

**APPENDIX C:**

**DOD SEXUAL ASSAULT PREVENTION AND  
RESPONSE PROGRAM OVERVIEW**



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### SEXUAL ASSAULT IN THE MILITARY ENVIRONMENT

In the U.S. Armed Forces, sexual assault degrades individual resilience and erodes unit integrity. Service members risk their lives for each other and seek to keep fellow Service members out of harm's way. Sexual assault breaks this important bond and tears apart military units. An effective fighting force cannot tolerate sexual assault within its ranks. Leading studies indicate that most sexual assaults that occur in America are not reported to law enforcement.<sup>1, 2</sup> The Department's own statistics indicate that approximately 20 percent of unwanted sexual contacts are reported to a military or civilian authority.<sup>3</sup> Underreporting poses a serious challenge to military readiness because the potential consequences and human costs of sexual assault are extremely high. Chronic psychological consequences may include depression, post-traumatic stress disorder, and substance abuse.<sup>4</sup> Sexual assault is incompatible with military culture, and the costs and consequences for mission accomplishment are unbearable.

### SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE HISTORY

In 2004, the Department aggressively changed its approach to sexual assault prevention and response (SAPR) after learning of reports of sexual assault from Service members deployed to Iraq and Kuwait. On February 5, 2004, then-Secretary of Defense Donald Rumsfeld directed the Department to undertake a 90-day review of all sexual assault policies and programs and recommend changes to increase prevention, promote reporting, enhance the quality of support provided to victims, and improve accountability for subject actions. The Department of Defense (DoD) Care for Victims of Sexual Assault Task Force was created, and it later identified 35 key findings relevant to sexual assault policies and programs among the Military Services. The Task Force proposed nine broad recommendations for immediate, near-term, and long-term corrective action.

The Department established the Joint Task Force for Sexual Assault Prevention and Response (JTF-SAPR) in October 2004 to develop a comprehensive SAPR Policy for the Department based on the recommendations of the Care for Victims of Sexual Assault Task Force. The JTF-SAPR authored 13 Directive-Type Memoranda (DTM) that

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<sup>1</sup> Estimates show that between 22 to 41.6 percent of the sexual assaults that occur in America are reported to police, according to the Department of Justice (DOJ) (2008). *Criminal Victimization, 2007*. Washington, DC: DOJ.

<sup>2</sup> Rand, M., Rennison, C., and DOJ. (2002). *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992–2000*. Washington, DC: Rennison, Callie Marie. [Online]. Available: <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1133>.

<sup>3</sup> Department of Defense (DoD). (2011). *2010 Workplace and Gender Relations Survey of Active Duty Members (WGRA)*. Washington, DC: Defense Manpower Data Center (DMDC). [Online]. Available: <http://www.sapr.mil/index.php/research>.

<sup>4</sup> Department of Health and Human Services (HHS) Centers for Disease Control and Prevention (CDC). (2007). *Understanding Sexual Violence Fact Sheet, 2007*. [Online]. Available: <http://www.cdc.gov/ncipc/pub-res/images/SV%20Factsheet.pdf>.

fundamentally changed the SAPR Policy, including the addition of a confidential reporting option for Service member's who are victims known as Restricted Reporting. The DTMs are the foundation of the two policy documents used today: DoD Directive (DoDD) 6495.01, *Sexual Assault Prevention and Response (SAPR) Program*; and DoD Instruction (DoDI) 6495.02, *Sexual Assault Prevention and Response Program Procedures*.<sup>5, 6</sup> DoDI 6495.02 was modified in Fiscal Year (FY) 2008 to strengthen initial policy by closing DoD-identified gaps and clarifying Military Service responsibilities. Further revisions were proposed in FY10.

The DoD-wide change in policy was also intended to address events at the Military Service Academies (MSA). In 2003, after receiving reports from cadet victims, former Representative Tillie Fowler was appointed to lead a review of the treatment of women at the U.S. Air Force Academy (USAFA). Based on the findings of the Fowler Commission at the USAFA, the Task Force on Sexual Harassment and Violence at the MSAs was launched in 2004. Congress directed this task force to assess and make recommendations concerning how the Departments of the Army and the Navy could more effectively address sexual harassment and assault at the U.S. Military Academy and the U.S. Naval Academy. Congress later passed legislation requiring the Department to assess the MSAs' SAPR programs annually.

In October 2005, the Department established the Sexual Assault Prevention and Response Office (SAPRO) to take over as the single point of responsibility for SAPR Policy in the Department. However, medical care, legal processes, and criminal investigations remained the responsibility of the Office of the Assistant Secretary of Defense (OASD) for Health Affairs (HA), the Offices of the Judge Advocates General (OTJAG) of the Military Departments, Military Criminal Investigative Organizations of the Military Departments, and the Office of the DoD Inspector General (IG), respectively. In the last 6 years, the Department has developed a prevention strategy, increased reporting, improved care and response to victims, implemented program oversight, and expanded knowledge of the SAPR Program among Service members and other key stakeholders.

## **MILITARY DEFINITION OF SEXUAL ASSAULT**

The military definition of "sexual assault" does not refer to one specific crime; rather, it encompasses a range of sex crimes that represent a broad spectrum of offenses from rape to nonconsensual sodomy to wrongful sexual contact, as well as attempts to commit these offenses. Consequently, the definition of sexual assault in the military is broader than rape. In its current form, DoDD 6495.01 defines sexual assault as follows:

*For the purpose of this Directive and SAPR awareness training and education, the term 'sexual assault' is defined as intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does*

<sup>5</sup> Department of Defense Directive (DoDD) 6495.01, *Sexual Assault Prevention and Response (SAPR) Program*, is current as of October 6, 2005.

<sup>6</sup> Department of Defense Instruction (DoDI) 6495.02, *Sexual Assault Prevention and Response Program Procedures*, is current as of November 13, 2008.

*not or cannot consent. Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (to include unwanted and inappropriate sexual contact), or attempts to commit these acts. '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.*<sup>7</sup>

Sexual assault is also defined in military law, as laid out in the Uniform Code of Military Justice (UCMJ). The sexual crimes that fall under SAPR Policy are included in Article 120, *Rape, Sexual Assault, and Other Sexual Misconduct*; and Article 125, *Sodomy*.<sup>8 9</sup> Article 120 includes the crimes of rape, aggravated sexual assault, aggravated sexual contact, and abusive sexual contact. For incidents that occurred before the UCMJ changes on October 1, 2007, sexual assault included rape, nonconsensual sodomy, indecent assault, and attempts to commit these acts. Article 125 includes the crime of forcible sodomy. Attempts to commit these crimes are also included under the SAPR Policy.

Other misconduct actions, such as indecent exposure and stalking, are not included in this report because they do not fall within the SAPR Program as it was chartered in 2005. However, the Military Services investigate and prosecute these and other sex crimes whenever possible. Incidents of sexual harassment are also not in this report because they fall under the purview of the Office of the Secretary of Defense (OSD) Office of Diversity Management and Equal Opportunity (ODMEO). Sex crimes against children and spouses are not contained in this report because they fall under the purview of the OSD Family Advocacy Program (FAP).

## **VICTIM CARE IN THE DEPARTMENT OF DEFENSE**

When the Department adopted the SAPR Policy in 2005, it used existing promising practices from the civilian community as a framework to shape the military's response system. This system comprises professionals from several disciplines who work as a team to provide expert care for victims worldwide 24 hours a day, 7 days a week.

Victim care begins immediately upon the report of a sexual assault. At the heart of the sexual assault response system are the Sexual Assault Response Coordinators (SARC)

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<sup>7</sup> DoDD 6495.01. Washington, DC: DoD. E2.1.13.

<sup>8</sup> Uniform Code of Military Justice (UCMJ). Article 120, *Rape and Carnal Knowledge*. Washington, DC: DoD. [Online]. Available: <http://www.au.af.mil/au/awc/awcgate/ucmj2.htm#920.%20ART.%20120.%20RAPE%20AND%20CARNAL%20KNOWLEDGE>.

<sup>9</sup> UCMJ. Article 125, *Sodomy*. Washington, DC: DoD. [Online]. Available: <http://www.au.af.mil/au/awc/awcgate/ucmj2.htm#925.%20ART.%20125.%20SODOMY>.

and SAPR Victim Advocates (VA). Every military installation in the world, both in garrison and deployed, has SARCs and SAPR VAs who provide a human element to the Department's response. They assist victims by providing them with three fundamental principles of victim care: safety and security, a place to communicate and to be validated, and the ability to be prepared.

First, victims need to feel safe. SARCs and SAPR VAs work with victims to identify and address issues related to their physical safety, as well as concerns about re-victimization by the perpetrator or others who might retaliate against the victim for making a report. Second, victims need to talk about what happened. Although they are not therapists, SARCs and SAPR VAs are trained to be attentive listeners. Their job is not to gather details about the assault but rather to validate victims' reactions to and feelings about the incident in a non-judgmental way. Finally, victims need to know their options, their legal rights, and what actions will likely follow. SARCs and SAPR VAs explain the reporting options and how they may affect the victim's future. SARCs and SAPR VAs listen to victims' needs and then connect victims with appropriate resources, including medical care, mental healthcare, legal advice, and spiritual support. They ensure Service members are not left alone to navigate the potentially daunting process of reporting a sexual assault. They also support victims in decision making. Victims who elect to make an Unrestricted Report, which involves command notification, also remain informed of the progress of their report via information the SARC gathers at monthly multidisciplinary case management meetings. These meetings allow the SARC to coordinate care and remain aware of the case status as the case progresses through investigation and prosecution, as needed. As a result of the dedication of SARCs and SAPR VAs, victims have access to information about how their case is proceeding and what will happen next.<sup>10</sup>

SARCs manage an installation or unit's SAPR program, serving as the single point of contact to coordinate victim care and track the services provided to each victim. While the SARC primarily provides management and oversight of victim services, SAPR VAs provide direct assistance to victims. SAPR VAs also help victims navigate the military's response network. SARCs and SAPR VAs are the core of the response system, but they receive a great deal of help from other members of the team, including healthcare and mental healthcare providers, chaplains, commanders, investigators, judge advocates (JA), and Victim and Witness Assistance Program (VWAP) personnel.

Healthcare providers treat sexual assault victims both physically and psychologically. Physicians, physician assistants, and nurses all contribute to treating injuries, managing the risk of sexually transmitted infections, and sometimes gathering evidence during a Sexual Assault Forensic Examination (SAFE). Psychologists, psychiatrists, social workers, and other mental health professionals assist the victim in restoring the function and resilience lost in the sexual assault.

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<sup>10</sup> The fundamental principles of victim care are commonly used by practitioners in federal victim assistance agencies, such as the Department of State.

Chaplains provide spiritual support to victims of sexual assault. Generally, information communicated to chaplains during spiritual counseling is privileged and, therefore, kept confidential.<sup>11</sup> Chaplains may be an additional resource for victims of sexual assault in both Restricted and Unrestricted Reports. The definitions of Restricted and Unrestricted Reports are discussed briefly in the Increase a Climate of Victim Confidence Associated With Reporting section of this report and below.

Law enforcement, criminal investigators, VWAP personnel, and JAs also support victims. While a case is being investigated and prosecuted as needed under an Unrestricted Report, VWAP personnel help victims understand their legal rights, understand and participate in the military criminal justice process, and obtain needed resources. This support helps minimize the risk of secondary victimization and increases the likelihood that victims will stay with the investigative process through its conclusion.<sup>12 13</sup> This support also helps the victim through the recovery process.<sup>14</sup>

Commanders at all levels have a unique responsibility to support sexual assault response because they set the tone and expectations in their units. Through a commander's commitment to SAPR policies and programs, he or she can demonstrate firsthand the Department's resolve to preventing sexual assaults while working to reduce the fear and stigma associated with reporting.

At the policy level, the Department continues to strengthen internal and external partnerships with organizations that help care for victims, as discussed in the Improve Sexual Assault Response section of this report.

## DEPARTMENT'S REPORTING OPTIONS AND PROCEDURES

As discussed briefly in the Increase a Climate of Victim Confidence Associated With Reporting section of this report, the Department offers two sexual assault reporting options: Restricted and Unrestricted Reporting. The creation of the Restricted Reporting option in June 2005 was a critical addition to the program. Restricted Reporting allows Service member victims of sexual assault to confidentially access medical care and advocacy services without initiating an official investigation. DoDD 6495.01 defines Restricted Reporting as:

*A process used by a Service member to report or disclose that he or she is the victim of a sexual assault to specified officials on a requested confidential basis. Under these circumstances, the victim's report and any details provided to a healthcare provider, the Sexual Assault Response Coordinator (SARC), or a [SAPR] Victim Advocate (VA) will not be reported to law*

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<sup>11</sup> Communications made to a chaplain as a formal act of religion or a matter of conscience according to the Military Rule of Evidence 503.

<sup>12</sup> DoDD 1030.1, *Victim and Witness Assistance*. Washington, DC: DoD.

<sup>13</sup> DoDI 1030.2, *Victim and Witness Assistance Procedures*. Washington, DC: DoD.

<sup>14</sup> Campbell, R. (2006). *Rape Survivors' Experiences with the Legal and Medical Systems*. *Violence Against Women*, 12(1), 30–45.

*enforcement to initiate the official investigative process unless the victim consents or an established exception is exercised under this Directive.*<sup>15</sup>

The Department further defines Restricted Reporting as a confidential reporting method that:

*Allows a Service member to report or disclose to specified officials that he or she has been the victim of a sexual assault. This reporting option gives the member access to medical care, counseling, and victim advocacy, without requiring those specific officials to automatically report the matter to law enforcement or initiate an official investigation.*<sup>16</sup>

This covered communication is defined as:

*Verbal, written, or electronic communications of personally identifiable information concerning a sexual assault victim or alleged assailant provided by the victim to the SARC, [SAPR] VA, or healthcare personnel related to his or her sexual assault.*<sup>17</sup>

Restricted Reporting does more than allow victims to confidentially access medical care. It preserves the possibility of future prosecution by allowing victims to anonymously receive SAFEs. Following the examination, military law enforcement holds the evidence under an anonymous alphanumeric identifier for 1 year. Victims may convert their Restricted Report to an Unrestricted Report at any time and participate in the military justice process, but evidence obtained during a SAFE is only maintained for 1 year in reports kept Restricted. One month before the evidence expires, the SARC contacts the victim to determine if he or she would like to convert to an Unrestricted Report and participate in the military criminal justice process. Restricted Reporting allows for the preservation of evidence that would be otherwise unavailable.

Although Restricted Reporting does not disclose the identity of the victim or trigger the investigative process, commanders receive limited information about the incident, which allows them to address force protection concerns. In this way, the Department is able to honor a victim's privacy while taking steps to keep others safe. The Department is also able to offer victims care and treatment that victims may have not accessed without this confidential option.

As noted in the Increase a Climate of Victim Confidence Associated With Reporting section of this report, sexual assault victims who seek medical care or SAFEs in the

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<sup>15</sup> DoDD 6495.01. Washington, DC: DoD. E2.1.10.

<sup>16</sup> Id, E2.1.2.

<sup>17</sup> Id, E2.1.3.

state of California cannot make a Restricted Report because of the state laws that mandate reporting by healthcare providers.<sup>18</sup>

Although SAPR Policy allows for confidential Restricted Reports, it encourages victims to make Unrestricted Reports that allow the Department to investigate and hold subjects accountable. Victims who initially make a Restricted Report may change their selected reporting option and participate in an official investigation at any time. In addition, if information about a sexual assault comes to a commander's attention or to the attention of law enforcement independent of a victim's report, an investigation will be initiated.

Under Unrestricted Reporting, when a victim reports an incident of sexual assault, the matter is referred for investigation and victim's rights apply.<sup>19</sup> As in Restricted Reporting, victims may receive healthcare, counseling, and advocacy services. However, in an Unrestricted Report, details of the incident are reportable to command and law enforcement.

DoDD 6495.01 defines Unrestricted Reporting as:

*A Service member who is sexually assaulted and desires medical treatment, counseling, and an official investigation of his or her allegation should use existing reporting channels (e.g., chain of command, law enforcement, or report the incident to the SARC). When notified of a reported sexual assault, the SARC will immediately assign a [SAPR] VA. Additionally, at the victim's discretion or request, the healthcare provider shall arrange a SAFE to be conducted, which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know.<sup>20</sup>*

SARCs and SAPR VAs work with victims to help them understand the reporting options described above. To ensure victims make informed choices, the Department developed Department of Defense (DD) Form 2910, *Victim Reporting Preference Statement*, which fully explains the benefits and the limitations of each reporting option. In every case, the victim completes this form with the assistance of the SARC or SAPR VA.

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<sup>18</sup> California's mandatory reporting laws also affect victims in Arizona for whom the nearest military treatment facility is in California. Refer to each U.S. state and territory mandatory reporting laws for specific information.

<sup>19</sup> DoDD 1030.1. Washington, DC: DoD. 4.4.

<sup>20</sup> DoDD 6495.01. Washington, DC: DoD. E2.1.16.