

APPENDIX 2B
COMMANDER'S CHECKLIST

This checklist includes essential elements for meeting command SAPR program requirements and ensuring effective prevention and response.

COMMANDER, COMMANDING OFFICER, AND OFFICER IN CHARGE
RESPONSIBILITIES

Within 30 days of assuming command

- Obtain the CO's toolkit brief from the lead, installation, or regional SARC on sexual assault incident management.
- Obtain a brief from a judge advocate or a region legal service office attorney or trial counsel on Military Rule of Evidence 514 privilege, sexual assault - initial disposition authority, and case disposition reporting requirements.

Within 90 days of assuming command

- Conduct a command climate assessment consistent with command managed equal opportunity program guidelines.

Within 30 days of newly reporting personnel being permanent assigned to the command

- Review all NAVPERS 1070/887 or field code 91 documents in official military personnel files.
- Designate, in writing, a unit SAPR POC to promote responsive command management of alleged sexual assaults and compliance of SAPR program requirements.
- Certify, in writing, completion of required training and suitability for assignment by SAPR PMs. If assigned, SAPR PMs within Navy will not work directly with sexual assault victims.

- Establish and maintain a 24/7 sexual assault response capability and timely access to appropriate victim services, including medical care, victim advocacy, victims' legal counsel, counseling, criminal investigation of unrestricted reports, VWAP information, and chaplain support.
 - Designate, in writing, unit SAPR VAs from within the command, ensuring a sufficient number of trained and certified unit SAPR VAs are designated for 24/7 response when sexual assaults occur to include locations where Navy installation assets are not available. At a minimum, two unit SAPR VAs must be designated.
 - Ensure assigned unit SAPR VAs report to the lead or installation SARC, deployed resiliency counselor, or full-time SAPR VA for oversight and supervision of all advocacy responsibilities and services.
 - Ensure availability of designated key SAPR personnel (e.g., unit SAPR VA, unit SAPR POC) trained by a SARC, deployed resiliency counselor, or SAPR VA to respond if a sexual assault occurs in foreign ports or while deployed.
 - Establish MOAs and MOUs to ensure all SAPR services are available, as applicable.
 - Monitor development and sustainment of effective 24/7 response capability within subordinate commands.
 - Ensure that all levels of command authority, including command watchstanders, are advised of and adhere to the requirement to immediately referred all allegations of sexual assault to NCIS or other MCIOs.
- Develop a comprehensive SAPR program and assess levels of command compliance with SAPR program requirements, using OPNAV 1752/3.
- Conduct a regular review of command sexual assault awareness and prevention education, reporting, victim support processes, and watchstander protocols to ensure they meet program standards.

- Ensure active coordination between installation and command assets for effective prevention and response to incidents, ensuring attendance at sexual assault CMG meetings.
- Advise command personnel that communicating with chaplains, victims' legal counsels, and legal assistance attorneys preserves their restricted reporting option.
- Ensure all required SAPR training is conducted and documented.
- Publicize the DoD confidentiality policy that Service members and their dependents over the age of 18 may make restricted or unrestricted reports to the SARC, deployed resiliency counselor, healthcare providers, SAPR VA, unit SAPR VA, victims' legal counsel, or DoD Safe Helpline staff and publish names and contact information for these personnel.
- Publicize a means of informing the chain of command (e.g., CO's suggestion box, blog, etc.) of any situations which may place individuals at risk of harm and provide feedback concerning the final disposition of suggestions and complaints.
- Post and widely disseminate information about resources available to report and respond to sexual assaults, including the DoD Safe Helpline numbers and Internet Web sites available to all Service members.

Pre- and Post-Deployment Planning

- Identify both immediately available and nearby trained medical, investigatory, and chaplain assets that can be utilized if a sexual assault occurs during underway periods, in foreign ports, or while deployed.
- Ensure coordinated effort and case management by both local and responsible SARCs when deployed.
- Ensure compliance with pre-deployment and post-deployment sexual assault training requirements.

PREVENTION

To ensure Navy's sexual assault prevention policy becomes an integral part of day-to-day personnel management:

- Establish a command climate of prevention, predicated on professionalism, mutual respect and trust that recognizes and embraces diversity, prevents unacceptable conduct, values the contributions of all of its members, and eliminates elements incompatible with a safe, sexual assault-free environment.
- Institute and publicize a safe, supportive environment where members feel comfortable coming forward to inform the chain of command of situations that place individuals at risk of sexual assault, ensuring a safe emotional and physical environment for all members of the command.
- Reassure members of the CO's personal commitment to a climate of prevention and maintain a healthy environment that is safe and contributes to their well-being and mission accomplishment.
- Reiterate the policy on sexual assault and the potential legal consequences for those who violate the law.
- Ensure all personnel understand retaliation or reprisal against any person bringing forward a complaint, cooperating in the investigation of a complaint or the discipline process will not be tolerated.
- Protect SARCs, deployed resiliency counselors, SAPR VAs, and unit SAPR VAs from retaliation, coercion, ostracism, discrimination, or reprisals related to the execution of their SAPR duties and responsibilities.
- Provide ongoing education regarding responsible use of alcohol and Navy alcohol and drug abuse prevention programs, emphasizing the link between sexual assault and alcohol misuse.
- Ensure command-wide compliance with mandatory SAPR education, bystander intervention, and deployment training requirements for all Service members, regardless of rank or specialty.

Upon receipt of an unrestricted report

RESPONSE

- Contact the SARC, deployed resiliency counselor, or on-call SAPR VA or unit SAPR VA to ensure SAPR support and services are immediately activated for the victim, ensuring coordinated effort and case management by the local and responsible SARC when a sexual assault is reported while victims or commands are away from homeports (e.g., deployed).
- Consult with an NCIS special agent and judge advocate to ensure familiarization with the rights of both the victim and the alleged offender (established by statute or regulation). Be sure to comply with victim and alleged offender's rights.
- Ensure the sexual assault - initial disposition authority at the appropriate level is advised of all allegations of sexual assault and investigation results.
- Ensure command compliance with SAPR program reporting requirements for unrestricted reports of sexual assault to include the following:
 - Personnel incident reports (i.e., operational report (OPREP)-3 NAVY BLUE or OPREP-3 NAVY UNIT situational report (SITREP)) as outlined in OPNAVINST F3100.6J.
 - Notification to the installation CO within 24 hours of receipt of all unrestricted reports of sexual assault.
 - A written OPNAV 1752/2 Sexual Assault Incident Response Oversight (8-day) Report via e-mail within 8 days of the command becoming aware of a report or investigation of an adult sexual assault involving a Service member victim or a Service member alleged offender (including RC members who were performing active service or IDT during the time of the assault).
 - Specific information to the first flag officer in the chain of command regarding the incident, prevention efforts, impact on the command, progress to resolution and best practices within 30 days after the initial report of the sexual assault.

- Specific details to the sexual assault CMG chair, responsible SARC, and NCIS special agent regarding command actions taken on behalf of the victim member or alleged offender (e.g., military protective order issued, temporary and permanent reassignments, expedited transfer requests, administrative separation proceedings, nonjudicial punishment (NJP) results, status of collateral misconduct, etc.), regardless if the victim declines SAPR services or support.
- Monthly updates to victims who file unrestricted reports of sexual assault regarding the current status of any ongoing investigative, medical, legal, or command proceedings through the final disposition of the reported assault. This update must occur within 72 hours of the last sexual assault CMG meeting and is a non-delegable responsibility.
- Written disposition data (e.g., any administrative, NJP, judicial action taken) resulting from the investigation involving Service members from the command within 2 business days of action being taken, using NAVPERS 1752/1 Sexual Assault Disposition Report.
- A NAVPERS 1070/877 Sex Offense Accountability Record, within 5 business days from adjudication of a court-martial or NJP or at the completion of the NJP appeal process for any sex-related offenses to include violation of Articles 120, 120a, 120b, 120c, or 125 of the UCMJ, or an attempt to commit any of these offenses punishable under Article 80 of the UCMJ, to a the official military personnel file of a Service member who received a court-martial conviction or NJP for these offenses.
- The supported decision to deny a victim's military protective order request to the installation CO or equivalent command level for final decision and first flag officer in the chain of command.
- Participate in the sexual assault CMG meetings as required, advising the chair of all reports of retaliation, ostracism, maltreatment, or reprisal from a victim, witness, or first responder in conjunction with the report of sexual assault and any action taken.

- Consult with a judge advocate, and notify NCIS and the SARC, deployed resiliency counselor, SAPR VA, unit SAPR VA or victims' legal counsel prior to taking any administrative or disciplinary action.
- Initiate mandatory administrative separation processing for Service members found guilty of committing a sexual assault offense and awarded punishment by court-martial or civilian court system, including the possible requirement to register as a sex offender.
- Consult with a judge advocate, following the resolution of a case, to be informed of privacy implications of public announcements relating to adverse personnel actions. Particular care concerning the victim and alleged offender's privacy rights must be considered. While NJP or court-martial results may be published, details of the offense that may infringe upon a victim's privacy should be omitted. Similarly, COs must consider the impact of an acquittal on the victim when making public comments about case resolution.

VICTIM SUPPORT

- Ensure the physical and emotional safety of the victim.
- Contact the SARC, deployed resiliency counselor, or on-call SAPR VA or unit SAPR VA to ensure the victim is made aware of his or her rights and the VWAP and victims' legal counsel program.
- Notify NCIS as soon as the victim's immediate safety is assured, and medical treatment procedures elected by the victim are initiated.
- Ensure a safety assessment is conducted for each sexual assault victim by the responsible SARC, healthcare provider, MCIO representative or designated personnel to determine whether the alleged offender remains a threat and if the victim needs or desires protection.
- After consultation with NCIS, determine whether there is a need for a military protective order or civilian protective order (after consultation with legal, law enforcement, SARC, and

assigned SAPR VA), particularly if the victim and the alleged offender are assigned to the same command, duty location or living quarters.

- Issue a military protective order, using DD Form 2873 Military Protective Order, or take other action to ensure the accused and victim are not working or living in the same environment if the victim desires to be separated from the accused or a military protective order is required. A military protective order may be issued to both a victim and accused as the case may warrant.
- Advise the victim that the military protective order is not enforceable by civilian authorities off base and of the option to apply for a civilian restraining order.
- Forward a commander's decision to deny a victim's request to issue a military protective order to the installation CO or equivalent command level for final decision and first flag officer in the chain of command.
- Notify the local civilian authorities of the military protective order issuance involving a Service member and any individual not residing on a military installation. The civilian authorities must also be notified of any change made in a protective order, or its termination.
- In coordination with DoD law enforcement and NCIS, take all reasonable measures necessary to ensure that a civilian protective order is given full force and effect on all DoD installations within the jurisdiction of the court that issued such order.
- Ensure victim privacy through response protocols that strictly limit required chain of command notifications to the smallest number with a need-to-know, limit general access of command sexual assault message traffic, and discourage gossip and speculation within the ranks.
- Ensure the victim consents, in writing, to the release of information to anyone (including parents, friends, etc.).

- Be sensitive to the needs of the victim's family. Only in cases where the victim has suffered life-threatening injuries will the next-of-kin be notified without prior approval of the victim.
- Take action to safeguard the victim from any formal or informal investigative interviews or inquiries, except those conducted by NCIS or civilian law enforcement.
- Protect the victim, witnesses, and first responders from retaliation, coercion, ostracism, discrimination, or reprisals in person, and respond to any such retaliation occurring in electronic communications or social media by ensuring allegations of retaliation or reprisal against any victim or witness who reports an offense is properly investigated.
- Assist with obtaining immediate transportation for the victim to the appropriate medical facility.
- Ensure the victim is afforded unfettered access to and receives timely access to comprehensive medical and psychological emergency medical treatment regardless of visible injuries, unless the victim declines healthcare.
- Avoid automatic suspension or revocation of security or personnel reliability program (PRP) clearances, understanding that the victim may be satisfactorily treated for his or her related trauma without compromising his or her PRP status. Use established national security standards when making final determinations.
- Process expedited transfer within 72 hours of receipt of a victim's request:
 - Determine if the report is credible (e.g., reasonable grounds exist to believe that an offense constituting sexual assault has occurred based on the advice of the supporting judge advocate and the available evidence) and either approve or disapprove (see MILPERSMAN 1300-1200).
 - Ensure the victim is fully informed regarding reasonably foreseeable impacts of an expedited transfer on his or her career, the potential impact of the transfer or reassignment on the investigation and potential litigation

or initiation of other adverse action against the alleged offender, or any other possible consequences of granting the request.

Forward the supported recommendation for approval of an expedited transfer request to NAVPERSCOM Personnel Performance and Security (PERS-833) or COMNAVRESFORCOM as appropriate for processing.

Forward the supported recommendation for disapproval of the transfer request to first flag officer in chain of command for final decision. The request should be forwarded to the immediate superior in command (ISIC) if the first flag officer in the chain of command is the victim's CO.

If the first flag officer disapproves the request, ensure the supported recommendation for disapproval of the transfer request is forwarded to NAVPERSCOM (PERS-833).

Forward all expedited transfer request packages to NAVPERSCOM (PERS-833) for a retention period of 3 years, regardless of action(s) taken.

For open cases, inform only the new CO of the victim's transfer, limiting the information to objective facts about victim care provided, the status of open investigations, and the status of ongoing legal proceedings in order to allow the new CO to facilitate the victim's access to advocacy, healthcare, MCIOs, and legal counsel.

Ensure the victim has access to the chain of command, is treated with sensitivity, is kept informed on the status of the case, and that the command climate does not re-victimize the victim.

Work with the NCIS special agent and SARC to provide the victim with monthly updates regarding the status of his or her case, ensuring concerns are addressed during the sexual assault CMG meeting. This responsibility is non-delegable.

Provide victims monthly updates regarding the current status of any ongoing investigative, medical, legal, or command proceedings regarding the sexual assault until the final disposition of the reported assault.

Designate individuals within respective organizations to process line of duty determinations for RC victims of sexual assault that occurred while performing active service and IDT, as applicable.

Determine how to best dispose of the victim's possible collateral misconduct. When deciding whether to discipline victims of sexual assault for collateral misconduct, COs will balance all relevant considerations and consult with a judge advocate.

Forward all administrative separation actions involving Service member victims who are recommended within 1 year of final disposition of sexual assault cases to the first flag officer in the separation authority's chain of command for review and concurrence of the circumstances of and grounds for the separation prior to effecting the separation action.

ALLEGED OFFENDER

Emphasize that every alleged offender is presumed innocent until proven guilty.

Safeguard the alleged offender's rights and preserve the integrity of a full and complete investigation.

Never attempt to interview or interrogate an alleged offender of sexual assault and avoid discussing the sexual assault allegation with the alleged offender, since doing so may jeopardize the criminal investigation. This responsibility lies with the appropriate LEA handling the investigation.

Monitor the well-being of the alleged offender, particularly for any indications of erratic or violent behavior that may endanger the safety of the victim or others, suicidal ideations, or other unhealthy attempts to cope with stress, and ensure appropriate assistance is rendered. Consult with medical and mental health providers for appropriate courses of action, as needed.

- Determine the need for a military protective order (after consultation from legal, law enforcement, SARC, and assigned SAPR VA), using DD Form 2873 if required.
- Consider a temporary or permanent reassignment of the alleged offender instead of the victim pursuant to a determination that reasonable grounds exist to believe that an offense constituting sexual assault has occurred based on the advice of the supporting judge advocate and the available evidence.
- Ensure ongoing communication and coordination of actions (i.e., reporting requirements) between commands if the victim is assigned to another command.

CONSIDERATIONS WHEN INFORMATION
REGARDING A SEXUAL ASSAULT BECOMES KNOWN WITHIN THE RANKS

- Discourage members from participating in "barracks gossip" or discussing the incident in their workplace.
- Encourage members to be supportive of the process and to discourage "choosing sides" that will lead to tension within the command, place undue stress upon the victim or alleged offender, and adversely impact the fair resolution of the case.
- Regularly assess and refer for appropriate action all reports of retaliation, ostracism, maltreatment, or reprisal from a victim, witness, or first responder in conjunction with a report of sexual assault.