



DEPARTMENT OF DEFENSE
SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE



TOPIC: REVIEW OF NEW RESPONSIBILITIES FOR COMMANDERS

JULY 2024

Below is a summary of the additional responsibilities for commanders in accordance with the Deputy Secretary of Defense Memo, "Updates to Department of Defense Policies to Enhance Support for Adult Sexual Assault Victims," signed May 2024.

While what appears below is a summary, comprehensive explanations arranged per topic are available at www.sapr.mil/latest-policy-updates.

- Notice to MCIO & OSTC: When notified of a Sexual Assault or a Retaliation incident, commanders must report to relevant Military Criminal Investigative Organization (MCIO) and to the applicable Office of Special Trial Counsel (OSTC).
- Reporting for civilian employees and corresponding DD Form 2910-8: In accordance with [Sec. 1101 of the Fiscal Year 2023 National Defense Authorization Act](#), DoD civilian employees are now eligible for both the Unrestricted Reporting and Restricted Reporting options within the SAPR program. DoD civilian employees will file their reports with a [DD Form 2910-8, "Reporting Preference Statement for DoD Civilian Employees to Report Sexual Assault."](#) If a DoD civilian employee files an Unrestricted Report, law enforcement shall be notified. In addition, the victim's commander, or civilian supervisor, and the OSTC concerned will be notified of the sexual assault report.
- Safe-to-Report Policy and roles of the OSTC and the Commander: For Safe-to-Report collateral misconduct, the OSTC will decide first whether to exercise authority over "related offenses," including collateral misconduct allegedly committed by a Service member sexual assault victim.
 - When special trial counsel exercises authority over a Service member victim's alleged collateral misconduct, the special trial counsel must determine that such alleged collateral misconduct is "non-minor" before court-martial charges alleging collateral misconduct by a victim are preferred or referred. Special trial counsel will use the analytical framework, criteria, and standards established in this Safe-to-Report Policy.
 - When special trial counsel does not exercise authority over the alleged collateral misconduct or when they defer, the commander will determine whether the Service member victim's alleged collateral misconduct is "minor" or "non-minor" utilizing the analytical framework, criteria, and standards established in this Safe-to-Report Policy. Commanders shall consult with the serving Staff Judge Advocate Office when making these determinations.
- Convalescent leave availability for both Restricted and Unrestricted Reports: Convalescent leave for adult sexual assault victims who file a [Restricted Report](#) may be approved by MTF commanders or MTF directors, as they are able to accept a Restricted Report as "healthcare personnel" (see Glossary in DoDI 6495.02, vol.1).
 - In accordance with the policy in the [Convalescent Leave Memo](#) and [DoDI 1327.06, "Leave and Liberty Policy and Procedures"](#), convalescent leave may be approved to start immediately following the release from a medical facility, the completion of a SAFE, or the completion of an appointment with a healthcare (medical or mental health) provider after the sexual assault incident is reported.

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- Victims do not need to request Convalescent Leave to go to regular medical or mental health appointments or to go see their SARC. The Convalescent Leave Memo states: "Under existing policy, procedures, and procedures, commanders should allow members to attend, in a normal duty status during normal duty hours, any scheduled medical or non-medical appointments, services, or counseling related to their sexual assault incidents, in order to support them in their recovery. As such, these activities are the appointed place of duty for such personnel."
- Updates to the Expedited Transfers Process:
 - The commanders shall document the date and time the request is received and shall provide the servicing SARC a copy of ALL Expedited Transfer requests received by command as soon as practicable, without the SARC having to go through multiple commanders or supervisors.
 - Commanders, in consultation with their respective staff judge advocate, when assessing whether there is a credible report as part of the Expedited Transfer request, should consider as a factor in their decision that victims who have a history of behavioral problems or alleged collateral misconduct offenses, such as underage drinking, are the very individuals who may be at greatest risk for being sexually assaulted.
 - In addition to other criteria enumerated in Enclosure 5 of DoDI 6495.02, vol. 1, the commander shall ask the Service member's reasons for the request and explicitly ask the Service member:
 - The victim's preference of location.
 - Whether the victim prefers the suspect be transferred instead.
 - The commander shall ensure that permanent change of station (PCS) moves following the final disposition of the victim's case are:
 - Within an appropriate assignment cycle for the victim's career and development.
 - Are not used to inappropriately extricate an individual perceived as problematic from the losing unit.
- Commander responsibilities when the victim is transferring from the installation because of an Expedited Transfer or due to a regularly scheduled PCS move:
 - If the victim **continues** SAPR advocacy services of a SARC and SAPR VA at the gaining installation: The CMG will move to the Gaining Installation. The Losing Commander must contact the Gaining Commander to notify them that the Gaining Commander now has to attend the Case Management Group (CMG) at the Gaining Installation to facilitate the investigation (if ongoing) and facilitate the victim's access to services. Special attention must be given to the victim's safety (e.g., harm from others or self-harm (e.g., suicidal ideations))
 - If the victim **declines** SAPR advocacy services of a SARC and SAPR VA at the Gaining Installation and there is an ongoing investigation/prosecution: The CMG will stay at the Losing Installation. The Losing Commander must contact the Gaining Commander to notify them that the Gaining Commander now has to call into the CMG at the Losing Installation to facilitate the victim's access to services. Special attention must be given to the victim's safety (e.g., harm from others or self-harm (e.g., suicidal ideations))
 - 72-Hour CMG Update to Victim from Gaining Commander: After attending or calling in to the monthly CMG meeting, the Gaining Commander must provide a

victim an update within 72 hours of the last CMG meeting. This responsibility cannot be delegated; however, a victim can request to have this update from the SARC, if the victim continued SAPR Services.

- Department of Justice Office for Victims of Crime and DoD SAPRO's training program, "Strengthening Military-Civilian Community Partnerships to Respond to Sexual Assault": Training increases access to and visibility of civilian community-based care. As such, when this training is scheduled by the DoD Sexual Assault Prevention and Response Office (SAPRO), the Military Services and National Guard leadership will direct installation commanders to facilitate the training at the installation level.
- Victim's Commander's Package:
 - To convey critical victim information and any victim special needs to the victim's commander, DoD SAPRO will develop and issue a standardized template for "Recommendations for Victim Care and Support for Unrestricted Reports ("Victim's Commander's Package").
 - The SAPR VA shall prepare the "Victim's Commander's Package" with victim consent as to the contents to be relayed to the victim's commander.
 - The Victim's Commander's Package will be provided to the victim's commander (or civilian equivalent) **within 24 hours** of filing a [DD Form 2910, "Victim Reporting Preference Statement,"](#) for an Unrestricted Report.
 - The Victim's Commander's Package will include recommendations to address immediate and ongoing care, to include any known safety concerns or retaliation issues, if any.
 - The installation SAPR VA shall give the completed package to the SARC to provide to the victim's commanding officer or civilian equivalent.
 - The victim's commanding officer must review the Victim's Commander's Package and either approve or disapprove the package in writing.
 - If the commander **does not agree** with all or some of the recommendations in the package, the SARC will collaborate with the commander to consider other options, to gain approval. If consensus cannot be reached, then the SARC will forward the package to the next general and flag officer in the chain of command for review and appropriate action.
 - If **approved**, the victim's commander will sign the package.
 - At the monthly CMG meeting, the CMG Chair will confirm that a Victim's Commander's Package was approved for each Unrestricted Report.
 - The CMG Chair will confirm that a Victim's Commander's Package was completed within the required timeframe for each Unrestricted Report and signed off by the victim's commander.
 - The CMG Chair will request from the appropriate SARC for each victim (on the CMG agenda) whether there were any challenges implementing the recommendations in the Victim's Commander's Package.
- The "Commander's 30-Day Checklist for Unrestricted Reports" is different from the requirement to review the Victim's Commander's Package.
 - The "Commander's 30-Day Checklist for Unrestricted Reports" is located in the SAPR Policy Toolkit for Command Teams, on www.sapr.mil <https://www.sapr.mil/toolkit-for-commanders-and-sarcs>. This 30-day checklist

- may be expanded by the Military Services to meet Service-specific requirements and procedures.
- The Victim's Commander's Package that is developed within 24 hours of the Unrestricted Report, will contain recommendations provided to the victim's commander for the adult sexual assault **victim's immediate and ongoing care, to include any known safety concerns or retaliation.**

What does "victim's immediate commander" mean for Brigade/Battalion/Commanding Officer (BDE/BN/CO)?

The victim's immediate commander is the individual who lawfully exercises authority over subordinates by virtue of rank or assignment.

Is a commander now required to notify the Offices of Special Trial Counsel (OSTC) of an Unrestricted Report in addition to the Military Criminal Investigative Organization (MCIO)?

Yes. When notified of a sexual assault report, retaliation report, or any other covered offense, commanders now have to immediately notify the appropriate MCIO and the OSTC.

The High-Risk Response Team (HRRT) eliminates the attendance of the suspect's commander when the victim's safety involves self-harm and the suspect is not the cause. How does this work when the commander is the same for both the suspect and the victim? Is this HRRT commander attendance elevated to the next higher commander?

No. When the victim's commander is the same as the suspect's commander, that commander (for both) is invited to the HRRT.

Can/should company level commanders attend Case Management Group (CMG) meetings?

Only officials with a need to know should attend the CMG.