



Task Force Report on Care for Victims of Sexual Assault

April 2004

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Task Force Support

The Task Force would like to thank the following organizations for their support and advice:

Combatant Commanders
Joint Staff
Department of the Army
Department of the Navy
Department of the Air Force
Department of Defense, General Counsel
Department of Defense, Inspector General
The Department of Justice
The Department of Veterans Affairs
Office of the Secretary of Defense, Reserve Affairs
Office of the Secretary of Defense, Legislative Affairs
Office of the Under Secretary of Defense, Personnel and Readiness
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The American Prosecutors' Research Institute
The Miles Foundation
Rape, Abuse, and Incest National Network

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FEB 5 2004

MEMORANDUM FOR THE UNDER SECRETARY OF DEFENSE
(PERSONNEL AND READINESS)

SUBJECT: Department of Defense Care for Victims of Sexual Assaults

I am concerned about recent reports regarding allegations of sexual assaults on service members deployed to Iraq and Kuwait. Sexual assault will not be tolerated in the Department of Defense. Commanders at every level have a duty to take appropriate steps to prevent sexual assaults, protect victims, and hold those who commit offenses accountable. I am directing that you review how the Department handles treatment of and care for victims of sexual assault, with particular attention to any special issues that may arise from the circumstances of a combat theater. We are responsible for ensuring that the victims of sexual assault are properly treated, their medical and psychological needs are properly met, our policies and programs are effective, and we are prompt in dealing with all issues involved.

Your review should address the reporting of sexual assaults, including the availability of private channels for reporting such issues within combat theaters. During the course of your review, you should also consider what briefings may need to be given to deploying and redeploying service members.

Please report your findings and recommendations 90 days from the date of this memorandum.

A handwritten signature in black ink, appearing to read "R. M. ...".



OSD 01728-04

Executive Summary

The Department of Defense is unequivocal in its commitment to ensure that victims of sexual assault be protected, treated with dignity and respect, provided proper medical and psychological care, and that the perpetrators of such assaults be held accountable.

Task Force Charter

On February 5, 2004, Secretary of Defense Donald Rumsfeld directed the Under Secretary of Defense for Personnel and Readiness, Dr. David S.C. Chu, to undertake a 90-day review of all sexual assault policies and programs among the Services and DoD, and recommend changes necessary to increase prevention, promote reporting, enhance the quality and support provided to victims, especially within combat theaters, and improve accountability for offender actions.

Review Methodology

On February 13, 2004, the Under Secretary of Defense for Personnel and Readiness established an eight member Department of Defense Care for Victims of Sexual Assaults Task Force. The Task Force formulated a review plan, which included the following:

- ❑ Request and analyze sexual assault incidence and demographic data from the Services.
- ❑ Request and assess current DoD-wide, Service-wide and Combatant Command-wide sexual assault policies and programs.
- ❑ Perform literature review on sexual assault, including review of prior studies and reports on DoD sexual assault and related programs.
- ❑ Discuss sexual assault prevention, reporting, response, and disposition issues with commanders, non-commissioned officers, junior enlisted personnel, service providers (medical, mental health, victim advocate, victim witness advocate, chaplains, law enforcement, investigative agencies, and legal personnel), and victims.
- ❑ Consult with subject matter experts within the Department of Defense, other federal agencies, civilian experts, and sexual assault support organizations about matters that should inform our review with respect to prevention, reporting, response, and disposition of sexual assault cases.

For the purposes of the Task Force review, sexual assault was defined as including the alleged offenses of rape, forcible sodomy, assault with intent to commit rape or sodomy, indecent assault or an attempt to commit any of these offenses.

The Task Force conducted visits with 21 military locations in the Continental United States (CONUS), Pacific Command (PACOM), and Central Command (CENTCOM) to evaluate DoD and Service policies and programs for prevention of sexual assault, supportive care for sexual assault victims, and how well these programs transition to combat theater. The

structure and composition of the focus groups is discussed in Chapter 1. In all, the Task Force had personal contact with more than 1,300 individuals.

Working from scripted questions used at every site, the focus groups discussed issues such as command climate, barriers to reporting, prevention and support policies and practices, feedback mechanisms, best practices, and recommendations for improvements. Comments from focus group participants were obtained with the assurance that their individual comments would not be attributed to them or their organizations.

The Task Force reviewed Department of Defense, Service, and Combatant Commander policies and education and training requirements relative to sexual assault. The Task Force also reviewed selected 2002 and 2003 case and care reports at the sites visited where the identified victim was a uniformed service member.

The Task Force also consulted with other principal staff elements within the Office of the Secretary of Defense, outside experts from the Departments of Justice and the Department of Veterans Affairs, as well as respected experts from academia and rape crisis support organizations.

Findings and Recommendations

This report contains the findings and recommendations of the Department of Defense Care for Victims of Sexual Assault Task Force. Throughout this review, the Task Force sought to understand the culture, command structures, and resource limitations when evaluating appropriate courses of action needed to fill gaps in policies and procedures, particularly as they pertain to in-theater care. The findings are intended to provide a high level, comprehensive assessment of the strengths, weaknesses, and gaps in current DoD and Service policies regarding care for sexual assault victims.

Findings

The Task Force identified 35 key findings relevant to current sexual assault policies and programs among the Services and DoD, and proposed 9 broad recommendations for immediate, near-term, and long-term corrective action.

Sexual Assault Data and Definition

DoD-wide, data systems and records on reports of sexual assault are incomplete and not integrated. Records are best when criminal investigations were performed, but significant gaps in the documentation of victim care and treatment, victim choices in the disposition process, and command disposition were identified. The implications of this are discussed further in Finding 1.

The number of alleged sexual assault cases reported across the Department of Defense for 2002 and 2003 are discussed in Finding 2. Cases reported to have occurred in the CENTCOM Area of Responsibility are reported as well. The rates of reported alleged sexual assault were 69.1 and 70.0 per 100,000 uniformed service members in 2002 and 2003, respectively. Due to substantial differences in the definition of sexual assault, these rates are not directly comparable to rates reported by the Department of Justice.

There is considerable inconsistency in the legal and behavioral definitions of terms like sexual assault, sexual harassment, and sexual trauma, as discussed in Finding 3. This creates significant challenges for the Department when evaluating sexual assault trends, both within and outside DoD, and ensuring effective program execution.

Despite these challenges, sexual assault risk factors in the military do not appear to be significantly different from those reported in civilian literature. These commonalities and associated data are discussed in Finding 4. Currently, these identified risks are not being systematically communicated to military members as part of any prevention education efforts that are either directly or indirectly related to sexual assault.

Sexual Assault Prevention

Existing policies and programs aimed at preventing sexual assault are inconsistent and incomplete, principally because there is no Defense-wide policy requiring them, as discussed further in Findings 5 and 9. All services have robust programs aimed at prevention of sexual harassment that tangentially discuss sexual assault. The Task Force found pockets of excellence in each of the Services to address sexual assault prevention, response, and support. Examples are provided in Finding 6. Overall, the lack of Department-wide policy and program emphasis is particularly problematic in joint combat environments. Findings 7 and 8 provide specific examples and challenges with respect to this.

Sexual Assault Reporting

Many of the barriers to reporting incidents identified during this review are similar to those reported in the civilian community, while others are unique to the military setting. Identified barriers and concerns expressed by focus group participants are discussed in Finding 12.

Generally, junior enlisted personnel are not aware of the full range of reporting options available to them. They identified a critical need for education and training on where to report, how to support a victim, and what to do in the event of sexual assault. Further discussion of these issues can be found in Finding 13.

The Task Force found that privacy needs of sexual assault victims must be positively assured. Focus group participants identified examples and recommended possible actions to increase privacy that are discussed in Finding 14.

The perceived lack of privacy and confidentiality within the Department of Defense is thought by many to be one of the most significant barriers to reporting by military sexual assault victims. While many individuals the Task Force spoke to recognized that lack of confidentiality within the DoD serves as a barrier to reporting, there was equal concern that affording victims with avenues for confidential disclosure may impede a commanders' solemn responsibility to hold offenders accountable and to ensure community safety. More detailed discussion of this very complicated issue is found in Finding 15.

Care for Victims of Sexual Assault

Focus group leaders, providers, and enlisted personnel suggested that Department-wide guidelines are needed to ensure consistent and timely command response to victim safety and protection needs, particularly in making decisions to segregate the alleged victim and

alleged offender. These issues are discussed further in Findings 16 and 17. Finding 18 provides further discussion of unique challenges in the operational theatre.

DoD has no mandated requirement to provide advocacy for sexual assault victims. As a result, there is no one person or office across the Department of Defense mandated to principally and exclusively serve the needs of sexual assault victims. Associated findings and implications are discussed in Findings 20 through 22.

Focus group discussions suggested that integration of services for victims were lacking at most installations. Several of the Services were noted to have policies designed to ensure better coordination of care for sexual assault victims; however, implementation appeared inconsistent. While aggregate data provided by the Services suggested that care to victims is being provided within military facilities, it was very difficult to validate this when individual records were reviewed at the sites visited. These issues are discussed further in Finding 23.

The resources required to deliver integrated case management support for victims at small, isolated CONUS installations, at OCONUS installations where expert host nation resources have not been developed, and in the deployed environment, is not currently a consideration in force planning. For example, Sexual Assault Nurse Examiners (SANE) exist in the active and reserve components, but they are not being strategically developed or implemented for utilization in OCONUS and remote CONUS locations. Finding 24 provides further discussion. Uniform Department-wide training for providers and optimal standards of care for victims of sexual assault have not been developed and are needed, as discussed in Finding 25.

Sexual Assault Investigation and Prosecution

The environment in the combat theater has a detrimental effect on the ability to timely and effectively investigate and prosecute cases, due primarily to heavy investigative workloads and insufficient on-the-ground resources to respond. As a consequence, at least initially, some investigations were conducted by the command, which may have unintentionally compromised some of those cases of sexual assault. Findings 27 and 28 provide further discussion of these issues.

When victims of sexual assault have been engaged in minor misconduct prior to the sexual assault (e.g., underage drinking, breaking curfew, etc.), it presents challenges for commanders that are unique to the military. Addressing a victim's minor misconduct prior to resolution of the sexual assault allegation is perceived by many as unfair. These issues are discussed further in Finding 29.

Understanding the nature and extent of intentionally false allegations is important to better serve the needs of those who have been sexually assaulted, those whose lives and careers have been impacted by false allegations, and the military as a whole. While the Task Force recognizes that addressing false allegations may be polarizing, it was a concern expressed by many individuals within the military. These challenges and the need for better, more reliable information about this issue are discussed in Finding 30.

Another challenge for the military is the lack of transparency with respect to the investigation of sexual assault cases and the decision-making process for individual cases. This lack of transparency impacts the military's ability to demonstrate to the ranks that there is offender accountability. The need to increase transparency, while adhering to Privacy Act protections, is discussed in Finding 32.

Sexual assault cases are often very difficult to investigate and to successfully prosecute, but available data shows commanders are taking action. Analysis of data provided by the services with respect to this issue is provided in Finding 33.

System Accountability for Sexual Assault

The lack of focus and assigned responsibility for sexual assault issues within the Office of the Secretary of Defense has resulted in a lack of policy, development and implementation, as well as inconsistent oversight and inattention to developing and ensuring adherence to performance standards. The implications of this are discussed in Findings 34 and 35.

Recommendations

For Immediate Action:

- ❑ Establish a single point of accountability for all sexual assault policy matters within the Department of Defense.
- ❑ During the upcoming Combatant Commanders Conference, allocate time on the agenda to discern the how the findings and recommendations of this report should apply to their areas of responsibility.
- ❑ Ensure broadest dissemination of sexual assault information regarding DoD's policies, programs and resources available for sexual assault prevention, reporting, response, protection and accountability through DoD-wide communication outlets.
- ❑ 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 to:
 - 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.
 - Establish avenues within DoD to increase privacy and provide confidential disclosure for sexual assault victims.
 - Establish ways to increase transparency of the reasons for the handling and disposition of reported sexual assault cases.
 - 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).
 - 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.

For Near-Term Action:

- ❑ Establish an Armed Forces Sexual Assault Advisory Council, composed of key DoD officials and officials of other federal agencies with recognized expertise in dealing with

issues surrounding sexual assault, with authority to seek input from other nationally recognized sexual assault experts, as needed.

- ❑ Develop policies, guidelines and standards for sexual assault prevention, reporting, response, and accountability. This includes efforts to:
 - Develop standardized requirements, guidelines, protocols, and instructional materials that are focused on prevention across the total force.
 - Encourage reporting through well-established, publicized, and unobstructed reporting channels.
 - Develop DoD-wide standards and guidelines for sexual assault response to assure that all victims are afforded safety and protection, receive the best care possible, and have a coordinated, timely response to and resolution of their cases.
 - Develop sexual assault “force protection” guidelines for installation and operational use focused on identification and mitigation of risk factors.
 - Develop DoD-wide medical standards of care and clinical practice guidelines for treatment and care of victims of sexual assault.
 - Establish performance metrics for the United States Army Criminal Investigative Lab to ensure more timely forensic evidence processing.
- ❑ 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.
- ❑ Establish uniform guidelines for commanders’ use in responding to victims of sexual assault, including guidelines for:
 - Assuring that a sexual assault victim’s safety and protection needs are met.
 - Positively assuring a victim’s privacy and review the process
 - How and when reports of sexual assault are forwarded up the chain of command, as well as what information is included in those reports.
 - Addressing a victim’s misconduct that occurs in association with a sexual assault.
- ❑ Assure manpower and fiscal resources are authorized and allocated, especially in the near years, to implement required policies and standards.
- ❑ Develop an integrated strategy for sexual assault data collection to aid commanders, service providers, legal, staff, and law enforcement in evaluating response effectiveness and system accountability.

For Longer-Term Action:

- ❑ Establish institutional sexual assault program evaluation and oversight mechanisms.

Summary

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 leadership. It must develop performance metrics and establish an evaluative framework for regular review and quality improvement. Further the Department must ensure that Commanders and leaders have the appropriate tools (education, training, resources and support) to ensure that:

- ❑ our service members understand the risks and actively engage in preventive measures

- ❑ all responders treat victims with dignity and respect
- ❑ support personnel ensure high quality care and treatment, no matter where the sexual assault occurs
- ❑ swift resolution and/or punishment occurs

Sexual assaults are a challenge to our nation, and the military is not immune to this challenge. In the short timeframe available to plan and execute the review and summarize our findings and recommendations, we focused on critical factors that need to be addressed in dealing with sexual assault in the military.

In the course of this review, the Task Force met with more than 1,300 individuals across the spectrum of leadership, line, support, and policymaking personnel. We were consistently humbled by the professionalism, dedication, and commitment to duty demonstrated across all ranks, military, and civilian, here at home, and in the combat environment.

The Task Force recognizes that this issue is very complex, and its resolution is critical to the well-being of military service members. Within the limited time available to the Task Force, the recommendations are intended to be a starting point for increased DoD attention to the policy development, command emphasis, and resourcing necessary to resolve sexual assault concerns. DoD policies, programs, and procedures are necessary, but will not be sufficient to resolve the sexual assault problems found by this Task Force Review, without renewed emphasis and the clear, immutable commitment of unit commanders.

