

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 3**

RESPONSES REQUESTED FROM THE SERVICES BY MAY 6, 2015

Explanatory Information About Retaliation in the Services

67. What organization is responsible for training leaders and service members about retaliation against victims of sexual assault? Please describe that training and explain whether this is separate or in conjunction with mandatory EO training that addresses a hostile work environment?

USA	<p>Currently the Sexual Harassment/Assault Response and Prevention (SHARP) Directorate, SHARP Academy, Training and Doctrine Command (TRADOC), Inspector General (IG), and The Judge Advocate General’s Legal Center and School (TJAGLCS) share responsibility for training leaders and service members about retaliation.</p> <p>The SHARP Baseline Certification (7 week) and 80-Hour Certification Courses, which are used to train Sexual Assault Response Coordinators (SARC) and Victim Advocates (VA), uses the Department of Defense form 2910 (line 1.d.6.) which provides the choices and different options if a victim experiences or feels that they have been retaliated against. The SARC/VA training addresses if a victim experiences some form of the following: coercion, retaliation, reprisal, or ostracism from their supervisors or peers, they can report to the SARC/VA, Special Victims Counsel, Victim Witness Assistance Program, the Inspector General, and unit commander. In the future, retaliation will be discussed in the life cycle of training, which includes Professional Military Education, the Civilian Education System, and during mandatory annual SHARP operational training. Retaliation will also be discussed monthly during the Sexual Assault Review Boards (SARB) as per Army Directive 2015-16 (Command Engagement to Prevent Retaliation), dated 4 Mar 2015. The SARB chair will ask SARB members if the victim, witnesses, bystanders (who intervene), SARC, VA, first responders or other parties to the incident have experienced any retaliation or reprisal.</p> <p>The SHARP Training, like EO, addresses a hostile work environment. SHARP training is taught in conjunction with EO training, but SHARP focuses on both Sexual Harassment and Sexual Assault. The SHARP Training, like EO, addresses a hostile work environment. SHARP training is in conjunction with EO training, but SHARP focuses on both Sexual Harassment and Sexual Assault.</p> <p>Judge Advocates train leaders at TJAGLCS on the topic of retaliation to incoming Brigade Commanders at Senior Officer Legal Orientation, incoming Command Sergeants Major at Command Sergeant Major Legal Orientation, and incoming general officers at General Officer Legal Orientation. Judge Advocates train incoming Battalion Commanders at the Pre-Command Course at Fort Leavenworth. At local installations, Judge Advocates train incoming Company Commanders and First Sergeants at Pre-Command Courses. Finally, The Judge Advocate General provided a block of instruction on retaliation at the Army Chief of Staff SHARP Summit to all</p>
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	<p>4/3/and select 2-star command teams.</p> <p>The Center for Army Professional Ethics has developed training on the topic of retaliation for use Army-wide in small group discussions. The Center for Army Professional Ethics has produced videos from three sexual assault victims that discuss retaliation and its devastating effects. Those videos have been provided to the JPP staff.</p>
<p>USAF</p>	<p>The AF Sexual Assault Prevention and Response Office (AF SAPRO) is the lead organization training leaders and service members about retaliation against victims of sexual assault. SAPRO training is different and separate from the Equal Opportunity training, though the message is consistent across the two programs. This training is amplified at the highest levels of senior leadership including SecAF, CSAF, and the commanders of the Major Commands, all of whom convey the message that addressing the issue of retaliation is critical to the success of fighting sexual assault.</p> <p>Retaliation against a victim or other military member who reports a criminal offense is prohibited in AFGM to AFI 36-2909, para. 11, and members who violate the specific prohibition may be subject to adverse action under the UCMJ. Commanders and supervisors at all levels have the authority and responsibility to ensure subordinates do not retaliate against victims or other military members who report a criminal offense. Commanders and supervisors have a duty to prevent retaliation and may be held accountable for failing to act in appropriate cases. AFGM to AFI 36-2909, para. 13.</p> <p>Retaliation as defined in Air Force policy is an umbrella term that includes reprisal under 10 U.S.C. § 1034 (Protected Communications; Prohibition of Retaliatory Personnel Actions) as well as ostracism and maltreatment as those terms are defined in AFGM to AFI 36-2909, paras. 11.2 and 11.3. Reprisal is covered under AFI 90-301, <i>Inspector General Complaints Resolution</i>, Chapter 6.</p> <p>Additionally, AFI 1-1, <i>Air Force Standards</i>, provides guidance to Airmen on the use of social media and para. 2.15.3 requires Airmen to “avoid offensive and/or inappropriate behavior on social networking platforms and through other forms of communication that could bring discredit upon the Air Force...or that would otherwise be harmful to good order and discipline, respect for authority, unit cohesion, morale, mission accomplishment, or the trust and confidence that the public has in the United States Air Force.” Paragraph 2.2.8 goes on to say, “Airmen do not tolerate bullying, hazing, or any instance where an Airman inflicts any form of physical or psychological abuse that degrades, insults, dehumanizes, or injures another Airman (unless it is part of an approved formal training program). It is the obligation of each Airman in the chain of command to prevent such conduct.” This regulation is punitive and failure to adhere to these standards can form the basis for adverse action under the UCMJ.</p> <p>AF SAPRO has incorporated information about retaliation in its 2015 Annual SAPR Training that is provided to all Airmen, military and civilian. This interactive training includes definitions and a video from the DoD Inspector General titled, <i>Whistleblower Reprisal: Rape and Sexual Assault</i>. The objective of this part of the training is to give general information about what reprisal is and what steps can be taken if an Airman</p>

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who is a victim of sexual assault believes they are a victim of reprisal. Another section of the annual SAPR training focuses on empathy and the spectrum of available potential response if a disclosure of sexual assault is made, helping Airmen understand how to interact with victims of sexual assault and to help Airmen develop better communication skills and build empathy for victims. During this portion of the training, the audience watches and listens to a video that presents helpful responses to give to a victim who reports being sexually assaulted. After the video, the audience pairs up with another Airman next to them and practices what they would say to a victim of sexual assault if the victim confided in them. As empathetic and supportive behaviors are taught and increase in frequency, the Air Force believes that incidents of actual and perceived victim retaliation will decrease.

In addition to the annual SAPR training, all Airmen will participate in SAPR small group discussions throughout the year. One of the mandatory sessions specifically focuses on empathy and what to say to a victim of sexual assault. All AF personnel will complete this training by 1 October 2015.

Additionally, AF SAPRO has updated initial training for Wing, Group, and Squadron commanders to include information on retaliation against victims of sexual assault. Data from the 2014 RAND Military Workplace Survey, focus groups, and Defense Equal Opportunity Climate Survey questions are used to highlight the need for leaders to address retaliation proactively. The training also educates leaders on the neurobiology of trauma which increases knowledge about victim response and behaviors. Educating leaders and increasing empathy for victims encourages personal commitment to protect those who report sexual assault from incidents of actual and perceived retaliation.

AF SAPRO is including education and training on retaliation in the first line supervisor training which was released in the spring of 2015 and in seminars for senior enlisted leaders. Other training currently in development will include information about retaliation and the AF policy against all forms of retaliation against victims of sexual assault. AF SAPRO understands that retaliation in any form affects the experiences of victims and influences the willingness of future victims in coming forward to report sexual assault crimes. Therefore, AF SAPRO will continue to address, educate, and train its force for the health of the program and, more importantly, for the health of survivors.

Training on retaliation is also included in the Senior Officer Legal Orientation (SOLO) course, hosted by the AF Judge Advocate General's School. To date, two offerings of SOLO have occurred and attendees have included incoming Wing Commanders, Vice Wing Commanders, and Group Commanders.

The Wing Commander's Course, taught at Air University, also includes instruction on retaliation so that incoming commanders are aware of their role and requirements pertaining to creating an environment free of retaliation and properly referring or investigating retaliation reports.

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	<p><u>References:</u></p> <ul style="list-style-type: none"> - AFGM 2014-01 to AFI 36-2909, <i>Professional and Unprofessional Relationships</i>, 19 June 2014, http://static.e-publishing.af.mil/production/1/af_ja/publication/afi36-2909/afi36-2909.pdf - AFI 90-301, <i>Inspector General Complaints Resolution</i>, 6 June 2012, http://static.e-publishing.af.mil/production/1/saf_ig/publication/afi90-301/afi90-301.pdf - AFI 1-1, <i>Air Force Standards</i>, 7 August 2012, http://static.e-publishing.af.mil/production/1/af_cc/publication/afi1-1/afi1-1.pdf
<p>USN</p>	<p>The Twenty-First Century Sailor Office (OPNAV N17) is responsible for ensuring appropriate training is provided to leaders and service members about retaliation against victims of sexual assault, and is included in the annual SAPR Training. It is the responsibility of commands to deliver the training to their personnel using training specialists. OPNAV N17 also provides content, including information on how to recognize and prevent retaliation, for the SAPR modules of the Major Command, Prospective Commanding Officer, Executive Officer, Senior Enlisted Academy, and leadership development courses across the enlisted and officer training continuums. The SAPR Pre-Commissioning training is in use at Officer Candidate School (OCS), Reserve Officers Training Corps (ROTC), and the United States Naval Academy (USNA).</p> <p>The Department of the Navy Sexual Assault Prevention and Response Video Library is a training resource containing short videos on various SAPR topics with accompanying discussion guides. Within the video library, various leaders speak to the need to prevent gossip and rumors and ensure victims are receiving appropriate support and care. These videos also include testimonials from victims of social or peer retaliation and ostracism.</p> <p>New SAPR training courses are currently being developed for Navy recruits attending Recruit Training Command (RTC) and for Navy senior enlisted leaders attending the Senior Enlisted Academy (SEA). Both courses will include sections that explain retaliation, reprisal, coercion, ostracism, and maltreatment; explain what is the appropriate professional response by peers to a victim and an alleged offender when a sexual assault is reported; and explain Navy regulations that protect victims of sexual assault from coercion, retaliation, ostracism, maltreatment, and reprisal.</p> <p>The Naval Justice School (NJS) in Newport, RI, provides basic level training to attendees of the Senior Officer Course (leaders) about the grievance process and prohibitions against victim retaliation.</p> <p>USNA's Sexual Assault Prevention & Response (SAPR) Office trains on retaliation from a victim-impact perspective and plans to continue the discussion, emphasizing</p>

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	<p>the most recent President of the United States (POTUS) and Military Service Academies (MSA) report findings. Specifically, through 31 Dec 15, both reports and their emphasis on retaliation will be addressed in Midshipmen Pre-Cruise SAPR training (May 2015), Plebe Summer Detailer SAPR training (Jun & Jul 2015), Reform SAPR training (Aug 2015), and within the SHAPE (Sexual Harassment Assault Prevention Education) curriculum (Aug-Dec 2015). Additionally, retaliation will be addressed with military faculty & staff in annual training. SAPR training will continue to address retaliation from a victim-impact perspective, specifically how it is a barrier to sexual assault victims coming forward to utilize response services and formally report.</p> <p>The above-mentioned trainings regarding retaliation against victims of sexual assault are separate from and in addition to mandatory equal opportunity training that address hostile work environments. Mandatory equal opportunity training addresses retaliation against victims of unlawful discrimination and sexual harassment. A hostile work environment is addressed in the context of sexual harassment in the work place.</p>
<p>USMC</p>	<p>While the Inspector General of the Marine Corps (IGMC) is the Office of Primary Responsibility for reprisal training, HQMC SAPR incorporates additional training regarding retaliation into their programs.</p> <p>All Department of the Navy (DON) military and civilian personnel are required to complete web based, biennial training on the Notification and Federal Employees Antidiscrimination and Retaliation Act (No FEAR Act) of 2002. This training provides information about the rights and remedies available under applicable Antidiscrimination and Whistleblower Protection Laws. Specifically, the training provides an overview of the No FEAR Act, the Equal Employment Opportunity (EEO) Discrimination Complaint Process (including who to contact to file a complaint), the Whistleblower Protection Act, and freedom from reprisal, which covers the elements of a reprisal claim, elements of proof for whistleblower reprisal, opposition to discriminatory practice, participation in the EEO process, and disciplinary actions.</p> <p>All Marines must complete annual EO training, conducted by an EO Representative, which covers retaliation and the complaint process for retaliation. During annual sexual harassment training, Marines are advised that their participation in the Military EO process constitutes protected communication making them eligible to file retaliation complaints with the IG (both recipient and witness).</p> <p>Retaliation-specific training for Sexual Assault Response Coordinators (SARCs) will be conducted by HQMC SAPR, and all-hands training for Victim Advocates (VAs)/Uniformed Victim Advocates (UVAs) will be conducted by SARCs. Further details of this training can be found in the response to Question 85 below. HQMC SAPR conducts leadership training designed to ensure that Marine Corps leaders understand the risks and circumstances associated with sexual assault incidents, including retaliation, and the proactive measures to prevent these and other destructive behaviors. Training is currently being enhanced to include more</p>

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	<p>information pertaining to retaliation prevention and detection, as well as policies and procedures for filing a complaint of retaliation.</p> <p>Judge Advocate Division, HQMC, provides training to counsel on retaliation against victims of sexual assault during legal community training and trial counsel assistance program training. Training on retaliation is also discussed with leaders at the commanders' course.</p>
USCG	<p>The Civil Rights Directorate is responsible for Equal Opportunity training, which includes training and preventing retaliation in any employment context, including following a report of sexual assault. The Sexual Assault Prevention and Response (SAPR) Program is responsible for mandatory annual training as well as other special event training materials, such as Sexual Assault Awareness Month, and includes some discussion of retaliation in the training they provide. Sexual Assault Response Coordinators (SARC) receive training on retaliation during their initial Coast Guard SARC training, as well as during their ongoing advanced trainings.</p>