Manpower & Reserve Affairs
- Director, Fleet and Family Readiness
- The Judge Advocate General

United States Marine Corps

- Director, Personal and Family Readiness
- Staff Judge Advocate to the Commandant of the Marine Corps

National Guard Bureau

- Chief of Staff

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ANNEX G: LIST OF EXPERT BRIEFS/MEETINGS/DISCUSSIONS

Associate Director, Criminal Investigations, HQ, AFOSI
Chair, Joint Service Committee on Military Justice
Deputy Counsel, DOD Office of General Counsel
Deputy Assistant Director, NCIS
Deputy Director, Investigative Operations, Policy and Criminal Intelligence (USACIDC)
Deputy Director, DOD Sexual Assault Prevention and Response Office
Director, DOD Sexual Assault Prevention and Response Office
Director, DOD Family Advocacy Program
Director, DOD Federal Advisory Committee Act Committee Office
Director, DOD Office of Law Enforcement Policy and Support (DIBRS)
Director, Office of Legal Policy, OUSD(P&R)
DMDC Scientist (2006 Gender Relations Survey)
DMDC Scientist (Quick Compass Survey)
DMDC Scientist (Focus Group Methodology)
Former Director, Department of Justice, Office on Violence Against Women
The Law Offices of Charles W. Gittens, PC
President, Alliance for National Defense
Psychologist, Department of Veterans Affairs (Military Sexual Trauma)
Representatives of the US Army Criminal Investigation Laboratory
Representatives of US Air Force, briefing on SAPR Program
Representatives of US Army, briefing on SAPR Program
Representatives of US Navy, briefing on SAPR (SAVI) Program
Representatives of US Marine Corps, briefing on SAPR Program
Senior Analysts, Government Accountability Office
Senior Policy Advisor, DOD Sexual Assault Prevention and Response Office
Sexual Assault Program Manager, National Guard Bureau
Social Scientist, RAND (Military Culture)
Army Staff Judge Advocate Officer, Reform Proposal – Article 120
Under Secretary of Defense (Personnel & Readiness)

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ANNEX H: DOD AGENCY/FIELD ACTIVITY DEMOGRAPHICS

DEMOGRAPHICS

	Civilians (200906)	MILPERS (200909)	E1- E4 (200909)
Defense Logistics Agency	93,774	496	12
Defense Contract Management Agency	66,537	6	0
Washington HQ Service	12,471	1573	16
Defense Education Activity (HR)	36,304	0	0
Defense Finance & Accounting	69,516	18	1
Defense Threat Reduction Agency	3,752	591	6
Defense Information Systems Agency	15,826	682	7
White House Communications		780	24
Missile Defense Agency	2,151	111	0
National Security Agency	Classified Information		

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ANNEX I: SEXUAL ASSAULT PREVENTION AND RESPONSE GUIDANCE FOR JOINT AND IN-THEATER

1. SEXUAL ASSAULT PREVENTION AND RESPONSE GUIDANCE FOR JOINT PUBLICATIONS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

PERSONNEL AND READINESS

APR 7

MEMORANDUM FOR THE DIRECTOR, JOINT STAFF (J-1)

SUBJECT: Sexual Assault Prevention and Response Guidance for Joint Publications

The Sexual Assault Advisory Council's Policy Subcommittee Joint Environments Working Group has recommended that the items listed at Attachment (1) be incorporated in pertinent joint publications, including Joint Publication (J-Pub) 1-0 "Personnel Support to Joint Operations," dated 16 October 2006, that addresses Sexual Assault Prevention and Response (SAPR) as a part of the Joint Force and Component Commands' plans in Appendix C.

If you have further questions or need assistance, my point of contact is Kaye Whitley, Director, SAPRO, (703) 696-9422 or email: kaye.whitley@wso.whs.mil. Thank you in advance for your cooperation in this matter.

Thanks!

Gail H. McGinn
Deputy Under Secretary of Defense (Plans)

Attachment:
As stated

Sexual Assault Prevention and Response Guidance for Joint Publications

Is SAPR adequately addressed in joint force and component commands' plans?

a. Have theater-level requirements for prevention and response to incidents of sexual assault that occur during military operations been established and resourced?

b. When the CCDRs rely on the installation host, Service, component commander or other organization or agency to provide investigation, legal, medical and counseling support, have these relationships been formally established and published?

c. Are policies in place to promote a culture of sexual assault prevention, response and accountability that enhances the safety and well-being of all DOD members?

d. Are procedures in place to ensure Service members who deploy to locations outside the United States are cognizant of sexual assault issues, as well as DOD- and Service-specific policies addressing sexual assault prevention, prosecution of offenders and the care of victims?

e. Are procedures in place for reporting a sexual assault which ensure Service members are aware of the full range of options available at the deployed location?

f. Has a sexual assault response capability been established in the deployed area that is consistent with operational requirements?

g. Is there a sexual assault response capability available to all Service members within their area of responsibility? Is information available to all Service members about the range of options available at the deployed location and how to access them?

h. When operationally feasible, is space provided for normal office operations, to include private SARC, VA, and/or healthcare providers' consultation areas?

i. Are adequate supplies of sexual assault forensic examination kits, as well as personnel who are appropriately trained on protocols for use and prescribed chain of custody procedures available?

j. Are policies and procedures in place to ensure unrestricted reports of sexual assault incidents are referred to a commander with designation authority to take appropriate actions?

Attachment (1)

2. Sexual Assault Prevention and Response In-Theater

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

PERSONNEL AND READINESS

NOV 20

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS

SUBJECT: Sexual Assault Prevention and Response In-Theater

Sexual assault is unacceptable behavior and threatens mission readiness and unit cohesion. The Department's program to combat sexual assault relies on commanders at all levels exercising strong leadership, both in support of the program and in ensuring access to resources. Your leadership is vital to creating a climate of confidence wherein victims can come forward and receive care without fear of retribution or retaliation.

The Department of Defense Sexual Assault and Response Directive (DODD 6495.01), provides for the establishment of a 24/7 response to all military victims of sexual assault worldwide, to include deployed environments. Doing so, ensures that a Sexual Assault Response Coordinator (SARC) is available to all Service Members. Based on feedback from our policy assistance visits and recommendations from a recent GAO report that cited inconsistent training and a lack of consistent command emphasis, Senior leader emphasis needs to be placed on this program in-theater. I am requesting your thoughts and comments on emphasizing the responsibility for senior commanders in your Area of Responsibility (AOR) to accomplish these four critical missions:

1) Ensure Commanders have identified the SARC in their respective operational environments (OE), to include joint operations area (JOA), and that all SARCs are current in their training. All SARCs should be identified and trained prior to deployment.

2) Ensure there is a 24/7 response capability for victims within their respective OE, including JOA.

3) Ensure Commanders and all first responders (i.e. SARCs, Victim Advocates, Military Criminal Investigative Organizations, health care personnel, etc), know how to access available resources, e.g., medical, counseling, and legal assistance; and how to assist a victim to access these resources.

4) Ensure all personnel in-theater receive training on sexual assault reporting options and how to contact Victim Advocates and/or SARCs in the AOR, particularly when their personnel are deployed to forward operating bases or other areas where support services may be limited. In the event an exception to this policy is warranted for any person, a written request for an exception to policy should be submitted to USD (P&R) for approval.

5) Ensure senior officers have received the mandatory pre-deployment sexual assault prevention and response training.

David S. C. Chu

ANNEX J: LIST OF CONGRESSIONAL VISITS

Congressional Visits

House Armed Services Committee Chairman, Intelligence Subcommittee
House Armed Services Committee Vice-Chair, Committee on Homeland Security
Senate Armed Services Committee Chairman, Subcommittee on Near Eastern and South and Central Asian Affairs
House Armed Services Committee Chairman, Oversight and Government Reform Subcommittee
House Armed Services Committee, Office of the Committee on Foreign Affairs, the Committee on Resources and the Committee on Oversight and Government Reform
House Armed Services Committee Member, Education and Labor Committee and the Committee on House Administration
Senate Armed Services Committee, Office of the Chairman of the Personnel Subcommittee
Senate Armed Services Committee, Office of the Personnel Subcommittee Ranking Member
Senate Armed Services Committee, Office of the Chairman of the Subcommittee on Emerging Threats and Capabilities
House Armed Services Committee, Military Subcommittee Ranking Member
House Armed Services Committee Chairwoman, Committee on Rules

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