

# COMMANDER'S 30-DAY CHECKLIST FOR UNRESTRICTED REPORTS OF SEXUAL ASSAULT

## I. INTRODUCTION

The sexual assault response checklist is intended to serve as a baseline for the first 30 days for the commander's response to adult sexual assault victim(s), alleged offender(s), and unit in the event of an Unrestricted Report of sexual assault. The checklist may be expanded to meet Military Service-specific requirements and procedures. These checklist items do not represent all of the responsibilities assigned to commanders for the entire Sexual Assault Prevention and Response (SAPR) program.

It is important for commanders to take time prior to an incident to become familiar with your Service SAPR policies and installation SAPR personnel. There are other important SAPR requirements to consider past the 30-day timeframe covered in this list. For full details regarding all SAPR program responsibilities for commanders, see Enclosure 5 of Department of Defense (DoD) Instruction 6495.02 and applicable Military Service-specific policies.

Active duty Service members, National Guard (NG) members, and Reserve Component (RC) members will be eligible to receive SAPR advocacy services from a Sexual Assault Response Coordinator (SARC) or SAPR Victim Advocate (SAPR VA) regardless of whether the assault took place while on active duty, prior to enlistment or commissioning, or while performing inactive duty training. Service members of the active duty component, NG, and RC are eligible to file either a Restricted or Unrestricted Report. Commanders can assist the NG or RC member in requesting contractual active duty status (or be brought onto active duty status) to complete a Line of Duty (LOD) in order to assure continuity of healthcare<sup>1</sup>.

Eligibility under the SAPR program for military dependents 18 years of age and older who are eligible for treatment in the military healthcare system (MHS), at installations in the continental United States (CONUS) and outside of the continental United States (OCONUS), and who were victims of sexual assault perpetrated by someone other than a spouse or intimate partner. Adult military dependents may file unrestricted or restricted reports of sexual assault. Additionally, non-military individuals who are victims of sexual assault are only eligible for limited emergency care medical services at a military treatment facility, unless that individual is otherwise eligible as a Service member or TRICARE (<http://www.tricare.mil>) beneficiary of the military health system to receive treatment in a military treatment facility (MTF) at no cost to them. At this time, they are only eligible to file an Unrestricted Report. Additionally, non-military individuals will also be offered the LIMITED SAPR services to be defined as the assistance of a Sexual Assault Response Coordinator (SARC) and a SAPR Victim Advocate (VA) while undergoing emergency care OCONUS. These limited medical and SAPR services shall be provided to:

- (1) DoD civilian employees and their family dependents 18 years of age and older when they are stationed or performing duties OCONUS and eligible for treatment in the MHS at military installations or facilities OCONUS. These DoD civilian employees and their family dependents 18 years of age and older only have the Unrestricted Reporting option.
- (2) U.S. citizen DoD contractor personnel when they are authorized to accompany the Armed Forces in a contingency operation OCONUS and their U.S. citizen employees. DoD contractor

personnel only have the Unrestricted Reporting option. Additional medical services may be provided to contractors covered under this instruction in accordance with DoDI 3020.41 (Reference (q)) as applicable.

## **II. VICTIM'S COMMANDER**

( ) **SAPR Advocacy:** Require that the SARC is notified immediately and that the SARC or a SAPR VA makes contact with the victim as soon as possible.

( ) **Timely access to healthcare:** Require that the victim receives timely access to comprehensive medical and psychological treatment, including emergency care treatment and services (regardless of visible injuries), unless the victim declines healthcare. Ensure that sexual assault victims are given priority, and treated as emergency cases. If needed, assist with obtaining immediate transportation for the victim to the hospital or other appropriate medical treatment facility using a government owned/operated vehicle (do not use a personally operated vehicle).

( ) **Forensic Exam:** Ask the victim whether s/he would be willing to have a Sexual Assault Forensic Examination (SAFE). If the victim elects to have a SAFE, advise the victim of the need to preserve evidence (by not bathing, showering, having anything by mouth, emptying bladder, washing garments, or sheets, etc.).

( ) **Military Criminal Investigation Organization Contact:** Immediately refer the matter to the Military Criminal Investigation Organization (MCIO) concerned (e.g. Naval Criminal Investigative Service (NCIS), Air Force Office of Special Investigations (OSI), or Army Criminal Investigation Command (CID)), as soon as the victim's immediate safety is assured and medical treatment procedures elected by the victim are initiated. Do **NOT** conduct any internal command directed investigation of the sexual assault or delay immediate contact with the MCIO. MCIOs have total responsibility for report investigation. Finally, the commander is not required to assess the credibility of the report.

[ ] **Victim's Alleged Collateral Misconduct:** If there is alleged victim collateral misconduct, commanders shall have discretion to defer action on alleged collateral misconduct by the sexual assault victims (and shall not be penalized for such a deferral decision), until final disposition of the sexual assault case, taking into account the trauma to the victim and responding appropriately so as to encourage reporting of sexual assault and continued victim cooperation, while also bearing in mind any potential speedy trial and statute of limitations concerns.

[ ] Consult with the servicing legal office, as needed, to determine when and how best to adjudicate the victim's alleged collateral misconduct, if needed. Take into account the trauma to the victim and respond appropriately to foster a unit climate that encourages reporting of sexual assault and continued victim cooperation.

[ ] When practicable, consult with the servicing legal office and MCIO, and notify the assigned SARC or SAPR VA prior to taking any administrative or disciplinary action affecting the victim.

( ) **Victim Safety:** Ensure the physical safety of the victim— the Case Management Group (CMG) Chair<sup>2</sup> has designated installation personnel trained and able to perform a formal "Safety Assessment" of adult sexual assault victims. As a tool, a Safety Assessment is used to identify potential threats while addressing immediate safety needs and outlining strategies to help reduce future incidents of

harm. Require the designated personnel to conduct a safety assessment of the victim. The Safety Assessment will determine:

If the alleged offender is still nearby and if the victim desires or needs protection or if the victim is at risk of doing harm to himself/herself.

If the victim is concerned about retaliation from peers or supervisors.

If the victim poses a suicide risk.

If the victim's safety is in jeopardy, immediately notify the victim's commander of the need to establish, without delay, through the installation commander a multi-disciplinary **High-Risk Response Team (HRRT)**. The HRRT will continually monitor the victim's safety, by assessing danger and developing a plan to manage the situation (in accordance with DoDI 6495.02, Enclosure 9). The HRRT shall be chaired by the victim's commander and, at a minimum, include the suspect's commander; the victim's SARC and SAPR VA; the MCIO, the judge advocate, if applicable and the Victim/Witness Assistance Provider (VWAP) assigned to the case, the victim's healthcare provider or mental health and counseling services provider; and the personnel who conducted the safety assessment.

( ) **Access to Support Person:** Ask if the victim would like to speak to a chaplain, family member, emergency contact, or other support person and, if so, facilitate the meeting.

( ) **Legal Services:**

Inform the victim of the opportunity to consult with Special Victim's Counsel (SVC), Victim's Legal Counsel (VLC), or Legal Assistance Attorney.

In cases where the victim may have been involved in collateral misconduct, inform the victim of the opportunity to consult with defense counsel.

( ) **Military Protective Orders\Civilian Protective Orders:**

Determine if the victim desires or needs a Military Protection Order (MPO) to be issued (via completion of DD Form 2873), particularly if the victim and the alleged offender are assigned to the same command, unit, duty location, or living quarters. Coordination with other commanders may be necessary if the alleged offender is assigned to a different commander.

Are only available for Unrestricted Reports.

If an MPO is issued, notify the appropriate civilian and military authorities of the MPO issuance and of the individuals involved in the order, in the event the MPO has been issued against a Service member and any individual involved in the MPO does not reside on a military installation at any time during the duration of the MPO. The MPO should also be entered by the installation law enforcement agency in National Crime Information Center (NCIC), for the duration of the order. Also, notify the appropriate civilian and military authorities of any change in or termination of the MPO and have the installation law enforcement agency update the NCIC entry.

Require the alleged offender to sign the DD Form 2873.

Provide the victim(s) and alleged offender(s) involved with copies of the completed DD Form 2873 and require the MCIO to document the MPO in their investigative case file.

Advise the person seeking the MPO that it is not enforceable by civilian authorities off base and that victims desiring protection off base should with the assistance of the SARC or SAPR VA seek a Civilian Protective Order (CPO).

Take all necessary measures to ensure that a CPO is given full force and effect on all DoD installations within the jurisdiction of the court that issued the order and inform the SARC of an existing CPO or MPO. The SARC will then ensure the CMG is aware of the existence of the order(s).

( ) **Expedited Transfer:** Safety issues are NOT handled through an Expedited Transfer. They are handled through a fast safety move. (An Expedited Transfer may take longer than a safety move.) The intent behind the Expedited Transfer policy is to address situations where a victim feels safe, but uncomfortable.

Are only available for Unrestricted Reports.

Require the SARC or the SAPR VA to explain to adult military sexual assault victims that they may request an Expedited Transfer (temporary or permanent) to a different installation or to a different unit within his/her current installation. If the victim requests an Expedited Transfer, consider the desires of the victim when making any reassignment determinations.

Commanders are authorized to move the alleged offender instead of the victim and should be considered when individual circumstances warrant.

( ) **DD Form 2910:** Require the SARC or the SAPR VA to explain to adult sexual assault victims their reporting options and rights while assisting them in completing DD Form 2910, "Victim Reporting Preference Statement".

( ) **DoD Sexual Assault Incident Database:** Confirm that the SARC entered all reported sexual assaults into DoD Sexual Assault Incident Database (DSAID) within 48 hours of the report (in deployed locations that have internet connectivity issues, the time frame is extended to 96 hours). The SARC responsibilities include uploading DD Form 2910 for Unrestricted cases into DSAID.

( ) **Sexual Assault Incident Response Oversight:** A Sexual Assault Incident Response Oversight (SAIRO) report must be submitted within eight calendar days of an Unrestricted Report by the immediate commander.

The eight-day timeframe begins when an Unrestricted Report is made to a SARC or SAPR VA, and the SARC or SAPR VA fills out a DD Form 2910. However, if the victim is a civilian who is not eligible for SAPR Services in accordance with DoDD 6495.01, and the subject is a Service member, then the trigger for the eight-day timeframe begins when the MCIO notifies the immediate commander of the subject.

Further guidance on the SAIRO requirements can be found in DoDI 6495.02, Enclosure 5.

If the victim accepts advocacy services, the SARC must provide a description of any circumstances in the response that adversely affected the command's ability to address the victim's needs (e.g., timeliness; sensitivity; obstacles to care; coercion, retaliation, or reprisal). The SARC will include any victim input provided with documented victim consent for disclosure of privileged communications. The SARC will confirm that the victim was informed of the ability to speak to a SVC/VLC before providing consent for release of privileged information.

( ) **Victim Privacy:** Strictly limit knowledge and release of the facts or details regarding the incident to only those personnel who have an *official need-to-know or as authorized by law* as designated in DoDI 6495.02, Enclosure 5.

( ) **Case Management Group (CMG) meeting:** Participate in the monthly CMG meeting. Contact the SARC or installation commander to identify when the next CMG is scheduled. The victim's commander is a mandatory member of the CMG and he/she may not delegate the responsibility to attend the CMG unless authorized under Service SAPR policy. Note: The intent is to have command involvement in the CMG. Thus, the victim's immediate commander is the intended participant in the CMG.

Provide the victim with monthly status updates to include:

- MCIO investigation,
- medical,
- legal,
- status of an Expedited Transfer request,
- any other request made by the victim,
- command proceedings regarding the sexual assault from the date the investigation was initiated until there is a final disposition of the case.

This update must occur within 72 hours of the last CMG meeting. If the victim is transferring from the installation, make future communication arrangements with the victim, so you can contact her/him after future CMGs to provide updates.

**( ) Protection from Retaliation:** Protect the victim from coercion, ostracism, discrimination, or reprisals in person, through electronic communications, or through social media. Also protect SARCs and SAPR VAs from coercion, ostracism, discrimination, or reprisals related to the execution of their SAPR duties and responsibilities. In the event of coercion, ostracism, discrimination, or reprisal, notify the Inspector General or Military Equal Opportunity as appropriate.

[ ] At every CMG meeting, the CMG Chair will ask the CMG members if the victim, witnesses, bystanders (who intervened), SARCs and SAPR VAs, responders, or other parties to the incident have experienced any incidents of coercion, retaliation, ostracism, maltreatment, or reprisals. If any incidents are reported, the installation commander will develop a plan to immediately address the issue. The coercion, retaliation, ostracism, maltreatment, or reprisal incident will remain on the CMG agenda for status updates, until the victim's case is closed concerning the SAPR investigation and retaliation allegation.

**( ) Victim Rights:**

[ ] Direct MCIO and VWAP personnel to provide the victim with Victim Rights information outlined on the DD Form 2701 through the investigative and legal process.

[ ] Ensure the victim has access to an SVC/VLC.

**( ) Victim Support from Commander:**

[ ] Throughout the investigation, with assistance from the SARC or SAPR VA consult with the victim, listen to his/her feedback, and engage, as needed, to provide the victim appropriate support resources and referrals. Help the victim regularly access care and attend referral appointments, as needed. To the extent practicable, accommodate the victim's desires regarding safety, health, and security, as long as neither a critical mission nor a full and complete investigation is compromised.

[ ] With assistance from the SARC or SAPR VA, continue to monitor the victim's well-being, particularly if there are any indications of suicidal ideation, homicidal, or other unhealthy attempts to cope with stress, and ensure appropriate assistance is rendered. Consult with medical and mental health providers for appropriate courses of action, as needed.

**( ) Personnel Reliability Program:** Avoid automatic suspension or revocation of a security clearance and/or Personnel Reliability Program (PRP) access, understanding that the victim may be satisfactorily treated for his/her related trauma without compromising his/her security clearance or PRP status. Make the final determination based upon established national security standards, taking into consideration the negative impact that suspension of a victim's security clearance or PRP may have on building a climate of trust and confidence in the Military Service's sexual assault reporting system. (See DoD 5210.42-R for specific requirements.)

### **III. ALLEGED OFFENDER'S COMMANDER**

( ) **MCIO:** Notify the appropriate MCIO immediately after receiving a report of a sexual assault incident.

( ) **No Command-Directed Investigations:** Do **NOT** conduct any internal command-directed investigation of the sexual assault, delay immediate contact with the MCIO, or attempt to assess the credibility of the report. Avoid questioning the alleged offender about the sexual assault allegation, to the extent possible, since doing so may jeopardize the criminal investigation.

( ) **Privacy:** Strictly limit information pertinent to an investigation to those who have an official need-to-know.

( ) **Defense Legal Services:** Ensure procedures are in place to inform the alleged offender, as appropriate, about the investigative, legal, and command processes that may be involved.

( ) **Alleged Offender Healthcare:** As appropriate, refer the alleged offender to available counseling groups and other services or make sure that procedures are in place to inform the alleged offender about available counseling support. However, precautions need to be taken to verify that the victim and the alleged offender are not in the same counseling sessions, groups or classes or any other gatherings or installation events.

( ) **Safety of Alleged Offender and Victim:**

Monitor the well-being of the alleged offender, particularly for any indications of suicide ideation or other unhealthy attempts to cope with stress, and ensure appropriate assistance is rendered. Consult with medical and mental health providers for appropriate courses of action, as needed.

Monitor the alleged offender for erratic or violent behavior that may endanger the safety of the victim or others.

If the victim's safety is in jeopardy and a multi-disciplinary HRRT is convened, participate in the HRRT to continually monitor the victim's safety, and provide insight on alleged offender's current behavior by assessing danger and developing a plan to manage the situation.

With assistance from the SARC, SAPR VA, legal, and/or investigative agent, determine the need for an MPO via completion of DD Form 2873. (See above for further details regarding MPOs.)

( ) **Victim Retaliation or Ostracism:** Monitor for incidents of coercion, ostracism, discrimination, or reprisals against the victim in person, in the unit or workplace through electronic communications, or through social media.

( ) **Alleged Offender Retaliation or Ostracism:** Monitor for incidents of coercion, ostracism, discrimination, or reprisals against the alleged offender in person, in the unit or workplace through electronic communications, or through social media.

( ) **SAIRO:** The immediate commanding officer of the alleged offender will be responsible for preparing and submitting the abbreviated SAIRO report containing available information within eight calendar days involving a civilian victim who is **Not** eligible for SAPR Services in accordance with

DoDI 6495.02, Enclosure 5 and the alleged offender/Service member, with the understanding that some victim or subject information may not be accessible.

#### **IV. IMPORTANT POINTS TO REMEMBER FOR EACH UNIT COMMANDER OF THE VICTIM AND ALLEGED OFFENDER**

##### ***IN THE EVENT OF A SEXUAL ASSAULT***

( ) It is important to make sure that everyone in a unit and on base know that the alleged offender is presumed innocent until proven guilty and each report is considered credible until proven otherwise.

( ) Advise those who may have knowledge of the events leading up to or surrounding the incident to fully cooperate with any investigation involved in accordance with the standards of your Service and the Uniform Code of Military Justice.

( ) Remind members that discussion of a possible sexual assault incident might compromise an ensuing investigation. Discourage members from participating in “barracks gossip” or grapevine speculation about the case or investigation.

( ) Emphasize that acts of coercion, ostracism, discrimination, or reprisals against the victim, offender, and/or witnesses, bystanders will not be tolerated and the person(s) who commits any of these acts will be subject to disciplinary action according to the UCMJ.

[ ] Consult with your Service-specific retaliation policy.

( ) Emphasize that acts of coercion, ostracism, discrimination, or reprisals against SARCs and SAPR VAs related to the execution of their SAPR duties and responsibilities will not be tolerated and the person(s) who commit any of these acts will be subject to disciplinary action according to the UCMJ will be subject to disciplinary action according to the UCMJ.

( ) Review past Unit Climate Assessments, unit policies, and personnel practices for conditions that may have contributed or influenced circumstances leading to the reported sexual assault. Consider requesting assistance from outside experts (e.g. SARC, SAPR Program Manager, Rape Crisis Center) to help identify additional preventive measures.

( ) Make available or publicize the resources available to address some of the emotional or psychological consequences of crime that may manifest themselves, affect the unit, and require the unit’s response during the course of the investigation.

( ) Continuously monitor the unit’s overall climate to ensure neither the victim or the alleged offender are being ostracized and prevent organizational divisiveness.

( ) After the resolution of the case (courts-martial verdict, NJP, administrative separation, etc.) Actively monitor the unit for acts of coercion, ostracism, discrimination, or reprisals against the victim, witnesses, and/or offender and deal with those acts swiftly.