Sexual Assault Prevention and Response in the Department of Defense

National Center for Victims of Crime Conference
September 11, 2013
“Sexual assault in the ranks is going to make – and has made – the military less effective than it can be. It is dangerous to our national security and it strikes at the heart and core of who we are.”

- President Obama, 16 May 2013
What is Sexual Assault?

• Sexual assault is a crime
• Sexual assault is an overarching term that encompasses a range of contact sexual assault offenses prohibited by the Uniform Code of Military Justice
• Offenses are charged based on the act perpetrated, the level of force used, and the ability of the victim to consent
• Includes the UCMJ offenses of:
  – Rape
  – Sexual Assault
  – Forcible Sodomy
  – Attempts to Commit
  – Aggravated Sexual Contact
  – Abusive Sexual Contact

“Sexual assault” is not the same as “Military Sexual Trauma” (MST), a term used by Department of Veteran’s Affairs for documenting Service-connected disabilities which includes both sexual harassment and sexual assault.
Nature of the Problem

• In FY12, DoD received 3,374 reports of sexual assault -- which included at least one service member victim or perpetrator

• In the same year, DoD estimated, based on surveys, more than 26,000 active duty men and women were victims of unwanted sexual contact (rape to unwanted touching)

• Underreporting is significant problem due to fear, stigma or shame -- which complicates victim care and holding offenders accountable

• Incident Profile: Victim and perpetrator 18-24 yrs old; peer or near peers; non-stranger; off duty, but on the military base; significant alcohol involvement

• Victim’s perceive high levels of ostracization and retaliation after reporting – of the women in FY12 who reported unwanted sexual contact, 62% perceived some form of social, administrative, and/or professional retaliation

• Frontline leaders are critical to leading the culture change necessary to prevent sexist behaviors, sexual harassment and assault, and in establishing an environment of dignity, respect, and trust

• Significant public and government interest in fixing the problem. This is a top priority across the DoD.
Key Findings:

• In 2012, 6.1% of women and 1.2% of men indicated experiencing USC
• For women, the 2012 percentage is statistically significantly higher than 2010; there are no statistically significant differences for men between 2012 and 2010
• Of the women and men who experienced USC in the past 12 months, 45% of these women and 19% of these men also experienced USC prior to entering the military

*Unwanted sexual contact is the DoD survey term for the range of contact sex crimes between adults, prohibited by the Uniform Code of Military (UCMJ).
Unwanted Sexual Contacts* Experienced Estimates from 2012 WGRA

Key Findings:
• Of active duty members who indicated USC via the WGRA, about 31% of women and 10% of men experienced a completed oral, anal, or vaginal penetration
• The proportions of behavior shown are statistically unchanged from 2010

*Unwanted sexual contact is the DoD survey term for the range of contact sex crimes between adults, prohibited by the Uniform Code of Military (UCMJ).
Key Findings:

- Survey results found that 23% of women and 4% of men indicated experiencing sexual harassment in the past year; these rates are statistically unchanged from 2010.
- Members who experience USC also experience sexual harassment at a higher rate than members who do not experience USC.
  - Of the 6.1% of women experiencing USC in the past year, 77% also experienced sexual harassment.
  - Of the 1.2% of men experiencing USC in the past year, 52% also experienced sexual harassment.
Civilian Sector Comparisons: Prevalence

• **2010 National Intimate Partner and Sexual Violence Survey** – Centers for Disease Control and Prevention (2013)
  – Risk for contact sexual violence (oral, anal, vaginal penetration or sexual contact without consent) is the same for women in the military and civilian sector, after adjusting for differences in age and marital status

• **Campus Sexual Assault Study** – Krebs, et. al. (2007)
  – 19% of college women experienced a sexual assault (attempted or completed oral, anal, vaginal penetration or sexual contact without consent) at some point in their *4 year college career*
  – 21% of active duty women (ages 18-24) experienced USC (attempted or completed oral, anal, vaginal penetration or sexual contact without consent) at some point in their *military career* (DMDC, 2012)

Overall, most studies indicate the risk for sexual assault is about the same for women in the military and civilian sectors of U.S. society.
Reports of Sexual Assault: CY04-FY12

- Overall reporting increased 6% from FY11
  - Unrestricted Reporting increased by 5%
  - Reports remaining Restricted increased by 8%
- 121 Reports in FY12 were for an incident occurring prior to service
- Restricted Report Conversions increased from 14.1% in FY11 to 16.8% in FY12

Increased reporting leads to greater opportunities for victim care and accountability.
Sexual Assault: Myths & Facts

Myth: There were 26,000 military women raped in FY12.
Fact: The “26,000” estimate reflects not just rape, but all forms of unwanted sexual contact – the survey term for the full range of contact sex crimes between adults that constitute “sexual assault” under military law. These crimes are committed against both men and women, and involve offenses ranging from rape to sexual touching crimes like groping. This estimate is drawn from a scientifically conducted survey that found that 6.1% of active duty women and 1.2% of active duty men indicated experiencing unwanted sexual contact in the year prior to being surveyed.

Myth: 3,000+ reports of sexual assault to Department authorities each year means there were 3,000 violent rapes reported.
Fact: These reports reflect the full range of sexual assault offenses from rape to abusive sexual contact (groping). Historically, about two-thirds of reports of sexual assault made to military authorities involve allegations of penetrating sex crimes and one-third involve contact sex crimes.

Myth: Commanders are sweeping these cases under the rug by ignoring the complaints of service members and by conducting Commander-led investigations.
Fact: Without exception, DoD Policy requires Commanders to forward all unrestricted sexual assault allegations to the Military Criminal Investigative Organizations – Army Criminal Investigative Division (CID), Navy Criminal Investigative Service (NCIS), and Air Force Office of Special Investigations (AFOSI) -- for independent investigations.
**Myth:** The primary victims of sexual assault in the military are women

Fact: While rates of unwanted sexual contact are higher for women than men, our surveys estimate that thousands of men are victimized every year; in the DoD sexual assault is a gender neutral crime.

**Myth:** Civilian jurisdictions prosecute more sexual assault cases than the military

Fact: There is no comparable federal, state or local data that substantiate this claim; using the best civilian research, only 14-18% of reported sexual assaults in civilian jurisdictions are prosecuted, compared to 24% of reported sexual assaults to the military preferred to court-martial in FY12. This subject is being studied by the FY13 NDAA-mandated Response Systems Panel.

**Myth:** Commanders are more likely to use nonjudicial punishment and administrative action than courts-martial to hold offenders accountable.

Fact: Commanders use the court-martial process as their primary means of disciplinary action in sexual assault cases. In FY12, when commanders had jurisdiction over the perpetrator and sufficient evidence of the crime to take disciplinary action, they preferred court-martial charges on 68% of alleged sexual assault perpetrators. Of the remaining 32% of alleged sexual assault perpetrators receiving punishment in FY12, 18% received nonjudicial punishment and 14% received adverse administrative action.

**Myth:** Commanders primarily use nonjudicial punishment to punish offenders accused of rape.

Fact: In FY12, only one of the 158 nonjudicial punishments administered for a sex offense was for a penetrating crime (forcible sodomy); none of the nonjudicial punishments was for rape.
Myth: Most sexual assault allegations are false.
Fact: The best, scientifically-sound, civilian research shows that between 2% to 8% of sexual assault allegations turn out to be false – meaning no sexual assault was attempted or completed. This means that there is a 92 to 98 percent chance that a victim is telling the truth.

Myth: Most “real” sexual assaults are blitz attacks perpetrated by men in ski masks.
Fact: Most sexual assaults are perpetrated by a male offender already known to the victim. DoD research indicates that sexual assaults are most likely to be perpetrated by another military member, who is a peer or near peer in age and rank to the victim.

Myth: Most “real” sexual assaults leave the victim visibly battered and bruised.
Fact: The vast majority of sexual assaults do not leave visible injury on the victim. Injuries that do occur often heal quite rapidly – especially injuries occurring to the genitalia.

Myth: If a victim has really been sexually assaulted, he or she should be able recall the event in great detail.
Fact: Recent research shows that while victims can and do store details about sexual assault in their memories, trauma often interferes with the encoding and recall of those memories. As a result, victims’ recall about an incident may appear disorganized or incomplete, which is incorrectly interpreted as being deceitful. Use of alcohol at the time of the incident increases memory problems. Special interviewing techniques, currently being taught to military criminal investigators and attorneys, have been shown to help victims improve their recall of traumatic events.
DoD SAPR Program Foundation

• Sustain multi-pronged approach – no single “silver bullet” solution
  – Requires sustained progress, persistence, innovation, and multi-disciplinary approach in prevention, investigation, accountability, victim assistance & assessment

• Expand prevention efforts to reinforce cultural imperatives of mutual respect and trust, team commitment, and professional values

• Recognize that sexual harassment is strongly correlated with sexual assault

• Ensure victim focus to help overcome vast underreporting
  – Every victim needs to be treated with respect, dignity, and sensitivity
  – Reporting is an essential bridge to victim care and accountability

• Sustain commitment to holding offenders appropriately accountable – we are improving investigative and accountability efforts through Special Victims Capability, UCMJ Panels, and comprehensive oversight actions

• Continue to educate frontline commanders and leaders at all levels and hold them accountable in establishing a culture of dignity and respect
SAPR Mission, Lines of Efforts and Objectives

**Mission**: The Department of Defense prevents and responds to the crime of sexual assault in order to enable military readiness and reduce—with a goal to eliminate—sexual assault from the military.

**Lines of Effort**

- **Prevention** - Deliver consistent and effective prevention methods and programs.
- **Investigation** - Achieve high competence in the investigation of sexual assault.
- **Accountability** - Achieve high competence in holding offenders appropriately accountable.
- **Advocacy** – Deliver consistent and effective victim support, response, and reporting options.
- **Assessment** – Effectively standardize, measure, analyze, and assess program progress.

**Objectives**

- Cultural imperatives of mutual respect and trust, professional values, and team commitment are reinforced to create an environment where sexual assault is not tolerated.
- Investigative resources yield timely and accurate results.
- Perpetrators are held appropriately accountable.
- DoD provides high quality services and support to instill confidence, inspire victims to report, and restore resilience.
- DoD incorporates responsive, meaningful, and accurate systems of measurement and evaluation into every aspect of SAPR.
Advocacy - Victim Assistance

**Major Initiatives Completed**
- Launched DoD Safe Helpline to give victims 24/7 global access to crisis support staff
- Implemented Expedited Transfer Policy for victims making that request
- Enacted Military Rule of Evidence 514 improving protection of communications between victims and advocates
- Expanded the DoD Safe Helpline to include a moderated Safe HelpRoom to advance victim support services

**Ongoing and Future Actions**
- Implementing requirement for General/Flag Officer review of involuntary separation of a Service member who filed an Unrestricted Report of sexual assault
- Implementing DoD SARC/VA certification program with National Organization for Victim Assistance
- Expanding Service manning of full-time equivalent SARC and VA positions to all brigade or equivalent units, as directed in NDAA FY12
- Standardizing core competencies and learning objectives for DoD-wide training of SARCs and VAs
- Developing means for retaining documentation associated with Restricted Reporting for 50 years, while maintaining victim confidentiality
- Conducting recurring Survivor Summits to ensure policy making is informed by victim experiences
DoD Directives and Initiatives (6 May 2013)

- **Ensuring Victim Support**: SAPR stand-down to re-train and review the qualifications of current-serving recruiters and responders (July 1, 2013)

- **Ensuring Command Climate**: Visual inspection of DoD workplaces, ensuring they are free from degrading materials. (July 1, 2013)

- **Enhancing Commander Accountability**: Unit annual climate survey results provided to unit commander’s next higher level of command. (July 31, 2013)

- **Ensuring Safety and Awareness**: Improve the effectiveness of sexual assault prevention and education programs in recruiting organizations, Military Entrance Processing Stations, and ROTC environments. (Sep 30, 2013)

- **Enhancing Commander Accountability**: Service chief recommendations on methods of assessing commander performance in establishing proper climates and incorporating SAPR principles in their commands. (Nov 1, 2013)

- **Improving Response and Victim Treatment**: Services will develop methods to assess, monitor, and improve victim treatment by their peers, co-workers, and chains of command. (Nov 1, 2013)

- **Ensuring Victim’s Rights**: DoD will develop a method, in coordination with the Joint Service Committee, to incorporate victim rights afforded by the Crime Victims’ Rights Act into military justice practice. (Nov 1, 2013)

- **Improving Victim’s Counsel**: DoD will evaluate Air Force Special Victims Counsel pilot program and other approaches and report findings and recommendations (Nov 1, 2013).

- **Assessing Military Justice Systems**: DoD will call upon the Section 576 UCMJ Response Systems Panel to report out within 12 months of panel’s first meeting.
DoD Directives and Initiatives (14 Aug 2013)

- **Improving Victim Legal Support:** Each Service will establish a special victim’s advocacy program that provides legal advice and representation to the victim throughout the justice process. (Initial Operating Capability - Nov 1, 2013; Final Operating Capability - Jan 1, 2014)

- **Expanding Victim Rights:** DoD will amend the Manual for Courts Martial to provide victims of crime the opportunity to provide input to the post-trial action phase of courts-martial (Oct 15, 2013)

- **Enhancing Protections:** Each Service will implement policy that would balance the interests of the victim and the accused when determining administrative reassignment or transfer. (Jan 1, 2014)

- **Standardizing Protections:** Ensure current policies prohibiting inappropriate relations between trainers and trainees and recruiters and recruits are consistent across the Services. (Nov 1, 2013)

- **Elevating Oversight:** DoD will require status reports of unrestricted sexual assault allegations and actions be taken to the first general/flag officers within the chain of command. (Nov 1, 2013)

- **Enhancing Pretrial Investigations:** Services will mandate that judge advocates serve as investigating officers for all Article 32 investigations on sexual assault offense charges. (Dec 1, 2013)

- **Ensuring Investigative Quality:** DoD IG will develop plan to evaluate the adequacy of closed sexual assault investigations on a recurring basis (within 30 days of Aug 14, 2013)
Our Vision:

“We must ensure that every Service member understands that sexist behaviors, sexual harassment, and sexual assault are not tolerated, condoned, or ignored. We need enduring culture change where every Service member is treated with dignity and respect; where all allegations of inappropriate behavior are treated with the utmost seriousness; where victims privacy is protected, and they are treated with sensitivity; where bystanders are motivated to intervene; and where offenders know they will be held appropriately accountable.”

Secretary Hagel, 6 May 2013
Closing Thoughts

- We have an unwavering commitment in combating this crime
- We continually evaluate our programs and seek ways to improve them: not a static program
- We must leverage our professionalism and military ethos in creating an enduring culture of dignity and respect
- We envision DoD as a leader in solving this national problem
Backups
Two Reporting Options

Unrestricted Report
- Victim receives medical care, counseling, and advocacy services
- Commander is notified
- Report made to law enforcement to initiate the criminal investigation

Restricted Report
- Victim confidentially discloses to specific individuals
  - Sexual Assault Response Coordinator/Victim Advocate
  - Healthcare Personnel
- Command informed of assault (for safety reasons) but victim’s name or other identifying information not provided
- Victim receives treatment and services, but no investigation initiated
- First offered in June 2005
  - Each year, about 15% of restricted reports switch to unrestricted
Sexual Assault Prevention & Response (SAPR) Responders

- Sexual Assault Response Coordinators (SARCs)
- Victim Advocates
- Medical and Mental Health Providers
- Chaplains
- Unit Commanders
- Investigators
- Military Police
- Judge Advocates
- Special Victim’s Advocacy Program Attorney

SARC Responsibilities
- Center of gravity for the victim’s case
- Coordinates response to victim
- Manages and trains victim advocates
- Reports statistics in Defense Sexual Assault Incident Database
- Serves as program’s link to Command
- Can provide direct victim support
- Not an attorney or legal advisor

Victim Advocate Responsibilities
- Works for the SARC
- Provides direct victim support
- Present whenever victim requests
- Not an attorney or legal advisor

Only these 3 can take Restricted Report
Unwanted Sexual Contact

• Definition and measure of USC:
  – The 2012 WGRA includes a measure of USC (i.e., sexual assault). Although this term does not appear in the UCMJ, it is used to refer to a range of activities and it is an umbrella term intended to include certain acts prohibited by the UCMJ.
  – USC is measured in the 2012 WGRA by asking members to refer to experiences in the past 12 months in which they experienced any of the following intentional sexual contacts that were against their will or which occurred when they did not or could not consent in which someone:
    ▪ Sexually touched them (e.g., intentional touching of genitalia, breasts, or buttocks) or made them sexually touch someone;
    ▪ Attempted to make them have sexual intercourse, but was not successful;
    ▪ Made them have sexual intercourse;
    ▪ Attempted to make them perform or receive oral sex, anal sex, or penetration by a finger or object, but was not successful; or
    ▪ Made them perform or receive oral sex, anal sex, or penetration by a finger or object.
  – A member is counted in the USC incident rate if he or she replied “yes” to any of the behaviors listed.

• USC one situation:
  – On the survey, members who had indicated they experienced USC were asked to consider the “one situation” occurring the past 12 months that had the greatest effect on them. With that one situation in mind, members then reported on the circumstances surrounding that experience (e.g., who were the offenders, where did the behaviors occur, were drugs/alcohol involved, was the experience reported, were there any repercussions because of reporting the incident).
DoD Safe Helpline

- Anonymous worldwide 24/7 crisis support via online chat, telephone, and texting services
  - Run by RAINN (Rape Abuse Incest National Network)
    - Also operates national civilian hotline
- Since APR 2011 launch - 15,000 people helped
- Key feature, upon request, is direct referral to military or civilian response services worldwide, to include connection to SARCs/VAs
- Newest features include:
  - DoD Safe Helpline Mobile Application
    - Service members transitioning to civilian life have access to critical resources to assist in managing short- and long-term effects. Free and available for download from Apple and Android app stores.
  - Safe HelpRoom
    - A groundbreaking group chat service that allows military victims of sexual assault to connect with peers in a moderated and secure online environment at SafeHelpline.org.