

## 5 Task Force Recommendations

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### Recommendations for Immediate Action

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#### Recommendation 1

Establish a single point of accountability for all sexual assault policy matters within the Department of Defense.<sup>3</sup>

This office would:

**1.1. Support the Under Secretary of Defense for Personnel and Readiness in advising the Secretary of Defense on all policy, program development and resourcing, and program oversight matters relating to sexual assault within the Department of Defense.**

- Address the gaps in the current stovepipe systems created by the absence of any specific sexual assault policies and programs not otherwise covered by FAP.
- Address the issues of standardization of definitions, and create outcome-based accountability for the Services.

**1.2. Develop strategic program guidance and joint planning objectives to ensure that needed resources are available within the same timeframe across all Services and Combatant Commands for sexual assault prevention, reporting and response.**

- Assess Service budget and program adequacy to implement new standards, guidelines, and reporting data management systems.

**1.3. Conduct a functional evaluation within three years to consider expanding the scope of this office to include other related programs. (e.g., Equal Opportunity, VWAP, FAP, domestic violence, and child abuse).**

#### Recommendation 2

During the upcoming Combatant Commanders Conference, allocate time on the agenda to discern how the findings and recommendations of this report should apply to their areas of responsibility.<sup>4</sup>

The Task Force received information from the unified combatant commands on current policies and procedures in place to address the issue of sexual assault while assigned to their organizations or areas of responsibility. The responses varied based on missions and

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<sup>3</sup> Addresses findings 1-5,6,9,11,12,14,15,16,19,20,23-31,34,35

<sup>4</sup> Addresses findings 3,7,8,9,11,13,17,18,23, 24,27

functions, geographical locations, and administrative, medical, and investigative support provided by their Service executive agent. In addition, the information provided by the geographical commands raised the issues related to host country customs, laws and the limited availability of local civilian resources to assist victims.

During this review, it became apparent that although the Task Force focus on CENTCOM was necessary to meet the intent of the Task Force charter, more information from the other combatant commands is needed to understand more fully the scope of the combatant commander's responsibilities and the challenges of providing support to victims in a joint operational environment. Adding this topic to the conference agenda will provide an opportunity to:

### **2.1. Discuss the roles and responsibilities of the combatant commands in preventing sexual assault and for providing care to victims of sexual assault in a joint environment.**

- Identify to what extent the unified combatant commands' needs should shape the Department's policies and programs on sexual assault in theaters of operation.
  - Key considerations of geographical commands
    - Multinational (Coalition partners and host nation civilians)
  - Key considerations of functional commands
- Identify requirements for sexual assault prevention and for the care and support of victims of sexual assault as they apply to an operational theater, including but not limited to:
  - Force structure
  - Training (predeployment and in theater)

## **Recommendation 3**

**Ensure broad dissemination of relevant sexual assault information through DoD-wide communication outlets.**

The Task Force found an evident need for victims, friends, family members, leaders and responders to have access to various sources of reliable information regarding DoD's policies, programs and resources available for sexual assault prevention, reporting, response, protection and accountability. This could be accomplished by taking action to:

### **3.1. Update and leverage existing information sources and communication structures available within DoD and the Military Departments with reliable information regarding sexual assault prevention, reporting, response, protection and accountability.<sup>5</sup>**

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<sup>5</sup> Addresses findings 5, 12, 13

- Potential outlets are: official websites, One Source 1-800 numbers, and/or other print, voice and telecommunication mediums. Each of these should ensure that they have the ability to provide updated and accurate information for reporting, and obtaining services.

**3.2. Develop a web-based knowledge management compendium of resources and information available for use in achieving sexual assault prevention, response, reporting and accountability objectives. This would include, but not be limited to actions to:<sup>6</sup>**

- Identify and maintain a listing of useful sexual assault resources and subject matter experts for use throughout the Department.
- Research, develop and maintain exportable information materials and modules for general military training, functional specialty training for service providers, and leadership development training.

## **Recommendation 4**

Within the next three months, convene a summit of DoD leaders (military and civilian) and recognized experts on sexual assault, to develop strategic courses of action on critical, unresolved issues. This would include, but not be limited to, courses of action that will:

**4.1. Develop better operational definitions and delineation of distinctions between terms like sexual harassment, sexual misconduct, and sexual assault, and how those definitions relate to crimes under the Uniform Code of Military Justice. Courses of action should consider the following issues:<sup>7</sup>**

- The term “sexual assault” is not a specific offense under the UCMJ. Depending upon what is being evaluated and the circumstances involved, DoD and the Services have consolidated a number of separate UCMJ offenses into the term “sexual assault” when reviewing cases or trends.
- Separate instructions and policy guidance in the Military Departments and various task forces, commissions, panels, and process teams that have addressed “sexual assault” have all defined the term in different ways.
- The scope of behavior covered in terms like sexual misconduct, sex-related offenses, and sexual harassment have blurred the distinctions even more. The varied use of these and similar terms throughout regulatory and policy guidance cause service members to view them interchangeably.
- Although service members are taught that “sexual harassment” should be dealt with under the DoD Military Equal Opportunity Program, more egregious cases of such conduct may likely result in sexual assault charges under the UCMJ and investigative agencies would typically have responsibility for investigating them. Service members are often confused about the proper avenue for reporting allegations when they arise.

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<sup>6</sup> Addresses findings 6, 7, 9, 13

<sup>7</sup>Addresses findings 3, 9

- Clearer and more uniform definitions should be developed to facilitate training, awareness, and accountability for all service members.

**4.2. Establish avenues within DoD to increase privacy and provide confidential disclosure for sexual assault victims. Courses of action should consider the following issues:**<sup>8</sup>

- Perceived lack of privacy and confidentiality within DoD is thought to be one of the most significant barriers to reporting by military sexual assault victims.
- There is equal concern that confidential disclosure within DoD will impede a commander's solemn responsibility to hold offenders accountable and ensure community safety.
- Unreported sexual assault has adverse consequences for victims, commands, communities, units and mission accomplishment.
- Reconciling the inherent tension between a victim's need for confidentiality and a commander's need to know is very challenging and it requires substantial additional work to resolve, including well-informed discussions among many parties (military, civilian, medical, JAG, chaplains, law enforcement).

**4.3. Establish ways to increase transparency of the reasons for the handling and disposition of reported sexual assault cases. Courses of action should consider the following issues:**<sup>9</sup>

- Given current limitations on collecting and synthesizing data related to sexual assault allegations, the Department is ill-equipped to educate its own members and the general public that our system of justice is fair and balanced.
- The Department is frequently criticized for its handling of specific cases or particular classes of cases and is often unable to fully respond because of legal impediments (e.g., national security, Privacy Act, or other privacy considerations).
- The inability (for valid privacy reasons) to fully inform members of a command and the general public about the reasons supporting dispositions of individual cases can undermine morale and full faith in our system of justice.
- Public affairs strategies, statistical reports of trends related to dispositions of sexual assault cases (e.g., investigative findings, command actions), educational briefings at all levels, and possible legislative solutions should be explored as some potential options to help improve system transparency.

**4.4. Develop and maintain an expert, full-spectrum sexual assault response capability in OCONUS, CONUS remote, and operational environments, such as through the use of deployable Sexual Assault Response Teams (SARTs). Courses of action should consider the following issues:**<sup>10</sup>

- Partnering with civilian agencies in CONUS has assured an expert response to sexual assault at many locations.

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<sup>8</sup> Addresses findings 12, 14, 15

<sup>9</sup> Addresses findings 1, 2, 4, 6, 12, 23, 32, 33.

<sup>10</sup> Addresses findings 20, 22, 24, 25, 27, 31

- Providing specially trained and experienced medical, investigative, legal and advocacy personnel in all locations presents an ongoing challenge, given the mobility of the armed forces.
- Strategic planning is needed to develop, resource and sustain a trained, expert, full-spectrum, deployable sexual assault response within DoD.

**4.5. Establish flexible templates for diplomatic and/or military-to-military agreements with coalition partners that address the jurisdiction and responsibility for crimes committed by a citizen of one nation against the citizen of another nation.<sup>11</sup>**

## **Recommendations for Near-Term Action**

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### **Recommendation 5**

**Establish an Armed Forces Sexual Assault Advisory Council.**

- This council would be composed of key DoD officials and officials of other federal agencies with recognized expertise in dealing with issues surrounding sexual assault. The council could also seek input from other nationally recognized sexual assault experts, as needed.
- The primary responsibility of this council would be to work with the Under Secretary of Defense for Personnel and Readiness and other senior military leaders in providing advice or recommendations on issues and policies related to sexual assault in the military, including those related to prevalence, etiology, care, reporting, and prevention.

### **Recommendation 6**

**Develop policies, guidelines, and standards for sexual assault prevention, reporting, response, and accountability.**

This would be the responsibility of a new OSD policy office and include efforts to:

**6.1. Establish overarching policies, identifying common tenets while remaining flexible enough to allow for diversity between Service cultures and programs.<sup>12</sup>**

- We strongly advise the new OSD Policy Office to evaluate research identified in Chapter 6 for applicability in the development of new DoD policies, standards, and guidelines.
- Our expectation is for these policies to be applicable to the military departments and the full range of operational environments.
- We foresee that the optimal path to developing and implementing a seamless policy and program will require each of the Services to establish a focal point or office of primary responsibility.

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<sup>11</sup> Addresses findings 8, 18.

<sup>12</sup> Addresses all findings 1-35

- We anticipate the inclusion of best practices from within and outside the Department to address common definitions, roles and responsibilities and program details focused on standards of care and performance-based metrics.

## **6.2. Develop standardized requirements, guidelines, protocols, and instructional materials that are focused on prevention across the total force.<sup>13</sup>**

- Identify and develop effective, inter-operable, and exportable prevention training methodologies (tools and guidelines) for service members, leaders and trainers at all levels. This may include validating and leveraging current, “best practice” prevention training efforts.
- Incorporate leader and individual awareness training throughout an individual’s career path to reinforce prevention efforts.
- Make training scenario-based, using real-life situations to demonstrate the entire cycle of reporting, response, and accountability procedures/standards.
- Approach should also incorporate all learning styles, be inclusive of audience and group participation.

## **6.3. Encourage reporting through well established, publicized and unobstructed reporting channels.<sup>14</sup>**

- Work to remove real and perceived barriers to reporting.
- Partner with and publicize non-military support options available to service members.
- Inform and train service members about the reporting options and response mechanisms.
- Work to overcome non-reporting in order to care for victims and prosecute offenders.
- Incorporate recommendation from Leaders Summit regarding confidentiality and reporting.

## **6.4. Develop DoD-wide standards and guidelines for sexual assault response to assure all victims are afforded safety and protection, receive the best care possible, and have a coordinated, timely response to and resolution of their cases.<sup>15</sup>**

- The report identified variabilities in standards of care that range from timeliness of care, training of personnel and availability of support personnel for deployed environments. The Department needs to ensure uniformity in the standards of care to assure all victims.
- Additionally, it is apparent from the inability of the Services to provide accurate data on support services provided to victims that there is a need to establish a case management system within the Services that can ensure coordinated care.

### **6.4.1 Develop sexual assault “force protection” guidelines for installation and operational use focused on identification and mitigation of risk factors.<sup>16</sup>**

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<sup>13</sup> Addresses findings 4-11

<sup>14</sup> Addresses findings 12-15

<sup>15</sup> Addresses finding 16, 23, 24

<sup>16</sup> Addresses findings 2, 3-9

- This should be part of the mission and operations planning process, inclusive of locality or culture awareness and their associated risk factors for operating in an at-risk stateside environment or in coalitional and foreign national environments.

#### **6.4.2 Develop DoD-wide medical standards of care and clinical practice guidelines for treatment and care of victims of sexual assault.**<sup>17</sup>

- Establish a Health Care Integrated Process Team to:
  - Consider how to better incorporate Sexual Assault Nurse Examiners (SANEs) within the Military Health System in both the Active and Reserve component force structure, and/or through contract support
  - Review and consider adopting the Department of Justice National Protocol for sexual assault forensic exams (when it becomes available later this year).
  - Assess the need for and propose operational and combat theater-specific adjustments to standards of medical care and clinical practice guidelines
  - Determine standards of training required for personnel providing medical support services for victims of sexual assault
  - Assess the need and mechanisms for periodically screening of service-members for sexual assault
  - Assess the adequacy of the number of qualified, appropriately trained mental health professionals available to support victims of sexual assaults in the workforce

#### **6.4.3. Establish performance metrics for the United States Army Criminal Investigation Laboratory to ensure more timely forensic evidence processing.**<sup>18</sup>

The Task Force consistently heard that there were significant backlogs and delays in forensic evidence processing at USACIL. The Army is currently evaluating the procedures at USACIL, including reexamination of resource requirements needed to ensure performance goals are achieved.

#### **6.5. Establish DoD-wide policy requiring victim advocates be provided to victims of sexual assault and create a mechanism for providing victim advocates in deployed environments.**<sup>19</sup>

- Ensure Victim Advocates can assist in providing a range of coordinated services and support to victims which may be used to help the victim in reducing the effects of trauma.
- One of the major components of a “victim-centric” program is rapid access to and availability of victim advocates. First responders should contact victim advocates immediately upon a case being reported.
- Ensure funds and personnel authorizations are identified to provide needed victim advocates at CONUS installations and in the deployed environment.

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<sup>17</sup> Addresses findings 22, 24, 25

<sup>18</sup> Addresses finding 26

<sup>19</sup> Addresses findings 20, 24

## 6.6. Establish uniform Commander guidelines.

### 6.6.1. Establish uniform guidelines for commanders' use in assuring that a sexual assault victim's safety and protection needs are met.<sup>20</sup>

Although under federal law and DoD VWAP regulations, victims have rights for reasonable protection from the accused, assuring safety and protection of victims is imperative and there is clearly need for concise and sexual assault-specific guidance. Recently the military protective order language has changed so that it can be used in cases of sexual assault. However, commanders are looking for clear, accessible guidance in this area.

- The Department should consider developing overall guidance similar to that used by in the Navy SAVI program, which instructs commanders to consider temporary reassignment of either the victim or accused until the case is legally resolved and/or the victim is out of danger and that the victim's desires should receive preferential consideration.

### 6.6.2. Develop DoD guidance to positively assure a victim's privacy.<sup>21</sup>

- This policy may need to include restrictions on "need to know," what information is released in reports up the chain of command, and possibly a requirement to sign non-disclosure statements, with stiff penalties for violating it.

### 6.6.3. Review the process and institute guidelines on how and when reports of sexual assault are forwarded up the chain of command, as well as what information is included in those reports.<sup>22</sup>

### 6.6.4. Develop policy or regulatory guidance to specifically advise commanders that command investigations of all serious criminal offenses (e.g. sexual assault cases) should be avoided.<sup>23</sup>

- Guidance should emphasize that the use of criminal investigative agencies is the preferred method of investigating reports of sexual assault.
- All UCMJ offenses covered under the umbrella term of "sexual assault" (as defined for the purposes of this review) carry potential maximum sentences of imprisonment for five years or more. Consequently, early involvement of investigative agencies is imperative for most allegations.

### 6.6.5 Establish DoD policy guidance on when a victim's misconduct that occurs in association with a sexual assault should be addressed.<sup>24</sup>

- The Navy's policy on this issue may serve as a good starting point, which advises commanders to consider delaying any action to address minor victim misconduct until final disposition of the sexual assault is resolved.

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<sup>20</sup> Addresses finding 16, 21

<sup>21</sup> Addresses finding 14

<sup>22</sup> Addresses finding 28

<sup>23</sup> Addresses finding 28

<sup>24</sup> Addresses finding 29



## Recommendation 7

Assure manpower and fiscal resources are authorized and allocated, especially in the near years, to implement required policies and standards.

Several findings of the Task Force were attributed to insufficient fiscal, training, and manpower resources. The new DoD policy office established per Recommendation 1 must work with the Services to identify fiscal and manpower requirements needed to execute emerging sexual assault policies, standards, and protocols. To the fullest extent possible, the new OSD staff office must work with the Services and the DoD Comptroller to establish and resource required sexual assault policies and standards for the current and next 2 fiscal years.

This would include, but not be limited to actions that will:

### **7.1. Assure DoD resourcing of Victims Witness Assistance Program (VWAP).<sup>25</sup>**

VWAP programs have been implemented but they are not able to meet the needs of all victims because of a lack of dedicated manpower on many installations.

### **7.2. Implement specialized training on sexual assault cases for all investigators and legal personnel and military judges that will be involved in these cases.<sup>26</sup>**

There is a need to better resource and provide specialized training in the realm of sexual assault to investigators and legal communities.

### **7.3. Consider increased manpower authorizations for Service investigative agents, especially in the deployed environment where they have additional responsibilities.<sup>27</sup>**

The impact of multiple taskings for investigators in the combat theater further impairs their ability to provide timely and effective investigations because there are simply not enough investigators for everything that needs to be accomplished.

## Recommendation 8

Develop an integrated strategy for sexual assault data collection to aid commanders, service providers, legal staff, and law enforcement entities in evaluating response effectiveness and system accountability.<sup>28</sup>

### **8.1. This recommendation is best accomplished through a two-step approach to:<sup>29</sup>**

- ❑ Require Services to fully implement Defense Incident-Based Reporting System (DIBRS) reporting during FY05.

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<sup>25</sup> Addresses finding 21

<sup>26</sup> Addresses finding 31

<sup>27</sup> Addresses finding 27

<sup>28</sup> Addresses finding 28

<sup>29</sup> Addresses findings 1, 23, 32, 33

- ❑ Establish an Integrated Process Team during the next six months to develop near- and long-term recommendations to standardize data requirements, and system solutions for the capture and integrate data not included in DIBRS.

## **Recommendations for Longer-Term Action**

### **Recommendation 9**

#### **Establish institutional sexual assault program evaluation, quality improvement, and oversight mechanisms.<sup>30</sup>**

If the Department of Defense is to provide a responsive system to address sexual assault, it must be a top-down program with emphasis placed at the highest levels within the Department down to the lowest levels of command and leadership.

To ensure the Department's efforts toward confronting sexual assault remain vigilant, it is important to monitor the development and implementation of policies and program execution. This will require a concerted effort throughout the department to ensure that the system accomplishes this objective.

More importantly, commanders and leaders must have the appropriate tools (education, training, resources and support) to ensure that our service members understand the issues and know how to prevent becoming victims; that support personnel provide care and support and treat victims with dignity and respect, and that we reassure the parents of those future service members that their sons and daughters will be protected. Commanders must also be able to provide swift resolution and/or punishment.

#### **9.1. Develop performance metrics, establish an evaluative framework, and conduct Quality Assurance and Program Improvement Reviews**

- ❑ Monitor progress in minimizing force-wide risks associated with sexual assaults.
  - Efforts to increase quality of support and care to victims.
  - Efforts to increase visibility of incidents and their dispositions to the Secretary, Combatant Commanders, and the Secretaries of the Military Departments.
- ❑ Assess effectiveness of commander tools and guidelines for preventing and responding to sexual assault.
- ❑ Establish and publish an annual research agenda, using inputs from the Services, Combatant Commands, and other outside experts to evaluate applied strategies and their effect on incidence of sexual assault in DoD.

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<sup>30</sup> Addresses findings 1, 3, 5, 23, 30, 34, 35