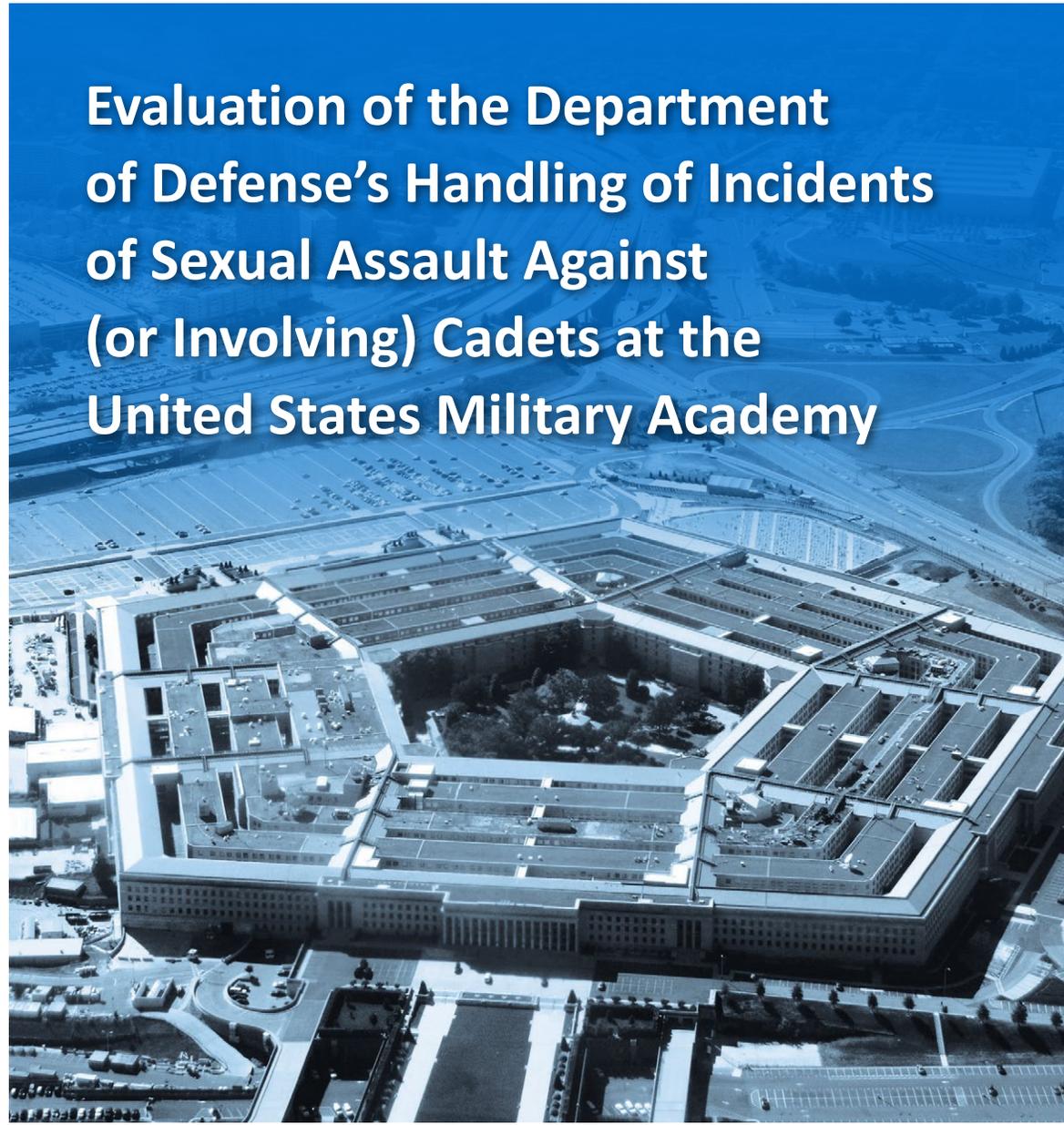




INSPECTOR GENERAL

U.S. Department of Defense

MARCH 24, 2020



Evaluation of the Department of Defense's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Military Academy





Results in Brief

Evaluation of the Department of Defense's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Military Academy

March 24, 2020

Objective

The objectives of this evaluation were to determine whether:

- United States Military Academy (USMA) Sexual Harassment/Assault Response and Prevention (SHARP) Office personnel provided SHARP services to cadet-victims of sexual assault as required by DoD and Army policy;
- United States Army Criminal Investigation Command (CID) agents investigated reports of sexual assaults involving cadet-victims in accordance with DoD, Army, and CID policy;
- USMA commanders and decision makers retaliated against cadet-victims by separating them from the USMA for reporting sexual assault; and
- the Under Secretary of Defense for Personnel and Readiness (USD[P&R]) annually reported the correct number of cadet-victim reports of sexual assaults to Congress.

Background

The purpose of the USMA SHARP program at West Point, New York, is to provide a 24-hour-a-day, 7-day-a-week sexual assault response capability to support cadet-victims of sexual assault. Additionally, USMA SHARP personnel are required to provide crisis intervention to cadet-victims, inform cadet-victims of their reporting options, refer cadet-victims to victim support services, and provide on-going support to cadet-victims of sexual assault.

Background (cont'd)

In addition, the Secretary of Defense is required to submit reports to Congress related to sexual assaults in the military, including the number of sexual assaults that occur at the Military Service Academies each year.

Findings

Based on evaluation, we made the following determinations:

- USMA SHARP personnel provided SHARP services to cadet-victims of sexual assault and victim support services were available to cadet-victims of sexual assault at the USMA as required by DoD and Army policy. However, we determined that USMA SHARP personnel did not have a process or system to document "contacts and consults" with cadet-victims who chose not to make an official report of sexual assault or a means to document any resulting referrals to victim support services.
- CID agents generally responded to and investigated reports of sexual assault in accordance with DoD, Army, and CID policy.
- USMA commanders and decision makers did not retaliate against cadet-victims by separating them from the USMA for reporting sexual assault.
- Cadet-victim reports of sexual assault were accurately reported to Congress as required by Public Law 109-364. Furthermore, we determined that the Army Defense Sexual Assault Incident Database Program Administrator archived reports of sexual assault. However, a process was not in place to document the reason that reports were archived in the Defense Sexual Assault Incident Database.

Recommendations

In DODIG Report No. DODIG-2019-125, "Evaluation of the DoD's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Air Force Academy,"



Results in Brief

Evaluation of the Department of Defense's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Military Academy

Recommendations (cont'd)

September 30, 2019, we made a recommendation to the DoD Sexual Assault Prevention and Response Office (SAPRO) Director to develop and institute a process that documents consults or contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts do not result in an official report of sexual assault. In response to this recommendation, the DoD SAPRO Director agreed to develop a process that documents consults and contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts do not result in an official report of sexual assault. The USD(P&R) informed us that the intent is to deploy the revised policy and capability for this in the fall of 2020.

In the same report, we also recommended that the DoD SAPRO Director include a field in the Defense Sexual Assault Incident Database to record the reason that reports of sexual assault are archived. The DoD

SAPRO Director agreed to update the database to include a field to record the reason that reports of sexual assault were archived. The USD(P&R) informed us that its intent is to deploy the database change for this capability in the fall of 2020. This change would cover the USMA, as well as the other service Academies. Therefore, we did not repeat the recommendations made in Report No. DODIG-2019-125.

Management Comments and Our Response

We did not make any recommendations; therefore, we did not require management comments. However, we received comments on the findings from the Chief of Staff of the United States Military Academy, responding for the Superintendent of the United States Military Academy. See Appendix C for a summary of the management comments and our response.



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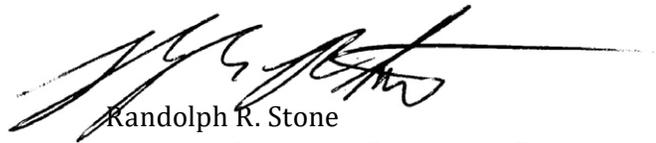
March 24, 2020

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR PERSONNEL
AND READINESS
DIRECTOR, DEPARTMENT OF DEFENSE SEXUAL ASSAULT
PREVENTION AND RESPONSE OFFICE
AUDITOR GENERAL, DEPARTMENT OF THE ARMY
INSPECTOR GENERAL, DEPARTMENT OF THE ARMY
SUPERINTENDENT, UNITED STATES MILITARY ACADEMY
COMMANDER, UNITED STATES ARMY CRIMINAL
INVESTIGATION COMMAND

SUBJECT: Evaluation of the Department of Defense's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Military Academy (Report No. DoDIG-2020-073)

This final report provides the results of the DoD Office of Inspector General's evaluation. We did not make any recommendations; therefore, we do not require management comments. We conducted this evaluation from May 2019 through February 2020, in accordance with the "Quality Standards for Inspections and Evaluations," published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency.

We appreciate the cooperation and assistance received during the evaluation.


Randolph R. Stone
Assistant Inspector General for Evaluations of
Space, Intelligence, Engineering, and Oversight

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Introduction

Objective

The objectives of this evaluation were to determine whether:

- United States Military Academy (USMA) Sexual Harassment/Assault Response and Prevention (SHARP) Office personnel provided SHARP services to cadet-victims of sexual assault as required by DoD and Army policy;¹
- United States Army Criminal Investigation Command (CID) agents investigated reports of sexual assaults involving cadet-victims in accordance with DoD, Army, and CID policy;
- USMA commanders and decision makers retaliated against cadet-victims by separating them from the USMA for reporting sexual assault; and
- the Under Secretary of Defense for Personnel and Readiness (USD[P&R]) annually reported the correct number of cadet-victim reports of sexual assaults to Congress.

Background

Media and Congressional Attention to Sexual Assault at the United States Air Force Academy

A CBS News “This Morning” investigation into the United States Air Force Academy (USAFA) Sexual Assault Prevention and Response (SAPR) Program reported in December 2017 that more than a dozen current and former USAFA cadets stated they were retaliated against by their commanders and peers after reporting sexual assault. During the CBS broadcast, the former USAFA Sexual Assault Response Coordinator (SARC) highlighted two specific reports of sexual assault in December 2014 and January 2015, stating that USAFA leadership tried to cover up the reports and that investigations were prematurely closed because investigators did not believe the cadet-victims.

On December 13, 2017, a U.S. Senator sent a letter requesting that the DoD Office of Inspector General (DoD OIG) evaluate the DoD’s response to reports of sexual assault, including the response of the USAFA SAPR personnel, investigating agents, and the command. On January 3, 2018, two additional U.S. Senators also requested that the DoD OIG evaluate the DoD’s response to reports of sexual assault and the confidence level in the numbers of sexual assaults that were reported to Congress.

¹ DoDI 6495.02 uses the term “Sexual Assault Prevention and Response;” however, the Army commonly uses the term “Sexual Harassment/Assault Response and Prevention” as defined in AR 600-20, “Army Command Policy,” November 6, 2014.

In response to the media reports and congressional requests, the DoD OIG decided to evaluate all the service academies' responses to reports of sexual assault. The evaluation of the DoD's handling of incidents of sexual assault against (or involving) cadets at the USAFA was the first evaluation of the Military Service Academies. The results of that evaluation were published in Report No. DODIG-2019-125 on September 30, 2019.² This report identifies the results of the evaluation of the DoD's handling of incidents of sexual assault against (or involving) cadets at the USMA.³

Additional Background

In February 2004, the Secretary of Defense directed the USD(P&R) to review the DoD's sexual assault policies and programs in the Military Departments. The DoD established the Care for Victims of Sexual Assaults Task Force, led by the Deputy Assistant Secretary of Defense (Force Health, Protection, and Readiness), and charged the task force to report back in 90 days with recommendations. In April 2004, the task force issued the Task Force Report on Care for Victims of Sexual Assault, which included numerous recommendations.

One of the recommendations identified the need to “[e]stablish a single point of accountability for all sexual assault policy matters within the [DoD].”⁴ This recommendation led to the establishment of an additional task force in October 2004, the Joint Task Force for Sexual Assault Prevention and Response.

The Joint Task Force for Sexual Assault Prevention and Response “focused its initial efforts on developing a new DoD-wide sexual assault policy that incorporated recommendations set forth in the Task Force Report on Care for Victims of Sexual Assault” as well as in Public Law 108-375.⁵ Section 577 of this act directed the DoD to have a sexual assault policy in place by January 1, 2005. The Joint Task Force eventually became what is known today as the DoD Sexual Assault Prevention and Response Office (SAPRO).

² Report No. DODIG-2019-125, “Evaluation of the DoD's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Air Force Academy,” September 30, 2019.

³ We intend to begin an evaluation of the DoD's handling of incidents of sexual assault against (or involving) midshipmen at the United States Naval Academy in early 2020.

⁴ DoD Report, “Task Force Report on Care of Victims of Sexual Assault,” April 2004.

⁵ <https://www.sapr.mil/mission-history>. Public Law 108-375, “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005,” October 28, 2004.

Public Law 108-375 Established the DoD SAPR Program

Public Law 108-375, section 577, established the DoD's SAPR program and the requirement for DoD SAPR policy. Specifically, the law requires the DoD to develop a uniform definition of sexual assault as well as sexual assault policy that addresses:

- prevention measures,
- education and training on prevention and response,
- investigation of complaints by command and law enforcement personnel,
- medical treatment of victims,
- confidential reporting of incidents,
- victim advocacy and intervention,
- oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault,
- disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault,
- disposition of members of the Armed Forces accused of sexual assault,
- liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault, and
- uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

DoD SAPR Policy

DoD Directive 6495.01

As required by section 577 of Public Law 108-375, USD(P&R) published DoD Directive (DoDD) 6495.01, which establishes policy to define sexual assault, prevent sexual assault, provide support to victims, and increase reporting and accountability.⁶

According to DoDD 6495.01, sexual assault is:

[i]ntentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following specific UCMJ [Uniform Code of Military Justice] offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses.

⁶ DoDD 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," January 23, 2012, (Incorporating Change 3, April 11, 2017).

DoDD 6495.01 establishes unrestricted and restricted sexual assault reporting options for Military Service members and their dependents who are 18 years old or older. Unrestricted sexual assault reports require command notification and initiation of an investigation by military criminal investigative organizations (MCIOs). A restricted sexual assault report does not trigger an official investigation unless an exception applies, such as the need to prevent or mitigate a serious and imminent threat to the health or safety of the victim or another. “The command is notified that ‘an alleged sexual assault’ occurred, but is not given the victim’s name or other personally identifying information.”⁷ Both unrestricted and restricted reports provide the victim an opportunity for immediate, in-person SAPR services and access to applicable victim support services.⁸ Both reporting options give the victim access to the same level of assistance and support through the SAPRO and the victim support services on the installation.

DoD Instruction 6495.02

As required by section 577 of Public Law 108-375 and DoDD 6495.01, USD(P&R) published DoD Instruction (DoDI) 6495.02, which “assigns responsibilities and provides guidance and procedures for the DoD SAPR program.”⁹ Furthermore, DoDI 6495.02 establishes minimum SAPR program standards, SAPR training requirements, and SAPR reporting requirements for the DoD “Annual Report on Sexual Assault in the Military” and the “Annual Report on Sexual Harassment and Violence at the Military Service Academies.” DoDI 6495.02 also assigns the responsibility for the implementation of the SAPR program to installation commanders, supervisors, and managers at all levels.

DoD Instruction 6495.03

As required by section 584 of Public Law 112-81, USD(P&R) published DoDI 6495.03 that “establishes policy, assigns responsibilities, and prescribes procedures for the implementation, management, and oversight” of the Defense

⁷ DoDD 6495.01 states that unrestricted sexual assault reporting is “[a] process that an individual covered by this policy uses to disclose, without requesting confidentiality or Restricted Reporting, that he or she is the victim of a sexual assault. Under these circumstances, the victim’s report provided to healthcare personnel, the SARC, a SAPR Victim Advocate, command authorities, or other persons is reported to law enforcement and may be used to initiate the official investigative process.” DoDD 6495.01 also states that the restricted reporting option “allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR Victim Advocate, or healthcare personnel), and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR Victim Advocate, without triggering an official investigation.”

⁸ For this evaluation, we define victim support services as medical services, counseling services, law enforcement services, and legal services.

⁹ DoDI 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures,” March 28, 2013, (Incorporating Change 3, May 24, 2017).

Sexual Assault Advocate Certification Program (D-SAACP).¹⁰ This training and certification program standardized sexual assault prevention and response to victims and professionalized victim advocacy roles. The policy also established a Code of Professional Ethics for SAPR personnel. All qualified SAPR personnel certify that they will follow the Code of Professional Ethics.¹¹

Army SAPR Policy

To implement DoD SAPR policy, the Army established its SAPR policy in Army Regulation (AR) 600-20.¹² According to AR 600-20, the Army SAPR Program

reinforces the Army's commitment to eliminate incidents of sexual assault through a comprehensive policy that centers on awareness and prevention, training and education, victim advocacy, response, reporting, and accountability. Army policy promotes sensitive care and confidential reporting for victims of sexual assault and accountability for those who commit these crimes.

The policy further states that the SAPR program goals are to:

(1) Create a climate that minimizes sexual assault incidents, which impact Army personnel, Army civilians, and Family members, and, if an incident should occur, ensure that victims and subjects are treated according to Army policy. (2) Create a climate that encourages victims to report incidents of sexual assault without fear. (3) Establish sexual assault prevention training and awareness programs to educate Soldiers. (4) Ensure sensitive and comprehensive treatment to restore victims' health and [w]ell-being. (5) Ensure leaders understand their roles and responsibilities regarding response to sexual assault victims, thoroughly investigate allegations of sexual assault, and take appropriate administrative and disciplinary action.

The policy requires senior commanders to implement SAPR programs and ensure that an immediate, trained response capability exists to support victims of sexual assault.¹³ The policy also requires the installation SARC to "report directly to the senior commander for matters concerning incidents of sexual assault."

¹⁰ Public Law 112-81, "National Defense Authorization Act (NDAA) for Fiscal Year 2012," December 31, 2011. DoDI 6495.03, "Defense Sexual Assault Advocate Certification Program," September 10, 2015.

¹¹ Section 584(c)(1) of Public Law 112-81, "National Defense Authorization Act for Fiscal Year 2012," December 31, 2011, required "the Secretary of Defense [to] ... establish a professional and uniform training and certification program for Sexual Assault Response Coordinators ... and Sexual Assault Victim Advocates."

¹² AR 600-20, "Army Command Policy," November 6, 2014.

¹³ The senior commander is an officer designated on orders from Headquarters, Department of the Army, as the senior commander of an installation. This is normally the senior general officer at the installation. The mission of the senior commander is to care for soldiers, families, and civilians and to enable unit readiness.

DoD Sexual Assault Investigation Policy

To establish standards for the investigation of adult sexual assault within the DoD, the DoD OIG published DoDI 5505.18.¹⁴ DoDI 5505.18 directs the agents of MCIOs to “initiate a criminal investigation in response to all allegations of adult sexual assault ... of which they become aware that occur within their jurisdiction”¹⁵ DoDI 5505.18 further requires MCIO agents to conduct a formal interview of the victim and thoroughly investigate all adult sexual assault investigations assumed by an MCIO.

Army Sexual Assault Investigation Policy

To implement DoD sexual assault investigation policy, the Army published AR 600-20, which directs the CID commander to “[e]stablish criminal investigation policies and procedures for investigating incidents of sexual assault that are within the CID investigative authority” The Army also published AR 195-2, which specifies, “[t]he [CID] is the sole agency within the U.S. Army responsible for the criminal investigation of felonies (offenses punishable by death or confinement for more than one year).”¹⁶ AR 195-2 also states that CID is responsible for investigations of all sexual assault offenses when the Army has an interest.

In compliance with AR 600-20 and AR 195-2, CID established criminal investigation policies and procedures for investigating incidents of sexual assault in CID Regulation 195-1.¹⁷ The policy directs that investigations must be conducted in a “fair and impartial manner” and that CID supervisors ensure investigations are thorough and timely.

¹⁴ DoDI 5505.18, “Investigation of Adult Sexual Assault in the Department of Defense,” March 22, 2017, (Incorporating Change 1, February 13, 2018).

¹⁵ According to DoDI 5505.18, “Investigation of Adult Sexual Assault in the Department of Defense,” March 22, 2017, (Incorporating Change 1, February 13, 2018), MCIOs include the U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, and Air Force Office of Special Investigations.

¹⁶ AR 195-2, “Criminal Investigation Activities,” June 9, 2014.

¹⁷ CID Regulation 195-1, “Criminal Investigation Operational Procedures,” January 3, 2019. CID routinely publishes updates to CID Regulation 195-1. We considered each edition that was in effect during our evaluation scope period.

Finding A

USMA SHARP Personnel Provided SHARP Services to Cadet-Victims and Cadet-Victim Support Services Were Available to Cadet-Victims at the USMA as Required by DoD and Army Policy

We determined that from January 1, 2016, through December 31, 2018, the USMA commanders and SHARP personnel at West Point, New York, provided SHARP services and cadet-victim support services to cadet-victims as required by DoD and Army policy.¹⁸ Specifically, we found that USMA SHARP personnel informed cadet-victims who filed an official report of sexual assault of their options for reporting sexual assault.¹⁹ Furthermore, we determined that cadet-victim support services that are required by DoD and Army policy were available to cadet-victims and that USMA SHARP personnel referred cadet-victims to the cadet-victim support services at the USMA, as required.

However, we determined that USMA SHARP personnel did not have a process or system to document consults and contacts with cadet-victims of sexual assault or a means to document any resulting referrals to victim support services when a cadet-victim did not file an official report of sexual assault. USMA SHARP personnel stated that they did not have a process to document the consults and contacts because they were instructed during training at the U.S. Army SHARP Academy that it could become discoverable in legal proceedings. However, a process to track consults and contacts would more thoroughly document the assistance provided by USMA SHARP personnel to these cadet-victims. Additionally, a process to track consults and contacts would result in a more complete understanding of the universe of sexual assaults that were reported and the full level of services requested within the USMA.

¹⁸ According to AR 150-1, "United States Military Academy; Organization, Administration, and Operation," March 5, 2019, the USMA is a direct reporting unit to the Army Chief of Staff. The USMA's mission is to "educate, train, and inspire the United States Corps of Cadets (USCC) so that each graduate is a commissioned leader of character committed to the values of duty, honor, and country and is prepared for a career of professional excellence and service to the Nation as an officer in the United States Army."

¹⁹ According to DoDI 6495.02, Sexual Assault Prevention and Response (SAPR) services are "[s]ervices provided by a SARC and SAPR [victim advocate]." For this evaluation, cadet-victim support services include medical services, counseling services, law enforcement services, and legal assistance. According to DoDI 6495.02, unrestricted reporting triggers an investigation; however, limited law enforcement services are provided to victims who choose the restricted reporting option. For example, a DoD law enforcement or MCIO representative collect and store the Sexual Assault Medical Forensic Examination kits of cadet-victims who choose the restricted reporting option to give them the choice to later convert their restricted report of sexual assault to an unrestricted report of sexual assault if the cadet-victim chooses to do so.

DoD and Army Requirements to Provide SAPR Services

As discussed in the Background section of this report, DoDI 6495.02 “assigns responsibilities and provides guidance for the procedures of the [DoD] SAPR Program.” AR 600-20 delineates Army policy and procedures for the Army SAPR program. According to DoDI 6495.02 and AR 600-20, when a cadet-victim is sexually assaulted, he or she may make either an unrestricted or a restricted report.²⁰ Both unrestricted and restricted reports provide the cadet-victim an opportunity for immediate, in-person SAPR services.

However, according to DoDI 6495.02 and AR 600-20, a cadet-victim can choose to keep his or her sexual assault confidential and not participate in the SAPR program.²¹ For example, a cadet-victim can disclose a sexual assault to his or her military mental health or medical healthcare provider, military chaplain, or military attorney, but refuse to meet with SHARP personnel and officially report the sexual assault.²² Unless an exception exists, these professionals must keep the disclosure confidential.²³ Likewise, an adult sexual assault victim can disclose a sexual assault to SHARP personnel but refuse to officially report the sexual assault. The adult sexual assault victim’s decision to not officially report the sexual assault does not preclude him or her from obtaining assistance through the SHARP office or victim support services.

²⁰ According to DoDI 6495.02 and AR 600-20, a restricted report is a reporting option that allows USMA cadet sexual assault victims to confidentially disclose the assault to SHARP personnel or healthcare personnel, and receive healthcare treatment, including emergency care, counseling, and assignment of SHARP personnel, without prompting a criminal investigation. Commanders are made aware of generalities of restricted reports to help the commander better understand the prevalence of sexual violence on the installation; however, the information they receive is masked to protect the victim’s privacy.

²¹ The policies and procedures contained in DoDD 6495.01 and DoDI 6495.02 apply to only covered adult sexual assault victims as defined by DoDD 6495.01. Different policies and procedures exist for adults victimized by a current or former intimate partner with whom the victim has shared a domicile, current or former spouse, or a person with whom the victim shares a child in common and do not apply to the category of victims identified in this evaluation (DoDI 6400.06, “Domestic Abuse Involving DoD Military and Certain Affiliated Personnel,” August 21, 2007, (Incorporating Change 4, May 26, 2017).

²² Communications between a patient and military medical providers are protected from disclosure, with few exceptions, according to DoDI 6025.27, “Medical Ethics in the Military Health System,” November 8, 2017; DoDI 6025.18, “Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs,” March 13, 2019; DoD Manual 6025.18, “Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Program,” March 13, 2019; and DoDI 6495.02. Communications between a patient and military mental health providers are protected from disclosure, with few exceptions, according to Military Rules of Evidence Rule 513. Communications between military chaplains and their parishioners may be protected from disclosure according to Military Rules of Evidence Rule 503. Communications between attorneys and their clients are protected from disclosure, with few exceptions, according to Military Rules of Evidence Rule 502. Communications between an adult sexual assault victim and SHARP personnel are protected from disclosure, with few exceptions, according to DoDI 6495.02 and Military Rule of Evidence Rule 514.

²³ According to DoDI 6495.02, an example of an exception is when it is “necessary to prevent or mitigate a serious and imminent threat to the health or safety of the victim or another person.” Additionally, according to AR 165-1, “Army Chaplain Corps Activities,” June 23, 2015, there are no exceptions that allow chaplains to disclose confidential communications without the individual person’s informed consent.

The Sexual Harassment/Assault Response and Prevention Office

DoDI 6495.02 requires the installation commander to develop guidelines to establish a 24-hour-a-day, 7-day-a-week sexual assault response capability; the installation SHARP Office serves as this response capability. The SHARP Office consists of SARCs and victim advocates (collectively referred to in this report as SHARP personnel) who provide crisis intervention, refer victims to available victim support services, and explain the options for reporting sexual assault. The SARCs are the single point of contact to coordinate sexual assault victim support response within their area of responsibility.

The West Point SHARP Program Manager leads the West Point SHARP personnel. There is a separate SARC for the United States Corps of Cadets (USCC), the United States Army Garrison, the Keller Army Community Hospital, and the United States Military Academy Preparatory School.²⁴ In addition, victim advocates work directly with the SARCs and victims of sexual assault. At West Point, there are separate victim advocates for the USMA and the United States Military Academy Preparatory School. The USCC SARC and USMA Victim Advocate are the SHARP personnel who routinely provide support to USMA cadet-victims.

AR 600-20 specifies that the SARC serves “as the designated [program manager] of victim support services who coordinates and oversees local implementation and execution of the [SHARP] program.” The SARC also ensures “overall local management of sexual assault awareness, prevention, training, and victim advocacy.” The SARC serves as the installation commander’s consultant and coordinator for sexual assault prevention programs. Additionally, the SARC assists the installation commander in institutionalizing an environment of dignity and respect on the military installation.

Prior to assignment as a SARC or victim advocate, SHARP personnel are required to obtain a certification through the D-SAACP.²⁵ To obtain this certification, SHARP personnel must complete training on foundational topics such as advocacy, the role of a victim advocate, cultural sensitivity, ethics, and the criminal justice system. SHARP personnel must obtain a minimum of 40 hours of specialized training approved by the D-SAACP. SHARP personnel must also sign a code of ethics pledge, undergo a background investigation, and obtain two letters of recommendations

²⁴ The West Point military installation is comprised of many separate military organizations. Some of the larger organizations include the United States Military Academy, United States Corps of Cadets, United States Army Garrison, Keller Army Community Hospital, and United States Military Academy Preparatory School.

²⁵ Section 584(c), “Training and Certification,” of Public Law 112-81, “The National Defense Authorization Act (NDAA) for Fiscal Year 2012,” December 31, 2011, requires the DoD to establish a training and certification program for SHARP personnel. To meet this requirement, and to standardize sexual assault response to victims and professionalize victim advocacy roles, the DoD established the D-SAACP in DoDI 6495.03.

prior to obtaining the D-SAACP certification.²⁶ Furthermore, SHARP personnel must obtain 32 hours of continuing education every 2 years to maintain the D-SAACP certification. We verified that the USMA SHARP personnel who were involved with cadet-victims at the USMA during our evaluation period completed the specialized training required for D-SAACP certification or re-certification.

DoDI 6495.02 requires SHARP personnel to inform victims of their reporting options and provide victim advocacy. In addition, DoDI 6400.07, requires SHARP personnel to “focus on the victim and ... respond, protect, and care for the victim ... until the victim no longer requires [SHARP] services.”²⁷ It is the SHARP personnel who are responsible for explaining victim support services to victims and providing referrals if the victim requests. Victim support services include medical, counseling, law enforcement, and legal services. DoDI 6400.07 requires SHARP personnel to respect the victims’ right to make their own decisions about the services they want to receive and state that using victim support services is voluntary.

DD Form 2910

The Victim Reporting Preference Statement, DD Form 2910, is a standardized form used by SHARP personnel and the victim to document elements of the sexual assault response and reporting process. According to DoDI 6495.02, the DD Form 2910 is a record of the victim’s decision to make either a restricted or unrestricted report of sexual assault. When completing the DD Form 2910, section 1.a., the victim acknowledges that he or she had the opportunity to talk with SHARP personnel before selecting a reporting option. In addition, the victims acknowledge that SHARP personnel explained the services that are available to them. The victim voluntarily signs the DD Form 2910 and then the SARC or victim advocate signs it to certify that he or she informed the victim of his or her reporting options and the available victim support services.

When the DD Form 2910 is signed by the victim and SHARP personnel, an official report of sexual assault is created, as described in DoDI 6495.02. A victim can also make an official report of sexual assault to CID, which does not require the victim to sign a DD Form 2910. As previously stated, adult sexual assault victims may choose to keep their sexual assault confidential, even if they meet with SHARP personnel and do not participate in the SHARP program. For example, according to DoDI 6495.02, an adult sexual assault victim can approach SHARP

²⁶ The National Organization for Victim Assistance Code of Professional Ethics for Victim Assistance Providers states, “[v]ictims of crime and the criminal justice system expect every Victim Assistance Provider, paid or volunteer[,] to act with integrity, to treat all victims and survivors of crime—their clients—with dignity and compassion, and to uphold principles of justice for accused and accuser alike.”

²⁷ DoDI 6400.07, “Standards for Victim Assistance Services in the Military Community,” November 25, 2013, (Incorporating Change 2, Effective July 6, 2018).

personnel to inquire about services and confidentially disclose they were sexually assaulted without triggering an official report of sexual assault and without signing a DD Form 2910. In these instances, SHARP personnel provide the level of support requested by the adult sexual assault victim, which could include SHARP services and the services of a military medical or mental health facility, military chaplain, or military legal services. SHARP personnel do not report or disclose these interactions.

According to DoDI 6495.02, for restricted reports, SHARP personnel must maintain a hardcopy of the DD Forms 2910 in the SHARP Office files and input information necessary for tracking reports of sexual assault in the Defense Sexual Assault Incident Database (DSAID). For unrestricted reports, SHARP personnel must upload a copy of the completed DD Form 2910 and input information necessary for tracking reports of sexual assault into the DSAID. SHARP personnel also must maintain a hardcopy of the DD Forms 2910 in the SHARP Office files.

The Defense Sexual Assault Incident Database

The DSAID is a centralized database for maintaining information about both restricted and unrestricted reports of sexual assault collected by the Military Services. DoD SAPR Office personnel maintain the DSAID and Military Service SAPR personnel input data into it. According to DoDI 6495.02, the DSAID includes information “about the nature of the assault, the victim, the alleged offender, investigative information, case outcomes in connection with the allegation, and other information necessary to fulfill reporting requirements,” such as services referred to and requested by the victim. For restricted reports of sexual assault, SAPR personnel do not enter the victim’s personally identifiable information into the DSAID; however, the basic sexual assault incident information is entered into the DSAID for tracking and reporting purposes. Furthermore, DoDI 6495.02 requires that SAPR personnel “[m]aintain in DSAID an account of the services referred to and requested by the victim for all reported sexual assault incidents, from medical treatment through counseling, and from the time of the initial report of a sexual assault through the final case disposition or until the victim no longer desires services.”

USMA SHARP Personnel Provided SHARP Services to Cadet-Victims and Cadet-Victim Support Services Were Available at USMA

We determined that from January 1, 2016, through December 31, 2018, USMA commanders and SHARP personnel provided SHARP services and cadet-victim support services to cadet-victims who filed an official report of sexual assault, as required by DoD and Army policy. We reviewed cadet-victim DD Forms 2910

to determine whether cadet-victims acknowledged that USMA SHARP personnel informed them of their cadet-victim's reporting options and explained available cadet-victim support services. Additionally, we determined whether cadet-victim support services were available at the USMA as required by DoD and Army policy. To identify reports of sexual assault made by cadet-victims at the USMA, we obtained all DD Forms 2910 that were uploaded in the DSAID or maintained in hardcopy at the USMA and an extract of DSAID records that listed all official reports of sexual assault with accompanying DD Forms 2910 at the USMA. From these records, we identified 100 official reports of sexual assault that cadet-victims made from January 1, 2016, through December 31, 2018.

To determine whether USMA SHARP personnel referred cadet-victims who filed an official report of sexual assault to support services, we reviewed DSAID records and interviewed former and current USMA SHARP personnel and Special Victims' Counsel (SVC) that represented cadet-victims.

USMA SHARP Personnel Informed Cadet-Victims of Their Reporting Options and Available Cadet-Victim Support Services

We obtained the DD Forms 2910 for the 100 cadet-victims at the USMA that the DSAID identified as having made official reports of sexual assault from January 1, 2016, through December 31, 2018. We reviewed the DD Forms 2910 to determine whether cadet-victims acknowledged that USMA SHARP personnel informed them of their reporting options and explained available cadet-victim support services.

We determined that all 100 cadet-victims signed the form indicating that they "had the opportunity to talk with [SHARP personnel] before selecting a reporting option." Additionally, all 100 cadet-victims acknowledged on the DD Form 2910 that USMA SHARP personnel had informed them of their reporting options and explained the cadet-victim support services available at the USMA.

During our evaluation, we did not interview USMA cadet-victims in order to respect the cadet-victims' privacy and to ensure that cadet-victims were not unnecessarily re-victimized or further identified by this evaluation.

USMA SHARP Personnel "Consults and Contacts" With Cadet-Victims of Sexual Assault

As discussed in previous sections, adult sexual assault victims can meet with SHARP personnel to inquire about victim support services or disclose that they were sexually assaulted without officially reporting the sexual assault or completing a DD Form 2910. We refer to these meetings as consults and contacts.

We interviewed former and current USMA SHARP personnel who told us they did not have a formal process or system to capture consults and contacts or a means to document any resulting referrals of a cadet-victim to support services. USMA SHARP personnel told us that they do not document consults and contacts because of concern for the cadet-victims' privacy. USMA SHARP personnel also told us that SARCs and victim advocates are trained not to document more information than required because it could become discoverable in legal proceedings. They received this training during their attendance of the U.S. Army Sexual Assault Response Coordinator and Victim Advocate Career Course at the U.S. Army SHARP Academy.²⁸

We interviewed the U.S. Army SHARP Academy Director who told us:

[t]he SHARP Academy utilizes DoDI 6495.02 (Change 3) as the foundational reference for teaching sexual assault procedures. There is no regulatory or policy requirement for SARCs or VAs to log consult and contact interaction hours. Per DoDI 6495.02, Chg 3, Enclosure 4.1.c.3, dated [May 24, 2017], “[i]f a victim approaches a SARC, SAPR VA, or healthcare provider and begins to make a report, but then changes his or her mind and leaves without signing the DD Form 2910, the SARC, SAPR VA, or healthcare provider is not under any obligation or duty to inform investigators or commanders about this report and will not produce the report or disclose the communications surrounding the report. If commanders or law enforcement ask about the report, disclosures can only be made in accordance with exceptions to the MRE [Military Rules of Evidence] 514 or MRE 513 privilege, as applicable.” During the investigative and legal procedures lesson taught by Army Judge Advocate General lawyers, students are cautioned about how much information they should keep beyond what is required for reporting because it could become discoverable in a court proceeding.

In our prior report, Report No. DODIG-2019-125, we determined that the USAFA SARC did not have a process or system to document consults and contacts. In that report, we recommended that “the [DoD SAPRO] Director develop and institute a process that documents consults or contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts do not result in an official report of sexual assault.” A process to document consults or contacts will provide commanders with a more accurate picture of the organizational climate and the potential number of occurrences of sexual assault. The process will also provide statistical data for the Superintendents of the Academies as well as leaders across the DoD.

²⁸ The U.S. Army Sexual Assault Response Coordinator and Victim Advocate Career Course at the U.S. Army SHARP Academy is an Army course available “for individuals who are filling fulltime SARC and VA positions.” The academy is located at the United States Army Combined Arms Center, Fort Leavenworth, Kansas.

The DoD SAPRO Director agreed with our recommendation, stating that the DoD SAPRO would develop and institute a process that documents consults and contacts with victims of sexual assault and any resulting referrals to victim support services.

Cadet-Victim Support Services Available at the USMA

DoDI 6400.07 and DoDI 6495.02 collectively state that victim support services include medical services, counseling services, law enforcement services, and legal services. At West Point, personnel assigned to the USMA, USCC, and CID provide cadet-victim support services. Additionally, cadet-victims are provided cadet-victim support services from private and public organizations located off the installation when the services are not available on West Point.²⁹

Medical Services Provided to Cadet-Victims

USMA SHARP personnel told us that personnel at the Mologne Cadet Health Clinic and Keller Army Community Hospital on West Point and the Westchester Medical Center in Valhalla, New York, provide medical services to cadet-victims.³⁰ The medical services offered to cadet-victims are confidential and include sexual assault medical forensic examinations and medical examinations to test the cadet-victim for sexually transmitted diseases, pregnancy, or any other injury that may have occurred during the sexual assault.³¹

Counseling Services Provided to Cadet-Victims

USMA chaplains of various faiths and personnel from the USCC's Center for Personal Development provide confidential counseling services to cadet-victims. A chaplain we interviewed stated that West Point has one USMA chaplain that is also a licensed therapist with specialized training in trauma relationship counseling. In addition to USMA chaplains, four clinical psychologists assigned to the Center for Personal Development provide counseling services to cadet-victims of sexual assault at the USMA. Cadet-victims can make same-day appointments or call for emergency support 24 hours a day, 7 days a week. According to a Center

²⁹ Cadet-victim support services not available at West Point may include criminal investigations when military law enforcement does not have investigative jurisdiction, sexual assault medical forensic examinations when a sexual assault nurse examiner is not available on post, and in-patient residential behavioral health care.

³⁰ According to the Westchester Medical Center, the Westchester Medical Center is a Level 1 Trauma Center open 24 hours a day, 7 days a week, and offers every adult and pediatric medical specialty.

³¹ According to DoDD 6495.01, sexual assault medical forensic examinations are used by healthcare professionals to find and collect evidence of a sexual assault.

for Personal Development information brochure, Center for Personal Development personnel have doctoral degrees in psychology and extensive experience providing counseling on a variety of cadet concerns, and the service is offered exclusively to cadets.³²

Furthermore, information provided to us by a Center for Personal Development psychologist confirmed that the West Point's Keller Army Community Hospital offers cadet-victims behavioral health services with a psychiatrist who works primarily with cadets. The psychologist also said that cadet-victims in need of more intensive treatment may be referred to a civilian treatment facility off the installation.

Law Enforcement Services Provided to Cadet-Victims

As discussed earlier in this report, a cadet-victim can choose to make either a restricted or an unrestricted report of sexual assault. Unrestricted reports of sexual assault require a CID investigation. The West Point CID Office, located at the USMA, includes agents who investigate all unrestricted reports of sexual assault at the USMA.

The CID agents that lead an investigation of sexual assault are required to be trained and certified for conducting sexual assault investigations.³³ DoDI 5505.18 and DoDI 5505.19 identify extensive training and certification requirements.³⁴ CID agents are required to be trained on sexual assault victims' rights, reporting options, and how to treat victims with dignity and respect. Furthermore, CID agents are required to be trained on the unique aspects of sexual assault investigations. This includes special investigative techniques for interviewing sexual assault victims, SHARP services, and legal procedures, such as contacting an SVC before interviewing a victim. CID agents receive the specialized sexual assault investigation training during attendance of the 80-hour U.S. Army Military Police School's Special Victims Capabilities Course. We verified that the CID agents who investigated the 47 CID adult sexual assault investigations involving cadet-victims at the USMA during our evaluation period completed the Special Victims Capabilities Course.

³² The Center for Personal Development "is fully accredited by the International Association of Counseling Services (IACS), the recognized accrediting organization for university and college counseling centers."

³³ Section 585(c) (codified at 10 U.S.C. §1561 note), "Inclusion in First Responder Training," of Public Law 112-81, "The National Defense Authorization Act (NDAA) for FY 2012," December 31, 2011, requires the Secretary of Defense to integrate sexual assault response training in initial and recurring training courses for MCIO investigators.

³⁴ DoDI 5505.19, "Establishment of Special Victim Investigation and Prosecution (SVIP) Capability Within the Military Criminal Investigative Organizations (MCIOs)," February 3, 2015, (Incorporating Change 2, March 23, 2017). During this evaluation, we did not evaluate the type or level of training CID agents received prior to their assignment to the USMA.

Legal Services Provided to Cadet-Victims

SVCs provide legal services by representing cadet-victims at the USMA. SVCs are specially trained Military Service attorneys. In addition to their educational training and certification as lawyers, SVCs are required to undergo an extensive training and certification program. We verified that the SVCs completed SVC specific training in support of representing cadet-victims at the USMA.³⁵ SVCs are required to be trained on unique aspects of sexual assaults in order to collaborate extensively with SHARP personnel to facilitate a victim's welfare, security, and recovery from the sexual assault. Additionally, SVCs are required to be trained to understand the impact of trauma and how it affects a sexual assault victim's behavior and the memory of a traumatic incident.

An SVC's ethical duty is to represent a victim of sexual assault, ensuring the victim's right to safety and privacy as well as the right to be treated fairly during the investigative and legal phases of an unrestricted report of sexual assault. SVCs represent sexual assault victims at law enforcement interviews, trial and defense counsel interviews, pre-trial hearings, and trial proceedings. If a cadet-victim has a concern related to victim support services, the SVC addresses the concern directly with the cadet-victim support service on behalf of the cadet-victim. Furthermore, conversations between the SVC and cadet-victim are protected from disclosure to others by attorney-client privilege. Although SVCs primarily support sexual assault victims who choose unrestricted reporting, SVCs can counsel victims who choose restricted reporting. SVCs represent cadet-victims until the assistance is no longer needed or the Army Judge Advocate General or a supervisory attorney terminates the attorney-client relationship for good cause. For example, termination of the relationship for good cause may occur if an attorney's "client persists in a course of action involving the [attorney's] services that the [attorney] reasonably believes is criminal or fraudulent." The relationship may also be terminated if "the client insists upon taking action that the [attorney] considers repugnant or with which the [attorney] has a fundamental disagreement."³⁶

Additionally, legal services are provided to cadet-victims by the USMA Office of the Staff Judge Advocate (SJA), specifically the trial counsel, senior trial counsel, or Special Victim Prosecutor. The role of these attorneys is to ensure that the victims are provided a comprehensive explanation of the military justice process

³⁵ During this evaluation, we did not evaluate the type or level of training SVCs received prior to their assignments to the USMA.

³⁶ AR 27-26, "Rules of Professional Conduct for Lawyers," June 28, 2018.

and are consulted concerning the cadet-victim's specific rights. For example, the trial counsel may consult with the cadet-victim to determine the cadet-victim's willingness to participate in a court-martial. For cadet-victims who have SVC representation, the SVC may also provide the cadet-victims with a thorough explanation of the military justice process, and the trial counsel may consult with the SVC about the cadet-victims' specific rights.

USMA SHARP Personnel Referred Cadet-Victims to Victim Support Services

We evaluated DSAID records to determine whether USMA SHARP personnel referred cadet-victims who officially reported a sexual assault to victim support services. For each DSAID case, USMA SHARP personnel recorded the referrals requested by cadet-victims that they made to victim support services. Table 1 depicts the number of referrals recorded in the DSAID for the cadet-victims who chose to use SHARP or victim support services.

We analyzed the recorded referrals and determined that 79 of the 100 (79 percent) cadet-victims requested referrals to a victim advocate or at least one victim support service. For example, as reflected in Table 1, we determined that 52 referrals for law enforcement services were made for the cadet-victims. We also determined that 17 referrals for legal services were made for cadet-victims. The referral information recorded in the DSAID by SHARP personnel only accounted for the services provided to cadet-victims that the SHARP personnel were made aware of. Cadet-victims may have also been provided additional confidential medical, counseling, and legal services without SHARP personnel being informed.

Our analysis of the DSAID information also determined that 9 of the 100 sexual assault incidents entered into the system were opened with a limited information status.³⁷ In six of these nine incidents, cadet-victims declined to participate in the law enforcement investigation process. In the other three incidents, cadet-victims declined victim support services.

³⁷ According to the DSAID User Manual, v4.12, incidents are entered into the DSAID with an "Open with Limited Information Status" when information about an incident is not available. This can occur if a victim refuses or declines services, victim declines to participate in the investigative process, a local law enforcement agency refuses to provide victim information, or the victim of a reported incident was a civilian and the subject was a Service member.

Table 1. Number of Referrals Recorded in the DSAID by USMA SHARP Personnel for the Cadet-Victims Who Chose to Use SHARP or Victims Support Services

Year	Sexual Assault Reports	Medical	Counseling*	Law Enforcement	Legal Services	Victim Advocate	Total Referrals
2016	24	2	10	10	7	6	36
2017	44	2	1	26	5	2	36
2018	32	1	3	16	5	4	29
Total	100	5	14	52	17	12	101

* Some cadet-victims were referred to behavioral health and a chaplain or referred more than once to either type of counselor.

Source: DoD SAPRO.

Interviews of USMA SHARP Personnel

In addition to evaluating the DD Forms 2910 and the DSAID cases, we interviewed former and current USMA SHARP personnel who provided SHARP services to cadet-victims and who were assigned to the USMA between January 1, 2016, and December 31, 2018. The following subsections discuss the interview questions and USMA SHARP personnel's responses.

USMA SHARP Personnel Interaction With Cadet-Victims

We asked USMA SHARP personnel to describe their interaction with cadet-victims. USMA SHARP personnel told us that when a cadet contacts USMA SHARP personnel to inquire about SHARP services, USMA SHARP personnel will meet with the cadet to explain the sexual assault reporting options and all of the available cadet-victim support services. SHARP personnel stated that the cadets are not forced to do or say anything and cadets only provide information when they are ready to do so. SHARP personnel further stated that, when a cadet-victim requests a support service, SHARP personnel make arrangements with the service provider. Then, SHARP personnel often walk or drive the cadet-victim to appointments or make transportation arrangements with the SVC based on the desires of the cadet-victim and location of the service provider. SHARP personnel indicated that the USCC Chaplain Office and the Center for Personal Development are located in the same building as SHARP personnel and that the Mologne Cadet Health Clinic is at a nearby location. SHARP personnel told us they have a dedicated Government vehicle and are able to drive cadet-victims to the West Point CID Office, Keller Army Community Hospital, and to off-installation medical facilities.

SHARP personnel told us that they also provide emotional support to cadet-victims, such as being available to listen to them about personal and academic matters and accompanying them to interviews and cadet-victim support services.

USMA SHARP Personnel Frequency of Contact With Cadet-Victims

We asked USMA SHARP personnel to describe the frequency of their contact with cadet-victims. USMA SHARP personnel told us that it is a goal of the USMA SHARP to contact cadet-victims at least one time per month. However, USMA SHARP personnel stated that each cadet-victim establishes the frequency and contact method and that some cadet-victims request more or less frequent contact and some want to communicate in person, by e-mail, or through text messaging. SHARP personnel told us that the contacts are wellness checks to inquire how the cadet-victims are doing, how support services offered to them have been, and if the cadet-victims desire additional assistance.

USMA SHARP Personnel and Cadet-Victim Support Service Personnel Interaction

We asked USMA SHARP personnel to describe their interaction with the cadet-victim support service personnel. USMA SHARP personnel stated that they have a close and positive working relationship with each of the cadet-victim support service providers, describing the relationship of the support service providers as a “cohesive team.” Additionally, USMA SHARP personnel stated that they easily coordinate by telephone with cadet-victim support services. SHARP personnel told us that they regularly meet with the support service providers and that each provider knows who the other providers are and what services they can offer the cadet-victims.

In addition, we interviewed personnel assigned to the Center for Personal Development, Mologne Cadet Health Clinic, and West Point CID Office. They each described a positive relationship with the USMA SHARP personnel and other service providers. For example, a supervisory special agent assigned to the West Point CID Office identified several initiatives that were implemented at USMA to enhance cadet-victim care, such as assigning a Special Victim Prosecutor to West Point and the USMA Superintendent’s effort to hire a sexual assault nurse examiner for the installation. The supervisory special agent described the USMA Superintendent’s vision of the USMA cadet-victim care system as a total system working in unison with collaboration, communication, and understanding of each component’s assigned roles.

In another example, a Center for Personal Development psychologist told us that he had frequent contact with SHARP personnel and that his department commonly referred cadet-victims to SHARP personnel when requested by the cadet-victim. He added that SHARP personnel referred cadet-victims to his department as desired by the cadet-victims. The psychologist told us that he is aware that SHARP

personnel monitored the cadet-victims to check on their well-being, ability to sleep and eat, and whether they were getting the help they need. The psychologist also told us that if SHARP personnel were concerned about a cadet-victim, they would contact one of the psychologists to discuss the concern.

When we interviewed a senior USCC chaplain, he stated that he and four subordinate chaplains provide support for USCC personnel, to include cadet-victims. The chaplain told us he and the other chaplains have a good working relationship with all service providers and he was not aware of any complaints about them. He also told us that based on his conversations with cadets, everyone in the victim support services organizations was committed to providing the support requested by cadet-victims.

USMA SHARP personnel told us that their relationship with USMA SVCs was “great” and that they have frequent interactions. The USMA SHARP personnel told us that whenever a cadet-victim needs to go to the West Point CID Office, USMA SHARP personnel drive the cadet-victim or contact an SVC and let the SVC coordinate with investigators and manage cadet-victims’ transportation to the West Point CID Office. USMA SHARP personnel also told us that they worked as a team with the SVC. One victim advocate told us he was a “huge fan” of the SVCs and added that the SVCs do “a wonderful job in supporting victims.”

When we interviewed the SVCs, they told us their experiences with the USMA SHARP personnel was “overwhelmingly positive” and “phenomenal.” The SVCs told us that they interacted with USMA SHARP personnel almost daily to support cadet-victims and to provide input for training events when needed. A former SVC described one USMA SHARP person by saying,

[t]he way the cadet-victims take to [the SHARP person] and are comfortable with [the SHARP person] and trust [the SHARP person] and the way [the SHARP person] treats every one of them with the same level of detail and care and concern at all hours of the day and any day is just phenomenal to see. [The SHARP person] has shown the cadets that this [senior officer] really does care and [the SHARP person] really goes out of [the SHARP person’s] way to make sure they are taken care of.

Interviews of Army Special Victims’ Counsel

SVCs represent victims of sexual assault and provide victims a means of confidential communication that is protected by attorney-client privilege. According to the United States Army Special Victims’ Counsel Program, “Special Victim[s]’ Counsel have given victims the ability to engage in the military justice process with confidence that their dignity, privacy, and interests are important and will be respected.”

Because of the unique relationship between SVCs and cadet-victims, we believe that the SVCs provide critical insight into cadet-victims' experiences with SHARP services and cadet-victim support services. Therefore, we interviewed SVCs who represented cadet-victims at the USMA between January 1, 2016, and December 31, 2018, about USMA SHARP services and cadet-victim support services that their cadet-clients chose to use.³⁸

SVCs Described Their Cadet-Clients' Experience With Medical Services

We asked the SVCs to describe how their cadet-clients learned about the USMA medical services provided by the Mologne Cadet Health Clinic and Keller Army Community Hospital on West Point and the Westchester Medical Center. An SVC stated that cadet-clients learned of medical services from USMA SHARP personnel. An SVC told us that a cadet-victims' need for medical services was situational and that medical services may only be needed when a sexual assault incident is reported soon after the incident occurs and when the incident involves more than a wrongful sexual contact offense, such as unwanted touching.³⁹

We also asked SVCs whether cadet-clients expressed any concerns about the USMA medical services that were provided. Each of the SVCs we interviewed told us that none of their cadet-clients expressed any concerns related to medical services and that none of the SVCs had to address any concerns with the medical facilities on behalf of a cadet-victim.

SVCs Described Their Cadet-Clients' Experience With Counseling Services

We asked the SVCs to describe how their cadet-clients learned about the counseling services provided by the USMA and USCC chaplains, Center for Personal Development, and the Keller Army Community Hospital. The SVCs told us the cadet-clients learned of the counseling services from USMA SHARP personnel and through SHARP program information briefings.⁴⁰

³⁸ For the purpose of this report, the term cadet-client is used to describe a cadet-victim that was represented by an SVC.

³⁹ According to the "Manual For Courts-Martial," 2016 Edition, sexual contact means, "(A) touching, or 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 (B) any touching, or causing another person to touch, either directly or through the clothing, any body part of any person, if done with an intent to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body."

⁴⁰ According to USMA SHARP personnel that we interviewed, USMA cadets are provided initial sexual assault training on the second day after they arrive at USMA that addresses sexual assault awareness, prevention, victim support, and encouragement for victims to come forward and hold perpetrators accountable. The USMA cadets receive similar annual refresher sexual assault training after arriving at USMA each subsequent year. We reviewed recent initial and refresher sexual harassment and sexual assault prevention training material that was presented to the USMA cadets and we determined that the material included information that describes sexual assault and the reporting options.

We asked the SVCs to describe how they knew their cadet-clients used counseling services. The SVCs stated that their knowledge came directly from the cadet-clients. The SVCs told us that they did not have much involvement in arranging for their cadet-clients to receive counseling services because USMA SHARP personnel made those arrangements. An SVC stated that the cadet-clients' use of counseling services varied, in that cadet-clients went for the services often, sporadically, or not at all. Another SVC pointed out that the counseling services are confidential and not associated with the cadet-clients' medical records. The SVC also told us that he thought that the USMA does a good job of protecting confidentiality and eliminating the stigma associated with receiving counseling service.

We also asked the SVCs whether cadet-clients expressed any concerns with the counseling services that they received. The SVCs told us that none of their cadet-clients expressed any concerns related to counseling services. The SVCs told us they would notify USMA SHARP personnel of any complaints or concerns.

SVCs Described Their Cadet-Clients' Experience With Law Enforcement Services

We asked the SVCs to describe how their cadet-clients learned about the law enforcement services provided by the West Point CID Office. The SVCs stated that cadet-clients most often learned about West Point CID Office investigation service from USMA SHARP personnel but could also have learned about the service from other cadets or from a person who was required to notify law enforcement about a sexual assault incident, such as a unit commander.

We asked the SVCs to describe how they knew their cadet-clients used law enforcement services. The SVCs stated they knew their cadet-clients used the West Point CID Office investigation service because they accompanied their cadet-clients during the investigation interviews or the SVCs discussed the interviews during case updates with the West Point CID Office agents.

We also asked the SVCs whether cadet-clients expressed a concern with the law enforcement services that were provided. The SVCs told us that the cadet-clients' most common concerns was the length of time it takes for an investigation to be completed and the length of time it takes the West Point CID Office agents to get a cadet-client's cellular telephone forensically examined and returned to the cadet-client.⁴¹ The SVCs also described cadet-client experiences with the

⁴¹ Refer to Finding B for an evaluation of the West Point CID Office's handling of sexual assault incidents at the USMA.

West Point CID Office that were positive. For example, one SVC told us that West Point CID Office agents were responsive to cadet-clients requests and would provide investigation update information whenever the SVC called the agents and asked for an update. Another SVC told us that agents were receptive to the SVC's feedback to them about an investigation or interview and would sometimes even contact the SVC to discuss an interview that was conducted of a cadet-client to ask how well the SVC thought the interview was done.

However, two SVCs told us that some West Point CID Office agents appeared to have been inexperienced with interviewing victims.⁴² The SVCs told us the inexperience led to the agents not completing thorough victim interviews and the subsequent need to re-interview victims. The SVCs indicated these concerns were isolated occurrences and were resolved through discussions with the agents and supervisors assigned to the West Point CID Office.

SVCs Described Their Cadet-Clients' Experience With Legal Services

In addition to the SVCs, the USMA SJA also interacts with cadet-victims during legal proceedings. We asked the SVCs to describe how their cadet-clients learned about the legal services provided by the USMA SJA. The SVCs stated that cadet-clients learned about the USMA legal services from the SVCs and SHARP personnel during discussions about the military justice process. The SVCs told us the majority of their clients used the USMA legal office services and found the services responsive and helpful. One SVC pointed out that SVCs are able to support cadet-clients with some legal services themselves and that cadet-victims do not necessarily need to contact another attorney for some of their legal service needs.

We also asked the SVCs whether cadet-clients expressed any concerns with the legal services provided by the USMA SJA. The SVCs told us that, overall, the cadet-victims who worked with trial counsel were pleased with the USMA SJA services.

USMA SHARP Personnel Provided SHARP Training to USMA Cadets

We determined that from January 1, 2016, through December 31, 2018, USMA SHARP personnel provided initial and annual refresher SHARP training to USMA cadets, as required by DoD policy.

⁴² As indicated previously in this report under subsection "Law Enforcement Services Provided to Cadet-Victims," DoDI 5505.18 and DoDI 5505.19 require CID agents that lead an investigation of sexual assault to be trained and certified for conducting sexual assault investigations.

Refer to Finding B for an evaluation of the West Point CID Office's handling of sexual assault incidents at the USMA.

DoDI 6495.02 requires that USMA cadets be provided sexual assault prevention training within 14 days of their arrival at the USMA and annually thereafter. The policy specifies the training must include, “a brief history of the problem of sexual assault in the Military Services, a definition of sexual assault, information relating to reporting a sexual assault, victims’ rights, and dismissal and dishonorable discharge for offenders.”

We interviewed USMA SHARP personnel who stated that when cadets arrive for their first year at the USMA they receive required initial sexual assault prevention training on the cadets’ second day at the USMA. USMA SHARP personnel also stated that in subsequent class years cadets received required annual refresher training between academic terms. USMA SHARP personnel told us sexual assault prevention training provided to cadets is done in groups and the training is tailored to each group.⁴³ We reviewed the initial and annual refresher training slides that were presented to the cadets and determined that the training related to sexual assault prevention and response met DoDI 6495.02 requirements. Additionally, USMA SHARP personnel stated that they believed that, based on the increased sexual assault reporting, the training was effective and helped build the cadets’ confidence that cadet-victims would be supported and provided SHARP services if they reported a sexual assault.

Conclusion

DoDI 6495.02 requires the Military Services to establish a sexual assault response capability. In the Army, AR 600-20 requires installation commanders to establish a sexual assault response capability at their installations. At the USMA, the USMA Superintendent established a sexual assault response capability, which was implemented by the USMA SHARP Office.

DoD and Army policy require SHARP personnel to inform cadet-victims of their reporting options and available cadet-victim support services. Furthermore, DoDI 6400.07 and DoDI 6495.02 state that victim support services include medical services, counseling services, law enforcement services, and legal services. We determined that the USMA provided SHARP services and cadet-victim support services as required by DoD and Army policy. We found that USMA SHARP personnel offered SHARP services and sexual assault reporting options as required by DoD and Army policy to 100 cadet-victims who officially reported sexual assaults. USMA SHARP personnel recorded the referrals of 79 of the 100 cadet-victims to a SHARP victim advocate or to other cadet-victim support

⁴³ USMA SHARP personnel told us that, because the training groups can be as large as 300 cadets, they did not use rosters to track training provided to each individual cadet. Therefore, we were unable to verify whether every cadet received the required training.

services. Additionally, USMA SHARP personnel stated that USMA cadets received initial and annual refresher sexual assault prevention training, and we determined that the training delivered contained the required content in accordance with DoD policy.

However, we determined that USMA SHARP personnel did not document consults or contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts did not result in an official report of sexual assault. This was consistent with our findings in Report No. DODIG-2019-125. In that report, we recommended that the DoD SAPRO Director develop and institute a process that documents consults or contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts do not result in an official report of sexual assault. A process to document consults or contacts provides commanders with a more accurate picture of the organizational climate and the potential number of occurrences of sexual assault. The process provides statistical data for the Superintendents of the Academies as well as leaders across the DoD.

The DoD SAPRO Director agreed with our recommendation, stating that the DoD SAPRO would develop and institute a process that documents consults and contacts with victims of sexual assault and any resulting referrals to victim support services. The USD(P&R) informed us that the intent is to publish the revised policy and capability for this is in the fall of 2020. Therefore, we did not make a recommendation in this report to take similar action.

Finding B

CID Agents Generally Responded To and Investigated Reports of Sexual Assault in Accordance With DoD, Army, and CID Policy

We evaluated 47 CID adult sexual assault investigations involving cadet-victims at the USMA that were opened on or after January 1, 2016, and closed on or before December 31, 2018.

We found that CID agents generally investigated reported sexual assaults in accordance with DoD, Army, and CID policy. We concluded that, for the 47 unrestricted reports of sexual assault, CID agents:

- initiated appropriate criminal investigations based on credible information;
- conducted appropriate interviews;
- collected, maintained, and examined all available physical and forensic evidence; and
- closed sexual assault investigations when logical leads were exhausted, according to DoD, Army, and CID policy.

DoD, Army, and CID Requirements for Conducting Investigations of Sexual Assault

The DoD has established criminal investigative policy to ensure consistent and thorough sexual assault investigations across the DoD. The policy seeks to ensure that law enforcement personnel thoroughly investigate reports of sexual assaults. CID policy states that “[a] complete and thorough investigation provides the commander with the necessary information to determine disposition.”⁴⁴ The policy also seeks to ensure that the investigating agents conduct interviews; collect and preserve evidence; treat victims and witnesses with dignity; and provide accurate documentation to maintain the legal integrity of the investigation.

⁴⁴ CID Regulation 195-1, “Criminal Investigation Operational Procedures,” editions published between January 4, 2016, and January 3, 2019.

DoDI 5505.18 states that MCIOs will “initiate a criminal investigation in response to all allegations of adult sexual assault ... of which they become aware that occur within their jurisdiction ...”⁴⁵ DoDI 5505.18 assigns MCIO responsibilities for managing investigations of sexual assaults with adult victims and requires that all adult sexual assault investigations are conducted thoroughly. It also states that only MCIO agents will conduct the formal interview of a victim and document investigative activity.

In addition to DoDI 5505.18, the Army assigns criminal investigative responsibility to the CID through AR 195-2. According to AR 195-2, the CID is responsible for initiating and conducting criminal investigations, including crimes against people such as sexual assault.

The CID maintains its own set of policies, manuals, and handbooks, which provides investigative and administrative guidance to CID personnel. CID Regulation 195-1 establishes guidance for CID personnel to standardize investigative practices and ensure investigative sufficiency across the CID enterprise.⁴⁶ For example, it includes guidance for investigative topics such as search authorizations, interview planning considerations, and evidence handling procedures. CID Regulation 195-1 also provides guidance on case file reviews and steps to take to close an investigation. CID Regulation 195-1 requires unit leadership to review case files and provide guidance to case agents throughout the life cycle of all investigations to ensure thoroughness and timeliness of the investigations. The policy also specifies that supervisory reviews of the investigations should be accomplished twice a month or more often as needed. CID Regulation 195-1 also requires CID battalion operation officers or staff to review at least 50 percent of the sexual assault investigations completed by agents assigned to subordinate units. The policy requires agents to actively pursue criminal investigations until all logical and practical investigative leads are exhausted or unless exceptions exist.⁴⁷

⁴⁵ The allegation(s) must be based on credible information that a crime has occurred. DoDI 5505.07, “Titling and Indexing in Criminal Investigations,” February 28, 2018, defines credible information as “[i]nformation disclosed or obtained by a criminal investigator that, considering the source and nature of the information and the totality of the circumstances, is sufficiently believable to lead a trained criminal investigator to presume that the fact or facts in question are true.”

⁴⁶ CID Regulation 195-1, “Criminal Investigation Operational Procedures,” January 3, 2019.

The CID routinely updates CID Regulation 195-1 in order to keep the policy current for CID personnel. We considered each edition that was in effect during our evaluation scope period.

⁴⁷ CID Regulation 195-1 permits the early termination of investigations in several situations, including when the prosecutor is of the opinion that sufficient admissible evidence is available to prosecute the subject for the investigated offense(s), the complainant or victim’s cooperation is necessary for the satisfactory resolution of the investigation and such cooperation is not forthcoming, or the subject of the investigation is deceased.

In addition to DoD, Army, and CID regulations, CID special agents are trained and receive investigative procedure guidance in accordance with Army Techniques Publication 3-39.12. This publication provides detailed instruction about conducting interviews, search authorizations, crime scene processing, and evidence collection.⁴⁸

Evaluation of CID's Investigations

CID Investigations of Unrestricted Reports of Sexual Assault

We evaluated all 47 unrestricted cadet-victim sexual assault investigations at the USMA that were opened on or after January 1, 2016, and closed on or before December 31, 2018, to determine whether the CID conducted and completed the investigations as required by DoD, Army, and CID policy. We evaluated the investigative files of each of the 47 unrestricted cadet-victim sexual assault investigations and compared them to the requirements in DoD, Army, and CID policies for conducting sexual assault investigations. We evaluated each of the 47 CID investigative case files to determine whether CID agents initiated investigations of sexual assault; interviewed victims and all appropriate witnesses; responded to all identified crime scenes; and collected, maintained, and examined physical and forensic evidence. Additionally, we verified that the CID did not close the adult sexual assault investigations until all logical investigative leads were exhausted.

Based on our investigative file reviews, we determined that the CID initiated sexual assault investigations once they were made aware of a report of sexual assault. Additionally, the CID agents either interviewed the cadet-victim who reported a sexual assault or they interviewed a second party who had reasonable knowledge to believe that a sexual assault may have occurred.

Furthermore, we determined that CID agents also interviewed appropriate witnesses and alleged offenders in order to prove or disprove that a crime occurred. We further determined that CID agents conducted additional interviews to obtain more information or to clarify any inconsistencies. We also found that in some of the witness interviews, the interviewee provided the CID agents enough information to prompt the CID agents to conduct additional logical investigative steps. We did not identify any interviews that appeared cursory or incomplete based on the circumstances and information available to the CID agents at the time.

⁴⁸ Army Techniques Publication 3-39.12, "Law Enforcement Investigations," August 19, 2013.

We determined that the CID agents responded to all identified crime scenes and collected, maintained, and examined physical and forensic evidence to establish what may have taken place during the reported sexual assault. For example, the CID agents collected the victim's clothing, took photographs, and obtained medical records if a victim was examined at a medical facility. Once the CID agents collected these items, they submitted the appropriate items to the Defense Forensic Science Center (DFSC) for analysis.⁴⁹

As mentioned previously in this report, the SVCs we interviewed told us that their cadet-clients' most common concerns were the length of time it took for an investigation to be completed and the length of time it took the West Point CID Office agents to have a cadet-client's cellular telephone forensically examined and returned to the cadet-client. The amount of time it takes for investigators to complete an investigation is influenced by the complexity of the investigation. For example, investigations that involve multiple victims, subjects, witnesses, and crime scenes, as well as extensive amounts of evidence examination often result in lengthy investigation times.

In our evaluation of the 47 investigations, we found the length of time for the investigations ranged from 1 day to 13 months and averaged approximately 4 months. We found that 3 of the 47 investigations involved the agents collecting digital media evidence that was subsequently submitted for forensic examination. The average forensic examination took approximately 4 months.

The West Point CID Office agents documented the reasons for any delays with the digital media examinations and we found the delays were beyond the control of the agents at West Point. We also found that the CID agents in some investigations extracted and collected limited cellular telephone data, such as call logs and text messages, from cadet-victims' telephone when the data was sufficient to corroborate or disprove information received during the investigation. In these investigations, we found that the CID agents were able to return the cellular telephones to the cadet-victims the same day or within a few days.

⁴⁹ According to the U.S. Army Criminal Investigation Command (CID), on November 13, 2013, "the U.S. Army Criminal Investigation Laboratory, known as the USACIL, [was redesignated] to the Defense Forensic Science Center." "The Defense Forensic Science Center's mission is to provide full-service forensic support (traditional, expeditionary and reachback) to Army and [DoD] entities worldwide; to provide specialized forensic training and research capabilities; [to] serve as executive agent for the DoD Convicted Offender DNA Databasing Program; and to provide forensic support to other Federal departments and agencies when appropriate." The USACIL, the Forensic Exploitation Directorate, and the Office of Quality Initiatives and Training make up the Defense Forensic Science Center.

Subject Fingerprint and Deoxyribonucleic Acid Submissions

During our evaluation of the 47 investigations, we found that CID agents did not submit all subject fingerprint records and deoxyribonucleic acid (DNA) samples as required by DoDI 5505.11 and DoDI 5505.14.⁵⁰ We found that in 7 of the 47 investigations, subject fingerprint records were not submitted to the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Division as required. We also found that in 2 of the 47 investigations, subject DNA samples were not submitted to the DFSC for entry into the FBI Combined DNA Index System (CODIS) as required. After we notified the CID of these errors, CID agents subsequently submitted the fingerprints for the subjects in the seven investigations to the FBI CJIS Division. Additionally, CID leadership told us the DNA sample of the subject of one investigation was submitted to DFSC for CODIS entry. However, the DNA sample for the subject in the one remaining investigation was not obtained from that subject before the subject was discharged from the Army.⁵¹

Conclusion

We concluded that CID agents generally complied with DoD and CID policy in the 47 investigations we evaluated. We determined that for all 47 investigations, CID agents initiated appropriate investigations, conducted interviews, collected physical and forensic evidence, and closed investigations when all logical investigative leads were exhausted.

⁵⁰ DoDI 5505.11, "Fingerprint Card and Final Disposition Report Submission Requirements," July 21, 2014, (Incorporating Change 1, October 31, 2014), requires DoD law enforcement to collect and submit offender criminal history information, using the FD-249, "Arrest and Institution Fingerprint Card," to the FBI through the collection and submission of fingerprints and final disposition reports to the FBI CJIS Division.

DoDI 5505.14, "Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders," December 22, 2015, (Incorporating Change 1, March 9, 2017), requires DoD law enforcement to collect a DNA sample on any service member investigated for a qualifying offense. It also requires the DoD law enforcement to forward the DNA samples to the DFSC for entry into the FBI CODIS.

⁵¹ Although the CID agents did not collect and submit a DNA sample from one subject prior to the subject's discharge from the Army, that subject became a civilian upon discharge and DoDI 5505.14 does not require DoD law enforcement organizations to obtain DNA samples from civilian subjects that are not in the control of the organization.

Finding C

USMA Commanders and Decision Makers Did Not Retaliate Against Cadet-Victims by Separating Them From the USMA for Reporting Sexual Assault

We evaluated the personnel and cadet records for all nine cadet-victims that officially reported a sexual assault who were separated from the USMA from January 1, 2016, through December 31, 2018, to determine whether the separations were retaliation against the cadet-victims for officially reporting a sexual assault.

We concluded that USMA commanders and decision makers did not retaliate against the nine cadet-victims for reporting a sexual assault and that the separations were conducted in accordance with DoD and Army policy. We found that there were sufficient and well-documented reasons for the separations, which substantiated that the separations were not retaliation for reporting sexual assaults.

To determine whether USMA commanders and decision makers retaliated against cadet-victims by separating them for reporting a sexual assault, we evaluated all personnel and cadet records related to the separations of the nine cadet-victims. We searched for allegations of reprisal reports with Army and DoD Inspectors General, and we interviewed attorneys assigned as Army special victims' counsel.

USMA Requirements for Separations

AR 635-8, AR 210-26, and AR 612-205 provide procedural guidance for separation and discharge of cadets who fail to meet USMA standards.⁵² Cadets are separated when the Secretary of the Army or the Secretary's designee determines that a cadet is not qualified for commissioning and that commissioning the cadet is not in the best interest of the Army.

AR 210-26 states that "a cadet may submit an unqualified resignation from the [USMA] at any time" except if charges have been preferred against him or her under the Uniform Code of Military Justice, proceedings against the cadet have been initiated for administrative action, or if the cadet is pending resignation in lieu of court-martial or involuntary separation. AR 210-26 also specifies that a

⁵² AR 635-8, "Separation Processing and Documents," February 10, 2014; AR 210-26, "United States Military Academy," December 9, 2009, (Incorporating Rapid Action Revision, September 6, 2011); and AR 612-205, "Appointment and Separation of Service Academy Attendees," May 15, 1983. AR 210-26 and AR 612-205 were superseded by AR 150-1, "United States Military Academy Organization, Administration, and Operation," on March 5, 2019.

cadet will be separated for an unqualified resignation upon acceptance by the USMA Superintendent or Department of the Army. Additionally, the Secretary of the Army, Assistant Secretary of the Army (Manpower and Reserve Affairs), or the USMA Superintendent may involuntarily separate a cadet when the cadet fails to meet the requirements of the academic, military, or physical program. Furthermore, cadets may be involuntarily separated if the USMA Surgeon “determines that a USMA cadet does not meet the fitness requirements to perform all duties as a member of the [USCC] during the current academic term or summer training period, or will not meet the medical fitness standards for appointment on active duty at the expected time of commissioning”

Cadet Separation Process

The cadet separation process requires significant input from USMA commanders and other decision makers, as well as a legal review, before the USMA Superintendent decides whether to retain, separate, or recommend separation of a cadet. The cadet separation process varies depending on the separation reason and the class a cadet is in at the separation action time. The USMA Superintendent is delegated the authority to take final action in separation cases involving third and fourth class (sophomore and freshman years) cadets when major misconduct, honor, conduct, and undesirable habits or traits of character are not the cause for separation, and when an honorable discharge is awarded. The Assistant Secretary of the Army (Manpower and Reserve Affairs) is delegated the authority to take final action in separation cases involving first and second class (senior and junior years) cadets when separation from USMA and retention to active duty is recommended. The Secretary of the Army takes final separation action in “all cadet separation cases when an other than honorable discharge [from the Army] is recommended.”

Cadets “who fail to achieve the [USMA] standards of performance ... in academic, military, or physical programs” are considered to be deficient. The determination of a cadet’s deficiency is based on the recommendation of the head of a department of instruction and the program director. When a cadet is found to be deficient in the academic, military, or physical programs, the Academic Board or the Commandant of Cadets, as appropriate, may recommend to the USMA Superintendent that a cadet be separated, transferred to the next lower class, or retained under specified conditions.⁵³

⁵³ The Commandant of Cadets “[i]s the director of the military program and the physical program” and “[i]s responsible to the [USMA] Superintendent for the administration and discipline of the [United States] Corps of Cadets.” The Dean of the Academic Board “is the director of the academic program” and is responsible for “[s]upervising the activities and personnel in the academic departments”

Cadet Medical Leave of Absence Program

Cadets “may be granted leave of absence because of sickness or for the purpose of convalescence.” AR 210-26 specifies that “[s]uch leave [is] known as medical leave and will be predicated in every instance on the cadet’s inability to perform duty because of physical disability or medical condition and on the expectations that such a disability or condition will not be permanent.” “Recommendation for [cadet] medical leave [is] initiated by the [USMA] Surgeon and [is] forwarded to the Superintendent through the Commandant [of Cadets] for action.” Medical leave allows a cadet to temporarily leave the USMA for a period of time with the expectation that the cadet will return to the USMA when the cadet has resolved the issue affecting the cadet’s ability to complete USMA graduation and Army commissioning requirements.⁵⁴

We interviewed military and civilian personnel assigned to the USMA offices responsible for making recommendations to separate cadets to gain an understanding of the leadership and due process support that USMA commanders and decision makers offered cadet-victims. The Commandant of Cadets and the USCC Command Sergeant Major stated that retaliatory behavior, or separating cadet-victims for reporting sexual assault incidents, is against SHARP policies and counter to USMA ethics. They also told us that to protect cadet-victims from unjust separation, USMA commanders and decision makers use an administrative or medical leave of absence to allow cadet-victims to heal. They further stated that the leave process affords a cadet-victim the opportunity to return to the USMA when they can resume their academic and military studies and progress towards USMA graduation. They stated that if a cadet-victim misses too much of an academic and training semester, the cadet-victim will be transferred to the next lower class. They added that transferring to the next lower class is not punishment, but rather an opportunity for a cadet-victim to emotionally or physically recover from an incident and then rejoin the USMA when the cadet-victim is ready.

⁵⁴ As we reported in Report No. DODIG-2019-125, the USAFA has a similar program as the USMA’s Cadet Medical Leave of Absence Program called the Cadet Turnback Program. The USAFA Cadet Turnback Program was established to assist USAFA cadets who encounter a temporary hardship. “The Cadet Turnback Program is an alternative to permanently separating a USAFA cadet” When approved by the USAFA Superintendent, “[i]t allows a cadet to temporarily leave the USAFA for a period of time with the understanding that the cadet will return to the USAFA when the cadet has resolved the issue affecting the cadet’s ability to complete USAFA graduation and Air Force commissioning requirements.”

USMA Behavioral and Mental Health Services for Cadet-Victims

USMA commanders and SHARP personnel offer cadet-victims assistance through victim support services such as the Center for Personal Development and the Keller Army Community Hospital Behavioral Health Clinic. The Center for Personal Development's mission is to provide comprehensive counseling services to the USCC in an accepting and supportive environment. The Center for Personal Development functions like a university or college counseling center and "is fully accredited by the International Association of Counseling Services, the recognized accrediting organization for university and college counseling centers." Clinical psychologists assigned to the Center for Personal Development provide counseling services to cadets. The Keller Army Community Hospital Behavioral Health Clinic "provides psychiatric, clinical psychology, and social work services, as appropriate, to maintain the mental health of active duty military personnel, cadets, and other authorized beneficiaries."

A Center for Personal Development psychologist told us that cadets may voluntarily go to the Center for Personal Development for counseling and are not directed to do so by commanders. The psychologist also told us that psychologists at the Center for Personal Development may refer a cadet to the Keller Army Community Hospital Behavioral Health Clinic when a cadet requires assistance that is outside the scope of care of the Center for Personal Development. The psychologist further stated that a referral may be made when prescribed medication is needed to help with emotional and behavioral problems and that cadets in need of more intensive behavioral health treatment may be referred to a facility off the installation.

The psychologist told us that, like other military healthcare facilities, the Center for Personal Development has procedures for counselors to refer a cadet-victim to the SHARP program to make an official restricted or unrestricted report of sexual assault. However, the Center for Personal Development will provide counseling assistance to cadet-victims even when they decline to make an official report. If a cadet-victim declines to meet with USMA SHARP personnel and complete a DD Form 2910, the cadet-victim's disclosure to a counselor remains confidential and is not reported as an official report of sexual assault.

The Keller Army Community Hospital Behavioral Health Clinic treats cadets who are beyond the capability of the Center for Personal Development. Keller Army Community Hospital Behavioral Health Clinic clinicians provide comprehensive behavioral health services to cadets. They assist cadets through "individual, group, and marital psychotherapy; psychiatric medication management; psychiatric assessment; consultation to medical staff; psychological testing; relaxation and

biofeedback therapy; [and] crisis intervention.” According to DoDI 6490.08, Service members are able to voluntarily receive mental health care with a presumption by the healthcare providers that they are not to notify the Service member’s commander unless the presumption is overcome by required notification criteria.⁵⁵ Such required notification criteria includes concern that a Service member may cause harm to self, harm to others, or harm to a military operational mission. Commander notification is also required when a Service member is placed in inpatient care or discharged from inpatient care. According to DoDI 6490.04, “[c]ommanders who[,] in good faith believe a subordinate Service member may require a mental health evaluation are authorized to direct an evaluation”⁵⁶ However, the policy specifies that “[n]o one may refer a Service member for a [mental health evaluation] as a reprisal for making or preparing a lawful [protected] communication”⁵⁷

DoDI 6490.04 also states that mental healthcare providers will advise a Service member’s “commander or supervisor of any duty limitations or recommendations for monitoring or additional evaluation” The policy also specifies that the providers will make “recommendations for treatment [or] referral of the Service member to a Medical Evaluation Board [MEB] for processing through the Disability Evaluation System” in accordance with DoDI 1332.18.⁵⁸

The Disability Evaluation System ensures that the cadet is fully evaluated to determine if the cadet is fit to serve in the military by subjecting the cadet to an MEB process. AR 635-40 establishes the requirements and procedures for an MEB to consider the medical or mental health of a Service member when the Service member’s suitability for continued service is questioned.⁵⁹ Generally, a cadet’s physician performs the medical examination, makes the diagnosis, and initiates the MEB process by referring the case to the MEB. Medical officers on the MEB review the case to determine whether the cadet’s medical condition meets medical retention standards. The MEB officers make a recommendation to the Physical Evaluation Board (PEB) whether the cadet should be returned to duty. The PEB makes the final determination to retain, separate, or retire the cadet. For example, PEB’s determinations may result in the cadet being placed on the temporary disability retired list or given a permanent disability retirement.

⁵⁵ DoDI 6490.08, “Command Notification Requirements to Dispel Stigma in Providing Mental Health Care to Service Members,” August 17, 2011.

⁵⁶ DoDI 6490.04, “Mental Health Evaluations of Members of the Military Services,” March 4, 2013.

⁵⁷ Protected communication is partially defined in DoD Directive 7050.06, “Military Whistleblower Protection,” April 17, 2015, as “[a]ny communication in which a Service member communicates information that he or she reasonably believes evidences: [a] violation of law or regulation including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct ... [w]hen made to [a]ny other person or organization designated pursuant to regulations or other established administrative procedures to receive such communications.”

⁵⁸ DoDI 1332.18, “Disability Evaluation System (DES),” August 5, 2014, (Incorporating Change 1, May 17, 2018).

⁵⁹ AR 635-40, “Disability Evaluation for Retention, Retirement, or Separation,” January 19, 2017.

Evaluation of Cadet-Victims' Separations

To determine if USMA commanders and decision makers retaliated against any cadet-victims by separating them after reporting a sexual assault, we evaluated all personnel and cadet records related to the separations of cadet-victims.

To identify the cadet-victims who were separated after making a report of sexual assault, we identified cadet-victims who officially reported a sexual assault to USMA SHARP personnel or the CID. We then compared those records to records maintained by the USCC Human Resources Office. From this, we identified nine cadet-victims who were separated from the USMA after reporting sexual assaults. Of these nine cadet-victims, we determined that one cadet-victim reported a sexual assault that occurred prior to entering the USMA and was unrelated to military service.

Three Separated Cadet-Victims Made Restricted Reports

A restricted report of sexual assault is one of the two report types available to victims who report sexual assault through SHARP personnel. A restricted report allows SHARP personnel to provide the victim immediate, in-person support just like victims who use the unrestricted reporting option. However, a restricted report prevents SHARP personnel from notifying the command or CID and shields the victim's identity from commanders and law enforcement. A restricted report may become an unrestricted report if the identity of the victim is compromised by either the victim or a third party or if the victim proactively chooses to convert a restricted report to an unrestricted report. Because of the nature of the policy regarding restricted reports and the strict requirement to protect the identity of victims who made restricted reports of sexual assault, USMA commanders and decision makers would more than likely not have known about the sexual assault when determining whether to separate the cadet-victim from the USMA.

We found that three of the nine cadet-victims made restricted reports prior to separation. The following is a brief description of the circumstances for each of these separations. The information provided is brief in an effort to protect the cadet-victims' identities.

Cadet Victim #1 (CV1)

The separation record of CV1 indicated that CV1 voluntarily requested resignation from the USMA for a personal reason. The resignation was approved and the cadet received an honorable discharge from the Army. We found no indication in CV1's record that the USMA commanders and decision makers knew of the restricted report of sexual assault.

Cadet Victim #2 (CV2)

The separation record of CV2 indicated that the cadet received an involuntary separation from the USMA for academic program deficiency and an honorable discharge from the Army. CV2 demonstrated academic difficulty in some courses and earned a below average grade point average prior to the sexual assault incident for CV2's restricted report. Following the restricted report of sexual assault, CV2 enrolled in more upper level courses with increased difficulty. Failure to complete some of these upper level courses led to CV2's separation and discharge. We found no indication in CV2's record that the USMA commanders and decision makers knew of the restricted report of sexual assault.

Cadet Victim #3 (CV3)

The separation record of CV3 indicated that the cadet received an involuntary separation from the USMA for academic and military performance training deficiencies and an honorable discharge from the Army. CV3's restricted sexual assault report pertained to an offense that occurred prior to the cadet entering active duty service and enrolling at the USMA. We found no indication in CV3's record that the USMA commanders and decision makers knew of the restricted report of sexual assault.

Six Separated Cadet-Victims Made Unrestricted Reports

An unrestricted report of sexual assault is the second of the two report types available to victims who report sexual assault through USMA SHARP personnel. We found that six of the nine cadet-victims that were separated made unrestricted reports of sexual assault. Unrestricted reports provide the victim immediate, in-person support. Unrestricted reports also require notifications to the commander and CID. The notifications usually result in a criminal investigation, monitoring of a civilian criminal investigation involving a cadet-victim, or law enforcement referral if the reported sexual assault happened prior to the cadet entering the USMA. The following is a brief description of the circumstances for each of these separations. The information provided is brief in an effort to protect the cadet-victims' identities.

Cadet Victim #4 (CV4)

The separation record of CV4 indicated that the cadet received an involuntary separation from the USMA for academic and military performance training deficiencies and was honorably discharged from the Army. CV4 demonstrated academic difficulty by failing a required course in two consecutive semesters and earning low grades in other courses. The failed courses and low grades

resulted in CV4 earning below average grade point averages during the two consecutive academic semesters. CV4 also failed to pass a required physical fitness assessment. During the second of the two semesters, CV4 reported being sexually assaulted during the first of the two semesters. The separation record included a standardized “Victim of Sexual Assault Statement for Administrative Separation” memorandum from CV4.⁶⁰ CV4 indicated in the memorandum that CV4 filed an unrestricted sexual assault report within the preceding 24 months and that the cadet believed the separation action was a direct or indirect result of a sexual assault or reporting of sexual assault. However, CV4 did not specify in the memorandum whether CV4 thought the separation was in retaliation for reporting the sexual assault or whether the sexual assault incident mentally or physically inhibited CV4’s ability to succeed. The USMA commanders and decision makers documented in the file that they reviewed CV4’s separation file records and the CID criminal investigation regarding the reported sexual assault. The USMA commanders and decision makers documented that they found no evidence that the academic separation action was retaliation for the cadet filing a sexual assault report. The separation documents pertaining to CV4 underwent a legal review by the USMA Staff Judge Advocate before the separation was approved.

In addition, we found CV4 did not file a retaliation complaint with USMA commanders and decision makers, USMA IG, Army IG, or the DoD OIG. In our evaluation of the separation documents and the CID investigation file, we saw documentation of CV4’s academic and military performance training deficiencies, due process steps afforded to CV4, legal review results, and commanders and decision makers’ comments about the separation action. Furthermore, we found no documentation that indicated the separation action was retaliation against CV4 for CV4 reporting a sexual assault.

Cadet Victim #5 (CV5)

The separation record of CV5 indicated that the cadet received an involuntary separation from the USMA for academic and military performance training deficiencies. CV5 demonstrated academic difficulty by failing multiple courses and earning below average grade point averages during three consecutive semesters.

⁶⁰ For administrative separations, AR 600-20 requires commanders to “include documentation in the separation packet that positively identifies” whether the separating soldier was a victim of sexual assault or not. Based on our reviews of the separation packets, we found the USMA commanders and decision makers used the “Victim of Sexual Assault Statement for Administrative Separation” standardized memorandum for this purpose. The memorandum is completed by the separating soldier with the soldier indicating whether they were a victim of sexual assault and whether the separation action was directly or indirectly a result of the sexual assault or the reporting of the sexual assault. Another statement, such as a separation appeal, may be used in place of the standard memorandum if a statement is included that positively identifies whether the separating soldier was a victim of sexual assault or not. A victim’s statement that they believe the separation action was a direct or indirect result of a sexual assault, which by itself, does not indicate that the victim believes the separation is retaliation or reprisal for reporting the sexual assault.

CV5 also failed a military leadership task, a military skill task, and two physical fitness assessments in the second of the three semesters. After the third semester, an academic board initiated action to recommend separating CV5 from the USMA. CV5 appealed the separation action and cited emotional, mental, and physical impacts from a sexual assault incident that CV5 reported had occurred during the third semester. When CV5 submitted the appeal that included the information, CV5's unit notified CID and CV5 willingly participated in the investigation. The USMA commanders and decision makers denied CV5's appeal and CV5 was separated from the USMA.

In addition, we found CV5 did not file a retaliation complaint with the USMA commanders and decision makers, the USMA IG, the Army IG, or the DoD OIG. In our evaluation of the separation documents and the CID investigation file, we saw documentation of CV5's academic and military performance training deficiencies, due process steps afforded to CV5, USMA legal review results, and commanders and decision makers' comments about the separation action. Furthermore, we found that the separation action of CV5 was initiated and in progress prior to CV5 reporting a sexual assault. Therefore, the separation of CV5 could not have been retaliation for CV5 reporting a sexual assault.

Cadet Victim #6 (CV6)

The separation record of CV6 indicated that the cadet received an involuntary separation from the USMA for academic and military performance training deficiencies and was honorably discharged from the Army. CV6 demonstrated academic difficulty by failing multiple courses and earning low grades in other courses. The failed courses and low grades resulted in CV6 earning below average grade point averages in multiple academic semesters. CV6 also failed to pass required military skill assessments. During the separation action proceedings, CV6 submitted a request to be retained at the USMA and reported to have been in an abusive relationship with an unidentified USMA cadet that included unspecified sexual abuse. USMA commanders and decision makers notified the CID of the reported sexual abuse and CID initiated an investigation. CV6 declined to provide information about the offender and declined to participate in the CID investigation.

In addition, we found CV6 did not file a retaliation complaint with USMA commanders and decision makers, USMA IG, Army IG, or the DoD OIG. In our evaluation of the separation documents and the CID investigation file, we saw documentation of CV6's academic and military performance training deficiencies, due process steps afforded to CV6, legal review results, and commanders and

decision makers' comments about the separation action. Furthermore, we found that the separation action of CV6 was initiated and in progress prior to CV6 reporting a sexual assault. Therefore, the separation of CV6 could not have been retaliation for CV6 reporting a sexual assault.

Cadet Victim #7 (CV7)

The separation record of CV7 indicated that CV7 requested to resign from the USMA in lieu of a court-martial for criminal misconduct. CV7 was the subject of a criminal misconduct investigation and during the CID's investigation of CV7, CV7 reported being a victim of a sexual assault. However, CV7 declined to provide information to the CID during the sexual assault investigation. The USMA accepted CV7's resignation and CV7 received a general discharge under honorable conditions from the Army.

In addition, we found CV7 did not file a retaliation complaint with USMA commanders and decision makers, USMA IG, Army IG, or the DoD OIG. In our evaluation of the separation documents and the CID investigation information, we saw documentation of CV7's misconduct, CV7's request for resignation, and commanders and decision makers' recommendations or approval of CV7's resignation. Furthermore, we found no documentation that indicated the separation action was retaliation against CV7 for CV7 reporting a sexual assault.

Cadet Victim #8 (CV8)

The separation record of CV8 indicated that CV8 received a medical separation from the USMA and was honorably discharged from the Army. CV8 had reported being a victim of sexual assault and was offered behavioral health services after making the report. CV8 was diagnosed with a behavioral health condition and placed on a medical leave of absence. CV8 declined to engage in the behavioral health treatment and returned to the USMA early from the medical leave of absence, without authorization from CV8's unit leadership. Because of CV8's unwillingness to engage in behavioral health treatment, the prognosis for improvement of CV8's behavioral condition was poor and separation action was initiated. The separation record included a standardized "Victim of Sexual Assault Statement for Administrative Separation" memorandum from CV8. CV8 indicated in the memorandum that CV8 filed an unrestricted sexual assault report within the preceding 24 months and that CV8 believed the separation action was a direct or indirect result of a sexual assault or reporting of a sexual assault. However, CV8 did not specify in the memorandum that the separation was in retaliation for reporting the sexual assault or whether the sexual assault mentally or physically inhibited CV8's ability to succeed. The USMA commanders and decision makers

documented in the file that they reviewed CV8's separation file records and the CID criminal investigation regarding the reported sexual assault. The USMA commanders and decision makers documented that the reported sexual assault was thoroughly investigated and that CV8 was separated because of CV8's unwillingness to engage in behavioral health treatment and the prognosis for improvement of CV8's behavioral condition was poor.

In addition, we found CV8 did not file a retaliation complaint with USMA commanders and decision makers, USMA IG, Army IG, or the DoD OIG. In our evaluation of the separation documents and the CID investigation information, we saw documentation of behavioral health treatment afforded to CV8, CV8's declination to participate in the treatment, the USMA Surgeon's separation recommendation, legal review results, and commanders and decision makers' comments about the separation action. Furthermore, we found no documentation that indicated the separation action was retaliation against CV8 for CV8 reporting a sexual assault.

Cadet Victim #9 (CV9)

The separation record of CV9 indicated that CV9 received a medical separation from the USMA and was honorably discharged from the Army. CV9 reported being a victim of multiple sexual assaults that were committed by another cadet. CV9 received behavioral health services and the medical separation resulted from CV9 being diagnosed with a behavioral health condition that prevented CV9 from being commissioned as an officer in the Army. The USMA Surgeon documented that a behavioral health professional recorded that CV9's condition was related to CV9 being sexually assaulted multiple times.⁶¹

In addition, we found CV9 did not file a retaliation complaint with USMA commanders and decision makers, USMA IG, Army IG, or the DoD OIG. In our evaluation of the separation documents and the CID investigation information, we saw documentation of the behavioral health diagnosis, USMA Surgeon's separation recommendation, legal review results, and commanders and decision makers' comments about the separation action. Furthermore, we found that although the behavioral health condition was the result of multiple sexual assaults, there was no documentation that indicated the separation action was retaliation against CV9 for CV9 reporting a sexual assault.

⁶¹ The "Victim of Sexual Assault Statement for Administrative Separation" standardized memorandum was not used because other material in the separation record clearly documented that CV9 was a victim of repeated sexual assault and the offenses led to CV9's behavioral health condition.

Complaints of Reprisal

According to AR 20-1, the Army IG inquires and “report[s] on the discipline, efficiency, economy, morale, training, and readiness of the Army.”⁶² The policy states, “[a]ssistance is the IG function that provides Soldiers, Family members, [Department of the Army] civilians, retirees, and contract employees the ability to seek help from the IG on matters affecting their health, welfare, and personal readiness.” The policy permits cadets to submit a complaint or allegation to an Army IG concerning a matter of Army interest. The USMA IG acts as the USMA Superintendent’s “representative [to] resolve these issues within the limits of the IG system.” Cadets may make a complaint of reprisal with the USMA IG, Department of the Army IG, or with the DoD OIG through the Defense Hotline.

To determine whether any cadets made a complaint of reprisal in calendar years 2016 through 2018, we inquired with the USMA IG, the Army IG, and DoD OIG Whistleblower Reprisal Investigations. We determined that there were no reprisal complaints made by cadets during the evaluation period.

Interviews With Army Special Victims’ Counsel

As previously mentioned, the special victims’ counsel (SVC) are Military Service attorneys who represent victims of sexual assault. The SVCs ensure that victims’ interests and rights are recognized and protected throughout all proceedings. The SVCs provide victims with a wide range of services to address legal needs and to have a privileged attorney-client relationship with victims.⁶³

We interviewed former and current SVCs who represented USMA cadet-victims from January 1, 2016, through December 31, 2018, to determine whether cadet-victims told their SVC that they were retaliated against with separation. The SVCs told us that none of the cadet-victims reported to the SVCs that USMA commanders and decision makers retaliated against them by separating them from the USMA for reporting a sexual assault.

Conclusion

We concluded that USMA commanders and decision makers did not separate the nine cadet-victims because they made reports of sexual assault. We found that three of the nine cadet-victims filed restricted reports of sexual assault in accordance with DoDD 6495.01. Due to the confidentiality, the USMA commanders and decision makers would have likely not been aware of those reports of sexual assaults when the separation process for these cadet-victims was initiated.

⁶² AR 20-1, “Inspector General Activities and Procedures,” November 29, 2010, (Incorporating Rapid Action Revision, July 3, 2012).

⁶³ Army “Special Victims’ Counsel Handbook Fourth Edition,” June 2017.

We found that one of the nine cadet-victim's separations was initiated prior to the report of sexual assault; therefore, the report did not influence the initiation of the separation. Two of the cadet-victims had academic and military performance training deficiencies prior to making sexual assault reports. One of the cadet-victims was initially on medical leave of absence but returned to the USMA and declined to participate in behavioral health treatment before the cadet was separated. One cadet requested to resign in lieu of a court-martial for criminal misconduct. Finally, one cadet-victim was diagnosed with a behavioral health condition after suffering multiple sexual assaults that prevented the cadet-victim from being commissioned as an officer in the Army. Accordingly, we determined that USMA commanders and decision makers separated cadet-victims in accordance with DoD and Army policy.

Finding D

Cadet-Victim Reports of Sexual Assault Were Accurately Reported to Congress As Required by Public Law 109-364

Between Academic Program Year (APY) 2015-2016 and APY 2017-2018, the Under Secretary of Defense for Personnel and Readiness (USD[P&R]) provided Congress three Annual Reports on Sexual Harassment and Violence at the Military Service Academies.⁶⁴ These reports identified a total of 132 official reports of sexual assault made at the USMA during that period (116 of the 132 were cadet-victims).⁶⁵

We determined that the USD(P&R) accurately reported to Congress the number of cadet-victim reports of sexual assault made in the three APYs at the USMA as required by Public Law 109-364.⁶⁶

Additionally, the Army DSAID Program Administrators archived 24 reports of sexual assaults from the DSAID. Specifically, according to the West Point SHARP Program Manager, the Army Defense Sexual Assault program administrators archived the records because they were duplicated case entries, computer entry errors, incidents were not DSAID-reportable offenses, or the incidents did not involve USMA cadets. After the West Point SHARP Program Manager provided us with the reasons that the records were archived, we validated the information with additional evaluation of DSAID and CID investigation data.

Although USMA SHARP personnel were able to provide reasons the records were archived, USMA SHARP personnel had to manually search through files and e-mails for the information. These inefficient searches were necessary because the USD(P&R) did not have a process in place that required or enabled DSAID administrators to document the reason that reports of sexual assault were archived in the DSAID.

⁶⁴ During the evaluation, we reviewed the annual reports on Sexual Harassment and Violence at the Military Service Academies for APYs 2015-2016, 2016-2017, and 2017-2018.

⁶⁵ According to "Appendix D: Statistical Data on Sexual Assault and Sexual Harassment," for the most recent "Annual Report on Sexual Harassment and Violence at the Military Service Academies for Academic Program Year (APY) 2017-2018," USD(P&R) reports data captured for "Restricted and Unrestricted Reports of sexual assault involving cadets, midshipmen, or prep school students ... as victims and/or subjects" at the Military Service Academies in the annual reports of Sexual Harassment and Violence at the Military Service Academies.

⁶⁶ Public Law 109-364, "John Warner National Defense Authorization Act of Fiscal Year 2007," section 532, "Revision and Clarification of Requirements with Respect to Surveys and Reports Concerning Sexual Harassment and Sexual Violence at the Service Academies," October 17, 2006.

Requirements for the Department of Defense's Annual Reports to Congress Related to Sexual Assault

At least two public laws require the Secretary of Defense to submit reports to Congress related to sexual assaults in the military.

Annual Report on Sexual Harassment and Violence at the Military Service Academies

Public Law 109-364 requires the Secretary of Defense to submit annually to Congress a report that includes the number of sexual assaults that occur at the Military Service Academies.⁶⁷ DoDI 6495.02 implements this law and requires the USD(P&R) to submit annual reports on sexual harassment and violence to Congress.

As a result, each year the USD(P&R) provides Congress the "Annual Report on Sexual Harassment and Violence at the Military Service Academies." In the report, the USD(P&R) identifies the number of official reports of sexual assault at the Military Service Academies and the disciplinary actions taken in substantiated cases.

Annual Report on Sexual Assault in the Military

Public Law 111-383 requires the Secretary of Defense to submit annually to Congress a report that includes the number of sexual assaults committed against and by members of the Armed Forces that were reported to military officials.⁶⁸ DoDI 6495.02 implements this law and requires the USD(P&R) to submit annual reports to Congress about sexual assault in the military.

As a result, each year the USD(P&R) provides Congress the "Annual Report on Sexual Assault in the Military." In the report, the USD(P&R) identifies the number of official reports of sexual assault in the military and the disciplinary actions taken in substantiated cases of sexual assault.

Defense Sexual Assault Incident Database

The DSAID is a centralized database that collects and maintains information on sexual assaults involving Armed Forces members.⁶⁹ DoD SAPRO personnel maintain the DSAID and Military Service SAPRO personnel input victim data into the database. The DoD SAPRO uses the DSAID to account for the number

⁶⁷ According to DoDI 1322.22, "Service Academies," September 24, 2015, the Military Service Academies include the U.S. Military Academy, U.S. Naval Academy, and the U.S. Air Force Academy.

⁶⁸ Public Law 111-383, "Ike Skelton National Defense Authorization Act of Fiscal Year 2011," section 1631, "Annual Report Regarding Sexual Assaults Involving Members of the Armed Forces and Improvement to Sexual Assault Prevention and Response Program," January 7, 2011.

⁶⁹ <http://www.sapr.mil/dsaid-overview>.

of official reports of sexual assault that are included in the “Annual Report on Sexual Harassment and Violence at the Military Service Academies.”⁷⁰ According to USMA SHARP personnel, Service DSAID Program Administrators can archive DSAID reports when there are duplicate reports, reports without a corresponding DD Form 2910, or reports entered without a qualifying offense. Archiving a report in the DSAID does not delete the report from DSAID. The DSAID keeps the report and associated details but does not allow the report of sexual assault to be included in the number of reports of sexual assault provided to Congress.

Army Personnel Archived Reports of Sexual Assault in the DSAID With Sufficient Documentation

To determine whether the number of reports provided to Congress was correct, we verified whether the Army deleted reports of sexual assault from the DSAID. We determined that Army reports of sexual assault cannot be deleted from the DSAID; instead, the reports can be archived. Archiving a report in the DSAID does not delete the report from DSAID. Army DSAID reports can be archived when there are duplicate reports, reports without a corresponding DD Form 2910, or reports entered without a qualifying offense. The DoD SAPRO DSAID Program Manager told us that it is not possible to delete reports from the DSAID because the DSAID was designed to prevent the intentional deletion of reports of sexual assault. Furthermore, the DoD SAPRO DSAID Program Manager told us that when a DSAID report is not created in accordance with DoD and Service policy, the report is archived in the DSAID.

We determined that from June 1, 2015, through May 31, 2018, the Army DSAID Program Administrator archived 24 reports of sexual assault in the DSAID. We reviewed the DSAID to determine the reason that the Army DSAID Program Administrators archived the reports. We determined that the archived DSAID records did not contain an explanation for why the DSAID report was archived. Furthermore, the DSAID did not have a field to record the reason that a DSAID report of sexual assault was archived.

According to the West Point SHARP Program Manager, the 24 records were archived for various reasons, such as duplicated case entries, computer entry errors, incidents that did not involve a qualifying offense, or incidents that did not involve USMA cadets.

⁷⁰ Public Law 110-417, “Duncan Hunter National Defense Authorization Act for Fiscal Year 2009,” section 563, “Implementation of information database on sexual assault incidents in the Armed Forces,” October 14, 2008, requires the DoD to “implement a centralized, case-level database for the collection ... and maintenance of information regarding sexual assaults involving a member of the Armed Forces”

Although USMA SHARP personnel were able to provide the reasons that the records were archived after our request for the information, USMA SHARP personnel had to manually search through files and e-mails for the information. We validated the reasons for the archives, but the inefficient searches and validation was necessary because the USD(P&R) did not have a process in place that required or enabled DSAID administrators to document the reason that reports of sexual assault were archived in the DSAID. This is similar to our findings in Report No. DODIG-2019-125, which concluded that the Air Force DSAID program administrator archived 24 reports of sexual assault in the DSAID without having a process in place to document the reasons for the archives. In that report, we recommended that the DoD SAPRO Director update DSAID to include a field for the Military Service DSAID program administrators to record the reason that reports of sexual assault are archived in the DSAID. In the response to our recommendation, the DoD SAPRO Director informed us that the DSAID will be updated to require administrators to record the reason that reports of sexual assault are archived in the database. The USD(P&R) informed us that they intend to implement a change to the DSAID that will enable this capability in the fall of 2020.

Conclusion

We determined that the USD(P&R) accurately reported to Congress the number of cadet-victim official reports of sexual assault made in APYs 2015-2016, 2016-2017, and APY 2017-2018 at the USMA.

However, we determined that the USD(P&R) did not have a process in place that required or enabled DSAID administrators to document the reason that reports of sexual assault were archived in the DSAID. This is similar to our findings in Report No. DODIG-2019-125. In response to our recommendation in that report, the DoD SAPRO agreed to update the DSAID to require administrators to record the reason that reports of sexual assault are archived in the database. Therefore, we are not repeating the recommendation found in Report No. DODIG-2019-125, but again urge action on this important recommendation.

Appendix A

Scope and Methodology

We conducted this evaluation from May 2019 through February 2020 in accordance with the “Quality Standards for Inspection and Evaluation,” published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings and conclusions.

We reviewed several reports related to sexual assaults at the military services academies. For example, we read “The Report of the Working Group Concerning the Deterrence of and Response to Incidents of Sexual Assault at the U.S. Air Force Academy,” June 17, 2003, prepared by the Air Force Office of General Counsel; the “Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy,” September 22, 2003, commonly referred to as the “Fowler Report”; the “Task Force Report on Care for Victims of Sexual Assault,” April 2004; and the “Report of the Defense Task Force on Sexual Harassment & Violence at the Military Service Academies,” June 30, 2005.

We also reviewed General Accounting Office (GAO), DoD OIG, and other investigative and audit reports related to sexual violence at the academies to gain a perspective of the USMA’s history associated with sexual violence. We reviewed DoD, Army, CID, and USMA policies, which included strategic plans concerning the prevention of and response to sexual assaults. See Appendix B for prior coverage of sexual violence, the SAPR program, and separation actions in the DoD within the last 5 years of this report.

During the evaluation, we obtained, reviewed, and analyzed documents from the USD(P&R), DoD Family Advocacy Program, Army OIG, USMA, and CID, such as internal and external inspection reports, historical minutes from oversight entities, separation transaction records, and investigative case files. We also evaluated sexual assault incident data in the Defense Sexual Assault Incident Database (DSAID), allied SAPR documentation, survey results, and annual reports to Congress. Lastly, we conducted interviews with current and former members of the USMA and CID staffs.

Evaluation of the USMA SHARP Office SHARP Services

To determine whether USMA SHARP personnel provided SHARP services to cadet-victims, we identified the specific criteria for USMA SHARP personnel to comply with SHARP policy. Specifically, DoDI 6495.02 and AR 600-20 require SHARP personnel to offer victims a victim advocate, inform victims about the available victim support services and offer the victims referrals to those services, and help facilitate those referrals if the victim chooses the support.

We identified our population of cadet-victims who made unrestricted or restricted reports of sexual assault from January 1, 2016, through December 31, 2018. We analyzed the data in the DSAID, compared it to DD Forms 2910 completed by cadet-victims, and identified 100 cadet-victim reports of sexual assault within our scope. As a precaution, we instituted additional internal controls to protect victim privacy as well as the integrity of the information and overall DoD SAPR program, particularly the restricted reporters. We then identified and analyzed the data in the DSAID and information on the DD Forms 2910 to determine whether the cadet-victims were offered a USMA victim advocate. Specifically, we identified in the DSAID where USMA SHARP personnel documented a referral to a USMA victim advocate. We also used the DSAID and DD Forms 2910 to determine if USMA SHARP personnel informed cadet-victims about the available USMA cadet-victim support services and if USMA SHARP personnel referred cadet-victims to the USMA cadet-victim support services they chose to accept. Specifically, we identified where the cadet-victim initialed and signed the DD Forms 2910 acknowledging receipt of the information and we identified in the DSAID where USMA SHARP personnel documented the specific referrals each cadet-victim chose to accept.

To determine whether USMA SHARP personnel helped facilitate the referral that cadet-victims chose to accept, we interviewed USMA SHARP personnel who provided SHARP services and special victims' counsel (SVC) who represented and provided legal services to our population of cadet-victims. Specifically, we asked USMA SHARP personnel to explain how they provided SHARP services and how they informed cadet-victims about cadet-victim support services. We also asked USMA SHARP personnel whether they offered cadet-victims referrals to cadet-victim support services and if they helped facilitate the referrals that cadet-victims chose to accept. Additionally, we asked the SVCs about their observations of USMA SHARP personnel and their cadet-clients' experiences with USMA SHARP personnel and the USMA cadet-victim support services. We also asked the SVCs whether their cadet-clients complained about USMA SHARP personnel, the SHARP service, or the USMA cadet-victim support services they chose to use.

Evaluation of CID Law Enforcement Services (Investigations)

To determine whether CID agents investigated reports of sexual assaults involving cadet-victims according to policy, we identified the specific criteria for CID agents to comply with DoD, Army, and CID investigation policy. Specifically, DoDI 5505.18 directs CID agents to initiate a criminal investigation in response to all allegations of adult sexual assault of which they become aware within their jurisdiction. Furthermore, CID agents are required to investigate all adult sexual assault investigations thoroughly and in compliance with all related policies. In addition to DoD investigation policy, we used various CID general and sexual assault investigation policies to evaluate CID's performance.

We requested that the CID provide us with a list of all cadet-victim sexual assault investigations opened on or after January 1, 2016, and completed on or before December 31, 2018, to determine whether the CID completed investigations as required by DoD, Army, and CID policy. We then validated the list of cadet-victim sexual assault investigations that CID sent to us. We excluded any investigations that did not meet the criteria for our evaluation. For example, we excluded investigations where action taken against a subject was not completed by December 31, 2018. We identified 47 cadet-victim sexual assault investigations within the criteria of this evaluation.

We developed a sexual assault investigation evaluation protocol based on DoD, Army, and CID policies and procedures. The evaluation protocol addressed, in detail, the investigative steps that are essential to complete a thorough sexual assault investigation ensuring compliance with policies that were in effect during the life of the investigation. For data collection efficiency and standardization, a relational database was created with the protocol questions that was used by our evaluators for each of the 47 cadet-victim sexual assault investigations reviewed. We also used our professional judgement to evaluate the thoroughness of each cadet-victim sexual assault investigation. Our evaluators reviewed the first three investigations as a group to ensure our evaluators assessed each case file in a uniformed manner. We also performed quality control reviews of each individual case file evaluation to safeguard the integrity of our testing. Lastly, we used the database to generate results of our evaluations to establish sufficient evidence to support our findings.

Evaluation of USMA Separations

To determine whether USMA commanders and decision makers retaliated against cadet-victims by separating them from the USMA for reporting sexual assault, we identified the specific criteria that USMA admissions and personnel staff use to comply with cadet separation policy. Specifically, AR 635-8, AR 210-26, and AR 612-205 provide procedural guidance for separation and discharge of cadets who fail to meet USMA standards.⁷¹ We used these policies to evaluate the performance of the USMA admissions and personnel staff that process cadet-victims for separations.

We requested the USMA provide us with a list of all cadets who were separated from the USMA from January 1, 2016, through December 31, 2018. The USMA provided the requested list that contained basic information about the cadets who were separated from the USMA during the period. We cross-referenced the list with the DSAID and DD Forms 2910 information to identify our population of cadet-victims who were separated from the USMA. As a precaution, we instituted additional internal controls to protect victim privacy as well as the integrity of the information and overall DoD SAPR program, particularly the restricted reports. We identified nine cadet-victims who made either a restricted or unrestricted report of sexual assault and who were subsequently separated from the USMA. We excluded all the other cadets who did not meet the criteria for our evaluation.

Using the Army separation policy, we examined the personnel separation records of each of the nine cadet-victims and evaluated whether each separation action conformed to policy. Our evaluation criteria included the grounds for separation, initiating official, commanders and decision makers review process, legal review report, separating cadet's response, and separation approval authority. We specifically examined the records for valid separation justification.

Evaluation of the Annual USD(P&R) Reports to Congress

To determine whether the USD(P&R) annually reported the correct number of cadet-victim reports of sexual assaults to Congress, we identified the specific criteria for USD(P&R) to comply with DoD SAPR policy. Specifically, Public Law 109-364 requires the Secretary of Defense to submit annually to Congress a report that includes the number of sexual assaults that occur at the military service academies. DoDI 6495.02 implements this law and requires the USD(P&R) to submit annual reports on sexual harassment and violence to Congress. Although the report contains reports of sexual assault by other members of the community, we focused specifically on cadet-victims during our evaluation.

⁷¹ AR 210-26 and AR 612-205 were superseded by AR 150-1, "United States Military Academy Organization, Administration, and Operation," on March 5, 2019.

We coordinated with the DoD SAPRO and obtained data extracts from the DSAID for all USMA sexual assault incident records entered into the database from June 1, 2016, through May 31, 2018, including all archived records that were not reported to Congress. We then coordinated with the West Point SHARP Program Manager to determine the justification for record archiving and exclusion from mandatory congressional reporting. We also coordinated with the DoD Family Advocacy Program Associate Director who informed us that no USMA cadet-victim sexual assault incidences were included with information provided to Congress by the DoD Family Advocacy Program.

After excluding the archived records and ruling out the possibility that cadet-victim sexual assault incidents were reported separately to Congress by the DoD Family Advocacy Program, we analyzed the DSAID data provided to us and compared it with the information reported to Congress. In analyzing the DSAID information, we filtered the data on only incidents with cadet-victims and then on only those reported from June 1, 2016, through May 31, 2018, to determine if the number of incidents recorded in the DSAID matched the numbers reported to Congress.

Use of Computer-Processed Data

We used computer-processed data to perform this evaluation. Specifically, we relied on data from the following systems: the DSAID, the Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division database, and the FBI Combined Deoxyribonucleic Acid Index System. With the DSAID, we compared the DSAID data to DD Forms 2910 and other physical documentation and determined that the DSAID was reliable for the purpose of this report. We did not verify the reliability of the FBI systems.

Appendix B

Prior Coverage

During the last 5 years, the GAO and the DoD Office of Inspector General (DoD OIG) issued five reports about SHARP, personnel separations, or sexual assault investigations in the DoD.

GAO

Report No. GAO-17-99, “Military Personnel: DoD Has Processes for Operating and Managing Its Sexual Assault Incident Database,” January 10, 2017

The GAO studied the DoD’s Defense Sexual Assault Incident Database (DSAID) to determine the current status of its implementation and steps the DoD has taken to help standardize DSAID’s use. The GAO found that the DoD took “several steps to standardize DSAID’s use through the development of (1) policies, processes, and procedures for using the system; (2) training for system users; and (3) processes for monitoring the completeness of data.” DoD officials planned to spend approximately \$8.5 million to implement modifications to DSAID in FYs 2017 and 2018 to address these challenges. Additionally, the GAO found that the DoD had management controls in place to make changes to the database.

Report No. GAO-15-266, “Defense Health Care: Better Tracking and Oversight Needed of Service Member Separations for Non-Disability Mental Conditions,” February 13, 2015

The GAO found that the DoD and the “Army, Navy, and Marine Corps” could not “identify the number of enlisted service members separated for non-disability mental conditions—mental conditions that are not considered service-related disabilities. For most non-disability mental condition separations, these services use the broad separation code, ‘condition, not a disability,’ which mixes non-disability mental conditions with non-disability physical conditions, such as obesity, making it difficult to distinguish one type of condition from the other. In contrast, the Air Force is able to identify such service members because it uses all five of the separation codes specific to non-disability mental conditions.”

DoD OIG

Report No. DODIG-2019-125, “Evaluation of the DoD’s Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Air Force Academy,” September 30, 2019

The DoD OIG evaluated the DoD’s handling of incidents of sexual assault against (or involving) cadets at the United States Air Force Academy (USAFA) as the first in a series of evaluations of the Military Service Academies. The evaluation objectives were comparable to the objectives of this evaluation of incidents at the USMA. The DoD OIG found “USAFA SAPR personnel provided SAPR services to cadet-victims and victim support services were available to cadet-victims at the USAFA as required by DoD and Air Force policy. However, [the DoD OIG] determined that the USAFA SARC did not have a process to document ‘contacts and consults’ with cadet-victims who chose not to make an official report of sexual assault or a means to document any resulting referrals to victim support services.” The DoD OIG also found the Air Force Office of Special Investigations “agents generally responded to and investigated reports of sexual assault in accordance with DoD and Air Force policy.” The DoD OIG further found that the “USAFA commanders and decision makers did not retaliate against cadet-victims by disenrolling them from the USAFA for reporting sexual assault. Furthermore, [the DoD OIG] determined that 11 cadet-victim reports of sexual assaults that were made to the USAFA Family Advocacy Program (FAP) were not reported to Congress as required by Public Law 109-364.” Lastly, the DoD OIG “identified 24 sexual assaults [incidents reported] from January 1, 2015, through December 31, 2017, that were not reported to Congress.”

Report No. DODIG-2017-054, “Evaluation of Military Criminal Investigative Organizations’ Adult Sexual Assault Investigations,” February 14, 2017

The DoD OIG “evaluated 378 Military Criminal Investigative Organizations’ (MCIO) adult sexual assault investigations opened on or after January 1, 2014, and completed on or before December 31, 2015, to determine whether the MCIOs completed investigations as required by DoD, Military Service, and MCIO guidance.” The DoD OIG found “only 2 of the 378 cases (0.5 percent) we reviewed had significant deficiencies that we believed likely adversely impacted the outcome of the investigations.” The DoD OIG “compared these results to our previous two evaluations, conducted in 2015 (Report No. DODIG-2015-094) and 2013 (Report No. DODIG-2013-091). In 2015, the DoD OIG returned 4 of 536 (0.7 percent) cases for significant deficiencies and in 2013 we returned 56 of 501 cases (11.2 percent) for significant deficiencies.” “Overall, the number of cases with significant and minor deficiencies remained low, although the percentage of cases with administrative deficiencies increased.”

Report No. DODIG-2015-094, "Evaluation of Military Criminal Investigative Organizations' Adult Sexual Assault Investigations," March 24, 2015

The DoD OIG "evaluated 536 Military Criminal Investigative Organization (MCIO) investigations of sexual assaults with adult victims opened on or after January 1, 2012, and completed in 2013 to determine whether the MCIOs completed investigations as required by DoD, Military Service, and MCIO guidance." "A total of 532 of 536 MCIO investigations (99 percent) met investigative standards. This reflects a 10-percent improvement compared to findings in our previous evaluation of MCIO adult sexual assault investigations, as reported in DODIG-2013-091." The DoD OIG "returned 4 of 536 cases (1 percent) with significant deficiencies to the MCIOs for corrective action. This reflects an improvement from 56 of 501 cases (11 percent) returned in our previous evaluation, as reported in DODIG-2013-091." "A total of 318 of the 536 cases had no deficiencies, and 85 cases had minor investigative deficiencies that did not impact the outcome of the investigation. The remaining 129 cases had only administrative deficiencies."

DoD SAPR Office

During the last 5 years, the DoD SAPR Office issued five reports about the SAPR programs at the military service academies.

Report No. APY 2018-2019, "Annual Report on Sexual Harassment and Violence at the Military Service Academies, Academic Program Year 2018-2019," January 2020

The DoD SAPRO reported that "[t]he [DoD] made considerable progress in reducing sexual assault at the Military Service Academies between 2012 and 2014. However, the estimated prevalence of unwanted sexual contact and sexual harassment increased between 2014 and 2018." The DoD SAPRO reported it learned that "[s]tudents remain hesitant to report sexual assault, fearing negative social, academic, and career impacts." Additionally, DoD SAPRO reported that "[i]nspections of [SAPR] and Military Equal Opportunity programs found that the academies are in compliance with policy"

Report No. APY 2017-2018, "Annual Report on Sexual Harassment and Violence at the Military Service Academies, Academic Program Year 2017-2018," January 17, 2019

The DoD SAPRO reported that the academies were "executing the plans they provided to the Department to address alcohol consumption, sexual assault prevention, academy culture, and sexual assault and sexual harassment reporting. These plans were mostly in place by September 2018 for the start of classes." Additionally, the DoD SAPRO reported it had found that "Academy leadership are diligently executing plans to reinvigorate prevention, improve reporting, enhance a culture of respect, and promote a disciplined force."

Report No. APY 2016-2017, "Annual Report on Sexual Harassment and Violence at the Military Service Academies, Academic Program Year 2016-2017,"
January 22, 2018

The DoD SAPRO reported that the academies' leaders were committed "to meeting victim response, healthcare, investigative, and military justice requirements identified in policy and law." The DoD SAPRO stated that the USMA complied with DoD "policies that govern sexual assault and sexual harassment prevention, victim assistance and advocacy, investigation, accountability, and assessment." The DoD SAPRO commended the USMA for contracting "an independent organization with expertise" in sexual assault prevention to assess USMA's prevention activities. The DoD SAPRO reported that it reviewed the organization's assessment and found it was informative and research-based.

Report No. APY 2015-2016, "Annual Report on Sexual Harassment and Violence at the Military Service Academies, Academic Program Year 2015-2016,"
January 18, 2017

The DoD SAPRO reported that the USMA continued "to make clear and demonstrable progress in supporting cadets and midshipmen who report sexual assault and ... provided substantial evidence that victim response, healthcare, investigative, and military justice resources worked well in response to sexual assault." The DoD SAPRO also reported that the USMA continued "to field well-organized and well-functioning sexual assault response systems and ensured full staffing, training, and certification of [SAPR] personnel."

Report No. APY 2014-2015, "Annual Report on Sexual Harassment and Violence at the Military Service Academies, Academic Program Year 2014-2015,"
December 2, 2015

The DoD SAPRO reported that, "[o]verall, USMA is in compliance with the Department's policies regarding sexual harassment and assault. USMA's programs reflect leadership's oversight and investment. The Superintendent made the prevention and elimination of sexual assault his number one priority. The Superintendent expects cadets to promote command climates of dignity and respect"

Appendix C

Management Comments and Our Response

Although management was not required to comment, we received management comments on our findings from the Chief of Staff of the United States Military Academy, responding for the Superintendent of the United States Military Academy. See the Management Comments section for a copy of the comments.

The United States Military Academy Comments

The Chief of Staff of the United States Military Academy, responding for the Superintendent of the United States Military Academy did not agree nor disagree with the reported findings, but stated that:

- the USMA SHARP personnel followed current DoD and Army policy by not documenting consults and contacts with cadet-victims of sexual assault who do not file an official report of sexual assault;⁷²
- the Keller Army Community Hospital on West Point now has sexual assault medical forensic examination services available;⁷³ and
- a Special Victim Prosecutor is now assigned to West Point.⁷⁴

Our Response

We appreciate the comments provided by the Chief of Staff of the United States Military Academy. We validated that sexual assault medical forensic examination services and Special Victim Prosecutor capabilities are now available on West Point.

⁷² In DODIG Report No. DODIG-2019-125, "Evaluation of the DoD's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Air Force Academy," September 30, 2019, we made a recommendation to the DoD Sexual Assault Prevention and Response Office (SAPRO) Director to develop and institute a process that documents consults or contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts do not result in an official report of sexual assault. In response to this recommendation, the DoD SAPRO Director agreed to develop a process that documents consults and contacts with victims of sexual assault and any resulting referrals to victim support services if those contacts do not result in an official report of sexual assault. The USD(P&R) informed us that the intent is to deploy the revised policy and capability for documenting consults and contacts with victims of sexual assault in the fall of 2020.

⁷³ At the time of our evaluation, sexual assault medical forensic examination service was not available for the USMA on West Point. Sexual assault victims and subjects were transported to off-post medical facilities for forensic examination services.

⁷⁴ At the time of our evaluation, a Special Victim Prosecutor assigned to Fort Drum, New York, supported the West Point installation and the USMA.

Management Comments

Superintendent of the United States Military Academy



DEPARTMENT OF THE ARMY
UNITED STATES MILITARY ACADEMY
West Point, New York 10996

MASP

27 February 2020

MEMORANDUM FOR Department of Defense Office of Inspector General Evaluations,
ATTN: [REDACTED] - Space, Intelligence, Engineering, &
Oversight Investigative Oversight & Special Investigations and Reviews (IOSIR),
4800 Mark Center Drive, Alexandria, VA 22350-1500

SUBJECT: United States Military Academy Feedback to Project No. D2019-DIPOIV-0157.000, Evaluation of the DoD's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Military Academy

1. The United States Military Academy (USMA) appreciates the great work done by the DoDIG team to conduct a thorough review of our systems which support victims of sexual assault. We have concerns about the language used to characterize the findings related to documentation of consults and referrals; we would appreciate revisions to accurately depict that USMA is following current guidance.

a. On pg i, the first finding: "However, we determined that USMA SHARP personnel did not have a process or system to document consults and contacts with cadet-victims of sexual assault or a means to document any resulting referrals to victim support services when a cadet-victim did not file an official report of sexual assault."

We are following the current guidance and training that we received in the interviews conducted with SHARP personnel that was outlined in the body of the report; this finding is not something that we are able to address until there are changes from DoD. Request this be revised with a statement such as, "there is no current requirement by DA or DoD to document consults or contacts with victims of sexual assault and any resulting referrals to victim support services."

b. We have SAMFE services available now at Keller Army Community Hospital; would it be possible to include that as an additional service available to support victims?

c. Please consider revising the first sentence on p.18 of the draft report to include the addition of the Special Victim Prosecutor (SVP). At the time of the visit, our SVP services were provided by Fort Drum.

Superintendent of the United States Military Academy (cont'd)

MASP

SUBJECT: United States Military Academy Feedback to Project No. D2019-DIPOIV-0157.000, Evaluation of the DoD's Handling of Incidents of Sexual Assault Against (or Involving) Cadets at the United States Military Academy

2. Request consideration of the following grammatical revisions:

- a. The plural of counsel is counsel, not counsels (p.13, para 2; p.43, para 2; p50, para 3).
- b. Capitalize Special Victim Prosecutor on p. 20.
- c. Please remove "attorneys" in "The SVCs told us that, overall, the cadet-victims who worked with trial counsel attorneys were pleased with the USMA SJA services."
- d. On p. 39 (last line of first para), staff judge advocate should be SJA or Staff Judge Advocate.
- e. On p. 5, the quote of DoDI 6495.03 uses the word "assign" instead of "assigns."

3. The POC for this action is the USMA [REDACTED]
[REDACTED]
[REDACTED]

Acronyms and Abbreviations

APY	Academic Program Year
AR	Army Regulation
CID	United States Army Criminal Investigation Command
DD Form	Department of Defense Form
DFSC	Defense Forensic Science Center
DNA	Deoxyribonucleic Acid
DoD IG	Department of Defense Inspector General
DoD OIG	Department of Defense Office of Inspector General
DoDD	Department of Defense Directive
DoDI	Department of Defense Instruction
D-SAACP	Defense Sexual Assault Advocate Certification Program
DSAID	Defense Sexual Assault Incident Database
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
HIPAA	Health Insurance Portability and Accountability Act
IG	Inspector General
MCIO	Military Criminal Investigative Organization
MEB	Medical Evaluation Board
NDAA	National Defense Authorization Act
OIG	Office of Inspector General
PEB	Physical Evaluation Board
SAPR	Sexual Assault Prevention and Response
SAPRO	Sexual Assault Prevention and Response Office
SARC	Sexual Assault Response Coordinator
SHARP	Sexual Harassment/Assault Response and Prevention
SJA	Staff Judge Advocate
SVC	Special Victims' Counsel
SVIP	Special Victim Investigation and Prosecution
USACIL	United States Army Criminal Investigation Laboratory
USAFA	United States Air Force Academy
USCC	United States Corps of Cadets
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
USMA	United States Military Academy

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