



# Department of Defense FY08 Report on Sexual Assault in the Military

March 2009



UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

MAR 12 2009

PERSONNEL AND  
READINESS

The Honorable Carl Levin  
Chairman, Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

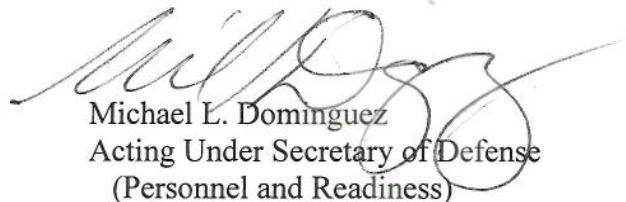
As required by section 577(f) of Public Law 108-375, I am forwarding to you the FY08 DoD Report on Sexual Assault in the Military, which includes the reports from the Military Services. The Department of Defense has reviewed the scope and extent of sexual assault reports during FY08 as well as the policies and procedures for sexual assault prevention and response in the military.

During the past year, the Department of Defense has maintained collaborative efforts with the Services, Members of Congress, and national experts to address the crime of sexual assault within our ranks. The Sexual Assault Prevention and Response Office (SAPRO) is a permanent office within the Office of the Secretary of Defense and is the single point of accountability for the Department of Defense's sexual assault policy.

The enclosed reports provide data on reported sexual assault allegations involving members of the Armed Forces that occurred during Fiscal Year 2008. They also summarize the policies and procedures that the Department of Defense and the Military Services implemented to provide a solid foundation for our goals of prevention through training and education, victim care and support, and accountability.

I am sending a similar letter and the Department of Defense's report to the Chairman and Ranking Member of the House Committee on Armed Services.

Sincerely,

  
Michael L. Dominguez  
Acting Under Secretary of Defense  
(Personnel and Readiness)

Enclosures:  
As stated

cc:  
The Honorable John McCain  
Ranking Member



UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

PERSONNEL AND  
READINESS

MAR 12 2009

The Honorable Ike Skelton  
Chairman, Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

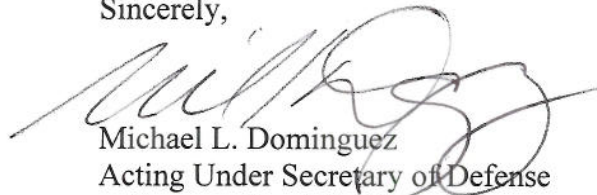
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Michael L. Dominguez  
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Enclosures:  
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cc:  
The Honorable John M. McHugh  
Ranking Member

## TABLE OF CONTENTS

<b>Note from the Director</b> .....	3
<b>Executive Summary</b> .....	5
<b>DoD SAPR Program Overview</b> .....	7
Legislative Requirements .....	7
DoD SAPR Policy .....	7
Definition of Sexual Assault .....	7
Reporting Options .....	9
Victim Care .....	10
<b>Program Highlights</b> .....	13
Oversight and Program Accountability .....	13
<i>Sexual Assault Advisory Council</i> .....	14
<i>Policy Assistance Visits</i> .....	15
<i>Improved Data Collection and Reporting</i> .....	16
<i>Military Service Academy Assessment</i> .....	17
<i>Additional Internal Oversight</i> .....	17
<i>Government Accountability Office</i> .....	18
Policy Development .....	23
Training .....	25
Outreach Activities .....	26
Prevention Activities .....	27
Response Capabilities .....	29
<i>Secretary of Defense's Priorities</i> .....	29
<i>Sexual Assault Forensic Examination and Lab Availability</i> .....	30
<i>Number of Responders Trained</i> .....	30
<i>Service Referrals for Victims of Sexual Assault</i> .....	30
<i>Joint and Deployed Environments</i> .....	31
<b>Aggregate Report of Sexual Assault Incidents</b> .....	33
FY08 Unrestricted Reports of Sexual Assault .....	34
FY08 Restricted Reports of Sexual Assault .....	40
FY08 Reports of Sexual Assault in Combat Areas of Interest .....	41

<b>Way Ahead for Program</b> .....	47
Oversight and Program Accountability .....	47
Policy Development .....	47
Training .....	48
Outreach Activities .....	48
Prevention Activities .....	49
Response Capabilities.....	49
<i>Secretary of Defense's Priorities</i> .....	49
<i>Sexual Assault Forensic Examination and Lab Availability</i> .....	49
<i>Number of Responders Trained</i> .....	49
<i>Service Referrals</i> .....	50
<i>Joint and Deployed Environments</i> .....	50
<b>Strategic Observations</b> .....	51
<b>Conclusion</b> .....	63

## Appendices

Sexual Assault Offense Investigation Flow Chart Definitions .....	Tab A
Sexual Assault Investigation Flow Chart .....	Tab B
Data Matrices.....	Tab C
List of Acronyms.....	Tab D
Laws Governing the Annual Report on Sexual Assault in the Military.....	Tab E

## Enclosures

Army FY08 Annual Report .....	Tab 4
Navy and Marine Corps FY08 Annual Report.....	Tab 5
Air Force FY08 Annual Report.....	Tab 6
FY08 Case Synopses .....	Tab 7



## FROM THE DIRECTOR



*We are pleased to present the Department of Defense Fiscal Year (FY) 2008 Report on Sexual Assault in the Military. This report covers the period from October 1, 2007 through September 30, 2008.*

*My staff and I are strongly dedicated to supporting Service members who are victims of sexual assault and doing all we can to prevent this crime. Our strong leadership has made the Department's support of this program very clear. However, success would not be possible without the tireless efforts of all those we collaborate with – both inside and outside of the Department of Defense. In particular, the Army, Navy, Air Force and Marine Corps must be commended for the progress they made in FY08. Each Military Service demonstrated the depth of its commitment to ending sexual assault through their compassion and dedication day after day.*

*The statistics in this report simultaneously represent the evil of which humans are capable and the strength and resilience of the human spirit. We can never forget that each report represents individual victims – people who have suffered harm at the hands of another. Our duty is to offer them hope and healing – they deserve no less. Failure is not an option. To each and every victim mentioned in this report, we send our heartfelt sympathy and extend this pledge: we will not stop until we have achieved our common goal of a military with no sexual assaults.*

A handwritten signature in black ink that reads "Kaye Whitley".

*Kaye Whitley, Ed.D.*

*Director*

*Sexual Assault Prevention and Response Office*

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## EXECUTIVE SUMMARY

Section 577(f) of Public Law (PL) 108-375 requires the Department of Defense to submit an annual report on sexual assault in the military to Congress. Additional reporting requirements are specified by section 596(c) of PL 109-163 and section 583 of PL 109-364. The sexual assault reports described in this document were made in Fiscal Year (FY) 2008, which is from October 1, 2007 through September 30, 2008.

This report is divided into the following major sections: DoD Sexual Assault Prevention and Response Program Overview, Program Highlights, Aggregate Report of Sexual Assault Incidents, Way Ahead for Program and Strategic Observations. The Program Overview explains policy requirements and the basic structure of sexual assault prevention and response in the Department of Defense. Program Highlights discusses major activities and developments that occurred during the year. Program Highlights begins with a section entitled, "Oversight and Program Accountability," which is new to this year's report. The section concludes with a discussion of internal oversight and an analysis of the recommendations of the Government Accountability Office. A discussion of the data can be found in the Aggregate Report of Sexual Assault Incidents. The Way Ahead for the Program includes the planned future activities in each area discussed under Program Highlights.

Key FY08 Program Highlights were the following:

- **Oversight and Program Accountability:** The Department took steps to institutionalize its oversight program. During FY08, Policy Assistance Visits were conducted at three Combatant Commands and nine installations / bases. In addition, the Department began an initiative for a new database and created new data definitions. These measures will enhance the Department's future ability to collect and analyze its data. Finally, the Government Accountability Office conducted a review of sexual assault prevention and response in the military and released a report with nine recommendations for the Department. Compliance with the recommendations has begun.
- **Policy Development:** DoD SAPR policy modifications were drafted in FY08. The Department also continued to address a number of policy challenges including the conflict between Restricted Reporting and civilian mandatory reporting laws, extending SAPR to DoD civilians and DoD contractors and joint environments.
- **Training:** Training efforts spanned from reviewing DoD and Service training policy to drafting policy modifications in order to make training requirements more effective.



- **Outreach:** The Department continued its aggressive outreach campaign by opening up communications to highlight the SAPR program to internal and external audiences.
- **Prevention:** During FY08, the Department expanded its focus on prevention and collaborated with national experts to draft a prevention strategy.
- **Response Capabilities:** The Department focused on the Secretary's four priorities, which include reducing sexual assault reporting stigma, ensuring sufficient commander training and accountability, ensuring investigator training and resourcing, and ensuring trial counsel (prosecutor) training. The Department also continued to address the unique challenges that arise in joint and deployed environments.
- **Aggregate Report of Sexual Assault Incidents:** In FY08 there were 2,908 reports of sexual assault involving Military Service members:
  - There were 2,265 Unrestricted Reports involving Military Service members. 1,594 (70%) of these reports had Military Service members as victims. Some of these reports included more than one victim resulting in a total of 1,752 Service members victims in the Unrestricted Reports received.
  - Service member victims made 753 Restricted Reports of sexual assault. Fifteen percent (110) of victims that made Restricted Reports decided to change to an Unrestricted Report and participate in a criminal investigation. As a result of the change, 643 remained as Restricted Reports.
  - The Military Services completed a total of 2,389 criminal investigations on reports made during and prior to FY08, which involved 2,763 subjects.

The Department of Defense remains committed to eliminating sexual assault from the Armed Forces by sustaining a robust sexual assault prevention and response policy; identifying and eliminating barriers to reporting; ensuring care remains available and accessible; and by providing continuous, relevant, and effective training and education to all Service members.

## DOD SAPR PROGRAM OVERVIEW

### Legislative Requirements for Annual Report on Sexual Assault in the Military

This Report is the Department of Defense's Annual Report to Congress on Sexual Assault in the Military. Section 577 of Public Law (P.L.) 108-375 requires the report. Section 596 of P.L. 109-163 and section 583 of P.L. 109-364 impose additional requirements for the report.

The sexual assault reports described in this document were made during Fiscal Year (FY) 08, which runs from October 1, 2007 through September 30, 2008. This is the second report which was done for the fiscal, as opposed to calendar, year. Prior to FY07, yearly reports from the Department of Defense were based on the calendar year. Congressional revisions to Article 120 of the Uniform Code of Military Justice (UCMJ) drove the Department to change the reporting collection period. Article 120 defines the crimes that constitute sexual assault. The changes to the UCMJ became effective on October 1, 2007 and had the effect of increasing the number of crimes defined by Article 120. The Department of Defense changed its data collection period to coincide with the start date of the revised law to eliminate confusion.

### DoD Sexual Assault Prevention and Response (SAPR) Policy

Studies indicate that most sexual assaults that occur in America are not reported to law enforcement.<sup>1</sup> Underreporting poses a serious challenge, as the potential costs and consequences of sexual assault are extremely high. Chronic psychological consequences may include depression, post traumatic stress disorder and even attempted or completed suicide.<sup>2</sup> Not only does sexual violence harm the individual victimized, it impacts public health. For the military, the potential costs are even higher as it can also negatively impact mission readiness. Service member risk their lives for one another and bear the responsibility of keeping fellow service members out of harm's way. Sexual assault in the military breaks this bond, and units may be torn apart. Clearly, the military cannot tolerate sexual assault. Not only is sexual assault criminal, the potential costs and consequences are simply too high.

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<sup>1</sup> Estimates show that between 22 to 41.6% of the sexual assaults that occur in America are reported to police. See, U.S. Department of Justice (2008). *Criminal Victimization, 2007*. Washington, DC: Rand, Michael and U.S. Department of Justice. (2002). *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000*. Washington, DC: Rennison, Callie Marie.

<sup>2</sup> Department of Health and Human Services Centers for Disease Control and Prevention, "Understanding Sexual Violence Fact Sheet, 2007," <http://www.cdc.gov/ncipc/pub-res/images/SV%20Factsheet.pdf>.

The Department of Defense's ultimate goal is to eliminate sexual assault from the ranks. The Department's immediate goal is to establish a climate of confidence that encourages all victims to report sexual assault and get the care they need. The Department of Defense is accomplishing this goal by:

- Maintaining a comprehensive worldwide response capability at all DoD installations for victims of sexual assault. Since June 2005, a key component of that response is allowing a victim the option of a Restricted Report, which permits reporting and access to care without initiating an investigation or notifying command.
- Institutionalizing extensive training programs to increase sexual assault prevention and program awareness.
- Exercising oversight over Department sexual assault prevention and response programs (SAPR) and functions.

Giving first-class care to a victim of sexual assault anywhere in the world lies at the heart of the Department's SAPR program.

Department of Defense (DoD) Directive 6495.01, *Sexual Assault Prevention and Response Program*, October 6, 2005,<sup>3</sup> and DoD Instruction 6495.02, *Sexual Assault Prevention and Response Program Procedures*, June 23, 2006,<sup>4</sup> constitute DoD SAPR policy. According to DoD policy, the Sexual Assault Prevention and Response Office (SAPRO) is the Department's "single point of responsibility for sexual assault policy matters, except for legal processes provided under the Uniform Code of Military Justice (UCMJ)...and Manual for Courts Martial..., and criminal investigative policy matters that are assigned to the Judge Advocates General of the Military Departments and the IG, DoD, respectively."<sup>5</sup> SAPRO works in partnership with the Military Services, the Joint Chiefs of Staff, the Office of General Counsel, the DoD Inspector General, Health Affairs, Reserve Affairs, and other DoD components to make the SAPR program a success. Institutionalization and sustainment of SAPR is a monumental task, given the program's many participants, its global scope, and its relative youth.

## Definition of Sexual Assault

The military definition of "sexual assault" does not refer to one specific crime; rather, it encompasses a range of sex crimes that represent a broad range of offenses from rape or nonconsensual sodomy to indecent assault, as well as attempts to commit these offenses. Consequently, the definition of sexual assault in the military is broader than forcible or

<sup>3</sup> DoD Directive 6495.01 was modified on November 7, 2008, subsequent to the end of FY08.

<sup>4</sup> DoD Instruction 6495.02 was modified on November 13, 2008, subsequent to the end of FY08.

<sup>5</sup> DoD Instruction 6495.02, section 5.3.1.

non-consensual intercourse. During the time period of this report, “sexual assault” was defined by DoD Directive 6495.01, Section E.2.1.12 as follows:

*For the purpose of this Directive and SAPR awareness training and education, the term “sexual assault” is 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. It 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 or spousal relationship or age of victim. “Consent” shall not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person uses force, threat of force, coercion, or when the victim is asleep, incapacitated, or unconscious.*

Changes in the UCMJ required a revision of this definition, which is reflected in the update to DoD Directive 6495.01, posted on November 7, 2008.<sup>6</sup>

## Reporting Options

The Department offers two reporting options: Restricted and Unrestricted Reporting. The creation of Restricted Reporting in June 2005 as an option was a critical addition to the program. Restricted Reporting allows victims to confidentially access medical care and advocacy services. It is defined as follows:

*A process used by a Service member to report or disclose that he or she is the victim of a sexual assault to specified officials on a requested confidential basis. Under these circumstances, the victim’s report and any details provided to a healthcare provider, the Sexual Assault Response Coordinator, or a Victim Advocate will not be reported to law enforcement to initiate the official investigative process unless the victim consents or an established exception is exercised under this Directive.<sup>7</sup>*

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<sup>6</sup> The new definition states, “For the purpose of this Directive and SAPR awareness training and education, the term ‘sexual assault’ is defined as intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent. Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (to include unwanted and inappropriate sexual contact), or attempts to commit these acts. ‘Consent’ means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused’s use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent.” DoD Instruction 6495.01, section E2.1.13. For the complete instruction, see [www.sapr.mil](http://www.sapr.mil).

<sup>7</sup> DoD Directive 6495.01, E.3.1.8.

While Restricted Reporting does not disclose the identity of the victim or trigger the investigative process, commanders are provided with limited information about the incident which allows them to address force protection concerns. In this way, the Department is able to honor a victim's privacy while taking steps to keep others safe. The Department is also able to offer victims care and treatment which the victim may have foregone accessing without this confidential option.

Although Departmental policy allows for confidential Restricted Reports, it encourages victims to make Unrestricted Reports that allow the Department to investigate and hold offenders accountable. Victims who initially make a Restricted Report may change their minds and participate in an official investigation at any time. In addition, if information about a sexual assault comes to a commander's attention or to the attention of law enforcement independent of a victim's report, an investigation will be initiated.

Restricted Reporting does more than allow victims to confidentially access medical care. It also preserves the possibility of future prosecution by allowing victims to anonymously receive sexual assault forensic examinations (SAFEs). Following the examination, military law enforcement holds the evidence under an anonymous alphanumeric identifier for up to one year. While victims may convert their reports from Restricted to Unrestricted at any time, evidence gathered during the forensic examination is destroyed after one year from the date it is collected. One month prior to the expiration of that year, the Sexual Assault Response Coordinator (SARC) contacts the victim to determine if the victim would like to convert to an Unrestricted Report and participate in the military justice system and/or the civilian criminal justice system. This process allows for the availability of evidence that otherwise would not have been available without the Restricted Reporting option.

Under Unrestricted Reporting, the victim reports an incident of sexual assault and the matter is referred for investigation. As in Restricted Reporting, victims may receive healthcare, counseling and advocacy services. However, in an Unrestricted Report, details of the incident are reportable to command and law enforcement.

SARCs and victim advocates (VAs) work with victims to help them understand the reporting options described above. To ensure that victims make informed choices, the Department developed Department of Defense Form 2910, *Victim Reporting Preference Statement*, which fully explains the benefits and the limitations of each reporting option. This form is completed by the victim with the assistance of the SARC or VA in every case.

## Victim Care

When the Department adopted its new SAPR policy in 2005, it was based upon best practices from the civilian community as a framework to shape the military's response

system. Professionals from several disciplines work as a team to provide expert care for victims worldwide with a 24 hour / 7 day a week response.

Victim care begins immediately upon the initial report of a sexual assault. At the heart of our sexual assault response system are the SARCs and VAs. Every military installation in the world—both in garrison and deployed—has a SARC and VAs who provide the human element to the Department’s response. They assist victims with three fundamental principles of victim care:

- *Safety and Security* – First and foremost, victims need to feel safe. Our SARCs and VAs work with victims to identify and address issues related to their physical safety, as well as concerns about re-victimization by the perpetrator or others who might retaliate against the victim for making a report.
- *Ventilate and Validate* – Next, victims need to talk about what happened. While they are not therapists, SARCs and VAs are trained to be good listeners. Their job is not to gather details about the assault, but rather to validate victims’ reactions and feelings in a non-judgmental way.
- *Predict, Prepare, and Inform* – Finally, victims need to know their options, legal rights, and what is likely to happen next. SARCs and VAs explain the reporting options and how they may impact the victim’s future. SARCs and VAs listen to victims’ needs and then connect them with appropriate resources, including medical care, mental health care, legal advice, and spiritual support. SARCs and VAs ensure that Service members are not left alone to navigate the potentially daunting process of reporting a sexual assault. SARCs and VAs support victims in decision making. Victims are also kept informed on the progress of their Unrestricted Report via information gathered by the SARCs at monthly multidisciplinary case management meetings. Those meetings allow the SARC to coordinate care as the case progresses through investigation and prosecution. Thanks to SARCs and VAs, victims are not left in the dark about how their case is going and what will happen next.

SARCs manage an installation or unit’s SAPR program, serve as the single point of contact to coordinate victim care, and track the services provided to the victim. While the SARC primarily provides management and oversight of victim services, VAs provide direct assistance to victims. VAs also help victims navigate the military’s response network. SARCs and VAs are the heart of our response system, but they receive a great deal of help from other members of the team including healthcare providers, chaplains, investigators, Judge Advocates and victim/witness assistance personnel.

Healthcare providers treat sexual assault victims, both physically and psychologically. Physicians, physician assistants, and nurses all contribute to treating injuries, managing

risk for sexually transmitted infections, and sometimes gathering evidence during a Sexual Assault Forensic Examination (SAFE). Psychologists, psychiatrists, social workers and other mental health professionals assist the victim in restoring the function and resilience lost in the sexual assault.

Chaplains provide spiritual support to victims of sexual assault. Generally, information communicated to chaplains during spiritual counseling is privileged,<sup>8</sup> and therefore, kept confidential. However, chaplains may not receive Restricted Reports. Because of the clergy privilege, chaplains may be an additional resource for victims of sexual assault in both Restricted and Unrestricted reports.

Law enforcement, criminal investigators, victim/witness assistance program (VWAP) personnel, and Judge Advocates also support victims. While a case is being investigated and prosecuted under an Unrestricted Report, VWAP help victims understand their legal rights, understand and participate in the military justice process, and obtain needed resources. This support helps minimize the risk for re-victimization and increases the likelihood that victims will stay with the process to its conclusion. This support also helps the victim through the recovery process as well.

At the policy level, the Department continues to strengthen internal and external partnerships with organizations that help care for victims. Within the Department, SAPRO works closely with DoD Health Affairs, the Offices of the Judge Advocates General, the Military Criminal Investigative Organizations, Military OneSource, Diversity Management Equal Opportunity, the DoD Family Advocacy Program, and the offices of the Service Secretaries. Our federal partners include the US Coast Guard, the Department of Veterans Affairs, the Department of Justice (Office of Victims of Crime, Office on Violence Against Women, and National Institute of Justice), the Department of Health and Human Services, the Centers for Disease Control, and the Department of State. Additionally, we work with community partners including many of the state coalitions against sexual assault, the Rape, Assault, Incest National Network (RAINN), the National Organization for Victim Assistance, Men Can Stop Rape, and the National Sexual Violence Resource Center.

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<sup>8</sup> Military Rule of Evidence 503 (Communications made to a chaplain as a formal act of religion or a matter of conscience.).

## FY08 PROGRAM HIGHLIGHTS

In FY08, the Department of Defense continued to move forward on its mission to enable military readiness by establishing a culture free from sexual assault. The Department's accomplishments during FY08 advanced the goals of support and care for sexual assault victims, prevention through training and education, and system accountability. This section discusses these key areas of the Department's program: (1) oversight and program accountability; (2) policy development; (3) training; (4) outreach activities; (5) prevention activities; and (6) response capabilities. During FY08, the Department worked to excel in each of these areas.

### Oversight and Program Accountability

When the SAPR policy was initially written in 2005, the Department was required to stand up its SAPR programs very rapidly to meet an emergent need. Since that time, the Department has worked closely with the Military Services to ensure program quality and effectiveness, but oversight and accountability measures were not institutionalized. Now that the Military Services have established their SAPR programs, these programs are transitioning into maturity. As part of that transition, oversight and accountability measures are being developed.

In addition to this Annual Report to Congress on Sexual Assault in the Military Services, the Department conducts a number of forms of internal oversight. One form of oversight is the Sexual Assault Advisory Council. A second form is the use of Policy Assistance Team visits. Another form of oversight and accountability is through data collection on sexual assault from the Military Services. FY08 efforts to enhance data collection are described below in the section on the Department's new database and data definitions. Oversight is also accomplished through the Department's assessment of the Military Service Academy sexual assault programs.

The Department receives oversight from external sources as well. One such source of oversight was a Government Accountability Office (GAO) review of the SAPR program in the Military Services. The results of the GAO investigation are discussed at the end of this section. The Department also receives oversight by way of Congressional inquiries and hearings, which are described in *Program Highlights, Outreach Activities, pp. 27 - 28*.



### *Sexual Assault Advisory Council*

DoD Instruction 6495.02 established the Sexual Assault Advisory Council (SAAC). SAAC members include the Assistant Secretaries for Manpower and Reserve Affairs of the Military Departments, the Vice Chairman of the Joint Chiefs of Staff, the Principal Deputy General Counsel of the Department of Defense, the Assistant Secretary of Defense for Health Affairs, and a Deputy Inspector General or their respective designees. In addition, representatives from the Departments of Health and Human Services, Justice, State, Veterans Affairs and the Centers for Disease Control and Prevention serve as advisors to the SAAC. The Under Secretary of Defense (Personnel and Readiness), serves as the Chair of the SAAC. The Deputy Under Secretary of Defense (Plans) serves as the Executive Secretary.

According to DoD Instruction 6495.02, the SAAC has four primary duties:

1. To advise the Secretary of Defense on policies for sexual assault issues involving members of the Armed Forces.
2. To coordinate policy and review the Department's SAPR policies and programs.
3. To monitor the progress of program elements.
4. To assist in developing policy guidance for the education, training and awareness of DoD personnel in SAPR matters.

In FY08, the SAAC members and advisors met twice. Meeting highlights follow:

1. **November 9, 2007** – The SAAC discussed DoD's prevention strategy and the results of the Sexual Assault Prevention Summit, held in July 2007. In addition, the SAAC discussed ways of ensuring system accountability in the Department.
2. **May 19, 2008** –The SAAC reviewed the work of its subcommittees and received an update on the development of the prevention strategy. In addition, the SAAC's advice was sought on how DoD SAPR policy applies to civilians and contractors accompanying the force in combat or contingency operations. Finally, the SAAC was updated on progress made and continued the discussion on ways to increase system accountability in the Department.

The SAAC established four subcommittees to bring together federal partners in the military's endeavor to prevent and respond to sexual assault. Subcommittees were established with the following purposes:

- *Policy and Accountability* – reviews DoD SAPR policy, identifies any necessary modifications, and advises the SAAC of recommendations for modifications.

- *Training* – reviews current SAPR training, determines whether SAPR training requirements are being met, identifies any extant gaps in training, and explores new methods for training.
- *Research* – oversees and reviews SAPR data collection, develops and monitors the SAPR research agenda, and provides guidance for research studies and data analysis.
- *Outreach* – develops an outreach plan for the Department of Defense on SAPR matters within and outside of the Department, evaluates the effectiveness of past and present messaging efforts, identifies networking opportunities and strategies, and reviews and selects various media for outreach opportunities.

Each of the SAAC subcommittees has a Service co-chair and a co-chair from SAPRO. Committee members include representatives of the SAAC members and advisors. During FY08, the subcommittees worked to guide the Department's efforts in policy, training, research and outreach.

### *Policy Assistance Visits*

As a function of the Department's oversight mission, formal Policy Assistance Visits were implemented in FY08 for the multiple purposes of determining how well the Department's SAPR policy and programs have been implemented at the installation level, identifying opportunities to refine DoD policy, and providing immediate programmatic feedback to stakeholders. A team composed of staff from SAPRO and the Military Services visited three Combatant Commands and nine installations / bases. The installations visited included every Service, as well as Army and Air National Guard units. Common findings across the Department are:

- Policy for SARC and VA selection criteria and scope of duty needs review. There was considerable variation between the Services as to the status of SAPR personnel (military, civilian or contractor), the amount and type of training provided to each, the requirement for SARCs to perform additional or collateral duties, and the screening and assignment of military personnel to Victim Advocate duty.
- Stronger command support of the SAPR program is required. Senior leadership support of the SAPR program varied from installation to installation, and from command to command. Despite varying command support, SARCs and VAs appeared committed to the mission and were working very hard to implement effective programs for their commanders.
- SAPR program awareness training does not appear to be adequately retained by military personnel. PAT teams found that many junior enlisted could not

describe the concepts surrounding reporting options or resources. In addition, not all responders had received the required program training and additional specialized training. Policy review of all training requirements is needed because training was only minimally effective in educating the troops.

- Military Treatment Facilities (MTFs) that have an emergency department should have on-call Sexual Assault Nurse Examiner or another similarly trained professional either on staff or contracted to respond in a timely manner. The team found that one MTF did not have a good track record in caring for victims of sexual assault from the bases in its area.
- SAPR personnel need additional training and options for managing interactions with the military justice system. SARCs and VAs have been required to testify about their private conversations with victims, which tends to erode their ability to confidentially and effectively assist victims. Consequently, the Department will examine whether it is possible to provide greater confidentiality to victims' private conversations with SARCs and VAs.

During FY08, PAT visits effectively served the oversight function for which they were designed. The Department will work with its stakeholders to address the findings.

### *Improved Data Collection and Reporting*

The next major form of oversight is accomplished through data collection. Comprehensive data collection and analysis is vital to policy analysis and program implementation. Currently, data is reported by hand in an aggregate fashion, which creates enormous challenges for analysis, accuracy, reporting, and consistency. To help the Department rectify this, Congress legislated that a new, Department-wide sexual assault database initiative be implemented by January 2010. In addition, the Department created new data definitions to increase the accuracy and consistency of data reporting. *See, Appendices A and B.*

Creating a new database is a monumental task. During FY08, the Department established an integrated SAPR Data Collection and Working Group led by the Air Force. The group included members from all Services, Joint Chiefs of Staff/J1, Reserve Affairs, Health Affairs and SAPRO. The group worked to develop a basic concept design for a Department-wide centralized, case-level database for the collection and maintenance of information regarding sexual assaults involving members of the Armed Forces. The development proposal for the Defense Sexual Assault Incident Database (DSAID) was initiated at the end of FY08 and was delivered to Congress in January 2009.

When the Department created policy requiring annual reports of sexual assault in 2005, it also required that the four Military Services—each with differing definitions and practices in crime reporting—report sexual assaults as well. The Department addressed the challenges of not having Department-wide definitions for sexual assault reporting by calling together the

Legal / Investigative Working Group of the SAAC Policy Subcommittee. This group is comprised of Judge Advocates, military criminal investigators, and SAPR program representatives from each of the Military Services. The definitions developed by the group also address the GAO's reporting recommendations, and provide distinct and separate reporting categories for cases that are currently categorized as "unsubstantiated / unfounded, insufficient evidence, victim recanted, death." The improved definitions will enable future Annual Reports to be more precise, allow for more consistent reporting, and provide greater insight into sexual assault case outcomes.

Together, these actions address one of the concerns raised by the Government Accountability Office in its report. *See Program Highlights, Oversight and Program Accountability, Government Accountability Office, p. 18 - 22.* Additionally, improved data collection and reporting will boost the Department's ability to conduct policy oversight and enhance program accountability

### *Military Service Academy Assessment*

The Department's Annual Report on Sexual Harassment and Violence at the U.S. Military Service Academies for Academic Program Year (APY) 2007-2008 was provided to Congress in December 2008. The assessment concluded that each of the Academies has comprehensive and robust programs that are compliant with DoD policy. The programs are healthy, but they are young and still evolving. Academy Assessment Report highlights include:

- Academy incidence of sexual misconduct generally comparable to or lower than those at U.S. Colleges
- APY incidence of unwanted sexual contact remains at about 9% for women, and 1% for men
- Restricted and Unrestricted Reports have decreased and there is significant underreporting of the crime.

The complete report can be found at [www.sapr.mil](http://www.sapr.mil).

### *Additional Internal Oversight*

The Department engaged in the following additional oversight activities during FY2008:

- *USFJ SAPR Task Force* – The Department assisted US Forces Japan (USFJ) with its request for a subject matter expert to support a task force that was assembled in response to episodes of misconduct by US personnel stationed in Japan. The task force was directed to hold informal discussions with personnel

at US military installations in Japan, review SAPR programs and messaging, and search for ways to reinforce existing Service-directed programs.

- *Major Case Review and Victim Inquiry* – Oversight of the Services is also provided by the Department by reviewing high interest cases after their closure. This allows the Department to evaluate how its SAPR policy was applied and executed. In addition, the Department works with the Services to resolve victim inquiries made through SAPRO's website. This information is used to inform policy and resolve conflicts that arise through application of its policy and enhance program implementation.
- *Stakeholder Feedback from the Field* – The Department informed its oversight efforts by securing feedback from more than 300 SARCs and SAPR program managers stationed throughout the world who attended a DoD sponsored SARC conference in July 2008. Participants were asked to provide their observations of how SAPR programs are working in the field. The information collected is being used by the Department to address short- and long-term programmatic needs.

### *Government Accountability Office Report*

During FY08, the Government Accountability Office (GAO) conducted a review of the Department's SAPR programs. On August 29, 2008, the GAO released its report entitled, *Military Personnel: DoD's and the Coast Guard's Sexual Assault Prevention and Response Programs Face Implementation and Oversight Challenges* (GAO Code 351062/GAO-08-924). The GAO's recommendations are listed below. Each recommendation is followed by an update on the action taken by the Department of Defense prior to October 1, 2008, as well as planned actions for FY09. The Department welcomed this review and used the opportunity to highlight some of the problem policy areas it was working to resolve. In order to highlight where this overlap of effort occurred, the section below will direct the reader to the pertinent section of this report for a complete discussion.

1. The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) to review and evaluate the Department's policies for the prevention and response of sexual assault to ensure that adequate guidance is provided to effectively implement the program in deployed environments and joint environments.
  - ***FY08 DoD Actions:*** The Department brought this issue to the GAO's attention to underscore its commitment to caring for victims in joint and deployed environments. *See Program Highlights, Response*

*Capabilities, Joint and Deployed Environments, pp. 31 - 32 for a discussion of this issue.*

- ***FY09 Way Ahead:*** *See Way Ahead for Program, Response Capabilities, Joint and Deployed Environments, p. 50 for a discussion of this issue.*
2. The GAO recommends that the Secretary of Defense direct USD(P&R) to evaluate the Military Services' processes for staffing and designating key installation-level program positions, such as SARCs, at installations in the United States and overseas, to ensure that these individuals have the ability and resources to fully carry out their responsibilities.
- ***FY08 DoD Actions:*** As discussed in the section on Policy Assistance Visits, the Department incorporated this issue for examination during PAT visits. In addition, the Defense Task Force on Sexual Assault in the Military Services (DTFSAMS) will be evaluating the effectiveness of staffing configurations during its review of DoD SAPR programs from 2008-2009.
  - ***FY09 Way Ahead:*** The Department will review its policy regarding staffing key positions such as SARCs. Issues concerning the use of contractors or collateral duty versus full time positions will be examined as well as qualifications and required training for the positions. Additionally, it is anticipated that DTFSAMS will make several policy recommendations about SAPR staffing in its report to Congress in Aug 2009.
3. The GAO recommends that the Secretary of Defense direct USD(P&R) to review and evaluate SAPR training to ensure the Military Services are meeting training requirements and to enhance the effectiveness of the training.
- ***FY08 DoD Actions:*** *See Program Highlights, Training, pp. 25 - 26 for a discussion of this issue.*
  - ***FY09 Way Ahead:*** *See Way Ahead for Program, Training, p. 48 and Prevention, p. 49 for a discussion of this issue.*
4. The GAO recommends that the Secretary of Defense direct USD (P&R) to systematically evaluate and develop an action plan to address any factors that may prevent or discourage Service members from accessing mental health services following a sexual assault.

- ***FY08 DoD Actions:*** Work in this area was already underway as part of the Department's response to the recommendations of the DoD Mental Health Task Force. The Defense Center of Excellence (DCoE) for Psychological Health and Traumatic Brain Injury is the focal point for improvements to military mental healthcare. One of DCoE's missions is to address factors that may prevent or discourage Service members from accessing mental health services for any purpose. DCoE is enhancing the military's campaign to reduce the stigma of seeking help through partnerships with the Uniformed Services University of the Health Sciences, National Institutes of Health, the Department of Veterans Affairs, the Substance Abuse and Mental Health Services Agency, DoD coalition partners, and others in the public and private sectors. The Department believes that an important part of reducing stigma is education. The DCoE will be proposing a standardized curriculum for psychological health and TBI education for leaders, Service members, and family members. In the interim, each Service will implement training that adheres to the Department's overarching principles and is adaptable to the culture of its own Service.
- This issue also being addressed through the tracking of Restricted Reporting and service referrals in this Annual Report to Congress. Service referrals, especially those made in Restricted Reports, encourage Service members to access mental health services after a sexual assault.
- The Secretary of Defense has directed that the Department take steps to decrease reporting stigma and hold commanders accountable for support of the SAPR program. SAPRO worked with the Military Services to develop an action plan on this tasking in FY08.
- ***FY09 Way Ahead:*** The Department will continue the efforts described above. SAPRO will continue to work with DCoE and the Military Services to ensure that sexual assault victims are appropriately considered in all upcoming initiatives to decrease stigma and improve command climate for help seeking. The Department will also encourage the Military Services to continue to publicize the benefits of Restricted Reporting, which include confidential referral and access of mental healthcare. In addition, the Department will review whether SAPR commander training across the Services needs to be updated to encourage assistance seeking by all under their command.

5. The GAO recommends that the Secretary of Defense direct the Service Secretaries to emphasize to all levels of command their responsibility for supporting the program, and review the extent to which commanders support the program and resources are available to raise Service members' awareness of sexual assault matters.
  - **FY08 DoD Actions:** USD(P&R) sent a memorandum to the Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Under Secretaries of Defense, and Commanders of the Combatant Commands soliciting their feedback on five critical missions of SAPR in-theater. As stated in #4 above, the Secretary of Defense has also emphasized his desire for commanders to take greater responsibility for the SAPR program.
  - **FY09 Way Ahead:** The Department will continue to emphasize commander involvement and support of the SAPR program through media opportunities such as PSAs directed toward commanders, annual policy assistance visits and bi-annual assessment of the Military Service Academies. The SAAC Training Subcommittee is examining whether training products for commanders need to be updated to enhance their understanding and support of SAPR.
6. The GAO recommends that the Secretary of Defense direct USD(P&R) to require SAPRO to develop an oversight framework to guide continued program implementation and evaluate program effectiveness. At a minimum, such a framework should contain long-term goals, objectives, and milestones; performance goals; strategies to be used to accomplish goals; and criteria for measuring progress.
  - **FY08 DoD Actions:** The Department initiated work on a more comprehensive oversight framework to meet the GAO's recommendation in FY08. *See Program Highlights, Oversight, p. 13 for a discussion of current oversight efforts.*
  - **FY09 Way Ahead:** The Department will develop a strategic plan in cooperation with its stakeholders to guide its efforts through FY13. *See also Way Ahead for Program, Oversight, p. 47.*
7. The GAO recommends that the Secretary of Defense direct USD(P&R) to improve the usefulness of the Department's annual report as an oversight tool both internally and for congressional decision makers by establishing baseline data to permit analysis of data over time, and reporting data so as to distinguish cases in which (1) evidence was insufficient to substantiate an alleged assault, (2) a victim recanted, or (3) the allegations of sexual assault were unfounded.



- ***FY08 DoD Actions:*** The Department initiated efforts to develop an integrated SAPR data collection system, and also clarified the definitions used to report the outcomes of sexual assault reports. *See Program Highlights, Oversight, Improved Data Collection and Reporting, p. 16 - 17 for a discussion of the issue.*
  - ***FY09 Way Ahead:*** The Department will continue development of the Defense Sexual Assault Incident Database (DSAID). *See Way Ahead, Oversight, p. 47 for a discussion of the issue.*
8. The GAO recommends that the Secretary of Defense direct the Service Secretaries to provide installation-level incident data to SAPRO annually or as requested to facilitate analysis of sexual assault related data and better target resources over time.
- ***FY08 DoD Actions:*** The Department initiated efforts to develop the Defense Sexual Assault Incident Database (DSAID), an integrated SAPR data collection system. *See Program Highlights, Oversight, Improved Data Collection and Reporting, p. 16 -17 for a discussion of the issue.*
  - ***FY09 Way Ahead:*** The Department will continue development of DSAID. *See Way Ahead, Oversight, p.47 for a discussion of the issue.*
9. The GAO recommends that the Secretary of Defense direct the Defense Task Force on Sexual Assault in the Military Services (DTFSAMS) to begin its examination immediately, now that all members of the task force are appointed, and to develop a detailed plan with milestones to guide its work.
- ***FY08 DoD Actions:*** DTFSAMS held its first administrative meeting in May. The first official meeting was held 11-15 August, 2008. This recommendation has been met.
  - ***FY09 Way Ahead:*** DTFSAMS is expected to release its report in FY09.

## Policy Development

Policy development efforts were led by the SAAC Policy Subcommittee, which includes representatives of all of the SAAC's members and advisors. The committee was faced with numerous policy challenges to resolve. It chose to prioritize issues for resolution that impact victim care and support. Once these critical issues are resolved, the committee will turn its attention to resolving the remaining issues.

Due to the complexity of some of the issues facing the policy subcommittee, a number of working groups comprised of subject matter experts were established to address particular issues. The working groups included a Legal / Investigative Working Group, a Joint Environments Working Group and a Medical Forensic Working Group. Consistent with the goals of the subcommittee, each of these areas are critical to victim care and support.

The major policy development during FY08 was the drafting of modifications to DoD Directive 6495.01<sup>9</sup> and DoD Instruction 6495.02.<sup>10</sup> The modifications did the following:

- Updated the definition of sexual assault to address changes to the Uniform Code of Military Justice;
- Updated the definition of healthcare personnel to overcome challenges being encountered in Restricted Reports;
- Modified DD Form 2910, the Victim Reporting Preference Statement, to assist victims who make Restricted Reports and later need to seek disability from the Department of Veterans Affairs; and
- Took the first steps toward eliminating inconsistencies between current Line of Duty (LOD) processes for Guard and Reserves and Restricted Reporting. DoD SAPR policy gives active duty sexual assault victims access to confidential care and treatment by making a Restricted Report. Normally, for Guard and Reserve members to continue medical care once they transition out of active service, an LOD determination must be made. Service LOD processes currently conflict with Restricted Reporting. The policy modifications direct the Services to evaluate what changes to Service LOD policies are necessary to ensure that they no longer conflict with Restricted Reporting, which will enhance the ability of members of the Reserve component to access confidential care and treatment.

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<sup>9</sup> Changes incorporated and signed on November 7, 2008, subsequent to the end of the period covered by this report.

<sup>10</sup> Changes incorporated and signed on November 13, 2008, subsequent to the end of the period covered by this report.

The SAAC policy subcommittee also drafted standards on sexual assault response, which were presented to the SAAC. The response standards will be used by the SAAC Research Subcommittee to develop evaluation metrics.

The SAAC Policy Subcommittee also continued to address the following issues during FY08:

- *Conflict between Restricted Reporting and Civilian Mandatory Reporting Laws* – In a number of states, mandatory sexual assault reporting laws have interfered with the ability of Service members to make Restricted Reports. These laws require healthcare providers to report to law enforcement that they have treated a victim of sexual assault.<sup>11</sup> It is unlikely that this problem will be completely resolved without the cooperation of the civilian community, which the military is working to obtain. The greatest challenges are currently being encountered in California. On August 5, 2008, a hearing was held before the California Assembly Veterans Affairs Committee, Senate Veterans Affairs Committee and Legislative Women’s Caucus. The Department submitted written testimony to call attention to this challenge and demonstrate how state reporting laws negatively impact reporting and victim care under DoD policy.
- *Extending the SAPR Program to DoD civilians and DoD Contractors* – The Department continues to address the extension of SAPR policy to DoD civilians and DoD contractors, particularly in contingency operations such as Iraq and Afghanistan. A working group has been established for this purpose and will stand up when the DoD Inspector General investigation<sup>12</sup> into this issue is completed.
- *Joint Environments* – See *Program Highlights, Response Capabilities, Joint and Deployed Environments*, p. 31 - 32 for a discussion of this issue.
- *Medical Forensic Issues*– The Medical Forensic Working Group held a conference call to preliminarily discuss challenges with the DoD Sexual Assault Forensic Examination (SAFE) kit and DD Form 2911, Forensic Medical Report Sexual Assault Examination, which is Enclosure 14 in DoD Instruction 6495.02. A meeting with subject matter experts was held on February 4, 2009 to resolve the issues that were identified.

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<sup>11</sup> A complete list of state mandatory reporting laws is available on the SAPRO website at [www.sapr.mil](http://www.sapr.mil).

<sup>12</sup> “Evaluation of DoD Sexual Assault Response in Operations Enduring and Iraqi Freedom Areas of Operation,” Project Number 2008C003, and “Audit of DoD and DoD Contractor Efforts to Prevent Sexual Assault / Harassment Involving Contractor Employees Within Operations Enduring Freedom and Iraqi Freedom Areas of Operation,” Project Number D2008-D00CE-0221.000.

## Training

In order to comply with DoD policy, the Military Services must provide each Service member training on sexual assault prevention and response annually, and at different points in their careers, from accession to the service, to Professional Military Education, through assumption of command. All Military Services have successfully implemented comprehensive SAPR training. Many programs use interactive methods and practice scenarios to maximize training effectiveness.

During FY08, the SAAC Training Subcommittee reviewed Service training policy and took steps to enhance current efforts, including:

- *Service member training* – The Services continue to provide initial and refresher training for all personnel, as required by DoD policy. In addition to in-person, instructor led SAPR training, the Services also leverage new technology, such as webinars and internet-based courses, to deliver material. The SAAC Training Subcommittee reviewed Service training policy and found that a greater level of detail was needed in policy to guide the Services in executing training requirements. The SAAC Training Subcommittee recommended revising SAPR training policy specific to training related to accession to service, annual training, Professional Military Education, pre-deployment and post-deployment reintegration training, pre-Command training for Flag and General Officer, members in the Senior Executive Service, and civilians who supervise military members.
- *Responder training* – The SAAC Training Subcommittee began to review DoD Instruction 6495.02, Enclosure 6, which describes the specialized training requirements for First responders, such as SARCs, VAs, healthcare personnel, attorneys, chaplains and investigators. Additional responders, such as commanders and victim-witness assistance personnel training requirements are also under review.
- *Training oversight* – Policy Assistance Team visits solicited feedback from Service members about training content, frequency, medium used, and perceptions of effectiveness. The SAAC Training Subcommittee developed an action plan for FY09 that includes review of training programs by Department Policy Assistance Visit teams and Military Service Inspectors General.
- *Joint and Deployed Environments* – See *Program Highlights, Response Capabilities, Joint and Deployed Environments*, p. 31 - 32 for a discussion of this issue.
- *Department of Justice, Office on Victims of Crime (OVC) / Pennsylvania Coalition Against Rape (PCAR) Collaborative Training Project* - PCAR, one

of the nation's leaders in SAPR, received a grant from OVC to develop a training program for civilian advocates to better support Service member victims of sexual assault. The training project, *Strengthening Military-Civilian Community Partnerships to Respond to Sexual Assault*, is a collaborative effort between OVC, PCAR, the Department of Defense and Military Services. The curriculum was drafted during FY08 and teams have completed pilot training programs.

## Outreach Activities

Over the past year, the Department worked closely with military and civilian experts, Members of Congress, and the media to publicize the SAPR program via a variety of methods:

- *Sexual Assault Awareness Month (SAAM), April 2008* – The theme for SAAM was “Prevent Sexual Assault: Ask! Act! Intervene!” It focused on the ability of every Service member to prevent sexual assault by taking an active role in looking out for the welfare of friends and co-workers. On April 8, 2008, the Department sponsored the symposium *Intersection between Sexual Assault and Alcohol: Implications for Prevention, Policy and Practice* to provide educational resources to Department SAPR stakeholders about alcohol facilitated sexual assault.
- *Policy Assistance through Conferences, Training, and Information Sharing* – The Department provided ongoing subject-matter expertise to attendees of national, military, federal, and state training seminars and conferences by way of presentations and one-on-one consultations. SAPRO staff made presentations on DoD SAPR policy, confidentiality, civilian mandatory rape reporting laws, alcohol facilitated sexual assault, advanced sexual assault investigative techniques, military and civilian community collaboration, and victims' rights in the military.

### SAPRO Supported the Following in FY08

- Air Force Office of Special Investigations, Region 8
- Armed Forces Institute of Pathology
- Department of Justice, Office of Victims of Crime
- Department of Veterans Affairs, Military Sexual Trauma Coordinators
- Department of Veterans Affairs, National Coalition for Homeless Veterans
- National Guard Bureau Sexual Assault Prevention and Response Program
- National Organization for Victim Assistance
- Pennsylvania Coalition Against Rape
- United States Army Trial Counsel Assistance Program
- United States Air Force Judge Advocate General School
- United States Air Force Sexual Assault Prevention and Response Program

- United States Marine Corps Sexual Assault Prevention and Response Program
  - United States Navy Sexual Assault Victim Intervention Program
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- *Media Relations* – The Department received a variety of requests for interviews from national news organizations. Interviews or written statements on the Department’s SAPR program were provided to a number of national outlets, including NBC, PBS, NPR, Washington Post, and CNN.
  - *Legislative Affairs* – Throughout the year, SAPRO maintained close contact and established working relationships with Members of Congress. SAPRO responded to inquiries from the Senate Armed Services Committee (SASC), Senator Barbara Mikulski (MD), Senator Russell Feingold (WI), Senator Hillary Rodham Clinton (NY), Senator John Thune (SD), Senator Robert Casey (PA), the House Armed Services Committee (HASC), Representative Louise Slaughter (NY), Representative Jane Harman (CA), and Representative Michael Turner (OH). SAPRO also presented testimony to the HASC. Additionally, SAPRO briefed the SASC and HASC professional staff and the Women’s Caucus on the Department of Defense FY07 Report on Sexual Assault in the Military. In December 2007, SAPRO delivered the congressionally mandated annual report on Sexual Harassment and Violence at the U.S. Military Service Academies to the HASC and SASC.
  - *Defense Media Activity (DMA)* – The SAAC Outreach Subcommittee established an agreement with the DMA to produce a series of Public Service Announcements (PSAs). The PSAs are broadcast at military installations in over 177 countries around the world. The first set of PSAs focused on the prevention of sexual assault by encouraging bystander intervention.

## Prevention Activities

When the Department of Defense initially stood up its SAPR programs, the focus was on responding to sexual assault victims. One victim of sexual assault is too many. In order to ensure that fewer people are victimized, the Department of Defense is moving ahead with a comprehensive prevention initiative. During FY08, the Department of Defense collaborated with the nation’s experts on the prevention of sexual assault to draft a prevention strategy. The strategy includes the following components:

- *Intervention at Multiple Levels of the Social Ecology* – Sexual assault is a social and public health problem that impacts and is impacted by cultural, organizational, community, peer, family, and individual factors. Six recent comprehensive reviews of factors associated with interpersonal violence and its prevention strongly recommend intervening at multiple levels of the social

ecology (i.e., at the level of the individual, family, peer group, community, organization, and society).<sup>13</sup> Reducing or eliminating sexual assault will require a comprehensive and coordinated set of interventions at all levels of the social ecology.

- *Use of the Spectrum of Prevention to Create a National Benchmark Program – The Spectrum of Prevention*<sup>14</sup> describes several populations and levels of influence from the social ecology of an organization that are appropriate targets for intervention. The Spectrum ranges from training for individuals at the lowest level to influencing legislation and policy at the highest levels within an organization. By addressing sexual assault at each of the six levels of the Spectrum, the Department of Defense would be in the forefront of prevention nationally and would provide a model for other organizations to follow. In order to determine the effectiveness of prevention policy directives as they are transformed into programming, the Sexual Assault Prevention Task Force will be established that will need to develop procedures for conducting formative, process, outcome, and impact evaluation activities alongside prevention activities at each level of the Spectrum of Prevention.

Key recommendations for each level of the spectrum are addressed below.

1. *Influencing Policy and Legislation* – The Department, Congress, and the American people must understand the tremendous scope of this effort and that success is dependent on dedicated funding to ensure that a coordinated, comprehensive strategy is fully implemented, sustained, and evaluated.
2. *Changing Organizational Practices* – This benchmark program cannot solely be delegated to SARCs if it is to be successful. It is essential that all commanders and NCOs are actively involved in sending the message that sexual assault prevention is an important component of mission readiness and that every troop can and should play a positive role in prevention.
3. *Fostering Coalitions and Networks* – Increasing networking opportunities

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<sup>13</sup>Grauerholz, L. (2000). An ecological approach to understanding sexual revictimization: Linking personal, interpersonal, and sociocultural factors and processes. *Child Maltreatment. Special focus section: Repeat victimization*, 5, 5-17. Heise, L. (1998). Violence against women: An integrated, ecological framework. *Violence Against Women*, 4, 262-290. Mihalic, S., Irwin, K., Elliott, D., Fagan, A., & Hansen, D. (2001, July). *Blueprints for Violence Prevention*. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin. Kerns, S.E.U. & Prinz, R.J. (2002). Critical issues in the prevention of violence-related behavior in youth. *Clinical Child and Family Psychology Review*, 5, 133-160. Neville, H.A., & Heppner, M. J. (2005). Contextualizing rape: Reviewing sequelae and proposing a culturally inclusive ecological model of sexual assault recovery. *Applied and Preventive Psychology*, 8, 41-62.

<sup>14</sup>Cohen, L. & Swift, S. (1999). The Spectrum of Prevention: developing a comprehensive approach to injury prevention. *Injury Prevention*, 5, 203-207.

for SARCs through a listserv and a clearinghouse of training, reference, and messaging materials would be valuable. Also, a culture of collaboration must be infused between the existing programs that may have aligned interests and resources, such as Drug and Alcohol Prevention, Family Services, Medical Commands.

4. *Educating Providers* – Clear, consistent, and state-of-the art education for military leaders and service providers (e.g., SARCs, VAs, healthcare providers, chaplains, law enforcement, criminal investigators, Judge Advocates, family services personnel) across all branches of the military is a vitally important piece of this strategy.
5. *Promoting Community Education* – There is great value in implementing a social marketing campaign that supports overall efforts to prevent sexual assault. It is also important to develop prevention messaging that is used throughout the Spectrum levels. The Military Services can infuse appropriate Service specific cultural identifiers into the media materials and messaging.
6. *Strengthening Individual Knowledge and Skills* – Individuals' knowledge and skills can be strengthened through implementation of the bystander approach: empowering people to intervene in situations leading up to a sexual assault or during an incident, as well as to speak out against social norms that support sexual violence. Each of the other levels of the Spectrum of Prevention should support the goals of this level.

As the new prevention program is implemented, the Department expects reports of sexual assault to rise as victims gain confidence in the system and feel more comfortable reporting. An increase in reports should be viewed as an indicator of short-term success, although the long-term goal is to see the incidence of sexual assault decline.

## Response Capabilities

### *Secretary of Defense's Priorities*

In FY08, Secretary of Defense Robert Gates identified four priorities in SAPR for the Department of Defense to address. The priorities are:

- Reducing sexual assault reporting stigma
- Ensuring sufficient commander training and accountability
- Ensuring investigator training and resourcing



- Ensuring trial counsel (prosecutor) training

At the end of FY08, SAPRO and the Services were collaborating on these priority areas and developing proposed action plans for each item. Work on these priorities will continue into FY09.

It should be noted that resolving the latter two issues requires a great deal of collaboration within the Department of Defense. Although SAPRO is the single point of responsibility for sexual assault prevention and response, it does not have oversight over legal processes under the UCMJ or criminal investigative matters.<sup>15</sup> Consequently, in addition to collaborating with the Service SAPR program managers, SAPRO worked with the Service Judge Advocates and Defense Criminal Investigative Organizations on these issues. The Department is confident that by working together, these communities will be able to optimize the investigation and prosecution of sexual assault in the military.

### *Sexual Assault Forensic Examinations and Lab Availability*

Section 596 of P.L. 109-163 requires the Department of Defense to advise Congress whether care to any victim of sexual assault was hindered either by lack of availability of Sexual Assault Forensic Examinations (SAFEs) or other needed supplies, or by the lack of timely access to appropriate laboratory testing resources.<sup>16</sup> During FY08, there were no reports to the Department that care to any victim was hindered by either one of these problems.

### *Number of Responders Trained*

Training responders is critical to the success of DoD's programs and to ensuring a worldwide 24 hour / 7 day a week quality response for Service members who are victims of sexual assault. The Services are aggressively working to ensure that all responders are trained. During FY08, the Services trained over 16,000 SARC's and VAs. In addition, they trained over 100,000 Commanders, investigators, Judge Advocates, healthcare personnel and chaplains.

### *Service Referrals for Victims of Sexual Assault*

Informing victims of available resources and assisting victims in accessing these resources are critical components of the Department's SAPR program. Ensuring sexual assault victims are afforded every opportunity to receive care is critical to aiding victims along the road to recovery. SARC's serve as the single point of contact to coordinate

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<sup>15</sup> DoD Instruction 6495.02, section 5.3.1.

<sup>16</sup> The U.S. Army Criminal Investigation Laboratory (USCACIL) processes SAFE kits for evidence for all U.S. military forces worldwide.

victim care and track the services provided to victims. Available services include medical care, mental health care, legal advice, and spiritual support. In FY08, the Department provided over 2,500 service referrals, which was a substantial increase over the approximately 600 referrals made to victims in FY07. It is important to note that referral categories include military and non-military victims and referral numbers do not align exactly with the total number of victims since some victims requested multiple services while others elected no referrals. As awareness of services and resources increase and data is more systematically collected, it is the Department's expectation that the number of service referrals will rise.

### *Joint and Deployed Environments*

Joint and deployed environments present unique challenges for sexual assault prevention and response. Deployed units may face difficulties in protecting the identity of victims in Restricted Reports or transporting victims to Medical Treatment Facilities in combat zones. Difficulties with case management, delivering care, and tracking services provided to victims may arise as a result of differences among the Services' implementation of their SAPR programs. Victims may also be reluctant to work with SARCs and VAs from another Service. As described previously, the challenges that arise in joint environments were identified by the GAO as an issue that needed to be addressed by the Department.

The challenges that arise in joint and deployed environments are being addressed with a multi-pronged approach. First, the Department used PAT visits and office calls to Combatant Commands to ensure that all challenges arising in joint environments were identified. A PAT visit to USPACOM was completed in August 2008. Office calls to USSOCOM J-1 and USCENTCOM J-1 were held in July 2008. Next, both the SAAC Policy Subcommittee and the SAAC Training Subcommittee have worked to identify solutions to challenges. Their efforts are described below.

- *Policy* – The SAAC Policy Subcommittee Joint Environments Working Group includes representatives from SAPRO, the Services, the Joint Chiefs of Staff / J1, and USCENTCOM. It is examining the response standards as well as DoD SAPR policy to determine if either needs to be modified to ensure that adequate guidance is provided to effectively implement the program in joint and deployed environments. The group is also examining whether any joint publications need to be modified.
- *Policy and Operational Gaps* – The SAAC Training Subcommittee identified areas of concern between policy requirements and operational implementation in-theater and took the first step toward eliminating this gap. USD(P&R) polled the Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Under Secretaries of Defense and Commanders of the Combatant Commands to help resolve these gaps and to emphasize the

- responsibility for senior commanders to accomplish five critical missions within their areas of responsibility:
- Ensure Commanders have identified the SARC in their respective operational environments (OE), to include joint operations area (JOA), and that all SARCs are current in their training. All SARCs should be identified and trained prior to deployment.
  - Ensure there is a 24 hour/7 day a week response capability for victims within their respective OE, including JOA.
  - Ensure Commanders and all first responders (i.e. SARCs, VAs, Military Criminal Investigative Organizations, health care personnel), know how to access available resources (e.g., medical, counseling, and legal assistance) and how to assist a victim to access these resources.
  - Ensure all personnel in-theater receive training on sexual assault reporting options and how to contact VAs and/or SARCs in the AOR, particularly when personnel are deployed to forward operating bases or other areas where support services may be limited.
  - Ensure senior officers have received the mandatory pre-deployment SAPR training.
- *Training* – The SAAC Training Subcommittee began to examine training requirements in deployed and joint environments.

## AGGREGATE REPORT OF SEXUAL ASSAULT INCIDENTS

The Department's sexual assault statistics include all sexual crimes against adults under the UCMJ. Under the new UCMJ definitions, these crimes include rape, aggravated sexual assault, nonconsensual sodomy, aggravated sexual contact, abusive sexual contact, wrongful sexual contact, and attempts to commit these offenses. For incidents that occurred prior to the UCMJ changes on October 1, 2007, sexual assault included rape, nonconsensual sodomy, indecent assault and attempts to commit these acts.

In FY08, there were 2,908 reports of sexual assault involving military Service members, representing an eight percent increase from FY07.

- The Services received 2,265 Unrestricted Reports involving Service members as either the subject and/or victim of sexual assault (a 9% increase from FY07).
- The Services received 753 Restricted Reports involving Service members as victims of sexual assault (a 7% increase from FY07).
  - 110 (or 15%) of the Restricted Reports initially received converted to Unrestricted Reports at the victims' request, leaving 643 remaining Restricted Reports.

The overall increase in reports of sexual assault in the military is encouraging. The Department is seeking greater reporting of sexual assault so that it can better treat and restore resiliency to victims of sexual assault. The Department also encourages greater reporting to hold offenders accountable for this crime. The Department expects that yearly increases in reporting will be an indicator of improved Service member confidence in the Department of Defense's SAPR program.

It should be noted that increased **reports** of sexual assault do not reflect a rise in annual **incidents** of sexual assault. Sexual assault is one of the most underreported crimes in the United States. Estimates suggest that only a small percentage of sexual assaults are ever reported to the police. The Department expects that the same is true for military society as well. An increase in the number of reported cases means that the Department is capturing a greater proportion of the cases occurring each year. DoD survey data estimates that many other sexual assaults are never reported to Department authorities. Additional information about the significance of increased reporting is discussed further in the strategic observations section of this report.

## FY08 Unrestricted Reports of Sexual Assault

An Unrestricted Report of sexual assault is a report that is provided to command and/or law enforcement for investigation. Data from Unrestricted Reports are collected and reported to the Department by the Military Criminal Investigative Organizations (the Army Criminal Investigations Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations). Currently, the Department of Defense records when the report was received, not when the incident occurred.

In FY08, there were 2,265 Unrestricted Reports of sexual assault involving Service members as either the subject<sup>17</sup> and/or victim of a sexual assault (see Table 2).

- 1,594 (or 70%) of the total number of Unrestricted Reports involved Service members as victims. Because some incidents involved multiple victims, there were 1,752 Service member victims in the 1,594 reports of sexual assault.

**Table 2: Unrestricted Reports of Sexual Assault Involving Service Members as the Victim and/or Subject by Type of Offense**

Type of Sexual Assault Offense	Total Unrestricted Reports in FY08	Number of Service Member Victims	Number of Non-Service Member Victims
Rape	924	588	336
Aggravated Sexual Assault	498	347	151
Nonconsensual Sodomy	126	95	31
Indecent Assault	59	47	12
Aggravated Sexual Contact	68	49	19
Abusive Sexual Contact	142	117	25
Wrongful Sexual Contact	442	347	95
Attempts to Commit Offenses	6	4	2
Total Unrestricted Reports in FY08	2,265	1,594	671

Every year a considerable number of reported incidents of sexual assault involve the victimization of Service members by Service members. In FY08, 1,158 (or 51%) of the Unrestricted Reports involved allegations of Service member on Service member sexual assault. The Department incorporates information like this with scientific research to inform its SAPR initiatives. Figure 1 illustrates how Service members may be involved in a report of sexual assault.

<sup>17</sup> The term “subject” is used in the military to denote the suspected perpetrator of an offense.

**Figure 1: Service Members as Victims and Alleged Offenders of Sexual Assault in FY08**



### Disposition of Completed Investigations

Sexual assault investigations and outcomes of those cases sometimes cross reporting periods. Consequently, the following information includes data about FY08 reports of sexual assault with completed investigations in FY08, as well as data from pending investigations from reports made in prior years that were completed in FY08 (see Table 3).

**Table 3: Completed and Pending Investigations Resulting from Sexual Assault Reports Made During and Prior to FY08**

Investigations Completed in FY08 Resulting from Reports Made During and Prior to FY08	Reports Made Prior to FY08	Reports Made During FY08	Total FY08
<i>Total Investigations of Unrestricted Reports of Sexual Assault</i>	869	2,265	3,134
# Investigations <b>Completed</b> as of 30-SEP-08 (involving one or more subject)	<b>853</b>	<b>1,536</b>	<b>2,389</b>
# Investigations Still <b>Pending</b> as of 30-SEP-08	16	729	745

The 2,389 completed FY08 investigations involved 2,763 subjects.<sup>18</sup> These subjects included individuals under a military commander's legal authority, as well as civilians and foreign nationals that may not be subject to military law.

- Of the 2,763 subjects, 592 subjects were pending disposition action as of September 30, 2008 and will be reported in a future annual report.
- Subtracting the 592 subjects whose dispositions were pending from the total of 2,763 leaves 2,171 subjects with final dispositions in FY08. Even though investigations had been completed, commanders could not take disciplinary action on 1,339 subjects for the following reasons (Table 4):
  - 136 subjects were civilians or foreign nationals who were not subject to UCMJ authority;
  - 129 subjects were unidentified;
  - 1,074 subjects were involved in cases that were unsubstantiated or unfounded, lacked sufficient evidence, involved a victim that recanted, or involved a subject or victim who died. Note: the newly created data definitions will replace this category with more specific and narrowly defined categories allowing for more thorough analysis beginning in FY09.
- In all investigations completed in FY08, commanders had jurisdiction and sufficient evidence of a crime to support taking disciplinary action on 832 subjects. The actions taken against these 832 subjects are broken down as follows:
  - 317 courts-martial (or 38%),
  - 247 nonjudicial punishments (or 30%), and
  - 268 administrative actions and discharges (or 32%).

For a more thorough discussion of investigation and prosecution, see *Strategic Observations*, pp. 51 - 61.

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<sup>18</sup> Some of the reports involved more than one offender.

**Table 4: Dispositions of Subjects from Investigations Completed in FY08**

Disposition of Subjects from Investigations Completed in FY08, Resulting from Reports made During and Prior to FY08		A	B	C
		Reports made Prior to FY08	Reports Made During FY08	Total FY08
<b>Total Subjects</b>		<b>1,092</b>	<b>1,671</b>	<b>2,763</b>
<b>I</b>	<b>Subjects Pending Disposition as of 30-SEP-08</b>	<b>187</b>	<b>405</b>	<b>592</b>
<b>II</b>	<b>Reasons Commander could Not Take Action</b>	<b>498</b>	<b>841</b>	<b>1,339</b>
	a # Under Civilian Court Action/Foreign Authority Action	47	89	136
	b # Unidentified Subject; Punitive Action Not Possible	38	91	129
	c # Unsubstantiated/Unfounded/Insufficient Evidence, etc.	413	661	1,074
<b>III</b>	<b>Command Action Taken on Subjects</b>	<b>407</b>	<b>425</b>	<b>832</b>
	a # Courts-martial	215	102	317
	b # Nonjudicial Punishment	91	156	247
	c # Other Administrative Actions and Discharges	101	167	268

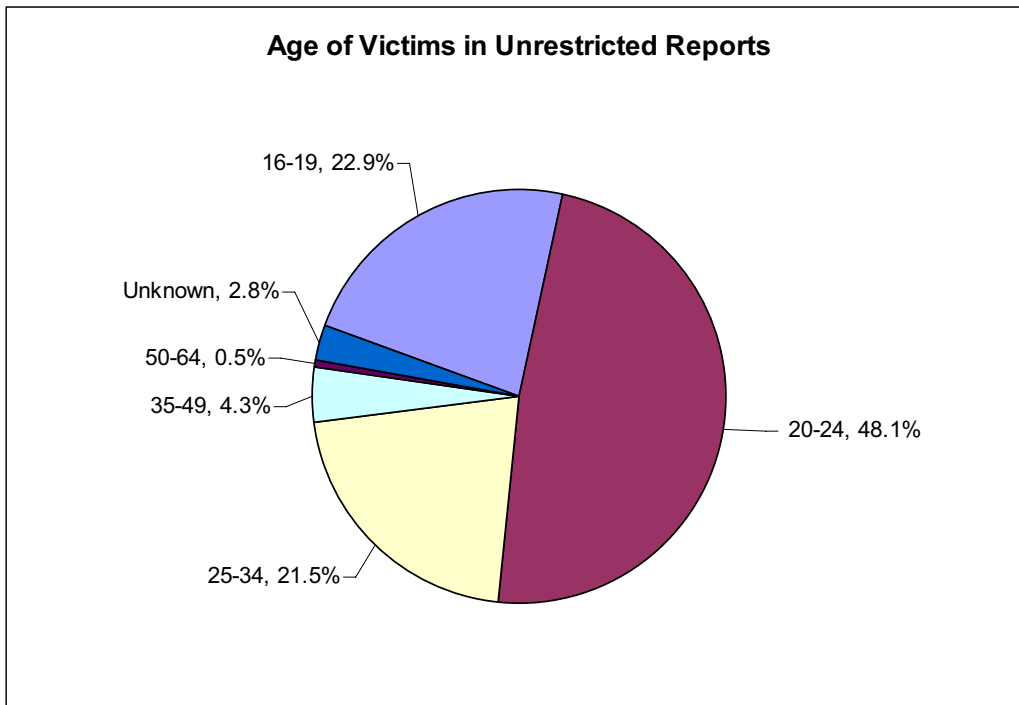
Note: Bolded column totals add to the total number of subjects:  $832 + 1,339 + 592 = 2,763$

## Demographics of Unrestricted Reports

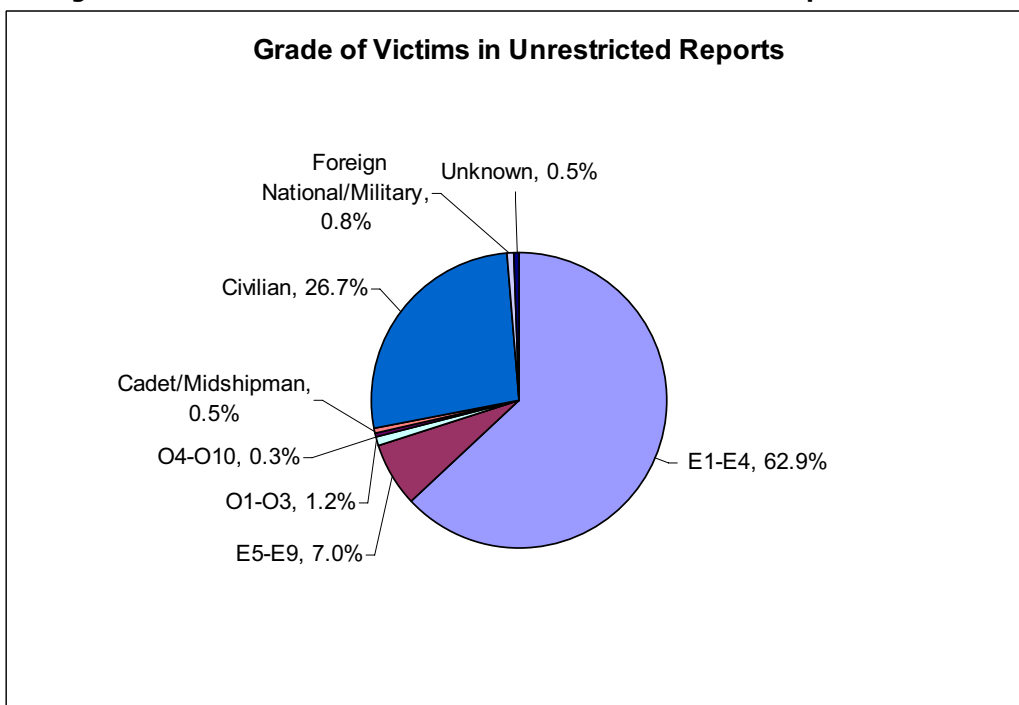
For the purpose of analyzing demographics, the number of victims and subjects in Unrestricted Reports was derived from data from investigations completed during FY08. In FY08, there were 1,694 victims and 1,671 subjects in completed investigations. A breakdown of the victims and subjects by gender, age, and grade is provided in Table 5.



**Figure 2: Age of Service Member VICTIMS in Unrestricted Reports in FY08<sup>19</sup>**



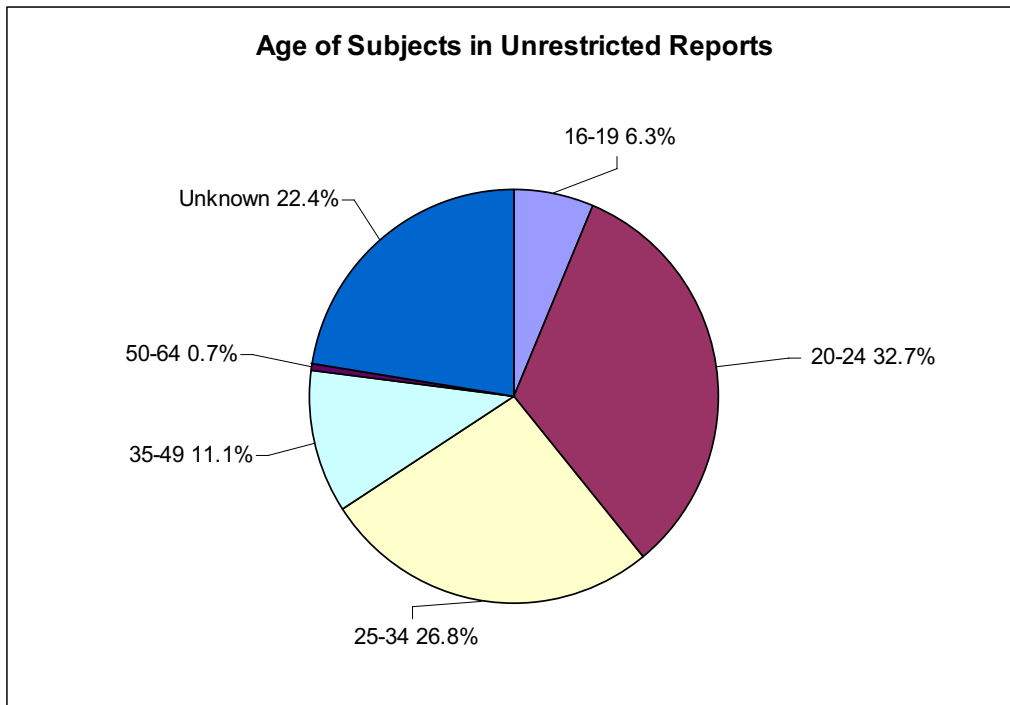
**Figure 3: Grade of Service Member VICTIMS in Unrestricted Reports in FY08<sup>20</sup>**



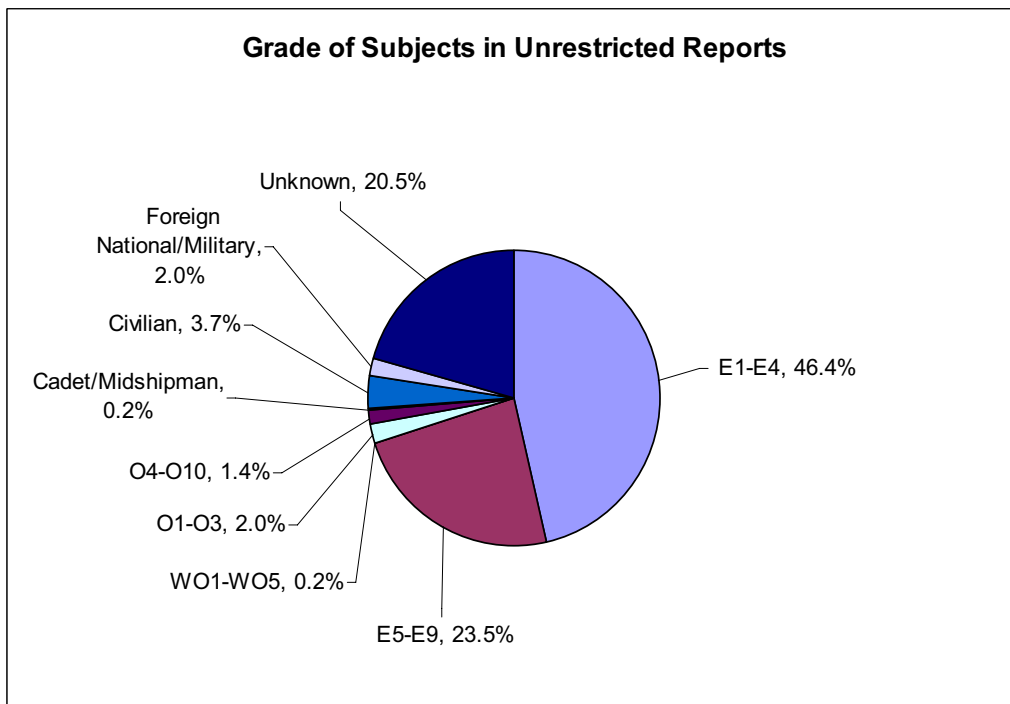
<sup>19</sup> Note that the percentages may not sum to 100 due to rounding.

<sup>20</sup> Note that the percentages may not sum to 100 due to rounding.

**Figure 4: Age of Service Member SUBJECTS in Unrestricted Reports in FY08<sup>21</sup>**



**Figure 5: Grade of Service Member SUBJECTS in Unrestricted Reports in FY08<sup>22</sup>**



<sup>21</sup> Note that the percentages may not sum to 100 due to rounding.

<sup>22</sup> Note that the percentages may not sum to 100 due to rounding.

## FY08 Restricted Reports of Sexual Assault

Information on Restricted Reports is collected by SARCs. Because Restricted Reports are confidential as defined in SAPR policy, SARCs only collect limited data about the victim and the allegation being made. As with Unrestricted Reports, Restricted Reports can be made for incidents that occurred in prior reporting periods and incidents that occurred prior to military service.

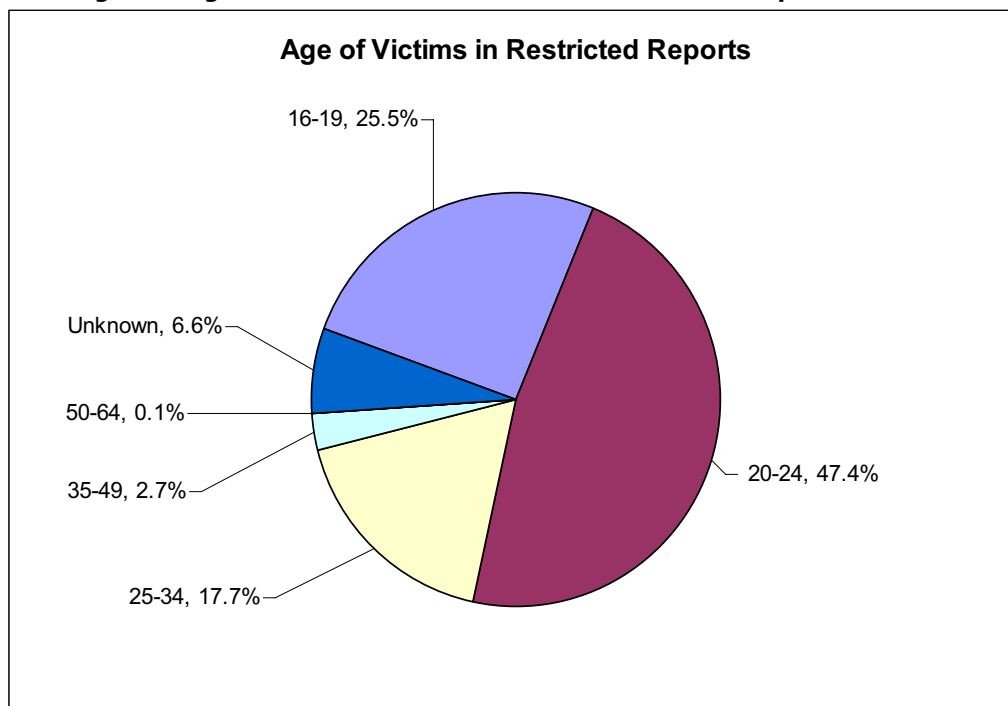
In FY08, there were 753 Restricted Reports of sexual assault.

- Of these 753 reports, 110 (or 15%) converted to Unrestricted Reports at the request of the victim.
- At the close of FY08, 643 remained Restricted.<sup>23</sup>

## Demographics of Restricted Reports of Sexual Assault

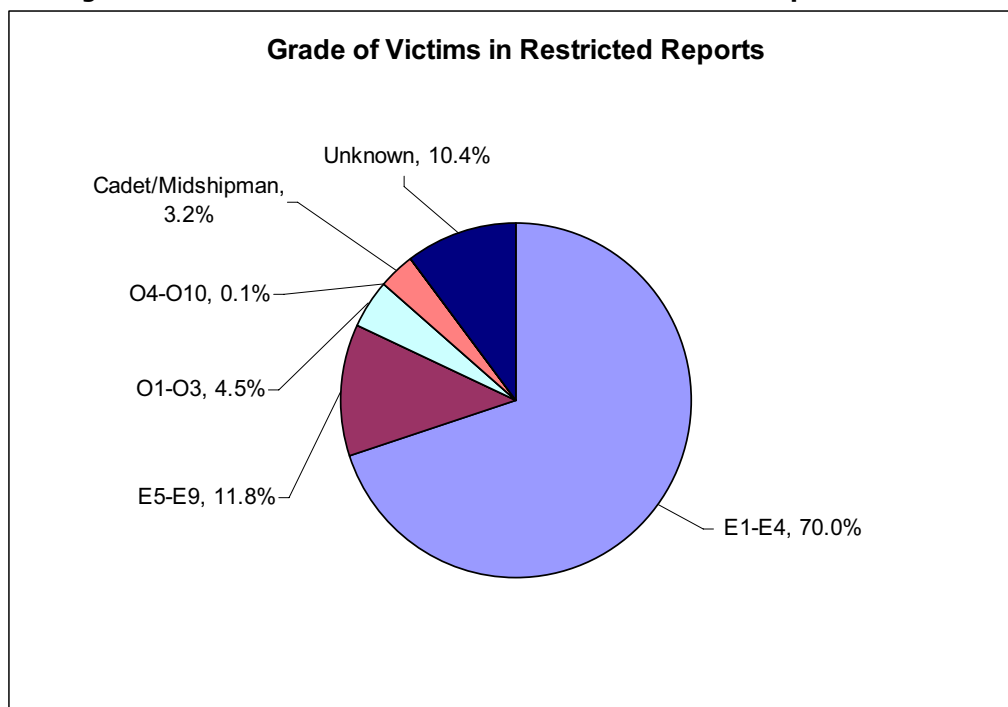
The Services received 753 Restricted Reports of sexual assault in FY08. The demographics are depicted in figures 6 and 7.

**Figure 6: Age of Service Member VICTIMS in Restricted Reports in FY08<sup>24</sup>**



<sup>23</sup> The Restricted Reports that converted to Unrestricted Reports are included in the total of 2,265 Unrestricted Reports cited earlier.

<sup>24</sup> Note that the percentages may not sum to 100 due to rounding.

**Figure 7: Grade of Service Member VICTIMS in Restricted Reports in FY08<sup>25</sup>**

## FY08 Reports of Sexual Assault in Combat Areas of Interest

For the purposes of this report, combat areas of interest include Bahrain, Iraq, Jordan, Lebanon, Syria, Yemen, Egypt, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, Iran, Pakistan and Afghanistan. Arduous conditions in combat areas of interest make sexual assault response and data collection very difficult. However, there are SARCs and VAs in place in these areas, including Afghanistan and Iraq. Larger field hospitals are outfitted with SAFE kits for evidence collection. The recorded location of sexual assaults reported in this section may be subject to change as information is validated over time. Also, the data reported below have been included in the total number of Unrestricted Reports and Restricted Reports described in previous sections.

In FY08, there were 251 total reports of sexual assault in combat areas of interest. One hundred and sixty-three (or 65%) of these reports occurred in Iraq and Afghanistan.

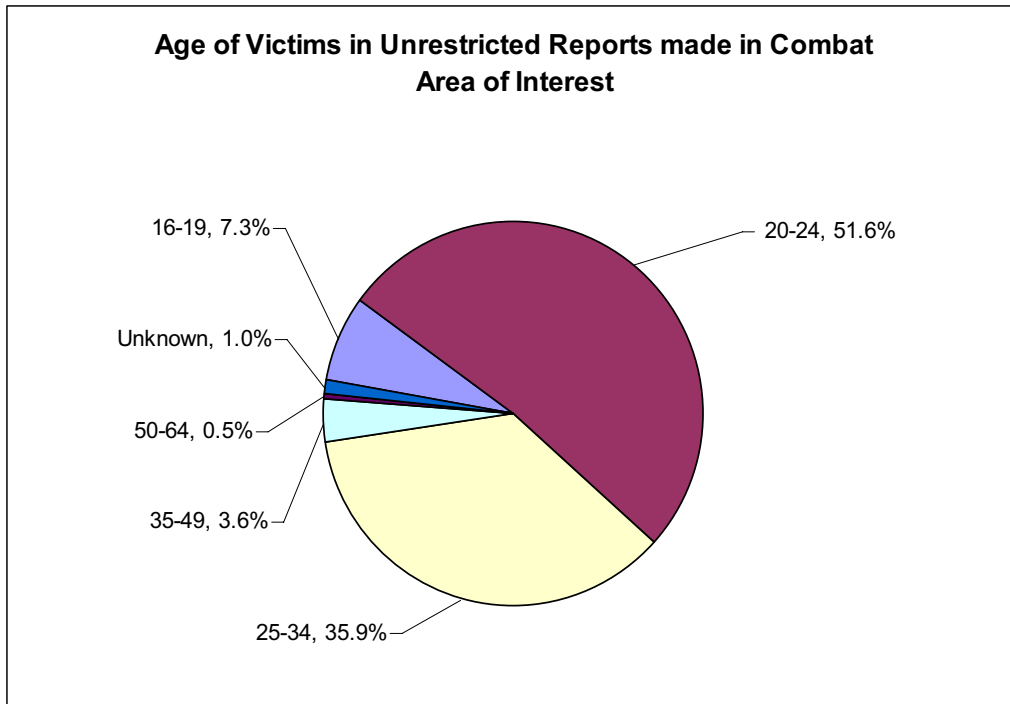
- 204 were Unrestricted Reports, of which 141 (or 69%) were made in Iraq and 22 (or 11%) were made in Afghanistan. The remaining 41 (or 20%) Unrestricted Reports were made in other combat areas of interest.
- 47 were Restricted Reports; 10 (or 21%) converted to Unrestricted Reports at the victim's request. Of the 37 remaining Restricted Reports, two (5%) were made in Iraq and the rest were made in other combat areas of interest.

<sup>25</sup> Note that the percentages may not sum to 100 due to rounding.

### Demographics of Unrestricted Reports in Combat Areas of Interest

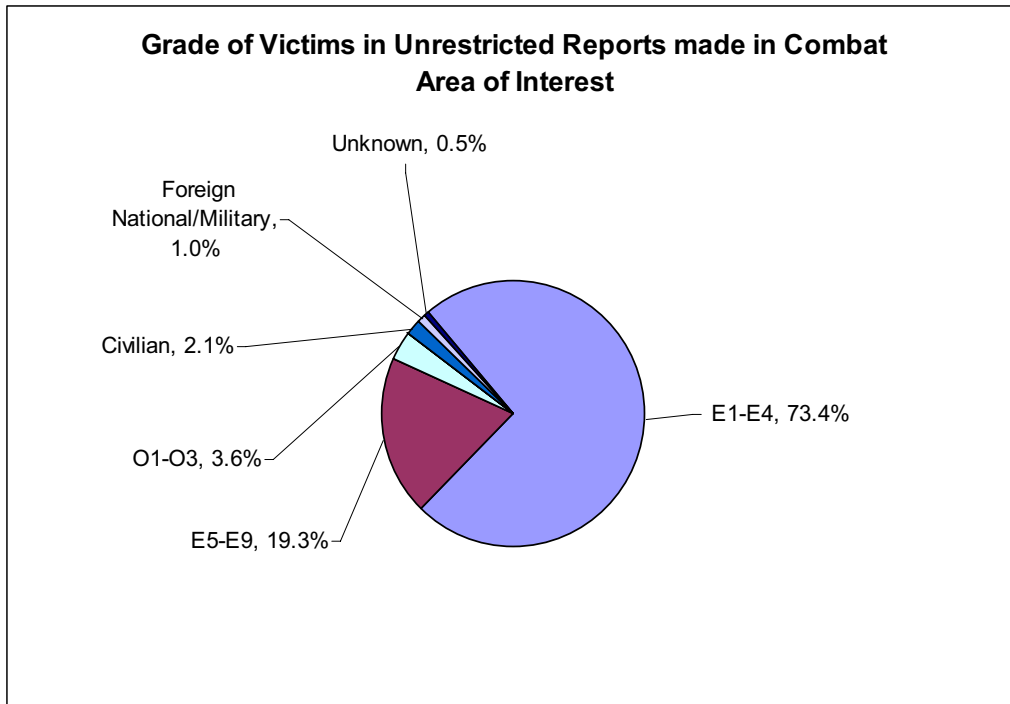
For the purposes of analyzing demographics, the number of victims and subjects in Unrestricted Reports made in combat areas of interest was derived from investigations completed in FY08. In FY08, there were 192 victims and 178 subjects in completed investigations.

**Figure 8: Age of Service Member VICTIMS in Unrestricted Reports in Combat Areas of Interest FY08<sup>26</sup>**

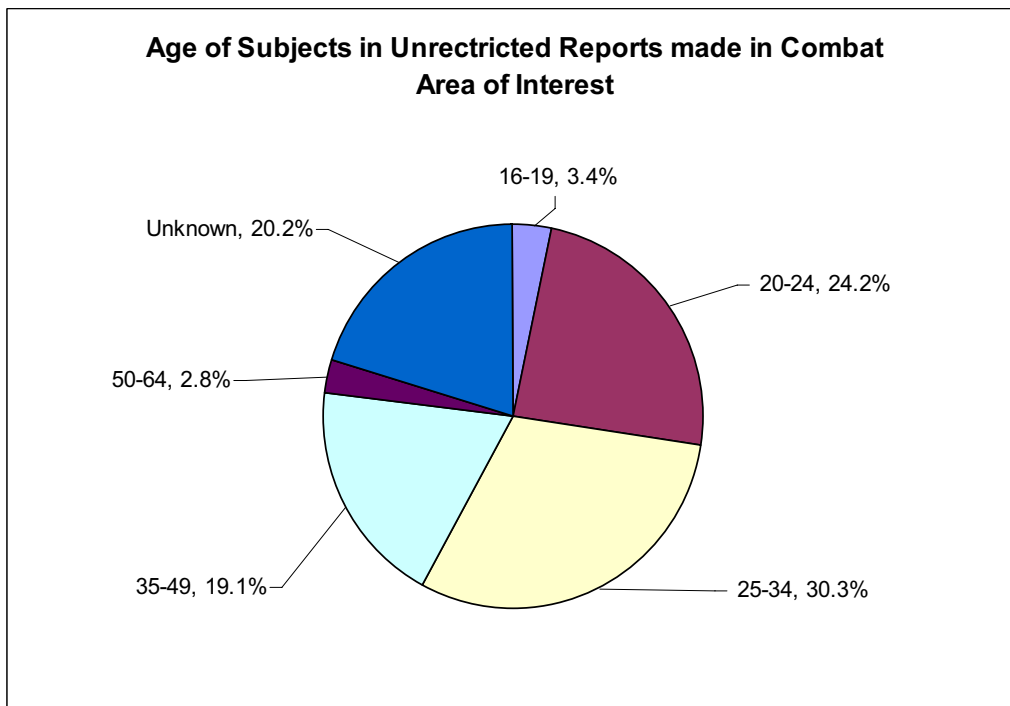


<sup>26</sup> Note that the percentages may not sum to 100 due to rounding.

**Figure 9: Grade of Service Member VICTIMS in Unrestricted Reports in Combat Areas of Interest FY08<sup>27</sup>**



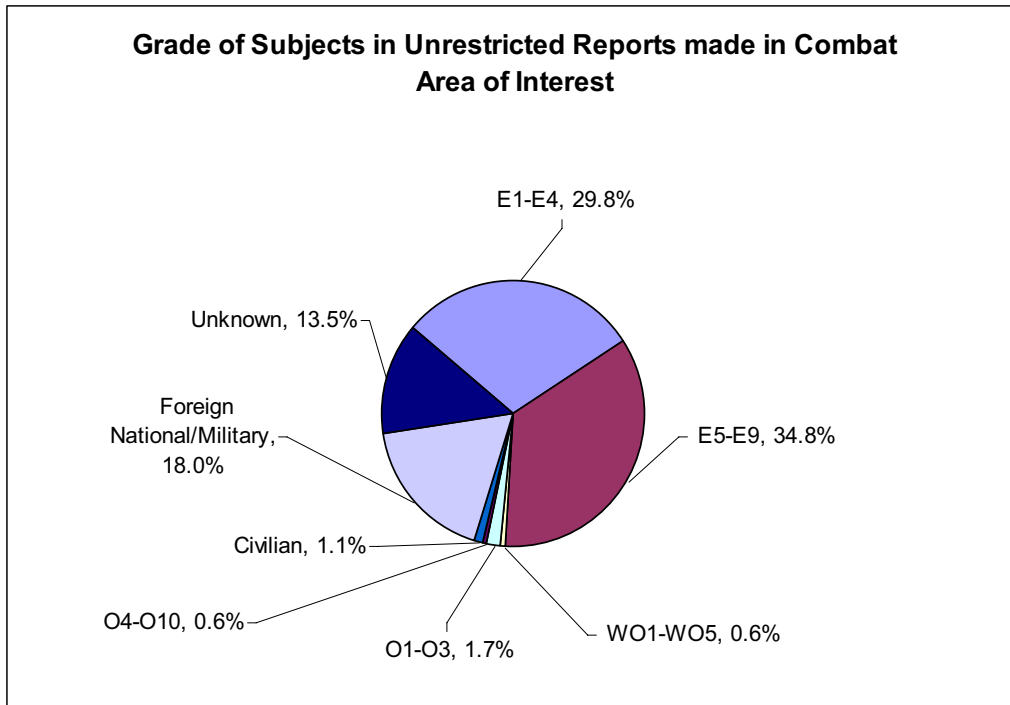
**Figure 10: Age of Service Member SUBJECTS in Unrestricted Reports in Combat Areas of Interest FY08<sup>28</sup>**



<sup>27</sup> Note that the percentages may not sum to 100 due to rounding.

<sup>28</sup> Note that the percentages may not sum to 100 due to rounding.

**Figure 11: Grade of Service Member SUBJECTS in Unrestricted Reports in Combat Areas of Interest FY08<sup>29</sup>**

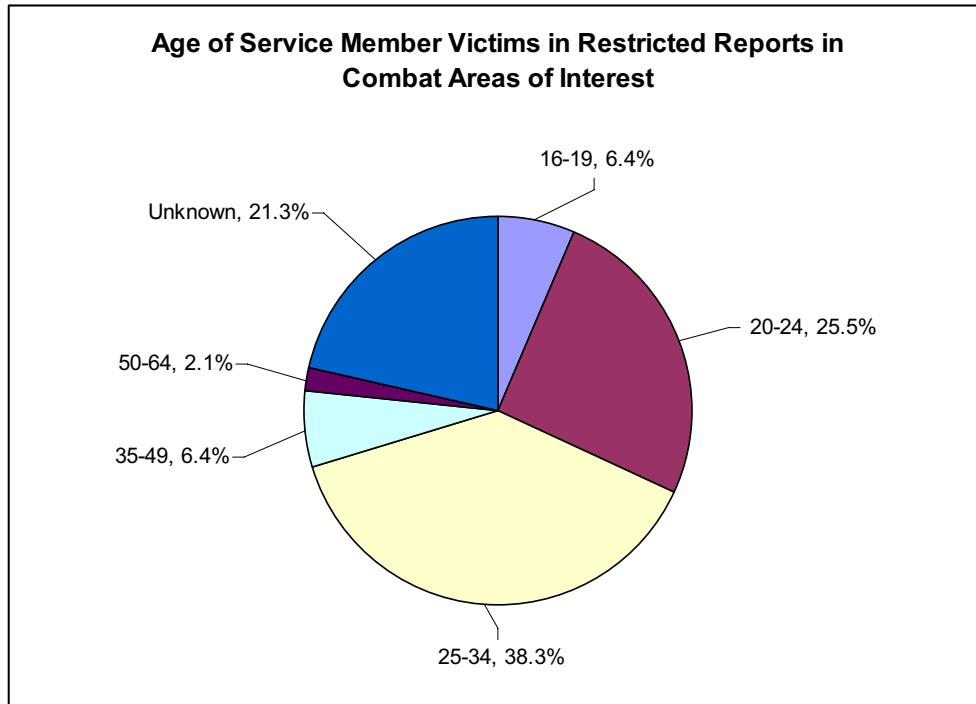


### Demographics of Restricted Reports in Combat Areas of Interest

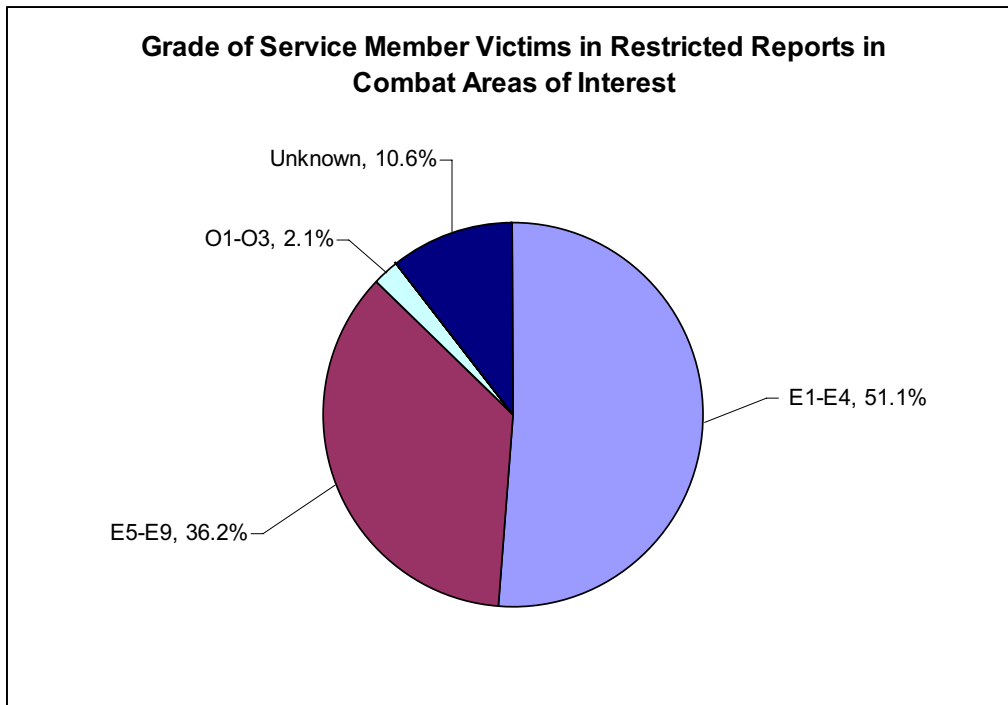
47 Restricted Reports of sexual assault were made in combat areas of interest in FY08. Of these, 10 reports converted to Unrestricted Reports at the request of the victims, leaving 37 Restricted Reports. The following figures represent the demographics of the victims in these cases.

<sup>29</sup> Note that the percentages may not sum to 100 due to rounding.

**Figure 12: Age of Service Member VICTIMS in Restricted Reports in Combat Areas of Interest FY08<sup>30</sup>**



**Figure 13: Grade of Service Member VICTIMS in Restricted Reports in Combat Areas of Interest FY08<sup>31</sup>**



<sup>30</sup> Note that the percentages may not sum to 100 due to rounding.

<sup>31</sup> Note that the percentages may not sum to 100 due to rounding.



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## WAY AHEAD FOR PROGRAM

### Oversight and Program Accountability

The Department has already begun to address the findings and recommendations of the PAT reports and the GAO. The necessary changes to policy and program implementation are underway as discussed throughout this report. During FY09 and beyond:

- The Department will develop and implement an oversight framework that incorporates current oversight measures as well as establish reliable methods for the measurement of program effectiveness.
- The SAAC is scheduled to meet twice in FY09. Its subcommittees will continue to address the issues as described throughout this report.
- The Department will continue development of its new database, Defense Sexual Assault Incident Database (DSAID). The new data definitions will be incorporated into DSAID.

### Policy Development

The SAAC Policy Subcommittee will develop an action plan for FY09 to identify policy challenges and resolve them. It will continue to maintain its focus on resolving issues that directly impact victim care and support. The Subcommittee and its working groups will continue to address the following issues:

- *LOD Policy* – The Department will ensure that the Services make any changes necessary to their LOD policies to ensure that they no longer conflict with Restricted Reporting.
- *Joint environments* – See *Way Ahead for Program, Response Capabilities, Joint and Deployed Environments*, p. 50 for a discussion of this issue.
- *Medical / forensic issues* – The SAAC Policy Subcommittee Medical Forensic Working Group will review the DoD SAFE kit to ensure that it complies with best practices and the United States Attorney General’s National Protocol for Sexual Assault Medical Forensic Examinations.
- *The issue of extending SAPR to civilians and contractors* – A working group will be stood up to address this issue once the DoD IG releases its report on the topic.
- *The conflict between Restricted Reporting and civilian mandatory reporting laws*

- *The policy will be updated to include the new data definitions and reflect the use of the new database, DSAID. Outdated language regarding other data collection will be removed.*
- *See Training, below, for a discussion of policy changes regarding training.*

## Training

The SAAC Training Subcommittee will continue to address the adequacy of training requirements in Department policy. The Subcommittee will incorporate civilian first responder best practices into DoD training, review SARC/VA selection criteria, and develop a training oversight process. Specific actions will also include the following:

- *Oversight* – The subcommittee plans to conduct site visits to review and evaluate existing SAPR training programs. The Department will also work with each Military Service to develop metrics for training and educational programs. Accession and Commander training will also be reviewed in 2009. In addition, OSD will request each Military Service SAPR program to work with its Inspector General to ensure maximum compliance with the Department and Service policy requirements.
- *Policy* – The SAAC Training Subcommittee is standing up working groups to draft enhanced training requirements for commanders, investigators, prosecutors, victim-witness assistance personnel, and health care personnel to better work with victims of sexual assault.
- *OVC/PCAR Project* – The next phase of the project will involve the completion of the training curriculum and training of advocates from civilian rape crises centers and nearby military bases around the country.
- *Rape, Abuse and Incest National Network (RAINN) Project* – SAPRO will collaborate with RAINN to train its employees and customize the National Sexual Assault Online Hotline so that it may be provided as a new resource for Service members who are victims of sexual assault as well as for victims of sexual assaults committed by military members, thus enabling more Service members to access critical support services.

## Outreach Activities

The Outreach Subcommittee will work to implement the Department's Sexual Assault Prevention Strategy in FY09.

- *Sexual Assault Awareness Month (SAAM)* – SAAM in April 2009 will mark the debut of Department's new social marketing campaign entitled, "Our Strength is for Defending." This campaign encourages Service members to use their

strength to safely intervene and prevent sexual before it occurs. Service specific posters, public service announcements, and awareness training materials are in development for global distribution to commanders and SARCs. Materials were developed in collaboration with Men Can Stop Rape and informed by Service member focus group feedback.

- *Conferences, Training, and Information Sharing* – The Department will continue to provide subject-matter expertise to both the Military Services and civilian partners.
- *Collaboration* – The Department will continue to strengthen its partnerships with federal, state and other civilian agencies committed to the prevention of sexual assault.

## Prevention Activities

The Department will require the Military Services to incorporate the DoD Prevention Strategy into their SAPR programming. Senior Department leadership will meet with senior Service leadership to engage their support of this monumental program. The Department expects the Services to adapt the strategy to fit within their unique cultures. The Army and the Air Force have already taken steps to launch or reinvigorate their prevention efforts for FY09.

## Response Capabilities

### *4 Priorities of the Secretary of Defense*

SAPRO will continue to collaborate with the Services on addressing the Secretary's four priorities.

### *Sexual Assault Forensic Examinations and Lab Availability*

The Department will continue to monitor whether care to any victim of sexual assault was hindered either by lack of availability of a SAFE kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

### *Number of Responders Trained*

The Department will continue to aggressively train responders to ensure victims of sexual assault have access to competent care wherever they are stationed throughout the world 24 hours a day / 7 days a week.

### *Service Referrals for Victims of Sexual Assault*

The Department will continue to track service referrals for military victims of sexual assault. Efforts will be made to ensure that all victims receive the service referrals they need.

### *Joint and Deployed Environments*

The Joint Environments Working Group of the SAAC Policy subcommittee will continue to work to draft proposed policy modifications to alleviate any confusion that exists in joint environments. In addition, the SAAC Training Subcommittee will continue to address training issues regarding joint and deployed environments.

## STRATEGIC OBSERVATIONS

### **The Department of Defense is Embarking on Unprecedented Efforts to Prevent Sexual Assault**

The Department of Defense and the Services have begun a transformative mission: to prevent sexual assault in the military. No other institution of the size and scope of the Department of Defense has undertaken such a comprehensive approach to sexual assault prevention. All of the Services are making great strides to institute effective prevention strategies. The Department is working to establish a culture wherein Service members have a duty not only learn how to salute and wear the uniform, but also understand that mission readiness relies on respect for fellow Service members as well.

### **The Department Encourages Greater Reporting of Sexual Assault**

The Department of Defense is focusing its efforts on encouraging a climate of confidence wherein victims of sexual assault feel free to report the crime without fear of retribution, stigma or negative career impact. A recent study in the *Journal of Epidemiology* found that prior sexual assault *doubles* the chance of developing post-deployment PTSD symptoms when the victim is exposed to combat.<sup>32</sup> Sexual assault diminishes individual resiliency, erodes individual and unit mission readiness, and causes long term medical and mental health problems. Consequently, the Department is doing all it can to bring victims forward for treatment. By encouraging victims to report, the Department will be able to connect victims with services which should aid in the healing process.

For the reasons described above, the Department of Defense is working aggressively to increase the reporting of sexual assault. Sexual assault is a vastly underreported crime, in both military and civilian communities. Of the 6.8% of women and 1% of men who reported unwanted sexual contact on the 2006 Defense Manpower Data Center Gender Relations Survey, only one fifth of them reported the matter to an authority. The Department estimates that less than 10% of the sexual assaults that occur annually are reported to DoD. The Department will not be satisfied until the reports of sexual assault to DoD authorities approaches the reports that Service members are making on anonymous surveys. This year, the Department received 2,908 total reports (Restricted and Unrestricted), which is an eight percent increase from FY07. The Department's efforts to encourage greater reporting are working.

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<sup>32</sup> Smith, et al., (2008), Prior Assault and Posttraumatic Stress Disorder After Combat Deployment, *Epidemiology*, 19(3) May 2008, 505 – 512.

## Restricted Reporting Brings Victims Forward for Assistance

The creation of Restricted Reporting as an option demonstrates the depth of the Department's commitment to the support and treatment of victims by giving them enhanced privacy. This year, 753 Restricted Reports were received by the Department. This 7% increase in Restricted Reports over FY07 demonstrates that the option of Restricted Reporting is bringing more and more victims forward for help. The Department's efforts reflect a movement throughout the country to offer greater assistance anonymously to victims. This movement toward anonymous care and reporting, largely as a result of the Violence Against Women Act, encourages civilian jurisdictions to find ways to offer "Jane Doe" exams in programs similar to the Department's Restricted Reporting. The Department was on the cutting edge when it decided to allow victims to receive anonymous sexual assault forensic examinations. Although the Department of Defense would like to hold every offender accountable, Restricted Reporting brings victims forward for assistance who otherwise would not have sought help. For some victims, Restricted Reporting allows time to regain control over their lives that the sexual assault removed. Once the victim regains that sense of control, he/she may be willing to participate in the military justice process. The Department's policy accounts for this, and allows victims to convert their Restricted Reports to Unrestricted Reports. This year, 15% of victims chose to convert their Restricted Reports and participate in the justice process. Again, had Restricted Reporting not been an option, 753 victims of sexual assault would probably have not come forward for help this year.

Policy modifications have enhanced the ability of Service members to make Restricted Reports. For example, the policy was clarified to enable all healthcare personnel, not just providers, to receive a Restricted Report. Aggressive efforts to improve training programs and ensure that every Service member and all responders are trained are underway and will continue. Outreach efforts focus on educating Service members about their options and encouraging them to report their crime. As the program moves forward, the Department will continue to work to create a climate of confidence in which all victims feel comfortable coming forward to report.

## Improved Data Collection and Reporting Will Boost the Department's Ability to Conduct Oversight

The Department's ability to conduct policy oversight and enhance program accountability will be enhanced once DSAID, the new Department-wide sexual assault database, is implemented. It is anticipated that implementation will occur in January 2010. DSAID will provide enhanced transparency of sexual assault related data, while adhering to the privacy required for Restricted Reporting. DSAID will also increase accuracy in reporting sexual assault incidents as it will standardize data and reporting across the

Military Services, including the National Guard and Reserve components. The newly created uniform data definitions will be used in DSAID, increasing the accuracy and uniformity of data. Finally, DSAID will allow data to be analyzed for trends and will provide an enhanced capability to evaluate overall program effectiveness.

### **Investigation and Prosecution**

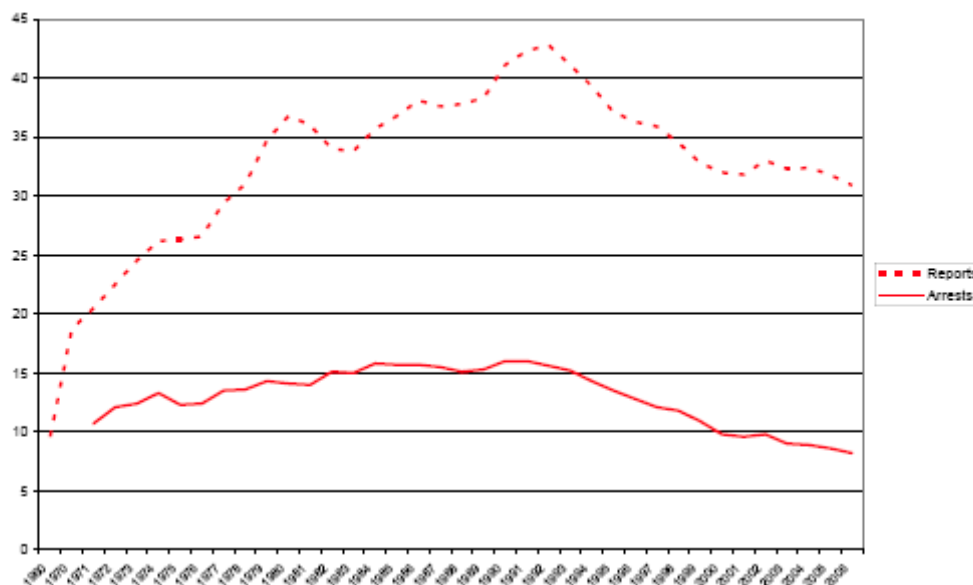
It should be noted that court-martial actions increased substantially from FY07 to FY08 from 30% to 38%. In FY07, there were 600 cases reported and investigated in which the commander was able to take action. Of these, 181 (30%) were addressed by court-martial action. At the close of FY 08, there were 832 cases reported and investigated in which the commander was able to take action. Of these, 317 (38%) were addressed by court-martial action. Despite this increase in FY 08 reported cases and court-martial action as compared with those reported in the FY 07 report, the question will no doubt be asked why every single reported case did not go to courts-martial. This section provides an answer to that question and rebuts persistent myths about military sexual assault investigation and prosecution.

National studies analyzing sexual assault investigation and prosecution are sparse. The studies that do exist show a significant gap between the reports of sexual assaults made to police and the arrests made in sexual assault cases. Stated another way, arrests occur in a relatively small proportion of reported cases. The graph below depicts the national rate of reports vs. arrests just for the offense of forcible rape, not all offenses the military would include in its definition of sexual assault.



**Figure 14**<sup>33</sup>

Rate of Reports and Arrests for Forcible Rape (per 100,000 U.S. Inhabitants)



Given what may be popular expectations, some may believe that when a victim makes a report, an investigation always ensues that eventually ends with the arrest and prosecution of the perpetrator. The often overstated and sometimes fictional depictions of forensic science capabilities in the media often give the impression that physical evidence of guilt can be derived with just the right application of science. However, the graph above lies in stark contrast with these assumptions. In fact, despite advances in the forensic sciences, the gap between the rate of reporting versus the rate of arrest in forcible rape cases has not narrowed with the advent of new technologies.

One possible explanation for the gap between reporting and arrest is because sexual assault investigations and prosecutions are complex. Sadly, indisputable evidence of guilt or innocence is rarely available in rape and other cases of sexual assault, particularly those involving non-stranger assaults which are the vast majority of the allegations. Even if physical evidence is present, it may be of little significant probative value where the defense is that the contact was consensual and not whether sexual contact occurred at all. Investigators, prosecutors, judges and jurors are often required to rely on testimonial evidence that is typically colored by witness perspective, the influence of alcohol and/or drugs, fear, gaps in memory, and other factors. Rape cases are typically the most difficult cases to successfully prosecute because jurors' beliefs in common rape myths cause them to question victim credibility, which in turn causes them to question the veracity of the

<sup>33</sup> Lonsway, K.A. & Archambault, J. (2008). *Outcomes of Sexual Assault Cases within the Criminal Justice System: An Analysis of Patterns Over Time*. Unpublished manuscript, EAW International. The chart uses Uniform Crime Reports statistics reported in the *Sourcebook of Criminal Justice Statistics Online*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, available at <http://www.albany.edu/sourcebook>.

entire case.<sup>34</sup> Military investigators and prosecutors are not immune from the challenges faced by investigators and prosecutors in civilian criminal justice systems across the country.

A precise comparison between military and civilian rates of investigation and prosecution is not possible due to substantial differences between the two systems of justice. The military justice system gives Service members virtually all rights and privileges that are afforded to citizens who face prosecution in civilian courts. In many areas--such as the right to counsel, the pretrial investigatory process, discovery, sentencing, post-trial processing, and appeals--the military justice system offers benefits to an accused that are more favorable than those available in civilian systems.<sup>35</sup> While the processes of both systems are parallel and require the prosecution to prove guilt beyond a reasonable doubt, certain familiar aspects of the civilian system are not the same under the military justice system.

- Unlike the civilian system with its common arrest and bail process, bail is not available to members of the military. As a result, service members who are apprehended for a crime are placed in pretrial confinement only when there is likelihood they are a flight risk and will not be present for trial or there is a reason to believe that they are likely to continue to commit crimes. Instead of a bail system, they are returned to the supervision of their commander to await legal action. Commanders have a variety of means at their disposal to ensure that victims are kept safe from perpetrators, including pretrial confinement if necessary.
- Both military and civilian law enforcement officials and those responsible for the prosecution of cases have broad discretion over if and how a case will be investigated or pursued in their respective legal systems. The military justice system also has as its purpose to promote justice, to assist in maintaining good order and discipline in the armed forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States.
- Reports of misconduct to military law enforcement are vigorously investigated, with or without the victim's assistance. In the civilian system, a police department's response to sexual assault will often follow the victim's desire to press charges (formally file a criminal complaint) against a perpetrator.

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<sup>34</sup> Scalzo, Teresa. "Prosecuting Rape Cases: Trial Preparation and Trial Tactic Issues," in *Practical Aspects of Rape Investigation: A Multidisciplinary Approach*, ed. Ann Burgess and Roy Hazelwood (CRC Press, 2008), 363.

<sup>35</sup> Rives, J. and Ehlenbeck, S., "Civilian versus Military Justice in the United States: A Comparative Analysis." 52 A.F. Law Review 213 (2002).

- In the civilian system, a district attorney weighs a case to determine its merits under the legal system and then decides whether or not to take action. In contrast but in a related fashion, military commanders are chartered with the responsibility for making the main decision regarding the prosecution of a case. However, a decision for legal action by a commander is not made in a vacuum. It is an informed decision supported by the legal advice provided by his or her staff judge advocate.

Despite the significant differences between the civilian and military justice systems, efforts at comparison will occur. Although precise comparisons cannot be made, some of the data can be put in context for a better understanding. The newly-created and previously-described data definitions were developed in conjunction with the flowchart, which illustrates comparison challenges. *See Appendices A and B.*

The flow chart begins where the military process begins: with the receipt of a report of sexual assault. On the flowchart, the number of reports received is represented by the box labeled “sexual assault allegation / complaint.” Once an Unrestricted Report is forwarded to military law enforcement, an investigation is commenced. At this point, current and future data reporting practices diverge. In this Annual Report, the FY08 final dispositions are broken down into the following categories:

- Unidentified subjects
- No action (which includes unsubstantiated / unfounded, insufficient evidence, victim withdrew cooperation, death)
- Under civilian or foreign authority
- Pending
- Completed. Completed cases are then broken down into:
  - Courts-martial
  - Nonjudicial punishments
  - Discharges in lieu of courts-martial
  - Discharges in lieu of disciplinary actions
  - Other administrative actions.

As is shown by the chart and its accompanying definitions, future reporting of case dispositions with the new Defense Sexual Assault Incident Database will be categorized with greater specificity allowing for improved analysis.

The primary challenges that arise when attempting to compare military and civilian prosecution rates are as follows:

1. Civilian and military data sources are dissimilar;
2. The Department of Defense counts reports to any responder (e.g., criminal investigator, law enforcement, command official, unrestricted reports to

- healthcare providers, SARCs, VAs, etc.) whereas national civilian statistics count only reports to the police;
3. The Department of Defense includes all sex crimes against adult victims whereas the Uniform Crime Reports (UCR) includes only forcible rape against women;
  4. The Department of Defense includes all reports whereas the UCR does not include cases later determined to be unfounded (which are “backed out” of the UCR database);
  5. The Department of Defense reports cases through disposition whereas the UCR reports cases only to the point of arrest; and
  6. The Department of Defense has more punitive and adverse administrative disposition options than civilian prosecution authorities.

### ***Civilian and military data sources are dissimilar***

The Department of Defense tracks all reports of sexual assault for one jurisdiction (the military) with one set of laws. The Federal Bureau of Investigation tracks only reports of rape from the 38 states that submit data to the Uniform Crime Reports (UCR). The states represent thousands of jurisdictions with at least 38 different sets of laws. While there may be some commonality in the elements of sexual assault law, the policies of the thousands of police departments and prosecutors governing sexual assault matters strongly influence how cases are investigated, cleared, prosecuted and counted.

### ***The Department of Defense counts sexual assault reports to any responder whereas national civilian statistics count only rape reports to the police.***

Unlike civilian criminal jurisdictions, the military tracks every allegation of sexual assault (both Restricted and Unrestricted) that comes into the system by way of any entry point, whether it be through law enforcement, a medical provider, a commander, the SARC or any other source. Only those cases reported to law enforcement are included in civilian statistics assembled at the national level. National crime statistics do not capture reports of sexual assault by victims who seek only medical care, advocacy services, or counseling. In the Department of Defense, both Unrestricted Reports to law enforcement and Restricted Reports of sexual assault are tracked.<sup>36</sup> For this reason, Department of Defense sexual assault statistics capture a wider range of crimes in proportionately greater numbers than those compiled in the Uniform Crime Reports (UCR), the primary national tracking mechanism for civilian crime.

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<sup>36</sup> Restricted Reports are reports of sexual assault made by victims that allow them to confidentially access care and services without law enforcement or commander involvement.

***The Department of Defense includes all sex crimes against adult victims whereas the UCR includes only forcible rape.***

The scope of sexual offense tracking and reporting leads to a second significant difference between Department of Defense and civilian criminal jurisdictions' sexual assault statistics. "Sexual assault" in the military includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (to include unwanted and inappropriate sexual contact), or attempts to commit these acts against adult victims, whereas the UCR tracks only forcible rape<sup>37</sup> against women. For this reason, military statistics account for a proportionately greater number of sexual assault complaints than only accounting for the number of forcible rape complaints made by women in a comparable civilian jurisdiction. Forcible rapes against women are only a fraction of the cases included in the Department's reports of "sexual assault."

***The Department of Defense includes all reports whereas the UCR does not include cases later determined to be unfounded.***

The number of civilian rapes reported in the UCR does not include reports determined to be unfounded (defined as false or baseless), which are "backed out" of the UCR reported statistics. The Department of Defense reports all sexual assaults, which includes all complaints received, regardless of whether they were later determined to be unfounded or not. For this reason, the military reports proportionately more cases than its civilian criminal jurisdiction counterparts. The new data collection reporting system will better bring military and civilian numbers into closer alignment.

***The Department of Defense reports cases through disposition whereas the UCR reports only to the point of arrest.***

Comparing military prosecution data to the civilian prosecution data captured by the UCR is further complicated because, as mentioned before, the military does not make arrests in the same manner as the civilian community. In addition, the UCR does not track final dispositions (or prosecution actions taken), as does the DoD report. Rather, the UCR tracks the number of offenses "cleared by arrest or exceptional means."<sup>38</sup> Past

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<sup>37</sup> "Forcible rape" is defined as "the carnal knowledge of a female forcibly and against her will." UCR Handbook, p. 19.

<sup>38</sup> "An offense is cleared by arrest, or solved for crime reporting purposes, when at least one person is (1) arrested, (2) charged with the commission of the offense, and (3) turned over to the court for prosecution (whether following arrest, court summons, or police notice). Uniform Crime Reporting Handbook, 2004, p. 79. An offense can be cleared exceptionally when the following four questions can be answered in the affirmative: (1) Has the investigation definitely established the identity of the offender? (2) Is there enough information to support an arrest, charge, and turning over to the court for prosecution? (3) Is the exact location of the offender known so that the subject could be taken into custody now? (4) Is there some reason outside law enforcement control that

comparisons of military and civilian sexual assault statistics have mistakenly cited the clearance rate of cases from the UCR as the disposition or prosecution rate. This is not accurate, and is misleading when used as a comparison to the DoD report of “court-martial action.”

Further comparison of military and civilian prosecutions is hampered by the lack of a national report on the dispositions (or outcomes) of sexual assault cases. The Department’s annual report to Congress includes case outcome statistics for every case where a commander could take action against a perpetrator. However, the UCR only reports that a case has been cleared by arrest or by exceptional means. Neither the UCR nor any other national study provides further information on sexual assault case dispositions (outcomes) beyond the point of clearance.

Although there is not national data on sexual assault case dispositions beyond the point of clearance, there are some states that track data to further points. The Department of Defense is often compared to the state of California. Using that comparison, the military is on par with the state of California. According to the California Department of Justice Criminal Justice Statistics Center, in 2007, the prosecution rate in California is stated to be 44% arrested and 64% of those arrested are prosecuted. That prosecution rate calculates to be 28% of reported rapes. If other categories of sexual assaults were to be included, as does the military (which typically includes sexual offenses of a lesser-degree than rape), it can be expected that the California arrest and prosecution rates would be even lower. By comparison, the FY 07 military rate of commander actions by courts-martial for all sexual assault offenses was 30% and 38% for FY08.

***The Department of Defense has more disposition options than civilian prosecution authorities.***

Finally, the military justice system has a wider range of disciplinary and adverse administrative action disposition options to initiate against offenders than what is available to prosecutors in the civilian criminal justice system. In the military, the commander is responsible for good order discipline within the unit, and has a broader range of punishment options than just trial by court-martial. In the civilian sector, civilian offenders can only be punished if they are convicted at a trial or plead guilty. Military offenders can face courts-martial, nonjudicial punishment or adverse administrative actions. A court-martial may result in a sentence to incarceration, the forfeiture of pay and allowances, a reduction in military rank, and a punitive discharge from military service. Although a court-martial is the most severe form of disposition available, the other forms of punishment and adverse administrative actions (e.g., less

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precludes arresting, charging, and prosecuting the offender? Uniform Crime Reporting Handbook, 2004, pp. 80 – 81. What it does not include is a specific indication of whether a prosecution action was actually taken.

than an honorable discharge) may be significant and have a lasting impact on a person's career and future life as a civilian.

It is also important to note that commanders can, and do, take action against Service members, even though the available evidence might not support action for sexual assault. The course of the investigation frequently turns up other instances of indiscipline that warrant action other than court-martial. Because of the need to maintain a disciplined fighting force, the Uniform Code of Military Justice, the Manual for Courts-Martial, and Military Service regulations provide tools to address these other collateral disciplinary infractions.

Nonjudicial punishment occurs pursuant to Article 15, UCMJ, (10 U.S.C. § 815) and can reduce service members in their military rank, cause them to forfeit a portion of their basic pay, require that they perform extra duty, and impose restrictions on their liberty. Article 15, UCMJ, punishments are recorded in the service member's personnel records and can ultimately impact on the service member's ability to get promoted, to re-enlist or to continue in military service. Finally, adverse administrative action may result in a Letter of Reprimand or Admonition being given to an individual. The misconduct evidenced by these letters can often be used as a basis to prevent promotion or re-enlistment, or to support an administrative separation (discharge) action. From all command actions taken in FY 08 (832 completed dispositions), thirty percent (247) were given nonjudicial punishment and just under one-third (268) were subjected to administrative action or discharge. As stated previously, FY 08 court-martial actions were taken in 317 cases (38%).

Although military sexual assault investigation and prosecution statistics cannot be precisely compared to similar civilian statistics, our efforts to effectively respond to such cases are quite comparable. DoD SAPR policy creates a multi-disciplinary team response to victims of sexual assault. The DoD response can be compared to civilian jurisdictions that utilize a Sexual Assault Response Team (SART). Research shows that victims who receive Sexual Assault Nurse Examiner services in conjunction with the support of a SART are more likely to participate in the criminal justice system than those who do not.<sup>39</sup> Further, research indicates that one of the strongest predictors of conviction is the victim's participation in the judicial process.<sup>40</sup> Military victims receive both of these important forms of support. The Department's goal is to provide victims with sufficient support to encourage their continued participation in the military justice system, which in turn enables the Department to hold more offenders accountable.

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<sup>39</sup> Nugent-Borakove, Elaine, et al., (2006). *Testing the Efficacy of SANE / SART Programs: Do They Make a Difference in Sexual Assault Arrest and Prosecution Outcomes?*

<sup>40</sup> Id.

Despite the differences making comparison of the military and civilian justice systems difficult, the Department of Defense took significant steps during FY08 to determine whether sexual assault investigation and prosecution rates within the military could be improved. First, the Department initiated the creation of a new sexual assault incident database which will allow for more accuracy in data collection, as well as an enhanced ability to analyze case dispositions. *See Appendices A and B.* Next, the Department and the Military Services collaborated on the creation of new definitions for data capture that will ensure the validity and reliability of the information collected in the database. Despite being under the umbrella of the Department of Defense, the Military Services have historically had differing definitions for the case disposition process. Standardization of these terms will yield improved data comparison and interpretation of statistical trends. Finally, recognizing that room for improvement always exists, the Department launched efforts to enhance military investigator and prosecutor training and resourcing. *See Program Highlights, Response Capabilities, Secretary of Defense's Priorities, p. 29 – 30.*



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## CONCLUSION

The Department of Defense continues to work toward its vision of enabling military readiness by establishing a culture free from sexual assault. This Annual Report demonstrates that each of the Military Services has instituted robust programs to respond to sexual assault. The increase in reporting in FY08 demonstrates that Service members have increased confidence in the military's efforts. The Department of Defense will continue to create a climate of confidence so that every sexual assault is reported and that every Service member victim of sexual assault receives the care he or she needs and deserves. During FY09, the Department will continue working to improve its response to sexual assault. Simultaneously, it will enhance its ability to conduct oversight and ensure program accountability. Finally, the Department will institutionalize its prevention efforts.