

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



PERSONNEL AND
READINESS

MAY 6 2005

The Honorable John W. Warner
Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510-6050

Dear Mr. Chairman:

I am forwarding to you the enclosed reports from the Military Services as required in Section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. The Department has reviewed the scope and extent of the sexual assault reports in Calendar Year 2004 involving members of the Armed Forces and the prevention and response policy developed during the year in response to incidents of sexual assault.

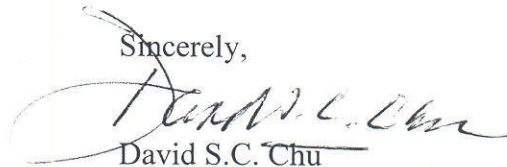
During the past year, the Department has undertaken an accelerated effort and worked collaboratively with the Services, members of Congress, and national experts to address the crime of sexual assault within our ranks. As a result, the Joint Task Force for Sexual Assault Prevention and Response was established in October 2004 as the single point of accountability for the Department's sexual assault policy. The Joint Task Force developed the comprehensive policy as set forth in Public Law 108-375.

The enclosed reports provide data on reported sexual assault allegations involving members of the Armed Forces that occurred in Calendar Year 2004. It also summarizes the policies and procedures that DoD and the Military Services implemented to provide a solid foundation for improving prevention of sexual assault, enhancing support to the victims, and increasing accountability.

The Department will continue to work closely with the Services and provide oversight of these policies in ways that complement Service-specific requirements. The Joint Task Force serves as the Department's single point of accountability for sexual assault policy and oversight of the implementation process.

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

Sincerely,


David S.C. Chu

Enclosures:
As stated

cc:
The Honorable Carl Levin
Ranking Member





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PERSONNEL AND
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MAY 6 2005

The Honorable Duncan Hunter
Chairman
Committee on Armed Services
U. S. House of Representatives
Washington, D.C. 20515-0552

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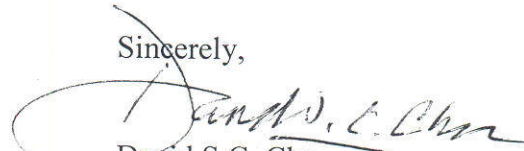
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Sincerely,



David S.C. Chu

Enclosures:
As stated

cc:
The Honorable Ike Skelton
Ranking Member



Executive Summary:

Purpose:

The Department of Defense (DoD) provides a summary of the reported allegations of sexual assault for Calendar Year 2004 (CY04). The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Section 577, requires the Secretary of Defense provide each Secretary of the Military Departments' report of alleged sexual assaults involving members of the Armed Forces in CY04. The reports provide data on the number of alleged sexual assaults against members of the Armed Forces and the number of alleged sexual assaults by members of the Armed Forces that were reported to military officials during CY04; and a synopsis of the disciplinary action taken in each substantiated case. The report summarizes the policies, procedures and processes in place or implemented during CY04 in response to incidents of sexual assault involving Service members; and any plans for Service actions that will be taken during CY05 related to the prevention of and response to sexual assault involving service members.

Reported Sexual Assaults for Calendar Year 2004:

Reports of Alleged Cases of Sexual Assault Involving Members of the Armed Forces

In 2004, military criminal investigation organizations (MCIO) received 1,700 reports of alleged cases of sexual assault involving members of the Armed Forces. Sexual assault, as referred to here, includes the alleged offenses of rape, nonconsensual sodomy, indecent assault, and attempts to commit any of these offenses. Reports of sexual assault are investigated by MCIOs. The reports include alleged sexual assaults determined to be unsubstantiated/unfounded cases, insufficient evidence cases, and un-identified offender cases, as well as civilian offender cases for which the military has no jurisdiction, for which Commanders did not have the ability to take action.

REPORTS OF ALLEGED SEXUAL ASSAULT	CY Total
Total # reported sexual assaults involving a service member victim and/or service member alleged offender	1,700
# service member on service member	880
# service member on non-service member	425
# non-service member on service member	99
# un-identified subject on service member	296

Status of Investigations of Sexual Assault Involving Members of the Armed Forces

Of the 1,700 cases, MCIOs completed 1,232 investigations by the end of the year, involving 1,297 victims of whom 989 were service members, and 1,362 offenders of whom 1,011 were service members. The next annual report will address the 468 investigations that were still pending completion at the end of CY 04.

Total # Investigations	1,700
# Pending completion as of 31 December 2004	468
# Completed this year (involving one or more offenders)	1232

REPORTED SEXUAL ASSAULTS AS PERCENTAGE OF TOTAL POPULATION	TOTAL
Total Population (Active Duty & Mobilized Reserve/Guard)	1,572,509
Total # service member victims in completed investigations	989 (.06%)
Total # service member alleged offenders in completed investigations	1,011 (.06%)

Disposition of Completed Investigations

Military commanders took punitive action against 342 offenders subject to their jurisdiction in completed investigations involving sexual assault and related offenses. Command disposition for these 342 offenders was 113 courts - martial, 132 non- judicial punishments, and 97 adverse administrative actions and discharges. The next annual report will address the 340 offenders of completed investigations who were awaiting final dispositions of their offenses at the end of CY 2004. A total of 680 offenders in completed investigations were either unidentified or involved in unsubstantiated cases, or were subject to civilian court/foreign authority action, for which Commanders were without ability to take action. The MCIOs are tracking all offenders to include non-service member offenders (civilians or foreign nationals).

DISPOSITION OF ALLEGED OFFENDERS IN COMPLETED INVESTIGATIONS	1,362
Punitive Action Taken	342
# Court-martial	113
# Nonjudicial Punishment	132
# Administrative Actions and discharges	97
Being Processed for Final Action (As of December 31, 2004)	340
Civilian court action/foreign authority action	51
Un-identified Offender; Punitive Action Not Possible	278
Unsubstantiated/Unfounded/Insufficient Evidence	351

A consolidated table of Calendar Year 2004 sexual assaults involving members of the Armed Forces appears at the end of the Executive Summary.

Comparison 2002 and 2003 Data:

The DoD Care for Victims of Sexual Assault Task Force Report identified in 2002 and 2003, respectively, 901 and 1012 alleged cases of sexual assault involving only uniformed service member victims that were reported to criminal investigators. Their report also revealed in its findings that DoD-wide, data systems and records on reports of

sexual assault were incomplete, inconsistent and not integrated, and that significant gaps existed in the documentation of command dispositions. The Annual Report of CY04 Sexual Assaults is the baseline for capturing data in a consistent way to enhance comparisons on sexual assault data from year to year. As with the DoD Care for Victims of Sexual Assault Task Force Report, the Annual Report of CY04 Sexual Assaults rate is **NOT** comparable to those published by the Federal Bureau of Investigation's Uniform Crime Reporting Program (UCR). The UCR records only cases of rape and attempted rape against women, while DOD tracks all reported founded and unfounded cases of sexual assault, which includes rape, nonconsensual sodomy, indecent assault, and attempts to commit any of these offenses. The UCR also deletes reports that are proven to be unfounded.

The difference between this report and the DoD Care for Victims of Sexual Assault Task Force Report is that this report includes cases in which a service member was the offender, as well as cases involving service members as victims. We will continue to collect all reported sexual assaults involving service members in future reports. We anticipate an increase in our numbers in the CY05 reports of sexual assault since there will be heightened awareness through the Department's comprehensive sexual assault policies, the extensive roll-out of training and education for the prevention and response to sexual assaults, and the new Confidentiality policy with restricted reporting which helps remove one of the barriers to underreporting of sexual assaults.

DoD Policy Actions:

Over the past year, the Department worked collaboratively with the Services, members of Congress, and national experts to address the crime of sexual assault within our ranks. In February of 2004 the Department established the Care for Victims of Sexual Assault (CVSA) Task Force. The CVSA Task Force conducted an extensive review of all sexual assault policies and programs among the Services and DoD. Their recommendations provided the framework for developing DoD sexual assault policy.

One of those recommendations cited the need to establish a single point of accountability for sexual assault policy within the Department. This led to the establishment of the Joint Task Force for Sexual Prevention and Response in October. The task force currently is an interim organization whose activities will evolve into a permanent office within the Department by the end of the year.

The task force's first priority was to develop the new DOD-wide sexual assault policy. The Department released a comprehensive sexual assault policy as set forth in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, P. L. 108-375. DoD's Sexual Assault Policy provides a solid foundation that improves prevention of sexual assault, enhances support to the victims, and increases accountability.

The Department's Sexual Assault Prevention and Response policy currently exists in the form of Directive-Type Memoranda. Each Directive-Type Memorandum is summarized below. The Department is consolidating them into a DoD Directive and a separate DoD Instruction that provides further details and procedures.

Sexual Assault Policy Memoranda (Directive-Type Memoranda):

Definition: Provides a clear Department-wide definition of sexual assault. Previous reports identified considerable in-Service confusion about the difference between sexual assault and sexual harassment. For training and educational purposes, this memorandum provides definitions of the terms "Sexual Assault" and "Other Sex-Related Offenses." When combined with the current definition of "Sexual Harassment," these definitions will eliminate confusion and uncertainty about which actions constitute which offense.

Confidentiality: Establishes a confidential disclosure option for victims of sexual assault. Under this option, victims may elect to receive medical treatment and support without triggering the investigative process. Providing a victim of sexual assault with a confidential reporting option gives them greater control over how their personal information is released and managed. It also gives the victim access to accurate legal and judicial information to assist him or her in determining whether or not to pursue an investigation. A victim who receives appropriate care and treatment, and is provided an opportunity to make an informed decision about a criminal investigation, is more likely to develop increased trust that his or her needs are of primary concern to the command and may eventually decide to pursue an investigation. Even if the victim chooses not to pursue an investigation, this additional reporting avenue gives commanders a clearer picture of the sexual violence within their command through aggregate, non-personal identifying information, and enhances their ability to provide an environment which is safe and contributes to the well-being and mission-readiness of all its members.

Training Service Members: Directs a sexual assault prevention and response training baseline for DoD personnel. All Services have education programs aimed at the prevention of and response to sexual assault, however, the breadth and depth varies from Service to Service. The Department needs consistent sexual assault prevention education across the Services to create a greater understanding of what constitutes a sexual assault, risk factors, and preventive measures. DoD believes this training will create the consistency needed to enhance a service member's understanding of sexual assault, how individuals can protect themselves, and what actions to take if they do fall victim to a sexual assault.

Pre-Deployment Training: Ensures that all service members deploying to specific regions receive the appropriate information regarding the cultural differences of the host country and the Department's coalition partners. This type of pre-deployment training will help prevent sexual assaults while also ensuring that if a sexual assault does occur,

victims have advance information on the support system available for their protection and care outside of the United States. Knowledge of the environment and mores of the host country and coalition partners is a key component of the Department's efforts to prevent sexual assaults of deployed personnel.

Increase Victim Support: Provides expanded care and support of sexual assault victims and a better accounting of sexual assault cases by mandating monthly status reports to the victim, immediate referral of "unrestricted" reported sexual assault cases to investigators, and a designated command level for disposition of those cases. The DoD believes the actions it takes to enhance victim support and improve the manner in which it accounts for those actions will encourage more victims to come forward and report these incidents.

Collateral Misconduct: Provides critical prioritization of the level of offense the victim may have committed, allowing a victim of sexual assault to access care without fear of repercussions for collateral misconduct at the time of disclosure. A victim's fear of punishment is a significant barrier to reporting sexual assault. Many sexual assaults involve circumstances where the victim may have participated or engaged in some form of misconduct, (i.e., underage drinking or other alcohol-related offenses, adultery, fraternization or other violations). To the extent possible, commanders should delay the determination of disciplinary actions for a victim's collateral misconduct related to the circumstances of an alleged sexual assault until the investigation and final disposition of the sexual assault case is completed.

Administrative Separation: Directs all Military Services to designate a level of command, commensurate with the maturity and experience needed, to review all administrative separation actions involving victims of sexual assault and to exercise the responsibilities involved. Circumstances associated with a reported sexual assault incident may ultimately result in a determination that the administrative separation of the victim is in the best interests of either the victim or the Armed Forces, or both. Regardless of the reason for initiating the separation action, each victim is entitled to a full and fair consideration of the victim's military service and particular situation. It is vital that all such separation actions and ultimate determinations be consistent and appropriate, and be viewed as such.

CY04 Data Call: Requires the completion of a data call that will be the basis for quarterly and annual sexual assault reports until the Defense Incident Based Reporting System (DIBRS) is fully implemented. This reporting system will enable the Department to track sexual assaults from date of initiation to completion.

Commander Checklist: Provides a checklist that will help guide the commander's actions when addressing the needs of a sexual assault victim, actions with respect to the

accused, and actions that assist the unit at large. Since a commander may handle only one or two sexual assaults during their two-year command tour, DoD created a commander's checklist – a response protocol -- which clearly outlines the steps one must take and consider when handling a case. It will reinforce what was taught in pre-command training and will provide commanders with a comprehensive set of guidelines they must follow to ensure all action is taken.

Collaboration: Directs local commanders to establish Memoranda of Understanding (MOU), between their installation and local community service organizations and other Military Services to facilitate enhanced, optimum responses to sexual assault victims. At many locations, military treatment facilities have limited resources to provide specialized, expert medical and supportive care for victims of sexual assault. MOUs between military and civilian service providers and other Military Services offer a wide-range of support that include victim advocacy services, sexual assault examiner services, local hospitals and/or rape crisis centers, law enforcement services, and counseling services.

Training Response Groups: Directs the Military Services to develop and implement baseline training standards for sexual assault first responder groups so that members of the Armed Forces who are assaulted receive the same level of response regardless of Military Service or environment. Baseline training standards will also enhance investigative sufficiency and the ability of the commander to take actions.

Response Capability: Establishes immediate response capability for each report of sexual assault in all locations, including deployed locations, to ensure victims have timely access to appropriate services and that there is system accountability. This includes designation of specific response personnel, such as the Sexual Assault Response Coordinator and Victim Advocate.

Essential Training Tasks for a Sexual Assault Response Capability: Establishes a DOD wide requirement for mandatory training on tasks deemed essential for sexual assault responders. These essential training tasks were developed in coordination with service and civilian subject matter experts and provide a baseline for all responder training. This baseline will ensure that any service member who is assaulted will receive the same level of response regardless of his or her particular Military Service. Each Military Service is responsible for establishing the curricula that incorporates these essential training tasks. Compliance with and achievement of the mandated essential training tasks shall be made the subject of command inspections.

Military Service Policy and Program Actions:

The Military Services have been working aggressively over the last year to enhance their sexual assault prevention and response programs. Many of their program enhancement

efforts were well underway prior to the Department's issuance of a comprehensive sexual assault prevention and response policy. Each Service played an active role in crafting DoD's Sexual Assault Policy to ensure their program efforts were consistent with the policy being developed.

All of the Services have adjusted their training programs to highlight sexual assault issues, expanded the number of victim advocates, and increased funding of sexual assault programs.

In addition, the Services and the Office of the Secretary of Defense have committed \$44.7 million in FY 05 and project to spend \$47.5 million in FY 06 to support victim advocacy services and sexual assault training and awareness activities.

Below is a summary of the highlights of each Military Service Sexual Assault Prevention and Response activities.

Army:

The Army's Sexual Assault Prevention and Response Policy centers on awareness and prevention, training and education, victim advocacy, response, reporting and follow-up, and reinforces the Army's commitment to eliminate incidents of sexual assault. The Army has begun training Soldiers as deployable Sexual Assault Response Coordinators and Unit Victim Advocates to respond to sexual assault in a deployed theatre. TRADOC developed Sexual Assault Training Support Packages (TSP), for all levels of Army Professional Military Education (PME). Training began 1 December 2004 in all Army schools. In November 2004 the Army Sexual Assault website was launched: www.sexualassault.army.mil. The website is a resource for Soldiers and leaders to conduct unit training and answer questions about sexual assault prevention and response.

Navy:

The Navy established its Sexual Assault Victim Intervention (SAVI) program in 1994 and continues to refine this benchmark program. The SAVI Program provides awareness and prevention education, victim advocacy and intervention, and data collection. Key requirements of these areas include: annual sexual assault awareness and prevention education training at all commands, at E-1 through E-3 level, and at career progression points for officers and enlisted; installation development of a highly responsive advocate program, including trained advocates aboard float commands; and requirements that Commanders report alleged sexual assaults within 24 hours and provide monthly updates through the chain of command until final disposition is reported.

Marine Corps:

The Marine Corps established a Sexual Assault Prevention and Response Office to operate as the coordinating agency for all sexual assault prevention and response efforts. The Commandant signed the Sexual Assault Prevention and Response Order (MCO 1752.5) on September 28, 2004 which provides clear guidance and responsibilities to Operating and Supporting Establishment Commanders and Individual Marines on prevention of sexual assault, victim's assistance, and reporting procedures. The Uniformed Victim Advocate (UVA) program has been established to assist deployed unit commanders in supporting victims of sexual assault while in a deployed environment. Training has been instituted at Officer Candidate School, the Basic School (for new officers), the Recruit Depots, and at Commander's courses to increase sexual assault awareness. Marine Corps Common Skills training manual requires annual training on sexual assault for Marines in grades E-1 through E-7, and O-1 through O-3.

Air Force:

During CY04, the Air Force completed an in-depth assessment of its response and prevention capabilities that resulted in a campaign plan to address gaps and short falls. The Air Force has agreed to provide one million dollars annually to the US Army Criminal Investigation Laboratory to assist in reducing evidence processing time, and directed the use of Interim Victim Support Liaisons to provide individual support to victims of sexual assault. The Air Force Academy instituted a multifaceted "Agenda for Change" in 2003. The April 2004 survey of Air Force cadets indicated positive impact of this program.

**CALENDAR YEAR 2004 REPORT -- SEXUAL
OFFENSES INVOLVING MEMBERS OF THE
ARMED FORCES**

CALENDAR YEAR 2004 REPORT -- SEXUAL OFFENSES INVOLVING MEMBERS OF THE ARMED FORCES

REPORTS OF ALLEGED SEXUAL ASSAULT FOR: (rape, nonconsensual sodomy, indecent assault, attempts of these offenses)	DoD CY Total
Total # reported sexual assaults BY service members, and/or Total # reported sexual assaults AGAINST service members for the year in the below categories	1,700
# service member on service member	880
# service member on non-service member	425
# non-service member on service member	99
# un-identified subject on service member	296
Total # INVESTIGATIONS :	1,700
#Pending completion as of 31 Dec 2004	468
#Completed this year	<u>1,232</u>
Total Population (Active Duty & mobilized Reserve/Guard)	1,572,509

SYNOPSIS OF THE COMPLETED INVESTIGATIONS:	DoD CY Total
Total # of completed investigations	1,232
Total # investigations with more than one victim, subject, or both	196
Total # of SUBJECTS in the completed investigations:	1,362
# of service member subjects	1,011
# of non-service member subjects	73
# of un-identified subjects	278
Total # of VICTIMS in the completed investigations:	1,297
# of service member victims	989
# of non-service member victims	308

FINAL DISPOSITIONS ACTIONS FOR THE <u>SUBJECT</u> :	DoD CY Total
Total # Final Dispositions for SUBJECTS in the following categories:	1,362
# of un-identified subjects	278
# unsubstantiated/unfounded, insufficient evidence, victim recanted, etc	351
# Civilian/foreign authority	51
# Pending as of 31 Dec 2004	340
# completed for Commander's action	342
Commander's action:	342
# Court-martial	113
# Nonjudicial Punishment	132
# Discharge in lieu of court-martial	28
# Discharge in lieu of disciplinary action	14
# Other Administrative action	55