

Summary

DoD Sexual Assault Policy

Definition: This policy memorandum provides a clear Department-wide definition of sexual assault. Previous reports identified considerable in-Service confusion about the difference between sexual assault and sexual harassment. For training and educational purposes, this memorandum provides definitions of the terms “Sexual Assault” and “Other Sex-Related Offenses.” When combined with the current definition of “Sexual Harassment,” these definitions will eliminate confusion and uncertainty about which actions constitute which offense. This clarity will ultimately contribute to increasing offender accountability and the ability of the commander to take appropriate action. These elements will have a substantial impact on creating a culture of prevention and an environment that increases the effectiveness of the Department’s education, counseling and management initiatives.

Training Service Members: This policy memorandum provides a sexual assault prevention and response-training baseline for DoD personnel. All Services have education programs aimed at the prevention of and response to sexual assault, however, the breadth and depth varies from Service to Service. The Department needs consistent sexual assault prevention education across the Services to create a greater understanding of what constitutes a sexual assault, risk factors, and preventive measures. DoD believes this training will create the consistency needed to enhance service member understanding of sexual assault, how individuals can protect themselves, and what actions to take if they do fall victim to a sexual assault.

Pre-Deployment Training: This policy memorandum ensures that all service members deploying to specific regions receive the appropriate information regarding the cultural differences of the host country and the Department’s coalition partners. This type of pre-deployment training will help prevent sexual assaults while also ensuring that if a sexual assault does occur, victims have advance information on the support system available for their protection and care outside of the United States. Knowledge of the environment and mores of the host country and coalition partners is a key component of the Department’s efforts to prevent sexual assaults on deployed personnel.

Training Response Groups: This policy memorandum directs the Military Services to develop and implement baseline training standards for sexual assault first responder groups so that any member of the Armed Forces that is assaulted will receive the same level of response regardless of Military Service or environment. Baseline training standards will also enhance investigative sufficiency and the ability of the commander to take actions.

Response Capability: This policy memorandum establishes immediate response capability for each report of sexual assault in all locations, including deployed locations, to ensure timely access to appropriate victim services. This policy also includes designation and responsibilities of Sexual Assault Response Coordinators and Victim Advocates, and adoption of guidelines for rapid response, including identification of first responders, requisite training for personnel, and the manner for conducting case management. Program reviews showed it was difficult to ascertain the level and timeliness of support services offered to a victim of sexual assault, the extent of commander's actions to safeguard victims or the final disposition of the case. Through the Sexual Assault Response Coordinator and the conduct of case management, the Department will ensure system accountability and victim access to quality services as needed.

Increase Victim Support: This policy memorandum provides expanded care and support of sexual assault victims and a better accounting of sexual assault cases by mandating monthly status reports to the victim, immediate referral of reported sexual assault cases to investigators, and a designated command level for disposition of those cases. The DoD believes the actions it takes to enhance victim support and improve the manner in which it accounts for those actions will encourage more victims to come forward and report these incidents.

Commander Checklist: This policy memorandum develops a basic checklist, for the Military Services to build on, that will help guide the commander's actions when addressing the needs of a sexual assault victim, actions with respect to the accused, and actions that assist the unit at large. Sexual assault response is often criticized for perceived lack of sensitivity to the victim's needs. Some mistakes are due to lack of experience rather than design since a commander may respond to only one or two of these incidents during his or her tenure. Additionally, the traumatic nature of this crime and the complexity of the issues may cause something to be overlooked. The primary objective of this memorandum is to ensure the appropriate balance between a victim's rights and the accused's rights to due process under the law.

Collaboration: This policy memorandum directs local commanders to establish Memoranda of Understanding (MOU), between their installation and local community service organizations and other Military Services to facilitate enhanced, optimum responses to sexual assault victims. At many locations, military treatment facilities have limited resources to provide specialized, expert medical and supportive care for victims of sexual assault. MOUs between military and civilian service providers and other Military Services offer a wide-range of support that include victim advocacy services, sexual assault examiner services, local hospitals and/or rape crisis centers, law enforcement services, and counseling services. These services might not be accessible without these agreements.

Collateral Misconduct: This policy memorandum provides critical prioritization of the level of offense the victim may have committed, allowing a victim of sexual assault to access care without fear of repercussions for collateral misconduct at the time of disclosure. A victim's fear of punishment is one of the most significant barriers to reporting sexual assault. Many sexual assaults involve circumstances where the victim may have participated or engaged in some form of misconduct, (i.e. underage drinking or other alcohol-related offenses, adultery, fraternization or other violations). To the extent possible, commanders should delay the determination of disciplinary actions for a victim's collateral misconduct related to the circumstances of an alleged sexual assault until the investigation and final disposition of the sexual assault case is completed.

Administrative Separation: This policy memorandum directs all Military Services to designate a level of command, commensurate with the maturity and experience needed, to review all administrative separation actions involving victims of sexual assault and to exercise the responsibilities involved. Circumstances associated with a reported sexual assault incident may ultimately result in a determination that the administrative separation of the victim is in the best interests of either the victim or the Armed Forces, or both. Regardless of the reason for initiating the separation action, each victim is entitled to a full and fair consideration of the victim's military service and particular situation. It is vital that all such separation actions and ultimate determinations be consistent and appropriate, and is viewed as such.

CY04 Data Call: This policy memorandum requires the completion of a data call that will be the basis for quarterly and annual sexual assault reports until the Defense Incident Based Reporting System (DIBRS) is fully implemented. This reporting system will enable the Department to track sexual assaults from date of initiation to completion. By capturing accurate metrics, the effectiveness of sexual assault training, education, and support levels can be measured, areas of weakness can be identified and addressed, and best practices can be leveraged. This quality assurance will ensure that sexual assault prevention and response initiatives remain flexible in and responsive to each Military Service's unique environment.