HUMAN RIGHTS WATCH

Detailed Recommendations for the Department of Defense

Regarding Special Victim Counsel (SVC) and Victims' Legal Counsel (VLC):

Human Rights Watch research indicates that the Department of Defense's Special Victims Counsel/Victims Legal Counsel (SVC/VLC) programs have made a significant and positive difference in the experience of survivors who report sexual assaults. Counsel play a critical role in ensuring that survivors have information about the criminal justice process, have their voices heard in key proceedings affecting their rights, and have an advocate to help them respond to threats of retaliation.

Marine Sergeant Williams[1] called her Victim Legal Counsel her "guardian angel" who supported her and put her own reputation and career on the line to help her through the legal process.[2] Air Force Master Sergeant Clark told Human Rights Watch that only consulting with an SVC had made her consider converting her restricted (confidential) report of a sexual assault into an unrestricted one.[3] She described the role of the SVC: "They [the military officials] want you to jump into this pool and the SVC is the person who is supposed to make sure you come up for air."[4] Another survivor, Marine Corporal Miller said that she consulted with a VLC who spoke to her about making her report unrestricted and then came through on his assurances that he would pursue an immediate expedited transfer. "I showed up and he moved the mountains for me," Miller said.[5]

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[1] Given the sensitive nature of the topic and confidentiality concerns expressed by many interviewees, all survivors names have been randomly assigned pseudonyms.

[2] Human Rights Watch telephone interview with Sgt Leslie Williams, January 9, 2015.

[3] Human Rights Watch telephone interview with MSgt Kelly Clark, November 5, 2014.

[4] Ibid.

[5] Human Rights Watch telephone interview with Cpl Emma Miller, January 27, 2015. The client of an Army SVC also wrote that she was "proud to be part of the same service" as her SVC and "would not have made it through the process" without her SVC's support. Email communication from [name withheld] to [name withheld]; December 22, 2014, on file at Human Rights Watch.

We include the following recommendations in order to strengthen a promising program and ensure that it is utilized to its full potential. The National Defense Authorization Act for Fiscal Year 2014, which directed the creation of Special Victims' Counsel programs, indicated that the types of legal assistance provided by SVCs to victims could include a range of functions, from accompanying them at proceedings related to the military investigation or prosecution of the offense, to advising them on their eligibility for medical services.[6] Many of these functions are directly related to the criminal justice process, and the secretary of defense instructed the services to establish programs to provide such assistance "throughout the justice process."[7] However, Congress also gave the Secretary of Defense the authority to permit other types of legal assistance.[8]

Human Rights Watch encourages the Secretary to use this authority to take a more expansive approach because much of the legal assistance that sexual assault victims need, however, is not tied to the justice process. In fact, because many assaults are not prosecuted, victims often do not go through the entire justice process. Moreover, as we have documented, their problems may extend long after any investigation is over.

The Services have recognized this in the course of implementing the SVC/VLC programs, and many SVCs and VLCs provide a wide range of advocacy services depending on the needs of survivors.[9] In our research, we heard of SVCs and VLCs assisting in many ways outside the courtroom: from negotiating with a landlord to get a victim out of a lease so she could transfer to a new duty station, to working with commanders to find suitable alternate duties for survivors who need to change their workplaces.

We encourage the Department of Defense to support this work: sexual assault affects many dimensions of victims' lives, both during and long after the criminal justice process concludes. The scope and duration of their representation should reflect this reality.

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[6] National Defense Authorization Act for Fiscal Year 2014, Pub.L. 113-66, sec. 1716. http://www.gpo.gov/fdsys/pkg/PLAW-113publ66/html/PLAW-113publ66.htm (accessed April 22, 2015).

[7] Secretary of Defense, "Sexual Assault Prevention and Response," memorandum to the secretaries of the military department, August 14, 2013, http://www.sapr.mil/public/docs/news/SECDEF_Memo_SAPR_Initiatives_20130814.pdf.

[8] National Defense Authorization Act for Fiscal Year 2014, section 1716.

[9] Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014; Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014.

1. *Improve outreach about SVCs so that survivors are more aware of the services they offer and have access to them before reporting to investigators.*

Those who have SVCs or VLCs have expressed satisfaction with their service, but many are unaware that they exist and what their function is. Lawyers estimate that when they give a presentation to large groups of service members "at least half" the people there have not heard of them.[10] Though victims are required to be informed of their right to a lawyer, that requirement may be fulfilled by giving the victim a pamphlet, and it may be "one of five pamphlets" handed to them.[11] Though SVCs would like to do more outreach, they do not have time. As one Air Force SVC explained, they do outreach but are prevented from doing as much as they would like because of their workload.[12]

SVCs and VLCs told Human Rights Watch that their clients come to them at different points in the process, and often after the survivors have had their first interviews with law enforcement.[13] This means that many survivors lack representation to protect their rights in the first stage of the legal process.

During the first interview with law enforcement many of their interests may be compromised: in describing the circumstances of the assault they may admit to prohibited activities, such as underage drinking, creating the possibility that they will face charges or disciplinary action; they may waive the confidentiality of their medical records or may agree to other requests, such as turning over all of the data on their cell phones, that could compromise their privacy.

SVCs are equipped to ensure that when survivors cooperate with law enforcement that they do so in a way that protects their rights, for example, by ensuring that the requests for information are narrowly tailored.

2. *Require investigators to have victims speak with an SVC/VLC before waiving any right or beginning an investigative interview.*

Current policy requires that most military criminal investigative organizations inform sexual assault victims of their right to speak with an SVC/VLC prior to beginning an

[10] Human Rights Watch telephone interview with Air Force SVC #1, June 19, 2014; Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 11, 2015.

[11] Human Rights Watch telephone interview with Marine Corps VLC #1, January 5, 2015.

[12] Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014.

[13] Ibid., Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014.

interview.[14] However, as some SVCs told Human Rights Watch, there is a difference between notification and a proactive duty to ensure consultation happens before any rights are waived or an investigative interview commences.[15] The nature of that notification varies, with some victims reporting that the notification they received was cursory.

Marine Leslie Williams said Navy Criminal Investigative Service (NCIS) agents told her, "By the way, if you want an attorney you can have one." She said they "didn't initially talk about all the ways that a VLC could be helpful… that there would be all this legal jargon, all this stuff you won't be able to do anything about."[16] Some SVCs speculated that some victims might not understand why they would need a lawyer and, without further information, would view it as an impediment or be afraid that requesting one would signal some wrongdoing on their part.[17]

One survivor told us when OSI informed her of the SVC program they "made it sound like 'you have done something wrong, you need a lawyer.'"[18] In fact, the SVCs themselves are best placed to tell victims about the services they provide and ensure that victims make a fully informed decision about whether to accept representation.[19]

3. *Require the services to provide victims with SVC/VLC consultation prior to an administrative discharge.*

Whether due to pressure from others to leave the military following a sexual assault, or due to their own desire to leave the military behind, many survivors are under a considerable amount of pressure when they are going through the administrative separation process and may also be suffering from trauma caused by the sexual assault or experience of retaliation.

Human Rights Watch heard from survivors who accepted discharges without fully understanding the ramifications that an administrative discharge or the discharge

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[14] Army Criminal Investigative Command (CID) and Navy Criminal Investigative Service (NCIS) testified before the Judicial Proceedings Panel that they were required to inform victims of their right to an attorney at the beginning of their interview; Air Force Office of Special Investigations (AFOSI) testified that they are required to do so "during the interview" but not necessarily at the beginning.

[15] Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014.

[16] Human Rights Watch telephone interview with Sgt Leslie Williams, January 9, 2015.

[17] Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014.

[18] Human Rights Watch telephone interview with Amn Lena Stewart, November 17, 2014.

[19] Implementing this recommendation would require clarification that this consultation would not constitute solicitation of clients, which is prohibited by SVC policies.

characterization (e.g. Honorable, General, Other than Honorable, Bad Conduct, or Dishonorable) would have for them in terms of their eligibility for benefits or how they would be perceived by future potential employers.[20] In the aftermath of trauma, survivors may also not be in the best position to challenge their superiors. As one lawyer said, if a service member is "threatened with a charge of adultery," or if the alternative is being in a unit with the perpetrator, they may be willing to accept an unfavorable discharge just to "get out quickly."[21]

A General Discharge Under Honorable Conditions may not sound bad, but in fact means the survivor may be deprived of some rights and privileges available to honorably discharged veterans and "may encounter some prejudice in situations in which the characterization of service may have a bearing."[22] Having legal representation is critical to preventing irreparable damage.

Victims' counsel reported being able to upgrade a general discharge to honorable after explaining to command the reasons for the victims' self-destructive behavior following their assault, which had important consequences for benefits.[23] Army Captain Sommer testified before the Judicial Proceedings Panel that he was able to negotiate an honorable discharge for a survivor facing a misconduct discharge for drug use related to the trauma of the sexual assault.[24] Captain Sommer testified, "At a time when a different decision could have set this young man on a very different path, the Army took care of one of its own and that was something that was facilitated through the SVC Program."[25] However, by the time of discharge, many victims may no longer have counsel assigned to them, because officially the SVC is assigned to enhance victims' rights in the criminal justice process.[26]

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[20] Human Rights Watch telephone interview with SN Mindy Lee, November 3, 2014.

[21] Human Rights Watch telephone interview with military law practitioner, May 7, 2014.

[22] Notification of Intent to Discharge, October 29, 2013, on file at Human Rights Watch.

[23] Human Rights Watch telephone interview with Marine VLC #1, January 5, 2015; Human Rights Watch telephone interview with Army SVC #1, December 9, 2014; Human Rights Watch interview with Army SVC #6, February 5, 2015; Human Rights Watch interview with Army SVC #7, February 5, 2015.

[24] Army CPT Jesse Sommer, The Fourth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, November 14, 2014, transcript p. 197, http://jpp.whs.mil/Public/docs/05-Transcripts/20141114_Transcript_Final.pdf (accessed April 29, 2015).

[25] Army CPT Jesse Sommer, The Fourth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, November 14, 2014, transcript p. 198, http://jpp.whs.mil/Public/docs/05-Transcripts/20141114_Transcript_Final.pdf (accessed April 29, 2015).

[26] The SVC/VLC-client relationship generally terminates when the criminal case is concluded. See Special Victim Counsel Programs –Victim Services Comparison chart, based on JPP RFI set 1, November 6, 2014, http://jpp.whs.mil/Public/docs/03_Topic-Areas/04-SVC_VictimAccess/20141212/19_SummaryChart_SVCProgramData.pdf.

4. *Strengthen capacity of SVCs to respond to retaliation in different forms and expand access to their services.*

Human Rights Watch found that many SVCs and VLCs are actively working to address professional and social retaliation, with great effect. On the professional side, Human Rights Watch was told of cases in which counsel successfully persuaded command to take into account the victim's mitigating circumstances. For example, an Army SVC appealed an evaluation that overly emphasized collateral misconduct of a victim resulting in an investigation into the battalion commander who prepared the evaluation.[27] **This type of work is essential to combatting retaliation and Human Rights Watch recommends that the Department of Defense and the services reinforce such work by incorporating advocacy to address retaliation explicitly into the descriptions of the scope of SVC representation.**

Some SVCs/VLCs also assist their clients when the retaliation requires going to the Inspector General or filing a congressional complaint. With the exception of the Air Force, the heads of the service SVC/VLC programs told Human Rights Watch that they do allow the SVCs/VLCs to assist with these complaints.[28] Only the Air Force explicitly does not allow its Special Victim Counsel to assist with Inspector General complaints because it is regarded as a conflict of interest.[29] Human Rights Watch received some indication that a revision of the policy was under consideration. Other advocates who work with survivors said that SVCs/VLCs in other branches had told them they were not able to help with IG complaints,[30] indicating a need for clear guidance on this issue.

Legal assistance may be particularly helpful as IG complaints are legally complex. The criteria necessary to meet the standard to trigger a whistleblower investigation may be difficult for a service member to understand. Most assault survivors are very junior enlisted personnel, often in their teens without a college education who, according to an SVC, "don't know how to write about this or file a complaint."[31] An Army lieutenant colonel who filed a reprisal claim said, "It was difficult for me to file a reprisal claim and I am a lieutenant colonel. I can't imagine how hard it is for others."[32] For these reasons, Human

[27] Human Rights Watch telephone interview with Army SVC #1, December 9, 2014.

[28] Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014; Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014.

[29] Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014.

[30] Email communication from Protect Our Defenders to Human Rights Watch, April 16, 2015.

[31] Human Rights Watch telephone interview with Air Force SVC #1, June 19, 2014.

[32] Human Rights Watch telephone interview with LTC Sheila Anderson, November 12, 2013.

Rights Watch recommends that all of the branches ensure that it is clear in their policies and in their training for attorneys that assisting with IG complaints falls within the purview of SVCs/VLCs.

There are a variety of other areas in which counsel may be able to help stop or mitigate retaliation. An Air Force SVC asked a commander to speak to a supervisor about not "telling people the victim made it up."[33] A Marine survivor told Human Rights Watch that she feared retaliation from her command for a grievance her SVC planned to file regarding the commander's decision to drop the sexual assault charges against the perpetrator. She said her VLC told her, "This is not going to come down on you. I'm writing the letter," and the VLC came with her to explain the action to her immediate chain of command so that they would understand and not resent the action.[34]

However, SVCs themselves do not have authority to stop retaliation so the success of their efforts depends largely on the good will of the commander. Human Rights Watch urges the Department of Defense and the services to recognize formally that this is a key responsibility and authority of SVCs/VLCs in order to ensure that this protection is available to all victims and that commanders view these interventions favorably. This recommendation supplements others aimed at improving the chain of command's response to retaliation and to strengthening mechanisms to counter retaliation so that victims have recourse for retaliation that is independent of their chain of command.

5. Co-locate counseling and SARCs/SHARPS with legal services offices.

Wherever possible co-location of these offices allows for easier referrals for services and allows survivors to access SARC/SHARP (Sexual Assault Response Coordinators/Sexual Harassment and Assault Response and Prevention) services without disclosing their survivor status simply by entering a particular building. SVCs working on Joint Base Lewis-McChord spoke positively of the SHARP resource center where services are co-located.[35] SARCs and VLCs explained how co-location strengthened relations between the different service providers, enhancing their communication and ability to service clients.

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33 Human Rights Watch group interview with Air Force SVCs, Washington, DC, December 4, 2014.

34 Human Rights Watch telephone interview with Sgt Leslie Williams, January 9, 2015.

35 Human Rights Watch interview with Army SVC #5, February 5, 2015; Human Rights Watch interview with Army SVC #6, February 5, 2015.

A victim advocate or counselor was able to walk their client to an SVC, which was more successful than simply giving them contact information and hoping they follow up.[36] Marie Brodie, Installation Sexual Assault Response Coordinator at Marine Corps Base Camp Lejeune, testified to the JPP that resources on her base are not co-located and that it can be an issue because "when you think about the ranks that normally report sexual assault, many times that Marine or Sailor does not have transportation and needs assistance to get to those appointments."[37]

6. *Establish uniform practice and procedures concerning SVCs' participation in military judicial proceedings, including timely disclosure requirements of pleadings. Ensure SVCs are available on all major bases and can meet with clients in person at least once.*

The Judicial Proceedings Panel heard extensive testimony on the inconsistency in how military judges treat SVCs.[38] In some cases, they are fully integrated into proceedings. In others they are prevented from speaking and denied access to critical information. The SVCs' schedules may be considered immaterial to the scheduling of hearings at which their clients' rights will be at stake.[39]They may even have to file Freedom of Information Act (FOIA) requests in order to obtain documents, such as investigation reports, that are readily available to the prosecutor and defense counsel.[40] SVCs cannot adequately inform their clients or advise them without a full picture of the case and without adequate notice of issues that may impact them. Major Tilney, Regional Victims' Legal Counsel in the Marines Corps testified:

> There [are] no clear cut rules for us in how we operate within the courts. Every single time we step into a court to approach the military judge, it is almost as, "Hi, Your Honor. This is who I am. This is our role. How do we participate effectively

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[36] One VLC said that the majority of the clients come through the SARC, and that being collocated with the SARC provided "one-stop shopping." Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014.

[37] Marie Brodie, Installation Sexual Assault Response Coordinator at Marine Corps Base Camp Lejeune, The Fifth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, December 12, 2014, transcript p. 85, http://jpp.whs.mil/Public/docs/05-Transcripts/20141212_Transcript_Final.pdf (accessed April 29, 2015).

[38] See testimony of Navy CDR Colleen Shook, Army CPT Jesse Sommer, Marine Maj Marc Tilney, and before The Fourth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, November 14, 2014, transcript pp. http://jpp.whs.mil/Public/docs/05-Transcripts/20141114_Transcript_Final.pdf (accessed April 29, 2015).

[39] Navy CMDR Colleen Shook, The Fourth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, November 14, 2014, transcript pp. 235-236, http://jpp.whs.mil/Public/docs/05-Transcripts/20141114_Transcript_Final.pdf (accessed April 29, 2015).

[40] Marine Maj Marc Tilney, The Fourth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, November 14, 2014, transcript pp. 233-234, http://jpp.whs.mil/Public/docs/05-Transcripts/20141114_Transcript_Final.pdf (accessed April 29, 2015).

> without being a disruption in your courtroom?" [We have to] let it be known that we might have to stand up and interrupt their key points in order to protect our client's rights. And sometimes military judges are very receptive of this. Other times, they will direct me to the bailiff and make me aware of that position [that such interruptions could result in arrest for contempt of court].[41]

Human Rights Watch spoke with an Army SVC who was forced to make an objection from behind the bar (where the public or those how have no role in the proceedings are located) because her clients interests were at stake and no provision had been made for her to participate.[42] Others have had to address the court from the jury box.[43]

Ensuring SVCs are available on all major bases is essential because so much of the SVCs workload depends on relationship building, both with the clients and with their staff JAG counterparts who frequently assist SVCs in liaising with commanders.

In the absence of a physical SVC presence, provision should be made to allow SVCs to meet with their clients in person as often as feasible, and at least once, in order to establish trusting attorney-client relationships in the context of these sensitive issues.

Regarding Mental Health:

As discussed in Human Rights Watch's report, *Embattled: Retaliation against Sexual Assault Survivors in the US Military*, sexual assault survivors told Human Rights Watch that they faced negative repercussions for seeking mental health care to address the trauma of sexual assault.

Survivors and their attorneys said that access to mental health care was compromised by the potential for those records to be disclosed during the criminal proceedings against their perpetrator; their commanders' ability to access their medical records and to learn that they had sought mental health care; the general stigma around mental health care in

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[41] Ibid.

[42] Human Rights Watch interview with Army SVC #7, February 5, 2015.

[43] Ryan Guilds, The Third Public Meeting of the Judicial Proceedings Panel, Washington, DC, October 10, 2014, transcript p.319, http://jpp.whs.mil/Public/docs/05-Transcripts/20141010_Transcript_Final.pdf (accessed April 29, 2015).

the military; and the difficulty of scheduling appointments due to conflicting work schedules and their supervisors and peers' objections to their absences.

The recommendations below are aimed at addressing these obstacles within the context of the military environment, in which privacy must be balanced against the military's legitimate interest in monitoring the health of their troops and their readiness to fulfill their duties. We believe providing survivors with as many options for meeting their mental health care needs is key to ensuring that they get the help they need to recover and to perform their duties to the best of their abilities.

1. *Improve access to civilian mental health care.*

Work closely with local rape crisis centers on training and outreach on base to ensure their services are accessible and known to service members.

Civilian mental health care may provide the best solution for some survivors. Seeking care off base may provide greater privacy and alleviate concerns about stigma and negative career repercussions.

The potential career impact of seeking mental health treatment has a definite chilling effect on survivors accessing needed care through the military system.[44] "I didn't want to go to mental health because I knew it was a career ender," said survivor Amy Johnson, echoing the sentiments of many interviewees.[45] Seaman Collins told Human Rights Watch that after being assaulted at the start of her Navy career, she began having nightmares and would wake up thinking that the perpetrator was on top of her. She decided against seeking therapy. She told Human Rights Watch, "I was terrified of being diagnosed with something and cutting short my dream career. I was only in A-school so I thought I would be kicked out."[46]

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[44] In addition to arising in Human Rights Watch's interviews, the Response Systems Panel noted that, in their hearings, "Victims specifically noted concerns that mental health counseling may negatively impact their careers." See Response Systems to Adult Sexual Assault Crimes Panel, Report of the Response Systems to Adult Sexual Assault Crimes Panel through the Secretary of Defense and to the Committees on Armed Services of the Senate and the House of Representatives (RSP Report), June 27, 2014, p. 32, http://responsesystemspanel.whs.mil/Public/docs/Reports/00_Final/RSP_Report_Final_20140627.pdf (accessed May 4, 2015).

[45] Human Rights Watch telephone interview with LCpl Amy Johnson, January 11, 2015.

[46] Human Rights Watch telephone interview with SN Nicole Collins, October 23, 2014; Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014.

Seeing a civilian therapist can provide some distance, while the ethical obligations of civilian therapists would ensure that disclosures could be made to appropriate authorities if a service member's state of mind posed an imminent threat to their safety or that of others.

However, it can be difficult for survivors to get coverage for off-base mental health care, and in some locations—especially deployed locations—appropriate care may be unavailable.[47] The military can help facilitate access to care by expediting the process for survivors who want to use their military insurance to see private providers, and by coordinating with local rape crisis centers to make sure survivors are aware of resources in the community.

Likewise, a strong relationship with community rape crisis centers means that the centers are better equipped to help military survivors. A counselor at a rape crisis center with a generally positive working relationship with the military base in the community told Human Rights Watch, "We know about military policies so we can advise servicemembers about their options. This relationship is very much needed at smaller installations where it is least likely to exist."[48]

Though the military requires its bases to establish a relationship with local rape crisis centers, what that means varies a great deal in practice. For some, the relationship existed primarily on paper. The rape crisis centers were not welcome on base and they did not know if the service members were even aware that the option of counseling off base was available.[49]

Though victims have a legal right to a civilian advocate during proceedings in some locations, the local rape crisis center was not made aware of military proceedings and they are not given any information about investigations.[50] Another rape crisis center near an installation reported that they had strong relations with some services, but were completely shut out of others.[51] Conversely, SARCs, survivors, and rape crisis personnel

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[47] Human Rights Watch interview with counselor at community center, Fayetteville, NC, December 8, 2014.

[48] Human Rights Watch interview with community rape crisis center, December 8, 2014. Also, the Response Systems Panel recommended that the Service Secretaries "expand requirements for installation commanders to liaison with victim support agencies." RSP Report, p. 35, http://responsesystemspanel.whs.mil/Public/docs/Reports/00_Final/RSP_Report_Final_20140627.pdf (accessed April 24, 2015)

[49] Human Rights Watch group interview with rape crisis center staff, December 10, 2014.

[50] Ibid., 2014

[51] Human Rights Watch telephone interview with rape crisis center administrator, June 9, 2014.

with close working relations with the base felt the connection was "hugely beneficial" as it enabled survivors to get counseling they needed with less concern about confidentiality.[52]

2. *Expand the number of mental health providers trained to handle sexual assault cases and improve training to therapists to reinforce information about proper recordkeeping and disclosure.*

3. *Reinforce mental health providers' obligation to consult with patients and advise them of risks of disclosure before complying with any waivers to disclose medical records.*

For a number of reasons, including ease of access and providers' familiarity with military life, some survivors may prefer to see mental health care on-base. However, our research identified important areas for improvement, including in the number of counselors trained to deal with sexual assault who are sensitive to the risk of exposure of records during criminal proceedings.

Survivors told Human Rights Watch of encountering dismissive and victim-blaming attitudes in military mental health professionals. Navy Petty Officer Lewis told Human Rights Watch that her first doctor said, "Your reported that?" after hearing the story of her sexual assault.[53] Army Captain Rivera said a male counselor on base told her, "You know better than to be the only female at a social function." The attitude, she said was, "That was it. Had to suck it up and move on."[54] The Response Systems to Adult Sexual Assault Crimes Panel commented on the availability of appropriate counseling in its final report:

> Despite the variety of mental health professionals who work with military Service members, sexual assault victims who appeared before the Panel described having difficulty obtaining timely mental health appointments and difficulty receiving consistent care from mental health providers.[55]

Training on sexual assault should also include education about ways to protect survivors' rights and interests in the context of criminal proceedings against the perpetrator, as is

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[52] Human Rights Watch telephone interview with SARC, February 9, 2015.

[53] Human Rights Watch telephone interview with PO3 Sasha Lewis, November 17, 2014.

[54] Human Rights Watch telephone Interview with CPT Ruth Rivera, November 20, 2014.

[55] RSP Report, p. 35, http://responsesystemspanel.whs.mil/Public/docs/Reports/00_Final/RSP_Report_Final_20140627.pdf. Similarly a survivor told us if she missed an appointment, she had to wait a month to reschedule. Human Rights Watch interview with SPC Bonnie Thomas, Fayetteville, NC, December 8, 2014.

often included in training for community rape crisis counselors. Some SVCs and VLCs told Human Rights Watch that if clients do seek counseling they ask their clients to limit discussion of the details of the assault itself, and some attorneys remind the mental health providers themselves of how the notes of their session may be used[56] or ask clients to review their medical records for accuracy.[57]

This is not always well received. One survivor told Human Rights Watch that a military mental health provider became angry when she refused to discuss details about the assault itself due to pending criminal proceedings.[58] With better training, mental health providers can act as advocates for patients by ensuring that providers' record keeping and disclosure practices protect client privacy, and by educating their clients about their privacy rights so they do not agree to waive those rights and give investigators or others access without full and informed consent.

4. *Expand outreach about the availability of Military Sexual Trauma (MST) counseling to active service members at Department of Veterans Affairs Vet Centers.*

A recent policy change opens up a new option for military sexual assault survivors to seek counseling.[59] Vet Centers, established as an alternative way for combat veterans to get counseling and support outside of the formal VA hospital environment, can now provide free counseling to active duty survivors of military sexual trauma if they have served in combat or a war zone.

This option has several advantages. Vet Centers are generally informal, less intimidating environments; counselors take few if any notes; they are attuned to the needs of service members, and have trained military sexual trauma counselors. While this option is currently available, awareness of it is limited. Survivors and SVCs interviewed did not indicate they knew of the option, and two military sexual assault staffers interviewed

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[56] Human Rights Watch telephone interview with Air Force SVC #1, June 19, 2014; Human Rights Watch interview with Army SVC #3, February 2, 2015.

[57] Human Rights Watch telephone interview with Marine Corps VLC#1, January 5, 2015.

[58] Human Rights Watch telephone interview with SrA Anna Hall, November 21, 2014.

[59] US Department of Veterans Affairs, "Active Duty Servicemembers Now Eligible for Vet Center Counseling," March 3, 2014, http://www.amarillo.va.gov/pressreleases/Active_Duty_Service_Members_Now_Eligible_for_Vet_Center_Counseling.asp (accessed May 1, 2015).

relayed that they were completely unaware of the program.[60] Vet Center staff told us they did not have many active duty clients.[61]

5. *Co-locate behavioral health facilities in buildings with multiple functions to help preserve confidentiality of those who enter the facilities.*

Many interviewees said they found it difficult to keep the fact that they were in care private, in part due to peers observing them enter a building solely dedicated to mental health services on base. Navy Seaman Lee said that when she was in outpatient therapy her command required her to have an escort to the hospital who would walk her directly to the mental health clinic.[62] Co-locating mental health services with medical services or with other offices can help survivors maintain their privacy and avoid the stigma that so many interviewees told us was associated with seeking mental health treatment.

6. *Expand availability of appointments after working hours so service members can seek help while they are not on duty.*

7. *Ensure that commanders communicate to front-line supervisors that service members should not face negative repercussions for absences due to medical appointments.*

Survivors told Human Rights Watch that despite the fact that their medical appointments were a legitimate reason for absence from work, they made every effort to schedule their mental health appointments on off-hours to avoid scrutiny by their supervisors and peers. That did not always work out. Marine Amy Johnson said that even though she scheduled appointments during lunch, her supervisors accused her of purposely making medical appointments to avoid her duties and would bring up the fact that "marine goes to too many appointments" in monthly discussions about her performance.[63] Kim Martin, Navy, said she attempted to schedule her appointments on non-working days. When that was not possible, her supervisors would never say outright she could not go but would ask:

[60] Human Rights Watch interview at community counseling center, December 8, 2014; Human Rights Watch interview with Air Force SARC #1, October 10, 2014.

[61] Human Rights Watch telephone interview with Vet Center Coordinator, April 28, 2014.

[62] Human Rights Watch telephone interview with SN Mindy Lee, November 3, 2014.

[63] Human Rights Watch telephone interview with LCpl Amy Johnson, January 11, 2015.

"Why do you have all these appointments?"[64] Survivors also report having to wait weeks in order to get an appointment.[65]

Expanding availability of appointments in general, and during non-working hours, would go far in helping survivors protect their privacy. Survivors will at times need to miss work to seek care and should be supported in doing so. Human Rights Watch interviews indicate that this support is often lacking. Gabrielle Bouvier said her supervisors told her that she had to forgo counseling because "work was more important" and she "was such an asset."[66]

An Army Special Victim Counsel told Human Rights Watch that a male client who filed a restricted report discovered that his unit had a non-commissioned officer following him to his medical appointments. The attorney said the client eventually opted to make his report unrestricted after harassment from his unit which saw him as a "dirtbag" because of his absences and inability to perform his regular duties. Despite the conversion to an unrestricted report which notified the command of the reason for the medical issues and appointments, the attorney said her client continued receiving administrative discipline for his perceived failings, including an Article 15, and the unit moved to administratively separate him.[67]

8. *Expand possibilities for voluntary in-patient treatment when appropriate and as an alternative to leaving the service for those who wish to remain in the military but may temporarily be incapable of performing their duties.*

9. *Create Defense Department inpatient facilities to assist with trauma arising from sexual assault and ensure that they have sufficient capacity and specialized treatment for male survivors.*

Some interviewees told Human Rights Watch that they found it difficult to cope in the wake of the assault, even with outpatient care. They saw their performance at work suffer and some turned to coping mechanisms that were ultimately self-destructive, including excessive alcohol and drug use. Some survivors may benefit from a period of voluntary inpatient treatment that would provide them with the intensive help away from an

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[64] Human Rights Watch telephone interview with SN Kim Martin, October 8, 2014.

[65] Human Rights Watch interview with PFC Bonnie Thomas, January 14, 2014.

[66] Human Rights Watch telephone interview with PO3 Gabrielle Bouvier, October 15, 2014.

[67] Human Rights Watch interview with Army SVC #5, February 5, 2015.

environment that may be closely associated with the sexual assault. Advocates emphasized to Human Rights Watch that the service members in these situations are often good soldiers and capable of returning to perform at the highest levels if given the appropriate care and time to recuperate.[68]

To that end, Human Rights Watch recommends the military create its own inpatient facilities to provide treatment for conditions arising from military sexual trauma with an orientation toward enabling survivors to continue military service if they wish. The services currently rely on the Department of Veterans Affairs' facilities to provide such services to active duty survivors. This approach has significant limitations. In particular, while more than half of military sexual assault survivors are men, the VA has few facilities that provide inpatient MST treatment for male survivors.[69]

Other:

1. *Provide training and intervention for junior enlisted personnel in supervisory positions about responding to sexual assault in their unit, the effects of trauma, and the appropriate response to peer retaliation.*

2. *Monitor treatment of victims by their peers and immediate supervisors and collect data on incidents of retaliation.*

The majority of victims are low-ranking enlisted personnel. Their supervisors may be just a few years older than they are. Such supervisors may not have benefitted from the same training that more senior officers have received and thus may not understand how to manage a sexual assault victim in their unit. Lawyers for survivors indicated that problems are often found at this level of management. Supervisors may view the victim as "a nail sticking out that has to be hammered down" or a "malingerer" rather than as someone who needs extra support and accommodation in order to go to legal or medical appointments.[70] That attitude can infect the unit and create a hostile environment.

Junior personnel who have reported a sexual assault are often not comfortable approaching managers with rank higher than their supervisors in order to report on retaliation for fear of being branded a trouble maker and creating even more resentment.

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[68] Email communication from Protect Our Defenders to Human Rights Watch, April 16, 2015.

[69] Government Accountability Office, "Male Servicemember Sexual Assault Victims," March 2015, footnote 50, p. 25, http://www.gao.gov/assets/670/669096.pdf (accessed April 30, 2015).

[70] Human Rights Watch telephone interview with Marine Corps VLC #1, January 5, 2015.

Moreover, they may fear not being believed. As one survivor who was assaulted in boot camp said, "They are drill instructors, and you cannot say 'no' or anything about them or to them," explaining it is the "fear of the authority they have" and that "it would be our word against theirs and we wouldn't win. They could say we did something we didn't do and we would get punished for it."[71] As a result, more senior leaders may be unaware of the problem.

Therefore, it is important to train first-line supervisors in how to respond appropriately to incidents of sexual assault and to retaliation. DoD SAPRO has indicated that they are initiating such training.[72] First-line supervisors may also benefit from increased training on manifestations of trauma and counterintuitive behavior of victims to counter perceptions they may have about how victims should behave. For unrestricted reports, it may be worth a direct intervention with the supervisor after the report to forestall any potential negative outcomes. In addition, Sexual Assault Response Coordinators and victims' counsel should monitor the treatment of survivors after their assault and intervene if necessary (and after consultation with the survivor), as they are in a better position to raise concerns with leadership.

3. *Aggressively investigate and respond to allegations of reprisal and publicly highlight measures taken against those responsible for retaliatory action.*

The climate set by command at all levels has a profound effect on how victims are treated. Experts on workplace ethics indicate that the response to retaliation is "a leading indicator of the health and well-being of an organizational culture going forward. When you have high levels of retaliation, it's not long before you start to have an erosion of culture and an erosion of trust within the organization."[73] In order to build trust, transparency is essential. Ethics experts recommend publishing statistics on a regular basis to demonstrate that the organization responds to all complaints and to show that action is taken to address the problem. To date, the services have not collected data on incidents of retaliation and the response to it, though in the April 10 hearing DoD SAPRO indicated it may be beginning to collect this information.[74]

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[71] Sworn statement to Army Criminal Investigation Division by Shannon West (pseudonym).

[72] Army MG Jeffrey Snow, The Ninth Public Meeting of the Judicial Proceedings Panel, Washington, DC, April 10, 2015, transcript p.73 (unofficial transcript on file with Human Rights Watch).

[73] Dr. Patricia Harned, The Ninth Public Meeting of the Judicial Proceedings Panel, Washington, DC, April 10, 2015, transcript p. 152 (unofficial transcript on file with Human Rights Watch).Testimony of Dr. Patricia Harned, Transcript of the Judicial Proceedings Panel, April 10, 2015, p. 152.

[74] Dr. Galbreath and Army MG Jeffrey Snow, The Ninth Public Meeting of the Judicial Proceedings Panel, Washington, DC, April 10, 2015, transcript pp. 75, 77-78 (unofficial transcript on file with Human Rights Watch).

The victims we interviewed who had faced retaliation almost never saw their tormentors held to account, even when supervisors were aware of the abuse. This was frustrating for the victims, but also meant that others did not see any signal from leadership that harassment was inappropriate, thus allowing the problem to persist. In order to change perceptions and culture, it is necessary for people to see that articulated values are implemented in practice.[75]

4. *Allow survivors to defer a performance evaluation, promotion consideration or skills test for a period of time if their ability to perform or duties have been impacted by issues relating to sexual assault; create an instruction for Performance or Promotion Review Boards on how to take into account a sexual assault in an evaluation when it has impacted the victim's performance relative to their peers.*

Reporting a sexual assault may create significant challenges for keeping a servicemember on a chosen career path. Performance may suffer following a trauma and other negative repercussions may flow from missing work to participate in judicial proceedings or seek counseling. In an effort to remove survivors from a hostile work environment, they may be moved out of their area of specialty, putting them at a disadvantage for promotions.

Participation in legal proceedings, or taking away their weapon, may mean they are unable to deploy. Several survivors told us they missed advanced training after their assault. All of this, even if done with good intentions, may render survivors, through no fault of their own, less competitive with their peers for promotion considerations. In order to accommodate these issues, the services should consider extending the time period necessary for qualifications or deferring promotion consideration. In addition, Performance Review Boards should be instructed in how to weigh external factors pertaining to the sexual assault report in evaluations for promotion. For example, time in which they are "unrated" because they are removed from their area of specialty may not be considered against them.

[75] Dr. Patricia Harned, The Ninth Public Meeting of the Judicial Proceedings Panel, Washington, DC, April 10, 2015, transcript pp. 166-168 (unofficial transcript on file with Human Rights Watch).

5. *Train broader leadership on the impact of trauma, counter-intuitive victim behaviors, and protection of those alleging sexual assault.*

In a number of instances, survivors have reported that harassment worsened when their cases did not lead to criminal convictions. After a not guilty verdict came in, a Navy petty officer said her command "constantly called [her] a liar and wouldn't allow [her] to go to a support group or counseling…. Every day at least one person called me a liar." An Air Force SVC reported that after a sexual assault prosecution resulted in an acquittal, a victim's unit leadership (commander and first sergeant) were confused about what an acquittal meant and initially thought that it meant that the victim had made a false report. The SVC counselled them that an acquittal is not proof that the accuser lied.[76] Misperceptions like this can lead to commanders taking retaliatory actions such as launching command-directed investigations into whether victims made false statements to investigators.

In addition, commanders may not fully understand counter-intuitive behavior after an assault (such as maintaining relations with a perpetrator after the assault) and may misinterpret their behavior as a sign that they are not credible, leading to poor treatment of survivors. Additional training on how victims may behave following a traumatic experience, including the impact of trauma on memory, may assist in creating a more supportive environment.

6. *Require commander consultation with SARCs/SHARPS or SVCs on how to address retaliation on a case-by-case basis as there is no "one-size-fits-all" solution.*

Different survivors have different views on what is helpful. As a result, a commander may take action with good intentions that is not perceived that way by the survivor. For example, an Army victim's lawyer told Human Rights Watch that after her client reported a rape, her client's commander ordered her confined to the barracks where the assault occurred instead of allowing her to go home to her husband. The commander was making a misguided attempt to protect her from her husband (though he was not the assailant and had no history of domestic violence). Being in the barracks where she was assaulted was the last place the victim wished to be. Her lawyer was able to intervene to assist her. Some victims also welcome a change in work assignment if it allows them to be removed from an unpleasant work environment; for others a new job may seem punitive.

[76] Human Rights Watch interview with Air Force SVC #2, November 24, 2014.

Meanwhile, while many survivors indicated that they would like to see those who retaliate held to account, some fear that doing so may lead to further ostracism or resentment. Input from the Sexual Assault Response Coordinator or the victim's lawyer may help commanders take appropriate action. Moreover, SARCs and SHARPS may be able to make suggestions on handling difficult situations. For example, an Air Force commander sought advice from the SARC about how to deal with pervasive gossip in the workplace. At her suggestion, he told the unit that "no one knows what happened except the two people involved" and that gossip would not be tolerated. He said "if they had time in the day to gossip, they had time to do extra work" and gave them all additional assignments. This ended the gossip and made the victim feel supported by her commander.[77]

7. *Provide a mechanism for the Defense Department's Sexual Assault Prevention and Response Office (SAPRO) to receive and then enquire into generalized (non-case specific) information about problematic units or commands for the purpose of targeting remedial training and other efforts.*

One obstacle to addressing retaliation is reluctance by victims who have experienced retaliation after reporting a sexual assault to come forward. An ethics expert explained, "If it [reporting] didn't work well the first time, they are not going to come back for more."[78] In a small unit, it may be impossible for the survivor to raise concerns without being identified.

An essential element of a program that successfully eliminates retaliation involves providing a means to report retaliation confidentially and anonymously.[79] Therefore survivors, Sexual Assault Response Coordinators, victim advocates, counselors (civilian or military), and victims' legal counsel should have a centralized place to which they can raise their concerns about units or commanders anonymously. This will also allow the services to pinpoint areas where more training or intervention might be necessary.

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77 Human Rights Watch telephone interview with SARC Shelly Park, February 9, 2015.

78 Dr. Patricia Harned, The Ninth Public Meeting of the Judicial Proceedings Panel, Washington, DC, April 10, 2015, transcript p. 156 (unofficial transcript on file with Human Rights Watch).

79 Ibid., p. 153.

8. *More strictly enforce confidentiality of information on a restricted (confidential) sexual assault report.*

Witnesses we interviewed raised concerns that information about a reported sexual assault is not always kept confidential (or "restricted"). Victims told Human Rights Watch that they heard their commanders talk openly about their cases to others or saw their case referenced in an email copied to people who did not need to know about it. Victims' lawyers report that the "need to know" basis for information about restricted reports is "too expansive" and that too many people are able to read email traffic about sexual assault reporting.[80]

Despite regulations allowing a sexual assault response coordinator (SARC) to withhold information "that could reasonably lead to personal identification of the victim,"[81] advocates report that in practice in smaller units, it is "too easy to figure out" who the victim is based on reference to gender, ethnicity or pay grade in sexual assault information reported to the command.[82] When it becomes clear that information has been inappropriately released, disciplinary action should be taken against those found responsible. Moreover, who "needs to know" should be more clearly defined.

In addition, a number of survivors we interviewed did not wish to report but inadvertently had their case made unrestricted. Hospital staff may sometimes call a workplace and indicate they have someone there, unintentionally triggering a report.[83] Victims may be forced to disclose if they miss formation because they are at the hospital seeking medical care.[84] Although DoD guidelines allow victims to keep a report restricted even if they tell a friend,[85] not all the branches have clear instructions on this.[86]

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[80] Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014.

[81] Department of Defense, "Instruction 6495.02: Sexual Assault Prevention and Response (SAPR) Program Procedures," March 28, 2013, section 4 (1)(d) updated February 12, 2014, http://www.dtic.mil/whs/directives/corres/pdf/649502p.pdf (accessed April 22, 2015).

[82] Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014; Human Rights Watch telephone interview with rape crisis center counselor, October 27, 2014.

[83] Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 10, 2014.

[84] Human Rights Watch telephone interview with Amn Carla Rodriguez, February 4, 2014.

[85] Department of Defense, "Instruction 6495.02: Sexual Assault Prevention and Response (SAPR) Program Procedures," March 28, 2013, section 4 (1)(d) updated February 12, 2014, http://www.dtic.mil/whs/directives/corres/pdf/649502p.pdf (accessed April 22, 2015).

[86] In fact, Navy instructions run counter to the DOD guidelines in certain cases: if the friend is in the same workplace, the disclosure is viewed as trumping confidentiality and can trigger an investigation.

Practical considerations may also force people to reveal their sexual assaults. Transfers are only available to servicemembers who make unrestricted reports. It may also become difficult to explain medical or legal appointments or trauma-related behavior to supervisors if they are not aware of the assault. Victims should have a mechanism to remedy an inadvertent disclosure.

9. Recognize leaders who effectively respond to reprisals.

Actions of leadership in response to retaliation are the most important factors in ending retaliation. According to studies, when leaders set a good example and hold others accountable, the difference in retaliation is "dramatic."[87] When leaders display these actions, retaliation is reduced by as much as 53 percent.[88] Therefore, in accordance with best practices, it is important to implement performance goals for senior leaders and supervisors based on ethics-related action with regular reviews and incentives. This will enable leadership to consistently discuss and hold people accountable for upholding policies prohibiting retaliation. This will be a far more effective tool than only changing policy.

10. Instruct commanders to consider favorably requests by victims to transfer housing when possible, particularly if they were assaulted there.

A number of interviewees told Human Rights Watch that their command resisted requests for a change of housing even if the assault occurred in barracks or the perpetrator lived there too.[89] This was sometimes devastating to the survivor. Stephanie Green, who was raped in the barracks, described in a written account the distress created by how the Army handled her housing situation: "They told me they couldn't make him switch barracks so I ended up becoming severely depressed and was admitted to inpatient at an acute hospital….When I came back the nightmares and flashbacks were worse so they moved me right across the street. When I first reported it they told me I need to get over it, everyone is dealing with things and they're fine, so I should be."[90]

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[87] Dr. Patricia Harned, The Ninth Public Meeting of the Judicial Proceedings Panel, Washington, DC, April 10, 2015, transcript p. 154 (unofficial transcript on file with Human Rights Watch).

[88] Ibid.

[89] Written testimony of Stephanie Green (provided by Protect Our Defenders), on file with Human Rights Watch; Human Rights Watch telephone interview with Sharon Wright, December 5, 2014; Human Rights Watch interview with SVC #1.

[90] Written testimony of Stephanie Green (provided by Protect Our Defenders), on file with Human Rights Watch.

Another survivor posting on My Duty to Speak wrote that her request for a move was granted after initial resistance, but that she was moved to an area where accused offenders were often housed pending processing. She wrote: "I had to stay in the same barracks where they stayed during duty and they even placed a person who was convicted of sexual assault to work in the barracks where he had access to make keys to every room."[91] Another Airman who sought to move to get away from her perpetrator was told she "only wanted to be moved off base to take advantage of the system" and "she is just an Airman and they cannot accommodate her every need." She had to live in a room within direct eyesight of his and could hear him when he used the smoking lounge, which was located below her window.[92] While a change in accommodation is not always possible, commanders should be instructed to look upon the requests favorably.

11. *For victims in areas of narrow specialties, consider the option of a career field change, if requested by a victim.*

In some instances, a specialty is so narrow that it may be difficult for a survivor to avoid her or his perpetrator while staying in that specialty or to have a fresh start in a new base. As a Navy Petty Officer said of her field, "My community is very small and many of my peers, subordinates, and seniors are aware of what happened to me."[93] After she reported her assault, she received calls asking questions about the incident from her peers across the country. For others, the limited locations that use a particular specialty may mean that even if a survivor is transferred away from the perpetrator now, they are likely to end up being co-located in another assignment. Giving servicemembers the option of training in a new specialty may increase their ability to continue their military career.

12. *Allow collateral duty Victim Advocates sufficient time and material support (such as access to cell phones or transportation) to perform their advocacy duties without negatively impacting their regular duties and include feedback from victims as part of their performance evaluations.*

Victim Advocates may be required to spend a significant amount of time with a victim during legal proceedings. Because collateral duty Victim Advocates are not evaluated on their performance as an advocate, some may be concerned about taking time to perform

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[91] Anonymous Coast Guard member, "Raped and Still Paying for It," posted on *My Duty to Speak*, February 8, 2015, http://mydutytospeak.com/2015/02/08/raped-and-still-paying-for-it/ (accessed April 22, 2015).

[92] Human Rights Watch interview with Air Force SVC #1, November 24, 2014; memo on file with Human Rights Watch summarizing meeting with first sergeant written the day after the meeting in 2013.

[93] PO1 Lisa Cox, letter to admiral [name withheld] on file at Human Rights Watch.

their advocate function if it takes them away from their other duties for which they are evaluated. They may view their collateral duty as a "pain," especially since some people did not volunteer for the position but were "voluntold."[94]

A SHARP advocate who covered a larger area expressed concern about access to a car in order to be able to meet the victim or attend proceedings.[95] The SHARP Advocate also expressed concern about the selection criteria for advocates indicating that in his training class several people were there to "check a box" and did not take training seriously.[96] In contrast, a VLC told Human Rights Watch that if a victim advocate is committed and has the time to take a survivor under his or her wing, it can help stop retaliation.[97] Allowing victims to provide feedback and including advocate performance as part of an evaluation may help weed out weaker advocates and mitigate any perceived disadvantage of taking time away from regular duties.

13. *Vary sexual assault trainings from standard PowerPoint presentations to better engage audiences (i.e., employ more interactive trainings, workshops, theater).*

One suggestion that regularly arose in interviews was making mandatory sexual assault training more engaging. An officer said there was a "risk of fatigue" from hearing the same PowerPoint presentations over and over.[98] Others suggested bringing in speakers.[99] A theater group in North Carolina was praised for its interactive trainings.[100] Services should seek out particularly engaging and effective training programs and use them as models for other places and alternatives to rote training.

14. *Allow victims who have made restricted reports to request expedited transfer through their SVC.*

Even if survivors do not make unrestricted reports of sexual assault, it may still be difficult for them to have to interact with their perpetrator on a regular basis. For various reasons (including fear of punishment for collateral misconduct) survivors may not wish to make an

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94 Human Rights Watch telephone interview with rape crisis center administrator, October 20, 2014.

95 Human Rights Watch interview with Army SHARP Advocate, [location withheld], April 8, 2014.

96 Ibid.

97 Human Rights Watch group interview with Navy VLCs, Jacksonville, FL, December 11, 2015.

98 Human Rights Watch telephone interview with 2LT Heather Moore, September 25, 2014.

99 Human Rights Watch telephone interview with Robin Taylor October 20, 2014.

100 Human Rights Watch telephone interview with rape crisis center administrator, October 27, 2014.

unrestricted report. This should not prevent them from availing themselves of protections available to other survivors.

15. *Expand the requirement to provide a victim with a record of trial to include cases where the court martial resulted in an acquittal.*

For many survivors, one of the most difficult aspects of the military justice process is not understanding the reasons for a decision not to punish a perpetrator. Survivors are often excluded from courts martial and do not have access to testimony heard by the panel. Although survivors currently have a right to a transcript when there is a conviction, they do not have the same right for an acquittal, which can be frustrating.[101]

[101] Human Rights Watch interview with Air Force SVC #1, November 24, 2014; Lt Col Andrea M. de Camara, The Fourth Public Meeting of the Judicial Proceedings Panel, Arlington, VA, November 14, 2014, transcript pp. 106-107, http://jpp.whs.mil/Public/docs/05-Transcripts/20141114_Transcript_Final.pdf (accessed April 29, 2015).