



# TEXAS MILITARY DEPARTMENT

## INSTRUCTION

NUMBER 1020.02

FEB 16 2023

NGTX-JHR

SUBJECT: Sexual Assault Prevention / Response Program (SAPR) and Sexual Offense Prevention / Response Program (SOPR) Policy Statement.

References. See enclosure 1.

1. PURPOSE. This instruction replaces TMDD 1020.02 to establish policy and assigns responsibilities for the TMD Sexual Assault Prevention / Response (SAPR) Program in accordance with (IAW) references a, b, and c; and the TMD Sexual Offense Prevention / Response (SOPR) Program IAW reference dd.

2. APPLICABILITY AND SCOPE. This issuance applies to all civilian employees and military personnel assigned and/or employed to any element within the Texas Military Department (TMD).

3. POLICY.

a. *SAPR Policy.* It is TMD policy to create a culture free from the criminal act of sexual assault and retaliatory behavior associated with sexual assault through primary prevention strategies, quick response for victim assistance and advocacy, appropriate investigative actions, and intensified accountability oversight that enhances the safety and well-being of all victims of sexual assault. The TMD SAPR Program will provide a cross-Service joint response capability with trained and certified SAPR personnel available 24 hours per day, 7 days per week to assist with timely and responsive access to comprehensive (medical and mental) treatment, including emergency care and support services. Care will meet the standards for victim assistance IAW reference d and be gender-responsive, culturally-competent, and recovery-oriented to sexual assault victims regardless of Service or Component affiliation.

(1) *Reporting Options and Confidentiality.* All eligible Texas National Guard (TXNG) members (see Table 1), dependents, and civilians will have access to Restricted Reporting (RR) and Unrestricted Reporting (UR) options to file an official report of sexual assault. Reports must be completed, signed, and filed with a Sexual Assault Response Coordinator (SARC) or SAPR Victim Advocate (VA), or an investigation must be initiated by a Military Criminal Investigative Organization (MCIO) or civilian law enforcement organization to constitute an official report (see reference kk). Confidential communications and information within an RR or UR will be released only to individuals with an official need to know or as authorized by law IAW references a, b, e, and f.

(2) *Victim Rights.* Victims will have the opportunity to request a general officer review of the circumstances and grounds of the action IAW references b, g, and h; and Service-specific issuances if the victim filed a UR of sexual assault or alleges a retaliatory action based on a sexual assault report and is recommended for involuntary separation within one year of final disposition of his or her sexual assault case. Sexual assault victims, uniformed witnesses, bystanders, and first responders involved in a sexual assault report have the right to discuss potential military career impacts with a general officer, if they believe there was retaliation for a report IAW references i and j.

(3) *Eligibility Requirements.* Figure 1 describes eligibility requirements for TXNG members and other individuals that may report sexual assaults.

- ✓ TXNG members who were sexually assaulted in a duty status IAW reference l and in a non-duty status are eligible for SAPR services and may select the RR or UR option.
- ✓ TXNG members who were sexually assaulted before enlistment or commissioning are eligible for SAPR services and may select the RR or UR option.
- ✓ Dependents of TXNG members who are at least 18 years old are eligible for SAPR services and may select the RR or UR option.
- ✓ Title 32 United States Code (U.S.C.) non-dual status civilian employees and Title 5 U.S.C. civilian employees may receive SAPR services with both reporting options, RR and UR. Line-of-duty entitlements are not applicable.
- ✓ State active duty TXNG members are eligible for limited SAPR services, both RR and UR options, and limited State benefits as defined by State law, which may consist of limited healthcare services in the form of emergency care.
- ✓ TXNG members sexually assaulted while performing active duty in Title 10 U.S.C. status are eligible to receive SAPR services from TMD SAPR personnel upon return to Title 32 U.S.C. status after signing a "Victim Reporting Preference Statement," reference e, consenting to the transfer of their case.
- ✓ An individual is not eligible for SAPR services if he or she is the dependent of a TXNG member and is younger than 18 years old IAW references a and b.
- ✓ Help is available through civilian Child Protective Services or civilian law enforcement organizations. Incidents of child sexual assault and abuse are addressed by State statutes, which include information on mandatory reporting requirements and general reporting guidelines.

**Figure 1, Eligibility Requirements for Reporting**

(4) *SAPR Personnel Restrictions.* TXNG members who are currently serving in positions outlined in Table 2 are prohibited from serving as SARCs, Victim Advocate Coordinators (VACs), or SAPR VAs due to professional conflicts of interest. Exceptions to this policy will be considered case by case by the State SARC.

- ✓ Chaplains and chaplain assistants
- ✓ Law enforcement and investigative personnel
- ✓ Judge Advocates and paralegals
- ✓ Commanders and senior enlisted leaders, including first sergeants, command sergeants major, and command chief master sergeants
- ✓ Medical and mental healthcare providers, including emergency medical technicians who provide direct patient care
- ✓ Equal opportunity advisors and representatives and equal employment managers
- ✓ The Inspector General and supporting staff

**Figure 2, Prohibited from Serving as SARC, VAC, or SAPR VA**

(5) *SAPR Personnel Certification Requirements.* SAPR Program Managers who work directly with sexual assault victims, SARCs, VACs, and SAPR VAs must successfully complete the required assignment eligibility screening, including the background investigation and the Department of Defense Sexual Assault Advocate Certification Program (D-SAACP) certification process IAW reference I.

b. *SOPR Policy.* The State SOPR Program works in tandem with the SAPR Program to provide victims of sexual assault within the Texas Military Forces (TXMF) with additional advocacy services as well as unique services available through the State. The TMD SOPR Program will provide a cross-Service joint response capability with trained and certified SOPR personnel with timely and responsive access to comprehensive (medical and mental) treatment, including emergency care and support services. Additionally, the State SARC will be a stakeholder in Integrated Primary Prevention (IPP) support initiatives under the TMD Joint Resiliency Director (TMD-J9), IAW DoDI 6400.11 Section 3. Care will meet the SAPR standards for victim assistance IAW reference d and be gender-responsive, culturally-competent, and recovery-oriented to sexual assault victims regardless of Service or Component affiliation. The SOPR Program will also provide victims of sexual assault assistance with civilian protective orders (CPOs), crime victim's compensation, and referrals to local law enforcement and Texas Rangers of the Department of Public Safety.

(1) *Reporting Options and Confidentiality.* All members of the TXMF will have access to State RR and UR options to file an official report (this is separate from the RR and UR options under the SAPR Program). Reports must be completed, signed, and filed with a Sexual Offense Response Coordinator (SORC) before any investigations can occur.

(2) *Victim Rights*. The victim of a sexual offense may request to convert a RR to a UR at any time. The victim will receive notice from the SORC if their offender is subsequently accused of a sexual offense under Section 22.011, 22.012, and 22.021, Texas Penal Code, by a service member or any other person. In accordance with Article 7B.001 (a-1), Code of Criminal Procedure, and with the consent of the victim of an offense under Section 22.011, 22.012, 22.021, Texas Penal Code, the SORC may file an application for a CPO on behalf of the victim.

(3) *Eligibility Requirements*. Members of the Texas Army National Guard (TXARNG), Texas Air National Guard (TXANG), and Texas State Guard (TXSG).

(4) *SOPR Personnel Recommended Training*. The SORC will pursue certification with the National Organization on Victim Advocacy's (NOVA) credentialing program, or a comparable credentialing program. All SOPR personnel will pursue trainings laid out by the Sexual Assault Training Program (SATP) Guide from the Office of the Attorney General (OAG), or a comparable certification program.

#### 4. RESPONSIBILITIES.

##### a. **Adjutant General (TAG)**. TAG will:

(1) Establish and implement the State SAPR Program, policies, and procedures IAW Department of Defense (DoD) publications, Service-specific requirements applicable to non-Federalized NG, CNGB Issuances, State statutes, and applicable law and policy.

(2) Establish and implement the State SOPR Program IAW reference dd.

(3) Cultivate an environment that is supportive, understanding, and respectful of sexual assault victims and opposes retaliatory behavior toward individuals reporting or assisting someone who is reporting a sexual assault.

(4) Prohibit commanders from conducting internal command-directed investigations on sexual assault allegations, including referrals to appointed command investigators and inquiry officers, or delaying the immediate contact of the appropriate law enforcement agency while attempting to assess the credibility of the report.

(5) Ensure all URs are referred to the appropriate MCIO or civilian law enforcement organization and, if necessary, to the National Guard Bureau Judge Advocate (NGB-JA) Office of Complex Investigations IAW reference q.

(6) Ensure all State URs filed under the TMD SOPR Program are referred to the Texas Rangers of the Department of Public Safety and local law enforcement as for investigation IAW reference dd.

(7) Establish and chair, or designate a Deputy Adjutant General (DAG) to chair, the monthly multi-disciplinary CMG meeting for reviewing all URs of sexual assault and retaliation allegations occurring within the State IAW references b and i.

(8) Implement primary prevention strategies to establish healthy teams and develop work-life balances to achieve progress in reducing unwanted behaviors and eradicating sexual assault in the TMD IAW DoD, NGB, and State guidance and implementation plans

(9) Establish a safety assessment capability within the Department to ensure the victim and other persons are not in the physical jeopardy, and establish a high-risk response team as necessary IAW reference b.

**b. Government Affairs Office (GAO).** TMD-GAO will:

(1) Advise TAG on Congressional activities and proposed legislation pertaining to sexual assault prevention and response in the military.

(2) Inform and educate the Texas Legislature on TMD's sexual assault prevention and response efforts.

(3) Facilitate communication with members of Congress, members of the Texas Legislature, and their staffs on sexual assault prevention and response initiatives.

(4) Respond to Congressional/Legislative inquiries on TMD SAPR/SOPR Program matters in coordination with the State SARC/SORC and report those inquiries to senior leaders.

(5) Communicate and coordinate with appropriate Legislative Liaison offices within the Department of Defense on matters relating to SAPR.

**c. Deputy Adjutant General – Army (DAG-Army) and Deputy Adjutant General – Air (DAG-Air).** The DAG-Army and the DAG-Air will:

(1) Assist TAG in carrying out the functions of the Department as they relate to the TXARNG and the TXANG on all matters related to the TMD SAPR Program.

(2) Implement the SAPR Program for non-Federalized TXARNG and TXANG personnel IAW DoD publications, Service-specific requirements applicable to non-Federalized NG members, and CNGB Issuances.

(3) Implement the SOPR Program for TXMF personnel IAW reference dd and all applicable State statutes.

(4) Respond to Congressional inquiries on sexual assault in coordination with the GAO and SAPR Office, and notify senior leaders of the inquiries and responses.

(5) Coordinate with the Office of the Surgeon General to:

(a) Ensure that all healthcare personnel facilitate an eligible member's access to emergency care when the member discloses, he or she was sexually assaulted, and notify a SARC IAW reference b, if the victim has not already reported the incident to a SAPR staff member.

(b) Provide responder training materials specific to Title 32 U.S.C. National Guard healthcare personnel IAW reference b.

d. **Command Senior Enlisted Leader (CSEL).** The CSEL will:

(1) Advise TAG on all enlisted matters affecting training, health of the force, and enlisted professional development related to SAPR.

(2) Engage the enlisted force in creating an environment free of sexual assault and retaliatory behavior against victims of sexual assault, alleged subjects, responders, witnesses, and intervening bystanders.

e. **Office of the General Counsel (OGC).** TMD-OGC will:

(1) Advise TAG, State SARC, State SORC, and other stakeholders on matters relating to the TMD SAPR/SOPR Program.

(2) Communicate with appropriate legal offices within the DoD, Military Services, NGB and State on matters relating to SAPR/SOPR.

(3) Provide first responder training specific to Title 32 U.S.C. for NG Judge Advocates IAW reference b.

(4) Coordinate with civilian law enforcement organizations to monitor and track the criminal investigation for all URs of sexual assault entered in the Defense Sexual Assault Incident Database (DSAID) or URs of sexual assault filed under the TMD SOPR Program.

(5) Coordinate with civilian law enforcement organizations to monitor and track reported allegations of retaliation associated with a sexual assault by TXMF members.

(6) Provide a case update and case disposition to the victim's commander (or equivalent) for discussion with the case management group (CMG) chair and co-chair every 30 days during the CMG meeting until case closure.

(7) Provide such military justice or administrative information concerning offender accountability as required by the State SARC or Wing SARC for entry into DSAID IAW references a and b.

(8) Provide such military justice or administrative information concerning offender accountability as required by the State SORC for reporting IAW reference dd.

(9) Retain investigative and disposition case records for all URs of sexual assault arising within the State under proper security measures IAW DoD, Service-specific, and NGB regulations.

**f. Office of the Inspector General (IG).** TMD-IG will:

(1) Communicate with appropriate Inspector General offices within the DoD, Military Services, NGB and State on matters relating to SAPR/SOPR.

(2) Ensure processes comply with sexual assault prevention and response policy by performing inspections when directed.

(3) Identify non-compliance, analyze indicators of deficiencies, and identify responsibility for corrective action on problems related to SAPR/SOPR program compliance matters.

(4) Report all findings on SAPR/SOPR program compliance matters to the directing authority.

(5) Transfer the completed inspection report containing potential violations of sexual assault policy to the appropriate agency.

(6) Address complaints of allegations of retaliation and reprisal in response to protected communications regarding sexual assault IAW Service-specific issuances.

**g. Office of the Joint Surgeon (OJS).** TMD-OJS will:

(1) Advise TAG on the physical health aspects of sexual assault victims.

(2) Communicate and coordinate with the Service Surgeon Generals, and TXARNG and TXANG Surgeons on matters relating to SAPR.

**h. State Chaplain (CH).** TMD-CH will:

(1) Advise TAG on the spiritual health aspects of sexual assault victims and their family members.

(2) Develop and implement standardized SAPR training for TMD Chaplains and Chaplain Assistants that meets DoD Sexual Assault Prevention and Response Office (SAPRO) core competencies and learning objectives IAW the training requirements in reference b.

**i. Public Affairs Office (PAO).** TMD-PAO will:

(1) Develop communication plans and media campaigns in coordination with the State SARC/SORC to increase awareness of the TMD SAPR/SOPR Program.

(2) Communicate with appropriate Public Affairs offices and representatives within the TXMF to deliver consistent SAPR/SOPR messages.

(3) Coordinate with the State SARC/SORC to respond to media inquiries related to sexual assaults within the Department.

(4) Track and report all high-visibility SAPR-related media events.

**j. Commanders.** Commanders at all echelons will:

(1) Support and direct the implementation of TAG's established SAPR/SOPR Program in compliance with DoD Issuances, Service-specific requirements as applicable to non-Federalized NG members, CNGB Issuances, State statutes, and applicable law.

(2) Immediately contact the appropriate law enforcement agency upon receiving an UR of sexual assault and will not conduct internal command-directed investigations on sexual assault allegations, to include making referrals to appointed command investigators or inquiry officers.

(3) Grant direct contact and unimpeded access to SARCs to discuss matters of the command's SAPR/SOPR program and incidents of sexual assault IAW reference b.

(4) Complete and submit a Sexual Assault Incident Response Oversight (SAIRO) report in writing within eight days after a UR of sexual assault is made IAW references b and v, and applicable Service-specific reporting requirements.

(5) Adhere to the DoD dual objectives of protecting victims of sexual assault and supporting applicable law enforcement and criminal justice procedures to hold alleged subjects appropriately accountable for sexual assault offenses IAW references a and b.

(6) Process TXMF members not discharged for a conviction of rape, sexual assault, forcible sodomy, or an attempt to commit one of these crimes for administrative separation for misconduct IAW references b, g, and h, and Service-specific issuances.

(7) Meet with the SARC within 30 days of taking command for one-on-one SAPR/SOPR training on responsibilities, required reports, confidentiality, and "official need-to-know" requirements, expedited transfers, and the sexual assault incident response oversight report IAW reference b.



(8) Support SAPR programs established by the command, as well as law enforcement and criminal justice procedures that hold persons accountable for their actions IAW references a and b.

(9) Balance the interests of the victim and subject of a sexual assault to enhance protection and maintain good order and discipline IAW references a, b, and w by considering:

(a) An expedited transfer of a Title 32 U.S.C. TXNG member who files a UR of sexual assault and requests the transfer; this may also serve to remove the victim from sources of perceived retaliation.

(b) A temporary administrative reassignment or removal of a Title 32 U.S.C. TXNG member accused of committing a sexual assault or related offense.

**k. State Sexual Assault / Response Coordinator (SARC).** State SARC will:

(1) Serve as the State's principal SAPR advisor to TAG on DoD, Army, Air Force, NGB, ARNG, ANG, and State policies and guidance relative to the TXMF.

(2) Advise TAG and DAGs on all issues affecting the overall execution of the TMD SAPR/SOPR Program.

(3) Identify SAPR/SOPR-related issues that affect the TXMF and submit a report to TAG as necessary.

(4) Collaborate with Federal and State agencies to facilitate partnerships to address SAPR issues and provide training.

(5) Provide oversight of the implementation of and monitor compliance with TMD and NG sexual assault policies, instructions, and procedures.

(6) Implement and manage the State SAPR/SOPR Program in coordination with the State SARC and the wing SARCs IAW DoD Issuances, Service-specific requirements as applicable to non-Federalized NG members, CNGB Issuances, applicable law, State statutes, and TAG's policies and procedures.

(7) Monitor reports of sexual assaults within the State in coordination with the State SARC, the wing SARCs, and the victim-advocacy services provided by the assigned certified SAPR/SOPR personnel. Monitoring occurs from the initial report through case disposition and resolution of the victim's health and well-being.

(8) Assist victims who are sexually assaulted while on active duty with filing a report if not completed on active duty and completing the line of duty determination process to request retention or return to active duty IAW references b and w, and Service-specific Issuances or guidance.

(9) Communicate the availability and right to consult with an SVC for legal assistance to victims IAW references a, b, and x.

(10) Inform victims of the option to request an expedited transfer upon filing an official UR IAW references b and v.

(11) Inform victims choosing to select the RR option of their eligibility to participate in the "Catch a Serial Offender" program IAW references kk and y.

(12) Enter and update sexual assault case data into the DSAID and coordinate with the wing SARCs on TXANG cases for reports of sexual assaults involving NG members, regardless of duty status at the time of the assault, reporting option selected, or independent investigation, IAW references a and b.

(13) Coordinate with the State SORC for reports of sexual assaults involving TXSG members, regardless of duty status at the time of the assault, reporting option selected, or independent investigation, IAW reference dd.

(14) Coordinate SAPR/SOPR training with the wing SARCs for new hires, supervisors, and members of the TXANG.

(15) Coordinate SOPR training with the State SORC for new members of the TXSG.

(16) Coordinate and support sexual assault prevention and training with TMD-J9.

(17) Serve as co-chair of the State CMG, and notify the victim's SVC of the date, time, and location of the CMG to provide the SVC with the opportunity to participate.

(18) Serve as the Department lead to:

(a) Coordinate with wing SARCs to provide a consolidated response to NGB-J1-SAPR Office on identified items in the annual NG SAPR program review, to include mandated information on each claim of retaliation associated with a report of sexual assault IAW reference j, for inclusion in the "DoD Annual Report on Sexual Assault in the Military."

(b) Support and document the response process for retaliation associated with a report of sexual assault in collaboration with the State SORC, other SARCs, VACs, SAPR VAs, Equal Opportunity Advisors, the IG, and the OGC within the State.

(c) Serve as the central manager of retaliation data collection within the State relating to a report of sexual assault.

(d) Confirm with SARCs and SAPR VAs if there are retaliation reports to discuss at the CMG.

(e) Coordinate with the TMD-OGC to obtain case referrals, outcomes, and disposition information for all UR sexual assault cases.

(19) Retain sexual assault case records for 50 years under proper security measures IAW reference b.

(20) Provide current or former NG members with access to their "Victim Reporting Preference Statement" (reference kk) IAW references b, z, and aa. In the event the original form or electronic copy of the original form (reference kk) is not located, the victim may complete, sign, and give or mail a replacement form to the nearest NG SARC or NGB-J1-SAPR Office (see Department of Defense Form 2910-1, "Replacement of Lost DD Form 2910, Victim Reporting Preference Statement," at reference ll). The victim may elect to convert a Restricted Report to an Unrestricted Report when completing the form. The SARC will upload the form into the DSAID File Locker. This form will take the place of the original "Victim reporting Preference Statement" (reference kk) IAW reference j.

(21) Participate in Service-specific councils, forums, and working groups IAW reference bb.

(22) Perform other responsibilities assigned to full-time SARCs consistent with DoD Issuances, Service-specific requirements as applicable to non- Federalized NG members, CNGB Issuances, applicable law, and TAG's policies and procedures.

(23) Establish a safety assessment capability within the Department to ensure the victim and other persons are not in physical jeopardy, and establish a high-risk response team as necessary IAW reference b.

**I. Victim Advocate Coordinator (VAC).** The TMD VACs will:

(1) Serve as the designated specialist of victim support services to coordinate and monitor local implementation and execution of the State SAPR Program IAW DoD Issuances, Service-specific requirements as applicable to non- Federalized NG members, CNGB Issuances, applicable law, State statutes, and TAG's policies and procedures.

(2) Perform sexual assault advocacy responsibilities to support victims of sexual assault through administrative, medical, investigative, and legal procedures.

(3) Serve as the liaison to coordinate services for victims with NG support and community organizations and agencies such as law enforcement, OGC, legal assistance, medical treatment facilities, Crime Victims' Compensation offices, and sponsoring commands.

(4) Support and document the response process for retaliation associated with a report of sexual assault in collaboration with SARCs, SAPR VAs, Equal Opportunity Advisors, the IG, and the OGC within the State.

(5) Perform other responsibilities assigned to full-time State VACs consistent with CNGB Issuances, State statutes, TAG's policies and procedures, and SAPR VA responsibilities IAW references a and b.

m. **State Sexual Offense / Response Coordinator (SORC)**. State SORC will:

(1) Serve as the State's principal SOPR advisor to the State SARC on State policies and guidance relative to the TXMF.

(2) Advise the State SARC on all issues affecting the overall execution of the TMD SOPR Program.

(3) Identify SOPR-related issues that affect the TXMF and submit a report to State SARC as necessary.

(4) Pursue all recommended training with the National Organization on Victim Advocacy's (NOVA) credentialing program, or a comparable credentialing program; as well as all training within the SATP Guide from the OAG IAW reference jj, or a comparable certification program.

(5) Collaborate with State agencies to facilitate partnerships to address SOPR issues and provide training.

(6) Implement and manage the State SOPR Program in coordination with the State SARC IAW State statutes and TAG's policies and procedures.

(7) Provide a consolidated report annually through TAG to the Texas Governor, Lieutenant Governor, and Legislature no later than the end of each Texas fiscal year IAW reference dd.

(8) The SORC will accept reports from any TXMF member for alleged offenses under Sections 22.011, 22.012, and 22.021 of the Texas Penal Code IAW reference dd.

(9) The SORC will refer all State URs alleging an offense under Section 22.011 and 22.021 of the Texas Penal Code to the Texas Rangers division of the Department of Public Safety and appropriate local law enforcement agencies IAW reference dd.

(10) The SORC will refer all State URs alleging an offense under Section 22.012 of the Texas Penal Code to the appropriate local law enforcement agencies IAW reference dd.

(11) Provide victim-advocacy services, including assistance with crime victims' compensation and filing an application for a protective order, IAW with the State SOPR Program and reference dd, from the initial report through case disposition and resolution of the victim's health and well-being.

(12) Inform victims choosing to select the State RR option of their eligibility to file a RR with the TMD SAPR Program to participate in the "Catch a Serial Offender" program IAW references kk and y.

(13) Track and report TXMF sexual assault case data in the TMD SOPR Program as required by State statutes IAW reference dd.

(14) Coordinate SOPR training with the wing SARCs for new hires, supervisors, and members of the TXANG.

(15) Coordinate SOPR training for new members of the TXSG.

(16) Coordinate and support sexual assault prevention and training with TMD-J9. As a stakeholder in the IPP support initiatives, identify and implement policies or practices that can assist in prevention strategies.

(17) Participate in the State CMG.

(18) Retain SOPR Program sexual assault case records for 50 years under SAPR Program security measures IAW reference b.

**n. Air National Guard (ANG) Wing SARC.** Wing SARCs will:

(1) Serve as the wing commander's principal SAPR consultant and inform the wing commander and vice wing commander on DoD, Air Force, NGB, and ANG policies and guidance relative to non-Federalized NG members.

(2) Implement and manage the TXANG SAPR program in coordination with the State SARC IAW DoD Issuances, Service- specific requirements as applicable to non-Federalized NG members, CNGB Issuances, State statutes, applicable law, and TAG's policies and procedures.

(3) Monitor reports of sexual assaults within the wing and the victim-advocacy services provided by the assigned certified SAPR personnel from initial report through disposition and resolution of the victim's health and well-being.

(4) Inform victims choosing to select the RR option of their eligibility to participate in the "Catch a Serial Offender" program IAW references kk and y.

(5) Enter and update sexual assault case data into the DSAID in co- ordination with the State SARC for statistical trend analysis and reporting to the NGB for inclusion in the DoD Annual Report on Sexual Assault in the Military.

(6) Assist a victim sexually assaulted while on active duty with filing a report if not completed on active duty and completing the line of duty determination process to request retention or return to active duty IAW references b and w, and Service-specific Issuances or guidance.

(7) Communicate the availability and right to consult with an SVC for legal assistance to victims IAW references a and b.

(8) Inform victims of the option to request an expedited transfer upon filing an official UR IAW references b and w.

(9) Serve as the SAPR point of contact for ongoing prevention, education, delivery of required training, and assessing the needs specific to the TXANG or wing in coordination with the State SARC.

(10) Coordinate with the State SARC to provide a wing response on identified items in the NG Annual SAPR Program Review for inclusion in the DoD Annual Report on Sexual Assault in the Military.

(11) Support and document the response process for retaliation associated with a report of sexual assault in collaboration with other SARCs, State VACs, SAPR VAs, Equal Opportunity Advisors, the IG, and the OGC.

(12) Retain sexual assault case records for 50 years under proper security measures IAW references b.

(13) Provide current or former NG members with access to their "Victim Reporting Preference Statement" (reference kk) IAW references b, z, and aa. In the event the original form or electronic copy of the original form (reference kk) is not located, the victim may complete, sign, and give or mail a replacement form to the nearest NG SARC or NGB-J1-SAPR Office (see Department of Defense Form 2910-1, "Replacement of Lost DD Form 2910, Victim Reporting Preference Statement," at reference ll). The victim may elect to convert a Restricted Report to an Unrestricted Report when completing the form. The SARC will upload the form into the DSAID File Locker which will take the place of the original "Victim Reporting Preference Statement" (reference kk) IAW reference j.

(14) Participate in Service-specific councils, forums, and working groups IAW references u and cc.

(15) Participate in the monthly State CMG meeting, and notify the victim's SVC of the date, time and location of the CMG to provide the SVC with the opportunity to participate.

(16) Perform other responsibilities assigned to full-time SARCs consistent with DoD Issuances, Service-specific requirements as applicable to non-Federalized NG members, CNGB Issuances, applicable law, State statutes, and TAG's policies and procedures.

**o. Brigade SARC.** Brigade SARCs will:

(1) Advise the brigade commander in the implementation and management of the brigade's SAPR/SOPR Program IAW DoD Issuances, Army requirements as applicable to non-Federalized NG members, CNGB Issuances, applicable law, State statutes, and TAG's policies and procedures.

(2) Conduct and assist unit leaders in conducting annual unit-level SAPR Program training and document the training event on the unit training schedules.

(3) Publicize the SAPR/SOPR program through local means to inform Soldiers, Army Civilians, Family members, and leaders about the program.

(4) Publish contact information for access to the State SARC, State SORC, VACs, and SAPR VAs.

(5) Verify the certification of each SAPR VA within the brigade and battalions before allowing the SAPR VA to perform advocacy duties.

**p. SAPR VAs will:**

(1) Report directly to the SARC while performing sexual assault advocacy responsibilities consistent with DoD Issuances, Service-specific requirements as applicable to non-Federalized NG members, CNGB Issuances, applicable law, State statutes, and TAG's policies and procedures.

(2) Provide non-clinical support and essential information on available options and resources to sexual assault victims to assist them in making informed decisions.

(3) Provide information to eligible sexual assault victims on the availability of a sexual assault forensic examination at a medical treatment facility or civilian hospital, when available, IAW references a and b.

(4) Describe the reporting options to the victim during initial contact to allow him or her to make an informed decision in electing the option that best supports his or her needs as allowed by duty status at the time of the sexual assault.

(5) Communicate the availability and right to consult with an SVC for legal assistance to victims IAW references a and b.

(6) Inform victims of the option to request an expedited transfer upon filing an official UR IAW references b and v.

(7) Assist a victim sexually assaulted while on active duty with filing a report if not completed on active duty and completing the line of duty determination process to request retention or return to active duty IAW reference b, and Service-specific Issuances or guidance.

(8) Support and document the response process for retaliation associated with a report of sexual assault in collaboration with SARCs, VACs, other SAPR VAs, Equal Opportunity Advisors, the IG, and the OGC within the state.

(9) Inform victims choosing to select the RR option of their eligibility to participate in the "Catch a Serial Offender" program IAW references kk and y.

(10) Retain sexual assault case records for 50 years under proper security measures IAW references b.

(11) Provide current or former NG members with access to their "Victim Reporting Preference Statement" (reference kk) IAW references b, z, and aa. In the event the original form or electronic copy of the original form is not located, the victim may complete, sign, and give or mail a replacement form to the nearest NG SARC or NGB-J1-SAPR Office (see reference ll). The victim may elect to convert a Restricted Report to an Unrestricted Report when completing the form. The SARC will upload the form into the DSAID File Locker which will take the place of the original "Victim Reporting Preference Statement" IAW reference j.

(12) Perform other responsibilities assigned to SAPR VAs consistent with DoD Issuances, Service-specific requirements as applicable to non-Federalized NG members, CNGB Issuances, applicable law, State statutes, and TAG's policies and procedures.

5. RELEASABILITY. Unlimited.

6. EFFECTIVE DATE. This directive will expire two years from the effective date of publication unless sooner rescinded or superseded.

7. POINT OF CONTACT. State Sexual Assault Response Coordinator, at 512-782-5593; and State Sexual Offense Response Coordinator, at 512-782-3117.

- 2 Encls:
- 1. References
- 2. Glossary and Terms

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**Enclosure 1****References****Required**

- a. DoD Directive 6495.01, 23 January 2012, "Sexual Assault Prevention and Response (SAPR) Program," Incorporating Change 5, 10 November 2021
- b. DoD Instruction 6495.02, 28 March 2013, "Sexual Assault Prevention and Response (SAPR) Program Procedures," Incorporating Change 7, 6 September 2022
- c. Title 32 United States Code (U.S.C.), "National Guard," Section 102, "General Policy"
- d. DoD Instruction 6400.07, 25 November 2013, "Standards For Victim Assistance Services in the Military Community," Incorporating Change 2, 6 July 2018
- e. DoD Instruction 5400.11, 29 January 2019, "DoD Privacy and Civil Liberties Programs", Incorporating Change 1, 8 December 2020
- f. DoD Manual 6025.18, 13 March 2019, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs"
- g. DoD Instruction 1332.14, 27 January 2014, "Enlisted Administrative Separations," Incorporating Change 7, 23 June 2022
- h. DoD Instruction 1332.30, 11 May 2018, "Commissioned Officer Administrative Separations," Incorporating Change 3, 9 September 2021
- i. 10 U.S.C. § 1034, "Protected communications; prohibition of retaliatory personnel actions"
- j. Under Secretary of Defense Personnel and Readiness Memorandum, 15 October 2019, "Defense Sexual Assault Incident Database Updates Involving the Replacement of Lost Forms, Retaliation Reporting, and Electronic File Locker"
- k. DoD Instruction 1215.06, 11 March 2014, "Uniform Reserve, Training, and Retirement Categories for the Reserve Components," Incorporating Change 2, 12 July 2022
- l. DoD Instruction 6495.03, 28 February 2020, "Defense Sexual Assault Advocate Certification Program (D-SAACP)"
- m. 10 U.S.C. § 10502, "Chief of the National Guard Bureau: Appointment; Adviser on National Guard Matters; Grade; Succession," Supplement 5

- n. DoD Directive 5105.77, 30 October 2015, "National Guard Bureau," Incorporating Change 1, 10 October 2017
- o. Under Secretary of Defense Personnel and Readiness Memorandum, 10 March 2015, "Certification Standards for Department of Defense Sexual Assault Prevention and Response Program Managers"
- p. CNGB Manual 1300.01, 21 September 2016, "National Guard Implementation of the Department of Defense Sexual Assault Advocate Certification Program"
- q. CNGB Instruction 0400.01B, 12 April 2018, "National Guard Complex Administrative Investigations"
- r. DoD Directive 7050.06, 17 April 2015, "Military Whistleblower Protection," Including Change 1, 12 October 2021
- s. 5 U.S.C. § 2302(b)(8)-(9), "Prohibited Personnel Practices"
- t. CNGB Memorandum, 19 November 2013, "National Guard Command Climate Assessment Policy"
- u. Air Force Instruction 90-6001, 21 May 2015, "Sexual Assault Prevention and Response (SAPR) Program," Incorporating Change AFGM2019-01, 07 October 2019
- v. CNGB Manual 1300.02A, 19 January 2023, "National Guard Sexual Assault Incident Notification and Reporting Requirements"
- w. CNGB Instruction 1303.04A, 18 November 2022, "National Guard Expedited Transfer Program for Unrestricted Reports of Sexual Assault"
- x. 10 U.S.C. § 12323, "Active Duty Pending Line of Duty Determination Required for Response to Sexual Assault"
- y. Office of the Secretary of Defense Memorandum, 10 June 2019, "Procedures to Implement the 'Catch a Serial Offender' Program"
- z. 5 U.S.C. § 552, "Public Information: Agency Rules, Opinions, Orders, Records, and Proceedings"
- aa. 5 U.S.C. § 552a, "Records Maintained on Individuals"
- bb. Army Regulation 600-63, 14 April 2015, "Army Health Promotion"
- cc. Air Force Instruction 90-5001, 25 January 2019, "Integrated Resilience"
- dd. Texas Government Code, Title 4, Chapter 432, Subchapter J-1, "Sexual Offense Prevention and Response"

**Related Publications**

ee. DoD Retaliation Prevention and Response Strategy Implementation Plan, January 2017

ff. Army Regulation 20-1, 23 March 2020, "Inspector General Activities and Procedures"

gg. Air Force Instruction 90-301, 28 December 2018/Air Force Reserve Command Supplement, 17 October 2019, "Inspector General Complaints Resolution," Incorporating Change 1, 30 September 2020

hh. Army Directive 2014-20, 19 June 2014, "Prohibition of Retaliation Against Soldiers for Reporting a Criminal Offense"

ii. Texas Government Code, Title 4, Chapter 420, "Sexual Assault Prevention and Crisis Services"

jj. Office of the Attorney General Sexual Assault Training Program (SATP) Certification Guide

**Prescribed Forms**

kk. DD Form 2910, November 2021, "Victim Reporting Preference Statement"

ll. DD Form 2910-1, 26 June 2019, "Replacement of Lost DD Form 2910, Victim Reporting Preference Statement"

## **Enclosure 2**

### **Glossary and terms**

#### **Section I**

#### **Abbreviations**

##### **ANG**

Air National Guard

##### **ARNG**

Army National Guard

##### **CMG**

Case Management Group

##### **CNGB**

Chief of the National Guard Bureau

##### **CSEL**

Command Senior Enlisted Leader

##### **DAG-Army**

Deputy Adjutant General - Army

##### **DAG-Air**

Deputy Adjutant General - Air

##### **DoD**

Department of Defense

##### **DSAID**

Defense Sexual Assault Incident Database

##### **IAW**

In accordance with

##### **MCIO**

Military Criminal Investigative Organization

**NG**

National Guard

**NGB-J1**

NGB Manpower and Personnel Directorate

**OAG**

Office of the Attorney General

**OSD**

Office of the Secretary of Defense

**RR**

Restricted Reporting

**SAPR**

Sexual Assault Prevention and Response

**SAPRO**

Sexual Assault Prevention and Response Office

**SARC**

Sexual Assault Response Coordinator

**SATP**

Sexual Assault Training Program

**SJA**

Staff Judge Advocate

**SORC**

Sexual Offense Response Coordinator

**SOPR**

Sexual Offense Prevention and Response

**SVC**

Special Victims' Counsel

**TAG**

The Adjutant General

**TGC**

Texas Government Code

**TMD**

Texas Military Department

**TMD-CH**

TMD State Chaplain

**TMD-GAO**

TMD Government Affairs Office

**TMD-IG**

TMD Inspector General

**TMD-J9**

Joint Resiliency Director

**TMD-OGC**

TMD Office of the General Counsel

**TMD-OJS**

Office of the Joint Surgeon

**TMD-PAO**

TMD Public Affairs Office

**TXANG**

Texas Air National Guard

**TXARNG**

Texas Army National Guard

**TXMF**

Texas Military Forces

**TXNG**

Texas National Guard

**TXSG**

Texas State Guard

**UR**

Unrestricted Reporting

**U.S.C.**

United States Code

**VA**

Victim Advocate

**VAC**

Victim Advocate Coordinator

**Section II**

**Terms**

**Chain of Command**

The succession of commanding officers from a superior to a subordinate through which command is exercised; also the succession of officers, enlisted members, or civilian personnel through whom administrative control is exercised, including supervision and rating of performance. For members of the National Guard this also includes The Adjutant General and the Governor of the State in accordance with reference r.

**Defense Sexual Assault Incident Database**

The Department of Defense centralized case-level database for the uniform collection of data regarding incidence of sexual assaults involving persons covered by this Instruction. Disclosure of data stored in this database is granted only as authorized by law or needed for internal Department of Defense review or analysis.

**Final Disposition**

Actions taken to resolve the reported incident, document case outcome, and address the misconduct by the alleged perpetrator, as appropriate. Final disposition includes military justice proceedings, non-judicial punishment, or administrative actions, including separation actions taken in response to the offense, whichever is the most serious action taken in accordance with reference b.

**Limited Healthcare Services**

Emergency care that includes physical and emergency psychological services and a Sexual Assault Forensic Examination or civilian equivalent consistent with reference a.

**Limited Sexual Assault Prevention and Response Services**

Assistance provided by a Sexual Assault Response Coordinator, Joint Force Headquarters–State Victim Advocate Coordinator, or Sexual Assault Prevention and Response Victim Advocate to a victim who is undergoing emergency care, but who is ineligible for a reporting option or continued support throughout recovery.

**Maltreatment**

Cruelty toward or oppression of a member of the National Guard or an employee of the National Guard by a person with authority over the individual because the individual:

- a. Reported a sex-related offense or sexual harassment or is believed to have reported a sex-related offense or sexual harassment.
- b. Was the victim of a sex-related offense or sexual harassment or is believed to have been the victim of a sex-related offense or sexual harassment.
- c. Was reported by another as being the victim of a sex-related offense or sexual harassment or is believed to have been reported by another as being the victim of a sex-related offense or sexual harassment.
- d. Intervened, or attempted to intervene, to prevent or attempt to prevent a sex-related offense or sexual harassment or is believed to have intervened or attempted to intervene to prevent or attempt to prevent a sex-related offense or sexual harassment.
- e. Cooperated or is believed to have cooperated in an investigation, has served as a witness, will or may serve as witness, or is believed to have served as a witness, or it is believed that the individual will or may serve as a witness in the future in a criminal or disciplinary proceeding, or in an investigation, including an administrative investigation, involving a sex-related offense or sexual harassment in accordance with reference dd.

**National Guard Sexual Assault Prevention and Response Program**

The collective State Sexual Assault Prevention and Response programs and their program elements of the National Guard Bureau Sexual Assault Prevention and Response Program.



**Ostracism**

The offense, with a nexus to military service, of wrongfully excluding a military member from social acceptance or membership in or association with a group of which such military member was a part or a reasonable person would conclude wanted to be a part with the intent to do any of the following: inflict emotional distress on the military member (“emotional distress” means a highly unpleasant mental reaction, such as anguish, grief, fright, humiliation, or fury); discourage reporting of a criminal offense or sexual harassment; or otherwise discourage the due administration of justice concerning a criminal offense or sexual harassment because the perpetrator knew or believed that the member:

- a. Reported or was planning to report a sex-related criminal offense or sexual harassment.
- b. Was a victim or alleged victim of a sex-related criminal offense or sexual harassment.
- c. Was reported by another as being the victim of a sex-related criminal offense or sexual harassment.
- d. Intervened to prevent or attempt to prevent a sex-related criminal offense or sexual harassment from occurring.
- e. Cooperated in an investigation, or the member has served or will or may serve as a witness or otherwise cooperate in the future in a criminal, disciplinary, or administrative proceeding or investigation involving a sex-related criminal offense or sexual harassment in accordance with reference dd.

**Protected Communication**

A lawful communication to a member of Congress or an Inspector General. A communication to a covered individual or organization in which a member of the Armed Forces of the United States complains of, or discloses information that the member reasonably believes constitutes evidence of a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination or gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety in accordance with reference dd.

**Qualifying Conviction**

A State or Federal conviction, or a finding of guilt in a juvenile adjudication, for a felony crime of sexual assault; any general or special court-martial conviction for a Uniform Code of Military Justice offense, that otherwise meets the elements of a crime of sexual

assault; or any offense that requires registration as a sex offender in accordance with reference a.

**Reprisal**

Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making, preparing to make, or being perceived as making or preparing to make a protected communication in accordance with reference r.

**Responders**

Sexual assault prevention and response personnel, Military healthcare personnel, judge advocates, chaplains, directors of psychological health, Special Victims' Counsel, and commanders.

**Restricted Reporting**

A reporting option that allows sexual assault victims to confidentially disclose the assault to specified individuals, such as sexual assault response coordinators, sexual assault prevention and response victim advocates, or healthcare personnel, and receive medical treatment, including emergency care, counseling, and assignment of a sexual assault response coordinator or sexual assault prevention and response victim advocate, without triggering an investigation.

**Restriction**

Preventing or attempting to prevent a current Service member from making or preparing to make a lawful communication to a member of Congress or an Inspector General in accordance with reference r.

**Retaliation**

An act by any member of the National Guard or employee of the National Guard that wrongfully takes or threatens to take an adverse personnel action against any person, or wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication.

**Retaliatory Behavior**

Misconduct such as maltreatment, ostracism, reprisal, and restriction in accordance with reference dd.

**Sexual Assault**

Intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent including rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these acts in accordance with b.

**Sexual Assault Prevention and Response Personnel**

Located within the States, these personnel include sexual assault response coordinators (National Guard Joint Force Headquarters—State, wing, and brigade), Joint Force Headquarters— State victim advocate coordinators, and sexual assault prevention and response victim advocates, which include unit victim advocates and volunteer victim advocates.

**Sexual Assault Prevention and Response Services**

Assistance and support provided by sexual assault prevention and response personnel including facilitating transportation to a treatment facility, providing non-clinical crisis intervention, referrals, and ongoing non-clinical support to adult sexual assault victims.

**Unrestricted Reporting**

A process that allows an individual to disclose, without requesting confidentiality or Restricted Reporting, that he or she is the victim of a sexual assault.