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## FY07 Report on Sexual Assault in the Military

### Executive Summary

Section 577 of Public Law (PL) 108-375 requires the Department of Defense (DoD or the Department) to submit an annual report on sexual assault in the military. Additional reporting requirements are specified by section 596 of PL 109-163 and section 583 of PL 109-364. The purpose of the report is to provide an annual summary of the reported allegations of sexual assault within the Department of Defense. The sexual assault reports described in this document were made in Fiscal Year (FY) 2007, which is from October 1, 2006 through September 30, 2007.

### FY07 Policy and Program Highlights and Accomplishments

- **Policy Development and Program Accountability.** DoD Directive 6495.01, *Sexual Assault Prevention and Response Program*, October 6, 2005, and DoD Instruction 6495.02, *Sexual Assault Prevention and Response Program*, June 23, 2006, constitute Department of Defense policy on sexual assault prevention and response (SAPR). The Military Services worked aggressively over the last year to institutionalize their sexual assault prevention and response programs, ensure compliance with DoD policy, publicize the Restricted and Unrestricted Reporting options, and maintain a 24 hour, 7 day a week response capability at all locations worldwide.

In FY07, the Office of the Secretary of Defense, Sexual Assault Prevention and Response Office (SAPRO) partnered with the Defense Military Equal Opportunity Office (DMEEO) and the Defense Manpower Data Center (DMDC) to perform an assessment of the Military Service Academies (MSAs). This assessment consisted of a thorough review of written policies and site visits to each MSA. The Department found that the MSAs are doing a commendable job with SAPR and sexual harassment prevention programs. The Department plans to continue its oversight of the Services' programs by conducting staff assistance visits to a number of military installations in FY08.

- **Training.** Consistent with DoD SAPR policy, the Services placed a high priority on training. Comprehensive programs were developed and delivered in modalities ranging from traditional, in-person training to more innovative, automated methods delivered on compact disc or the Internet.
- **FY07 Reports of Sexual Assault in the Military.** While previous year reports exist, we cannot make side-by-side comparisons of the current year data to previous year data due to an unavoidable overlap in reporting. As further explained in the body of the report, the period of data collection changed from calendar year (CY) to fiscal year. This was driven by the changes to the

Uniform Code of Military Justice (UCMJ) definitions of the crimes comprising sexual assault. Consequently, our previous report from CY06 overlaps with the present report in the months of October, November and December 2006.

For FY07, there were 2,688 total reports of sexual assault involving Military Service Members:

- There were 2,085 Unrestricted Reports of sexual assaults involving Military Service Members.
  - Of the 2,085 Unrestricted Reports made in FY07, 1,511 (72%) reports of sexual assault included Military Service Member victims (1,620 total Service Member victims involved in the 1,511 reports).
- The Military Services completed a total of 1,955 criminal investigations on reports made during and prior to FY07. There were 759 (28%) pending investigations that will be reported on in FY08. The following is a breakdown of the total investigations that were referred to the commander for action in FY07 and the status:
  - 1,172 subjects were referred for commander action.
  - Commanders took action on 600 (51%) subjects, which included 181 (30%) courts-martial.
  - There were 572 (49%) subjects pending disposition as of September 30, 2007.
- Service Member victims made 705 Restricted Reports of sexual assault.
  - Fourteen percent (102) of the victims making Restricted Reports opted to change to Unrestricted Reports and participate in criminal investigations, leaving 603 remaining Restricted Reports.

The Department of Defense remains committed to eliminating sexual assault from military service by sustaining a robust sexual assault prevention and response policy, by identifying and eliminating barriers to reporting, by ensuring that care remains available and accessible, and by providing continuous, relevant, and effective training and education to all Service Members.

## FY07 Report on Sexual Assault in the Military

Section 577 of Public Law (PL) 108-375 requires the Department of Defense (DoD) to submit an annual report on sexual assault in the military. Additional reporting requirements are specified by section 596 of PL 109-163 and section 583 of PL 109-364. The report provides an annual summary of the reported allegations of sexual assault that were made during the prior year. Previous year reports made by this office were based on the calendar year. However, Congressional revisions to the UCMJ drove the Department to change the reporting collection period. UCMJ Article 120, the section of code that defines the crime of rape was substantively changed effective October 1, 2007. This had the effect of increasing the number of crime categories described by Article 120. For clarity and other reasons, the Department and the Military Services changed their data collection period to coincide with the start date of the revised law. The sexual assault reports described in this document were made in FY 2007, which is from October 1, 2006 through September 30, 2007.

### The Sexual Assault Prevention and Response (SAPR) Program

As the Department of Defense's single point of accountability for sexual assault matters, SAPRO is responsible for ensuring that the SAPR programs within the Department of Defense and the Military Services are compliant with the policy set forth in DoD Directive 6495.01, *Sexual Assault Prevention and Response Program*, October 6, 2005, and DoD Instruction 6495.02, *Sexual Assault Prevention and Response Program Procedures*, June 23, 2006. Management of the SAPR program is a monumental task, given the many players in this relatively new program. The Department works in partnership with the SAPR program components in each Service, including Sexual Assault Response Coordinators (SARCs), victim advocates (VA), healthcare providers, chaplains, law enforcement, Victim-Witness Assistance Program personnel (VWAP), and Judge Advocates. Their functions, and the nature of the Department's relationship with each one are described below.

Giving first-class care to a victim of sexual assault anywhere in the world lies at the heart of the Department of Defense SAPR program. When a sexual assault occurs, a military victim has the option of reporting the alleged sexual assault either as an Unrestricted or Restricted Report. Under Unrestricted Reporting, the victim reports an incident of sexual assault and the matter is referred for investigation. The victim's report and any details provided to healthcare providers, the SARC, a VA, command authorities, or other persons are reportable to law enforcement. However, under Restricted Reporting, victims may disclose an incident of sexual assault without command or law enforcement being notified. Under this option, the victim's allegation and any details provided to a healthcare provider, the SARC, or a VA will not be disclosed. Victims may receive healthcare, counseling and advocacy services under either option.

Each installation or unit has one or more sexual assault response coordinator and victim advocate that respond to assaults, ensuring the appropriate level of care is provided to each victim. SARCs manage an installation or unit's sexual assault prevention and response program. SARCs serve as the single point of contact to coordinate victim care and track the services provided to the victim in each reported assault. While the SARC primarily provides management and oversight of victim services, VAs provide 24/7 direct assistance to victims seeking help. VAs help victims navigate the military's response network. VAs are not counselors, therapists, or investigators. However, they are people who can furnish accurate and comprehensive information on available options and resources. VAs educate victims so they can make informed decisions about their care and involvement in the investigative process. The Department, in collaboration with the Services, has oversight over the functions and training of SARCs and VAs. In addition, the Department has oversight over the Service implementation of training that SARCs provide to the installations, organizations and commands that they service.

Healthcare providers play an important role in treating sexual assault victims, both physically and psychologically. Physicians, physician assistants, and nurses all contribute to treating injuries, managing risk for sexually transmitted infections, and sometimes gathering evidence during a Sexual Assault Forensic Examination (SAFE). Psychologists, psychiatrists, social workers and other professionals that address mental health also play a part in victim care. When a Restricted Report is chosen, a victim can discuss his or her assault with a medical or mental health treatment provider without command being notified. SAPRO has oversight over the implementation of healthcare provider training on sexual assault prevention and response. SAPRO also provides guidance on the resources that medical units have available for response to sexual assault. However, oversight of the day to day functions of healthcare providers and other medical resources lies with OSD Health Affairs and the Surgeon Generals of each Military Service.

Chaplains may provide spiritual support to victims of sexual assault. Generally, information communicated to chaplains during spiritual counseling is privileged<sup>1</sup>, but they cannot accept Restricted Reports. Because of the clergy privilege, chaplains may be an additional resource for victims of sexual assault. SAPRO has oversight over the implementation of SAPR training that chaplains receive from their respective Services.

Law enforcement, criminal investigators, victim witness assistance program (VWAP) personnel, and Judge Advocates also support victims. Prevention efforts count for very little if perpetrators are not held responsible for their behavior. When a victim makes an Unrestricted Report, law enforcement professionals take statements from

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<sup>1</sup> Military Rule of Evidence 503 (Communications made to a chaplain as a formal act of religion or a matter of conscience.).

the victim and witnesses, document the crime scene, facilitate a SAFE, send the evidence to the crime lab for evaluation, and question suspects. VWAP personnel help a victim navigate the military justice process. Judge Advocates are the military attorneys that provide advice and prosecute crimes under the UCMJ. SAPRO has oversight over the implementation of SAPR training provided to law enforcement, criminal investigators, and Judge Advocates.

In sum, each member of the SAPR team performs an important function in the comprehensive response structure for victims of sexual assault. In addition, the SAPR team, through education and training, provides a foundation for helping all Service Members better understand the crime of sexual assault, how to respond to it, and how it can be prevented.

### **Policy Development and Program Accountability**

The Department continues to work collaboratively with the Services, members of Congress, and national experts to address sexual assault within the military. SAPRO completed its first year as a permanent office in 2006. In FY07, the office has continued to move forward on its mission to ensure that exceptional care and support is available to all military sexual assault victims.

SAPRO's accomplishments during FY07 advanced the Department of Defense goals of support and care for sexual assault victims, prevention through training and education, and system accountability.

### ***Program Highlights and Accomplishments for FY07***

- **Sexual Assault Advisory Council.** DoD Instruction 6495.02 established the Sexual Assault Advisory Council (SAAC). The SAAC members include the Assistant Secretaries for Manpower and Reserve Affairs of the Military Departments, the Vice Chairman of the Joint Chiefs of Staff, the Principal Deputy General Counsel of the Department of Defense, and a Deputy Inspector General or their designees. In addition, representatives from the Departments of Health and Human Services, Justice, State, Veteran's Affairs and the Centers for Disease Control and Prevention serve as advisors to the SAAC. Dr. David S.C. Chu, Under Secretary of Defense (Personnel and Readiness), is the Chair of the SAAC. Ms. Gail McGinn, the Deputy Undersecretary of Defense (Plans), is the Executive Secretary. According to DoD Instruction 6495.02, the SAAC has four primary duties:
  1. To advise the Secretary of Defense on policies for sexual assault issues involving members of the Armed Forces.
  2. To coordinate policy and review the Department's sexual assault prevention and response policies and programs.
  3. To monitor the progress of program elements.

4. To assist in developing policy guidance for the education, training and awareness of DoD personnel in SAPR matters.

In FY07, the SAAC members and advisors met twice. Meeting highlights follow:

1. On April 12, 2007, the SAAC held its initial meeting. Members and advisors were briefed and given an overview of the program, as well as a description of future plans for SAPR policy and programs in the military. In addition, the SAAC discussed the development of DoD sexual assault response standards and created four subcommittees to address issues related to training, policy and accountability, research, and outreach.
  2. At the November 9, 2007 meeting, members and advisors were briefed on the status of DoD's prevention strategy and the results of the Sexual Assault Prevention Summit, held in July 2007. In addition, the SAAC discussed the following proposed accountability strategy:
    - Continue working with the Services to develop standards.
    - Establish staff assistance teams consisting of SAPRO staff and representatives from across the Services to visit installations and examine how SAPR policy is being implemented.
    - Convene representatives from the Military Criminal Investigative Organizations (MCIOs) and Judge Advocates from each Service to examine if systemic gaps exist in the DoD response to sexual assault. SAPR programs will continue to work with legal and investigative components to improve policy, program execution, and the effectiveness of multidisciplinary teams at the installation level.
- **Sexual Assault Advisory Council Subcommittees.** The SAAC established four subcommittees to bring together federal partners in the endeavor to prevent and respond to sexual assault in the military. Subcommittees were established with the following purposes:
1. **Policy and Accountability.** The Policy and Accountability Subcommittee reviews DoD SAPR policy, identifies any necessary modifications, and advises the SAAC of recommendations for modifications.
  2. **Training.** The Training Subcommittee reviews current sexual assault prevention and response training, determines whether the training requirements provided in DoD Directive 6495.01 and DoD

Instruction 6495.02 are being met, identifies any extant gaps in training, and explores new methods for training.

3. **Research.** The Research Subcommittee works with the Department to oversee and review data collection, develops and monitors the SAPRO research agenda, and provides guidance for research studies and data analysis.
  4. **Outreach.** The Outreach Subcommittee develops an outreach plan for the Department of Defense on SAPR matters within and outside of the Department of Defense, evaluates the effectiveness of past and present messaging efforts, identifies networking opportunities and strategies, and reviews and selects various media for outreach.
- **Military Service Academy Assessment.** Section 532 of PL 109-364 requires the Secretary of Defense to submit an annual report to Congress regarding sexual harassment and sexual violence at the MSAs. PL 109-364 further requires that in academic program years ending in an odd number, the Academies should be assessed by a combination of cadet focus groups and a site visit by the Department. In FY07, SAPRO and representatives from DMEIO traveled to each MSA for an on-site review of programs and curricula. DMDC supplemented the assessment with feedback from focus groups of cadets and midshipmen. The Department found that the MSAs are doing a commendable job with SAPR and sexual harassment prevention programs. Recommendations for strengthening programs were made to each Service. The assessment was delivered to Congress in December 2007.

### ***Way Ahead for FY08***

- **Joint Environments and the Issues they Present.** A working group consisting of representatives from JCS/J-1 Manpower and Personnel, the Department, and the Services is working with the SAAC Policy and Accountability Subcommittee to identify and address specific challenges that arise in environments wherein two or more services are operating together.
- **Line of Duty for Guard and Reserves.** DoD SAPR policy gives active duty sexual assault victims access to confidential care and treatment by making a Restricted Report. Normally, for Guard and Reserve members to continue medical care once they transition out of active service, a Line of Duty (LOD) determination must be made. Current LOD processes conflict with DoD SAPR policy. The SAAC Policy and Accountability Subcommittee is working with the Services and the Reserve Components to resolve the challenges that have been identified.
- **Civilian Mandatory Rape Reporting Laws.** In a number of states, mandatory rape reporting laws have interfered with the ability of Service

Members to make Restricted Reports. These laws require healthcare providers to report to law enforcement that they have treated a victim of sexual assault.<sup>2</sup> It is unlikely that this problem will be completely resolved without the cooperation of the civilian community, which the military is working to obtain. An action plan has been devised which includes outreach to civilian communities on the issue. The Department and the Services are continuing to address these challenges.

- **Additional Policy Updates.** The SAAC Policy and Accountability Subcommittee will continue to modify DoD policy as needed to overcome the challenges that arise from translating SAPR policy into practice.
- **Standards on Sexual Assault Response.** The Department is currently working with the Services to draft guidelines for program assessment, both for self-assessment and for use during the Department's oversight visits. A draft will be presented to the SAAC at the upcoming May 19, 2008 meeting.
- **FY08 Military Service Academy Assessment.** As stated previously, Section 532 of PL 109-364 requires the Secretary of Defense to submit an annual report to Congress regarding sexual harassment and sexual violence at the MSAs. In academic program years ending with an even number, the Academies are to be assessed via a survey and self-assessment by the superintendent of each Academy. In FY08, DMDC will administer an anonymous survey of cadets on gender relations at the three MSAs. The Department will furnish the MSA superintendants self-assessment guidelines. The self-assessment and the survey results will be combined and forwarded to Congress by December 31, 2008.
- **Technical Assistance/Policy Assistance Visits.** The Department has been providing informal policy assistance as needed to the Services and various installations since the inception of the new policy. However, the official oversight visits for the purpose of assessing the program will commence in FY08. These assessments are a function of the Department's oversight mission, and will involve a team of members from the Department and the Military Services. Visits to DoD installations will examine how the Military Services have implemented SAPR policy on the ground level. The visits will employ a variety of evaluation methods, including the standards currently under development.

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<sup>2</sup> A complete list of state mandatory reporting laws is available on the SAPRO website at [www.sapr.mil](http://www.sapr.mil).

## Prevention and Outreach

The Department's outreach program continues to make great strides by collaborating with the military SAPR community. Over the past year, the Department worked with experts on sexual assault prevention and response from the civilian and DoD communities, members of Congress and their staff, and the media to accomplish the following:

### *Program Highlights and Accomplishments for FY07*

- **Prevention Summit, 18–20 July 2007.** The Department partnered with the National Sexual Violence Resource Center (NSVRC) to convene military and civilian experts on sexual assault prevention to review promising sexual assault prevention strategies. Participants made recommendations and provided input for a comprehensive DoD sexual assault prevention strategy. A draft strategy was authored by the NSVRC and submitted to the Department in September 2007. Chief recommendations included using the Spectrum of Prevention<sup>3</sup> as a framework for prevention efforts and the adoption of a social marketing campaign. Progress continues on this important roadmap for prevention of sexual assault within the Department.
- **Sexual Assault Awareness Month, April 2007.** The Department sponsored this annual event at the Women in Military Service for America Memorial. The theme was “Stand Up Against Sexual Assault...Make a Difference.” The Department spotlighted the importance of bystander intervention in preventing sexual assault. A public service announcement (PSA) was created in support of this theme and is currently running worldwide via the Armed Forces Radio and Television System. The PSA is available in both 30 and 60 second versions on the SAPRO website at [www.sapro.mil](http://www.sapro.mil).
- **Military OneSource.** The OSD Family Advocacy Program requested SAPRO's collaboration in updating resources for sexual assault victims on the Military OneSource (MOS) website. This past year, the Department evaluated the materials available through MOS. The Department is now collaborating on updates to training and information for both the MOS hotline consultants and the website.
- **Office of Victims of Crime funded Pennsylvania Coalition against Rape Training Project.** The Pennsylvania Coalition Against Rape (PCAR), one of the nation's leaders in SAPR, received a grant from the Office on Victims of Crime (OVC) to develop a training project with the Department. The project is currently developing educational materials for communities that serve military

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<sup>3</sup> Davis, R., Parks, L., and Cohen, L. (2006) *Sexual Violence and the Spectrum of Prevention: Towards a Community Solution*. Enola, PA: The National Sexual Violence Resource Center.

personnel and families. PCAR and SAPRO facilitated focus groups of military members at strategic locations across the country. Focus group feedback has been incorporated into a framework for the training curriculum. This project is ongoing and being guided by an advisory group composed of Military Service members.

- **Conferences, Training, and Information Sharing.** The Department provided ongoing subject-matter expertise to attendees of national conferences, military and federal and state agency training seminars by way of presentations and one-on-one consultations. SAPRO staff made over 20 presentations on DoD SAPR policy; confidentiality; civilian mandatory rape reporting laws; alcohol-facilitated sexual assault; military and civilian community collaboration; and victims' rights in the military. Organizations that sponsored conferences at which SAPRO staff spoke included the following:
  - Army Medical Command
  - International Society for Traumatic Stress Studies
  - National Sexual Violence Resource Center
  - International Association of Forensic Nurses
  - Department of Veterans' Affairs
  - Air Force Judge Advocate General's School
  - Defense Language Institute
  - Ending Violence Against Women International
  - National Organization for Victim Assistance
- **Media Relations.** The Department has received a variety of requests for interviews from national news organizations. Interviews or written statements on the OSD SAPR program have been provided to NBC News, NOW on PBS, All Things Considered (NPR), Newsweek and other media outlets.
- **Legislative Affairs.** Throughout the year, the Department maintained close contact and established working relationships with members of Congress. The Department responded to inquiries from Senate Armed Services Committee (SASC) Chairman Carl Levin (D-MI) and Ranking Member John McCain (R-AZ), Senator Barbara Mikulski (D-MD), Senator Patricia Murray (D-WA), Senator Joseph Lieberman (D-CT), Senator Barbara Boxer (D-CA), Senator Richard Durbin (D-IL), Senator Russ Feingold (D-WI), Representative Jane Harman (D-CA), Representative Susan Davis (D-CA), and Representative Scott Garrett (R-NJ). Additionally SAPRO offered and presented personal briefings to Senator Lieberman, Senator Boxer, House Armed Services Committee (HASC) Chairman Ike Skelton (D-MO), Representative Harman and Representative Davis. In December, SAPRO presented the recent Annual Report on Sexual Harassment and Violence at the U.S. Military Service

Academies to SASC and HASC professional staff, as well as legislative staff from the House of Representatives Women's Caucus.

### *Way Ahead for FY08*

- **Prevention Strategy.** A comprehensive prevention strategy will continue to evolve, as more research on effective bystander interventions becomes available. The Department will also enlist experts in this field to help with the development of a social marketing campaign.
- **Sexual Assault Awareness Month.** Activities for FY08 will focus on the dangerous intersection between alcohol and sexual assault. The Department is currently planning a day-long event for April 8, 2008. The event will feature presentations and performances that will focus on alcohol-facilitated sexual assault.
- **OVC Funded PCAR Project:** The second phase of the project will involve completion of the training curriculum for communities and service providers who support military populations.
- **Conferences, Training, and Information Sharing.** The Department will continue to provide subject-matter expertise to both the Military Services and our civilian partners.

### Training

The Military Services have successfully implemented comprehensive SAPR training. In addition, the SAAC Training Subcommittee reviewed these training programs and formulated recommendations to enhance current efforts.

### *Program Highlights and Accomplishments for FY07*

- **Training and Education.** The Department worked with the Services to institutionalize SAPR training programs. Service programs continue to provide the required initial and refresher training for all personnel, regardless of assigned organizational level. In addition to in-person, instructor led SAPR training, the Services leverage technology such as webinars and Internet-based individual courses to educate their people. Function specific training continues to be provided to the medical, legal, chaplain, and investigative specialties. SARCs, deployed SARCs, and VAs receive training on their duties; they also receive specialized training prior to a deployment and take part in ongoing continuing education in the field of sexual assault.
- **Training Oversight.** With input from the Service SAPR offices and the DMEIO, SAPRO established a framework for an assessment of training implementation at the Military Service Academies. The framework outlines

four critical components: the trainee, the trainer, the appropriateness of the training program content, and the effectiveness of the training delivery method.

### ***Way Ahead for FY08***

- The SAAC Training Subcommittee will continue to review current training programs and will recommend policy modifications to address any shortcomings that are identified.
- While the initial efforts of the SAPR program focused on sexual assault awareness and response, the next major avenue for training will be to support the DoD Prevention Strategy. This will likely involve development and deployment of a preliminary bystander intervention training program. The Services hope to prevent sexual assaults by teaching military members how and when to address inappropriate and/or risky behaviors.
- The Training Subcommittee plans to further refine its ability to evaluate sexual assault training programs across the Department of Defense.

### **FY07 Reports of Sexual Assault in the Military**

Studies indicate that most sexual assaults are not reported to law enforcement.<sup>4</sup> The Department of Defense's goal is to establish a climate of confidence that encourages victims to report sexual assault and get the care they need. The Department of Defense is accomplishing this goal by:

- Maintaining a comprehensive response capability at DoD installations for victims of sexual assault. Since June 2005, a key component of that response is allowing a victim the option of a Restricted Report, which permits reporting and access to care without initiating an investigation or notifying command.
- Institutionalizing extensive training programs to increase sexual assault awareness and prevention.
- Exercising oversight over SAPR programs and functions.

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<sup>4</sup> U.S. Department of Justice. (2002). *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000*. Washington, DC: Author.

In FY07, there were 2,688 total reports of sexual assault involving Military Service Members. The Services received 2,085 Unrestricted Reports of sexual assault involving members of the Military Services as either the subject or victim. The Services also received 705 Restricted Reports of sexual assault involving military victims. Fourteen percent (102) of Restricted Reports were changed to Unrestricted Reports at the victims' request, leaving 603 remaining Restricted Reports.

As previously noted, the reporting period for sexual assaults captured in this document changed from a CY to a FY basis. This change was the result of a revision to the crimes that comprise sexual assault in the UCMJ that took effect on October 1, 2007 (the FY08 Report on Sexual Assault in the Military will reflect this change). As a result, there are some important facts to note about this year's report:

- In order to present twelve months of sexual assault reports, the Department had to include a quarter's worth of data in this document that was previously contained in the CY06 Report on Sexual Assault in the Military. The period from October 1 to December 31, 2007 is the last quarter of CY06, but also the first quarter of FY07. Consequently, sexual assault reports made between October 1 and December 31, 2007 are included both in the CY06 and the FY07 Report on Sexual Assault in the Military.
- The Department of Defense continues to be in compliance with data reporting as mandated by Federal law. The change to fiscal year reporting aligns data reporting with the Department program year.
- Although general observations across reporting periods can be made, direct comparisons to prior year reports that were based on CY data collection should not be made. Statistically, direct comparisons would be subject to error, and may imply relationships and trends that do not exist.

Throughout the Department of Defense, sexual assault is not tolerated. Each report is taken seriously and Unrestricted Reports of sexual assault are investigated. It must be noted that the term "sexual assault" includes a wide variety of offenses that represent a continuum of severity, from rape or nonconsensual sodomy to indecent assault, as well as attempts to commit these offenses.

The military definition of “sexual assault”<sup>5</sup> is not the name of one specific crime; rather, it encompasses a range of sex crimes. Consequently, the definition of sexual assault in the military is broader than forcible or non-consensual intercourse. “Sexual assault” is defined by Department of Defense Directive 6495.01, Section E.2.1.12 as follows:

*For the purpose of this Directive and SAPR awareness training and education, the term “sexual assault” is defined as intentional sexual contact, characterized by use of force, physical threat or abuse of authority or when the victim does not or cannot consent. It 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 or spousal relationship or age of 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.*

### **FY07 Unrestricted Reports of Sexual Assault**

An Unrestricted Report of sexual assault is a report that is provided to command and/or law enforcement for investigation. Data from Unrestricted Reports are collected and reported to the Department by the MCIOs. Some of these cases may be reports of incidents that occurred prior to Military Service or in a prior reporting period.

In FY07:

- There were 2,085 Unrestricted Reports of sexual assault involving Military Members as either the subject<sup>6</sup> and/or victim of an investigation (Table 1).
- Of the 2,085 Unrestricted Reports, 1,511 (72%) involved Service Members as victims of alleged sexual assault.
  - Of the 1,511 Unrestricted Reports of sexual assault including Service Member victims, 868 (57%) were for alleged rape.
  - The 1,511 Unrestricted Reports included a total of 1,620 Service Member victims.

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<sup>5</sup> Note that the definition of “sexual assault” will change in FY08 due to the changes to Article 120 of the UCMJ, which defines the crimes constituting sexual assault.

<sup>6</sup> The term “subject” is used in the military to denote the suspected perpetrator of an offense.

*Table 1. Investigations of Unrestricted Reports of Sexual Assault: Service/Non-Service Member Victims by Offense Type*

UNRESTRICTED REPORTS OF SEXUAL ASSAULT INVOLVING SERVICE MEMBERS (BY or AGAINST Service Members) IN THE FOLLOWING CATEGORIES FOR FY07 INVESTIGATIONS	Rape	Sodomy (Forcible)	Indecent Assault	Attempts to Commit these Offenses	TOTAL UR FY07
<b>TOTAL</b>	<b>1259</b>	<b>124</b>	<b>701</b>	<b>1</b>	<b>2085</b>
# Service Member Victims	868	91	551	1	1511
# Non-Service Member Victims	391	33	150	0	574

Sexual assault investigations and outcomes of those cases sometimes cross reporting periods. Consequently, the following information includes data about FY07 reports that led to completed investigations in FY07, as well as data from pending investigations from reports made in prior years that were completed in FY07 (Table 2).

- There were 1,955 completed investigations in FY07 resulting from reports of sexual assault made during and prior to FY07.
  - The FY07 reporting period included dispositions from 611 completed investigations conducted in years prior to FY07.<sup>7</sup>

### *Disposition of Completed Investigations*

In FY07, MCIOs completed a total of 1,955 investigations on reports of sexual assault involving military subjects and/or victims (Table 2).

- There are 759 pending investigations from total reports made during and prior to FY07 that will be reported in our FY08 Report on Sexual Assault in the Military.
- Of the total 1,955 investigations that were completed in FY07, 1,344 (69%) were investigations from reports made during FY07.
- Sexual assault reports may involve more than one subject or victim.
  - Of the 1,344 completed investigations of reports made in FY07, 154 (11%) involved more than one subject, more than one victim, or multiple subjects and victims.

<sup>7</sup> Completed investigations from prior years (611) are added to the number of completed investigations in FY07 (1,283) to reflect the correct total of completed investigations for the reporting period (1,389).

**Table 2. Completed and Pending Investigations Resulting from Sexual Assault Reports Made During and Prior to FY07**

INVESTIGATIONS COMPLETED IN FY07 RESULTING FROM REPORTS MADE DURING AND PRIOR TO FY07	REPORTS MADE PRIOR TO FY07	REPORTS MADE DURING FY07	TOTAL FY07
<i>TOTAL INVESTIGATIONS OF UNRESTRICTED REPORTS OF SEXUAL ASSAULT</i>	629	2085	2714
# Investigations <b>Completed</b> as of 30-SEP-07 (involving one or more subject)	<b>611</b>	<b>1344</b>	<b>1955</b>
# Investigations Still <b>Pending</b> as of 30-SEP-07	18	741	759

The 1,955 completed FY07 investigations involved 2,212 subjects. These subjects included individuals under a military commander's legal authority, as well as civilians and foreign nationals that may not be subject to military law (Table 3).

- Of the total 2,212 subjects resulting from all investigations completed in FY07, commanders had sufficient evidence of a crime to support taking action on 1,172 (53%) subjects.
  - Of these 1,172 subjects, 600 (51%) disposition actions were completed in FY07 for reports of sexual assault, which included rape, nonconsensual sodomy, indecent assault, and attempts to commit these offenses (Table 3). These dispositions were broken down as follows:
    - 181 (30%) courts-martial,
    - 201 (34%) nonjudicial punishments, and
    - 218 (36%) administrative actions and discharges.
  - The remaining, 572 (49%) subjects were pending disposition action as of September 30, 2007 and will be reported in FY08.

Of the 1,040 subjects where the commanders could not take direct action (Table 3):

- 111 (11%) were civilians or foreign nationals who were not subject to UCMJ authority
- 132 (13%) were unidentified
- 797 (77%) were cases that were unsubstantiated or unfounded, lacked sufficient evidence, the victim recanted, or death of subject or victim.

**Table 3. Dispositions of Subjects from Sexual Assault Reports Made During and Prior to FY07 from Investigations Completed in FY07**

DISPOSITION OF SUBJECTS FROM INVESTIGATIONS COMPLETED IN FY07 – RESULTING FROM REPORTS MADE DURING AND PRIOR TO FY07	REPORTS MADE PRIOR TO FY07	REPORTS MADE DURING FY07	TOTAL FY07
<i>TOTAL SUBJECTS</i>	743	1469	2212
<b>COMMAND ACTION TAKEN ON SUBJECTS:</b>	<b>251</b>	<b>349</b>	<b>600</b>
# Courts-martial	78	103	181
# Nonjudicial Punishment	81	120	201
# Other Administrative Actions and Discharges	92	126	218
<b>REASONS COMMANDER COULD NOT TAKE ACTION:</b>	<b>338</b>	<b>702</b>	<b>1040</b>
# Under Civilian Court Action/Foreign Authority Action	41	70	111
# Unidentified Subject; Punitive Action Not Possible	32	100	132
# Unsubstantiated/Unfounded/Insufficient Evidence, etc	265	532	797
<b>SUBJECTS PENDING DISPOSITION AS OF 30-SEP-07</b>	<b>154</b>	<b>418</b>	<b>572</b>

Note: Bolded column totals add to the total number of subjects:  $600 + 1040 + 572 = 2,212$ ; 4 subjects transferred ( $1473 - 1469 = 4$ )

### FY07 Restricted Reports of Sexual Assault

A Restricted Report is a confidential report that allows the victim to receive medical care, advocacy, and counseling services without an investigation being initiated. While a commander is usually notified by the SARC that an assault occurred, that commander would not be informed of the victim's identity or information that could lead to identification. Victims always have the option to change their Restricted Report to an Unrestricted Report and participate in an investigation. Because Restricted Reports are confidential as defined in SAPR policy, the SARC collects and provides their Military Service and the Department with very limited data about the victim and the allegation being made. As with Unrestricted Reports, Restricted Reports can be made about incidents occurring in prior reporting periods and incidents that occur prior to military service (Table 4).

In FY 07:

- There were 705 Restricted Reports of sexual assault.
  - Of these 705 reports, 489 (69%) were reports of rape.
- 102 (or 14% of the total 705) Restricted Reports were changed to Unrestricted Reports at the request of the victims.
  - Of the initial 705 Restricted Reports, 603 (86%) remained Restricted.<sup>8</sup>

<sup>8</sup> The Restricted Reports that converted to Unrestricted Reports are included in the total of 1,904 reports cited earlier.

**Table 4. Restricted Reports of Sexual Assault: Service Member Victims by Offense Type**

RESTRICTED REPORTS OF SEXUAL ASSAULT IN THE FOLLOWING CATEGORIES	Rape	Sodomy (Forcible)	Indecent Assault	Attempts to Commit These Offenses	Unknown	TOTAL FY07
# Service Member Victims	489	39	125	28	24	705

Note: Of the total 705 Restricted Reports, 102 were changed to Unrestricted Reports by victim choice.

### **FY07 Reports of Sexual Assault in the USCENTCOM AOR**

Arduous conditions in the US Central Command (USCENTCOM) Area of Responsibility (AOR) made sexual assault response and data collection very demanding. However, there are SARCs and VAs in place throughout the USCENTCOM AOR, including Afghanistan and Iraq. Field hospitals are outfitted with SAFE kits for evidence collection. Please note that recorded location of sexual assaults reported in the USCENTCOM AOR numbers may be subject to change as information is validated over time. Also, the data reported below are included as part of the Unrestricted Reports and Restricted Reports described in previous sections.

In FY07, there were 174 reports of sexual assault in the USCENTCOM:

- There were 153 Unrestricted Reports of sexual assault in the USCENTCOM AOR.
  - Of these 153 Unrestricted Reports, 104 (68%) reports were made in Iraq and 18 (12%) were made in Afghanistan.
  - The remaining 31 (20%) Unrestricted Reports were made in other areas of the USCENTCOM AOR.
- There were 22 Restricted Reports of sexual assault in the USCENTCOM AOR. Of the 22 reports, one report was changed to Unrestricted by the victim, leaving 21 Restricted Reports that remained Restricted.
  - Of the 21 Restricted Reports that remained Restricted, 8 (38%) were made in Iraq and 1 (5%) was made in Afghanistan.
  - The remaining 12 (57%) were made in other areas of the USCENTCOM AOR.

## Comparing Department of Defense SAPR Data

Statistically, comparing data across time periods can be helpful when looking for trends or relationships. However, as previously noted, making such inferences when two or more sets of data are drawn from differing time periods or when the data are collected using differing definitions can make the results prone to error.

Consequently, we caution the users of this report from making definitive conclusions based on faulty comparisons to prior year reporting.

### ***Comparison to Other DoD Data***

Prior to the creation of SAPRO, the Department did not collect data uniformly. The DoD *Care for Victims of Sexual Assault Task Force Report* determined that the data collected by the Services could not be compared due to inconsistent or incomplete databases and different data reporting definitions. Reports from CY02 and CY03 only involved Service Members as victims. In CY04, reports started to include assaults involving Service Members as victims or subjects.

Since the creation of SAPRO, there has been increased uniformity on the definition of data to be included in the Report on Sexual Assault in the Military. However, changes in policy and military law have caused a change in how data are reported to Congress. The CY05 and CY06 reports differ from prior years' reports because they captured data on Restricted Reporting, which was not instituted until June 2005. FY07 data differs from prior years because it covers the fiscal reporting year versus the calendar year of past reports. Because of these changes, only limited and general comparisons can be made to prior year reports.

### ***Comparison to Other Data Sets***

The data contained in the FY07 Report on Sexual Assault in the Military is not comparable to the data published by the Federal Bureau of Investigation's Uniform Crime Reporting Program (UCR). The UCR records only founded cases of rape and attempted rape against women, while the Department of Defense tracks all reported cases of sexual assault against men and women. The DoD definition of sexual assault used for reporting purposes includes rape, nonconsensual sodomy, indecent assault, and attempts to commit any of these offenses. The UCR also deletes reports that are later proven to be unfounded, whereas the Department of Defense does not.

## **FY07 Military Service Policy and Program Actions**

The Military Service SAPR programs are continuing to implement their programs worldwide through aggressive staffing, training, and victim support. Following are the highlights of the Service SAPR programs for FY07:

### ***Army***

The Army continued to aggressively operate and improve its comprehensive SAPR program. To date, much of the Army's emphasis has been on victim services and response capabilities. That emphasis will continue undiminished. As one of the Army SAPR program's stated goals is to eliminate sexual assault, increased emphasis on prevention efforts will highlight the Army's activities during 2008.

The Army continues to be the chief service provider to victims of sexual assault in the deployed environment. Over 100 deployed Army personnel stand ready to provide services to victims of sexual assault within the USCENTCOM AOR, including Iraq and Afghanistan.

The Army remains committed to thoroughly investigate and take appropriate action in all Unrestricted Reports of sexual assault.

### ***Navy***

The Navy Sexual Assault Victim Intervention (SAVI) program made operational and programmatic improvements in FY07. During the year, the SAVI program welcomed new staff, participated in the National Capital Region SARCs' efforts to develop joint-service VA training, co-chaired two SAAC subcommittees (Research and Outreach), rolled out a real-time online discussion and training program (webinar), formed a working group to design a SARC Resource Guide, launched an interactive web portal, and delivered a standardized curriculum for key SAVI responder positions to the field. These improvements are the value added initiatives that continue to improve the SAVI program.

During the year, the SARCs extended their outreach efforts to include more community organizations and worked to become more visible members of their installations. SARCs have trained personnel for all SAVI locations. Sailors across the Navy indicate recognition of the SAVI program, the reporting options available to them, and the key SAVI roles at their commands.

The SARC and SAVI program attention to victim response and intervention efforts have resulted in greater levels of victim satisfaction and sense of safety. There were no reports of responses hindered by lack of SAFE kits. Using the Sexual Assault Case Management Group (SACMG) and leadership briefings, SARCs have cultivated stronger relationships with all branches of the Navy sexual assault response team. These meetings -- in some regions held monthly to address larger issues -- have assisted with case management, data collection, and monthly updates to victims. To

ensure understanding of the SACMG among new SAVI personnel, the CNIC Headquarters (HQ) SAVI program is releasing Navy SACMG policy implementing guidance in the second quarter of FY08.

The Navy SAVI program made great progress in FY07, and recognizes the need to continue this forward push in FY08. A Navy-wide case management program is scheduled to be launched in FY08. CNIC is also taking advantage of technological capabilities to offer real-time training and discussions to ensure the most effective, timely sharing of information and ideas.

### ***Marine Corps***

In FY07, the Marine Corps' SAPR program moved forward with refinements in policy. Marine Corps directive, MCO 1752.5, was revised to codify procedures, specify minimum standards for training, ensure conformance to DoD Directives, assist commanders in more efficiently executing their responsibilities, and provide for evaluation and assessment of each command.

In FY07, 2,010 victim advocates and/or unit victim advocates, 226 SARCs, 1,009 provost marshals, and 65 personnel from the Army Criminal Investigative Division were trained to respond to sexual assaults.

Additionally, the Marine Corps moved beyond reactive response capabilities to proactive prevention. The Corps accomplished this by employing a combination of innovative training methods, including the Mentor in Violence Prevention program -- a program in Marine Corps use since 1998 to empower bystander intervention in domestic abuse. Another program employed was Catharsis Productions' "Sex Signals," a prevention intervention that targets the "Millennial Generation," which is the Marine Corps' recruitment base. Bystander intervention promises to be an exciting component of the future of sexual assault prevention and response, and any curricula developed will have applications well beyond the recruit depots and officer candidate school.

### ***Air Force***

The Air Force (AF) maintained a comprehensive SAPR capability through the strategic placement of full-time civilian and military SARCs in FY07. The successes of the program relied heavily upon the 1500-plus volunteer VAs (consisting of both active duty AF Members and civilian employees) to effectively work face-to-face issues with victims after their initial reports. First responder training became more firmly entrenched into functional area formal school sessions and field-level training, and led to improved cooperation between the two communities. While the initial stages of the SAPR program focused on awareness and response, the next evolving step is to concentrate on prevention through the development of bystander intervention training. This training will specifically target those in a position to stop

sexual assaults by teaching them how to address inappropriate behavior as it occurs. The foundation for this training development began during FY07 with a symposium consisting of AF leaders, other services, and recognized national subject-matter experts. Continued efforts have narrowed the range of proposed material and focus to that which is suited well for the AF culture and people. The AF also had multiple opportunities to successfully engage with national advocacy groups and community service providers. The AF also served as the keynote presenter for national level conferences.

The success of the AF SAPR program also continues in deployed environments. Policies and procedures were refined at each location to provide the best available services for victims.

### Strategic Observations

**Changes Across Years.** There are several challenges associated with comparing the number of sexual assault reports made from year to year in the Department's Reports on Sexual Assault in the Military. Previous year reports made by the Department were based on the calendar year. However, Congressional revisions to the UCMJ drove Department of Defense to change the reporting collection period from CY to FY. The sexual assault reports described in this document were made in FY07, which is from October 1, 2006 through September 30, 2007. One calendar quarter's worth of the reports (October 1 to December 31, 2006) were also included in the Department's Report on Sexual Assault in the Military for CY06.

Despite the changes, this document captures twelve months of sexual assault reports. When the current statistics are compared to the twelve months described in the CY06 report, there is a small net decrease in both the number of Unrestricted (192 fewer reports) and Restricted Reports (52 fewer reports). This may tempt some to say that the actual number of sexual assaults in the military has decreased – but the decrease is likely insignificant in numerical terms. It is hoped that the prevention and response measures undertaken over the past three years have caused a decrease in sexual assaults. However, it is too early to tell if this slight downward movement could be the beginning of a downward trend in the number of reports. There are a variety of other reasons that might account for the decrease in reports this year, including (but not limited to) the overlap in reporting described above, fewer reports being made to authorities, the change in reporting period from calendar to fiscal year, and the nature of the sexual assaults being reported (assaults occurring pre-service versus occurring on active duty).

Overall, the proportion of aggregate Restricted Reports to aggregate Unrestricted Reports in the past two years has remained stable: In CY06 and in FY07, Restricted Reports accounted for 26% of all sexual assault reports.

**Accused Accountability: Range of Disposition Options.** In the military, the commander is responsible for discipline and has a broader range of available punishment options than civilian authorities. In the civilian sector, civilian offenders can only be punished if they are convicted at a trial or plead guilty through US civilian authority. Military offenders can face courts-martial, nonjudicial punishment or administrative action. A court-martial may result in prison time, forfeiture of pay and allowances, reduction in rank, and a punitive discharge from military service. Although a court-martial is the most severe disposition option, the other forms of punishment may be significant and have a lasting impact on a person's career.

Nonjudicial punishment occurs pursuant to Article 15 of the UCMJ and can reduce members in rank, seize a portion of their pay, add extra duty, and impose restrictions on freedom. Records of Article 15 punishment are permanent and can ultimately impact the ability to stay in the military. Finally, adverse administrative action may result in a Letter of Reprimand or Admonition being given to an individual. These letters can often be used as grounds to prevent promotion or re-enlistment or to justify an administrative discharge action. From all command actions taken in FY07 (600 completed dispositions), one-third (201) were given nonjudicial punishment and just over one-third (218) were subject to administrative action or discharge.

**Victim Response.** The Services' SAPR programs provide comprehensive response and care to victims of sexual assault. All Military Services provide a 24 hour a day, 7 day a week sexual assault response capability in both deployed and non-deployed environments. Trained SARCs and VAs are available to respond to reports of sexual assault while providing referrals and ongoing non-clinical support to victims. In FY07, over 10,000 VAs received initial or refresher training on delivering advocacy support to victims. In addition, specialized training was conducted for responders, including chaplains, attorneys, investigators, and healthcare personnel. The Department of Defense will continue its efforts to support victims with trained response personnel, thereby increasing confidence in the military reporting system and encouraging other victims to come forward to receive care and treatment.

As part of the DoD response to reported incidents of sexual assault, SAFE kits are available to victims through both the Unrestricted and Restricted Reporting options. In FY07, there were no reports that a response to an investigation of a sexual assault was hindered by the lack of availability of a SAFE kit.

**The Intersection between Alcohol Use and Sexual Assault.** The toxicological effects of alcohol can be a useful weapon to the perpetrator of sexual assault. However, those same effects can present extreme challenges to those responding to sexual assault, particularly the investigator, the trial counsel and the commander. Although the Services were not required to record alcohol use in every case synopsis, alcohol use was noted as a factor in 388 (35%) of the 1114 synopses of substantiated

reports of sexual assault (Enclosure 3). Based on current research, and the fact that not all synopses reported on the presence of alcohol in the incident, we believe that this is an underestimate of the true involvement of alcohol in DoD sexual assault reports. The use of alcohol as a non-traditional weapon by perpetrators cannot be ignored. We must begin to examine the intersection between alcohol and sexual assault to determine whether we are responding in the best way possible to victims of alcohol-facilitated sexual assault. In light of this, the Department will be hosting a symposium on alcohol-facilitated sexual assault as part of its 2008 Sexual Assault Awareness Month observation. Also, because of this interaction between alcohol and sexual assault, the Department will request that the Services collect information on alcohol involvement in sexual assault incidents for the FY08 Report on Sexual Assault in the Military.

### Conclusions

The Department of Defense continues its commitment to eradicate sexual assault in the Military Services. The Department has institutionalized sexual assault prevention and response across all four Military Services. During the last fiscal year, the SAAC and its four subcommittees were established to provide a high level of oversight over sexual assault prevention and response in the military. The Military Services strengthened their training programs and have SARCs and VAs in place for 24 hour a day, 7 days a week service to victims. With the support of the SAAC and assistance from its subcommittees, the Department and the Military Service SAPR programs are turning now their attention to program accountability. In addition, the Department will be moving forward to establish standards that will assist with program evaluation. Finally, the Department will be taking greater strides to prevent the crime of sexual assault before it occurs by leveraging its greatest asset: its military Service Members.