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OPNAVINST 1752.1B
N135
29 Dec 06

OPNAV INSTRUCTION 1752.1B

From: Chief of Naval Operations

Subj: SEXUAL ASSAULT VICTIM INTERVENTION (SAVI) PROGRAM

Ref: (a) DOD Directive 6495.1 of 6 Oct 05
(b) DOD Instruction 6495.02, Sexual Assault Prevention and Response Program Procedures, of 23 Jun 06
(c) SECNAVINST 1752.4A
(d) OPNAVINST 1752.2A
(e) Manual for Courts-Martial (MCM), United States 2005
(f) MILPERSMAN
(g) SECNAVINST 1920.6C
(h) OPNAVINST 5350.4C
(i) OPNAVINST 5800.7
(j) NAVMEDCOMINST 6310.3
(k) SECNAVINST 1730.7B
(l) OPNAVINST 3100.6H (NOTAL)
(m) SECNAVINST 5430.107
(n) OPNAVINST 5354.1E
(o) Public Law 109-162, Section 596 of National Defense Authorization Act for Fiscal Year 2006
(p) DOD Directive 6025.18 of 19 Dec 02

Encl: (1) Definitions
(2) Crime Victim's Bill of Rights
(3) Navy Policy Regarding Confidentiality for Victims of Sexual Assault
(4) Commander's Checklist for Prevention and Response to Allegations of Sexual Assault

1. Purpose. To issue policy, prescribe procedures, and assign responsibility for implementation of the Sexual Assault Victim Intervention (SAVI) Program within the U.S. Navy. References (a) through (p) apply. All Navy commands shall be knowledgeable of, adhere to, and provide all sexual assault prevention, and response requirements contained in references (a) and (b). This instruction is a complete revision and should be read in its entirety.

2. Cancellation. OPNAVINST 1752.1A.

3. Scope. This instruction establishes internal Navy policy only and is not intended to, nor does it, create any rights, substantive or procedural, enforceable at law or equity by any victim, witness, suspect, accused, or other person in any matter, civil or criminal, and places no limits on the lawful prerogatives of the Navy or its officials.

4. Definitions. Terms used in this instruction are defined in enclosure (1). Sexual assault as used in this instruction applies to all such offenses against persons 18 years of age or older, that are not otherwise considered child sexual abuse or domestic abuse as defined in reference (d) and enclosure (1). Sexual harassment is covered by reference (n).

5. Discussion. The Navy SAVI Program was established in 1994 for the purpose of providing consistent, standardized response to sexual assault incidents through sexual assault awareness and prevention education, victim advocacy, and data collection. Sexual assault is defined in reference (a) and enclosure (1).

6. Policy

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

b. The goal of the Navy is to reduce sexual assault by providing a culture of prevention, education, and training response capability, victim support, reporting procedures, and accountability that enhances the safety and well-being of all. Alcohol abuse is an associated factor in many sexual assault cases. Promoting and supporting the responsible use of alcohol, including abstinence, will assist greatly in reducing sexual assault reference (h).

c. Per enclosure (2) and reference (i), DON will treat all victims of sexual assault with fairness and respect, to include timely access to appropriate services.

All servicemembers and DON employees will ensure sensitive, coordinated, and effective management of sexual assault cases, to include access to a Sexual Assault Response Coordinator (SARC) and/or Victim Advocate (VA).

d. Victims of sexual assault often feel further victimized by the criminal justice system when questioned about their conduct or inaction during an assault. In cases where the victim's behavior may be considered an offense under the 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 final disposition of the sexual assault.

7. Applicability. This instruction applies throughout the U.S. Navy to:

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 incidents occurring under DON jurisdiction are eligible, regardless of affiliation, for available advocacy services on a humanitarian basis.

8. Action. Commanders and commanding officers (COs) will implement and support the SAVI program through:

a. Prevention. The following elements will implement the prevention component of the SAVI Program:

(1) All prevention education will use the standardized DOD definitions, per reference (a) and enclosure (1), promulgated for training and education purposes.

(2) All servicemembers will receive periodic, mandatory sexual assault awareness and prevention training during pre-commissioning, upon initial entry and throughout professional military education. The focus of this training is to ensure that 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.

(3) Sexual assault prevention and response training will be incorporated into leadership development (to include civilian supervisors of servicemembers) and professional military education, with content tailored to the level of supervisory responsibility. All leadership training will include sensitive handling of and reporting options for sexual assault victims.

(4) Servicemembers shall receive annual sexual assault prevention and response training updates at the command level. Training will be scenario-based, using real-life situations to demonstrate the cycle of reporting, response, and accountability procedures. Training for junior personnel will incorporate adult learning theory, including group participation and action.

(5) Mandatory deployment training shall focus on host country and coalition partner customs, mores' and religious practices to provide servicemembers an awareness of cultural differences and operational factors that apply in areas outside the United States (port calls, overseas duty stations), risk reduction factors, procedures for reporting sexual assault, and awareness of support systems and responder personnel.

(6) COs shall provide the safest possible physical and emotional Navy environment. COs shall institute and publicize a means of informing the chain of command of situations which may place individuals at risk of sexual assault and provide feedback concerning the final disposition of suggestions and complaints.

b. Victim Support and Care. COs shall implement the victim support and care component of the SAVI program by ensuring:

(1) Immediate 24/7 sexual assault response capability in all locations, including deployed locations, and timely access to appropriate victim services, including medical care, victim advocacy, counseling, criminal investigation of unrestricted reports, per enclosure (3), Victim and Witness Assistance Program (VWAP) information, and chaplain support. Tenant and deploying commands that have access to installation services at the time of report shall utilize installation victim support services to the maximum extent possible and shall not develop SAVI programs that operate independently from the installation Sexual Assault Response Coordinator (SARC) who has been designated to coordinate these issues for the command.

(2) Mandatory activation of an on-call victim advocate at the time of the sexual assault report to provide victims with 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.

(3) Strict compliance with restricted and unrestricted reporting requirements as outlined in enclosure (3) and references (a) and (b).

(4) Victims of sexual assault receive sensitive care and support to ensure that they are not re-victimized as a result of reporting the incident. Per reference (i), Navy personnel who are involved with sexual assault victims shall ensure case related information is shared only for official purposes with only those who have a legitimate need-to-know. Naval Criminal Investigative Service (NAVCRIMINVSVC) special agents are presumed to have a need-to-know with regard to unrestricted sexual assault information and material relevant to the performance of their official duties as outlined in reference (m). Sensitivity to victim privacy is paramount.

(5) Victims are advised of their rights as delineated in reference (i) and enclosure (2), and are made aware of and encouraged to exercise their options during each phase of the medical, investigative, and legal processes. This includes ensuring victims of sexual assault are advised of their rights to apply for compensation from State compensation programs, as applicable.

(6) Assignment of a trained SAVI Command Liaison to act as the single point of contact between a victim and the command executive level following an allegation of sexual assault. This command liaison has direct access to the CO and is responsible for promoting responsive command management of the alleged assault, acting as the command representative to the Sexual Assault Case Management Group (SACMG), and ensuring that the concerns and needs of the victim are communicated to the CO.

(7) Victims of sexual assault receive reasonable protection from the alleged offender(s). In cases where the victim and alleged offender are assigned to the same command, COs should consider relocating the victim or offender until the case is legally settled and/or the victim is considered out of danger. The CO 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.

(8) All unrestricted reports of sexual assault involving active duty victims in the command are reviewed by the SACMG on a monthly basis to facilitate monthly victim updates and ensure system coordination, accountability, and victim access to quality services.

(9) Victims receive, at a minimum, monthly updates on the status of their cases until final disposition. The SAVI Command Liaison will coordinate with the responsible NAVCRIMINVSVC special agent and installation SARC to meet this requirement.

(10) All servicemembers, family members, and civilian personnel are made aware of Navy and civilian resources available to assist victims of sexual assault, including Navy chaplains. Communications with Navy chaplains are unconditionally confidential under reference (k).

(11) All administrative separation actions involving victims of sexual assault are reviewed by the Commander, Navy Personnel Command (COMNAVPERSCOM) to ensure that a victim receives full and fair consideration of their military service and that such determinations are consistent and appropriate as per reference (a).

c. Accountability. Commanders shall ensure:

(1) Swift, sensitive and fair response to sexual assault allegations, and when appropriate, prosecution of sexual assault cases.

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

(3) 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.

d. Data Collection and Reporting. Commanders and COs will ensure:

(1) All unrestricted reports of alleged sexual assault that involve victims and alleged offenders who are family members, active duty members, or Reservists on active duty will be reported regardless of the military affiliation of the victim or alleged offender. Reports of allegations of active duty members of another Service assigned to a Navy command, regardless of location are also required. 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 (1). Include in the SITREP the data elements contained in NAVPERS 1752/1, Sexual Assault Incident Data Collection Report Form (appendix A of enclosure (2) to reference (c)) per the following guidelines:

(a) Messages must also be submitted on incidents involving civilians sexually assaulted on property under DON jurisdiction. Per reference (1) requirements, reporting commands for both victim and alleged offender will coordinate efforts for submission.

(b) If neither the victim nor alleged offender is a Navy member, the commander of the installation or activity where the sexual assault occurs will report per reference (1) requirements.

(2) NAVPERS 1752/1 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 continuation (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 perpetrator administratively separated, no action taken due to insufficient evidence).

(4) Incidents involving both sexual harassment and sexual assault must be reported per reference (1) requirements.

9. Responsibilities

a. Chief of Naval Operations (CNO) (N135) shall establish policy and ensure the SAVI program meets command, servicemember, and family member needs.

b. Commander, Navy Installations Command (CNIC), as the Navy SAVI Program manager, is responsible for managing, implementing and overseeing the program. CNIC shall:

(1) Promulgate guidance to regional and installation commands for management and implementation of the Navy SAVI program.

(2) Plan for and distribute fiscal, personnel, and program resources in coordination with regional commanders.

(3) Ensure installation SAVI programs incorporate a coordinated approach between medical, legal, investigations, security, chaplains, Fleet and Family Support Centers (FFSC), operational and tenant commands, and civilian resources.

(4) Ensure regional or installation commanders collaborate with and establish written memorandums of understanding (MOUs) with local community providers and other military services as appropriate.

(5) Develop written response protocols, per reference (b), ensuring timely access to appropriate victim services and

procedures that outline SARC and other first responder responsibilities.

(6) Establish standards for initial and periodic refresher sexual assault training for SARCs, VAs, SAVI Command points of contact (POCs), SAVI Command Liaisons and SAVI Data Collection Coordinators (DCC).

(7) Develop required initial and periodic refresher training for SARCs and VAs (both afloat and ashore) incorporating required content as outlined in reference (b), enclosure (6).

(8) Coordinate with Naval Education and Training Command (NETC) and provide subject matter expertise with respect to development and implementation of prevention training identified in paragraph 8a of this instruction and reference (b), enclosure (1).

(9) Coordinate with other responsible Navy entities on the development of responder training requirements as outlined in reference (b).

(10) Coordinate with Navy alcohol/drug abuse prevention education per reference (g) to ensure sexual assault awareness and prevention training is incorporated into all Navy alcohol/drug abuse prevention education due to the high correlation between alcohol abuse for both perpetrators and victims.

(11) Monitor and oversee Navy SARC use of a DOD-managed central database for restricted and unrestricted sexual assault cases, analyzing data for required annual reporting to the Secretary of Defense (SECDEF) through the Sexual Assault Prevention and Response Office (SAPRO) and the Navy chain of command, per references (a) and (b).

(12) Develop and implement a public awareness plan which publicizes and promotes sexual assault awareness, prevention and SAVI program services.

(13) Monitor and assess SAVI program effectiveness.

c. Component commanders shall:

(1) Provide a POC to serve as a liaison between subordinate commands and CNIC regarding all aspects of Navy SAVI program implementation.

(2) Ensure subordinate commands report alleged incidents and inform CNIC installation and regional commanders of all unrestricted reports of sexual assault.

(3) Ensure subordinate commands work closely with the installation SARC in developing and administering all components of the SAVI Program.

(4) Ensure subordinate commands develop an immediate, coordinated and effective 24/7 response capability whenever installation SAVI responder resources are not available.

(5) Ensure subordinate commands maximize sexual assault victim privacy through response protocols that strictly limit required chain of command notifications to the smallest possible number with a need-to-know, that limit general access to command sexual assault message traffic, and that discourages gossip and speculation within the ranks.

(6) Ensure subordinate commands designate a SAVI command POC who is responsible for facilitating command awareness and prevention training, maintaining current information on victim resources, and providing oversight of compliance with command SAVI Program requirements.

(7) Ensure subordinate commands designate a command Data Collection Coordinator (DCC), responsible for obtaining data on sexual assault incidents necessary to meet reporting requirements as outlined in paragraph 8d of this instruction.

d. Regional commanders shall:

(1) Promulgate guidance to installation commanders for management and implementation of the Navy SAVI program.

(2) Ensure installation SAVI programs incorporate a coordinated approach between medical, legal, investigations, security, chaplains, FFSC, operational and tenant commands, and civilian resources.

(3) Facilitate and ensure installation commanders collaborate with and establish written MOUs with local community providers and other military services as appropriate.

e. Installation commanders shall:

(1) Ensure an effective SAVI program that incorporates a coordinated approach between medical, mental health, legal, investigative, security, chaplain, FFSC, and civilian resources.

(2) Designate a SARC to provide overall local management of the SAVI program and to implement and administer provisions contained in this instruction and in reference (b).

(3) Ensure servicemembers and their families members have access to a well-coordinated, highly responsive victim advocate program.

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

(5) Where appropriate and useful, establish MOUs with relevant community agencies to supplement efforts to implement program requirements.

(6) Establish a SACMG as outlined in reference (b).

(7) Provide the safest possible emotional and physical environment with particular emphasis on proper street lighting, enhanced barracks/berthing/housing safety and base security, and the responsible use of alcohol on board Navy installations.

(8) Ensure that sexual assault prevention initiatives respect diversity when imposing restrictions on personnel.

(9) Ensure SARCs and installation VAs receive required initial and refresher training.

f. COs shall:

(1) Ensure Navy's sexual assault prevention policy becomes an integral part of day-to-day personnel management.

(2) Provide the safest possible emotional and physical command environment.

(3) Designate a SAVI command POC that is responsible for facilitating awareness and prevention training, maintaining current information on victim resources, and providing oversight of command compliance with SAVI program requirements.

(4) Designate a command DCC, responsible for obtaining data on sexual assault incidents necessary to meet reporting requirements as outlined in paragraph 8d of this instruction.

(5) Utilize enclosure (4), to develop a comprehensive command prevention and response to allegations of sexual assault.

(6) Ensure the availability of trained victim advocates within the ranks to respond to victims whenever sexual assault occurs in locations where installation victim advocates are not available (e.g., when deployed). Trained victim advocates report to the responsible installation SARC when performing advocate duties.

(7) Ensure victim advocates who provide support when the command is deployed or underway have been screened by the responsible installation SARC and have received 30 hours of initial victim advocate training before providing support to victims.

(8) At the time of designation, ensure the command DCC and SAVI Command POC receive two hours and four hours of required training, regarding performance of their responsibilities under the SAVI Program.

g. NAVCRIMINVSVC shall:

(1) Establish standards for initial and periodic responder training for criminal investigators and special agents.

(2) Develop and ensure criminal investigators and special agents receive initial and periodic responder training incorporating the required content outlined in reference (b), enclosure (6).

(3) The responsible special agent provides monthly case status updates to victims of sexual assault until the

investigation is complete and sent to command for adjudication.

(4) Ensure special agent participation in the SACMG.

h. CNO, Special Assistant for Naval Investigative Matters and Security (N09N) shall:

(1) Establish standards for initial and periodic responder training for security forces.

(2) Develop and ensure security forces receive initial and periodic refresher responder training incorporating the required content outlined in reference (b).

i. Office of Judge Advocate General (OJAG) shall:

(1) Establish standard for initial and periodic refresher sexual assault baseline and trial counsel training for judge advocates.

(2) Develop and ensure all judge advocates receive baseline initial and periodic refresher responder training incorporating the required content outlined in reference (b), enclosure (6).

(3) Develop and ensure all judge advocate trial counsel receive initial and periodic refresher training incorporating the required content outlined in reference (b), enclosure (6).

(4) Provide advice, instruction, and guidance regarding the legal aspects of sexual assaults and responder training.

(5) Ensure judge advocates provide consultation to installation SARCs and health care providers (HCPs) regarding the presence or absence of exceptions under restricted reporting.

(6) Ensure judge advocate participation in the SACMG.

j. NETC shall, in coordination with CNIC, who provides subject matter expertise, develop, implement, and execute the prevention training identified in paragraph 8a of this instruction and as outlined in reference (b).

k. Chief, Bureau of Medicine and Surgery (BUMED) shall:

(1) Establish standards for initial and periodic refresher sexual assault training for HCPs. Standards for baseline training and for HCPs performing Sexual Assault Forensic Exams (SAFEs) will be established.

(2) Develop and ensure all HCPs receive baseline initial and periodic refresher responder training incorporating the required content outlined in reference (b), enclosure (6).

(3) Develop and ensure all HCPs performing SAFEs received initial and period refresher training incorporating the required content outlined in reference (b), enclosure (6).

(4) Ensure MTFs establish MOUs with civilian medical facilities that include procedures for collection and forwarding of forensic evidence to the MTF under restricted reporting if at all possible.

(5) Ensure comprehensive medical management for victims of sexual assault.

(6) Ensure MTF commanders establish an official collateral HCP duty within each MTF as the primary POC concerning DOD and Navy sexual assault policy and updates in sexual assault care.

(7) Reinforce policy set forth in reference (j), to minimize re-victimization, and establish guidance and protocols for medical response to sexual assault.

(8) Ensure trained/privileged HCP participation in the SACMG.

1. CNO, Director of Religious Ministries/Chief of Chaplains of the Navy (N097) shall:

(1) Coordinate with the Chaplains School to provide and establish standards for initial and periodic sexual assault training for chaplains.

(2) Develop and ensure chaplains receive initial and periodic refresher sexual assault responder training incorporating required content areas outlined in reference (b), enclosure (6).

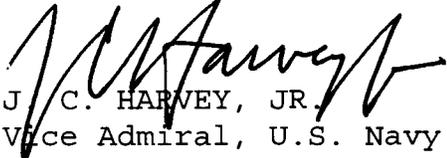
(3) Reinforce policy that ensure chaplains provide pastoral and spiritual counseling to victims of sexual assault as requested by the victim, per guidelines established by reference (i).

(4) Ensure chaplain participation in the SACMG.

10. Data Collection, Reporting, and Form

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 as outlined in reference (1). CNIC will coordinate the collection and submission of the annual restricted report incident data to SECDEF through the SAPRO as outlined in reference (b).

b. DD 2873 (Jul 2004), Military Protective Order (MPO) and DD 2907 (Jun 2006), Victim Reporting Preference Statement are available at
<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.



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DEFINITIONS

1. Assault - The use of unlawful force or violence either 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 Sexual Abuse - Illegal sexual 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.
3. Domestic Abuse - (1) Domestic Violence or (2) a pattern or 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.
4. 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 doicile.
5. Health Care Provider (HCP) - Applies to those individuals who are employed or assigned as healthcare 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. HCP's include military, DOD civilians or DOD contractors. The definition includes Fleet and Family Support (FFS) program clinicians that function in a government oversight and/or supervisory capacity.

6. Restricted Reporting - Defined at enclosure (3) of this instruction.

7. 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 will be used generically to include all of the terms listed in (1) through (5) 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 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 the mouth or anus of another person 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.

8. Sexual Assault Response Coordinator (SARC) - A military, DOD civilian, or DOD contractor at an installation who serves installation, tenant and operational commanders as the central

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POC with responsibility for ensuring that training and responsive care is properly coordinated and provided to victims of sexual assault.

9. Sexual Harassment - A form of sex 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 implicitly a term or condition of a person's job, pay, or career, or

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 an intimidating, hostile, or offensive working environment.

10. Victim - For purposes of this instruction, a victim is any person who either 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.

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CRIME VICTIM'S BILL OF RIGHTS

Per reference (i), a crime victim has the following rights:

1. The right to be treated with fairness and with respect for the victim's dignity and privacy.
2. The right to be reasonably protected from the accused offender.
3. The right to be notified of court proceedings.
4. The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
5. The right to confer with the attorney for the government in the case.
6. The right to receive available restitution.
7. The right to be provided information about the conviction, sentencing, imprisonment, and release of the offender.

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**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 are 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 commanders, victim advocates, SARCs, NAVCRIMINVSVC, law enforcement, chaplains, legal staff, and HCPs.
2. This policy provides for confidential, restricted reporting for service member victims of sexual assault, per reference (a). 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 (k), victims may also report a sexual assault to a chaplain and be afforded confidential communication which is not altered or affected by new 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. Servicemembers who are sexually assaulted have the following two reporting options:
 - a. "Unrestricted" reporting affords victims of sexual assault official investigation of their 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 SAVI POC, law enforcement, or

Enclosure (3)

the installation SARC. The responsible (on-call) Victim Advocate 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 installation SARC, SAVI 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 statutes or regulations. Restricted reporting is in addition to the current protections 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 SAVI VA, and report the assault to the installation SARC in lieu of reporting to law enforcement or the command.

(3) As required in this instruction, the responsible 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 DD 2910, Victim Reporting Preference Statement their understanding of restricted reporting, the exceptions to and limitations on, 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 DON/DOD HCP may conduct a Sexual Assault Forensic Examination (SAFE) in a manner that collects and preserves evidence with non-identifying information about the victim. In the absence of a trained DOD

provider, the victim will be appropriately referred to a non-DoD HCP for the SAFE, which may preclude collection of forensic evidence under restricted reporting. SARC, VAs or HCPs shall inform the victim of any State or local reporting requirements whenever a SAFE is conducted by a civilian medical facility. DON procedures for storage and retrieval of forensic evidence are as follows:

(a) The installation SARC or VA will assign a Forensic Evidence Storage Number using the convention promulgated by CNIC, noting that number on the signed DD 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 SAFE kit.

(b) The SARC is responsible for notifying NAVCRIMINVSVC Regional Forensic Laboratory that a SAFE has been collected under restricted reporting and is being mailed by the responsible MTF. The MTF is responsible for maintaining chain of custody, packaging and mailing the SAFE using procedures that have been disseminated by BUMED.

(c) Forensic evidence collected under restricted reporting will be maintained for one year and then destroyed. The installation SARC is responsible for tracking SAFE 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 NAVCRIMINVSVC, ensure the change in reporting is noted on the victim's DD 2910 and provide the Forensic Evidence Storage Number to the responsible Special Agent, who will follow NAVCRIMINVSVC established protocols.

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

6. When a 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 NAVCRIMINVSVC, who remains authorized to initiate an independent investigation of the complaint. Per reference (b), 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 the SARC, VA, or HCP under restricted reporting shall not be disclosed to command or law enforcement 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 concerning a sexual assault victim or alleged assailant provided by the victim to one of the specified individuals regarding their sexual assault. Per reference (a), 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 installation 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. This 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 new reporting channel affords commanders better understanding of the true scope of sexual violence within the Navy, at least some of which has been previously unreported. Per reference (a), 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 use 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 (p), 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 disability retirement board and officials by a HCP is required for fitness for duty in disability determinations, 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 installation 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 Installation 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. HCP's may inform commands of any possible adverse duty impact related to a victim's medical condition and prognosis per reference (p). 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.

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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.

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

COs 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 the all essential elements for meeting command SAVI Program requirements and for ensuring 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

To ensure effective prevention of sexual assault, Commanders shall:

- Establish a command climate of prevention that is predicated on mutual respect and trust, that recognizes and embraces diversity, and that values the contributions of all of its members.
- Reassure members of your personal commitment to maintaining a healthy environment that is safe and contributes to their well-being and mission accomplishment.
- 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 individuals at risk of sexual assault.
- Reiterate your "zero tolerance" policy on sexual assault and the potential consequences for those who violate the law.
- Ensure command-wide compliance with annual mandatory sexual assault awareness and prevention education 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.

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

Include sexual assault questions regarding command involvement in preventing sexual assault incidents during command climate assessments.

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

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).

_____ (Date) Designate a command SAVI POC who is responsible for:

Coordinating and implementing command awareness and prevention education training.

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

Ensuring command SAVI Program compliance including collection and maintenance of sexual assault data by the designated DCC.

Ensure SAVI Command POCs receive four hours of required training on sexual assault responsibilities under the SAVI Program.

BEFORE SEXUAL ASSAULT OCCURS -- RESPONSE PREPARATION

Commanding Officers shall:

_____ (Date) Request a brief from the installation SARC on installation sexual assault incident management and resources. The SARC is typically located at the FFSC.

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

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

_____ (Date) Educate all members on the DOD/Navy confidentiality policy and include:

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

Publish names and contact information for personnel to whom restricted reports may be made.

Pre-deployment Planning:

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

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

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

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

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

Identify both immediately available and nearby trained medical, investigatory, and chaplain assets that can be utilized if a sexual assault occurs in foreign ports or while underway.

Ensure member compliance with deployment sexual assault training.

_____ (Date) Appoint a DCC, who liaisons with governmental agencies to obtain and maintain required sexual assault data for command reporting requirements.

- Provide clear direction to the DCC regarding tracking of required message traffic and thorough collection of sexual assault information, ensuring that the victim and accused are not contacted for this information.
- Ensure DCC attends two hours of required training on sexual assault responsibilities under the SAVI Program.
- _____ (Date) 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:

Upon receipt of a report that a member has been sexually assaulted, the CO shall:

- Ensure the physical and emotional safety of the victim, determine if the alleged offender is still a threat to the victim, and if the victim needs/desires protection.
- Ensure the victim receives emergency medical treatment if indicated and offer medical care in all circumstances. Assist with or provide immediate transportation for the victim to the appropriate medical facility.
- Ensure the victim is advised of the need to preserve evidence (by not bathing, showering, washing garments, etc.) while awaiting arrival of NAVCRIMINVSVC.
- Collect only necessary information to include the victim's identity, location, and time 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.
- 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.
- Notify NAVCRIMINVSVC as soon as the victim's immediate safety is assured, and any emergency medical treatment is in process.

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- Take action to safeguard the victim from any formal or informal investigative interviews or inquiries, except those conducted by NAVCRIMINVSVC or civilian law enforcement
- Guard the victim's right to confidentiality and privacy by strictly limiting the "need to know" personnel.
- Ensure that command protocols limits required command notification of the incident to the smallest necessary number (e.g., command master chief (CMC), executive officer (XO), CO.
- Be sensitive to the needs of the victim's family.
- 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.
- Provide the victim a referral to the duty chaplain, if the victim desires pastoral assistance.
- Designate a SAVI 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 SAVI Command Liaison shall:
 - Complete eight hours of required training regarding victim sensitivity issues and responsibilities under the SAVI Program.
 - Be responsible and possess the maturity and sensitivity needed to support the victim's needs.
 - Have direct access to the CO.
 - Promote responsive command management and keeps the victim informed of command actions in their case.
 - Works with the NAVCRIMINVSVC agent and SARC to ensure the victim receives monthly status updates regarding the status of their case.
- Ensure a victim-sensitive command climate to avoid revictimization.

- Participate in or, when deployed, provide input to, monthly SACMG discussion regarding all designated victims.
- Seek consultation from legal and NAVCRIMINVSVC and determine if the victim desires/needs a Military Protection Order (MPO), particularly if the victim and the accused are assigned to the same command, duty location or living quarters. DD 2873, Military Protective Order (MPO) shall be used when a MPO is issued.
- Strongly consider temporary assignment of either the victim or accused when they are assigned to the same command, duty location or living quarters.
- Consider both the physical and emotional well being of the victim in determining the need for temporary reassignment.
- To the maximum extent possible, the victim's preference should be honored when making reassignment determinations.
- Ensure the SAVI Command Liaison consults with the victim regularly, either directly or indirectly through communication with the installation SARC/assigned VA. Communicate regularly with the SAVI 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 thorough investigation are not compromised.
- 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.
- When practicable, consult with the servicing legal office, NAVCRIMINVSVC and notify the installation SARC or assigned VA prior to taking administrative or disciplinary action affecting the victim.
- Avoid automatic suspension or revocation of a security and/or personnel reliability program (PRP) clearance, understanding that the victim may be satisfactorily treated for their related trauma without comprising their PRP status. Use established national security standards when making final determinations.

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

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

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

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

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

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:

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

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

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

If questioning does occur, advise the servicemember suspected of committing a UCMJ offense of their rights under article 31 of chapter 47.

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 inquires by personnel other than those assigned to NAVCRIMINVSVC or civilian law enforcement.

- Emphasize that every alleged offender is presumed innocent until proven guilty.
- Strictly limit information about the investigation to those who have a legitimate reason to know.
- Ensure procedures are in place to inform the alleged offender about available counseling support.
- Monitor the well being of the alleged offender, particularly any indications of suicide potential, and ensure appropriate intervention occurs if indicated.
- Determine the need for an MPO (after consultation from legal/law enforcement/installation SARC/assigned VA). DD 2873 shall be used when a MPO is issued.
- Ensure ongoing communication and coordination of actions between commands if the victim is assigned to another command.

WHEN A SEXUAL ASSAULT OCCURS - UNIT CONSIDERATIONS:

- Take all necessary action to ensure it does not become general knowledge within the command that a sexual assault has occurred.
- When information regarding sexual assault becomes known within the ranks, the following actions will be considered:
 - Encourage members to be appropriately supportive of one another within the organization, to include both the victim and the alleged offender in the incident.

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

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

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

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 themselves and affect the command.