



DEPARTMENT OF DEFENSE SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE



INFO PAPER ISSUANCE OF CHANGE 2 TO DoD INSTRUCTION 6495.02, “SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM PROCEDURES” JULY 2015

Background

The detailed procedures for implementation of the Sexual Assault Prevention and Response (SAPR) Directive 6495.01 are established in DoD SAPR Instruction 6495.02, “Sexual Assault Prevention and Response Program Procedures.” The SAPR Instruction was originally issued June 23, 2006, and was reissued on March 28, 2013. A Change 1 to the SAPR Instruction was published on February 12, 2014, incorporating National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 provisions. A Change 2 was published to implement requirements outlined in the NDAA, initiatives directed by the Secretary of Defense (SecDef), formal recommendations from the Response Systems to Adult Sexual Assault Crimes Panel (RSP), clarifications to the existing SAPR policy, and new substantive changes to address areas of need; to include retaliation efforts and training. Change 2 was published on July 7, 2015, and can be accessed here: <http://www.dtic.mil/whs/directives/corres/pdf/649502p.pdf> or www.sapr.mil.

Summary of Changes

Improving Victim Response:

Changes incorporate recommendations from the RSP, incorporate initiatives directed by the SecDef, and reflect current law. Updated procedures are provided for the following: ensuring that victims from the Reserve Component and National Guard are eligible for SAPR services, requiring the Services to support the DoD Safe Helpline, requiring a safety assessment for all victims of sexual assault, incorporating victim feedback, integrating legal assistance programs for victims, and providing retention requirements for DD Forms 2910 (election of reporting option) and 2911 (forensic examination report). Highlights include:

- In the Annual SAPR training, explanation of the codification and enhancement of victims’ rights in the military. ([§1701 of NDAA FY14](#), [§534 of NDAA FY15](#))
- Provision that Service member victim’s alleged collateral misconduct will be excluded from consideration as intentional misconduct or gross negligence in Line of Duty determinations and other guidance regarding Line of Duty determination procedures.
- Requirement for explanation of right to consult with Special Victims’ Counsel (SVC)/Victims’ Legal Counsel (VLC) and the types of legal assistance available. ([RSP Recommendation #61](#), [§1716 of NDAA FY14](#))
- Clarification of roles and responsibilities of the monthly SAPR Case Management Group (CMG) members to assure collaboration among responders.
- Requirements for Sexual Assault Forensic Examination Kit collection and preservation.
- Requirement to notify sexual assault victims to answer “no” to Question 21 on Standard Form 86, if consultation with health care professional meets outlined criteria. ([§1747 of NDAA FY14](#))

- Consistent with the Presidential Memorandum Implementing the Prison Rape Elimination Act, sexual assaults in DoD confinement facilities involving Service members will be governed by the National Standards to Prevent, Detect and Respond to Prison Rape.

Addressing Retaliation:

Changes incorporate SecDef Initiatives, RSP recommendations, and new policy provisions. Updated procedures are provided for the following: establishing comprehensive retaliation training requirements and procedures to require commanders to protect those who report or intervene to prevent a sexual assault.

- New procedures for the CMG Chair to ask CMG members if the victim, witnesses, bystanders (who intervened), Sexual Assault Response Coordinators (SARCs) and SAPR Victim Advocates (VAs), responders, or other parties to the incident have experienced any incidents of retaliation, reprisal, ostracism, or maltreatment. If any allegations are reported, the CMG Chair will forward the information to the proper authority or authorities (e.g., military criminal investigative organization (MCIO), Inspector General (IG), Military Equal Opportunity (MEO)). ([3 December 2014 SecDef Initiative](#))
- Highlights of the training requirements include:
 - Explaining what constitutes retaliation, reprisal, ostracism, and maltreatment in accordance with Service regulations and Military Whistleblower Protections.
 - Explaining what is the appropriate, professional response by peers to a victim and an alleged offender when a sexual assault is reported in a unit. Required to utilize scenarios to facilitate discussion of appropriate behavior, to include discussing potential resentment of peers for victim or witness, who reports a sexual assault and opens up unit to scrutiny.
 - Explaining that ALL supervisors in the victim's chain of command, officer and enlisted, are required when they become aware of allegations of retaliation, reprisal, ostracism, or maltreatment, to take appropriate measures to protect the victim from retaliation, reprisal, ostracism, and maltreatment in Unrestricted Reports.
 - Requirement that SARCs and SAPR VAs must inform victims of the resources available to report instances of retaliation, reprisal, ostracism, maltreatment, sexual harassment or to request a transfer or Military Protective Order (MPO). If the allegation is criminal in nature and the victim filed an Unrestricted Report, the crime should be immediately reported to a MCIO, even if the crime is not something normally reported to an MCIO (e.g., victim's personal vehicle was defaced). Victims can seek assistance on how to report allegations by requesting assistance from:
 - A SARC or SAPR VA or SVC/VLC.
 - A SARC on a different installation, which can be facilitated by the Safe Helpline.
 - Their immediate commander.
 - A commander OUTSIDE their chain of command.
 - Service personnel to invoke their Service-specific reporting procedures regarding such allegations.
 - Service MEO representative to file a complaint of sexual harassment.
 - A General/Flag Officer (G/FO), if the retaliation, reprisal, ostracism, or maltreatment involves the administrative separation of victims within one

year of the final disposition of their sexual assault case. A victim may request that the G/FO review the separation.

- A G/FO if the victim believes there has been an impact on their military career because they reported a sexual assault or sought mental health treatment associated with the sexual assault. The victim may discuss the impact with the G/FO.
 - An SVC or VLC, trial counsel and Victim Witness Assistance Program personnel, or a legal assistance attorney to facilitate reporting with a SARC or SAPR VA.
 - Service personnel to file an Article 138, "Complaint of Wrongs," in the UCMJ.
 - DoD IG, invoking whistle-blower protections.
 - Commander or SARC to request an Expedited Transfer.
 - Commander or SARC to request a safety transfer or an MPO and/or Civil Protective Order, if the victim is in fear for her or his safety.
 - The MCIO, if the allegation is of an act that is criminal in nature and the victim filed an Unrestricted Report. (In this case, the allegation should immediately be reported to an MCIO.)
- Explaining Service regulations that protect the SARC and SAPR VA from retaliation, reprisal, ostracism, and maltreatment related to the execution of their duties and responsibilities.
 - Explaining Service regulations that protect witnesses and bystanders who intervene to prevent sexual assaults or those who report sexual assaults from retaliation, reprisal, ostracism, and maltreatment.

Reinforcing Prevention:

Changes incorporate recommendations from the RSP, incorporate initiatives directed by the SecDef, and reflect current law. Updated procedures are provided for requiring command assessments of organizational SAPR climate and including prevention in SAPR curriculum and training requirements for the Military Service Academies. One example:

- Establishes prevention practices consistent with respective Service's implementation of the "Department of Defense 2014-2016 Sexual Assault Prevention Strategy," to ensure prevention programs address concerns about unlawful command influence so victims' rights are protected, and at the same time, the due process rights of the alleged suspects are safeguarded. ([RSP Recommendation #80](#))

Improving Procedures for SAPR Personnel:

- Changes incorporate recommendations from the RSP and reflect current law. Updated procedures are provided for the Command Team, SARCs/SAPR VAs, and Health Care Providers. Highlights include:

Commanders and SAPR Program Managers

- Requirement that commanders will, through their installation law enforcement agency, place an active MPO in the National Crime Information Center for the duration of the order.
- Requirement for Military Departments to allow victims to request G/FO review of a personnel action that impacted his/her military career based on having been a victim of sexual assault, having reported sexual assault, or having sought mental health treatment for sexual assault. ([RSP Recommendation #64](#))

DoD Sexual Assault Prevention and Response Office

- Requirement to submit an 8 day incident report in writing after an Unrestricted Report of sexual assault has been made. The 8-day incident report will only be provided to personnel with an official need to know. ([§1743 of NDAA FY14](#))
- Requirement for notation in the personnel record of any Service member punished (via court-martial, non-judicial punishment, or adverse administrative action) for a sex-related offense. Requirement for receiving commander to review incoming personnel service records for this type of notation. ([§1745 of NDAA FY14](#))
- Requirement for commanders to direct SARCs to provide information on incidents of sexual assault for inclusion in the Commander's Critical Information Requirements (CCIR) report. CCIR reportable incidents are those meeting criteria as determined by the SecDef.
- Establishing procedures to implement minimum standards for the qualifications necessary to be selected, trained, and certified for assignment as a SAPR Program Manager in accordance with Under Secretary of Defense for Personnel and Readiness Memorandum, "Certification Standards for Department of Defense Sexual Assault Prevention and Response Program Managers," March 10, 2015. ([§1725 of NDAA FY14](#))
- Establishing a confidential process, utilizing boards for the correction of military records of the Military Departments by which a sexual assault victim during service in the armed forces may challenge the terms or the characterization of the discharge or separation on the grounds that the terms or characterization were adversely affected by being a sexual assault victim. ([§547 of NDAA FY15](#))

SARC and SAPR Victim Advocates

- To ensure oversight of victim services for Restricted cases, requirement for the SARC to also confirm in her or his report to the installation commander (without revealing the identity of the victim) that the victim has been offered SAPR advocacy services; received explanation of the notifications in the DD Form 2910; been offered medical and mental healthcare; and been informed of his or her eligibility for an SVC/VLC. ([RSP Recommendation #68](#))
- Requirement that SARCs and SAPR VAs collaborate with the Special Victims Investigation and Prosecution (SVIP) Capability¹ personnel (prosecutors and investigators) during all stages of the investigative and military justice process.
- Requirement that SARCs be trained on and provide a response that recognizes the high prevalence of pre-existing trauma.

Healthcare Providers and Sexual Assault Medical Forensic Examiners

- Requirement that psychotherapy and counseling records and clinical notes pertaining to sexual assault victims contain only information that is required for diagnosis and treatment.
- Obtain qualifications necessary to be selected, trained, and certified for assignment as a Sexual Assault Medical Forensic Examiner. ([§1725 of NDAA FY14](#))

Updating DSAID:

Updates throughout reflecting Defense Sexual Assault Incident Database (DSAID) interface with MCIO case management systems (rather than Military Service sexual assault case management systems) and procedures for entering final case disposition information into the database.

¹ "Special Victim Capability (SVC)" is rebranded as "Special Victim Investigation and Prosecution (SVIP) Capability" to avoid continuing confusion with Special Victims' Counsel.

Enhancing SAPR Training Requirements for DoD Personnel:

Changes incorporate recommendations from the RSP and incorporate initiatives directed by the SecDef. Updated procedures are provided for the following: ensuring all Service members understand reporting options and evaluating SAPR training program for consistency and compliance. Highlights include:

- Requirement of specialized training for all supervisors (officer, enlisted, civilian) down to the most junior supervisor, involving retaliation, reprisal, ostracism, and maltreatment issues.
- Explaining updates to military justice that impact victims, to include:
 - The codification and enhancement of victims' rights in the military.
 - Changes in Articles 32 and 60 and their impact on victims.
 - Elimination of the 5-year statute of limitations on sexual assault.
 - Minimum mandatory sentence of dismissal or dishonorable discharge for persons found guilty in a general court-martial of rape under Article 120(a), sexual assault Article 120(b); forcible sodomy under Article 125; or an attempt to commit these offenses under Article 80 of the Manual for Courts-Martial.
 - That defense counsel has to make the request to interview the victim through the SVC/VLC or other counsel for the victim, if the victim is eligible for an SVC/VLC. In addition, the victim has the right to be accompanied to the interview by the SARC, SAPR VA, SVC/VLC, or counsel for the government.

Ensuring Oversight of the SAPR Program:

Changes reflect current law. One example:

- Additional responsibilities for the DoD Sexual Assault Prevention and Response Office Director: develop metrics to measure the effectiveness of, and compliance with, training and awareness objectives of the Military Departments on SAPR; act as liaison between the DoD and other Federal and State agencies on programs and efforts relating to SAPR; oversee development of strategic program guidance and joint planning objectives for resources in support of the SAPR; and make recommendations on modifications to policy, law, and regulations needed to ensure the continuing availability of such resources. ([§1726 of NDAA FY14](#))

COORDINATION

- DoD Washington Headquarters Services reissuance process: The SAPR Instruction completed the five stages of the Washington Headquarters Services issuance process. Each of the Military Services, DoD IG, the Director of Administration and Management, Office of the Secretary of Defense (OSD) Public Affairs, OSD Legislative Affairs, and the components within Personnel and Readiness have provided formal coordination.
- Federal Register Process: The SAPR Instruction will now be submitted for Inter-Agency Review and Public Comment through the Federal Register.