



# **Task Force Report on Care for Victims of Sexual Assault**

April 2004

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# **Task Force Report on Care for Victims of Sexual Assault**

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April 2004

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**The Task Force would like to thank the following organizations for their support and advice:**

Combatant Commanders  
Joint Staff  
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Department of the Air Force  
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The Department of Justice  
The Department of Veterans Affairs  
Office of the Secretary of Defense, Reserve Affairs  
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Office of the Under Secretary of Defense, Personnel and Readiness  
Deployment Health Support Directorate  
Florida State University, School of Social Work, The Honorable Kathleen A. Kearney  
Center for Military Readiness, Ms. Elaine Donnelly  
The American Prosecutors' Research Institute  
The Miles Foundation  
Rape, Abuse, and Incest National Network

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## Preface



THE SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

FEB 5 2004

MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE  
(PERSONNEL AND READINESS)

SUBJECT: Department of Defense Care for Victims of Sexual Assaults

I am concerned about recent reports regarding allegations of sexual assaults on service members deployed to Iraq and Kuwait. Sexual assault will not be tolerated in the Department of Defense. Commanders at every level have a duty to take appropriate steps to prevent sexual assaults, protect victims, and hold those who commit offenses accountable. I am directing that you review how the Department handles treatment of and care for victims of sexual assault, with particular attention to any special issues that may arise from the circumstances of a combat theater. We are responsible for ensuring that the victims of sexual assault are properly treated, their medical and psychological needs are properly met, our policies and programs are effective, and we are prompt in dealing with all issues involved.

Your review should address the reporting of sexual assaults, including the availability of private channels for reporting such issues within combat theaters. During the course of your review, you should also consider what briefings may need to be given to deploying and redeploying service members.

Please report your findings and recommendations 90 days from the date of this memorandum.



OSD 01728-04





## Executive Summary

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The Department of Defense is unequivocal in its commitment to ensure that victims of sexual assault be protected, treated with dignity and respect, provided proper medical and psychological care, and that the perpetrators of such assaults be held accountable.

### Task Force Charter

On February 5, 2004, Secretary of Defense Donald Rumsfeld directed the Under Secretary of Defense for Personnel and Readiness, Dr. David S.C. Chu, to undertake a 90-day review of all sexual assault policies and programs among the Services and DoD, and recommend changes necessary to increase prevention, promote reporting, enhance the quality and support provided to victims, especially within combat theaters, and improve accountability for offender actions.

### Review Methodology

On February 13, 2004, the Under Secretary of Defense for Personnel and Readiness established an eight member Department of Defense Care for Victims of Sexual Assaults Task Force. The Task Force formulated a review plan, which included the following:

- ❑ Request and analyze sexual assault incidence and demographic data from the Services.
- ❑ Request and assess current DoD-wide, Service-wide and Combatant Command-wide sexual assault policies and programs.
- ❑ Perform literature review on sexual assault, including review of prior studies and reports on DoD sexual assault and related programs.
- ❑ Discuss sexual assault prevention, reporting, response, and disposition issues with commanders, non-commissioned officers, junior enlisted personnel, service providers (medical, mental health, victim advocate, victim witness advocate, chaplains, law enforcement, investigative agencies, and legal personnel), and victims.
- ❑ Consult with subject matter experts within the Department of Defense, other federal agencies, civilian experts, and sexual assault support organizations about matters that should inform our review with respect to prevention, reporting, response, and disposition of sexual assault cases.

For the purposes of the Task Force review, sexual assault was defined as including the alleged offenses of rape, forcible sodomy, assault with intent to commit rape or sodomy, indecent assault or an attempt to commit any of these offenses.

The Task Force conducted visits with 21 military locations in the Continental United States (CONUS), Pacific Command (PACOM), and Central Command (CENTCOM) to evaluate DoD and Service policies and programs for prevention of sexual assault, supportive care for sexual assault victims, and how well these programs transition to combat theater. The

structure and composition of the focus groups is discussed in Chapter 1. In all, the Task Force had personal contact with more than 1,300 individuals.

Working from scripted questions used at every site, the focus groups discussed issues such as command climate, barriers to reporting, prevention and support policies and practices, feedback mechanisms, best practices, and recommendations for improvements. Comments from focus group participants were obtained with the assurance that their individual comments would not be attributed to them or their organizations.

The Task Force reviewed Department of Defense, Service, and Combatant Commander policies and education and training requirements relative to sexual assault. The Task Force also reviewed selected 2002 and 2003 case and care reports at the sites visited where the identified victim was a uniformed service member.

The Task Force also consulted with other principal staff elements within the Office of the Secretary of Defense, outside experts from the Departments of Justice and the Department of Veterans Affairs, as well as respected experts from academia and rape crisis support organizations.

## Findings and Recommendations

This report contains the findings and recommendations of the Department of Defense Care for Victims of Sexual Assault Task Force. Throughout this review, the Task Force sought to understand the culture, command structures, and resource limitations when evaluating appropriate courses of action needed to fill gaps in policies and procedures, particularly as they pertain to in-theater care. The findings are intended to provide a high level, comprehensive assessment of the strengths, weaknesses, and gaps in current DoD and Service policies regarding care for sexual assault victims.

### Findings

The Task Force identified 35 key findings relevant to current sexual assault policies and programs among the Services and DoD, and proposed 9 broad recommendations for immediate, near-term, and long-term corrective action.

### Sexual Assault Data and Definition

DoD-wide, data systems and records on reports of sexual assault are incomplete and not integrated. Records are best when criminal investigations were performed, but significant gaps in the documentation of victim care and treatment, victim choices in the disposition process, and command disposition were identified. The implications of this are discussed further in Finding 1.

The number of alleged sexual assault cases reported across the Department of Defense for 2002 and 2003 are discussed in Finding 2. Cases reported to have occurred in the CENTCOM Area of Responsibility are reported as well. The rates of reported alleged sexual assault were 69.1 and 70.0 per 100,000 uniformed service members in 2002 and 2003, respectively. Due to substantial differences in the definition of sexual assault, these rates are not directly comparable to rates reported by the Department of Justice.

There is considerable inconsistency in the legal and behavioral definitions of terms like sexual assault, sexual harassment, and sexual trauma, as discussed in Finding 3. This creates significant challenges for the Department when evaluating sexual assault trends, both within and outside DoD, and ensuring effective program execution.

Despite these challenges, sexual assault risk factors in the military do not appear to be significantly different from those reported in civilian literature. These commonalities and associated data are discussed in Finding 4. Currently, these identified risks are not being systematically communicated to military members as part of any prevention education efforts that are either directly or indirectly related to sexual assault.

### **Sexual Assault Prevention**

Existing policies and programs aimed at preventing sexual assault are inconsistent and incomplete, principally because there is no Defense-wide policy requiring them, as discussed further in Findings 5 and 9. All services have robust programs aimed at prevention of sexual harassment that tangentially discuss sexual assault. The Task Force found pockets of excellence in each of the Services to address sexual assault prevention, response, and support. Examples are provided in Finding 6. Overall, the lack of Department-wide policy and program emphasis is particularly problematic in joint combat environments. Findings 7 and 8 provide specific examples and challenges with respect to this.

### **Sexual Assault Reporting**

Many of the barriers to reporting incidents identified during this review are similar to those reported in the civilian community, while others are unique to the military setting. Identified barriers and concerns expressed by focus group participants are discussed in Finding 12.

Generally, junior enlisted personnel are not aware of the full range of reporting options available to them. They identified a critical need for education and training on where to report, how to support a victim, and what to do in the event of sexual assault. Further discussion of these issues can be found in Finding 13.

The Task Force found that privacy needs of sexual assault victims must be positively assured. Focus group participants identified examples and recommended possible actions to increase privacy that are discussed in Finding 14.

The perceived lack of privacy and confidentiality within the Department of Defense is thought by many to be one of the most significant barriers to reporting by military sexual assault victims. While many individuals the Task Force spoke to recognized that lack of confidentiality within the DoD serves as a barrier to reporting, there was equal concern that affording victims with avenues for confidential disclosure may impede a commanders' solemn responsibility to hold offenders accountable and to ensure community safety. More detailed discussion of this very complicated issue is found in Finding 15.

## **Care for Victims of Sexual Assault**

Focus group leaders, providers, and enlisted personnel suggested that Department-wide guidelines are needed to ensure consistent and timely command response to victim safety and protection needs, particularly in making decisions to segregate the alleged victim and

alleged offender. These issues are discussed further in Findings 16 and 17. Finding 18 provides further discussion of unique challenges in the operational theatre.

DoD has no mandated requirement to provide advocacy for sexual assault victims. As a result, there is no one person or office across the Department of Defense mandated to principally and exclusively serve the needs of sexual assault victims. Associated findings and implications are discussed in Findings 20 through 22.

Focus group discussions suggested that integration of services for victims were lacking at most installations. Several of the Services were noted to have policies designed to ensure better coordination of care for sexual assault victims; however, implementation appeared inconsistent. While aggregate data provided by the Services suggested that care to victims is being provided within military facilities, it was very difficult to validate this when individual records were reviewed at the sites visited. These issues are discussed further in Finding 23.

The resources required to deliver integrated case management support for victims at small, isolated CONUS installations, at OCONUS installations where expert host nation resources have not been developed, and in the deployed environment, is not currently a consideration in force planning. For example, Sexual Assault Nurse Examiners (SANE) exist in the active and reserve components, but they are not being strategically developed or implemented for utilization in OCONUS and remote CONUS locations. Finding 24 provides further discussion. Uniform Department-wide training for providers and optimal standards of care for victims of sexual assault have not been developed and are needed, as discussed in Finding 25.

## Sexual Assault Investigation and Prosecution

The environment in the combat theater has a detrimental effect on the ability to timely and effectively investigate and prosecute cases, due primarily to heavy investigative workloads and insufficient on-the-ground resources to respond. As a consequence, at least initially, some investigations were conducted by the command, which may have unintentionally compromised some of those cases of sexual assault. Findings 27 and 28 provide further discussion of these issues.

When victims of sexual assault have been engaged in minor misconduct prior to the sexual assault (e.g., underage drinking, breaking curfew, etc.), it presents challenges for commanders that are unique to the military. Addressing a victim's minor misconduct prior to resolution of the sexual assault allegation is perceived by many as unfair. These issues are discussed further in Finding 29.

Understanding the nature and extent of intentionally false allegations is important to better serve the needs of those who have been sexually assaulted, those whose lives and careers have been impacted by false allegations, and the military as a whole. While the Task Force recognizes that addressing false allegations may be polarizing, it was a concern expressed by many individuals within the military. These challenges and the need for better, more reliable information about this issue are discussed in Finding 30.

Another challenge for the military is the lack of transparency with respect to the investigation of sexual assault cases and the decision-making process for individual cases. This lack of transparency impacts the military's ability to demonstrate to the ranks that there is offender accountability. The need to increase transparency, while adhering to Privacy Act protections, is discussed in Finding 32.

Sexual assault cases are often very difficult to investigate and to successfully prosecute, but available data shows commanders are taking action. Analysis of data provided by the services with respect to this issue is provided in Finding 33.

### **System Accountability for Sexual Assault**

The lack of focus and assigned responsibility for sexual assault issues within the Office of the Secretary of Defense has resulted in a lack of policy, development and implementation, as well as inconsistent oversight and inattention to developing and ensuring adherence to performance standards. The implications of this are discussed in Findings 34 and 35.

## **Recommendations**

### **For Immediate Action:**

- ❑ Establish a single point of accountability for all sexual assault policy matters within the Department of Defense.
- ❑ During the upcoming Combatant Commanders Conference, allocate time on the agenda to discern the how the findings and recommendations of this report should apply to their areas of responsibility.
- ❑ Ensure broadest dissemination of sexual assault information regarding DoD's policies, programs and resources available for sexual assault prevention, reporting, response, protection and accountability through DoD-wide communication outlets.
- ❑ Within the next three months, convene a summit of DoD leaders (military and civilian) and recognized experts on sexual assault, to develop strategic courses of action to:
  - Develop better operational definitions and delineation of distinctions between terms like sexual harassment, sexual misconduct, and sexual assault, and how those definitions relate to crimes under the Uniform Code of Military Justice.
  - Establish avenues within DoD to increase privacy and provide confidential disclosure for sexual assault victims.
  - Establish ways to increase transparency of the reasons for the handling and disposition of reported sexual assault cases.
  - Develop and maintain an expert, full-spectrum sexual assault response capability in OCONUS, CONUS remote, and operational environments, such as through the use of deployable Sexual Assault Response Teams (SARTs).
  - Establish flexible templates for diplomatic and/or military-to-military agreements with coalition partners that address the jurisdiction and responsibility for crimes committed by a citizen of one nation against the citizen of another nation.

### **For Near-Term Action:**

- ❑ Establish an Armed Forces Sexual Assault Advisory Council, composed of key DoD officials and officials of other federal agencies with recognized expertise in dealing with

issues surrounding sexual assault, with authority to seek input from other nationally recognized sexual assault experts, as needed.

- ❑ Develop policies, guidelines and standards for sexual assault prevention, reporting, response, and accountability. This includes efforts to:
  - Develop standardized requirements, guidelines, protocols, and instructional materials that are focused on prevention across the total force.
  - Encourage reporting through well-established, publicized, and unobstructed reporting channels.
  - Develop DoD-wide standards and guidelines for sexual assault response to assure that all victims are afforded safety and protection, receive the best care possible, and have a coordinated, timely response to and resolution of their cases.
    - Develop sexual assault “force protection” guidelines for installation and operational use focused on identification and mitigation of risk factors.
    - Develop DoD-wide medical standards of care and clinical practice guidelines for treatment and care of victims of sexual assault.
    - Establish performance metrics for the United States Army Criminal Investigative Lab to ensure more timely forensic evidence processing.
- ❑ Establish DoD-wide policy requiring victim advocates be provided to victims of sexual assault and create a mechanism for providing victim advocates in deployed environments.
- ❑ Establish uniform guidelines for commanders’ use in responding to victims of sexual assault, including guidelines for:
  - Assuring that a sexual assault victim’s safety and protection needs are met.
  - Positively assuring a victim’s privacy and review the process
  - How and when reports of sexual assault are forwarded up the chain of command, as well as what information is included in those reports.
  - Addressing a victim’s misconduct that occurs in association with a sexual assault.
- ❑ Assure manpower and fiscal resources are authorized and allocated, especially in the near years, to implement required policies and standards.
- ❑ Develop an integrated strategy for sexual assault data collection to aid commanders, service providers, legal, staff, and law enforcement in evaluating response effectiveness and system accountability.

#### **For Longer-Term Action:**

- ❑ Establish institutional sexual assault program evaluation and oversight mechanisms.

## Summary

If the Department of Defense is to provide a responsive system to address sexual assault, it must be a top-down program with emphasis placed at the highest levels within the Department down to the lowest levels of command leadership. It must develop performance metrics and establish an evaluative framework for regular review and quality improvement. Further the Department must ensure that Commanders and leaders have the appropriate tools (education, training, resources and support) to ensure that:

- ❑ our service members understand the risks and actively engage in preventive measures

- ❑ all responders treat victims with dignity and respect
- ❑ support personnel ensure high quality care and treatment, no matter where the sexual assault occurs
- ❑ swift resolution and/or punishment occurs

Sexual assaults are a challenge to our nation, and the military is not immune to this challenge. In the short timeframe available to plan and execute the review and summarize our findings and recommendations, we focused on critical factors that need to be addressed in dealing with sexual assault in the military.

In the course of this review, the Task Force met with more than 1,300 individuals across the spectrum of leadership, line, support, and policymaking personnel. We were consistently humbled by the professionalism, dedication, and commitment to duty demonstrated across all ranks, military, and civilian, here at home, and in the combat environment.

The Task Force recognizes that this issue is very complex, and its resolution is critical to the well-being of military service members. Within the limited time available to the Task Force, the recommendations are intended to be a starting point for increased DoD attention to the policy development, command emphasis, and resourcing necessary to resolve sexual assault concerns. DoD policies, programs, and procedures are necessary, but will not be sufficient to resolve the sexual assault problems found by this Task Force Review, without renewed emphasis and the clear, immutable commitment of unit commanders.





# 1 Introduction

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The Department of Defense is unequivocal in its commitment that victims of sexual assault be protected, treated with dignity and respect, provided proper medical and psychological care, and that the perpetrators of such assaults be held accountable in accordance with recognized principles of due process and the rules of law.

This report contains the findings and recommendations of the Department of Defense Care for Victims of Sexual Assault Task Force. The findings are intended to provide a high level, comprehensive assessment of the strengths, weaknesses, and gaps in current DoD and Service policies regarding care of sexual assault victims.

The goals of this Task Force were to be honest in our approach to our task and open-minded about opportunities to make a difference. In the course of the review, we sought to understand culture, command structures, and resource limitations when evaluating appropriate courses of action needed to fill gaps in policies and procedures, particularly as they pertain to in-theater care.

Sexual assaults are a challenge to our nation, and the military is not immune to this challenge. In the short timeframe available to plan and execute this review, and summarize our findings and recommendations, we tried to focus on the critical factors that need to be addressed in dealing with sexual assault in the military.

## Reviewing Sexual Assault in the Military

**“Sexual assault will not be tolerated in the Department of Defense.”**

**—Secretary of Defense, Donald Rumsfeld**

To this end, on February 5, 2004, Secretary of Defense Donald Rumsfeld directed the Under Secretary of Defense for Personnel and Readiness, Dr. David S. C. Chu, to undertake a 90-day review of all sexual assault policies and programs among the Services and DoD and recommend changes necessary to increase prevention, promote reporting of sexual assaults, enhance the quality and support provided to victims of sexual assault, especially within combat theaters, and improve accountability for offender actions.

## Review Plan

On February 13, 2004, the Under Secretary of Defense for Personnel and Readiness established the Department of Defense Care for Victims of Sexual Assaults Task Force. Its first task was to formulate a review plan, which included the following:

- ❑ Request sexual assault incidence and demographic data from the Services
- ❑ Request and review current DoD-wide, Service-wide and Combatant Command-wide sexual assault policies and programs

- ❑ Examine research literature on sexual assault
- ❑ Discuss sexual assault prevention, reporting, response, and disposition issues with commanders, non-commissioned officers, junior enlisted personnel, service providers (medical, mental health, victim advocate, victim's witness assistance, chaplains, law enforcement, investigative agent, and legal personnel), and victims
- ❑ Consult with subject matter experts within the Department of Defense, other federal agencies, civilian experts, and sexual assault support organizations about matters with respect to prevention, reporting, response, and disposition of sexual assault cases.

## Task Force Approach

### Data Call

The Task Force requested Service-specific data on their programs and policies for preventing, responding to, and prosecuting sexual assault incidents, as well as incidence data for cases reported during calendar years 2002–2003, where the identified victim was a uniformed service member at the time of the incident. It should be noted that there is no specific offense of “sexual assault” under the punitive articles of the UCMJ. Depending upon what is being evaluated and the circumstances involved, DoD and the Services have consolidated a number of separate UCMJ offenses into the term “sexual assault” when reviewing cases or trends. For the purposes of this report, the Task Force worked from the following definition:

“Sexual assault cases include the alleged offenses of rape, forcible sodomy, assault with intent to commit rape or sodomy, indecent assault, or an attempt to commit any of these offenses.”<sup>1</sup>

Additional information requested included: gender, age, and location demographics of victims and offenders, as well as data on the timeframes between incident and report, medical care provided to victim(s), the case's beginning, initial and final investigational and command disposition. Also requested were all sexual assault studies, reports, and training materials. The Services were asked to report on victim advocacy services and describe mechanisms for reporting sexual assault. In a separate request, the Task Force asked each Unified Combatant Command to provide any studies, reports, policies, training, and best practices they had in place that would enhance reporting, responding, and prosecuting cases arising in joint operational environments. Combatant Commanders were specifically asked to address availability and accessibility of medical and mental health care, and victim's rights information. (See Appendix A, *Data Call, Services and Combatant Commands*.)

### Focus Group Discussions

To evaluate the effectiveness of DoD and Service policies and programs for prevention of sexual assault, supportive care for sexual assault victims, and how well these programs transition to a combat theater, the Task Force conducted site visits at military bases in the Continental United States (CONUS) and U.S. Central Command (CENTCOM).

Additionally, the Task Force met via video teleconference with U.S. Pacific Command (PACOM) focus groups in Korea. In these sessions at 21 locations, we heard the first-hand accounts of local command and noncommissioned officer leaders, junior enlisted, care

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<sup>1</sup>As these offenses are defined in Articles 120, 125, and 134 of the Uniform Code of Military Justice.

providers, victim advocates, legal and investigative personnel. Victims were also given an opportunity to meet with the Task Force individually, anonymously via telephone, or within groups. In all, we had personal contact with more than 1,300 individuals.

Working from scripted questions (see Appendix B, *Focus Group Questions*), the focus groups discussed issues such as command climate, barriers to reporting, prevention and support policies and practices, feedback mechanisms, best practices, and recommendations for improvements. Comments from focus group participants were obtained with the assurance that their individual comments would not be attributed to them or their organizations.

## **Literature Review**

The Task Force conducted a thorough literature review on sexual assault to examine current knowledge, civilian sexual assault protocols, and best practices. (See Chapter 6, *Literature Review*.) Additionally, the Task Force identified and reviewed previous studies, reports, and other public proceedings on matters involving sexual harassment, sexual discrimination, and sexual misconduct in DoD to better inform them on issues of longstanding concern and relevance to the charter of this review. (See Appendix C, *Chronology of Surveys, Reports, and Hearings 1988–2004*).

## **Consultation with Experts on Issues Relating to Sexual Assault**

The Task Force met with other principal staff within the Office of the Secretary of Defense, outside experts from the Departments of Justice and the Department of Veterans Affairs, as well as respected experts from academia and rape crisis support organizations.

## **Hotline**

On March 3, 2004, the Task Force established a Sexual Assault Hotline to allow victims and other individuals to have an opportunity to share their experiences and thoughts with the Task Force. The hotline was established so the Task Force would have the fullest accounting of the problem to better serve victims and affect policies regarding victim support and care. From March 3, 2004 through April 28, 2004 the call center received a total of 143 calls. Of those calls, 71 calls were for general information and to verify the phone numbers. The remaining 72 calls were from individuals who wanted to share insights directly related to our review objectives. The composition of these callers spanned from victims, family members of victims, other service members, or those with an opinion they wished to share with the Task Force. The information we received from the hotline calls is integrated into the findings of the report, along with the information we received from our data call and from the focus groups.

## **Conclusion**

The Task Force recognizes that this issue is very complex, and its resolution is critical to the well-being of military service members. Within the limited time available to the Task Force, the recommendations are intended to be a starting point for increased DoD attention to the policy development, command emphasis, and resourcing necessary to resolve sexual assault concerns. DoD policies, programs, and procedures are necessary, but will not be sufficient to resolve the sexual assault problems found by this Task Force Review, without renewed emphasis and the clear, immutable commitment of unit commanders.

## 2 The Military Environment

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This chapter sets the context for the report by discussing important characteristics of the military environment and culture.

The Department of Defense has responsibility for approximately 3.2 million military and civilian employees who operate from or are deployed to more than 6,000 locations in the United States and more than 146 countries around the globe. Military operations can make it necessary for members of the Armed Forces to face long separations from friends and family and experience close living and working conditions that are often austere, and characterized by minimum accommodations for privacy.

### Mission of the Armed Forces

The Department of Defense provides the military forces needed to deter war and protect the security of the United States.<sup>2</sup> When deployed, leaders of our Armed Forces place our Soldiers, Sailors, Marines, and Airmen in harm's way knowing that they may give their lives in service to our Nation.

Often we project our military forces from permanent basing platforms to areas where infrastructure and support services may not be readily available. The availability of these support assets is dependent on the intensity of conflict, the austerity of the local environment, and whether support assets were deployed as part of the force package. Deployment of these resources is based on the expediency of the mission and types of forces used, planning documents required to provide structure to that response, and the execution orders, which are approved by both civilian and military leadership, to achieve tactical, operational, and strategic objectives.

### Military Values and Leadership

The means by which the Department achieves its mission, military values, and leadership goals is by application of command and control structure and authorities. This structure of the “chain of command” promotes the ability of leaders to give and execute war-fighting orders as well as account for the health, welfare, and morale of forces. Each of the Services specifically identifies core values that are a part of every member's reception, training and continued service. Examples of these values are: integrity, selfless service, courage, honor, respect, commitment, and discipline. While the Services may articulate their values differently, all capture the importance of these values to the profession of arms. These values help instill confidence, respect, and create a willingness to go forward during the most difficult situations. They are the essence of our standards of conduct and the bedrock of our profession.

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<sup>2</sup> From [www.defenselink.mil](http://www.defenselink.mil) Facts and Figures, DOD 101 briefing slides.

The standards we hold leaders to and the nature of command leadership are inimitable to the military. Commanders and leaders are carefully selected for their job because of their demonstrated judgment and abilities. Leaders are entrusted with commensurate powers in relation to the level of responsibilities they shoulder. Sometimes it is difficult for those unfamiliar with or outside of the military to understand the scope of leaders' responsibility and authority over their subordinates and how these interrelate to the decisions and actions taken to ensure readiness and mission accomplishment. At each level, leaders have the crucial responsibility to care for, train, equip, and manage the force under their control in order to accomplish the military mission. Because of this inordinate level of responsibility, every leader's conduct must be exemplary.

A leader's ability to be trusted and followed is based principally on a subordinate's respect for the leader's moral values, demonstrated tactical and technical competence, and physical and mental vigor. Trust between and among different ranks within a unit is essential in achieving the unit cohesion, morale, and teamwork necessary in stressful combat conditions. Any action that results in the appearance of partiality or favoritism undermines the ability to enforce good order, discipline, and authority and compromises the chain of command. Furthermore, any abuse of a leader's power shakes the very foundations where our Service men and women anchor their faith and trust. If an allegation of sexual assault is not appropriately acted upon by trusted commanders and leaders or if an act of sexual assault comes at the hands of a non-commissioned officer or commissioned officer, faith and confidence in the command and its leaders are undermined.

## Military Justice System

The purpose of the military justice system is to promote justice, to assist commanders in maintaining good order and discipline, to promote efficiency and effectiveness within the military establishment, and thereby to strengthen the national security of the United States. The legislative underpinning for this system is the Uniform Code of Military Justice (UCMJ), which is found at Title 10, United States Code (USC), Sections 801 through 946. Congress enacted the UCMJ in 1950 as a major revision of then-existing military criminal law. The UCMJ is implemented through Executive Orders of the President of the United States, pursuant to his authority under Article 36, UCMJ (10 U.S.C. §836). Those Executive Orders form a comprehensive volume of law known as the Manual for Courts-Martial (MCM), which includes the Rules for Courts-Martial (RCM) and Military Rules of Evidence (MRE).

Over the past 54 years, the UCMJ and its implementing regulations have undergone multiple amendments and changes to meet the evolving legal requirements of commanders and their respective service members. Congress makes changes to the UCMJ on almost a yearly basis in response to recommendations of the Services and the public. Likewise, the President publishes Executive Orders modifying the Manual for Courts-Martial. The Services also routinely promulgate implementing instructions. The purpose of all these changes and modifications is to maintain the military justice system as a fair and progressive system of criminal justice.

Unlike civilian society—where District Attorneys and U.S. Attorneys make prosecutorial decisions—the military justice system holds alleged offenders accountable through “command” decisions. Commanders are responsible and entrusted with specific legal

responsibilities pertaining to offenses and offenders within their scope of responsibility. As such, commanders at all levels typically receive formal training in their legal responsibilities before they assume command. Also, commanders routinely receive advice from their supporting Staff Judge Advocate personnel with respect to the commanders' obligations and options for handling offenses. The authority and discretion of a commander for how best to handle offenses that come to his or her attention is addressed in Rule for Courts-Martial (R.C.M.) 306.

## Options available under the UCMJ

The unique ability of the military system to address alleged offenses in a variety of judicial and administrative ways is poorly understood both outside and within the military. Ordinarily, the immediate commander of a person accused or suspected of committing a criminal offense initially determines how to dispose of that offense. Each commander in the chain of command has independent, yet overlapping discretion to dispose of offenses within the limits of that officer's authority. A decision by a commander does not bar a different disposition by a superior commander. In many cases, the immediate commander will forward the matter to a superior commander because the lower-level commander lacks sufficient authority to take action that he or she believes is appropriate to deal with the severity of the offense.

Rules for Courts-Martial 306(b) provides a list of factors a commander should consider when deciding how to dispose of an offense. These factors include: (1) the character and military service of the accused, (2) the nature of and circumstances surrounding the offense and the extent of harm caused, (3) the appropriateness of the authorized punishment to the particular accused or offense, (4) possible improper motives of the accuser, (5) reluctance of the victim or others to testify, (6) cooperation of the accused in the apprehension or conviction of others, (7) the availability and likelihood of prosecution by another jurisdiction and the existence of jurisdiction over the accused and the offense, and (8) the availability and admissibility of evidence.

When commanders, typically based upon the legal advice of the Staff Judge Advocate, conclude that proper sanctions lay in a judicial forum and that the criminal burden of proof of "beyond a reasonable doubt" can be met, they have the option to refer alleged offenses for trial by courts-martial in several types of forums, each having different levels of rights and authorized punishments.

**General Court Martial:** This forum is the highest trial level in military law and, with rare exceptions; it is typically only convened by order of a general or flag officer. Those exercising general courts-martial convening authority are typically division or corps commanders in the Army, commanders of numbered air forces or major commands in the Air Force, Navy regional commanders, or Marine Corps general officers in command. Prior to the convening of a general court-martial, a formal pretrial investigation into the offense(s) must be conducted, and a written legal opinion as to the disposition of the charges must be given to the convening authority. The court-martial may be composed of a military judge sitting alone or a combination of at least five members with a military judge presiding.



An accused elects whether to be tried by military judge alone or by a court-martial panel of members. If an accused pleads guilty to some or all of the charges, only the military judge will accept the plea(s) and enter the finding(s) of guilty and the accused elects whether to be sentenced by the military judge or by a panel of members. The trial counsel (prosecutor) represents the government and defense counsels are appointed to represent the accused. In addition, the accused may retain civilian counsel at no expense to the government or request to be represented by a military counsel of choice when reasonably available. The only limits upon a general court-martial sentence are the maximum limits established for each offense and punishments may include: the death penalty (imposed by court members only), a dishonorable discharge or bad-conduct discharge for enlisted members, a dismissal for officers (which is generally viewed as equivalent to a dishonorable discharge), confinement, loss of all rank for enlisted members, loss of all pay and allowances, and fines.

**Special Court-Martial:** This is the intermediate court in the military's trial structure and must be convened by an officer (typically in the grade of O-5 or higher) specifically vested with authority to convene a special court-martial. Similar to a general court-martial, but less formal in nature, special court-martial convening authorities receive the benefit of legal advice from their Staff Judge Advocate and alleged offenses are investigated before charges are preferred (initiated) and referred to trial, where the legal standard is proof beyond a reasonable doubt. The court-martial may be composed of either a military judge sitting alone, at least three members sitting without a judge, or a combination of a military judge presiding with at least three members.

Similar to a general court-martial, the accused generally has the same options with respect to being tried and sentenced by a military judge or panel members, and the accused has similar options regarding defense counsel representation. Any service member may be tried by a special court-martial for any non-capital offense. Maximum punishments from this proceeding include confinement at hard labor for one year, forfeiture of two-thirds of one month's pay for one year, and loss of all rank for an enlisted member. A bad-conduct discharge may also be assessed against enlisted members so long as a military judge was detailed and a defense counsel represented the accused.

**Summary Court-Martial:** This type of trial is designed to dispose of non-capital offenses in a simplified proceeding, consisting of one commissioned officer that may, but not need be, a lawyer. The accused must consent to trial by this forum as a prerequisite to the proceeding. The accused is not entitled to a detailed lawyer, but may be represented by a civilian counsel at no expense to the government, or by an individually requested military counsel. Such requests for counsel shall be granted if the appearance will not unreasonably delay proceedings and military exigencies do not preclude it. The proceedings include examination of witnesses and evidence, application of the Military Rules of Evidence, factual conclusions, and imposition of punishment.

Only enlisted service members may be tried by summary court-martial. The maximum punishment that may be imposed by a summary court includes reduction in grade, confinement at hard labor for one month, forfeiture of two-thirds of one month's pay for one month, hard labor without confinement for forty-five days, or restriction for two months.

Unlike civilian jurisdictions, commanders can take a variety of adverse actions against alleged offenders when the evidence falls short of that required for criminal prosecution or the offense otherwise does not warrant trial by court-martial, or when other issues suggest a more appropriate disposition (e.g., a victim's desire to not testify).

**Nonjudicial Punishment:** Nonjudicial punishment is specifically addressed in Article 15 of the UCMJ and often referred to as an “Article 15,” Captain’s Mast (in the Navy), or nonjudicial punishment proceedings. Essentially, the commander serves as sole decision authority (i.e., judge, jury, and sentencing official) in nonjudicial punishment proceedings. Part V of Manual for Courts-Martial (MCM) notes that commanders considering cases under Article 15 “will exercise personal discretion in evaluating each case, both as to whether nonjudicial punishment is appropriate and, if so, as to the nature and amount of punishment appropriate.” However, commanders are always cognizant of the fact that an alleged offender does not have to accept nonjudicial punishment proceedings as the forum to dispose of the charges, but may instead demand to be tried by court-martial.

Procedures and maximum punishments are specified within Part V of MCM. Additionally, each Military Department has its own implementing regulations providing guidance for the administration of cases under Article 15, UCMJ. Punishments can include correctional custody for certain enlisted members, arrest in quarters for officers, extra duties for certain enlisted members, reductions in grade for enlisted members, forfeitures of pay, restrictions to certain geographical limits, reprimands, and admonishments.

**Administrative Action:** When circumstances surrounding reported offenses present evidence problems or other legal issues, commanders may instead elect to pursue appropriate types and combinations of administrative actions to hold a military member accountable for violating military standards.

Although the administrative options vary somewhat by Service, options commonly available include: administrative discharges with or without unfavorable characterizations, downgraded performance or efficiency reports, administrative reductions in rank, extra training, censures, reprimands, rebukes, administrative withdrawal or withholding of privileges, establishment of unfavorable or derogatory information files, reassignment or transfer actions, rehabilitation, career field reclassifications, bars to reenlistment, personnel reliability program recertification, security classification changes; and pecuniary liability for negligence or misconduct.

It is also important to note that commanders often can utilize many of these administrative options in conjunction with courts-martial convictions or nonjudicial punishment proceedings. In addition, both nonjudicial punishment and administrative actions can have significant negative career and employment repercussions, both within the military and in the civilian community. However, the Privacy Act and other privacy considerations for both the victim and the alleged offender (who is not convicted of a crime), make it nearly impossible to make these administrative and nonjudicial options “transparent” to the public.



### 3

## Where We Are Today—Current Policies and Procedures

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This chapter provides an overview of current DoD and Service policies and programs that address or have direct relevance to sexual assault. Appendix D provides a list of relevant policies. Specific policies can be accessed by hyperlink.

Following enactment of the Victim and Witness Protection Act of 1982, Victim and Witness Assistance policies were established across DoD to assist victims of crime through investigation, prosecution and confinement of the offender. Guidance requires that particular attention be paid to victims of serious, violent crime, including sexual assault. All of the services have policies and procedures for implementing Victim Witness Assistance Program (VWAP) requirements. Officers and employees engaged in the detection, investigation and prosecution of crime and in the confinement of offenders ensure that victims are accorded their rights under federal law. These include rights to:

- ❑ Be treated with fairness and respect for dignity and privacy.
- ❑ Be reasonably protected from the offender.
- ❑ Be notified of court martial proceedings.
- ❑ Be present at all public court proceedings unless the court determines that testimony by the victim would be materially affected.
- ❑ Confer with the government attorney.
- ❑ Receive available restitution.
- ❑ Be provided information about conviction, sentencing, imprisonment, and release of the offender.

Specific policies relating to sexual assault have not been promulgated for DoD-wide application. Joint Commands rely upon their Service Executive Agents to develop and implement sexual assault policy and to provide services for victims assigned to these commands.

The Department of the Navy (DON) has published Navy-wide policies requiring a standardized sexual assault prevention and victim assistance program. For the purposes of this chapter, DON refers to Secretary of the Navy requirements that apply to both the Navy and Marine Corps. Policies are implemented through a stand-alone program in the Navy, the Sexual Assault Victim Intervention Program (SAVI), and through provision of specialized victim advocacy and assistance to sexual assault victims within the Marine Corps Family Advocacy Program (FAP).

### Prevention

Currently, DoD has no policy requiring a standard approach in preventing sexual assault. However, the UCMJ requires each enlisted member be briefed on the UCMJ, including the articles on sexual assault upon entrance on active duty, after 6 months, and upon re-

enlistment. The Army currently requires sexual assault awareness and response training for Drill Sergeants and Initial Entry Training soldiers. The Air Force includes rape awareness, reporting, and prevention information in basic training and officer training, commander's courses and at the First Sergeant's Academy. DON requires sexual assault awareness and prevention programs at both junior and senior levels and at key career progression points for officers and enlisted.

Navy implementation includes:

- ❑ Annual mandatory general military training (GMT) that is coordinated or implemented at the installation or command level by SAVI-designated staff.
- ❑ Dissemination of sexual assault related video and/or briefing materials by Naval Education and Training Command.
- ❑ Special emphasis on personal avoidance of risk and incorporation of sexual assault awareness into Navy substance abuse prevention education.
- ❑ Commanding officers are required to institute and publicize a means of informing the chain of command of situations that may place individuals at risk of sexual assault.

Marine Corps implementation includes:

- ❑ Annual follow-on training to E1-E7, O2-O3 and WO1-CWO2 during unit battle skills training.
- ❑ Sexual assault briefings by victim advocates to commands upon request that include information on myths, risk factors, and referral services.
- ❑ Sexual assault reporting and prevention briefings to all incoming Marine Corps Commanders (O-5 and O-6), using multi-disciplinary briefers.

While standardized prevention programs are not specifically required by the Air Force, sexual assault prevention efforts may be addressed at the installation, major command (MAJCOM) or service level through a multidisciplinary group known as the Integrated Delivery System (IDS). At the installation level, the core IDS is composed of representatives from Family Advocacy Programs, Life Skills (behavioral health), medical, chaplains, family support, child and youth programs, and health and wellness. Other representatives from security, safety, and the judge advocate's office provide support and participate as required. They report to the Community Action Information Board (CAIB), chaired by the installation commander, the Vice Commander at MAJCOM, and the Assistant Vice Chief of Staff at headquarters Air Force. The IDS and CAIB monitor the health and well being of their populations, targeting prevention and intervention services that are tailored to local community needs.

## Reporting

Privacy concerns are frequently cited as a barrier to sexual assault reporting. In accordance with the Privacy Act, there are DoD and Service-level policies that govern the maintenance, storage, retrieval, and disclosure of personal information maintained in any DoD system of records. These policies state that personal information may be disclosed without the individual's consent to DoD officials who have a need to know in the performance of their

assigned duties. It should be noted that these privacy protections would apply to both a victim and an alleged offender.

While these policies do not specifically require disclosure of an alleged sexual assault to the command, both active duty and DoD civilian service providers have generally interpreted knowledge of an alleged crime to meet the threshold of a commander's need to know to maintain good order and discipline. Service members are also taught from their initial appointment or enlistment in the military that all military members should report to the chain of command any offenses that come to their attention. In the case of sexual assault, Navy SAVI-recommended protocols (for medical, family service center, victim advocate and command personnel) include notification to NCIS if a sexual assault that falls under military jurisdiction is alleged. Conversely, these protocols specifically afford a victim of sexual assault the option of reporting to civilian authorities if the assault does not fall under military jurisdiction (i.e., the assault did not occur on military property and the offender is not affiliated with the military.)

To meet requirements under the Health Insurance Portability and Accountability Act, DoD has also issued policies specific to the disclosure of protected health information. This could include care provided in military treatment facilities to victims of sexual assault. However, several exceptions could be applied that would permit disclosure of protected health information without authorization by a sexual assault victim. The policy also states that covered healthcare entities are responsible for compliance with DoD Privacy Act Program regulations that are described in the first paragraph. While disclosure of an alleged sexual assault is permitted without the victim's consent under existing DoD privacy policies, there is nothing that specifically mandates reporting if not otherwise required by law.

In the end, there is considerable latitude in DoD and Service privacy policies for different interpretation and application between individuals, organizations, and military medical departments. However, in our review of DoD and Service policies, we noted no explicitly stated mandate to report sexual assault to command unless it involves alleged child maltreatment or spouse abuse.

While DoD and Service VWAP policies afford crime victims the right to be treated with respect for their privacy, these policies do not provide victims any assurance that information will not be disclosed without their permission. Army policy specifically protects the identity of sexual assault victims in police blotter entries. Navy and Air Force policy requires commanders to be sensitive to victim privacy by expressly limiting need to know personnel and by reporting trend data without identifying information. Air Force policy provides specific guidance on how commanders and others should handle investigative material.

Information is typically viewed as confidential when it is communicated in private with the expectation that it will not be disclosed routinely to third parties without the individual's permission. Privilege provides legal protection from disclosure of communications between specified individuals. Jurisdictions vary as to which communications are considered privileged, whether the privilege extends to written communications and work product, and what exceptions may apply.

There are few regulations within DoD or the Services that assure individuals, particularly military members, that their communications will be confidential or privileged. There are several types of privileged communications recognized by the Military Rules of Evidence (MRE) that might apply when a service member reports that she or he is a victim of sexual assault. These include those made to clergy and those between a lawyer and client or between a psychotherapist and patient.

Under MRE 503 a person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a chaplain or chaplain's assistant if the communication is made as a formal act of religion or as a matter of conscience. In practice, there has been variance among the Services' Chaplains Corps and between chaplains and the legal community with respect to the application of this privilege. The DoD Chaplains Board is currently working on standardizing the application of the privilege within and across the Services and developing associated regulations. In any case, communications between chaplains and victims of sexual assault are generally considered to provide the greatest assurances of confidentiality within DoD or the Services. For victims who do not choose to disclose to military authorities, chaplains may be an avenue for getting confidential, spiritual guidance and advice.

MRE 513 provides a limited privilege with respect to communications between psychotherapists (or their assistants) and patients. Psychotherapists include licensed psychiatrists, psychologists, or clinical social workers that hold credentials to provide services in any military healthcare facility. Communications are considered confidential in cases arising under the UCMJ, if the communication was made for the purpose of facilitating diagnosis or treatment of the patient's mental or emotional condition. The rule does not specify what is meant by "cases arising under the UCMJ." There are also a number of exceptions to privilege including:

- ❑ When the communication is evidence of spouse abuse, child abuse or neglect.
- ❑ When federal or state law or service regulation imposes a duty to report information contained in a communication.
- ❑ When the patient's mental or emotional condition makes the patient a danger to self or others.
- ❑ If the communication clearly contemplated the future commission of a fraud or crime.
- ❑ When necessary to ensure the safety and security of military personnel, military dependents, military property, classified information, or the accomplishment of a military mission.
- ❑ When admission or disclosure of a communication is constitutionally required.

As with DoD and Service privacy policies, there is considerable room for interpretation and application of the privilege, with no clear assurances within the military system that a victim of sexual assault may seek confidential information or assistance from a psychotherapist.

For victims of sexual assault not seeking confidential disclosure, there are numerous avenues for reporting within the military services. These include DoD and Service Inspector Generals, command, installation security, criminal investigative agencies, legal, medical, representatives, chaplains, family services, FAP and, where available within the military,

victim advocates. VWAP policy addresses the need for good coordination and communication between responders, as does the DON policy on sexual assault.

## Response

### Safety and Protection

Under federal law and DoD VWAP regulations, sexual assault victims have the right to be reasonably protected from the accused. This includes protection from threat, harm or intimidation from the accused or people acting in concert with or under the control of the accused. These requirements are included in Service VWAP policies, with Service-specific augments. The Air Force has detailed policy and procedures to ensure threatened airmen can be moved when a credible threat is validated. Although this is usually implemented in extreme cases, the Threatened Airman Program is a tool for command. Commanders may also impose military protective orders, arrange separate living and working conditions. Army commanders may include temporary assignment/attachment or permanent reassignment. If both the victim and accused are assigned to the same command, Navy SAVI policy instructs commanders to consider temporary reassignment of either the victim or accused until the case is legally resolved and/or the victim is out of danger and states that the victim's desires should receive preferential consideration.

As a tool for commanders, DoD has recently promulgated a standard Military Protective Order form (e.g., DD Form 2873). Under the attached Privacy Act Statement, the principal purpose of the form is to “document commanding officers’ orders and members’ understanding thereof to avoid all manner of contact with specified individuals against whom members are alleged, or are confirmed to have committed, domestic violence, child abuse, and any other crime, as stipulated in the terms and conditions of the orders.”

### Care for Victims

Under federal law and DoD and Service VWAP policies, crime victims have the right to be treated with fairness and respect for dignity and privacy. Current policies require a multi-disciplinary approach by VWAP service providers including criminal investigators, chaplains, judge advocates, unit commanders, and personnel from law enforcement, corrections, family services, and the emergency department. The Services are required to ensure that providers receive training to assist them in complying with VWAP requirements. All of the services require specialized sexual assault training for specific key responders.

While all Services provide multiple avenues for supporting and caring for sexual assault victims that include medical, behavioral health, chaplains, and family services, a single program or dedicated agency to coordinate sexual assault victim care is not currently required by DoD policy. Navy SAVI policy requires installation commanders to designate a program coordinator to provide overall program management, while the Army requires the medical command to coordinate care through Sexual Assault Review Boards (SARB) at each installation. The Air Force recognized the importance of victim care and established an interim victim support liaison requirement while they assess their existing support networks.

The Navy's SAVI program has developed victim-sensitive commanders' guidelines and response protocols for chaplains, NCIS investigators, Command Duty Officers, Command

Victim and Witness Assistance Coordinators, Judge Advocates, victim advocates, and responders from medical and family services. Commanders are also required to establish procedures command personnel should take in responding to sexual assault incidents and ensure personnel receive training to execute procedures effectively.

Medical requirements and protocols pertaining to sexual assault have been promulgated in the Air Force, Army and Navy. (Medical services to Marine Corps members are provided through the Navy.) These policies typically address sensitivity to sexual assault victims, timeliness of care, collection of forensic evidence, provision of general medical care, and availability of mental health resources for victims. All military departments require written consent of sexual assault victims prior to general medical examination or collection of forensic evidence. Provision of medical care or behavioral health care is not predicated upon their participation in the criminal justice response in any of the Services. Sexual assault training requirements for medical personnel are specifically delineated in DON and the Army. The Air Force recently encouraged medical service leaders to build effective partnerships (through the use of Memoranda of Understanding) with community sexual assault agencies. Navy SAVI and Air Force policies specifically address the availability of medical services for sexual assault victims in the deployed environment.

Behavioral health services for mental health sequelae arising from or exacerbated by sexual assault are available to victims within all Service medical departments or through referral to TRICARE providers in the community. Accessibility and availability of care may be limited both in and out of the military. Concerns about mandatory reporting and lack of privacy when utilizing military services may inhibit victims from freely seeking assistance. Current record keeping policies require at least minimal documentation of military behavioral health contact in the member's medical record. DON family service centers offer brief, solution-focused counseling to victims if appropriate to their presenting status. Documentation of this counseling is separate from the medical record, although still governed by Privacy Act requirements. Navy SAVI policy requires installation commanders to identify an agency or facility to provide psychological and supportive counseling for sexual assault victims.

With respect to victim advocacy, Section 534 of Public Law 103-337, National Defense Authorization Act for FY95 (October 5, 1994) required DoD to revise policies and regulations specific to the VWAP, FAP and Equal Opportunity (EO) Program to establish victim advocate programs within each of the military departments. Under this law, victim advocate programs are required to provide assistance to members of the Armed Forces and their dependents who are victims of crime, intrafamilial abuse, and discrimination or harassment. As required, the Victim and Witness Assistance Council established by DoD is responsible for coordinating and overseeing the implementation of victim advocate programs. The military departments are directed to establish similar councils. Those working in victim advocate programs are required to principally serve the interests of a victim by initiating action to provide:

- ❑ information on available benefits and services.
- ❑ assistance in obtaining those benefits and services.
- ❑ other appropriate assistance.



The Army and Air Force do not currently have designated programs to provide advocacy for sexual assault victims and are meeting requirements through VWAP, particularly through VWAP liaison personnel. The Marine Corps provides installation civilian and volunteer advocates for sexual assault victims through the FAP. Advocates are activated by installation police and are on call 24/7, responding within 30 minutes of a report. They provide crisis intervention, emotional support, and information on and referral to support services. With the victims' agreement, an advocate will accompany them to investigatory interviews, medical exams, legal appointments, and court proceedings. Navy policy requires installation commanders to develop and implement a highly responsive sexual assault victim advocate program through the use of trained volunteers or available civilian resources or a combination of both. Afloat commands are required to have trained advocates on board and available during deployments if a civilian agency is used to provide advocacy on the installation. Assistance provided by SAVI advocates is as described for Marine Corps victim advocates.

### **Investigation and Prosecution**

The Services require their respective military justice functions to perform in strict accord with the U.S. Constitution, the UCMJ, and implementing regulations. This includes protecting the rights of both the victim and the accused. The MCM and Chapter 3 of this report provide further discussion of the administrative, disciplinary, and judicial options available to commanders under the UCMJ.

In fulfilling this obligation, the Services are resourced with legal assets, military police, and criminal investigators, specifically United States Army Criminal Investigation Division (USACID), Navy Criminal Investigative Service (NCIS), and the Air Force Office of Special Investigations (AFOSI). Trained investigators also exist in military police forces within all of the Services, although these assets may not be available to all commands or at all installations.

Service criminal investigative agencies are also responsible for liaison and coordination with other Federal, state, local or foreign law enforcement agencies. All Services have security force and criminal investigation regulations that detail procedures for handling criminal matters. The handling of sex crimes is described in the Services' procedural manuals. These manuals recognize the sensitivity of sexual assault and the need for specialized skills and techniques in investigating this category of crime.

In all Services, commanders are required to report allegations of serious offenses to their respective criminal investigative agency. Investigations of serious offenses like rape are typically conducted by USACID, NCIS, and AFOSI. Service and case-specific variations may occur with respect to whether less serious indecent assaults are investigated by the criminal investigative agency or referred back to the command or security force investigators.

Additionally, due to resources and other priorities, local civilian agencies may decline to initiate some investigations that the military criminal investigative agencies would be required by policy to investigate. Under current USACID, NCIS, and ASOSI investigative policies, reports of sexual assault are assigned a case number at the time the report is made, regardless

of the merits of the facts presented or when the facts of the case are ultimately determined to be insufficient to establish a crime occurred. Also, investigative databases often limit removal of a reported case from the system once it goes into the database. This results in all allegations, proven or disproved, being incorporated into the database. This process in each of the military departments should be considered in any statistical comparison of rates of incidence with civilian jurisdictions.

In prosecuting these offenses, crime victims may be compelled to testify through subpoena or military order, although this seldom occurs within the military justice system, especially in sexual assault cases. The Services recognize the sensitivity of sexual assault and do not compel an unwilling victim to participate in investigation or prosecution. Nevertheless, participation by sexual assault victims in the criminal justice process is strongly encouraged in VWAP and Service policies and practices. Service criminal investigation manuals afford victims choices with respect to their participation. These choices include options of having an advocate or other trusted person present during the interview or of submitting an initial statement in writing in lieu of interview. Processes for informing victims of how investigation and case disposition may be adversely impacted or limited if they decline to participate and procedures for documentation of their decision are also discussed. Navy protocols require all key responders to ensure that all options available to the victim with respect to their participation in the criminal justice process have been discussed

## System Accountability

The responsible Inspector General assures compliance with DoD and service VWAP requirements through the inspection process. Service medical departments are accredited with respect to the provision of professional medical and behavioral health services. Services provided in family centers undergo periodic review and accreditation in the Army and DON. Navy IG, component commanders, and immediate superiors in command are also required to incorporate an assessment of SAVI requirements into their inspection programs. The Air Force IG has specifically initiated a special interest item on sexual assault deterrence and response.

All Services have specific guidelines and system accountability detailing their response to sexual assault investigations. Navy and Army policies provide for processes that specifically foster system accountability with respect to management and coordination of sexual assault response.

Commander, Navy Personnel Command is responsible for management and implementation of the SAVI Program. Navy SAVI policy also requires installation commanders to establish a SAVI Program Coordination Committee that is composed of medical, Trial Service Office, base security, NCIS, chaplain and family service representatives. The purpose of the committee is to facilitate program execution and coordination among key responders. Case-specific review/oversight is not a required function or routinely conducted in practice.

Army medical policy requires the establishment of a multidisciplinary Sexual Assault Review Board (SARB) at each installation where there is a medical command. The SARB is required to meet quarterly and is composed of representatives from clinical services, emergency medicine, nursing, social work, pathology, obstetrics and gynecology, patient administration,



staff judge advocate, USACID, military police and the chaplains. Responsibilities of the SARB include case review to assess handling and disposition of each case relevant to required medical protocols, annual review, and approval of sexual assault protocols, and a determination of needs and provision of sexual assault awareness training for medical personnel.

With respect to command reporting and accountability, all of the Services have special incident reporting requirements that require commanders to report serious crimes such as sexual assault to the chain of command. DoD also requires the Services to collect and forward statistical information on criminal incidents for which the military has exclusive jurisdiction or military authorities coordinate with civilian authorities. Forwarded data is maintained centrally within the Department of Defense in the Defense Incident Based Reporting System (DIBRS). System requirements were originally developed to meet uniform federal crime reporting requirements, but have evolved over time to meet additional statutory requirements and to respond to internal and external requests for statistical data on criminal offenses and other high-interest issues within DoD.

DIBRS is structured to collect administrative, offense, property, victim, offender/arrestee, commander's action, results of trial and corrections data. DIBRS requires data to be submitted in five functional areas including law enforcement, criminal investigations, commander's actions, judicial functions, and corrections. Current reporting in all five functional areas is variable across the services. None of the services are transmitting to DIBRS across all five functional areas, although a Service's functional database may be fully operational.

Separate from DIBRS requirements and systems, the Navy and Marine Corps are required to maintain integrated, victim-focused databases to analyze demographic, victim support and offense and disposition trends, and to evaluate and develop effective programs and assess command climate with respect to identification and prevention of sexual assault. Data submission in the Marine Corps has been the responsibility of the Marine Corps' victim advocates, with input from key responders. Within the Navy, commanders have been required to meet sexual assault reporting requirements since 1998 by including SAVI required data elements in special incident reporting message traffic. A Situation Report (SITREP) is required within 24 hours of report for any alleged sexual assault. Continuation reports are required on a monthly basis to provide new, revised or previously missing information, until a final message is forwarded that reports official resolution of the case. Data forwarded does not include personal identifiers of the victim or accused.

## 4 Task Force Findings

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### Sexual Assault Data and Definition

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#### Finding 1

Data systems and records on reports of sexual assault are incomplete and not integrated.

As a part of this review, we asked each Service to provide quantitative data on reported assaults for calendar years 2002 and 2003. (See Appendix A, *Data Call, Services and Combatant Commands*.) Meeting the request required significant time and effort by the Services to gather, collate, and present the data. In some instances, aggregation required case-by-case review and manual collation of text data. Data was captured in multiple, unrelated data systems developed for different purposes that do not necessarily complement one another. Despite the Services' best efforts, the data provided to the Task Force was inconsistent and incomplete, in some cases. This was true for all relevant data pertaining to victim care, as well as command disposition and case outcomes.

While mechanisms such as serious incident reports, situation reports, and special interest reporting frequently report more serious cases of rape and sexual assault, these reporting methods do not capture all incidents, they are not standardized, they are not intended to analyze data, and the lack of record-keeping and follow-up by higher levels of command make it difficult to assess risk factors, trends, and accountability. What is needed is a system to help senior level commanders understand and manage trends and characteristics of Service level crime for the purpose of better understanding risk environments and mitigating those risks.

Capturing data with respect to victim preferences and the range and timeliness of support services provided appears particularly problematic. Specific data with respect to victim care is provided in Finding 23. A lack of integration and coordination among functional areas was also noted with respect to the Task Force request that each installation visited provide 10 reports of investigations, with corresponding records reflecting any and all support services provided to victims in those cases. With the exception of one installation that made a conscientious attempt to provide information on mental health support provided to victims in the identified cases, the information provided could not establish the timeliness or extent of support services provided to victims. Although the victim-focused sexual assault databases required by the DON are structured to provide at least some victim support information, problems with data submission and system functionality significantly impede current effectiveness.

The Department cannot identify or explain trends with respect to how cases are handled using the current data collection methods. Service investigative and military justice databases vary widely among and within each military department and often do not capture sufficient

information to analyze why many initial reports of sexual assault do not result in criminal convictions. For instance, there are no coded fields of information to generally explain why cases are unfounded or determined to have “insufficient evidence” or why commanders choose to pursue various options other than courts-martial. More importantly, there are no data fields or codes in these systems to reflect victim preferences during investigation (e.g., delayed reporting, refusal to participate, recantation) or during the legal process (e.g., preferring alternate dispositions to courts-martial process). Some investigators and legal offices annotate this information in individual case summaries within their respective databases, but this practice is not uniform and there is no way to retrieve this information without searching individual case records.

With respect to the investigation, command action, and military justice response, Defense Incident-Based Reporting System will capture much of the information that is needed when it is fully implemented within the Department. Each of the Services have various legacy security, investigation and judicial databases that are not well-integrated. Service systems are developed, under development, or testing transmission of DIBRS information to the DoD. However, current implementation in all five functional areas is variable across the Services. None of the Services are transmitting to DIBRS across all five functional areas, although a Service’s functional database may be fully operational. All services are currently reporting or testing submission of law enforcement data to DIBRS and the Air Force and Army report commander’s action information.

In the end, there is no integrated system or strategy for reporting, tracking, or reviewing reports of sexual assault and actions taken. The Department has no data collection requirement to systematically aid commanders (mission centric), service providers (victim centric) and legal and law enforcement (offender centric) officials in understanding the scope of the problem, how timely and effectively the services are provided, or how consistent and timely we are in resolving the issues for both victims and alleged offenders. Evaluating program effectiveness, assessing system accountability, and implementing data-informed process and program improvements is seriously compromised without more effective and integrated methods of data collection.

## Finding 2

The rates of reported alleged sexual assaults were 69.1 and 70.0 per 100,000 uniformed service members for 2002 and 2003, respectively.

As described in Chapter 1, the Services were asked to provide data on cases reported in calendar year 2002 and 2003 in which the victim at the time of the incident was a uniformed service member. For cases reported, they were also asked to provide further quantitative data with respect to select demographic, offense and response variables. Despite a standardized request, Service differences in interpretation and reporting resulted. To what extent this was a function of the wording of the data call or different data reporting and capturing capabilities is unknown.

Across DoD, there were 901 and 1012 alleged cases of sexual assault with uniformed service member victims reported to criminal investigations in 2002 and 2003, respectively. These

figures include 24 (2002) and 94 (2003) reported cases in the CENTCOM AOR. Sexual assault, as referred to here, includes the alleged offenses of rape, forcible sodomy, assault with intent to commit rape or sodomy, indecent assault or an attempt to commit any of these offenses. There were 2,012 identified service member victims in the 1,913 alleged cases of sexual assault. Males constituted 9% of identified victims in these cases. Of the 1,913 cases of alleged sexual assault across DoD for 2002 and 2003, 1,634 alleged offenders were service members at the time of the incident. Males represented 99% of alleged service member offenders.

For our purposes, prevalence refers to the number of persons within an identified group who are victimized during a particular time period. Incidence refers to the number of separate victimizations or incidents perpetrated against persons within an identified group during a specified time period. Incidence cannot be inferred from the Service data provided because a case does not necessarily translate directly to an incident of sexual assault. However, prevalence rates can be estimated. The rates of alleged sexual assault across DoD were 69.1 and 70.0 per 100,000 uniform service members for 2002 and 2003, respectively. It is very important to note that these rates are **NOT** comparable, for a number of reasons, to those published by the Federal Bureau of Investigation's Uniform Crime Reporting Program (UCR). For example, the DoD rates include:

- ❑ All types of sexual assault, as opposed to being limited to forcible rape/attempted rape, as reported in the UCR program.
- ❑ Sexual assault of females and males, as opposed to being limited to forcible rape/attempted rape of females in the UCR program.
- ❑ Reports that may not be opened for investigation and reported to the UCR program by civilian law enforcement agencies.

### Finding 3

#### Differences in definition create significant challenges for DoD in evaluating sexual assault trends and program execution.

The Task Force realized early on that there is considerable inconsistency in the terminology used and the behaviors included in related terms. To complicate matters, the same term may be used variably within and between DoD, the Services, and federal and civilian agencies.

This disparity in defining terminology and behaviors makes it very difficult to compare data within DoD or with non-DoD agencies and research. For example, in the DoD anonymous survey pertaining to sexual harassment (Lipari and Lancaster, 2003), sexual assault was defined as “had sex with you without your consent or against your will.” (See Chapter 6, *Literature Review* for more information.) In contrast, the National Crime Victimization Survey collects information on rape (which includes attempted rape) and sexual assault, which covers a wide range of victimizations including completed or attempted attacks generally involving unwanted sexual contact that does not involve penetration (Hart, 2003). When discussing “military sexual trauma,” the Veteran’s Administration is referring to either sexual harassment or sexual assault occurring during military service, both of which are defined further. (See Chapter 6, *Literature Review*.)

Differing terms and definitions are also used in policies, procedures, and legal documents within DoD. For example, the term “sexual assault” is not currently a specific offense under the UCMJ. In the MCM, the term is used only in MRE, 413, which governs the admissibility in a court-martial of a wide variety of past sexual acts and sexual contact that an accused committed and are being offered as evidence to support some relevant matter in issue during the trial. Depending upon the circumstances involved, DoD and the Services have included a number of separate UCMJ offenses into the term “sexual assault” when reviewing cases or trends. Indeed, different policies and instructions in the Services and in various task forces, commissions, panels, and process teams that have addressed “sexual assault” have all defined the term in different ways and included different offenses under the UCMJ in this more general and inclusive term.

The scope of behavior covered in terms like sexual misconduct and sex-related offenses have blurred the distinctions even more. For instance, the DIBRS manual defines sex-related offenses as those involving “sexual misconduct” (another term not defined under the UCMJ) and includes offenses used in this Task Force definition of sexual assault, as well as the offenses of conspiracy and solicitation to commit those offenses and conduct unbecoming an officer (if a sexually violent offense is involved). Albeit completely unrelated to sexual assault, the DoD Instruction 5505.8 pertaining to the investigation of “sexual misconduct” uses the term to address UCMJ offenses involving sexual acts between consenting adults in private. However, the DoD VWAP instruction also notes that particular attention should be paid to victims of serious and violent crime including “sexual misconduct,” which is not defined in the instruction.

Perhaps, the area with the greatest potential for confusion within the military system is the overlap between the terms sexual harassment and sexual assault. At the beginning of each focus group, participants were asked their understanding of the meeting purpose. Almost without exception, participants responded that they were there to discuss sexual harassment. This occurred even though all Task Force communication with installations identified our focus as “sexual assault.” Participants continued to use the terms interchangeably until redirected several times. It was clear that there is confusion in the distinctions between harassment and assault, and it was often articulated that these are simply behaviors that fall on a continuum.

There is reason for confusion, even at the policy level. The DoD Equal Opportunity Program directive defines the term “sexual harassment” to include unwelcome “verbal or physical contact of a sexual nature.” While contact could often form the basis for a criminal charge under the punitive articles of the UCMJ and investigative agencies would typically have responsibility for investigating more egregious cases of such conduct, commanders and service members are often confused about the proper avenue for reporting these allegations when they arise. Notably, the equal opportunity representative (the appropriate resource for reports of sexual harassment) was often identified by focus group participants as the point of contact for reporting sexual assault.

In the end, confusion in definition and lack of consistency in applying the definitions present significant challenges for DoD in terms of tracking, evaluating trends, training, and program execution. Focused attention in this area is indicated.

## Finding 4

### Sexual assault risk factors in the military are not significantly different from those reported in civilian literature.

Research has consistently demonstrated that youth are at greater risk of sexual assault (e.g., Hart, 2003; Perkins, 1997; Tjaden and Thoennes, 2000). Data reported by the Services indicated the same. For those cases in which the age of the service member victim was available, ages 17 – 24 represented, on average, 87% of Air Force victims, 85% of DON victims and 83% of Army victims for the two years reported. For service member offenders, ages 17 – 24, represented, on average, 68% of Air Force offenders, 66% of DON offenders, and 40% of Army offenders.

In a national survey of college women, almost all of the completed rapes occurred on campus, in living quarters (Fisher, Cullen and Turner, 2000). Service data reported a consistent trend, despite definition and data capturing difficulties. Although the Task Force asked for the number of cases that occurred in mixed-gender living quarters on military installations, this could not be obtained from Army or DON databases. However, data supplied by the Army and DON was informative. In the Army, 52% of the total cases occurred in living quarters on military installations. In DON, 47% of the total cases occurred in living quarters under military control. However, when cases not occurring in areas under military control were excluded, 79% of DON cases occurred in living quarters. Had the Task Force asked for information on reported assault occurring in living quarters not under military control, it is believed that a greater percentage of all cases would have occurred in living quarters. In the Air Force, 19% of cases, on average, occurred in mixed-gender living quarters or military installations across the two years. It is believed that Air Force data reflects a lower trend because they reported only assaults in mixed gender quarters, as requested, as opposed to those occurring in all living quarters on military installations.

Research with different samples has found that approximately half of sexual assaults are associated with alcohol use by either the perpetrator or victim (Abbey, Clinton-Sherrod, McAuslan, Zawacki and Buck, 2003). Data provided by two of the Services indicated that the use of alcohol was associated, on average, with 50% of alleged sexual assault cases involving service member victims during 2002 and 2003. With respect to the CENTCOM AOR, the percentage of associated alcohol use ranged from 19% in the Army to 48% in the DON. It is important to note that some of the DON reported cases within the CENTCOM AOR occurred outside the combat area.

The use of alcohol as a risk factor was a prevailing theme during discussions with leaders, junior enlisted, providers and investigators, validating both civilian and military data. The focus groups suggested that alcohol is involved in most reported cases of sexual assault in circumstances when the victim and alleged offender were engaged in social drinking before the alleged assault occurred.

It is believed that training environments are also at risk for the occurrence of sexual assault, although definition and data capturing difficulties did not permit effective review of Service data call information. For many, arrival at technical training may be the first time away from home and away from parental controls. This newfound independence, coupled with peer



pressure and easy access to alcohol, may lead to reckless and risky behavior. Although in most circumstances it is illegal to drink under the age of twenty-one and illegal to provide alcohol to someone under the age of twenty-one, alcohol is easily accessible to service members in the United States and in a number of foreign countries. Young enlisted personnel, like their civilian counterparts, view social drinking as a rite of passage. Alcohol is restricted within the combat theater; however, the Task Force observed that it is accessible in this environment. It was also noted that close quarters, integration of units, limitation on privacy and personnel unfamiliar with each other could increase the risk of sexual assault.

Despite the fact that there are a number of identified risk factors for sexual assault, the Task Force was unable to confirm that this information has been effectively or consistently communicated to military members in existing prevention education efforts that are either directly or indirectly related to sexual assault. Notably, several victims who had received such risk-focused training subsequent to their sexual assaults indicated that they might have modified behavior that placed them in a risky situation had they had the information prior to the assault.

## Prevention

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### Finding 5

Existing policies and programs aimed at preventing sexual assault are inconsistent and incomplete.

Several studies have been conducted to identify best practices for the prevention of sexual assault. Some promote mixed gender training, while others identify the benefits of single gender training. Regardless of the approach, education and awareness is an effective tool for the prevention of sexual assault. Although there are well-defined policies and programs for the prevention of sexual harassment, there is not a clearly defined DoD-wide policy or program aimed at preventing sexual assault. While some commands have made laudable efforts in sexual assault prevention training, a DoD-wide set of standards for sexual assault prevention would give this subject the emphasis it merits.

Commanders place special emphasis on a variety of subjects including alcohol/drug offenses and related behavior, improper relationships (e.g., fraternization and adultery), suicide prevention, and various forms of sensitivity training. While sexual harassment training is taught at basic officer and enlisted entry-level schools and throughout the career lifecycle, sexual assault prevention, and awareness training is rarely included, and if addressed at all, it is cursory. Junior enlisted personnel noted that installation “newcomer” and holiday safety briefings would be an excellent opportunity for Commanders to address sexual assault concerns with their personnel.

Limited instruction on sexual assault awareness is conducted at formal military schools during entry-level instruction for officers and enlisted personnel. Training and education beyond the institutional setting is sporadic and varies among the Services. The Navy requires annual training on the prevention of sexual assault during general military training

instruction for all Navy and Marine Corps personnel. In 1997, the Marine Corps also established the Mentors in Violence Prevention (MVP) program. MVP provides tools to assist and encourage male Marines to actively participate in efforts to prevent rape, battering, sexual harassment and all forms of male violence against women. MVP is a “Marines helping fellow Marines” program, which encourages Marines to become involved when they see abusive situations. Because the MVP program is currently only offered during senior noncommissioned officer (NCO) and staff NCO courses, many junior enlisted personnel were not familiar with MVP.

## Finding 6

### At some locations, commanders have developed local sexual assault awareness training.

During the installation and theater visits, the task force discovered some locally developed educational materials related to sexual assault. Much of the material was based on information from other federal, state, and local government agencies or educational tools published by various college and university functional matter experts. Often in response to a specific incident, commanders developed programs to ensure service members are better informed on the dangers of risky behavior.

For example, the Dorm Awareness Program at Travis Air Force Base provides invaluable information to young airmen to improve situational awareness, how to avoid becoming a victim of sexual assault and addresses appropriate dating behavior. Kusan Air Force Base, Korea has created a Sexual Assault Free Environment (SAFE) program for all personnel assigned to the base, both permanent party personnel and those on temporary duty. The program includes briefings by the wing commander, the military equal opportunity representative and guest speakers who are subject matter experts. The training is informative and widely publicized. Enlisted personnel participating during the focus groups commented that the SAFE program enhanced their awareness of issues related to sexual assault.

With the assistance of the Department of Justice, Nellis Air Force Base, Nevada has developed and implemented the Nellis Sexual Assault Prevention Program (NSAPP). It is a three-pronged program focusing on prevention, education and on- and off-post community outreach. The training is mandatory for commanders, first sergeants, and all personnel. Some installations have also adopted a local “buddy system” program requiring service members to travel in pairs. In spite of the potential of these programs as preventive measures, they have not been shared or adopted Service-wide.

## Finding 7

### Sexual assault awareness training in the joint operational environment presents serious challenges due to operations tempo.

In the operational environment commanders must maintain a high degree of readiness and their focus is mission accomplishment. Conducting tactical training and mission rehearsals are priorities. Combatant Commanders outline theater requirements including training in



personnel deployment instructions that are applicable to all Services. Commanders expect that prior to arrival in a combat theater, units will have completed the array of mandatory training including equal opportunity/sexual harassment and cultural awareness training.

The operational environment is very transitory with units and individual replacements arriving and departing on a daily basis. With over 200,000 troops deployed to the CENTCOM area, it is difficult to maintain unit integrity in living accommodations while also providing separate quarters for females and males. Although co-ed living presented no major sexual assault issues during field exercises with their parent unit, Army female enlisted personnel did not like having to “bunk in the same area with males they did not know.” Lack of privacy for females and males was widely discussed among focus group participants. Generally, active duty females indicated they received information on how to deal with co-ed living arrangements prior to deployment, while reserve unit personnel we spoke to stated that they were not sure what to expect because it was not a topic identified for discussion in unit training.

The challenges for providing sexual assault awareness and prevention training in the joint environment is further complicated because of the large number of reserve component personnel (21% of deployed forces) in the CENTCOM theater. Reserve component personnel who participated in focus groups identified a lack of training on the prevention of sexual assault at home station and upon arrival in theater. This insight, coupled with increased utilization of reserve component personnel, cross-leveling of service members to fill unit vacancies, and lack of pre-deployment awareness training was highlighted during the Task Force’s visits throughout the CENTCOM theater of operation.

Commanders identified the need to conduct sexual assault awareness training prior to arrival in theater due to the high operations tempo. In addition, enlisted personnel also expressed strong desire for training that was not “death by PowerPoint.” Junior enlisted focus group participants that had deployed to a combat theater overwhelmingly endorsed the need for sexual assault awareness training prior to arrival in theater. They also indicated that, in order to be better prepared to protect themselves in a transitional wartime environment, the training may also need to be reinforced in theater, primarily because conditions and circumstances could not be anticipated in pre-deployment training. They noted that such training should be interactive in nature, using realistic scenarios, and come directly from their commanders. Many male focus group participants observed that current awareness training (on sexual harassment, mostly) is directed primarily toward females. They noted that many all-male units tend to believe such training efforts are wasted on them, since there are no women in their units. However, in the combat environment, mixed gender support and service support units become integrated into their command, and require service members not used to operating with females to quickly assimilate appropriate sensitivity not previously required. In many focus group discussions, male participants indicated that awareness training on sexual assaults should be directed toward males, especially regarding male behaviors and risky situations that male service members should be aware of (and seek to avoid) that might lead to being accused of sexual assault or becoming victims themselves. There was general consensus among focus group participants that in-theater training on sexual assault be given to all personnel (active, reserve and civilians) assigned to the theater, e.g. permanent party personnel as well as personnel on extended temporary duty, and that such training should be standard.

## Finding 8

### American service personnel are not well prepared to deal with inappropriate behavior by foreign nationals.

Prior to deployment, service personnel are supposed to receive information on cultural norms for the country/region to which they are being deployed. This training is a broad overview of the host country's traditions and social customs but does not address gender socialization or sexual assault. Focus groups with commanders and leaders reported that there was a general lack of awareness of how coalition military and third country nationals perceived American women. Several women reported that they had been inappropriately touched by local nationals or subjected to indecent acts of a sexual nature. In addition, they noted significant differences in cultural norms and expectations about women in interacting with men. Because some service members in the CENTCOM area were sexually assaulted by third country nationals, host nation citizens or coalition partner service members, aggressive efforts must be taken to ensure U.S. service members understand the cultural and religious differences of coalition and host country foreign nationals that could affect their interactions with U.S. service members (male and female), and more specifically, how to deal with any inappropriate behavior of a foreign national.

## Finding 9

### Training and education designed to prevent sexual assault is limited and varies from location to location.

Because the Department has not developed or required standardized education and training materials for the prevention of sexual assault, most service members lack a basic understanding of what constitutes sexual assault, risk factors, or preventive measures. This lack of knowledge and understanding of sexual assault was prevalent across both officer and enlisted ranks. Service members at all levels often confuse the definition of sexual assault with that of sexual harassment and sexual misconduct. During focus group sessions, it was also apparent that many did not know the situations and circumstances in which most sexual assaults occur and, consequently, they were unprepared to recognize and handle the risks in their environment. There is a common misperception that most cases of sexual assault involve a stranger waiting to attack an unsuspecting victim. Service members were surprised to learn that men could also be victims of sexual assault. While several commands have written "zero tolerance" policies that condemn sexual assault, these policies are not widely publicized and were not reinforced through awareness or sexual assault prevention training.

## Finding 10

### Junior enlisted personnel prefer training conducted by those with first hand experience.

There was nearly a unanimous opinion among most focus group participants that they would welcome awareness training and education in this area. Junior enlisted personnel also stated that training conducted by those with first-hand experience (i.e. testimonials) is more likely

to grab and keep their attention. They also indicated that training conducted by their leadership reinforces written policies because it shows that commanders are really concerned about their safety and protection. Based on current state of awareness, the Task Force is convinced that sexual assault awareness training should be provided throughout the career and during pre deployment and post deployment processing. The training should address issues specifically related to female and male potential victims and most importantly, how to respond to an incident should it occur. Pre-deployment training should prepare service members for what to expect in a joint, multinational environment. Studies indicate that effective training programs are those that address all learning styles and include audience/group participation.

At the time of the focus groups, enlisted participants stated that they had not received or could not remember receiving any training specifically on sexual assault. Those who had received special training in this area e.g., through the Navy's Sexual Assault Victims Intervention (SAVI) program or through some installation initiative like we observed at Travis AFB, were the exception to this finding, but these individuals still recommended training relevant to risks, what sexual assault is and is not, and the local process for reporting and receiving support and assistance if a sexual assault occurs.

## Finding 11

### Focus groups identified gaps in physical safety measures, which increased risk of sexual assault on service members.

The chain of command is responsible for ensuring that policies and practices regarding crime prevention and security are in place for the safety of service members. Command policies and practices regarding sexual assault prevention are major components of safety and reduce the risk of victimization of service members. During focus group sessions, participants identified the need for preventive measures. Some measures could be used at both CONUS installations and overseas areas, while others were more applicable to the operational environment.

- ❑ Adequate lighting
- ❑ Controlled access to buildings and living quarters
- ❑ "Crime Watch" programs
- ❑ Smart Cards with points of contact and emergency information
- ❑ "You are here" boards
- ❑ Roving Security Patrols (Foot, vehicle and use of technology)
- ❑ Noise mitigation around shower facilities (e.g. generators right next to showers)
- ❑ Placing view obstructing screens at entrances of shower facilities

## Reporting

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### Finding 12

There are barriers to reporting incidents of sexual assault. Some are consistent with those in the civilian community while others are unique in a military setting.

Although reporting differences made it difficult to summarize the information provided across the Services, available data indicated that there is little delay in reporting, when cases are reported to investigators. Roughly two-thirds of the sexual assault cases with service member victims in 2002 and 2003 were reported within 72 hours of the alleged sexual assault.

Nevertheless, focus group participants consistently articulated reasons why uniformed victims of sexual assault might choose to forgo reporting sexual assault in a timely fashion, or at all. Some of the barriers they expressed were consistent with information received from experts as well as research literature (Baumer, et al. 2003):

- ❑ Concerns that they will not be believed.
- ❑ Feelings of embarrassment and stigma.
- ❑ Ambiguity about what constitutes sexual assault.
- ❑ Concerns that the criminal justice system is largely ineffective at responding to or preventing such incidents.
- ❑ Fear of reprisal from the offender.

Individuals were concerned that the chain of command and other unit personnel would not believe them and would ignore the complaint altogether. This was of particular concern when an alleged offender is of superior rank, has a good military record and reputation, controls the victim's professional success, or is very popular. Focus group participants also expressed concern of embarrassment and stigma since they believed that everyone in their unit would know and talk about what occurred once the investigative process began.

Focus group participants expressed a general lack of confidence in the chain of command's ability to effectively address a report of sexual assault. These comments were based on individuals' observations within their units and often stemmed from a lack of understanding about what had previously occurred in response to an allegation of sexual assault. Another barrier that we heard was about fear of repercussions from the chain of command because of the victim's own misconduct (e.g., underage drinking, fraternization, adultery, sexual relations in prohibited areas).

Participants also thought that reporting a sexual assault would damage their reputation, have negative career implications, or cause them to be ostracized by friends and unit personnel. For men, in particular, there was a general perception that reporting a male-against-male sexual assault might cause people to question the victim's sexual orientation. They also articulated that they were reluctant to report a sexual assault because the investigative process might disrupt the unit mission or negatively impact unit morale and cohesion.

Others indicated sexual assaults went unreported because victims were concerned that if they reported it would delay their redeployment or change of assignment date.

## Finding 13

Generally, individuals are not aware of the full range of reporting options available to them.

Focus group participants believed that their chain of command was the sole avenue for reporting sexual assaults. They thought they would be more likely to report a sexual assault to a friend. This is consistent with civilian findings. (Fisher, et al., 2003). When focus group participants were informed of other reporting options outside the chain of command, they perceived there would be negative consequences for failing to notify their superiors. In other words, reporting anywhere else would be viewed as “jumping the chain of command” and disloyal to the unit.

Regardless of the entry point for reporting, focus group participants repeatedly stated that they believe there is a critical need for education and training on where to report and how to support a victim of sexual assault. Focus group participants also felt that it was critical for all service members to receive this education because a victim is more likely to report a sexual assault to a friend/junior enlisted than to a superior in their chain of command.

Focus groups also spoke about wanting to avoid the scrutiny of their chain of command and peers. In general, individuals had no awareness of the quality of the support “outside” and lacked awareness that in some cases, the support provided would be at their own expense. They expressed a preference to use outside sources, if available near the installation. Their reasoning was to deflect the concerns stated above and an additional desire of not wanting to engage the investigative and legal process mainly due to concerns about loss of privacy and/or a perception that they would be forced to defend their own conduct in the circumstances surrounding the assault.

Currently within DoD, there is not a way for victims of sexual assault to get military sponsored medical or mental health treatment without reporting the incident and triggering the investigative and judicial processes. While there are more private, and often times confidential, or anonymous reporting options available in the surrounding civilian communities and through the DoD-wide “One Source” 1-800 services now available, these are not widely publicized and the duration of support is limited. Unfortunately, there are limited options OCONUS and there are not any similar options in the CENTCOM AOR.

## Finding 14

Victim’s privacy needs must be positively assured.

Commanders bear the primary burden of responsibility for protecting the privacy of victims under their command. However, current chain of command reporting mechanisms may intensify the problem. Many focus group participants indicated that, although identifiers were not shown, the facts of these offenses appear in blotter reports, Serious Incident

Reports, and on incident reports maintained on the shared drive of a computer network and are seen by non-command personnel and command personnel alike. In small ships and commands, the names don't have to be on the reports for people to intuitively derive the victim's and the offender's identities.

Focus group participants widely expressed their view that the NCOs and officers within their command structure who have no disposition responsibility in the case should not be informed of the details of the alleged incident. Many others expressed frustration that leaders/NCOs were not doing enough to positively assure the victim's (and the alleged offender's) privacy. Some focus group participants suggested that individuals questioned in connection with the investigative process be required to sign non-disclosure statements, with stiff penalties for violation.

Currently, a report to authorities of a sexual assault triggers an investigative process involving interviews with witnesses, friends, co-workers, and unit personnel. Collection of physical evidence, sometimes in the victim's or offender's room is equally invasive. This activity, necessary to hold the offender accountable, often serves to engage the "grapevine" and further erode the victim's privacy and reputation.

Some victims in response to rumors and not-so-veiled innuendos about their conduct and judgment, reported that they regretted their decision to report. After seeing this happen to others, several focus group participants cited this circumstance as a key barrier to reporting.

## **Finding 15**

**Balancing the issue of confidentiality for sexual assault victims with the commander's responsibility to ensure community safety and due process of law is very complicated, but must be addressed.**

The perceived lack of privacy and confidentiality within DoD is thought by many to be one of the most significant barriers to reporting by military sexual assault victims. Experts consulted suggested that sexual assault victims benefit significantly from access to a safe haven—that is, a place to receive confidential advice, referrals for needed medical and social services, and to feel safe and protected from physical and verbal attacks. For military victims, this would mean providing a means to receive immediate care, legal advice, and support following the incident without, at least initially, having to advise his/her chain of command or trigger an investigation.

However, there is considerable confusion at all levels with respect to issues of mandatory reporting of sexual assault, and whether confidentiality or privilege applies under our current policies and regulations. One potential avenue for confidential disclosure within the military (for any subject, not just sexual assault), is to go to a military chaplain. In practice, there has been variable understanding and application of the privilege, as MRE 503 states it only applies to communications made either as a formal act of religion or as a matter of conscience. While many focus group participants believed that the chaplain's office would be a "safe haven" to disclose sexual assault without fear that it would be further disclosed, many recognized that such disclosure would not insure access to needed medical, advocacy or



mental health services. There was also difference of opinion by participants, including chaplains, whether the disclosure would be held in confidence. Some focus group participants reported that they were aware of situations in which chaplains informed commands in general terms about allegations, without disclosing the specific personnel involved. However, focus group participants also related that victims of sexual assault might not be comfortable approaching a military chaplain. For instance, some voiced concerns that a victim might be uncomfortable discussing sexual matters, that he or she may not desire spiritual guidance, or that a victim might feel awkward because of differences in rank or religious denomination.

As discussed in Chapter 2, MRE 513 provides a limited privilege between a psychotherapist and a patient. However, the rule does not specify what is meant by the phrase “in a case arising under the UCMJ” and DoD has not promulgated guidance in this area. In the *Report of the Panel to Review Sexual Misconduct Allegations at the Air Force Academy*, the Panel interpreted this phrase to include consultations with psychotherapists during the investigative phase of an offense under the UCMJ and concluded the privilege could extend to victims of sexual assault. In response, the Panel recommended establishing partial confidentiality for victims reporting to credentialed officials practicing under the umbrella of the psychotherapist privilege at the Air Force Academy.

For sexual assault victims seeking confidential disclosure, another problem with the application of MRE 513 is the fact that there has been no implementing guidance for providers and that exceptions to the privilege could be interpreted as “swallowing the rule.” For instance, under the rule a communication is not privileged “when necessary to ensure the safety and security of military personnel, military dependents, military property, classified information, or the accomplishment of the mission.” Under circumstances commonly applicable to many reports of sexual assault, a provider could determine this exception would apply and not afford a victim confidentiality. During focus group sessions with mental health providers and judge advocates, there was a great deal of confusion as to whether this privilege would extend to most sexual assault victims.

Although a lawyer-client privilege is recognized under MRE 502 this privilege would not extend to most victims of sexual assault. Reporting crimes falls outside the scope of legal assistance programs offered by legal offices in each of the military departments. Furthermore, confidential privileges available through military defense counsel services would not generally be available to victims, unless the victims were themselves suspected of committing criminal offenses. However, even if a victim accused of minor misconduct arising out of a sexual assault allegation sought counsel, the few defense counsel we spoke with noted that a counsel might advise a client victim to not discuss his or her circumstances with anyone else in order to help shield the victim from potential criminal liability.

Even if a “safe haven” could be assured for sexual assault victims through clarification of the existing rules with respect to communications to the clergy or between a psychotherapist and patient, existing policies and regulations might still preclude victims from seeking medical care within the military system for issues related to sexual assault.

Although most individuals we spoke to recognized that the lack of confidentiality within DoD serves as a barrier to reporting, there was equal concern that affording victims avenues



for confidential disclosure within DoD will result in either a delay or lack of investigation that ultimately impedes commanders' solemn responsibility to hold offenders accountable and to ensure community safety. Resolving these inherent tensions is complicated, but must be addressed.

## **Response—Safety and Protection**

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### **Finding 16**

#### **DoD guidelines are needed to ensure victim safety and protection.**

Several focus group participants reported that steps to provide for the safety and protection of sexual assault victims are either not fully understood, inadequately applied, or take too long. Sexual assault can have a powerful and potentially long term effect on a victim's ability to cope. It often destabilizes a victim's sense of control, safety and well being, particularly if the victim lives in the same building, is assigned within the same command, and frequents the same base support and recreation facilities as the offender. Commander/leader focus group participants indicated that they did not have, or were unaware of clear-cut guidelines for actions that could be taken to address the physical and emotional needs of the victim. The lower the rank of the command/NCO leader focus group participants, the less was known.

Currently, Staff Judge Advocates (SJAs) are available to consult with commanders regarding what steps need to be taken to protect the victim from the alleged offender if the latter is an active duty service member (e.g., issuing a military protective order, ordering the service member - if the victim requests it - into dorms/barracks away from victim, temporarily suspending the suspected service member's access to firearms and ammunition, temporarily reassigning the alleged offender or the victim to ensure workplace separation of both). Additionally, the SJA can advise on steps to be taken to protect the victim from the alleged offender if the latter is a civilian.

At DoD installations, legal offices are also available to advise commanders on how to ensure the safety of victims of sexual assault. Legal staff can provide commanders with critical information regarding both military and civilian protection orders; the scope and applicability of the Armed Forces Domestic Security Act; a basic description of the immigration provisions of the Violence Against Women Act; and the scope and applicability of the Lautenberg Amendment to the Gun Control Act.

### **Finding 17**

#### **Actions to segregate alleged victim and alleged offender are not always timely.**

Many sexual assaults take place in the victim's domicile. Among university students who are assaulted on campus, almost 60 percent take place in the victim's dormitory (Fisher, Cullen and Turner, 2000). Service data suggested a similar trend. Quickly segregating the victim and the offender, especially if they live in the same building or tent, is important. Several victims

who spoke to the task force noted that actions to provide for their safety and protection were either not initiated, inadequate or took too long. Because the victim often feels a loss of control after a sexual assault, it is important to give high priority to his/her wishes in making segregation decisions.

Focus group leader/commander participants widely acknowledged that they had the ability to move or transfer victims or offenders to another location, temporarily, but acknowledged that it was based on their personal judgment of the situation rather than on any specific set of guidelines or sensitivity training about the importance of assuring safety or protection of sexual assault victims.

Commanders/leaders expressed they have had a more difficult time accommodating the need to segregate victims from their assailants in a combat theater, when limited options are available, even temporarily. One commander noted that movement of one or both trained service members out of a unit supporting a critical war-fighting mission could significantly erode its ability to accomplish it, particularly if either party performed a critical skill.

Another officer indicated that he would immediately send both the victim and the offender out of the theater, to different but appropriate locations, even while the investigation was ongoing. The rationale offered for sending the victim out was there were limited support services available to provide timely ongoing assistance to a traumatized victim, whose performance may be impaired by the event. The rationale for sending the alleged offender out, often with no public indication of the basis for the action, is to remove the potentially criminal behavior from an environment where judgments being made were supposed to save lives, not ruin them.

Some victims reported that they felt they had been re-victimized by the commander's unilateral decision to send them home. They expressed frustration that their commanders had not consulted them prior to deciding to relocate them. Commanders expressed difficulty in making decisions to move either party because of the career implications and other consequences that may potentially occur if the investigation later finds that the report was not substantiated.

## **Finding 18**

### **Assuring victim safety is a challenge when offenders are from coalition forces or foreign nations.**

CENTCOM leader/commander focus group participants identified the challenges they faced in sorting through how to navigate jurisdictional authorities for issuing protection orders, seeking to strip them of their weapons, initiating criminal charges or otherwise holding offenders accountable. This was particularly problematic in countries that had no governing authorities for the U.S. to work with. Because no specific DoD policy or standards to address these issues existed prior to and during most of the conflict, Combined Joint Task Force (CJTF)-7, with only partial agreement with the coalition partners, published guidelines for responding to sexual assaults involving coalition partners in early March 2004.

## Response—Care for Victims

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### Finding 19

#### Commanders have variable responses in support for victims.

Sexual assault can have a substantial impact on a victim's work habits and performance. Several victims noted that the emotional and physical consequences of sexual assault may make it difficult to continue working and/or maintain levels of proficiency required for success.

Focus group participants noted that the chain of command response to sexual assault victims varied. Some commands were reported to be very supportive, while others were noted to respond with indifference or disbelief. Some commands communicated, either directly or indirectly, that "the mission comes first." It was difficult for some commands to appreciate the need for long-term supportive care for some victims, both with respect to mental health and legal support. Additionally, it was not always recognized that other military members, spouses or support personnel might need time away from work to accompany the victim in obtaining these support services. Over time, it became apparent from discussion in the leadership focus groups that this apparent insensitivity may be related to an absence of training that specifically addresses the needs of sexual assault victims rather than general disregard. Furthermore, it was not uncommon in these focus groups for leaders to indicate that the group discussion had enlightened them and they expressed a need for further education and information.

### Finding 20

#### DoD has not mandated requirements to provide advocacy for sexual assault victims.

Under the best of circumstances and in all due diligence, there are aspects of criminal investigation that contribute to a victim's sense of shame, self-blame and guilt. For this reason, among others, victim advocacy is thought to be most effective when engaged from the very beginning.

Provider and other focus group participants agreed that sexual assault victim advocate policy and programming is needed throughout DoD. While DoD and Service VWAP policies require designated personnel to provide victim support, mostly in conjunction with the legal process, implementing regulations do not mandate appointment of liaisons to accompany and guide victims of sexual assault throughout the medical, counseling, and investigative processes. In the end, there is no one person or office across the military departments who are mandated to principally and exclusively serve the needs of sexual assault victims.

Notably, the Task Force found that Victim and Witness liaison officers in the combat theater were far more proactive in contacting sexual assault victims during the initial stages of an investigation and facilitating services on behalf of victims. These liaison officers were always JAGC officers who took a personal interest in performing duties that would normally

be performed by an advocate. They acknowledged that their effort to contact and provide support to victims early in the investigative process was beyond the mandate of DoD VWAP. Nevertheless, Victim and Witness liaison officers are not required, nor are they routinely trained, to provide the scope of services typically found within civilian advocacy models.

While victim advocates within the Navy and Marine Corps provide a range of services and support more in keeping with civilian advocacy models, their programs are resourced and implemented differently. The Navy's SAVI program is resourced with service funds and the Marine Corps victim advocacy program is funded through their Family Advocacy Program (FAP). The success of the Navy and Marine Corps' programs at installations we visited are largely dependent upon individual command attention, the resources available, and the experience and training of personnel acting as victim advocates. Although trained volunteers are available within Navy units ashore and deployed on ships, the adequacy of this support is largely dependent upon the experience and training of individuals selected to fill those positions. The Marine Corps trained civilian victim advocates are generally not available for deployment to the combat theater.

## **Finding 21**

**There is a perception that some victims are not consistently informed on the status of their cases.**

Some victims interviewed felt their needs were not being met with respect to obtaining information on the status or outcome of their cases during the investigatory, command decision-making, and legal processes. The continuity and relative success of programs under the VWAP tend to work better at those locations where the liaison personnel are full-time civilian employees who are proactively involved with victims. Unfortunately, because of lack of funding, this function often becomes an additional or shared duty among personnel assigned to the local staff judge advocate office. Too frequently, this results in victims feeling as though nobody cares about them and is especially problematic when the victim and alleged offender are stationed in geographically dispersed locations. Strong coordination between victim advocates, where available, and VWAP personnel is critical in reducing this perceived gap.

## **Finding 22**

**There are multiple factors causing delays in immediate response to victims.**

During focus group discussions, it became apparent that if the victim went to a military treatment facility, care was rendered; however, timeliness of care was identified as a problem for several reasons. These included long waiting times in emergency rooms, waiting for responders to arrive, waiting for medical evaluation of any other traumas, and delays in arranging for transportation of victims to "outside the gate" civilian facilities. Many medical commands, particularly in CONUS, have partnered with civilian agencies to obtain forensic evidence, since their experienced SANE nurses assure reliable evidence for trial and because a significant number of installations no longer have full military hospitals and instead

provide Monday-Friday clinical support. While these agreements are practical for a number of reasons, they may have unintended consequences. Through the eyes of a victim who recently experienced the trauma of a sexual assault, it is difficult for them to be forced to wait longer than absolutely necessary before showering. It may also unnecessarily require them to relate events to more than one medical provider. The response protocol at Nellis Air Force Base was notable in that victims are transported directly to the civilian facility by investigators, bypassing the military treatment facility except on rare occasions when the victim has other additional trauma.

Delays associated with investigation can also be a significant problem. Some delays noted during this review included geographic separation of the personnel involved that were caused by cases occurring during deployment or other temporary duty situations, and those reported after personnel have been redeployed or reassigned.

## **Finding 23**

### **A system to coordinate and track victim support services for effective case management does not exist at all installations.**

With respect to Service data call information pertaining to the care provided to victims, the Army reported that for cases of alleged sexual assault involving active duty victims, 86% of the victims accessed military or civilian services. Of the total number of Army victims, 48% received military medical care, 27% received behavioral health care and 12% received civilian purchased care. Service member victims who accessed care received a total of 1,272 clinic visits, with behavioral health visits being the greatest. With respect to the Department of the Navy, 63% of active duty victims received either medical or mental health care within Navy medical facilities. Of those, only 71% of the victims seen had diagnostic codes that reflected the sexual assault as the reason for the visit. In the Air Force, 98% of uniformed victims received medical care. Of the total number of victims, 52% received medical care within 7 days of the alleged sexual assault, while 5% received behavioral health care within 7 days.

In reviewing the reports submitted by the installations we visited, it was difficult to ascertain the level of support services offered, the timeliness of response, the extent to which commanders took action in regards to safety measures for the victim, or what was the final disposition of the case.

From our focus group discussions, there did not appear to be any organizational mandate to coordinate or integrate services and care for each victim of sexual assault case at most installations. However, at locations that we visited in CENTCOM, policies for transportation and coordination of care have recently been developed, but not well published.

Although multiple services are available for victims at most locations, many victims were unaware of them and were unable to identify a centralized individual, or process, responsible for insuring the timely and coordinated delivery of those services. Navy utilizes SAVI Program Coordinators and a SAVI Program Coordinating Committee on a quarterly basis to

address system issues that may limit access to care for victims. While an excellent model, focus group participants reported inconsistency in practice.

The Army has a MEDCOM regulation requiring SARBs (Sexual Assault Review Boards) at medical treatment facilities to perform quarterly reviews on how well the various providers coordinated their “stovepipe” services to support the victim; however these boards have not been consistently implemented Service-wide.

The Nellis Air Force Sexual Assault Prevention Program also uses a SART (Sexual Assault Response Team) concept to make certain all necessary team members are notified of an alleged assault. The SART concept allows for follow-up evaluation on how support services provided coordinated care for the victim, and a forum to address any gaps in care. Their SART reports directly to the installation Community Action Information Board (CAIB) to close any loops and keep the Command informed.

While Services have policies and procedures concerning each of the separate support services that may be used to help victims, many of these policies are outdated and are not consistently applied or not designed to insure integrated support for each victim’s case. A system is needed to assess how well each sexual assault case was managed, facilitate local policy changes and address any trends or risk factors. Additionally, a mechanism to report significant installation findings to the Service level is needed to perform Service-level system review and improvement. This process would allow the Services to obtain consistent data, assess trends, and be able to adjust policies or training materials on an ongoing basis.

## **Finding 24**

**Resourcing to deliver integrated case management support for victims in a combat theater is currently not a part of force planning.**

At many CONUS locations, military treatment facilities have entered into memoranda of understanding (MOUs) with local organizations to provide specialized, expert medical and supportive care for victims. These facilities often utilize Sexual Assault Nurse Examiners (SANE) who are certified specialists. We found these relationships to be of great benefit to sexual assault victims, providing expert forensic evidence collection, advocacy, and on going medical and psychological support. Active duty victims we spoke to who chose to receive confidential care through these agencies were generally satisfied with the care and assistance received. However, these programs differ with respect to the scope of assistance provided from location to location, they may not be affordable for all victims if not otherwise reimbursed by the Services or through healthcare benefits, and may require significant travel time for the victim.

While the use of civilian experts has improved our ability to provide optimal care for victims in CONUS, it has consequently diluted professional training, development, and expertise within the Services. Therefore, one of our greatest challenges is providing this same level of care for victims at small, isolated installations CONUS, at OCONUS installations where expert host nation resources have not been developed and in the deployed environment.



With respect to forensic medical examination, we have SANEs in the active and reserve components, but have not strategically developed or implemented these assets throughout DoD. Medical and mental health professionals deployed to combat theaters are specifically trained and resourced to provide care for casualties and combat stress, but are not trained to provide specialized assistance to sexual assault victims (see finding 25). In addition, access to victim advocacy is minimal in the combat theatre. Where available, victim advocacy is an additional responsibility to the member's routine duties in support of the combat mission. While the Navy SAVI program purposefully utilizes military deployable victim advocates, ensuring that these assets are available in Navy units deployed to support joint forces has not occurred. There is no specific mechanism within the Navy to insure effective multifunctional case management and integration when commands are deployed away from Naval installations.

## Finding 25

### Department-wide uniform training of providers and standards of care for victims of sexual assault do not exist.

There is no clear DoD consensus on standards of medical care and optimal services in the care of victims of sexual assault, including DoD-wide standards of training for all care providers. Many focus group providers (physicians, nurses, chaplains, social workers) expressed concerns about inadequacy of specialized training in this area. Additionally, due to the frequent movement of both providers and victims, a focus group finding identified continuity of mental health care as a significant issue. Another frequent comment from focus groups were the desire for routine access to “after hours” support groups on military installations.

Very recently, the Department of Veterans Affairs established a continuing medical education program to assist primary care providers in identifying victims of military sexual trauma. This program is aimed at enhancing clinician's awareness of specific conditions and sensitivities associated with a veteran who has experienced sexual trauma in order to assure these victims receive the care they deserve. This program may be useful for DoD to evaluate for potential use in training of providers.

## Response—Investigation and Prosecution

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## Finding 26

### There is a backlog of DNA evidence waiting for processing at the United States Army Criminal Investigation Laboratory (USACIL) and this can significantly delay investigations and prosecutions.

Investigators and prosecutors who must rely on the backlogged United States Army Criminal Investigation Laboratory (USACIL) to process their evidence are frustrated by the length of time required to have forensic evidence analyzed. More importantly, the lengthy delays cause hardship to sexual assault victims who must wait for the test results and any command



decision with respect to the disposition of the alleged offense(s). Finally, the delays contribute to perceptions that the justice system is too slow in holding offenders accountable. During focus group sessions at installations, prosecutors and investigators said it normally takes at least six-months to get laboratory reports on DNA or similar analysis and that USACIL has a policy that won't allow cases to be expedited unless charges in a case have already been preferred. However, the results of laboratory analysis frequently are needed before deciding to prefer charges against an alleged offender and, even if they are not required, referral of charges starts the 120-day speedy trial clock. Prosecutors and investigators also noted that the waiting list for expedited results could still mean delays of several months. In some cases, investigators have sought and received higher headquarters authorization to pay for and use state or local laboratories in order to expedite cases.

The Services have taken affirmative steps to try to deal with this issue. A Process Action Team (PAT) from the Army, in coordination with the other Services, is conducting a review of current laboratory practices and any required immediate action to eliminate the current backlog and improve efficiencies. The Air Force senior leadership approved resources to provide additional manpower to USACIL, thus attempting to decrease the evidence processing time for these tests.

## **Finding 27**

**The environment in the combat theater can have a severe and detrimental impact on the ability to timely and effectively investigate and prosecute cases.**

In theater, agents working for AFOSI, NCIS, and USACID are often tasked to perform counter-intelligence and force protection duties in addition to their criminal investigations responsibilities. Those agents who deployed to Kuwait and Iraq during the initial months of Operation Iraqi Freedom reported that they lacked sufficient manpower and transportation resources to cover every forward operating location in a timely manner. These shortages are compounded by new missions, such as investigating mass gravesites for potential war crimes prosecutions and being required to investigate all combat deaths as possible homicides or violations of the law of war. Some investigators acknowledged that current shortages in investigative resources within the combat theater might mean they would have to rely on "reach back" capability. Furthermore, the focus of their efforts was on trying to gather intelligence and protect U.S. personnel from enemy forces.

Other than being able to preserve perishable evidence and secure an initial statement from someone reporting a sexual assault, any case that would have arisen would have required outside, additional resources. Judge advocates deployed in theater during this period reported having to conduct large portions of criminal investigations on their own. It is possible the unavailability and workload of investigative agents also may have been a reason why a number of sexual assaults reported in the combat theater were first investigated by the command rather than by investigative agencies with appropriate expertise.

## Finding 28

Investigations run by the command, both formal and informal, without involvement of investigative agencies may compromise cases of sexual assault.

Pursuant to R.C.M. 303, commanders “shall make or cause to be made a preliminary inquiry” into suspected offenses that are triable by court-martial. The discussion to that rule notes that commanders may conduct investigations personally or with members of the command, but that they should consider whether to seek the assistance of law enforcement personnel in conducting any inquiry or investigation in serious or complex cases. Generally, commanders immediately contact investigative agencies whenever serious crimes that have not been investigated come to their attention. Occasionally, commanders initiate commander-directed inquiries or investigations before contacting investigative agencies when allegations of serious criminal misconduct arise within their command. Although there may be a myriad of reasons for this (e.g., lack of investigative resources, not realizing full seriousness of allegation as reported) many focus group participants have questioned this practice because cases of sexual assault are serious crimes that fall within the regulatory jurisdiction of the investigative agencies for each military department (AFOSI, USACID, and NCIS). Some focus group participants complained that the current emphasis on chain-of-command reporting (e.g., serious incident reports, situation reports) results in commands trying to ascertain facts surrounding sexual assault reports before investigators are on scene. This can often negatively impact an investigation, including tainting potential evidence or testimony. This informal process of trying to ascertain facts can produce multiple victim statements that may be viewed as inconsistent or, even worse, increase a victim’s anxiety to the point that he or she shuts down because of being required to continually repeat what happened.

## Finding 29

Addressing victim misconduct is a significant challenge for commanders.

As noted in Findings 4, 5, and 12 many reported cases of sexual assault involve circumstances where the victim may have been involved with some type of minor misconduct (e.g., adultery, fraternization, underage alcohol offenses, and violations of certain regulations or orders). At every location we visited, the general deterrence message was effectively and forcefully communicated with respect to alcohol-related offenses and improper personal relationships, though not always adhered to by members of the command. One reason these offenses are such strong command focus items is because they can often be contributing factors in even more serious crimes, such as sexual assault offenses.

Commanders and their supporting judge advocates explained the dilemmas associated with handling minor misconduct on the part of a victim of sexual assault. They acknowledged the misperceptions that can arise when the command takes fairly quick action to address minor victim misconduct stemming from circumstances surrounding an allegation of sexual assault. In some cases involving alcohol, we heard commanders were very concerned that the amount and patterns of alcohol consumption by a victim required the victim to be enrolled

in alcohol abuse counseling. In other cases, we were told the victim had violated specific orders from the commander and that swift action was deemed necessary. Although somewhat rare, we heard of cases where commanders would address minor victim misconduct before the disposition of the sexual assault offense (and any other misconduct) against the alleged offender was resolved because the commander believed he or she needed to dispose of each offense in the most expeditious manner.

Because the criminal process associated with investigating and taking any action against an alleged offender for sexual assault typically takes much longer and frequently lacks transparency, there was a misperception among some junior service members that victims get punished for reporting a sexual assault and that alleged offenders frequently go unpunished. This may have been because those who knew about the offense had been re-deployed or reassigned before final disposition or because the disposition did not involve a public proceeding, such as a court-martial. Also, focus group participants expressing these opinions would not have been in a position to know all the facts and circumstances surrounding an individual case.

Commanders, senior NCOs, and legal office personnel all recognize the seriousness of this misperception and were very concerned about how to address this issue. It would be improper to communicate any type of “amnesty” message for minor victim misconduct in cases involving sexual assault, especially because such a message might encourage false reporting of a sexual assault if service member wanted to divert attention from his or her own misconduct (e.g., pregnancy through adulterous relationship). There is no DoD policy guidance for commanders regarding this issue. However, the Department of Navy has a policy as part of its SAVI instruction that advises commanders to consider delaying any action to address minor victim misconduct until the final disposition of the sexual assault is resolved and to consider that disposition when deciding how to best address the minor victim misconduct.

## Finding 30

### Understanding the dynamics of false allegations of sexual assault may help the Department minimize victimization of actual victims.

The Task Force is extremely sensitive to the challenge presented when individuals make a false allegation of sexual assault. The reasons for these vary, and often the allegation is not the result of conscious deception, but rather the result of multiple other factors impacting the individual making the allegation. Nonetheless, the issue is of particular concern because of the negative effect these false allegations have on all involved.

This challenge is not unique to the military and confronts the civilian community as well. Many focus group participants expressed concerns about the effect of false allegations, but in truth, there is little formal research to help us understand the various reasons why a victim might allege sexual assault when it has not occurred. We currently do not know the number of circumstances where the alleged victim deliberately and maliciously makes a false claim. Often there are other mechanisms at play, involving complex individual factors not well understood.

Focus group participants, especially enlisted personnel, expressed the belief that there were individuals who made such allegations for secondary gain and that the alleged accused was at a disadvantage. Commanders expressed concerns in terms of the impact on unit cohesion and mission accomplishment. Investigators and legal personnel expressed the negative impact on limited resources and their ability to investigate and litigate legitimate cases. Some victims expressed their experience in encountering skeptical commanders, investigators, and peers as questioning the assault claim.

A number of focus group participants expressed a desire to require commanders to take clear and unambiguous action against malicious false accusers. The challenge is, however, that rarely is there clear and unambiguous understanding of the factors that lead a person to use an unconventional and undesirable act to get needed help vice a truly malicious act. This requires recognition that the individual, despite negative behavior, may need to be assessed by a professional behavioral health counselor.

## **Finding 31**

**The investigative and legal communities are not currently resourced to provide investigators and prosecutors at each location with specialized training in handling sexual assault cases.**

Installation law enforcement, judge advocates, and investigator resources are scarce, have heavy caseloads, and have no specific requirement to be trained in how to effectively handle sexual assault cases; in a combat theater, such resources are even more limited.

For the most part, investigators and judge advocates participating in focus groups reported that they did not have formal, specialized training in handling sexual assault cases. However, because sex offense cases represent a large percentage of cases within the criminal justice system, many investigators and prosecutors had extensive experience in handling sexual assault cases. In addition, AFOSI, NCIS, and Army CID all reported having agents with specialized training (often forensic consultants) available at the regional and headquarters levels. The Federal Law Enforcement Training Center (FLETC) now has a block of instruction specifically related to investigating cases of sexual assault. AFOSI and NCIS conduct all basic investigator training at FLETC. AFOSI established an Advanced Sexual Assault Investigations Workshop, conducted at the Air Force Academy in December 2003. They are in the process of expanding this course for investigators from each MAJCOM.

Many prosecutors also reported they were exposed to the issues involved with sexual assault cases as part of overall litigation training programs. Recently, the Air Force Judge Advocate General School offered its first course of instruction devoted solely to the prosecution of sexual assault cases and the course is open to judge advocates from all military departments. In addition, some judge advocates were able to attend various types of specialized training through civilian training programs offered by the Department of Justice, the National College of District Attorneys, and some state-run programs.

## Finding 32

Due to a lack of system transparency, there is a perception that commanders do not always take appropriate action and/or alleged offenders are not always held accountable.

There is very little transparency during the investigation of sexual assault cases and the decision-making process for individual cases. Consequently, most service members (especially more junior personnel) do not understand why cases are handled a particular way. This lack of transparency is due to, in part, the need for investigative operational security and the Privacy Act protections afforded to both the victim and alleged offender.

Because of the military's inability to tell "its side of the story" in individual cases of sexual assault (i.e., due to Privacy Act restrictions and other victim or alleged offender privacy concerns), most commanders, investigators, and judge advocates expressed frustration at not being able to address the specific factors in individual cases that caused particular findings or dispositions. Because most reports of sexual assault involved fact patterns that make burdens of proof very difficult to meet, this often drives individual results. Everyone involved with the investigation and prosecution of cases acknowledged that DoD must devise better ways to educate members within DoD and the civilian community that cases are taken seriously. There was universal recognition that commanders are usually unable to advise unit and installation personnel how cases were handled or what action was taken against alleged offenders, unless the case involved a public proceeding, such as a court-martial.

At some installations, attempts by the command backfired when it tried to get out the word on disciplinary action taken in individual cases. Focus group participants reported seeing installation newspaper articles where reported cases involved the same or similar offense under the UCMJ, and where the more senior offender received nonjudicial punishment and the junior offender received a stiff sentence by a court-martial. Because the actual facts of each case were unknown, this reinforced the misperception that the system treats senior enlisted and officer offenders more favorably.

## Finding 33

Sexual assault cases are often very difficult to investigate and to successfully prosecute, but available data shows commanders are taking action.

Because of the nature of the crime and the circumstances that are typically involved, obtaining the quality of evidence required to meet the criminal burden of proof is very difficult in cases involving sexual assault. Very often, there is no issue with respect to whether sexual activity occurred between the parties involved and, therefore, the issues of consent and the exact nature of the sexual conduct become central to the case. Given the prevalence of alcohol involved in these cases, the frequency of cases where the victim and alleged offender are social acquaintances or have been consensual sexual partners prior to the allegation, and the lack of corroborating witness testimony, investigators are often faced with the difficult task of trying to evaluate the credibility of two conflicting stories; the one of the victim and the other of the alleged offender. Every consistency and inconsistency in

the statements given by both parties becomes critical. Add these factors to those discussed earlier in this chapter related to the barriers and problems with reporting, and commanders are often faced with extremely difficult decisions in deciding the best way to handle allegations.

The Department of the Navy's (DON) reported statistics on cases of insufficient evidence show how difficult these cases can be for investigators, prosecutors, and commanders. The DON (includes both Navy and Marine Corps data) identified 235 of its cases resulted in a determination of insufficient evidence and more than 38% of those determinations were because the victim refused to cooperate (59 cases) or victim fabrication was involved (31 cases).

The data provided by the military departments for this report reveals there were 1,634 military individuals identified and accused of sexual assault during the last two calendar years. Of the 1,634 alleged offenders identified, 401 were from the Air Force, 670 were from the Army, 440 were from the Navy, and 123 were from the Marine Corps.

Of the 401 Air Force cases, charges were preferred, i.e., initiated, (rough equivalent of indictment) against 97 (just over 24%) of the alleged offenders and nonjudicial punishment proceedings under the UCMJ were initiated against another 42. Consequently, 139 cases (nearly 35%) resulted in some type of military justice action.

None of the other military departments were able to provide information on the initial command actions taken in the cases reported. Due to the Army's self-identified problem of receiving timely and accurate commander's reports of disciplinary action for entry into its criminal databases, the Army was unable to identify final dispositions in nearly half (45%) of its cases. Army was only able to determine that there was court-martial action in 76 cases and nonjudicial punishment proceedings in another 97 cases.

Of the 563 DON cases (including both Navy and Marine Corps data), there was courts-martial action in 154 cases and nonjudicial punishment proceedings in another 85 cases. This data shows some type of military justice action was taken in nearly 43% of cases.

Excluding the Army's incomplete data on command actions taken, the combined data provided by the Air Force, Navy, and Marine Corps show that courts-martial charges were at least preferred (i.e., initiated) in 26% of cases, and military justice action was taken in over 39% of cases.

## **System Accountability for Sexual Assault**

### **Finding 34**

No overarching policies, programs, and procedures exist within DoD to ensure all functional areas responsible for dealing with victims of sexual assault provide an integrated response to reported cases of sexual assault.

Within the Office of the Secretary of Defense, there is no policy office with sole responsibility for establishing policy and maintaining oversight in matters involving sexual assault. Consequently, there are no policies specifically geared toward responding to reported cases of sexual assault and this lack of oversight means there are no standardized expectations that the military departments and defense agencies must meet. The lack of policy guidance and oversight translates into a lack of such policies and oversight mechanisms within DoD components.

## **Finding 35**

### **Accountability for resolving sexual assault problems is diffused.**

Currently, Service-specific programs, policies and organizational structures that provide care for victims of sexual assault are either addressing specific systemic needs or have augmented and reinforced program offices established for other purposes. In all cases, resources to execute these programs were accomplished through application of the discretionary funds of the Service, primarily because no DoD-wide policy or program guidance exists to reinforce the need to specifically apply resources to this issue.

Each of the Services evolved their focus on this issue in response to internal management awareness that these problems needed management attention. The Services deserve credit for the individual initiatives across the functional spectrum to increase capability to respond to risks relating to sexual assault, improve care for victims of sexual assault, and establish command emphasis to rapidly report sexual assault incidents.

However, pockets of excellence in each of the Services' in establishing sexual assault-focused management initiatives are not adequate. The absence of DoD-wide policies and programs to deal with this pervasive, underreported problem has led to this situation, coupled with the fact that, except in the Navy, Service-wide command emphasis on supporting victims and preventing sexual assault is lacking.



## 5 Task Force Recommendations

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### Recommendations for Immediate Action

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#### Recommendation 1

Establish a single point of accountability for all sexual assault policy matters within the Department of Defense.<sup>3</sup>

This office would:

**1.1. Support the Under Secretary of Defense for Personnel and Readiness in advising the Secretary of Defense on all policy, program development and resourcing, and program oversight matters relating to sexual assault within the Department of Defense.**

- ❑ Address the gaps in the current stovepipe systems created by the absence of any specific sexual assault policies and programs not otherwise covered by FAP.
- ❑ Address the issues of standardization of definitions, and create outcome-based accountability for the Services.

**1.2. Develop strategic program guidance and joint planning objectives to ensure that needed resources are available within the same timeframe across all Services and Combatant Commands for sexual assault prevention, reporting and response.**

- ❑ Assess Service budget and program adequacy to implement new standards, guidelines, and reporting data management systems.

**1.3. Conduct a functional evaluation within three years to consider expanding the scope of this office to include other related programs. (e.g., Equal Opportunity, VWAP, FAP, domestic violence, and child abuse).**

#### Recommendation 2

During the upcoming Combatant Commanders Conference, allocate time on the agenda to discern how the findings and recommendations of this report should apply to their areas of responsibility.<sup>4</sup>

The Task Force received information from the unified combatant commands on current policies and procedures in place to address the issue of sexual assault while assigned to their organizations or areas of responsibility. The responses varied based on missions and

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<sup>3</sup> Addresses findings 1-5,6,9,11,12,14,15,16,19,20,23-31,34,35

<sup>4</sup> Addresses findings 3,7,8,9,11,13,17,18,23, 24,27

functions, geographical locations, and administrative, medical, and investigative support provided by their Service executive agent. In addition, the information provided by the geographical commands raised the issues related to host country customs, laws and the limited availability of local civilian resources to assist victims.

During this review, it became apparent that although the Task Force focus on CENTCOM was necessary to meet the intent of the Task Force charter, more information from the other combatant commands is needed to understand more fully the scope of the combatant commander's responsibilities and the challenges of providing support to victims in a joint operational environment. Adding this topic to the conference agenda will provide an opportunity to:

### **2.1. Discuss the roles and responsibilities of the combatant commands in preventing sexual assault and for providing care to victims of sexual assault in a joint environment.**

- ❑ Identify to what extent the unified combatant commands' needs should shape the Department's policies and programs on sexual assault in theaters of operation.
  - Key considerations of geographical commands
    - Multinational (Coalition partners and host nation civilians)
  - Key considerations of functional commands
- ❑ Identify requirements for sexual assault prevention and for the care and support of victims of sexual assault as they apply to an operational theater, including but not limited to:
  - Force structure
  - Training (predeployment and in theater)

## **Recommendation 3**

**Ensure broad dissemination of relevant sexual assault information through DoD-wide communication outlets.**

The Task Force found an evident need for victims, friends, family members, leaders and responders to have access to various sources of reliable information regarding DoD's policies, programs and resources available for sexual assault prevention, reporting, response, protection and accountability. This could be accomplished by taking action to:

### **3.1. Update and leverage existing information sources and communication structures available within DoD and the Military Departments with reliable information regarding sexual assault prevention, reporting, response, protection and accountability.<sup>5</sup>**

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<sup>5</sup> Addresses findings 5, 12, 13

- ❑ Potential outlets are: official websites, One Source 1-800 numbers, and/or other print, voice and telecommunication mediums. Each of these should ensure that they have the ability to provide updated and accurate information for reporting, and obtaining services.

**3.2. Develop a web-based knowledge management compendium of resources and information available for use in achieving sexual assault prevention, response, reporting and accountability objectives. This would include, but not be limited to actions to:<sup>6</sup>**

- ❑ Identify and maintain a listing of useful sexual assault resources and subject matter experts for use throughout the Department.
- ❑ Research, develop and maintain exportable information materials and modules for general military training, functional specialty training for service providers, and leadership development training.

## **Recommendation 4**

Within the next three months, convene a summit of DoD leaders (military and civilian) and recognized experts on sexual assault, to develop strategic courses of action on critical, unresolved issues. This would include, but not be limited to, courses of action that will:

**4.1. Develop better operational definitions and delineation of distinctions between terms like sexual harassment, sexual misconduct, and sexual assault, and how those definitions relate to crimes under the Uniform Code of Military Justice. Courses of action should consider the following issues:<sup>7</sup>**

- ❑ The term “sexual assault” is not a specific offense under the UCMJ. Depending upon what is being evaluated and the circumstances involved, DoD and the Services have consolidated a number of separate UCMJ offenses into the term “sexual assault” when reviewing cases or trends.
- ❑ Separate instructions and policy guidance in the Military Departments and various task forces, commissions, panels, and process teams that have addressed “sexual assault” have all defined the term in different ways.
- ❑ The scope of behavior covered in terms like sexual misconduct, sex-related offenses, and sexual harassment have blurred the distinctions even more. The varied use of these and similar terms throughout regulatory and policy guidance cause service members to view them interchangeably.
- ❑ Although service members are taught that “sexual harassment” should be dealt with under the DoD Military Equal Opportunity Program, more egregious cases of such conduct may likely result in sexual assault charges under the UCMJ and investigative agencies would typically have responsibility for investigating them. Service members are often confused about the proper avenue for reporting allegations when they arise.

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<sup>6</sup> Addresses findings 6, 7, 9, 13

<sup>7</sup>Addresses findings 3, 9

- Clearer and more uniform definitions should be developed to facilitate training, awareness, and accountability for all service members.

**4.2. Establish avenues within DoD to increase privacy and provide confidential disclosure for sexual assault victims. Courses of action should consider the following issues:**<sup>8</sup>

- Perceived lack of privacy and confidentiality within DoD is thought to be one of the most significant barriers to reporting by military sexual assault victims.
- There is equal concern that confidential disclosure within DoD will impede a commander's solemn responsibility to hold offenders accountable and ensure community safety.
- Unreported sexual assault has adverse consequences for victims, commands, communities, units and mission accomplishment.
- Reconciling the inherent tension between a victim's need for confidentiality and a commander's need to know is very challenging and it requires substantial additional work to resolve, including well-informed discussions among many parties (military, civilian, medical, JAG, chaplains, law enforcement).

**4.3. Establish ways to increase transparency of the reasons for the handling and disposition of reported sexual assault cases. Courses of action should consider the following issues:**<sup>9</sup>

- Given current limitations on collecting and synthesizing data related to sexual assault allegations, the Department is ill-equipped to educate its own members and the general public that our system of justice is fair and balanced.
- The Department is frequently criticized for its handling of specific cases or particular classes of cases and is often unable to fully respond because of legal impediments (e.g., national security, Privacy Act, or other privacy considerations).
- The inability (for valid privacy reasons) to fully inform members of a command and the general public about the reasons supporting dispositions of individual cases can undermine morale and full faith in our system of justice.
- Public affairs strategies, statistical reports of trends related to dispositions of sexual assault cases (e.g., investigative findings, command actions), educational briefings at all levels, and possible legislative solutions should be explored as some potential options to help improve system transparency.

**4.4. Develop and maintain an expert, full-spectrum sexual assault response capability in OCONUS, CONUS remote, and operational environments, such as through the use of deployable Sexual Assault Response Teams (SARTs). Courses of action should consider the following issues:**<sup>10</sup>

- Partnering with civilian agencies in CONUS has assured an expert response to sexual assault at many locations.

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<sup>8</sup> Addresses findings 12, 14, 15

<sup>9</sup> Addresses findings 1, 2, 4, 6, 12, 23, 32, 33.

<sup>10</sup> Addresses findings 20, 22, 24, 25, 27, 31

- ❑ Providing specially trained and experienced medical, investigative, legal and advocacy personnel in all locations presents an ongoing challenge, given the mobility of the armed forces.
- ❑ Strategic planning is needed to develop, resource and sustain a trained, expert, full-spectrum, deployable sexual assault response within DoD.

**4.5. Establish flexible templates for diplomatic and/or military-to-military agreements with coalition partners that address the jurisdiction and responsibility for crimes committed by a citizen of one nation against the citizen of another nation.<sup>11</sup>**

## **Recommendations for Near-Term Action**

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### **Recommendation 5**

**Establish an Armed Forces Sexual Assault Advisory Council.**

- ❑ This council would be composed of key DoD officials and officials of other federal agencies with recognized expertise in dealing with issues surrounding sexual assault. The council could also seek input from other nationally recognized sexual assault experts, as needed.
- ❑ The primary responsibility of this council would be to work with the Under Secretary of Defense for Personnel and Readiness and other senior military leaders in providing advice or recommendations on issues and policies related to sexual assault in the military, including those related to prevalence, etiology, care, reporting, and prevention.

### **Recommendation 6**

**Develop policies, guidelines, and standards for sexual assault prevention, reporting, response, and accountability.**

This would be the responsibility of a new OSD policy office and include efforts to:

**6.1. Establish overarching policies, identifying common tenets while remaining flexible enough to allow for diversity between Service cultures and programs.<sup>12</sup>**

- ❑ We strongly advise the new OSD Policy Office to evaluate research identified in Chapter 6 for applicability in the development of new DoD policies, standards, and guidelines.
- ❑ Our expectation is for these policies to be applicable to the military departments and the full range of operational environments.
- ❑ We foresee that the optimal path to developing and implementing a seamless policy and program will require each of the Services to establish a focal point or office of primary responsibility.

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<sup>11</sup> Addresses findings 8, 18.

<sup>12</sup> Addresses all findings 1-35

- ❑ We anticipate the inclusion of best practices from within and outside the Department to address common definitions, roles and responsibilities and program details focused on standards of care and performance-based metrics.

## **6.2. Develop standardized requirements, guidelines, protocols, and instructional materials that are focused on prevention across the total force.<sup>13</sup>**

- ❑ Identify and develop effective, inter-operable, and exportable prevention training methodologies (tools and guidelines) for service members, leaders and trainers at all levels. This may include validating and leveraging current, “best practice” prevention training efforts.
- ❑ Incorporate leader and individual awareness training throughout an individual’s career path to reinforce prevention efforts.
- ❑ Make training scenario-based, using real-life situations to demonstrate the entire cycle of reporting, response, and accountability procedures/standards.
- ❑ Approach should also incorporate all learning styles, be inclusive of audience and group participation.

## **6.3. Encourage reporting through well established, publicized and unobstructed reporting channels.<sup>14</sup>**

- ❑ Work to remove real and perceived barriers to reporting.
- ❑ Partner with and publicize non-military support options available to service members.
- ❑ Inform and train service members about the reporting options and response mechanisms.
- ❑ Work to overcome non-reporting in order to care for victims and prosecute offenders.
- ❑ Incorporate recommendation from Leaders Summit regarding confidentiality and reporting.

## **6.4. Develop DoD-wide standards and guidelines for sexual assault response to assure all victims are afforded safety and protection, receive the best care possible, and have a coordinated, timely response to and resolution of their cases.<sup>15</sup>**

- ❑ The report identified variabilities in standards of care that range from timeliness of care, training of personnel and availability of support personnel for deployed environments. The Department needs to ensure uniformity in the standards of care to assure all victims.
- ❑ Additionally, it is apparent from the inability of the Services to provide accurate data on support services provided to victims that there is a need to establish a case management system within the Services that can ensure coordinated care.

### **6.4.1 Develop sexual assault “force protection” guidelines for installation and operational use focused on identification and mitigation of risk factors.<sup>16</sup>**

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<sup>13</sup> Addresses findings 4-11

<sup>14</sup> Addresses findings 12-15

<sup>15</sup> Addresses finding 16, 23, 24

<sup>16</sup> Addresses findings 2, 3-9

- ❑ This should be part of the mission and operations planning process, inclusive of locality or culture awareness and their associated risk factors for operating in an at-risk stateside environment or in coalitional and foreign national environments.

#### **6.4.2 Develop DoD-wide medical standards of care and clinical practice guidelines for treatment and care of victims of sexual assault.**<sup>17</sup>

- ❑ Establish a Health Care Integrated Process Team to:
  - Consider how to better incorporate Sexual Assault Nurse Examiners (SANEs) within the Military Health System in both the Active and Reserve component force structure, and/or through contract support
  - Review and consider adopting the Department of Justice National Protocol for sexual assault forensic exams (when it becomes available later this year).
  - Assess the need for and propose operational and combat theater-specific adjustments to standards of medical care and clinical practice guidelines
  - Determine standards of training required for personnel providing medical support services for victims of sexual assault
  - Assess the need and mechanisms for periodically screening of service-members for sexual assault
  - Assess the adequacy of the number of qualified, appropriately trained mental health professionals available to support victims of sexual assaults in the workforce

#### **6.4.3. Establish performance metrics for the United States Army Criminal Investigation Laboratory to ensure more timely forensic evidence processing.**<sup>18</sup>

The Task Force consistently heard that there were significant backlogs and delays in forensic evidence processing at USACIL. The Army is currently evaluating the procedures at USACIL, including reexamination of resource requirements needed to ensure performance goals are achieved.

#### **6.5. Establish DoD-wide policy requiring victim advocates be provided to victims of sexual assault and create a mechanism for providing victim advocates in deployed environments.**<sup>19</sup>

- ❑ Ensure Victim Advocates can assist in providing a range of coordinated services and support to victims which may be used to help the victim in reducing the effects of trauma.
- ❑ One of the major components of a “victim-centric” program is rapid access to and availability of victim advocates. First responders should contact victim advocates immediately upon a case being reported.
- ❑ Ensure funds and personnel authorizations are identified to provide needed victim advocates at CONUS installations and in the deployed environment.

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<sup>17</sup> Addresses findings 22, 24, 25

<sup>18</sup> Addresses finding 26

<sup>19</sup> Addresses findings 20, 24



## **6.6. Establish uniform Commander guidelines.**

### **6.6.1. Establish uniform guidelines for commanders' use in assuring that a sexual assault victim's safety and protection needs are met.<sup>20</sup>**

Although under federal law and DoD VWAP regulations, victims have rights for reasonable protection from the accused, assuring safety and protection of victims is imperative and there is clearly need for concise and sexual assault-specific guidance. Recently the military protective order language has changed so that it can be used in cases of sexual assault. However, commanders are looking for clear, accessible guidance in this area.

- ❑ The Department should consider developing overall guidance similar to that used by in the Navy SAVI program, which instructs commanders to consider temporary reassignment of either the victim or accused until the case is legally resolved and/or the victim is out of danger and that the victim's desires should receive preferential consideration.

### **6.6.2. Develop DoD guidance to positively assure a victim's privacy.<sup>21</sup>**

- ❑ This policy may need to include restrictions on "need to know," what information is released in reports up the chain of command, and possibly a requirement to sign non-disclosure statements, with stiff penalties for violating it.

### **6.6.3. Review the process and institute guidelines on how and when reports of sexual assault are forwarded up the chain of command, as well as what information is included in those reports.<sup>22</sup>**

### **6.6.4. Develop policy or regulatory guidance to specifically advise commanders that command investigations of all serious criminal offenses (e.g. sexual assault cases) should be avoided.<sup>23</sup>**

- ❑ Guidance should emphasize that the use of criminal investigative agencies is the preferred method of investigating reports of sexual assault.
- ❑ All UCMJ offenses covered under the umbrella term of "sexual assault" (as defined for the purposes of this review) carry potential maximum sentences of imprisonment for five years or more. Consequently, early involvement of investigative agencies is imperative for most allegations.

### **6.6.5 Establish DoD policy guidance on when a victim's misconduct that occurs in association with a sexual assault should be addressed.<sup>24</sup>**

- ❑ The Navy's policy on this issue may serve as a good starting point, which advises commanders to consider delaying any action to address minor victim misconduct until final disposition of the sexual assault is resolved.

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<sup>20</sup> Addresses finding 16, 21

<sup>21</sup> Addresses finding 14

<sup>22</sup> Addresses finding 28

<sup>23</sup> Addresses finding 28

<sup>24</sup> Addresses finding 29

## Recommendation 7

Assure manpower and fiscal resources are authorized and allocated, especially in the near years, to implement required policies and standards.

Several findings of the Task Force were attributed to insufficient fiscal, training, and manpower resources. The new DoD policy office established per Recommendation 1 must work with the Services to identify fiscal and manpower requirements needed to execute emerging sexual assault policies, standards, and protocols. To the fullest extent possible, the new OSD staff office must work with the Services and the DoD Comptroller to establish and resource required sexual assault policies and standards for the current and next 2 fiscal years.

This would include, but not be limited to actions that will:

### **7.1. Assure DoD resourcing of Victims Witness Assistance Program (VWAP).<sup>25</sup>**

VWAP programs have been implemented but they are not able to meet the needs of all victims because of a lack of dedicated manpower on many installations.

### **7.2. Implement specialized training on sexual assault cases for all investigators and legal personnel and military judges that will be involved in these cases.<sup>26</sup>**

There is a need to better resource and provide specialized training in the realm of sexual assault to investigators and legal communities.

### **7.3. Consider increased manpower authorizations for Service investigative agents, especially in the deployed environment where they have additional responsibilities.<sup>27</sup>**

The impact of multiple taskings for investigators in the combat theater further impairs their ability to provide timely and effective investigations because there are simply not enough investigators for everything that needs to be accomplished.

## Recommendation 8

Develop an integrated strategy for sexual assault data collection to aid commanders, service providers, legal staff, and law enforcement entities in evaluating response effectiveness and system accountability.<sup>28</sup>

### **8.1. This recommendation is best accomplished through a two-step approach to:<sup>29</sup>**

- ❑ Require Services to fully implement Defense Incident-Based Reporting System (DIBRS) reporting during FY05.

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<sup>25</sup> Addresses finding 21

<sup>26</sup> Addresses finding 31

<sup>27</sup> Addresses finding 27

<sup>28</sup> Addresses finding 28

<sup>29</sup> Addresses findings 1, 23, 32, 33

- ❑ Establish an Integrated Process Team during the next six months to develop near- and long-term recommendations to standardize data requirements, and system solutions for the capture and integrate data not included in DIBRS.

## Recommendations for Longer-Term Action

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### Recommendation 9

#### Establish institutional sexual assault program evaluation, quality improvement, and oversight mechanisms.<sup>30</sup>

If the Department of Defense is to provide a responsive system to address sexual assault, it must be a top-down program with emphasis placed at the highest levels within the Department down to the lowest levels of command and leadership.

To ensure the Department's efforts toward confronting sexual assault remain vigilant, it is important to monitor the development and implementation of policies and program execution. This will require a concerted effort throughout the department to ensure that the system accomplishes this objective.

More importantly, commanders and leaders must have the appropriate tools (education, training, resources and support) to ensure that our service members understand the issues and know how to prevent becoming victims; that support personnel provide care and support and treat victims with dignity and respect, and that we reassure the parents of those future service members that their sons and daughters will be protected. Commanders must also be able to provide swift resolution and/or punishment.

#### **9.1. Develop performance metrics, establish an evaluative framework, and conduct Quality Assurance and Program Improvement Reviews**

- ❑ Monitor progress in minimizing force-wide risks associated with sexual assaults.
  - Efforts to increase quality of support and care to victims.
  - Efforts to increase visibility of incidents and their dispositions to the Secretary, Combatant Commanders, and the Secretaries of the Military Departments.
- ❑ Assess effectiveness of commander tools and guidelines for preventing and responding to sexual assault.
- ❑ Establish and publish an annual research agenda, using inputs from the Services, Combatant Commands, and other outside experts to evaluate applied strategies and their effect on incidence of sexual assault in DoD.

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<sup>30</sup> Addresses findings 1, 3, 5, 23, 30, 34, 35

## 6 Literature Review

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This provides an overview of the sexual assault research, practices, and protocols that were reviewed by the Task Force. Consistent with our tasking, this review focuses upon information of direct relevance to care for victims of sexual assault. There is an equally large body of relevant sex offender research that was not included, given the time limitations and the Task Force mandate to address victim care. The literature reviewed and discussed here is intended to be illustrative rather than exhaustive.

### Definition

In the 1970s and 1980s, extensive rape reform laws were enacted throughout the United States, and the legal definition of “rape” changed dramatically. Currently, the Illinois criminal sexual assault statute is considered a national model. The statute has the following characteristics:

- ❑ Rape is defined as “gender neutral,” to include men as well as women.
- ❑ It includes acts of sexual penetration other than vaginal penetration by a penis, such as oral or anal penetration.
- ❑ Types of sexual abuse are distinguished on the basis of the degree of force or threat of force used similar to the “aggravated” versus “simple” assault distinction with physical assaults.
- ❑ Threats as well as overt force are recognized as means to overpower the victim.
- ❑ A new category of rape victim is included, entitled “taking advantage of an incapacitated victim.” Incapacitation may include mental illness, victims under the influence of drugs, and alcohol intoxication.

### Prevalence

#### General Population

There are several national surveys that provide information about the prevalence of sexual assault within the United States. The National Crime Victimization Survey (NCVS) is conducted annually by the Department of Justice. Using in-person and telephone interviews, information on reported and unreported crime is collected from a representative sample of approximately 40,000 households. All individuals in the household ages 12 and over are sampled. In 2002, there were 240,730 rape/sexual assault victimizations among U.S. residents age 12 and over. In the NCVS, rape includes forced oral, anal or vaginal penetration by the offender. Sexual assault covers a wide range of victimizations distinct from rape or attempted rape that generally include completed or attempted attacks involving unwanted sexual contact. Sexual assault may not involve force and includes such things as grabbing, fondling or verbal threats. The rate of all types of sexual assault (i.e., rape, attempted rape, and sexual assault) was 110 per 100,000 persons. Averaging across 2001 and 2002, the annual rates of rape/attempted rape and sexual assault were 70 and 40 per 100,000 persons, respectively (Rennison and Rand 2003). Some researchers believe that the

methodology used in the NCVS may underestimate the actual prevalence of rape/sexual assault (Fisher et al. 2000).

The National Violence Against Women (NVAW) survey was conducted in 1995 and 1996. A total of 8000 women and 8000 men, age 18 and over, were interviewed over the telephone about their lifetime and annual experiences of attempted rape/rape, physical assault and stalking. Approximately 18% of women and 3% of men surveyed reported that they had experienced rape/attempted rape at some point in their life. This equates to 17.7 million women and 2.8 million men. With respect to the prior 12 months, one-third of one percent of women and one-tenth of one percent of men reported experiencing a rape or attempted rape. Projecting to the U.S. population, 302,091 women and 92,748 men experienced rape/attempted rape in the prior 12 months (Tjaden and Thoennes 2000). Although direct comparisons are difficult due to substantially different methodologies, it is possible that the NVAW survey may have resulted in higher rates of rape/attempted rape than comparable-year NCVS data because the NVAW survey used a greater number and more specific screening questions, both of which are thought to increase disclosure.

The National Women's Study (NWS) consisted of a national household probability sample of 4008 women who were interviewed by telephone initially and twice later, at one and two years. Rape was defined as nonconsensual sexual penetration of any kind that involved force or threat of force. It was consistent, as defined, with the legal definition of forcible rape in the U.S. Code. An estimated 12.1 million women reported being raped at some point in their life. Over half (56%) reported being raped once, while 39% reported more than one rape and 5% were unsure how many times they were raped (Kilpatrick 1997).

The Federal Bureau of Investigation (FBI) reports annually on crime reported by state and local law enforcement agencies. Forcible rape, as defined in the Uniform Crime Reporting (UCR) program, is defined as carnal knowledge of a female forcibly and against her will. It includes assault or attempts to commit rape by force or threat of force. Rapes by force and attempts or assaults to rape are included, regardless of the age of the victim. Carnal knowledge is not otherwise defined in published materials. In 2002, there were 95,136 forcible rapes/attempted rapes reported by law enforcement agencies. This constitutes a rate of 33 rapes/attempted rapes per 100,000 population. However, given that the UCR does not include the rape/attempted rape of males in rape numbers, it is perhaps more representative to calculate UCR prevalence rates using female population figures. As such, the 2002 rate of reported rape/attempted rape is 64.8 per 100,000 females. Of the total, 91% were classified as rapes, with the remainder classified as attempted rapes (FBI 2002).

### **Military Population**

While not necessarily representative of the current active duty population, research with veterans provides one source of information about sexual assault within military populations. In one study, a random sample of over 2100 women veterans who served in the Vietnam and Persian Gulf eras were selected from the Department of Veterans Affairs women's health care registries (Sadler et al., 2003). For the purposes of this study, rape included any act of attempted or completed sexual penetration without the individual's consent, involving the use or threat of force.

Of the 558 women who were then interviewed, 28% experienced one or more rapes/attempted rapes during military service. Over one-third of these women indicated they experienced rape/attempted rape at least twice while serving. There was no significant difference in the occurrence of rape/attempted rape between the two eras of service. Given that 66% of the sample had a service-connected disability, it is important to note that respondents may not have been representative of female veterans as a whole or of those currently serving in the military. It was unclear in the study to what extent disability status varied for those who were and were not sexually assaulted while serving in the military.

Since 1992, federal law has authorized the Veteran's Administration (VA) to provide counseling and treatment for military sexual trauma. By definition, this includes both sexual harassment and sexual assault occurring during military service. Sexual harassment is defined as any repeated, unwelcome sexual behavior such as offensive sexual remarks, unwanted sexual advances, or pressure for sexual favors occurring in the workplace. Sexual assault is defined, as any sort of sexual activity in which one person is involved against his or her will, with or without physical force. Of the almost 3 million veterans screened between March 2002 and October 2003, approximately 20.7% of females and 1.2% of male veterans screened positive for a history of military sexual trauma (Veterans Administration, unpublished data).

In another study of over 3600 female veterans (mean age of 48 years) who had at least one ambulatory visit at a VA facility between July 1994 and June 1995, 55% of the women reported they were sexually harassed while in the military, while 23% reported that they were sexually assaulted (Skinner et al. 2000).

Although anonymous survey data within the military is limited, the Armed Forces 2002 Sexual Harassment Survey provides at least preliminary information on the prevalence of sexual assault among military personnel (Lipari and Lancaster 2003). Active duty respondents were asked if they experienced at least one incident of sexual assault involving military personnel, civilian employees or contractors in the prior 12 months. Sexual assault included both attempted and completed sexual assault. Attempted sexual assault was defined as "attempted to have sex with you without your consent or against your will, but was unsuccessful" whereas sexual assault was defined as "had sex with you without your consent or against your will." Across DoD, 3% of females and 1% of males reported experiencing at least one incident of sexual assault in the prior 12 months. Given differences in definition and survey methodology, comparisons with civilian survey data are not possible and would be irresponsible.

Using 1995 DoD sexual harassment survey data, Harned and others (2002) reported that 4.2% of the over 22,000 active duty women surveyed reported experiencing sexual assault by workplace personnel. The most common type of sexual assault was attempted rape (2.5%), followed by attempted and completed rape (1.3%) and completed rape (.4%).

In a study of Navy recruits who were initially surveyed during basic training and then followed for two years, 7.5% of females reported experiencing behaviors that constituted rape within 6 months of entering the Navy. Active duty members were reported to have perpetrated over 80% of these rapes. Among males, 2.6% admitted to behaviors that



constituted rape within 6 months after entering the Navy, with 27% of those rapes perpetrated against active duty victims (L.L. Merrill, unpublished data).

In response to this Task Force, the Services were asked to provide the total number of alleged sexual assaults involving service member victims reported to criminal investigations for 2002 and 2003. Sexual assault included rape, forcible sodomy, indecent assault, and any attempts of these offenses. The Services reported a total of 1007 victims in 2002 and 1113 in 2003. This translates to prevalence rates of 69.1 and 70 alleged sexual assaults per 100,000 active duty members for 2002 and 2003, respectively. Again, because of differences in sampling and definition, comparisons with civilian crime reports are not possible and would be irresponsible.

## Risk Factors for Sexual Assault

### Age

Research has consistently demonstrated that youth are at greater risk of sexual assault. In the 2002 NCVS, the rates of rape/sexual assault for ages 12-15, 16-19 and 20-24 were 210, 550 and 290 per 100,000 persons, respectively. In contrast, the rates of rape/sexual assault for persons ages 25-64 varied from 20 (ages 50-64) to 60 (ages 25-34) per 100,000 persons. Examining NCVS data for 1992 to 1994, minors (i.e., ages 12-17) represented 10% of the population, but 20% of rape/sexual assault victims. Individuals who were 18-24 represented 12% of the population, but 35% of rape/sexual assault victims (Perkins 1997). Analyzing NCVS data from 1995-2000, Hart (2003) found that the average rate of rape/sexual assault among college students was almost 3 times higher than the average overall rate of rape/sexual assault for those same years. Notably, the rate of rape/sexual assault among college students was not higher than non-students, ages 18-24.

In the National College Women Sexual Victimization (NCWSV) study, a random sample of almost 4500 women attending two or four-year colleges were interviewed during the spring of 1997. Using behaviorally specific screening questions similar to the NVAW survey, around 2.8% of the sample experienced rape/attempted rape sometime during the academic year. This constituted a rate of 2770 victims per 100,000 female college students. Higher rates of victimization were thought to be attributable to the use of more behaviorally specific questioning. Notably, when data was collected in a comparison sample using a method similar to NCVS, only .34% of the sample reported rape/attempted rape during the academic year, which translated to a rate of 340 per 100,000 female college students (Fisher, Cullen, and Turner 2000). Nevertheless, the comparable rate for rape/attempted rape in the 1997 NCVS was 90 per 100,000 persons age 12 and older.

In the NWS, approximately 62% of the women surveyed reported that they were under the age of 17 at the time of the rape, 22% were between the ages of 18 to 24 and 12% were 25 and older (Kilpatrick 1997). Likewise, 54% of female and 71% of male respondents to the NVAW survey were age 12-17 at the time of their first rape, while 29% of females and 17% of males were ages 18 to 24 (Tjaden and Thoennes 2000).

In response to the Task Force, the DON and Air Force provided frequency data for the age of the victim for cases reported in 2002 and 2003. On average, victims, age 17-24,



represented 87% of all Air Force active duty victims and 85% of all DON active duty victims for 2002 and 2003. The mean age of Army victims for 2002 and 2003, respectively, was 22 and 23 years.

### **Victim-Offender Relationship**

Contrary to the stereotype, sexual assault is more likely perpetrated by an acquaintance than a stranger. Friends or acquaintances perpetrated a little over half (52%) of the rape/sexual assaults against males in the 2002 NCVS, with the remainder perpetrated by strangers. In the case of female victims, 57% of the rapes or sexual assaults were perpetrated by friends or acquaintances, while 10% were perpetrated by intimate partners, 2% by other relatives, and the remainder (28%) perpetrated by strangers (Rennison and Rand 2003). Women were significantly more likely than men to be a victim of attempted rape/rape by an intimate partner during their lifetime. In this study, intimate partners included current and former spouses, cohabiting partners, boyfriends/girlfriends and dates (Tjaden and Thoennes 1998).

Among college students, an average of 74% of rapes/sexual assaults were perpetrated by offenders known to the victim from 1995 to 2000 (Hart 2003). According to NCWSV data, college women who experienced rape/attempted rape knew 9 in 10 of the offenders. For over two-thirds of the completed rapes, the offender was a classmate or friend. In almost 24% of the completed rapes, the offender was a current or former boyfriend (Fisher, Cullen, and Turner 2000).

Among Navy female recruits who reported a pre-military history of rape and male recruits who reported pre-military perpetration of rape, the most common relationship reported between the victim and perpetrator were boyfriend/girlfriend or acquaintance (L.L. Merrill, unpublished data).

### **Alcohol Use**

Research with different samples (e.g., convicted rapists, community samples, college samples) has found that approximately half of sexual assaults are associated with alcohol use by either the perpetrator or victim (Abbey et al. 2003). In most research, perpetrator and victim alcohol use are typically strongly and positively correlated. Other research has indicated that drinking by both the offender and victim may be more common in sexual assaults where victims are less well acquainted with the perpetrator prior to the assault (Ullman and Brecklin 2000). In the NCWSV study, one of several factors that consistently increased the likelihood of each type of sexual victimization for college women was frequent drinking to intoxication (Fisher, Cullen, and Turner 2000).

Data provided by two of the Services indicated that the use of alcohol was associated, on average, with 50% of alleged sexual assault cases involving service member victims during 2002 and 2003. For the available data from CENTCOM AOR, the percentage ranged from 20% to 26%.

Aside from the presence of alcohol use in sexual assault, the relationships between alcohol use and other assault characteristics and outcomes are complicated. When offender and victim drinking are examined as discrete variables, findings are mixed with respect to the relationships between variables such as alcohol use, perpetrator aggressiveness, rape

completion, and injury. Findings also vary depending upon whether males or females are studied.

Examining data from the NVAW survey, Brecklin and Ullman (2002) found that offender drinking was associated with an increased likelihood of rape, but was unrelated to physical injury or medical care outcomes. Neither victim alcohol use at the time of the incident nor during the past-year was significantly related to the assault outcomes examined. After reviewing the literature, Abbey and others (2003) have suggested and tested the hypothesis that the quantity of alcohol consumed may have a curvilinear relationship to different assault variables. However, they found perpetrator alcohol use to be positively and linearly related to aggressiveness, but curvilinearly related to the type of assault committed. That is, the likelihood of more severe sexual assault outcome was associated with moderate alcohol use (i.e., 4-9 drinks) by perpetrators. Victim alcohol consumption during the assault (as reported by the males) was linearly and positively related to the severity of sexual harassment.

### **Prior Sexual Assault**

A substantial body of research studying different populations has consistently found that women who report adult sexual victimization are more likely to report a history of childhood sexual abuse (Siegel & Williams 2001). In the NVAW survey, Tjaden and Thoennes (1998) found that 18% of respondents who indicated that they had been sexually abused as children were victims of rape/attempted rape as adults, in contrast with 9% of women who denied childhood sexual abuse.

Among female Navy recruits, those who experienced childhood sexual abuse prior to age 14 were five times more likely than those who did not to report experiencing adult rape prior to entering the military (Merrill et al. 1999). Childhood sexual abuse was defined as sexual contact with a person at least 5 years older than the participant at the time of the abuse. Male recruits who experienced childhood sexual abuse (CSA) were twice as likely to report that they committed rape prior to the military as those who did not report CSA. Participants who reported committing rape did so by indicating that they engaged in behaviors consistent with legal definitions of rape. However, those who experienced both childhood physical and sexual abuse were four to six times more likely to report committing rape prior to the military than those who reported neither form of child maltreatment (Merrill et al. 2001).

Likewise, women veterans who joined the military before the age of 20, who were of enlisted rank (regardless of age) or who experienced childhood physical or sexual violence prior to the military were at least twice as likely to experience rape during their military service (Sadler et al. 2003).

A history of prior sexual assault was found to increase the likelihood of all types of sexual victimization for college women (Fisher, Cullen and Turner 2000).

### **Military Workplace Factors**

Using causal modeling techniques, one study examined several theoretical antecedents of sexual assault and sexual harassment among over 22,000 active duty women. It was found that low sociocultural power (i.e., age, education, race/ethnicity, marital status) and low organizational power (i.e., pay grade and years of active duty service) were associated with an

increased likelihood of both sexual assault and sexual harassment. However, the organizational climate (defined as perceived efforts by the military to enforce harassment policies, to provide services to victims, and to provide training on harassment) and the degree to which respondent's job was traditional, were not directly related to sexual assault. (Harned et al. 2002).

In a retrospective study of women veterans, the likelihood of rape during military service increased for those who:

- ❑ reported hostile work environments (six fold increase)
- ❑ experienced unwanted sexual advances, remarks or pressure for dates in sleeping quarters (three fold increase)
- ❑ observed the heterosexual activities of others in military sleeping quarters (three fold increase for Viet Nam era; four fold increase for Post Gulf War era)

In addition, when ranking officers or immediate supervisors engaged in quid pro quo behaviors and initiated or allowed sexually demeaning comments or gestures toward female soldiers, the likelihood of rape during military service increased (Sadler et al. 2003).

## Prevention

Although a plethora of prevention programs have been designed to decrease the prevalence of sexual assault in college populations, few programs have been empirically evaluated. Most common are psychoeducational programs that use formats directed toward female-only, male-only or mixed gender groups.

In a 1999 review of research in this area, Yeater and O'Donohue concluded that there were a number of methodological and conceptual problems in the literature. These problems included, among others, the lack of information on type of programming and length of time changes are expected to last, failure to evaluate the verbal competence of participants, and the lack of replication. Perhaps most important, however, was the lack of outcome research demonstrating that the likelihood of sexual assault decreased for participants. Only one prospective study reviewed at the time demonstrated a reduction in sexual assault among participants. In particular, Hanson and Gidycz (1993) demonstrated a statistically significant decrease in rates of sexual assault over a nine-week period for college women who did not report a prior history of sexual victimization. The intervention was also noted to be effective in increasing knowledge regarding sexual assault and altering dating behaviors found to be highly correlated with rape.

In a meta-analytic review of 72 studies, traditional gender role beliefs, adversarial sexual beliefs, needs for power and dominance, aggressiveness and anger predicted rape acceptance, which was generally higher in men (Anderson, Cooper, and Okamura 1997). It was also noted that cognitive predispositions toward perpetrating rape were also strong predictors of rape acceptance. Another meta-analysis of 39 studies found that masculine ideology was related to sexual aggression, with the largest effect sizes found for hostile masculinity and hyper-masculinity (Murnen, Wright, and Kaluzny 2002).

Experts whom the Task Force consulted recommended gender-segregated, small-group educational programs that include information on recommended actions for people who

have been sexually assaulted. Programs should also be experiential, variable in format to appeal to different adult learning styles, and developmentally appropriate to the audience. Programs should focus on socialization and positive messages about healthy relationships. Efforts that are intensive, long-term and periodically repeated to reinforce the message are best. Programs with young men should include victim empathy, consent modeling and bystander intervention components. Finally, any programs developed should include outcome evaluation.

Finally, there is growing opinion that sexual violence should be viewed and addressed as a public health problem (Basile 2003). A public health approach typically includes four steps of:

- ❑ surveillance (to better understand the incidence, prevalence and associated risk factors)
- ❑ identifying causes,
- ❑ development, and evaluation of programs,
- ❑ dissemination and implementation.

An ecological approach toward prevention is recommended that focuses upon personal history of each individual involved, the microsystem of the victim-offender, the social structures and institutions in which the relationship is embedded (i.e., exosystem), and the larger society and culture (i.e., macrosystem). Basile noted that most preventive efforts to date have focused on the individual and microsystem levels only and that there is generally a lack of evaluation with respect to what does and does not work.

## Reporting

Sexual assault is probably the most underreported crime in America. From 1992 to 2000, NCVS data indicated that a majority of rapes and sexual assaults against females were not reported to police. About a third of all rapes and attempted rapes were reported to the police, in contrast with roughly a quarter of sexual assaults, as defined in the prevalence discussion. When rape was reported, the victim most often made the report. When victims of rape, attempted rape or sexual assault did not report the crime to police, the most commonly cited reason was that it was a personal matter. Fear of reprisal was another common reason for not reporting to police. There was a negative relationship between the closeness of the victim-offender relationship and the likelihood the crime would be reported to police. In other words, sexual assaults by strangers were most likely to be reported to police (Rennison 2002).

Analyzing NCVS data from 1992 to 1994, incidents were more likely to be reported to police if they resulted in physical injury or the offender used a weapon (Backman 1998). In 2002, 54% of the rape/attempted rape and sexual assaults reported by NCVS participants were reported to the police (Rennison & Rand 2003). Given the fluctuation in rape reporting from year to year by NCVS respondents, it is difficult to know whether this represents a trend toward increased reporting.

In a national sample of college women, less than 5 % of the rapes/attempted rapes were reported to law enforcement. However, in about two-thirds of the rapes, victims told someone, most often a friend. Incidents that were most likely to be reported to police or

authorities if the assault had characteristics that made them more believable, such as the use of a weapon or involving a stranger perpetrator and were less likely to be reported if substances were involved (Fisher et al. 2003b).

Reasons these women commonly cited for not reporting the incident included not wanting family or others to know, being unclear that the rape/attempted rape was a crime, not thinking it was serious enough to be reported, and fear of reprisal by the assailant or others. Likewise, roughly two-thirds of women raped within the past five years reported concerns about their family or others knowing, about their name being published and about being blamed for the rape (Kilpatrick 1997).

Notably, only 46% of college women who were victims of rape labeled their experience as rape. While some might conclude that college women generally mislabel their sexual victimization experiences, further analysis did not suggest a tendency to label a victimization experience as rape when in fact the experience did not constitute rape (Fisher et al. 2003a).

In a national survey of organizations providing crisis counseling to rape victims, recommended actions and activities to increase women's willingness to report rape to police were as follows:

- ❑ Educate the public about acquaintance rape.
- ❑ Pass laws protecting confidentiality and disclosure of victims' names.
- ❑ Expand counseling and advocacy services.
- ❑ Provide mandatory HIV testing for indicted defendants.
- ❑ Provide free pregnancy counseling and abortions.
- ❑ Provide confidential, free testing for HIV and STDs (Kilpatrick, Edmunds, and Seymour 1992).

In a recent review of sexual assault programs on college campuses, Karjane, Fisher and Cullen (2002) found that 84% of the institutions offer sexual assault victims confidential reporting options and 46% offer anonymous reporting.

Given the privacy concerns of many sexual assault victims, the Department of Justice (2002) has concluded that there is a critical need to protect a crime victim's confidential counseling communications. Victim counselors and advocates are typically not covered in most states by the testimonial privilege that is extended to psychotherapists and their patients. As a result, DOJ has proposed model legislation that covers "...any communication, either written or spoken, between a victim and a victim counselor that is communicated in private in the course of the counseling relationship or in the presence of a third party who is present to facilitate communication or further the counseling process." In 2002, more than half of the states have passed laws extending privilege to sexual assault and domestic violence counselors. The extent to which the communication is privileged under existing state laws falls into one of three categories including absolute (i.e., protects virtually all communications), semi-absolute (i.e., authorizes disclosure in limited situations such as when disclosure is in the public interest), and qualified (i.e., authorizes disclosure if appropriate when the court uses a balancing test to determine relevance).

## Response

### Medical Care

NCVS data for 2002 indicated that a weapon was least likely to be used in the commission of rape and sexual assault, compared to the other categories of violent crime. A weapon was used in 7% of the rapes/sexual assaults reported in 2002, with a firearm used in 4% of the incidents and a knife used in 2% (Rennison 2003). A weapon, mostly commonly a knife, was used in 5% of the rapes and sexual assaults perpetrated against college students from 1995 to 2000 (Hart 2003). Despite the fact that the perpetrator may not use a weapon during the sexual assault, almost half of the NWS respondents surveyed indicated that they feared serious injury or death during the rape (Kilpatrick 1997).

With respect to injury, women were twice as likely as men (32% vs. 16%) to self-report that they sustained an injury other than the rape itself. Almost three-quarters of male and female victims who reported injury sustained relative minor injuries such as scratches, bruises and lacerations. However, more serious injury (i.e., broken bones, head or spinal cord injuries or internal injuries) was reported in at least 14% of rape victims (Tjaden and Thoennes 2000).

Analyzing NCVS data from 1992 to 2000, Rennison (2002) found that 39% of attempted rapes and 17% of sexual assaults against female victims, on average, resulted in injury. By definition, all rape victims were considered injured. Minor injury constituted 33%, 26% and 9% of the rapes, attempted rapes and sexual assaults, respectively. Likewise, minor injury was reported in 24% of the NWS respondents who were raped, with serious injury reported in 4% (Kilpatrick 1997). Notably, the risk of injury increased for female rape victims if:

- ❑ the perpetrator was a current or former intimate partner and used drugs or alcohol at the time of the rape
- ❑ the rape occurred in the victim's or perpetrator's home
- ❑ the rape was completed
- ❑ the perpetrator used a weapon or threatened to harm or kill the victim or someone close to them

The risk of injury decreased for female rape victims if the victim used drugs and/or alcohol at the time of the incident (Tjaden and Thoennes 2000).

Data from several sources indicated that only about one-third of injured sexual assault victims seek medical treatment for their injuries. Outpatient treatment in a hospital was most common (Rennison 2002; Tjaden and Thoennes 2000). It was estimated that hospital emergency departments treated approximately 130,000 female rape victims in the preceding 12 months (Tjaden and Thoennes 2000). Victims who reported a rape to police (59%) were more likely to receive medical treatment than those who did not (17%). The same trend was true for injuries sustained during attempted rape and sexual assault (Rennison 2002).

Despite the fact that most female victims do not seek medical treatment, about half of them report medical concerns in relation to the recent rape, such as fear of contracting HIV/AIDS (42%), contracting STDs (49%) and unwanted pregnancy (51%) (Kilpatrick 1997). In a small sample of women (N=62), just over 90% of rape victims reported at least some degree of initial fear of contracting HIV, with 72% reporting extreme fear or concern.



Not surprisingly, extremely fearful women were more likely to have been raped by strangers. The degree of fear was not a function of the intensity of their post-traumatic stress symptoms at the time (Resnick et al. 2002).

In another study, factors associated increased the likelihood of receiving post-rape medical care included the degree of fear of death or injury experienced during the assault and fear of contracting STDs or HIV/AIDS. Use of drugs or alcohol decreased the likelihood of post-rape medical care (Resnick et al. 2000).

With respect to sexual assault forensic examination, reported rates of genital injury may vary depending upon the mechanism used for genital examination. In a review of the literature, Sommers et al. (2001) reported that rates of genital and nongenital injury after rape vary from 5% to 87%. The use of direct visualization results in the lowest rates of injury (5% to 53%) while the use of colposcopy resulting in the highest rates (68% to 87%). Colposcopy allows the examiner to visualize microscopic genital injury that is missed with direct visualization. The authors discussed the most common locations for genital injury in sexual assault and noted that anal penetration and age was positively associated with higher rates of injury. Several studies reviewed found that nongenital injury (e.g., of the extremities, trunk, face, head, neck) was more common than genital injury. With respect to practice implications, the authors noted that:

- ❑ sexual assault examinations need to include examination of the entire body for injury in addition to gynecological examination
- ❑ examination of the external genitalia is perhaps more important than internal examination following sexual assault
- ❑ direct visual examination does not provide sufficient detail needed for forensic examination
- ❑ illumination and magnification with colposcopy is the technique of choice

Policy and research implications were also discussed by Sommers and others.

As noted above, sexual assault victims have typically received medical services in hospital emergency departments, where they have often been subjected to long waits and chaotic environments that may compound the victim's trauma and result in deteriorated evidence. In response and as the science of forensic examination has improved and become more specialized, communities have increasingly developed Sexual Assault Nurse Examiner Programs (SANE) (Ledray 2001; Ahrens et al. 2000). SANE programs were developed to improve the treatment of sexual assault victims through explicit, sensitive attention to victims' medical, emotional and legal needs. While there is little controlled research demonstrating the efficacy of SANE model, much anecdotal information exists to suggest that SANE programs improve the community response to sexual assault (Little 2001). For example, one study suggested that the presence of forensic evidence doubled the likelihood of prosecution (Lindsey 1998).

Several protocols and reports with respect to collection, preservation and analysis of forensic evidence have been published (FBI; Gaennslen and Lee 2002). In accordance with the Violence Against Women Act, the DOJ is in the process of developing a National Protocol for Sexual Assault Forensic Exams. The goals of the protocol are to ensure that all victims



receive the same high quality medical and forensic exam, while being treated with respect and compassion. The protocol is currently being vetted within DOJ and is expected to be available in final form within the next few months.

### **Emotional and Psychological Support**

It is widely believed that rape is perhaps the most traumatic of violent crimes on victims (excluding murder). Some research has focused on perceived support of the victim when informal and formal support is sought. For example, in a relatively small sample of sexual assault victims (N=155), researchers found that tangible aid and information was more commonly reported by victims with respect to support received from formal support providers, such as rape crisis centers, police and physicians. Emotional support and validation was more commonly reported by victims disclosing to rape crisis centers, when compared to telling informal supports such as friends and relatives. However, emotional support from friends was related to better recovery than when emotional support was received from others. In contrast, feeling blamed, being treated differently and being discouraged from talking about the sexual assault were more common responses reported by victims with when disclosing to physicians or the police (Ullman 1996).

In another study, a majority of rape survivors who reported their assault to the medical system did not receive needed services in terms of information about pregnancy prevention or information about STDs, although they did receive antibiotic treatment. In contrast, victims who sought services through contact with the mental health system, rape crisis centers or through their religious community generally perceived those services as beneficial (Campbell et al. 2001).

Ahrens and Campbell (2000) found that when victims disclosed a sexual assault to their friends, those friends reacted positively, did not blame the victim, were not distressed by helping, felt that their efforts to assist the victim were effective and believed their friendship with the victim grew closer. However, this positive picture did not hold true for all friends studied.

In a national survey of women, roughly a third of rape victims reported that they had contemplated suicide or experienced Post-Traumatic Stress Disorder (PTSD) or Major Depression, in contrast with less than 10% of women who were not victims of crime. Thirteen percent of rape victims attempted suicide, in contrast with 1% of non-crime victim women (Kilpatrick 1997). Other research has suggested that 94% of all rape victims reporting a recent rape to authorities will meet criteria for PTSD two weeks the rape (Rothbaum et al. 1992).

Given the prevalence of PTSD in association with sexual assault, there are several behavioral and cognitive behavioral treatments that have been empirically evaluated and found to be effective. Stress inoculation training is designed to treat fear and anxiety associated with sexual assault. It consists of three phases, education, skill building and application and has been found in a controlled study to reduce PTSD symptoms (Foa et al. 1991). Prolonged exposure has also been found to be an effective treatment for rape victims with PTSD (Foa et al. 1991).

## **Investigation and Prosecution**

For 2002, the UCR program reported that approximately 44% of forcible rapes or attempted rapes toward females were cleared by arrest or exceptional means (i.e., the offender was identified and sufficient evidence was gathered to support an arrest, but circumstances outside the control of law enforcement prohibited arrest). There were roughly 28,300 arrests for forcible rape in 2002.

In 2000, there were 31,500 felony convictions in state courts for rape/other sexual assault. Of those convicted, 84% were sentenced to incarceration in prison or jail. The average maximum sentence for rape was 136 months for those sentenced to prison and 8 months for those sentenced to be incarcerated in jail (Durose and Langan 2003). Analyzing 1990 data from six states, felony prosecution was sought for 80% of those arrested for rape. Of those, 48% resulted in conviction. Forty percent were convicted of a felony offense, while 6% resulted in misdemeanor conviction. Of the 32% not convicted, 29% were dismissed, while 2% were acquitted (Greenfield 1997). In 1992, the average sentence for those convicted of felony rape varied from 139 months, when a guilty plea was entered, to 292 months, when conviction resulted from a jury trial. In contrast, the average sentence for all convicted rapists was 128 months in 1990 and 124 months in 1999. The percentage of sentence served for 1990 was 46%, in contrast with 53% in 1999 (Greenfield, unpublished data).

Of the nearly 10,000 sex offenders released from state prisons in 1994 and then followed for three years, rapists and sexual assaulters had lower rates of re-arrest than non-sex offenders. However, among violent offenders, the relative likelihood of re-arrest for the same offense was highest for sex offenders (Langan 2003).

Notably, there is some research to suggest that intoxication by the victim or offender may influence police evaluation of the incident and jurors' perception of guilt. Schuller and Steward (2000) provided vignettes of acquaintance rape to 212 police officers. The officer's perception of the victim's intoxication influenced evaluation of the assault, particularly for male officers. However, the only factors related to the likelihood of charging the alleged offender were the victim's credibility and the likelihood of conviction. In another study, participants were provided a description of a sexual assault trial in which the intoxication of the parties was varied. When the victim was sober and the defendant was intoxicated, harsher judgments were rendered, particularly when the defendant was extremely intoxicated. However, when the victim was reported to be extremely intoxicated, defendant intoxication did not exert any discernable impact on participant judgments (Wall and Schuller 2000).

In a study of charging decisions, Spohn and Holleran (2001) found that prosecutors were less likely to file charges in acquaintance rape cases if there were questions about the victim's character or behavior at the time of the incident. Charges were more likely to be filed in stranger rape cases if the offender was armed or the victim was Caucasian.

## **Team-based Approaches**

It is generally recognized that the response to sexual assault is most effective when there is a coordinated community response. The Sexual Assault Response Team (SART) is generally recognized as a model. At a minimum, the SART includes a SANE or medical provider who

is trained in the collection of forensic evidence, an advocate, a law enforcement officer and a prosecutor. Other members may include domestic violence victim advocates, state crime laboratory personnel, clergy, and social services staff. While specific implementation of these response teams may vary, integrated approaches like SART are thought to best meet the needs of victims, while insuring the best possible collection of forensic evidence and more effective prosecution. Although little controlled research exists on the efficacy of the SART model, there is considerable testimonial and anecdotal information to suggested that coordination increases effectiveness (Ledray 2001).

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## Acronyms

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<b>AFOSI</b>	Air Force Office of Special Investigations
<b>AOR</b>	Area of Responsibility
<b>C2</b>	Command and Control
<b>CAIB</b>	Community Action Information Board
<b>CENTCOM</b>	U.S. Central Command
<b>CJTF-7</b>	Combined Joint Task Force 7
<b>COCOM</b>	Combatant Command
<b>CONUS</b>	Continental United States
<b>CSH</b>	Combat Support Hospital
<b>DIBRS</b>	Defense Incident Based Reporting System (DoD)
<b>DoD</b>	Department of Defense
<b>DoD(IG)</b>	Department of Defense Inspector General
<b>DON</b>	Department of the Navy (refers to Navy and Marine Corps)
<b>EO</b>	Equal Opportunity
<b>ER</b>	Emergency Room
<b>FAP</b>	Family Advocacy Program (All Services)
<b>FLETC</b>	Federal Law Enforcement Training Center
<b>GMT</b>	General Military Training
<b>IDS</b>	Integrated Delivery Services
<b>IHE</b>	Institutions of Higher Education
<b>JAG</b>	Judge Advocate General
<b>JAGC</b>	Judge Advocate General Corps
<b>MCM</b>	Manual for Courts-Martial
<b>MOU</b>	Memorandum of Understanding
<b>MRE</b>	Military Rule of Evidence
<b>MVP</b>	Mentors in Violence Prevention
<b>NCIS</b>	Naval Command Investigative Services
<b>NCO</b>	Non-commissioned Officer
<b>OASD(HA)</b>	Office of the Assistant Secretary of Defense for Health Affairs
<b>OASD(RA)</b>	Office of the Assistant Secretary of Defense for Reserve Affairs
<b>OCONUS</b>	Outside the Continental United States
<b>OEF</b>	Operation Enduring Freedom
<b>OGC</b>	Office of the General Counsel
<b>OIF</b>	Operation Iraqi Freedom
<b>OPTEMPO</b>	Operational Tempo
<b>OSD(LA)</b>	Office of the Secretary of Defense, Legal Affairs
<b>OSD(PA)</b>	Office of the Secretary of Defense, Public Affairs
<b>OUSD(FAP)</b>	Office of the Undersecretary of Defense Family Advocacy Program
<b>OUSD(P&amp;R)</b>	Office of the Undersecretary of Defense for Personnel and Readiness
<b>PACOM</b>	U.S. Pacific Command
<b>POC</b>	Point of Contact
<b>RCM</b>	Rule for Courts-Martial
<b>RAINN</b>	Rape, Abuse, and Incest National Network

<b>SA</b>	Sexual Assault
<b>SAFE</b>	Sexual Assault Free Environment (an Air Force program in Kunsan)
<b>SANE</b>	Sexual Assault Nurse Examiner
<b>SARB</b>	Sexual Assault Review Boards
<b>SART</b>	Sexual Assault Response Team
<b>SAVI</b>	Sexual Assault Victim Intervention (a Dept of Navy Program)
<b>SITREP</b>	Situation Report
<b>SJA</b>	Staff Judge Advocate
<b>UCMJ</b>	Uniform Code of Military Justice
<b>USACID</b>	United States Army Criminal Investigations Division (CID for short)
<b>USACISL</b>	United States Army Criminal Investigation Laboratory
<b>USAMEDCOM</b>	United States Army Medical Command
<b>USUHS</b>	Uniformed Services University of Health Sciences
<b>VWAP</b>	Victim Witness Assistance Program

## List of Appendices

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- A. Data Call: Services and Combatant Commands
- B. Focus Group Questions
- C. Chronology of Surveys, Reports, and Hearings 1988–2004
- D. Matrix of DoD and Service Policies

## A Data Call: Services and Combatant Commands



HEALTH AFFAIRS

### OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1200

FEB 27 2004

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (M&RA)  
ASSISTANT SECRETARY OF THE NAVY (M&RA)  
ASSISTANT SECRETARY OF THE AIR FORCE (SAF/MR)

SUBJECT: Department of Defense Care for Victims of Sexual Assaults Task Force

In accordance with the Under Secretary of Defense (Personnel and Readiness) memorandum of February 11, 2004, subject Department of Defense Care for Victims of Sexual Assault (attached), I request assistance in obtaining the following data on sexual assaults.

For purpose of this request, sexual assault cases include the alleged offenses of rape (Article 120, UCMJ), forcible sodomy (Article 125, UCMJ), assault with intent to commit rape or sodomy, indecent assault (Article 134, UCMJ), or an attempt to commit any of these offenses.

Provide the following:

- (a) Number of sexual assault cases reported in CY 2002 and CY 2003 where the identified victim at the time of the incident was a uniformed Service member. Separately identify the number of cases where the alleged offense(s) occurred in the CENTCOM Area of Responsibility (AOR). For all cases reported, identify by calendar year:
  1. Number of cases in which alleged offender was a uniformed Service member at the time of the incident.
  2. Ages and genders of victim and alleged offender at time of incident.
  3. Number of cases where alcohol or substance use involved?
  4. Number of cases where the incident occurred in each of the following environments: training, permanent duty station, or combat theater.
  5. Number of cases occurring mixed-gender living quarters on military installations (e.g., barracks, dormitories, billeting, ships, tents).
- (b) Average time from the date of incident to date of initial report and the average time from date of initial report to date of forensic medical exam. Separately identify this information for alleged offense(s) that occurred in the CENTCOM AOR.
- (c) Identify the number of those reported cases that resulted in the following initial command dispositions: (1) court-martial charge(s) preferred (initiated) for sexual assault offense(s), (2) non-judicial punishment proceedings initiated for sexual offense(s), (3) handled by civilian/foreign authorities, (4) administrative action initiated (not as follow-on to other action) for sexual offense(s) (e.g., administrative discharge, reprimand, counseling), (5)

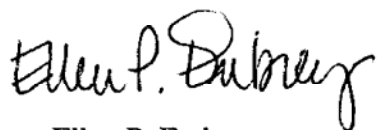
insufficient evidence to take action, or (6) investigation or initial disposition pending. Separately identify initial command dispositions where the alleged offense(s) occurred in the CENTCOM AOR.

- (d) Provide a summary of any final disposition for each case reported. Separately identify final dispositions where the alleged offense(s) occurred in the CENTCOM AOR.
- (e) Of the reported cases, the number of victims who received sexual assault-related support services in the each of the categories of medical, mental health, civilian referrals, and advocacy. Separately identify this information for alleged offense(s) that occurred in the CENTCOM AOR.
- (f) Since 1991, all service-level studies and reports, pertaining to sexual assault prevention, protection, and offender accountability, including but not limited to, all service-level studies/reports pertaining to indicators, trends, and the performance of key responders to sexual assault (e.g. command, medical, victim's advocates, legal, law enforcement, mental health).
- (g) All Service-level policies, training and/or other programs for prevention, reporting and responding to incidents of sexual assault (including, but not limited to all directives, instructions, manuals, and related documents for functional areas which provide sexual assault related support). If there are distinct differences between permanent duty stations versus deployed environments and/or for male versus female uniformed service members, describe accordingly.
- (h) With regard to the material you provided in (g):
  - 1. Are trained sexual assault victims advocates (as distinct from victim witness advocates) provided?
  - 2. Are there time standards for reporting to and coordinating with other sexual assault responders (e.g. chain of command, victim's advocate, medical support, law enforcement, legal support, mental health/social services/chaplaincy, etc.)?
  - 3. Do sexual assault victims have an option to report anonymously?
  - 4. Do sexual assault victims have an option not to participate in the legal process?
  - 5. Identify any policies that safeguard victim's privacy, provide physically and emotionally safe environments, and protect against retribution.
  - 6. Identify any sexual assault response training and certification requirements for, commanders/leaders (O-6 to E-5 positions), victim's advocates, medical responders (forensic and general health issues—STD, pregnancy, etc), mental health/social services, chaplaincy, law enforcement, and legal support.
- (i) Identify civilian or military best practices in relation to sexual assault response have been reviewed and/or applied?

The Secretary of Defense requires the Task Force report findings and recommendations by April 30, 2004, it is critical you provide all requested information NLT March 26, 2004. I realize much of this requested information may not be readily

available in existing databases. However, to effectively address Secretary Rumsfeld's concerns, the Task Force needs to understand the scope of the problems related to sexual assaults of service members and to evaluate the policies, programs, and procedures in place to help prevent sexual assaults, meet the needs of victims, and hold offenders accountable when they do occur.

The requested information must be provided NLT March 26, 2004. My POC for this matter is Col Ray Cunningham, (703) 578-8445, email [edward.cunningham@ha.osd.mil](mailto:edward.cunningham@ha.osd.mil).



Ellen P. Embrey  
Deputy Assistant Secretary of Defense  
(Force Health Protection and Readiness)

Attachments:  
As stated

cc:  
Deputy Commandant USMC (M&RA)  
Director, Joint Staff



HEALTH AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, DC 20301-1200

FEB 27 2004

MEMORANDUM FOR DIRECTOR, JOINT STAFF

SUBJECT: Department of Defense Care for Victims of Sexual Assaults Task Force

In accordance with the Under Secretary of Defense (Personnel and Readiness) memorandum of February 11, 2004, subject Department of Defense Care for Victims of Sexual Assault (attached), I request assistance in obtaining the following data on sexual assaults separately identified by each Combatant Command.

For purpose of this request, sexual assault cases include the alleged offenses of rape (Article 120, UCMJ), forcible sodomy (Article 125, UCMJ), assault with intent to commit rape or sodomy, indecent assault (Article 134, UCMJ), or an attempt to commit any of these offenses.

Provide the following:

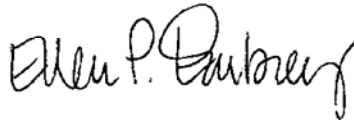
- (a) All studies and reports, pertaining to sexual assault prevention, protection, and offender accountability, including but not limited to, all studies/reports pertaining to indicators, trends, and the performance of key responders to sexual assault (e.g. command, medical, victim's advocates, legal, law enforcement, or mental health).
- (b) Since 1991, all policies, training and/or other programs for prevention, reporting and responding to incidents of sexual assault (including, but not limited to all directives, instructions, manuals, and related documents for functional areas which provide sexual assault related support).
- (c) With regard to the material you provided in (b):
  - 1. Are trained sexual assault victims advocates (as distinct from victim witness advocates) provided?
  - 2. Are there time standards for reporting to and coordinating with other sexual assault responders (e.g. chain of command, victim's advocate, medical support, law enforcement, legal support, mental health/social services/chaplaincy, etc.)?
  - 3. Do sexual assault victims have an option to report anonymously?
  - 4. Do sexual assault victims have an option not to participate in the legal process?
  - 5. Identify any policies that safeguard victim's privacy, provide physically/emotionally safe environment, and protect against retribution.



6. Identify any sexual assault response training and certification requirements for, commanders/leaders (O-6 to E-5 positions), victim's advocates, medical responders (forensic and general health issues—STD, pregnancy, etc), mental health/social services, chaplaincy, law enforcement, and legal support.
- (d) Identify any best practices developed in relation to sexual assault response.
- (e) Address accessibility and availability of the following:
  1. Medical care and services, including testing for STD, HIV, and pregnancy.
  2. Mental health counselors, chaplains, victim advocates, judge advocates, or investigators.
  3. Victim rights information.
  4. Sexual assault evidence kits and trained personnel to perform examinations and evidence collection.

The Secretary of Defense requires the Task Force report findings and recommendations by April 30, 2004, it is critical you provide all requested information NLT March 26, 2004. I realize much of this requested information may not be readily available. However, to effectively address Secretary Rumsfeld's concerns, the Task Force needs to understand the scope of the problems related to sexual assaults of service members and to evaluate the policies, programs, and procedures in place to help prevent sexual assaults, meet the needs of victims, and hold offenders accountable when they do occur.

The requested information should be provided NLT March 26, 2004. My POC for this matter is Col Ray Cunningham, (703) 578-8445, email [edward.cunningham@ha.osd.mil](mailto:edward.cunningham@ha.osd.mil).



Ellen P. Embrey  
Deputy Assistant Secretary of Defense  
(Force Health Protection and Readiness)

Attachments:  
As stated

cc:

Combatant Commanders  
Assistant Secretary of the Army (M&RA)  
Assistant Secretary of the Navy (M&RA)  
Assistant Secretary of the Air Force (SAF/MR)  
Deputy Commandant USMC (M&RA)

## B Focus Group Questions

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### COMMANDERS/SENIOR ENLISTED ADVISORS

1. Describe the command climate with respect to Sexual Assault.
  - a. How does the command encourage reporting?
  - b. What are the barriers to reporting?
  - c. What mechanism(s) is in place to evaluate risks/trends with respect to sexual misconduct?
  - d. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved and rights and regulations affecting victims and alleged offenders?
2. In regards to required policies and procedures (Service level, installation/local, immediate higher command, their level and subordinate commands) tell me about those concerning Sexual Assault:
  - a. Prevention?
  - b. Response?
  - c. Protection?
  - d. Notification requirements through the Chain of Command (Serious Incident Reports)
3. Describe your actions in the event of a Sexual Assault.
  - a. What resources are available to support the victim and the command in response to a Sexual Assault incident? (medical, mental health, law enforcement, legal, victim advocate, command)
    - i. Are there private channels for reporting and services?
    - ii. Describe your Victim Advocate program.
    - iii. Are these support functions timely? How do you know?
    - iv. From recent experience, describe coordination and interface between these support agencies
  - b. Where are the gaps?
  - c. Are there differences for responding or supporting a victim based on their gender?
  - d. What are the differences when deployed?
4. What training have you, your subordinate commanders and other members of your command received?
5. How are you or subordinate commanders and support functions held accountable for their response to reports of sexual assaults?
6. Discuss how you hold alleged offenders accountable? Are there differences in a deployed environment?
7. In the areas of Sexual Assault prevention, response, protection, accountability, what is working well?

8. What concerns do you have?
  9. From your perspective, what recommendations or improvements would you make to improve responsiveness to the victim? And for your role in responding to incidents of Sexual Assault?  
(institutional, toolkits)
- (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

ENLISTED (E-1 TO E-4)

1. Describe the command climate with respect to Sexual Assault.
  - a. How does the command encourage reporting?
  - b. What are the barriers to reporting?
  - c. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved and rights and regulations affecting victims and alleged offenders?
2. In regards to required policies and procedures, tell me about those concerning Sexual Assault:
  - a. Prevention?
  - b. Response?
  - c. Protection?
3. Describe your actions in the event of a Sexual Assault.
  - a. What resources are available to support the victim in response to a Sexual Assault incident? (medical, mental health, law enforcement, legal, victim advocate, command)
    - i. Are there private channels for reporting and services?
    - ii. Describe the Victim Advocate program.
    - iii. Are these support functions timely? How do you know?
    - iv. From recent experience, describe coordination and interface between these support agencies
  - b. Where are the gaps?
  - c. Are there differences for responding or supporting a victim based on their gender?
  - d. What are the differences when deployed?
4. What training have you received?
5. Are alleged offenders held accountable? Are there differences in a deployed environment?
6. In the areas of Sexual Assault prevention, response, protection, accountability, what is working well?
7. What concerns do you have and what recommendation would you make? (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

## PROVIDERS

1. Describe the command climate (both line and departmental perspectives) with respect to Sexual Assault.
  - a. Do either of these encourage or discourage reporting?
  - b. What are the barriers to reporting?
  - c. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved and rights and regulations affecting victims and alleged offenders?
2. In your area of expertise and your Service/command, describe required policies and procedures, tell me about those concerning Sexual Assault:
  - a. Prevention?
  - b. Response?
  - c. Protection?
3. Describe your actions in the event of a Sexual Assault.
  - a. What resources are available to support the victim in response to a Sexual Assault incident? (medical, mental health, law enforcement, legal, victim advocate, command)
    - i. Are there private channels for reporting and services?
    - ii. Describe the Victim Advocate program.
    - iii. Are these support functions timely? How do you know?
    - iv. Are there adequate resources for responding? (specialized equipment)
    - v. From recent experience, describe coordination and interface between these support agencies.
  - b. Where are the gaps?
  - c. Are there differences for responding or supporting a victim based on their gender?
  - d. What are the differences when deployed?
4. What training have you received? Is the training sufficient? Have you sought additional training from non-DOD sources?
5. In the areas of Sexual Assault prevention, response, protection, accountability, what is working well?
6. What concerns do you have and what recommendations would you make? (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

## VICTIM ADVOCATES

1. Describe your perception of command climate for the victims you work with.
  - a. Does it encourage or discourage reporting?
  - b. What are the barriers to reporting?
  - c. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved, and rights and regulation affecting victims and alleged offenders?
2. Describe required policies and procedures concerning Sexual Assault with respect to:
  - a. Prevention?
  - b. Response?
  - c. Protection?
3. Describe your actions in the event of a Sexual Assault.
  - a. How are you initially contacted?
  - b. What resources are available to support the victim in response to a Sexual Assault incident? (medical, mental health, law enforcement, legal, victim's advocate, command)
    - i. Are there private channels for reporting and services?
    - ii. Describe the Victim Advocate program.
    - iii. Are these support functions timely? How do you know?
    - iv. Are there adequate resources for responding? (specialized equipment)
    - v. From recent experience, describe coordination and interface between these support agencies.
  - c. Where are the gaps?
  - d. Are there differences for responding or supporting a victim based on their gender?
  - e. What are the differences when deployed?
4. What training have you received? Is the training sufficient? Have you sought additional training from non-DoD sources?
5. In the areas of Sexual Assault prevention, response, protection, accountability, what is working well?
6. What concerns do you have and what recommendations would you make? (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

## LEGAL

1. Describe the command climate with respect to Sexual Assault.
  - a. How does the command encourage reporting?
  - b. What are the barriers to reporting?
  - c. What choices are available for victim participation for command response? (charging decisions, alternate dispositions, “opting out”)
  - d. What mechanism is in place to evaluate risks/trends with respect to sexual misconduct?
  - e. What are your notification requirements through the Chain of Command (Serious Incident Reports)?
  - f. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved and rights and regulation affecting victims and alleged offenders?
2. How do you implement the Federal Victim’s Witness Assistance Program?
3. In regards to required policies and procedures (Service level, installation/local, immediate higher command, their level and subordinate commands) tell me about those concerning Sexual Assault:
  - a. Prevention?
  - b. Response?
  - c. Protection/Safety?
4. Describe your actions in the event of a Sexual Assault.
  - a. What resources are available to support the victim and the command in response to a Sexual Assault incident? (medical, mental health, law enforcement, legal, victim’s advocate, command)
    - i. Are there private channels for reporting and services?
    - ii. Describe your Victim Advocate program. (versus VWAP, inclusive of?)
    - iii. Are these support functions timely?
    - iv. From recent experience, describe coordination and interface between these support agencies.
  - b. Where are the gaps?
  - c. Are there differences for responding or supporting a victim based on their gender?
  - d. What are the differences when deployed?
  - e. Describe the relationships with local prosecuting authorities? (coalition considerations)
    - i. To resolve jurisdictional issues.
    - ii. Search and Seizure protocols. (accused and victim)
5. What training have you received with respect to Sexual Assault? Is the training sufficient? Have you sought additional training from non-DoD sources?
6. What are the primary issues/factors/concerns for taking judicial action or securing a conviction for charges of Sexual Assault? (evidentiary, victim’s conduct, consent)



7. In the areas of Sexual Assault prevention, response, protection, accountability, what is working well?
8. What concerns do you have and what recommendation would you make? (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

## VICTIM

1. How would you describe the command environment (or command climate) at the time of the assault?
  - a. Was sexual harassment or other indicators of indiscipline pervasive?
  - b. Does it encourage or discourage reporting?
  - c. What are the barriers to reporting?
  - d. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved and rights and regulation affecting victims and alleged offenders?
2. Prior to the Sexual Assault what was your familiarity with or training received regarding:
  - a. Prevention?
  - b. Reporting?
  - c. Your rights?
  - d. Available resources?
3. Did you report?
  - a. Was the person you reported to knowledgeable, sensitive and responsive?
  - b. To the extent possible, was your privacy respected?
  - c. How has reporting affected you?
4. Describe the command's response.
  - a. Safety. (physical and emotional)
  - b. Privacy/Confidentiality
  - c. Accountability
  - d. Retribution. (career)
5. What assistance was available or offered to you? Did you seek help?
  - a. What resources were available to support you? (medical, mental health, law enforcement, legal, victim's advocate, command)
    - i. Were there private channels for reporting and services?
    - ii. Describe support from the Victim Advocate program.
    - iii. Do you feel that adequate resources were/are available to support you?
    - iv. Were these support functions timely?
  - b. Are there gaps?
  - c. Were your needs met?
6. What concerns do you have and what recommendation would you make? (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

## LAW ENFORCEMENT/INVESTIGATORS

1. Describe the command climate with respect to Sexual Assault.
  - a. How does the command encourage reporting?
  - b. What are the barriers to reporting?
  - c. What choices are available for victim participation for command response? (charging decisions, alternate dispositions, “opting out”)
  - d. Are you aware of any single, comprehensive information source regarding the support available, reporting processes involved and rights and regulation affecting victims and alleged offenders?
2. What role do you play in implementing the Federal Victim’s Witness Assistance Program?
3. Describe required investigative policies and procedures concerning Sexual Assault.
4. What is your role with:
  - a. Prevention?
  - b. Response?
  - c. Protection/Safety?
5. Describe your actions in the event of a Sexual Assault.
  - a. What resources are available to support the victim and the command in response to a Sexual Assault incident? (medical, mental health, law enforcement, legal, victim’s advocate, command)
    - i. Are there private channels for reporting and services?
    - ii. Describe your interaction with the Victim Advocate program. (versus VWAP, inclusive of?)
    - iii. Are these support functions timely?
    - iv. From recent experience, describe coordination and interface between these support agencies and within law enforcement community.
  - b. Where are the gaps?
  - c. Are there differences for responding or supporting a victim based on their gender?
  - d. What are the differences when deployed?
  - e. Describe the relationships with local/military law enforcement agencies? (coalition considerations)
    - i. To resolve jurisdictional issues.
    - ii. Search and Seizure protocols. (accused and victim)
5. What training have you received? Is the training sufficient? Have you sought additional training from non-DoD sources?
6. What are ways that we could improve investigative process to strengthen prosecutorial outcomes for charges of Sexual Assault?
7. In the areas of Sexual Assault prevention, response, protection, accountability, what is working well?

8. What concerns do you have and what recommendation would you make? (If you could speak one-on-one with Secretary Rumsfeld to discuss sexual assault, prevention, protection, and accountability, what would you tell him?)

The issue of sexual misconduct in the military and the Department of Defense's response to it has evolved over the last 15 years. 1988 was the first year the Department of Defense conducted an in-depth survey on sexual harassment across the Services. Over the years, additional studies, reviews, and surveys indicate the following major findings:

- ❑ Sexual misconduct has been viewed through the lens of sexual discrimination, which has continuously evolved as women increasingly expanded their integration and roles in the U.S. Armed Forces. Many of the reports and hearings in this digest address the prevailing challenges of integrating women into the predominantly male military workforce: e.g., effect on unit cohesion, perceived inequity of fitness and weight standards for women, discrimination against women for promotions, etc.
- ❑ Despite exhaustive reviews of the Tailhook and Aberdeen incidents, sexual assault as a crime *distinct* from sexual harassment and discrimination was not addressed by the Department of Defense previous to this Task Force report. Sexual assault, when addressed, is under an umbrella of “and other matters.”
- ❑ Some of the various findings and recommendations of this report have been examined previously, but in the context of preventing and reducing sexual harassment, not assault. The need for better reporting mechanisms (see Congress, *Sexual Harassment of Military Women and Improving the Military Complaint System*, March 9, 1994), victim advocacy, leadership training, and data tracking, are recommendations that appear repeatedly, but in the context of improving the climate and reducing adverse conditions for women operating in the military environment.
- ❑ Finally, it is clear from a review of the hearings, reports, and surveys that have been issued that the military, often with the support and direct assistance of Congress, is very adept at planning and implementing programs designed to effectively, if not immediately, address long-standing cultural issues that challenge both the civilian and military population. This is evidenced by the Department's notable but continuously evolving success in executing programs which have significantly reduced race and sex discrimination within its ranks.

### 1988

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- ❑ The Office of the Secretary of Defense conducted the first DoD-wide survey on sexual harassment. This produced the first baseline data on sexual harassment in the active-duty Services.

Department of Defense. *Sexual Harassment in the Military: 1988*.<sup>\*f</sup>

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<sup>\*</sup> Referenced in the April 15, 2004 letter from Congress to the SECDEF.

<sup>f</sup> Sources for this Chronology: The Women's Research and Education Institute, *Bibliography of Women in the Military*; and the Pentagon Library.

## 1990

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*An Update Report on the Progress of Women in the Navy.* Woman's Study Group, 1990.

## 1991

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- ❑ The Tailhook Association loses Navy sponsorship after widely reported incidents of alcohol abuse, destruction of private property, and sexual assault at the association's annual convention.

*Strategies to Eradicate Sexual Harassment in the Military and Civilian Environment.* U.S. Department of Defense. 1991.\*

Congress, Senate. *National Defense Authorization Act for Fiscal Years 1992 and 1993.*

Congressional Record. July 31, 1991 S11412-S11437. (Discussion on combat exclusion laws.)

## 1992

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- ❑ The House Armed Service Committee conducts a hearing on gender discrimination in the military on July 29-30, 1992.

Presidential Commission on the Assignment of Women in the Armed Forces. Report to the President. November 15, 1992.

Roper Organization, Inc. *Attitudes Regarding the Assignment of Women in the Armed Forces: The Military Perspective.* Conducted for the Commission on the Assignment of Women in the Armed Forces. September 1992.

Operation Desert Storm: *War Highlights Need to Address Problem of Non-Deployable Personnel.* GAO/NSIAD 92-208, August 1992.

*Women in the Military: Deployment in the Persian Gulf War.* GAO/NSIAD 93-93, August 1992.

Congress, House, House Armed Service Committee, Subcommittee on Personnel and Readiness, and the Defense Policy Panel. *Hearings into Gender Discrimination in the Military.* 102nd cong. 2<sup>nd</sup> sess. July 29–30, 1992.\*

Congress, House, House Armed Services Committee. *Women in the Military: The Tailhook Affair and the Problem of Sexual Harassment.* Draft report prepared by Les Aspin and Beverly B. Byron, September 14, 1992.

## 1993

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Inspector General, Department of Defense. *The Tailhook Report: The Official Inquiry into the Events of Tailhook '91.* February 1993.\*

Culbertson, Amy L., Paul Rosenfeld, and Carol Newell. *Sexual Harassment in the Active Duty Navy: Findings from the 1991 Navy-Wide Survey.* Naval Personnel Research and Development Center. December 1993.\*

## 1994

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- ❑ The Senate Armed Services Committee holds hearings on “Honor Systems and Sexual Harassment at the Service Academies” on February 3.

- ❑ The House Armed Services Committee conducts hearings on sexual harassment and specifically examines how to improve the military complaint system on March 9. Congress, Senate Armed Services Committee. *Honor Systems and Sexual Harassment at the Service Academies*. 103<sup>rd</sup> Congress. Second session. February 3, 1994.
- Congress, House of Representatives Armed Services Committee. *Sexual Harassment of Military Women and Improving the Military Complaint System*. 103<sup>rd</sup> Congress. Second session. March 9, 1994.
- DOD *Service Academies: More Actions Needed to Eliminate Sexual Harassment*. GAO/NSIAD 94-6, January 1994.\*
- Abuse Victims Study Final Report*. Department of Defense. 1994.\*

## 1995

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- ❑ The DoD Task Force on Discrimination and Sexual Harassment convenes.
- ❑ The DoD conducts its second Sexual Harassment Survey.
- Defense Equal Opportunity Council. *Report of the Task Force on Discrimination and Sexual Harassment, vols. I and II*, May 1995.\*
- Thomas, Patricia J., Carol E. Newel, and Dawn M. Eliassen. *Sexual Harassment of Navy Personnel: Results of a 1993 Survey*. Naval Personnel Research and Development Center, November 1995.\*
- GAO. *DoD Service Academies. Update on Extent of Sexual Harassment*. March 1995.

## 1996

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- 1995 *Sexual Harassment Survey*. Department of Defense, 1996.\*

## 1997

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- ❑ Incidents of rape, sexual assault, and sexual harassment occurring at the Army's Aberdeen (Maryland) Proving Grounds are revealed. In the aftermath, several drill sergeants are convicted by courts-martial of rape or charges related to sexual harassment. As a result of the problems found at Aberdeen, the Army convenes a Senior Review Panel to look at the problem of sexual harassment Army-wide.
  - ❑ In February the Senate Armed Services Committee conducts a hearing on Aberdeen.
  - ❑ The Army's top enlisted man, the Sergeant Major of the Army, is charged with sexual harassment.
  - ❑ In October the House Armed Services Committee, Subcommittee on Military Personnel conducts hearings on "Department of the Army Reports on and Corrective Actions Related to Recent Cases of Sexual Misconduct and Related Matters."
  - ❑ As a result of the incidents at Aberdeen, the Secretary of Defense appoints the Federal Advisory Committee on Gender-Integrated Training and Related Issues with former Senator Nancy Kassebaum-Baker as chair. The committee's report is issued in December 1997.
- Department of Defense. *Report of the Federal Advisory Commission on Gender-Integrated Training and Related Issues to the Secretary of Defense*. Kassebaum Report. December 16, 1997.\*



Department of the Army Inspector General. *Special Investigation of Initial Entry Training, Equal Opportunity and Sexual Harassment Policies and Procedures December 1996–April 1997*, 22 July 1997.\*

Human Relations Action Plan: *The Human Dimensions of Combat Readiness*. Department of the Army, July 1997.

Secretary of the Army. *Senior Review Panel Report on Sexual Harassment*. vols. I and II, July 1997.\*

Naval Inspector General. *Report of Investigation of Integration of Women into Carrier Air Wing Eleven*, February 10, 1997.

Thomas, Patricia J., and Zanette Uriells. *Pregnancy and Single Parenthood: Results of a 1997 Survey*.

Harrell, Margaret and Laura C. Miller. *New Opportunities for Military Women: Effects Upon Readiness, Cohesion, and Morale*. Rand Corporation MR-896, October 2, 1997.

## 1998

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- ❑ The Sergeant Major of the Army is court-martialed on five charges springing from the accusations of sexual harassment lodged against him. He is acquitted of all charges related to sexual harassment, but convicted of one charge of obstruction of justice.
- ❑ In response to the incidents at Aberdeen, Congress orders its own commission—The Congressional Commission on Military Training and Gender-Related Issues—to review matters.

*Analysis of Methodologies in Reports to Secretaries of Defense and Army*. Army Senior Review Panel. GAO/NSIAD-98-125, March 1998.

*Analysis of Promotion and Career Opportunity Data*. GAO/NSIAD 98-157, May 1998.

*Changes Would Be Needed to Expand Selective Service Regulations to Women*. GAO/NSAID 98-99, June 1998.

*Improved Guidance and Oversight are Needed to Ensure Validity and Equity of Fitness Standards*. GAO/NSIAD-99-9, November 1998.

*Information on DoD's Assignment Policy and Direct Combat Definition*. GAO/NSIAD 99-7, October 1998.

*Information to Assess Servicemembers Perception of Gender Inequities is Incomplete*. GAO/NSIAD, November 1998.

Burelli, David. *Women in the Armed Forces*. Congressional Research Service, November 18, 1998.

## 1999

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- ❑ The Report of the Congressional Commission on Military Training and Gender-Related Issues is released.

Congress. *Congressional Commission on Military Training and Gender-Related Issues—Final Report*. Blair Commission, vols. I-IV, July 1999.\*

Department of Defense. *Adapting Military Sex Crime Investigations to Changing Times: Summary Report*. National Academy of Public Administration, June 1999.\*

*DoD Career Progression of Minority and Women Officers.* Office of the Under Secretary of Defense for Personnel and Readiness, August 1999.

Scarville, Jacquelyn and Scott B. Button, Jack E. Edwards, Anita R. Lancaster and Timothy W. Elig. *Armed Forces Equal Opportunity Survey.* Defense Manpower Data Center, August 1999.

Naval Personnel Research and Development Center, TR-98-6, September 1998. *Women at Sea: Unplanned Losses and Accession Planning.* Center for Naval Analysis, CRM-98, March 1999.

*Costs of Separate Barracks for Male and Female Recruits in Basic Training.* GAO/NSIAD 99-75, March 1999.

*Medical Support for Female Soldiers Deployed to Bosnia.* GAO/NSIAD 99-58.

*Perceptions of Readiness in Various Units.* GAO/NSIAD 99-120, May, 1999.

*Trends in Occupational Distribution of Military Women.* GAO/NSIAD, September 1999.

## 2003

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- ❑ Investigations into charges of sexual assault at the Air Force Academy and retaliation against women cadets who report it are initiated by the Air Force and the DoD Inspector General. Congress also sponsors its own investigative panel.

*Report of the Working Group Concerning the Deterrence and Response to Incidents of Sexual Assault at the U.S. Air Force Academy,* HQ USAF, June 2003.\*

Fowler, Tillie K. *Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy.* September 2003.\*

## D A Matrix of DoD and Service Guidance for Response to Sexual Assault

Agency	Policy No.	Policy	Link
U.S. Code	Title 10, Sections 801-946	Manual for Courts-Martial (MCM), United States (2002 edition)	<a href="http://www4.law.cornell.edu/uscode/10/801.html">http://www4.law.cornell.edu/uscode/10/801.html</a>
U.S. Code	Section 113 note of Title 10 (Section 534, Public Law 103-337)	Victims' Advocate Programs in Department of Defense	<a href="http://thomas.loc.gov/cgi-bin/query/F?c103:4:/temp/~c1031lOLa2:e318038;">http://thomas.loc.gov/cgi-bin/query/F?c103:4:/temp/~c1031lOLa2:e318038;</a>
Dept. of Defense	DoD Directive 1030.1	Victim and Witness Assistance	<a href="http://www.dtic.mil/whs/directives/corres/html/10301.htm">http://www.dtic.mil/whs/directives/corres/html/10301.htm</a>
Dept. of Defense	DoD Directive 5400.11	DoD Privacy Program	<a href="http://www.dtic.mil/whs/directives/corres/html/540011.htm">http://www.dtic.mil/whs/directives/corres/html/540011.htm</a>
Dept. of Defense	DoD Directive 6025.18	Privacy of Individually Identifiable Health Information in DoD Health Care Programs	<a href="http://www.dtic.mil/whs/directives/corres/html/602518.htm">http://www.dtic.mil/whs/directives/corres/html/602518.htm</a>
Dept. of Defense	DoD Directive 6490.1	Mental Health Evaluations of Members of the Armed Forces	<a href="http://www.dtic.mil/whs/directives/corres/html/64901.htm">http://www.dtic.mil/whs/directives/corres/html/64901.htm</a>
Dept. of Defense	DoD Instruction 1030.2	Victim and Witness Assistance Procedures	<a href="http://www.dtic.mil/whs/directives/corres/html/10302.htm">http://www.dtic.mil/whs/directives/corres/html/10302.htm</a>
Dept. of Defense	DoD 5400.11-R	DoD Privacy Program	<a href="http://www.dtic.mil/whs/directives/corres/html/540011r.htm">http://www.dtic.mil/whs/directives/corres/html/540011r.htm</a>
Dept. of Defense	DoD 6025.18-R	DoD Health Information Privacy Regulation	<a href="http://www.dtic.mil/whs/directives/corres/html/602518r.htm">http://www.dtic.mil/whs/directives/corres/html/602518r.htm</a>
Dept. of Defense	DoD 7730.47M	Manual for Defense Incident Based Reporting System	<a href="http://www.dtic.mil/whs/directives/corres/html/773047m.htm">http://www.dtic.mil/whs/directives/corres/html/773047m.htm</a>

Army	Army Regulation 27-10	Military Justice (Includes Victim and Witness Assistance)	<a href="http://docs.usapa.belvoir.army.mil/jw2/xmldemo/r27_10/cover.asp">http://docs.usapa.belvoir.army.mil/jw2/xmldemo/r27_10/cover.asp</a>
Army	Army Regulation 190-40	Serious Incident Report	<a href="http://www.usapa.army.mil/pdffiles/r190_40.pdf">http://www.usapa.army.mil/pdffiles/r190_40.pdf</a>
Army	Army Regulation 190-45	Law Enforcement Reporting*	<a href="http://www.army.mil/usapa/epubs/pdf/r190_45.pdf">http://www.army.mil/usapa/epubs/pdf/r190_45.pdf</a>
Army	Army Regulation 195-2	Criminal Investigation Activities	<a href="http://www.usapa.army.mil/pdffiles/r195_2.pdf">http://www.usapa.army.mil/pdffiles/r195_2.pdf</a>
Army	Army Regulation 340-21	The Army Privacy Program	<a href="http://www.usapa.army.mil/pdffiles/r340_21.pdf">http://www.usapa.army.mil/pdffiles/r340_21.pdf</a>
Army	Army Regulation 600-20	Army Command Policy	<a href="http://www.army.mil/usapa/epubs/pdf/r600_20.pdf">http://www.army.mil/usapa/epubs/pdf/r600_20.pdf</a>
Army	MEDCOM Regulation 40-36	Medical Facility Management of Sexual Assault	
Army	MEDDAC Memorandum 40-26	Medical Facility Management of Sexual Assault	<a href="http://www.narmc.amedd.army.mil/kacc/Employees/Epubs/Memorandums/Memorandum_40-26.pdf">http://www.narmc.amedd.army.mil/kacc/Employees/Epubs/Memorandums/Memorandum_40-26.pdf</a>
DON	SECNAVINST 1752.4	Sexual Assault Prevention and Response	<a href="http://neds.nebt.daps.mil/Directives/1752_4.pdf">http://neds.nebt.daps.mil/Directives/1752_4.pdf</a>
DON	SECNAVINST 1754.1A	DON Family Service Center Program	<a href="http://neds.nebt.daps.mil/Directives/1754_1a.pdf">http://neds.nebt.daps.mil/Directives/1754_1a.pdf</a>
DON	SECNAVINST 5520.3B	Criminal and Security Investigations and Related Activities Within the Department of the Navy	<a href="http://neds.nebt.daps.mil/Directives/5520b3.pdf">http://neds.nebt.daps.mil/Directives/5520b3.pdf</a>
DON	SECNAVINST 5520.4B	Department of the Navy Polygraph Program	<a href="http://neds.nebt.daps.mil/Directives/5520b4.pdf">http://neds.nebt.daps.mil/Directives/5520b4.pdf</a>
DON	SECNAVINST 5800.11A	Victim and Witness Assistance Program	<a href="http://www.dod.mil/vwac/vwguide.html">http://www.dod.mil/vwac/vwguide.html</a>
DON	SECNAVINST 5800.14	Notice of Military Offenders Convicted of Sex Offenses or Crimes Against Minors	<a href="http://neds.nebt.daps.mil/Directives/5800_14.pdf">http://neds.nebt.daps.mil/Directives/5800_14.pdf</a>
Navy	OPNAVINST 1752.1A	Sexual Assault Victim Intervention (SAVI) Program	<a href="http://neds.nebt.daps.mil/Directives/1752_1a.pdf">http://neds.nebt.daps.mil/Directives/1752_1a.pdf</a>
Navy	OPNAVINST 5800.7	Victim and Witness Assistance Program	<a href="http://neds.nebt.daps.mil/Directives/5800_7.pdf">http://neds.nebt.daps.mil/Directives/5800_7.pdf</a>
Navy	NAVMEDCOMINST 6310.3	Management of Alleged or Suspected Sexual Assault and Rape Cases	<a href="http://navalmedicine.med.navy.mil//Files/Media/directives/6310-3.pdf">http://navalmedicine.med.navy.mil//Files/Media/directives/6310-3.pdf</a>

Marine Corps	ALMAR 295/95	Sexual Assault	<a href="http://www.usmc.mil/almars/anmar2000.nsf/d50a617f5ac75ac085256856004f3afc/1b392fc2f7c5bf4d85256a55005e1124?OpenDocument&amp;Highlight=2,295%2F95">http://www.usmc.mil/almars/anmar2000.nsf/d50a617f5ac75ac085256856004f3afc/1b392fc2f7c5bf4d85256a55005e1124?OpenDocument&amp;Highlight=2,295%2F95</a>
Marine Corps	MCO P1700.24B, Chapter 5	Marine Corps Personal Service Manual, Counseling Capabilities	<a href="http://www.usmc.mil/directiv.nsf/0dce83e13c9c8aa685256c0c0066c2e0/8c2b89e75e8fcd4d85256b510067cbe7?OpenDocument">http://www.usmc.mil/directiv.nsf/0dce83e13c9c8aa685256c0c0066c2e0/8c2b89e75e8fcd4d85256b510067cbe7?OpenDocument</a>
Air Force	Air Force Instruction 44-102	Medical Community Health Management	<a href="http://www.e-publishing.af.mil/pubfiles/af/44/afi44-102/afi44-102.pdf">http://www.e-publishing.af.mil/pubfiles/af/44/afi44-102/afi44-102.pdf</a>
Air Force	Air Force Instruction 44-109	Mental Health, Confidentiality and Military Law	<a href="http://www.e-publishing.af.mil/pubfiles/af/44/afi44-109/afi44-109.pdf">http://www.e-publishing.af.mil/pubfiles/af/44/afi44-109/afi44-109.pdf</a>
Air Force	Air Force Instruction 51-201	Administration of Military Justice (Includes Victim and Witness Assistance)	<a href="http://www.e-publishing.af.mil/pubfiles/af/51/afi51-201/afi51-201.pdf">http://www.e-publishing.af.mil/pubfiles/af/51/afi51-201/afi51-201.pdf</a>
Air Force	Air Force Instruction 51-202	Nonjudicial Punishment	<a href="http://www.e-publishing.af.mil/pubfiles/af/51/afi51-202/afi51-202.pdf">http://www.e-publishing.af.mil/pubfiles/af/51/afi51-202/afi51-202.pdf</a>
Air Force	Air Force Instruction 71-101	Criminal Investigations	<a href="http://www.e-publishing.af.mil/pubfiles/af/71/afi71-101v1/afi71-101v1.pdf">http://www.e-publishing.af.mil/pubfiles/af/71/afi71-101v1/afi71-101v1.pdf</a>
Air Force	AFOSIMAN 71-121	Case Initiation/closure, Report Writing	For Official Use Only
Air Force	AFOSIMAN 71-122	Conduct Sexual Assault Investigations	For Official Use Only
Air Force	AFOSIMAN 71-118	Victims/Witness Assistance Program, Handling Evidence, Conducting Interviews, Search Record Reviews	For Official Use Only
Air Force	AFOSIMAN 71-124	Sexual Assault Kits and Medical Examinations	For Official Use Only
Air Force	AFOSIMAN 71-103	Offering Polygraphs to Victims	For Official Use Only
Air Force	AFOSIMAN 71-103	Specialized Interview Techniques, Forensic Science Support and Laboratory Services	For Official Use Only