

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 6**

104: Services: Describe how the policy is implemented with interaction between the report of the alleged offense, the SARC, the MCIO, legal office, lower level commanders, and the initial disposition authority.

USA	<p>SARCs, the MCIO, Judge Advocates, and commanders of all levels are trained on the withhold policy. Judge Advocates are responsible for ensuring compliance with the policy.</p>
USAF	<p>Effective 28 June 2012, the Secretary of Defense withheld initial disposition authority from all commanders within the Department of Defense (DoD) who do not possess at least special court-martial convening authority (SPCMCA) and who are not in the grade of O-6 or higher, with respect to the following alleged offenses: rape, in violation of Article 120, Uniform Code of Military Justice (UCMJ); sexual assault, in violation of Article 120; forcible sodomy, in violation of Article 125; and attempts to commit those offenses, in violation of Article 80. The withholding of initial disposition authority applies to all other alleged offenses arising from or relating to the same incident(s), whether committed by the accused or the victim. For those offenses for which initial disposition authority is withheld, the subordinate commander forwards the case file, along with a written recommendation, to the initial disposition authority.</p> <p>The Air Force Office of Special Investigations (AFOSI) is the Military Criminal Investigative Organization (MCIO) that handles all allegations of sexual assault. When an unrestricted report of sexual assault is made, the Sexual Assault Response Coordinator (SARC) or other agency/person receiving the report contacts AFOSI, who in turn opens an investigation. The SARC, AFOSI, or both contact the supporting installation legal office. Depending on the specifics of the allegation, the SARC, legal office, or both may contact unit-level commanders to coordinate any appropriate, immediate actions involving the subject or alleged victim. During the course of the investigation, AFOSI coordinates closely with the legal office. The Special Victim Investigation and Prosecution Capability (SVIP) team composed of specially trained AFOSI agents, prosecutors, paralegals, and Victim Witness Assistance Program (VWAP) liaisons collaborate beginning with investigation and continuing through prosecution. If the alleged victim is willing, the SARC may designate a Victim Advocate (VA) to assist the victim. If the victim requests, the SARC contacts the supporting Special Victims' Counsel (SVC) office for appointment of an SVC for the victim.</p> <p>If the victim is an Airman (active or reserve component), adult dependent, DoD civilian employee or their adult dependent stationed outside of the continental United States (OCONUS), or DoD contractor personnel/U.S. citizen accompanying the Armed Forces in a contingency operation outside the continental United States, a case management group (CMG) is convened. The CMG addresses emotional, physical, and spiritual care of a victim in a collaborative environment with the collective goal of supporting the victim's well-being. The CMG convenes monthly to review each case, direct system coordination, and assess victim access to services and tracks the case until final disposition. The installation commander or vice commander co-chairs the CMG with the installation SARC. In attendance are representatives from Mental Health, the chaplain, and the legal office along with all full-time VAs and the victim's commander.</p>

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	<p>Once the AFOSI investigation is complete and the report of investigation is released to the subject's commander, the initial disposition process begins. For all investigations that involve allegations of rape, in violation of Article 120, Uniform Code of Military Justice (UCMJ); sexual assault, in violation of Article 120; forcible sodomy, in violation of Article 125; and attempts to commit those offenses, in violation of Article 80, the subject's immediate commander forwards the case file, along with a written recommendation, to the initial disposition authority for the initial disposition decision (Rule for Courts-Martial (R.C.M.) 306; Air Force Instruction (AFI) 51-201, para 4.13). At a minimum, the SPCMCA considers the following: matters transmitted; court-martial charges, if any; any independent review and recommendation; and consultation with the servicing Staff Judge Advocate (SJA). Effective 17 June 2013, the Secretary of the Air Force requires the SPCMCA to provide the general court-martial convening authority (GCMCA) in the grade of O-7 or above written notice of the initial disposition decision within 30 days of the date of the initial disposition decision. When initial disposition is complete, the GCMCA signs a written report of command action (RCA) required for covered offenses. The RCA is forwarded to and maintained by AFOSI. In addition, the RCA is forwarded to the CMG. The victim's commander receives the RCA through the CMG and communicates the information to the victim within two duty days. The CMG also ensures the RCA is forwarded to the SARC, who enters the information in the Defense Sexual Assault Incident Database (DSAID).</p>
<p>USN</p>	<p>A victim or witness may report a sexual assault to a Sexual Assault Response Coordinator (SARC), Victim Advocate (VA), Victim Legal Counsel (VLC), military leader, law enforcement, chaplain, or health care professional. If the report is unrestricted, the victim's and subject's command is notified. The victim or the subject's commander, depending on whether the victim is a military member or a civilian, then sends a situational report to the first flag officer in the commander's chain of command within 24 hours. Additionally, the Naval Criminal Investigative Service (NCIS) is immediately notified of the report so they may conduct a full investigation.</p> <p>NCIS coordinates with Navy Region Legal Service Office trial counsel throughout their investigation. When the investigation is complete, NCIS hands the case over to the Navy trial counsel who then reviews the case and makes a recommendation to the initial disposition authority (IDA).</p> <p>The IDA makes the initial determination of whether charges should be preferred. Should the case involve a penetration offense, the IDA must be at least an O-6 commander with special court-martial convening authority. In addition to consultation with the prosecutor, the IDA will have the advice of an independent staff judge advocate. The IDA makes the initial decision whether to prefer charges, forward the case to a higher authority, or determine that there is insufficient evidence to proceed to a court-martial. Lower level commanders are informed of the IDA's decision, but must leave the initial disposition up to the IDA.</p> <p>If the IDA prefers charges, the case is forwarded to the appropriate convening authority to make a referral decision, including whether an Article 32 preliminary hearing should be held. In the event the IDA determines there is</p>

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	<p>insufficient evidence to proceed to court-martial, the Navy prosecutor may request that this decision be reviewed by the Chief Prosecutor of the Navy who may forward the case to the Secretary of the Navy for review.</p> <p>The victim is apprised of his or her rights by NCIS and the Navy prosecutor; is kept informed regarding case decisions; and has the opportunity to confer with the prosecutor and IDA regarding the victims' preferences for prosecution and venue.</p> <p>During the pendency of the case, NCIS, trial counsel, the victim's commander, SARC, VA, VLC, and other SVIP personnel participate in Sexual Assault Case Management Group meetings on a monthly basis in an advisory capacity to the other SVIP members on the progress of the investigation and prosecution.</p>
<p>USMC</p>	<p>Please see enclosure (4) for a flowchart summarizing how the withholding process is implemented. The discussion below provides additional information specific to the actions of SAPR and FAP personnel.</p> <p>SAPR. Specific to Marine Corps Order 1752.5B, the Sexual Assault Response Coordinator (SARC) is the conduit between the victim and the command. The SARC notifies the commander that a victim has elected an unrestricted report of sexual assault and the commander immediately notifies the Military Criminal Investigative Organization (MCIO). Victims are referred to Victims' Legal Counsel (VLC) at the onset of the meeting with SAPR personnel. Lower level commanders may be notified of aspects of the victim's case if they have a "need to know" at the discretion of the victim's immediate commander.</p> <p>FAP. Family Advocacy Program (FAP) at Marine Corps installations has a 24-hour helpline in place that is publicized for use by all victims of child abuse and domestic violence, to include intimate partner/intrafamilial sexual abuse. Upon receipt of an incident of intimate partner sexual abuse, the installation FAP Manager is notified by the on-call Victim Advocate (VA) or FAP Clinical Counselor of the incident. Within 24 hours, the FAP Manager ensures that the unit commander for the victim and/or offender is notified of the allegation for all unrestricted reports. For incidents of intimate partner sexual abuse where the victim elects a restricted reporting option, the FAP Manager provides incident information to the command; however, identifying information is not released. If the incident does not meet the FAP definition, the installation SARC is notified and a warm handoff is completed. FAP VAs provide 24-hour response to reports of intimate partner sexual abuse. FAP VAs ensure victims understand that the communication and receipt of services are voluntary; inform victims of the restricted and unrestricted reporting option; ensure victims complete a written election of reporting option; respond to all calls received from victims within 15 minutes; and assess presenting situations for imminent danger of life-threatening physical harm. If the situation is assessed by the FAP VA as presenting imminent danger, FAP VAs notify command and law enforcement.</p> <p>ENCLOSURE:</p> <p>Withholding Policy Implementation Flowchart</p>

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USCG

When there is a report of an adult sexual assault, the SARC, MCIO, and lower-level commanders work closely with the servicing legal offices. The SARC, MCIO, and lower-level commanders, as well as judge advocates have been trained in the withholding of initial disposition authority.

If the Command is not an IDA per ALCOAST 308/12, they will forward the case to the IDA via memo. After completion of the CGIS investigation, legal will review the Report of Investigation and draft a prosecution/non-prosecution memo for the SJA's review. The SJA will then brief the IDA and provide a recommendation. The IDA will then make their disposition determination.

Because in the Coast Guard, the legal advisors for lower-level commanders and the staff judge advocates for general court-martial convening authorities are frequently co-located, this facilitates correct disposition of cases.