DEPARTMENT OF THE NAVY
U.S. NAVAL SUPPORT ACTIVITY
PSC 817 BOX 1
FPO AE 09622-0001

NAVSUPPACT NAPLES INST 1752.4A
N91
15 APR 2010

NAVSUPPACT NAPLES INSTRUCTION 1752.4A

From: Commanding Officer, U.S. Naval Support Activity, Naples, Italy

Subj: SEXUAL ASSAULT PREVENTION AND RESPONSE (SAPR) PROGRAM

Ref:
(a) OPNAVINST 1752.1 (Series)
(b) DOD Directive 6495.01, Sexual Assault Prevention and Response Program of 6 Oct 05
(c) OPNAVINST 1752.2 (Series)
(d) DOD Instruction 6495.02 (Series)
(e) SECNAVINST 1752.4 (Series)
(f) NAVADMIN 282/09, Sexual Assault Prevention and Response
(g) Manual for Courts-Martial (MCM)
(h) MILPERMAN 15560, Military Personnel Manual
(i) OPNAVINST F3100.6 (Series)
(j) SECNAVINST 1730.9 (Series)
(k) DOD Publication 6025.18-R, Health Information Privacy Regulation of 23 Jan 04
(l) SECNAV M-5510.30 (Series)

Encl:
(1) Definitions
(2) Navy Policy Regarding Confidentiality for Victims of Sexual Assault
(3) Navy Commander's Checklist for Sexual Assault Prevention and Response
(4) Situation Report (SITREP) Guidance

1. Purpose. To issue policy, provide guidance, and designate responsibility for implementation of the Commanding Officer, U.S. Naval Support Activity (NAVSUPPACT), Naples, Italy Sexual Assault Prevention and Response (SAPR) Program per references (a) through (l).

2. Cancellation. NAVSUPPACT NAPLES INSTRUCTION 1752.4. This instruction has been substantially revised and should be viewed in its entirety.

3. Definitions. Terms used in this instruction, are defined in references (a) and (b) and enclosure (1). Sexual assault as used in this instruction applies to all such offenses against persons 18 years of age or older, which are not otherwise considered child sexual abuse or domestic abuse as defined in reference (c) and enclosure (1).

4. Applicability. This instruction applies to U.S. Naval Support Activity, Naples, Italy and all tenant commands.

a. Active duty members of the military services (Army, Navy, Air Force, Marine Corps, and Coast Guard, when operating as a service in the Navy) who are eligible to receive treatment in a military treatment facility (MTF) and their legal family members.

b. Members of the National Guard and Reserve component of the military services and their legal family members when performing active services and inactive duty training.

c. On a space available basis, retired members of the military services and their legal family members.

d. Non-foreign hire civilian employees of the Department of Defense (DOD) in overseas locations, and their legal family members, for services that are not available in the local community.

e. Victims of sexual assault occurring under Department of Navy (DON) jurisdiction are eligible, regardless of affiliation, for advocacy services on a humanitarian basis.

5. Background

a. Reference (f) establishes Chief of Naval Personnel (CNP) as the single executive agent for the Navy's SAPR Program. CNO will align strategy, policy and programs with the newly established SECNAV SAPR Office. The Navy's SAVI Program is now called SAPR.

b. References (a), (b), (d) and (e) outline Department of Defense (DOD) and Department of Navy (DON) policy and procedures for the three components of the SAPR Program:

(1) Prevention and awareness education to reduce the incidence of sexual assault.

(2) Standardized data collection and reporting of sexual assault incidents.

(3) Victim Advocacy. The SAPR Program provides a standardized approach to the implementation of this policy within all commands throughout the Navy to ensure sensitive, coordinated, and effective response to victims of sexual assault.

6. Policy

a. Sexual assault is a criminal act incompatible with the DON core values, high standards of professionalism, and personal discipline. Military personnel alleged to have committed a sexual assault offense may be subject to court martial under reference (g). Additionally, such military personnel are subject to being processed for administrative action separation per reference (h), articles 1910-142 or 1910-010. Commanders shall take appropriate legal action under U.S. laws and regulations on all allegations of sexual assault.

b. The goal of the Commander is to reduce sexual assault by providing a culture of prevention, education and training to optimize response capability, victim support, reporting procedures, and accountability that enhances the safety and well-being of all.

c. All victims of sexual assault will be treated with fairness and respect, to include timely access to appropriate services. All service members and DON employees will ensure sensitive, coordinated, and effective management of sexual assault cases, to include access to the installation Sexual Assault Response Coordinator (SARC) and/or Victim Advocate (VA).

d. Sexual assault can occur without regard to gender, spousal relationship, or age of the victim. Consent shall not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person uses force, threat of force, coercion, or when the victim is asleep, incapacitated, or unconscious.

e. Victims of sexual assault often feel further victimized by the criminal justice system when questioned about their conduct of inaction during an assault. In cases where the victim's behavior may be considered an offense under the Uniform Code of Military Justice (UCMJ), it is important not to blame the victim, either directly or indirectly, for the assault by focusing on their behavior, to consider all circumstances surrounding the assault and the impact upon the victim before taking any appropriate administrative or disciplinary action against the victim. Commanders should consult with their servicing legal office and exercise their authority, where appropriate, to defer disciplinary action regarding a victim's misconduct until after the final disposition of the sexual assault.

7. Action

a. Commanding Officer, U.S. Naval Support Activity, Naples, Italy:

(1) Establish a SAPR Program that addresses the three components of SAPR:

(a) Annual prevention and awareness education;

(b) Data collection and reporting of sexual assault; and

(c) Victim Advocacy.

(2) Ensure an effective SAPR program that incorporates a coordinated approach between medical, mental health, legal, investigative services, security, chaplains and Fleet and Family Support Center (FFSC) staff.

(3) Designate an installation SARC to provide overall management of the SAPR program and to implement and administer provisions contained in the instruction and in references (a), (b), (d) and (e).

(4) Provide coordination of the SAPR Program per references (a) and (e) and direct the SARC to implement a highly responsive SAPR Program.

(5) Ensure installation activities, agencies, and personnel are advised of and have access to SAPR Program services and supportive resources. Enclosure (3) provides guidance to Command Duty Officers (CDO) when responding to a report of sexual assault.

(6) Ensure service members and their family members have access to a well-coordinated, highly responsive victim advocate program. DOD civilian employees are afforded victim advocacy support. Ensure all service members, family members, and civilian personnel are made aware of Navy resources available to assist victims of sexual assault, including Navy chaplains.

(7) Ensure availability of psychological and supportive counseling for sexual assault victims.

(8) Establish a Sexual Assault Case Management Group (SACMG) per reference (d) and enclosure (1).

(9) Ensure the SARC and VAs receives the required initial and refresher training.

(10) Where appropriate and useful, establish Memorandum of Understanding (MOU) with relevant community agencies to supplement efforts to implement program requirements.

b. <u>All Commanding Officers/Officers-In-Charge (CO/OIC)</u>:

(1) Ensure Navy's sexual assault prevention policy becomes an integral part of day-to-day personnel management and provides the safest possible emotional and physical command environment.

(2) Utilize the Commander's Checklist for Sexual Assault Prevention and Response (SAPR) on enclosure (2) to develop comprehensive command prevention and response to allegations of sexual assault.

(3) Designate a SAPR command Point of Contact (POC) who is responsible for facilitating awareness and prevention training, maintaining current information on victim resources, and providing oversight of command compliance with SAPR Program requirements. The SAPR command POC is responsible to conduct annual SAPR general military training (GMT). The command SAPR POC may be trained as a command SAPR VA.

(4) Ensure the availability of trained VAs within the ranks to respond 24/7 to victims when sexual assault occurs in locations where installation VAs are not available (e.g., when deployed). Ensure VAs who provide support when the command is deployed or underway have been screened by the SARC and have received 30 hours of initial VA training before providing support to victims and report to the SARC when performing advocate duties.

(5) Designate a command Data Collection Coordinator (DCC), responsible for obtaining data on sexual assault incidents necessary to meet reporting requirements per reference (i) and enclosure (4) of this instruction.

(6) Designate a command liaison who has direct and immediate access to the Commanding Officer and who is responsible to ensure the victim is kept informed of all command decisions involving the case. The command liaison acts as the command representative to the Sexual Assault Case Management (SACMG) Group per references (a) and (d).

(7) At the time of designation, ensure the command SAPR DCC and the command SAPR POC receive two hours and four hours of required training respectively, regarding performance of their responsibilities under the SAPR Program from the SARC.

(8) Ensure service members receive annual Sexual Assault Prevention and Response training updates at the command level. The focus of this training is to ensure all personnel have a working knowledge of what constitutes sexual assault and sexual harassment, why sexual assault is a crime, personal avoidance of risk, and the meaning of consent. Additionally, the training should provide personnel with information on the reporting options available to them and the exceptions and/or limitations of each option. To help service members understand the nature of sexual assaults in the military environment, this training should be scenario-based, using real life situations to demonstrate the entire cycle of reporting, response, and accountability procedures.

(9) Ensure victims of sexual assault receive reasonable protection from the alleged offender(s). In cases where victim and alleged offender are assigned to the same command, the Commanding Officer should consider relocating the victim or the alleged offender until the case is legally settled and/or the victim is considered out of danger. The Commanding Officer will consider both the physical and emotional well-being of the victim in making this decision. The victim's preference should receive primary consideration, if at all practicable.

(10) Ensure all administrative separation actions involving victims of sexual assault are reviewed by the Commander, Navy Personnel Command (PERS-832) to ensure a victim receives full and fair consideration of their military service and such determinations are consistent and appropriate per reference (a).

(11) Ensure swift, sensitive, and fair response to sexual assault allegations, and when appropriate, prosecutions of sexual assault cases.

(12) Ensure victims receive, at a minimum, monthly updates on the status of their cases until final disposition. The command SAPR liaison will coordinate with the responsible Naval Criminal Investigative Service (NCIS) Special Agent and the SARC to meet this requirement.

(13) Ensure all allegations of sexual assault within their ranks are referred, as soon as practicable, to NCIS. Internal command inquiry or investigation shall be reserved only for incidents of alleged sexual assault for which NCIS or civilian law enforcement has declined to investigate. Commanders shall ensure all levels of command authority, including command duty watch standers, are advised of and adhere to this requirement.

(14) Ensure disposition of sexual assault incidents is reserved for command with a minimum of Special Courts-Martial convening authority to ensure a consistent response to alleged sexual assault.

c. Installation Sexual Assault Response Coordinator (SARC):

(1) Implement and administer all aspects of the command SAPR Program in accordance with references (a), (b), (d) and (e).

(2) Ensure there is a Navy-wide confidential advocate hotline which will provide for around-the-clock sexual assault response capability and timely access to appropriate victim services and advocacy.

(3) Ensure training is provided to VAs, command SAPR POCs, command SAPR liaisons and command SAPR DCCs. Coordinate and provide VA initial and annual refresher training.

(4) Facilitate sexual assault awareness and prevention training and ensure commands have access to SAPR educational materials.

(5) Provide oversight of assigned VAs both ashore and afloat. Oversight includes maintenance of a roster of trained victim advocates and recall system and collateral contact and consultations on all sexual assault cases.

(6) Provide case management for all identified cases including tracking services for victims from initial report to resolution and ensure monthly updates are provided to the victim.

(7) Assign case numbers to sexual assault forensic examination kits for restricted reports and inform the victim when evidence is almost a year old per reference (a). Enclosure (2) provides detailed information regarding restricted reporting.

(8) Maintain Victim Preference Statements for cases that are restricted reports and maintain all restricted and unrestricted reports. Unrestricted reports will use the Sexual Assault Incident Data Form (NAVPERS 1752/1).

(9) Chair the SACMG and ensure the group meets on a regular basis (monthly if there are open cases to review) to review all pending and newly reported cases, facilitate victim updates and discuss improvements to ensure victim access to services.

8. Data Collection, Reporting, and Forms

a. Incidents of sexual assault shall be reported to the responsible Echelon 2 commands by means of an OPREP-3 NAVY BLUE or OPREP-3 NAVY UNIT SITREP per reference (i). Commander, Navy Installations Command (CNIC) will coordinate the collection and submission of the annual restricted report incident data to Secretary of Defense (SECDEF) through the SECNAV SAPR office.

b. Military Protective Order, DD Form 2873, Victim Reporting Preference Statement, DD Form 2910, and NAVPERS Form 1752/1, Sexual Assault Incident Data Form is available at: http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm

S. M. SCHUTT
By direction

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SAPR DEFINITIONS

1. Assault. The use of unlawful force or violence whether as an overt act with the intent of inflicting bodily harm, or as an unlawful demonstration of violence, through an intentional or culpably negligent act or omission, either of which creates in the mind of another a reasonable apprehension of receiving immediate bodily harm.

2. Child. An unmarried person under 18 years of age. The term "child" means a biological or adopted child, stepchild, foster child or ward.

3. Child Sexual Abuse. Illegal activity with a child for the purpose of sexual gratification of the alleged offender or some other individual; including child exploitation, sodomy, molestation, rape or intercourse with a child. Allegations of child sexual abuse are referred to the Family Advocacy Program for assessment, intervention and treatment.

4. Domestic Abuse. (1) Domestic violence or (2) a pattern of behavior resulting in emotional/psychological abuse, economic control, and/or interference with personal liberty when such violence or abuse is directed toward a person of the opposite sex who is: (a) a current or former spouse; (b) a person with whom the abuser shares a child in common; or (c) a current or former intimate partner with whom the abuser shares or has shared a common domicile.

5. Domestic Violence. An offense under the U.S.C., the Uniformed Code of Military Justice (UCMJ), or State law that involves the use, attempted use, or threatened use of force or violence against a person of the opposite sex, or the violation of a lawful order issued for the protection of a person of the opposite sex, who is: (a) a current or former spouse; (b) a person with whom the abuser shares a child in common; or (c) a current or former intimate partner with whom the abuser shares or has shared a common domicile.

6. Health Care provider (HCP). Applies to those individuals who are employed or assigned as health care professionals; those who are credentialed to provide healthcare services at a military medical, dental, or military family support center; or those who provide care at a deployed location or in an official capacity. HCPs include military, DOD civilians or DOD contractors. The definition includes FFSC clinicians that function in a government oversight and/or supervisory capacity.

7. Restricted Reporting. Defined at enclosure (2) of this instruction.

8. Sexual Assault. Sexual assault can be defined as intentional sexual contact, characterized by use of force, physical threat or abuse of authority or when the victim does not or cannot consent, sexual assault includes rape, nonconsensual sodomy (oral or anal sex), indecent assault, (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender. For this instruction, the term sexual assault includes all of the terms listed below and applies to adult victims and perpetrators.

a. Assault with Intent to Commit Rape. An assault with intent to commit rape. The accused must have intended to complete the offense of rape and to overcome any resistance by force.

b. Assault with the Intent to Commit Sodomy. An assault against a human being committed with the specific intent of completing the offense of sodomy.

c. Indecent Assault. An assault with the intent to gratify the lust or sexual desires of the accused.

d. Rape. An act of penile-vaginal intercourse by force and without consent. Penetration; however, slight is sufficient to complete the offense.

e. Forcible Sodomy. An act done by force and without consent whereby one person takes into their mouth or anus the sexual organ of another person (of the same or opposite sex) or

of an animal; places their sexual organ in any opening of the body other than the sexual parts of another person; or has penile-vaginal intercourse with an animal. Penetration; however, slight is sufficient to complete the offense.

9. Sexual Assault Case Management Group (SACMG). The SACMG is a multi-disciplinary case management group convened by the SARC to review individual "unrestricted" sexual assault cases. The purpose of the SACMG is to facilitate monthly victim updates and ensure system coordination, accountability and victim access to quality services. The SACMG is chaired by the Sexual Assault Response Coordinator (SARC). The SACMG carefully considers and implements immediate, short-term and long-term measures to facilitate and assure the victim's well-being and recovery from sexual assault. In accordance with references (a) and (d) membership consists of the following individuals who are involved with and working on a specific case:

a. Commanding Officer, NAVSUPPACT, Naples, Italy;

b. Victim Advocate;

c. Military Law Enforcement;

d. Naval Criminal Investigative Service (NCIS);

e. FFSC Clinical Provider;

f. Chaplain;

g. Staff Judge Advocate;

h. Command SAPR Liaison; and

i. Sexual Assault Nurse Examiner (S.A.N.E.).

10. Sexual Assault Response Coordinator (SARC). A Navy civilian, at the FFSC who serves regional, tenant and operational commanders as the central POC with responsibility for ensuring training and responsive care is properly coordinated and provided to victims of sexual assault.

11. Sexual Harassment. A form of sexual discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a. Submission to or rejection of such conduct is made either explicitly or a term of condition of a person's job, pay, or career;

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates a intimidating, hostile, or offensive working environment.

12. Victim. For purposes of this instruction, a victim is any person who reports the commission of a sexual assault upon themselves, or is identified, based upon the report of another person or other information, as a person who has been subjected to a sexual assault.

13. Victim Advocacy Services. Advocacy services begin with an immediate 24/7 sexual assault response capability to provide support and care to victims of sexual assault. Advocacy includes information, emotional support, and guidance through the various medical, mental health, legal and investigative processes. Ongoing victim advocacy, beyond the initial response, is provided at the request of the victim.

NAVY POLICY REGARDING CONFIDENTIALITY FOR VICTIMS OF SEXUAL ASSAULT

1. The Navy is fully committed to ensuring victims of sexual assault are protected, treated with dignity and respect, and provided support, advocacy, and care. Sexual assault is the most under-reported violent crime in our society. Assuring privacy and providing a confidential disclosure option is critical to discharging our commitment to fully support victims of sexual assault. The magnitude of these changes requires extensive, in-depth training for Navy personnel and specialized training for chaplains, victim advocates, SARCs, NCIS, law enforcement, legal staff, and HCPs.

2. This policy provides for confidential, restricted reporting for service member victims of sexual assault, per references (a), (d) and (e). Other DON personnel who are victims of sexual assault will be afforded the option of reporting to civilian law enforcement whenever the sexual assault does not fall under Navy jurisdiction or when reporting is not otherwise required by law or international agreement.

3. For the purpose of this policy, confidentiality or confidential reporting is defined as providing an option for victims of sexual assault to report the assault to specified individuals without triggering mandatory command notification or official investigation of the incident. This option affords a victim access to medical care, counseling, and victim advocacy without initiating the investigative process. Consistent with reference (j), victims may also report a sexual assault to a chaplain and be afforded confidential communication which is not altered or affected by DOD requirements.

4. The Navy is committed to establishing a system whereby a victim can maintain confidentiality with the understanding that fully reporting an incident activates both victim services and accountability actions. Service members who are sexually assaulted have the following two reporting options:

a. "Unrestricted" reporting affords victims of sexual assault official investigation of the allegation, in addition to receiving available victim support and care. Victims making unrestricted reports should use current reporting channels (i.e., chain of command, command SAPR POC, law enforcement, or SARC) The responsible (on-call) SAPR VA will be notified immediately upon receipt of an unrestricted report and will offer the victim support and information per this instruction.

b. "Restricted" reporting permits victims to disclose sexual assault to specified individuals without triggering mandatory command notification or official investigation.

(1) Service members who are sexually assaulted and desire restricted reporting must report the sexual assault to the SARC, a VA, or a HCP. Licensed clinicians who are privileged to provide clinical services in a FFSC are considered HCPs and may receive a restricted report of sexual assault from a service member victim. Consistent with current policy, victims may also report the sexual assault to a chaplain. Although a report to a chaplain is not a restricted report under this policy, it is a communication that may be protected under the Military Rules of Evidence or applicable statues or regulations. Restricted reporting is in addition to the current protection afforded privileged communications with a chaplain and does not alter or affect those protections.

(2) HCPs, both afloat and ashore, will initiate appropriate care and treatment, activate the responsible, on-call SAPR VA, and report the assault to the SARC in lieu of reporting to law enforcement or the command.

(3) As required by this instruction, the responsible SAPR VA will respond, offer advocacy and support, and provide the victim information on the process of restricted and unrestricted reporting. Victims will be informed and will acknowledge in writing, using the Victim Reporting Preference Statement (DD Form 2910) their understanding of restricted reporting, and the exceptions to and limitations of restricted reporting, including their understanding that restricted reporting limits the availability of protective actions that can

be taken without command notification and may hinder the government's ability to prosecute the assailant.

(4) With the victim's consent, a trained DOD/DON HCP may conduct a Sexual Assault Forensic Examination (S.A.F.E) in a manner that collects and preserves evidence with non-identifying information about the victim. DON procedures for storage and retrieval of forensic evidence are as follows:

(a) The SARC or VA will assign a Forensic Evidence Storage Number using the convention promulgated by CNIC, noting the number on the signed DD Form 2910 and providing that number to the HCP. The HCP will note the number in the member's medical record and on the exterior of the S.A.F.E. kit.

(b) The SARC is responsible for notifying NCIS Regional Forensic Laboratory that a S.A.F.E. has been mailed by the responsible MTF. The MTF is responsible for maintaining chain of custody, packaging, and mailing the S.A.F.E. kit using procedures that have been disseminated by the Bureau of Medicine (BUMED).

(c) Forensic evidence collected under restricted reporting will be maintained for one year and then destroyed. The SARC is responsible for tracking S.A.F.E. kit destruction dates and for using all means possible to notify the victim 30 days prior to destruction that the forensic evidence is scheduled for destruction. This notification is to provide the victim a last opportunity to reconsider their restricted report and not to extend the destruction date.

(d) When a victim elects to change from restricted to unrestricted reporting, the SARC will notify NCIS, ensure the change in reporting is noted on the victim's DD Form 2910, and provide the Forensic Evidence Storage Number to the responsible NCIS Special Agent who will follow NCIS established protocols.

5. When a victim discloses sexual assault to someone other than the SARC, VA or HCP, the victim will be informed that such disclosure may result in command notification and a full investigation of the allegations.

6. When sexual assault is disclosed to the command or to law enforcement from a source independent of the specified individuals identified above, the command shall report the incident to NCIS who remains authorized to initiate an independent investigation of the complaint. Per reference (d), if an investigation of the sexual assault is initiated as a result of information being disclosed to command or law enforcement from a source independent of the restricted reporting options, any covered communications disclosed to command or law enforcement remains confidential until the victim authorizes disclosure in writing or another exception applies.

7. In cases where a service member victim elects restricted reporting, the SARC, responsible VA, or HCP may not disclose covered communications to command authorities or law enforcement, either within or outside DOD, except as provided in paragraph 10 below. Covered communications include verbal, written, or electronic communications of personally identifiable information (PII) concerning a sexual assault victim or alleged assailant provided by the victim to one of the specified individuals regarding their sexual assault. Any other offenses revealed by the victim when making a restricted report of sexual assault are considered covered communications and will not be disclosed except as authorized in paragraph 10 below.

8. The SARC shall report information concerning sexual assault incidents within 24 hours of the sexual assault report. This report will be made to the victim's commander and the installation commander for incidents occurring on the installation. When the victim has elected restricted reporting, the report is for the purposes of public safety and command responsibility and will be absent any information that could reasonably lead to personal identification of the victim or the alleged assailant. This reporting channel affords commanders better understanding of the true scope of sexual violence within the Navy which has been previously unreported. The commander may use the information to enhance preventive or training measures or to assess the organization's climate for contributing factors, but may not be used for investigative purposes or in a manner that is likely to discover, disclose, or

reveal the identities being protected. Commands are not required to forward OPREP-3 NAVY BLUE or OPREP-3 NAVY UNIT SITREPS for restricted reports.

9. Per reference (k), confidentiality of medical information will be maintained regardless of whether the victim chooses restricted or unrestricted reporting.

10. When a victim elects restricted reporting, the prohibition on disclosing covered communications will be suspended when:

a. The victim provides written authorization to disclose to command officials or law enforcement.

b. Disclosure to command officials or law enforcement is necessary to prevent or lessen a serious and imminent threat to the health or safety of the victim or another person.

c. Disclosure to a disability retirement board and officials by a HCP is required for fitness for duty in disability determinations, and is limited to only the information necessary to process disability retirement determinations.

d. Disclosure is required for the supervision of direct victim treatment or services by the SARC, responsible VA, or HCP.

e. Disclosure is required by Federal or State statute or applicable U.S. international agreement or is ordered by military or civilian courts of competent jurisdiction. In the latter case, the SARC, responsible VA, or HCP will consult with the servicing legal office, to determine if the criteria apply and they have a duty to obey before they disclose information other than non-identifying information.

11. HCPs may inform commands of any possible adverse duty impact related to a victim's medical condition and prognosis per reference (k). These circumstances do not warrant an exception to confidentiality policy whereby details of sexual assault are considered covered communication and may not be disclosed.

12. Improper disclosure of covered communications, improper release of medical information, or other violations of this policy are prohibited and may result in discipline under the UCMJ or State statute, loss of professional credentials, or other adverse personnel or administrative actions.

13. Restricted reporting does not create any actionable rights for the alleged offender or the victim, nor does it constitute a grant of immunity for any actionable conduct by offender or victim. Covered communications that have been disclosed may be used in disciplinary proceedings against the offender or victim, even if the communication was improperly disclosed.

14. DOD and Navy leadership recognize the potential impact of restricted reporting on investigations and the ability of Commanders to hold perpetrators accountable. Such risks were carefully considered and were outweighed by the overall interest of providing sexual assault victims access to medical care and support.

NAVY COMMANDER'S CHECKLIST FOR PREVENTION AND RESPONSE TO ALLEGATIONS OF SEXUAL ASSAULT

Commanding Officers are responsible for ensuring a command climate that condemns sexual assault; provides victims with sensitive care, resources, and support; reports incidents of sexual assault, and holds offenders accountable for their actions.

The following checklist includes all the essential elements for meeting command SAPR Program requirements and for enduring effective command prevention and response to incidents of sexual assault. Following these guidelines ensures that commanders address all areas and provide a timely and sensitive response to each incident of sexual assault.

Before Sexual Assault Occurs - Prevention

1. Establish a command climate of prevention that is predicated on mutual respect and trust, which recognizes and embraces diversity, and values the contributions of all of its members.

2. Reassure members of your personal commitment to maintaining a healthy environment that is safe and contributes to the members' well-being and mission accomplishment.

3. Ensure a safe emotional and physical environment for all members of the command. Institute and publicize a means for members to inform the chain of command of situations that place members at risk of sexual assault.

4. Reiterate your "zero tolerance" policy on sexual assault and the potential consequences for those who violate the law.

5. Ensure command-wide compliance with annual mandatory sexual assault awareness and prevention education general military training (GMT) requirements, to include use of the DOD definition of sexual assault. Emphasize the importance of the command zero tolerance message through leadership participation in sexual assault GMT.

6. Keep a "finger on the pulse" of the organization's climate and respond with appropriate action toward any negative trends that may emerge.

7. Include sexual assault questions regarding command involvement in preventing sexual assault incidents when conducting command climate assessments.

8. Carefully select a command Drug and Alcohol Program Advisor (DAPA) and ensure they are trained in the SAPR Program, emphasizing the link between sexual assault and alcohol misuse.

9. Provide ongoing unit education regarding responsible use of alcohol and Navy Alcohol and Drug Abuse Prevention (NADAP) programs. Promote positive social programs through Morale, Welfare, and Recreation (MWR).

10. Designate a SAPR POC who is responsible for:

(a) Coordinating and implementing command awareness and prevention education training

(b) Maintaining current information on available victim support services in the geographical area.

(c) Ensuring command SAPR Program compliance including collection and maintenance of sexual assault data by the designated DCC.

11. Ensure SAPR command POCs receive four hours of required training on sexual assault responsibilities under the SAPR Program.

Before Sexual Assault Occurs - Response Preparation

1. Request a brief from the SARC on installation sexual assault incident management and resources. The SARC is located at the FFSC.

2. Ensure good coordination between installation and command assets when preventing or responding to sexual assault incidents.

3. Establish good working relationship with the SARC to ensure effective and ongoing command interface regarding sexual assault prevention and response.

4. Educate all members on DOD/Navy confidentiality policy to include:

a. Publicize broadly that members may make restricted reports of sexual assault to the SARC, designated SAPR VA, or HCP. Reports to chaplains are also confidential.

b. Publish names and contact information for personnel to whom a restricted report may be made.

Pre-deployment Planning

1. Ensure availability of trained, volunteer VAs aboard to respond if a sexual assault occurs in foreign ports or while underway.

2. Ensure sufficient trained VAs to ensure 24/7 response to sexual assault whenever Navy installation assets are not available.

a. Ensure VAs report to the installation SARC for oversight and supervision of all advocacy responsibilities and services.

b. Ensure the installation SARC screens and trains all volunteer VAs to ensure a good fit for this very sensitive position.

c. Ensure afloat/deploying VAs receive required initial and refresher training.

d. Identify both immediately available and nearby trained medical, investigatory, and chaplain assets that can be utilized if a sexual assault occurs out of homeport or while underway.

e. Ensure member compliance with deployment sexual assault training.

3. Appoint a DCC who liaisons with governmental agencies to obtain and maintain required sexual assault data for command reporting requirements.

4. Provide clear direction to the DCC regarding tracking of required message traffic and thorough collection of sexual assault information, ensuring the victim, and accused are not contacted for this information.

5. Ensure DCC attends two hours of required training on sexual assault and their responsibilities under the SAPR Program.

6. Conduct a review of command sexual assault awareness and prevention education, reporting, and victim support processes, and watch stander protocols to ensure they meet program standards and are in keeping with this checklist.

When a Sexual Assault Occurs - Victim

1. Ensure the physical safety and emotional safety of the victim, determine if the alleged offender is still a threat to the victim, and if the victim desires/needs protection.

2. Ensure the victim receives emergency medical treatment if indicated and offer medical care in all other circumstances.

3. Assist with or provide immediate transportation for the victim to the appropriate medical facility.

4. Ensure the victim is advised of the need to preserve evidence (by not bathing, showering, washing garments, etc.) while awaiting the arrival of NCIS.

5. Collect only the necessary information to include the victim's identify, location, and time frame of the incident, name and/or description of the offender(s), taking care not to ask detailed questions or pressure the victim for information about the incident.

6. Activate the on-call VA and request immediate assistance. The VA will ensure the victim understands the medical, investigative, and legal process, and is advised of their victim rights, even if the victim ultimately declines ongoing VA support.

7. Notify NCIS as soon as the victim's immediate safety is assured, and any emergency medical treatment is in process.

8. Take action to safeguard the victim from any formal or informal investigative interviews or inquiries, except those conducted by NCIS or civilian law enforcement.

9. Guard the victim's right to confidentiality and privacy by strictly limiting the "need to know" personnel.

10. Ensure command protocols limit required command notification of the incident to the smallest necessary number (e.g., Command Master Chief, Executive Officer, Commanding Officer).

11. Be sensitive to the needs of the victim's family.

12. Ensure the victim consents in writing to the release of information to anyone (including parents, friends, etc.). Only in cases where the victim has suffered life-threatening injuries will the next of kin be notified without prior approval of the victim.

13. Provide the victim a referral to the duty Chaplain if the victim desires pastoral assistance.

14. Designate a SAPR Command Liaison to act as the single command POC for the victim with the command executive level. All other direct contacts with the victim within command leadership should be kept to a minimum. The SAPR Command Liaison shall:

a. Complete eight hours of required training regarding victim sensitivity issues and responsibilities under the SAPR Program.

b. Be responsible and possess the maturity and sensitivity needed to support the victim's needs.

c. Have direct access to the Commanding Officer.

d. Promote responsive command management and keep the victim informed of command actions in his or her case.

e. Work with the NCIS Special Agent and the SARC to ensure the victim receives monthly updates regarding the status of their case.

f. Ensure a victim sensitive command climate to avoid re-victimization.

g. Participate in or, when deployed, provide input to monthly SACMG discussion regarding all designated victims.

15. Seek consultation from legal and NCIS and determine if the victim desires/needs a Military Protective Order (MPO), particularly if the victim and the accused are assigned to the same command, duty location, or living quarters. DD Form 2873 shall be used when a MPO is issued.

16. Strongly consider temporary assignment of either the victim or accused when they are assigned to the same command, duty location, or living quarters.

17. Consider both the physical and emotional well being of the victim in determining the need for temporary reassignment.

18. To the maximum extent possible, the victim's preference should be honored when making reassignment determinations.

19. Ensure the SAPR Command Liaison consults with the victim regularly, either directly or indirectly through communication with the SARC or assigned VA.

20. Communicate regularly with the SAPR Command Liaison to accommodate the victim's wishes to the extent possible regarding their safety, health, and security, as long as a critical mission or a through investigation is not comprised.

21. Determine how to best dispose of the victim's collateral misconduct. Absent overriding considerations, consider the victim's misconduct in context and exercise command authority to defer disciplinary actions for the victim's minor misconduct until after the final disposition of the sexual assault case.

22. When practicable, consult with the servicing legal office, NCIS and notify the installation SARC or assigned VA prior to taking administrative or disciplinary action affecting the victim.

23. Avoid automatic suspension or revocation of a security and/or personnel reliability program (PRP) clearance, understanding the victim may be satisfactorily treated for their related trauma without compromising their PRP status. Use established national security standards when making final determinations.

24. Ensure command compliance with special incident and SAPR Program reporting requirements for all unrestricted reports of sexual assault as follows:

a. The DCC provides required data and the command sends the OPREP-3 NAVY BLUE message for alleged rape, forcible sodomy and aggravated sexual assault incidents.

b. The DCC provides required data and the command sends OPREP-3 NAVY UNIT SITREPS for indecent assault or assault with the intent to commit rape or forcible sodomy.

c. The responsible regional and installation commanders are included as a "copy to" addressee on all sexual assault message traffic.

d. A monthly update report is forwarded until a final message is forwarded detailing final disposition of the incident.

25. Ensure ongoing communication and coordination of actions between commands if the alleged offender is assigned to another command.

When a Sexual Assault Occurs - Alleged Offender

1. Notify NCIS as soon as possible after receiving a report of a sexual assault incident.

2. Consult with servicing legal office before questioning or discussing the allegations with the alleged offender.

3. Avoid discussing or questioning the sexual assault allegation with the alleged offender, since doing so may jeopardize the criminal investigation.

4. If questioning does occur, advise the service member suspected of committing a UCMJ offense of their rights under Article 31 of Chapter 47 of the UCMJ.

5. Safeguard the alleged offender's rights and preserve the integrity of a full and complete investigation, to include limitations on any formal or informal investigative interviews or inquiries by personnel other than those assigned to NCIS or civilian law enforcement.

6. Emphasize that every alleged offender is presumed innocent until proven guilty.

7. Strictly limit information about the investigation to those who have a legitimate reason to know.

8. Ensure procedures are in place to inform the alleged offender about available counseling support.

9. Monitor the well-being of the alleged offender, particularly any indications of suicide potential, and ensure appropriate intervention occurs if indicated.

10. Determine the need for a MPO (after consultation from legal/law enforcement/SARC/assigned VA). DD Form 2873 shall be used when a MPO is issued.

11. Ensure ongoing communication and coordination of actions between commands if the victim is assigned to another command.

When a Sexual Assault Occurs - Unit Considerations

1. Take all necessary action to ensure it does not become general knowledge within the command that a sexual assault has occurred.

2. When information regarding sexual assault becomes known within the ranks, the following actions will be considered:

a. Encourage members to be appropriately supportive of one another within the organization, to include both the victim and the alleged offender in the incident.

b. Advise those who may have knowledge of the events leading up to or surrounding the incident to fully cooperate with any investigation.

c. Ensure proper authorities are available to explain to witnesses, the potential consequences of discussing any details related to the on-going investigation.

d. Discourage members from participating in "barracks gossip." Take action if either the victim or the alleged offender reports they are being subjected to harassment, ostracism, threats, or other pressure regarding the incident from command members.

e. Consider unit refresher training or have an outside expert address the unit regarding preventive measures, as well as some of the emotional or psychological feelings that may manifest itself and affect the command.

SITUATION REPORT (SITREP) GUIDANCE

1. All unrestricted reports of alleged sexual assault that involves victims and alleged offenders who are family members, active duty members, or reservists on active duty will be reported through the submission of a SITREP regardless of the military affiliation of the victim or alleged offender.

a. Reports of allegations of active duty members of another service assigned to a Navy command, regardless of location, requires the submission of a SITREP.

b. Submit reports via the OPREP-3 NAVY BLUE or OPREP-3 NAVY UNIT SITREP, per the format for reporting sexual assault incidents contained in reference (i) of this instruction. Include in the SITREP the data elements contained in the Sexual Assault Incident Data Collection Report Form (NAVPERS 1752/1).

c. Messages must be submitted on incidents involving civilians sexually assaulted on property under DON jurisdiction or by an active duty service member. Reporting commands for both victim and alleged offender will coordinate efforts for submission of the SITREP.

d. If neither the victim nor the alleged offender is a Navy member, the commander of the installation or activity where the sexual assault occurs will report per reference (i).

2. The Sexual Assault Incident Data Collection Report Form is intended to serve as a recording/reporting tool for capturing information required for inclusion in the initial and follow-on message traffic.

3. The command with cognizance over the victim is responsible for forwarding monthly status/follow-on OPREP-3 NAVY UNIT SITREPS to provide new or revised information only, with a final OPREP-3 NAVY UNIT SITREP documenting official resolution of the case. A final, official resolution refers to completion of judicial, investigative, disciplinary, and/or administrative

actions (e.g., defendant found guilty/not guilty, alleged offender administratively separated, no action taken due to insufficient evidence).