

ENCLOSURE 9

CASE MANAGEMENT FOR UNRESTRICTED REPORTS OF SEXUAL ASSAULT

1. GENERAL

a. Case Management Group oversight for Unrestricted Reports of adult sexual assaults is triggered by open cases in DSAID initiated by a DD Form 2910 or an investigation initiated by an MCIO. In a case where there is an investigation initiated by an MCIO, but no corresponding Unrestricted DD Form 2910:

(1) The SARC would have no information for the CMG members. During the CMG, the MCIO would provide case management information to the CMG including the SARC.

(2) The SARC would open a case in DSAID indicating the case status as “Open with Limited Information.” The SARC will only use information from the MCIO to initiate an “Open with Limited Information” case in DSAID. In the event that there was a Restricted Report filed prior to the independent investigation, the SARC will not use any information provided by the victim, since that information is confidential.

b. The installation commander or the deputy installation commander shall chair the CMG on a monthly basis to review individual cases, facilitate monthly victim updates, and direct system coordination, accountability, entry of disposition and victim access to quality services. This responsibility will not be delegated. If there are no cases in a given month, the CMG will still meet to ensure training, processes, and procedures are complete for the system coordination.

c. The installation SARC shall serve as the co-chair of the CMG. This responsibility shall not be delegated. Only a SARC who is a Service member or DoD civilian employee may co-chair the multi-disciplinary CMG.

d. Required CMG members shall include: victim’s immediate commander; all SARCs assigned to the installation (mandatory attendance regardless of whether they have an assigned victim being discussed); victims’ SAPR VA, MCIO and DoD law enforcement representatives who have detailed knowledge of the case; victims’ healthcare provider or mental health and counseling services provider; chaplain, legal representative, or SJA; installation personnel trained to do a safety assessment of current sexual assault victims; victim’s VWAP representative (or civilian victim witness liaison, if available), or SVC/VLC. MCIO, DoD law enforcement, and the legal representative or SJA shall provide case dispositions. The CMG chair will ensure that the appropriate principal is available. The responsibility for CMG members to attend CMG meetings will not be delegated. Additional persons may be invited to CMG meetings at the discretion of the chair if those persons have an official need to know, with the understanding that maintaining victim privacy is essential.

e. If the installation is a joint base or if the installation has tenant commands, the commander of the tenant organization and the designated Lead SARC shall be invited to the CMG meetings.

The commander of the tenant organization shall provide appropriate information to the host commander, to enable the host commander to provide the necessary supporting services.

f. CMG members shall receive the mandatory SAPR training pursuant to Enclosure 10 of this Instruction.

g. Service Secretaries shall issue guidance to ensure that equivalent standards are met for case oversight by CMGs in situations where SARCs are not installation-based but instead work within operational and/or deployable organizations.

2. PROCEDURES

a. The CMG members shall carefully consider and implement immediate, short-term, and long-term measures to help facilitate and assure the victim's well-being and recovery from the sexual assault. They will closely monitor the victim's progress and recovery and strive to protect the victim's privacy, ensuring only those with an official need to know have the victim's name and related details. Consequently, where possible, each case shall be reviewed independently bringing in only those personnel associated with the case, as well as the CMG chair and co-chair.

b. The CMG chair shall:

(1) Ensure that commander(s) of the Service member(s), who is a subject of a sexual assault allegation, provide in writing all disposition data, to include any administrative or judicial action taken, stemming from the sexual assault investigation to the MCIO. Information provided by commanders is used to meet the Department's requirements for the submission of criminal history data to the Criminal Justice Information System, Federal Bureau of Investigation; and to record the disposition of offenders into DSAID.

(2) Require effective and timely coordination and collaboration among CMG members. At each CMG meeting:

(a) Confirm that the MCIO assigned to an adult sexual assault investigation has notified the SARC as soon as possible, after the investigation is initiated in accordance with Reference (w).

(b) Confirm that all Unrestricted Reports, initiated by a DD Form 2910 or an investigation initiated by an MCIO, are entered into DSAID within 48 hours of the DD Form 2910 being signed by the victim.

(c) Confirm that commanders are providing the final disposition of sexual assault cases to MCIOs. Confirm that the installation commander's or his/her designated legal officer is providing the SARC the required information for the SARC to enter the final case disposition in DSAID.

(d) Confirm that members of the SVIP are collaborating with local SARCs and SAPR VAs during all stages of the investigative and military justice process to ensure an integrated capability, to the greatest extent possible, in accordance with References (ao) and (aj).

(e) Confirm that the SARCs and SAPR VAs have what they need to provide an effective SAPR response to victims.

(3) Require that case dispositions to include cases disposed of by nonjudicial proceedings are communicated to the sexual assault victim, to the extent authorized by law, within 2 business days of the final disposition decision. The CMG chair will require that the appropriate paperwork (pursuant to Service regulation) is submitted for each case disposition within 24 hours, which shall be inputted into DSAID by the designated officials.

(4) Monitor and require immediate transfer of sexual assault victim information between SARCs and SAPR VAs, in the event of the SARC's or SAPR VA's change of duty station, to ensure continuity of SAPR services for victims.

(5) Require that the SARCs and SAPR VAs actively participate in each CMG meeting by presenting oral updates (without disclosing protected communications and victim confidentiality), providing recommendations and, if needed, the SARC or the SAPR VA shall affirmatively seek assistance from the chair or victim's commander.

(6) Require an update of the status of each Expedited Transfer request and MPO.

(7) If the victim has informed the SARC of an existing CPO, the chair shall require the SARC to inform the CMG of the existence of the CPO and its requirements.

(8) After protective order documentation is presented at the CMG from the SARC or the SAPR VA, the DoD law enforcement agents at the CMG will document the information provided in their investigative case file, to include documentation for Reserve Component personnel in title 10 status.

c. The CMG Co-chair shall:

(1) Confirm that all reported sexual assaults are entered into DSAID within 48 hours of the report of sexual assault. In deployed locations, such as areas of combat that have internet connectivity issues, the time frame is extended to 96 hours.

(2) Confirm that only the SARC is inputting information into DSAID.

(3) Keep minutes of the monthly meetings to include those in attendance and issues discussed. CMG participants are only authorized to share case information with those who have an official need to know.

d. For each victim, the assigned SARC and SAPR VA will confirm at the CMG that the victim has been informed of their SAPR services to include counseling, medical, and legal resources without violating victim confidentiality.

e. For each victim, each CMG member who is involved with and working on a specific case will provide an oral update without violating victim confidentiality or disclosing privileged communications.

f. For each victim, the victim's commander will confirm at the CMG that the victim has received a monthly update from the victim's commander of her/his case within 72 hours of the last CMG, to assure timely victim updates. The victim's commander cannot delegate this responsibility.

g. If a victim transfers from the installation, then the processes in Table 2 in Enclosure 5 will apply as appropriate.

h. On a joint base or if the installation has tenant commands:

(1) The CMG membership will explore the feasibility of joint use of existing SAPR resources, to include rotating on-call status of SARCs and SAPR VAs. Evaluate the effectiveness of communication among SARCs, SAPR VAs, and first responders.

(2) The CMG chair will request an analysis of data to determine trends and patterns of sexual assaults and share this information with the commanders on the joint base or the tenant commands. The CMG membership will be briefed on that trend data.

i. At every CMG meeting, the CMG Chair will ask the CMG members if the victim, victim's family members, witnesses, bystanders (who intervened), SARCs and SAPR VAs, responders, or other parties to the incident have experienced any incidents of retaliation, reprisal, ostracism, or maltreatment. If any allegations are reported, the CMG Chair will forward the information to the proper authority or authorities (e.g., MCIO, Inspector General, Military Equal Opportunity). Discretion may be exercised in disclosing allegations of retaliation, reprisal, ostracism, or maltreatment when such allegations involve parties to the CMG. Retaliation, reprisal, ostracism, or maltreatment allegations involving the victim, SARCs, and SAPR VAs will remain on the CMG agenda for status updates, until the victim's case is closed or until the allegation has been appropriately addressed.

j. The CMG chair will confirm that each victim receives a safety assessment as soon as possible. There will be a safety assessment capability. The CMG chair will identify installation personnel who have been trained and are able to perform a safety assessment of each sexual assault victim.

(1) The CMG chair will require designated installation personnel, who have been trained and are able to perform a safety assessment of each sexual assault victim, to become part of the CMG and attend every monthly meeting.

(2) The CMG chair will request a safety assessment by trained personnel of each sexual assault victim at each CMG meeting, to include a discussion of expedited military transfers or MPOs, if needed.

(a) The CMG co-chair will confirm that the victims are advised that MPOs are not enforceable off-base by civilian law enforcement.

(b) If applicable, the CMG chair will confirm that both the alleged offender and the victim have a hard copy of the MPO.

(3) The CMG chair will immediately stand up a multi-disciplinary High-Risk Response Team if a victim is assessed to be in a high-risk situation. The purpose and the responsibility of the High-Risk Response Team is to continually monitor the victim's safety, by assessing danger and developing a plan to manage the situation.

(a) The High-Risk Response Team (HRRT) shall be chaired by the victim's immediate commander and, at a minimum, include the alleged offender's immediate commander; the victim's SARC and SAPR VA; the MCIO, the judge advocate, and the VWAP assigned to the case, victim's healthcare provider or mental health and counseling services provider; and the personnel who conducted the safety assessment. The responsibility of the HRRT members to attend the HRRT meetings and actively participate in them will not be delegated.

(b) The High-Risk Response Team shall make their first report to the installation commander, CMG chair, and CMG co-chair within 24 hours of being activated. A briefing schedule for the CMG chair and co-chair will be determined, but briefings shall occur at least once a week while the victim is on high-risk status.

(c) The High-Risk Response Team assessment of the victim shall include, but is not limited to evaluating:

1. Victim's safety concerns.
2. Alleged offender's access to the victim or whether the alleged offender is stalking or has stalked the victim.
3. Previous or existing relationship or friendship between the victim and the alleged offender, or the alleged offender and the victim's spouse, or victim's dependents. The existence of children in common. The sharing (or prior sharing) of a common domicile.
4. Whether the alleged offender (or the alleged offender's friends or family members) has destroyed victim's property; threatened or attacked the victim; or threatened, attempted, or has a plan to harm or kill the victim or the victim's family members; or intimidated the victim to withdraw participation in the investigation or prosecution.

5. Whether the alleged offender has threatened, attempted, or has a plan to commit suicide.
6. Whether the alleged offender has used a weapon, threatened to use a weapon, or has access to a weapon that may be used against the victim.
7. Whether the victim has sustained serious injury during the sexual assault incident.
8. Whether the alleged offender has a history of law enforcement involvement regarding domestic abuse, assault, or other criminal behavior.
9. Whether the victim has a civilian protective order or command has an MPO against the alleged offender, or there has been a violation of a civilian protective order or MPO by the alleged offender.
10. History of drug or alcohol abuse by either the victim or the alleged offender.
11. Whether the alleged offender exhibits erratic or obsessive behavior, rage, agitation, or instability.
12. Whether the alleged offender is a flight risk.

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Instruction. Refer to the Glossary in Reference (c) for terms not defined in this Instruction.

accessions training. Training that a Service member receives upon initial entry into Military Service through basic military training.

certification. Refers to the process by which the Department credentials SARC and SAPR VAs, assesses the effectiveness of sexual assault advocacy capabilities using a competencies framework, and evaluates and performs oversight over SARC and SAPR VA training. The certification criteria are established by the Department in consultation with subject-matter experts.

CMG. A multi-disciplinary group that meets monthly to review individual cases of Unrestricted Reports of sexual assault. The group facilitates monthly victim updates and directs system coordination, accountability, and victim access to quality services. At a minimum, each group shall consist of the following additional military or civilian professionals who are involved and working on a specific case: SARC, SAPR VA, military criminal investigator, DoD law enforcement, healthcare provider and mental health and counseling services, chaplain, command legal representative or SJA, and victim's commander.

collateral misconduct. Victim misconduct that might be in time, place, or circumstance associated with the victim's sexual assault incident. Collateral misconduct by the victim of a sexual assault is one of the most significant barriers to reporting assault because of the victim's fear of punishment. Some reported sexual assaults involve circumstances where the victim may have engaged in some form of misconduct (e.g., underage drinking or other related alcohol offenses, adultery, fraternization, or other violations of certain regulations or orders).

confidential communications. Defined in Reference (c).

consent. Defined in Reference (c).

credible information. Information that, considering the source and nature of the information and the totality of the circumstances, is sufficiently believable to presume that the fact or facts in question are true.

credible report. Either a written or verbal report made in support of an Expedited Transfer that is determined to have credible information.

crisis intervention. Defined in Reference (c).

culturally-competent care. Defined in Reference (c).

DSAID. Defined in Reference (c).