(2) The indemnification agreement will not extend to any act or omission prior to the transmittal of the criminal history record information to the Federal agency.

(3) The indemnification agreement will not extend to any negligent acts on the part of the State or locality in compiling, transcribing or failing to delete or purge any of the information transmitted.

(c) *Consent and access requirements:* (1) The Federal agency when requesting criminal history record information from the State or locality for the release of such information will attest that it has obtained the written consent of the individual under investigation after advising him or her of the purposes for which that information is intended to be used.

(2) The Federal agency will attest that it has advised that individual of the right to access that information.

(d) *Purpose requirements:* The Federal agency will use the criminal history record information only for the purposes stated in §910.101(a).

(e) *Notice, litigation and settlement procedures:* (1) The State or locality must give notice of any claim against it on or before the 10th day after the day on which claim against it is received, or it has notice of such a claim.

(2) The notice must be given to the Attorney General and to the U.S. Attorney of the district embracing the place wherein the claim is made.

(3) The Attorney General shall make all determinations regarding the settlement or defense of such claims.

APPENDIX TO PART 99—ADDRESSES OF RELEVANT U.S. GOVERNMENT AGENCIES

Department of Defense, Office of the General Counsel, Room 3E988, Washington, DC 20301–1600

Office of Personnel Management, Office of Federal Investigations, P.O. Box 886, Washington, DC 20044

Central Intelligence Agency, Attention: Office of General Counsel, Washington, DC 20505

PART 103—SEXUAL ASSAULT PREVENTION AND RESPONSE (SAPR) PROGRAM

Sec.

AUTHORITY: 10 U.S.C. 113, and Public Laws 106–65, 108–375, 109–163, 109–364, 110–417, 111–84, 111–383, 112–81, 112–239, 113–291, 113–66,113–291, and 114–92.

SOURCE: 85 FR 42710, July 15, 2020, unless otherwise noted.

§103.1 Purpose.

This part is the Department of Defense's comprehensive SAPR program that provides policy guidance and assigns responsibilities for the prevention, response, and oversight of sexual assaults involving members of the U.S. Armed Forces and Reserve Component, to include the National Guard. The SAPR Program is supported by the policies identified in Appendix A to this part.

§103.2 Applicability.

(a) This part applies to:

(1) The Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Inspector General of the DoD (IG DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereafter referred to collectively as the ''DoD Components'').

(2) National Guard and Reserve Component members who are sexually assaulted when performing active service, as defined in 10 U.S.C. 101(d)(3), and inactive duty training. Refer to paragraph (c) of Appendix A to this part for information on how to access DoD internal policy containing additional SAPR and healthcare services provided to such personnel and eligibility criteria for Restricted Reporting.

(3) Military dependents 18 years of age and older who are eligible for treatment in the military healthcare system, at installations in the continental United States and outside of the continental United States (OCONUS), and

who were victims of sexual assault perpetrated by someone other than a spouse or intimate partner. An adult military dependent may file unrestricted or restricted reports of sexual assault.

(4) The following non-military personnel who are only eligible for limited healthcare (medical and mental health) services in the form of emergency care (see §103.3), unless otherwise eligible to receive treatment in a military medical treatment facility. They will also be offered the limited SAPR services of a Sexual Assault Response Coordinator (SARC) and a SAPR Victim Advocate (VA) while undergoing emergency care OCONUS. For further information see paragraph (c) of Appendix A to this part. These limited healthcare and SAPR services shall be provided to:

(i) DoD civilian employees and their family dependents 18 years of age and older when they are stationed or performing duties OCONUS and eligible for treatment in the military healthcare system at military installations or facilities OCONUS. For further information see paragraph (c) of Appendix A to this part.

(ii) U.S. citizen DoD contractor personnel when they are authorized to accompany the Armed Forces in a contingency operation OCONUS and their U.S. citizen employees (See 32 CFR part 158 and paragraph (c) of Appendix A to this part).

(5) Service members who are on active duty but were victims of sexual assault prior to enlistment or commissioning. They are eligible to receive full SAPR services and either reporting option.

(b) This part does not apply to victims of sexual assault perpetrated by a spouse or intimate partner, or military dependents under the age of 18 who are sexually assaulted. For further information see paragraph (e) of Appendix A to this part.

(c) This part supersedes all policy and regulatory guidance within the DoD not expressly mandated by law that is inconsistent with its provisions, or that would preclude execution.

§ 103.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this part.

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

Case management group (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 system coordination, program 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.

Certification. Refers to the process by which the Department credentials SARCs 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.

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 communication. Oral, written, or electronic communications of personally identifiable information (PII) concerning a sexual assault victim and the sexual assault incident provided by the victim to the SARC, SAPR VA, or healthcare personnel in a Restricted Report. This confidential

communication includes the victim's SAFE Kit and its information. See *https://www.archives.gov/cui*.

Consent. A freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent. A sleeping, unconscious, or incompetent person cannot consent.

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. Emergency nonclinical care aimed at assisting victims in alleviating potential negative consequences by providing safety assessments and connecting victims to needed resources. Either the SARC or SAPR VA will intervene as quickly as possible to assess the victim's safety and determine the needs of victims and connect them to appropriate referrals, as needed.

Culturally competent care. Care that provides culturally and linguistically appropriate services.

Defense Sexual Assault Incident Database (DSAID). A DoD database that captures uniform data provided by the Military Services and maintains all sexual assault data collected by the Military Services. This database shall be a centralized, case-level database for the uniform collection of data regarding incidence of sexual assaults involving persons covered by this part. DSAID will include information when available, or when not limited by Restricted Reporting, or otherwise prohibited by law, about the nature of the assault, the victim, the offender, and the disposition of reports associated with the assault. DSAID shall be available to the SAPRO and the DoD to develop and implement congressional reporting requirements. Unless authorized by law, or needed for internal DoD review or analysis, disclosure of data stored in DSAID will only be granted when disclosure is ordered by a military, Federal, or State judge or other officials or entities as required by law or applicable U.S. international agreement.

Designated activity. The agency that processes PCS or PCA for Expedited Transfers.

(1) *Air Force:* Air Force Personnel Center.

(2) *Army:* Human Resources Command for inter-installation transfers and the installation personnel center for intra-installation transfers.

(3) *Navy:* Bureau of Naval Personnel.

(4) *U.S. Marine Corps:* The order writing section of Headquarters Marine Corps.

(5) *Air and Army National Guard:* The NGB or the Joint Forces Headquarters-State for the State involved.

Emergency. A situation that requires immediate intervention to prevent the loss of life, limb, sight, or body tissue to prevent undue suffering. Regardless of appearance, a sexual assault victim needs immediate medical intervention to prevent loss of life or undue suffering resulting from internal or external physical injuries, sexually transmitted infections, pregnancy, or psychological distress. Sexual assault victims shall be given priority as emergency cases regardless of evidence of physical injury.

Emergency care. Emergency medical care includes physical and emergency psychological medical services and a SAFE consistent with the most current version of U.S. Department of Justice, Office on Violence Against Women, ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents.''

Executive agent. The Head of a DoD Component to whom the Secretary of Defense or the Deputy Secretary of Defense has assigned specific responsibilities, functions, and authorities to provide defined levels of support for operational missions, or administrative or

other designated activities that involve two or more of the DoD Components.

FAP. A DoD program designated to address child abuse and domestic abuse in military families in cooperation with civilian social service agencies and military and civilian law enforcement agencies. Prevention, advocacy, and intervention services are provided to individuals who are eligible for treatment in military medical treatment facilities.

Final disposition. Actions taken to resolve the reported incident, document case outcome, and address the misconduct by the alleged perpetrator, as appropriate. It includes, but is not limited to, military justice proceedings, nonjudicial punishment, or administrative actions, including separation actions taken in response to the offense, whichever is the most serious action taken.

Gender-responsive care. Care that acknowledges and is sensitive to gender differences and gender-specific issues.

Healthcare. Medical (physical) and mental healthcare.

Healthcare personnel. Persons assisting or otherwise supporting healthcare providers in providing healthcare services (*e.g.*, administrative personnel assigned to a military MTF). Includes all healthcare providers.

Healthcare provider. Those individuals who are employed or assigned as healthcare professionals or are credentialed to provide healthcare services at an MTF, or who provide such care at a deployed location or otherwise in an official capacity. This also includes military personnel, DoD civilian employees, and DoD contractors who provide healthcare at an occupational health clinic for DoD civilian employees or DoD contractor personnel. Healthcare providers may include, but are not limited to:

(1) Licensed physicians practicing in the MHS with clinical privileges in obstetrics and gynecology, emergency medicine, family practice, internal medicine, pediatrics, urology, general medical officer, undersea medical officer, flight surgeon, psychiatrists, or those having clinical privileges to perform pelvic examinations or treat mental health conditions.

(2) Licensed advanced practice registered nurses practicing in the MHS with clinical privileges in adult health, family health, midwifery, women's health, mental health, or those having clinical privileges to perform pelvic examinations.

(3) Licensed physician assistants practicing in the MHS with clinical privileges in adult, family, women's health, or those having clinical privileges to perform pelvic examinations.

(4) Licensed registered nurses practicing in the MHS who meet the requirements for performing a SAFE as determined by the local privileging authority. This additional capability shall be noted as a competency, not as a credential or privilege.

(5) A psychologist, social worker, or psychotherapist licensed and privileged to provide mental health care or other counseling services in a DoD or DoD-sponsored facility.

Hospital facilities (Level 3). Minimum operational functions required for a Level 3 hospital include: Command, control, and communications; patient administration; nutritional care; supply and services; triage; emergency medical treatment; preoperative care; orthopedics; general surgery; operating rooms and central materiel and supply services; anesthesia; nursing services (to include intensive and intermediate care wards); pharmacy; clinical laboratory and blood banking; radiology services; and hospital ministry team services.

Installation. A base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility. It does not include any facility used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction or control of the Department of Defense. For additional information see paragraph (ii) of Appendix A to this part.

Installation commander. Commander of a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility. It does not include any facility used primarily for

civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction or control of the Department of Defense.

Intimate partner. A person with whom the victim shares a child in common or with whom the victim shares or has shared a common domicile. For additional information see paragraph (e) of Appendix A to this part.

Law enforcement. Includes all DoD law enforcement units, security forces, and MCIOs.

MCIOs. The U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, and Air Force Office of Special Investigations.

Medical care. Includes physical and psychological medical services.

Military OneSource. A DoD-funded program providing comprehensive information on every aspect of military life at no cost to active duty, National Guard, and Reserve members, and their families. Military OneSource has a mandatory reporting requirement.

Military Services. The term, as used in the SAPR Program, includes Army, Air Force, Navy, Marines, Reserve Components, and their respective Military Academies.

Non-identifiable personal information. Non-identifiable personal information includes those facts and circumstances surrounding the sexual assault incident or that information about the individual that enables the identity of the individual to remain anonymous. In contrast, personal identifying information is information belonging to the victim and alleged assailant of a sexual assault that would disclose or have a tendency to disclose the person's identity.

Non-participating victim. Victim choosing not to participate in the military justice system.

Official investigative process. The formal process a law enforcement organization uses to gather evidence and examine the circumstances surrounding a report of sexual assault.

Open with limited information. Entry in DSAID to be used in the following situations: Victim refused or declined services, victim opt-out of participating in investigative process, third-party reports, local jurisdiction refused to provide victim information, or civilian victim with military subject.

Personal Identifiable Information. Includes the person's name, other particularly identifying descriptions (*e.g.*, physical characteristics or identity by position, rank, or organization), or other information about the person or the facts and circumstances involved that could reasonably be understood to identify the person (*e.g.*, a female in a particular squadron or barracks when there is only one female assigned).

Qualifying conviction. A State or Federal conviction, or a finding of guilty in a juvenile adjudication, for a felony crime of sexual assault and any general or special court-martial conviction for a UCMJ offense, which otherwise meets the elements of a crime of sexual assault, even though not classified as a felony or misdemeanor within the UCMJ. In addition, any offense that requires registration as a sex offender is a qualifying conviction.

Re-victimization. A pattern wherein the victim of abuse or crime has a statistically higher tendency to be victimized again, either shortly thereafter or much later in adulthood in the case of abuse as a child. This latter pattern is particularly notable in cases of sexual abuse.

Recovery-oriented care. Focus on the victim and on doing what is necessary and appropriate to support victim recovery, and also, if a Service member, to support that Service member to be fully mission capable and engaged.

Respond, response, or response capability. All locations, including deployed areas, have a 24 hour, 7 days per week, sexual assault response capability. The SARC shall be notified, respond, or direct a SAPR VA to respond, assign a SAPR VA, and offer the victim healthcare treatment and a SAFE. In geographic locations where there is no SARC onsite, the on-call SAPR VA shall respond, offer the victim healthcare treatment and a SAFE, and immediately notify the SARC of the sexual assault. The initial response is generally composed of personnel in the following disciplines or positions: SARCs, SAPR VAs, healthcare personnel, law enforcement, and MCIOs. Other responders are judge advocates,

chaplains, and commanders. When victims geographically detached from a military installation, the SARC or SAPR VA will refer to local civilian providers or the DoD Safe Helpline for resources.

Responders. Includes first responders, who are generally composed of personnel in the following disciplines or positions: SARCs, SAPR VAs, healthcare personnel, law enforcement, and MCIOs. Other responders are judge advocates, chaplains, and commanders, but they are usually not first responders.

Restricted Reporting. Reporting option that allows sexual assault victims to confidentially disclose the assault to specified individuals (*i.e.,* SARC, SAPR VA, or healthcare personnel), and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an investigation. The victim's report provided to healthcare personnel (including the information acquired from a SAFE Kit), SARCs, or SAPR VAs will NOT be reported to law enforcement or to the command to initiate the official investigative process unless the victim consents or an established exception applies. The Restricted Reporting Program applies to Service members and their military dependents 18 years of age and older. Additional persons who may be entitled to Restricted Reporting are NG and Reserve members. DoD civilians and contractors are only eligible to file an Unrestricted Report. Only a SARC, SAPR VA, or healthcare personnel may receive a Restricted Report, previously referred to as Confidential Reporting.

Safe Helpline. A crisis support service for members of the DoD community affected by sexual assault. The DoD Safe Helpline is available 24/7 worldwide with ''click, call, or text'' user options for anonymous and confidential support; can be accessed by logging on to *www.safehelpline.org* or by calling 1–877–995–5247, and through the Safe Helpline mobile application; is to be utilized as the sole DoD hotline. However, the local base and installation SARC or SAPR VA contact information is not replaced.

SAFE Kit. The medical and forensic examination of a sexual assault victim under circumstances and controlled procedures to ensure the physical examination process and the collection, handling, analysis, testing, and safekeeping of any bodily specimens and evidence meet the requirements necessary for use as evidence in criminal proceedings. The victim's SAFE Kit is treated as a confidential communication when conducted as part of a Restricted Report.

Safety assessment. A set of guidelines and considerations post-sexual assault that the responsible personnel designated by the Installation Commander can follow to determine if a sexual assault survivor is likely to be in imminent danger of physical or psychological harm as a result of being victimized by or reporting sexual assault(s). The guidelines and considerations consist of a sequence of questions, decisions, referrals, and actions that responders can enact to contribute to the safety of survivors during the first 72 hours after a report, and during other events that can increase the lethality risk for survivors (*e.g.*, arrests or command actions against the alleged perpetrators). Types of imminent danger may include non-lethal, lethal, or potentially lethal behaviors; the potential harm caused by the alleged perpetrator, family/friend(s)/acquaintance(s) of the alleged perpetrator, or the survivors themselves (*e.g.*, harboring self-harm or suicidal thoughts). The safety assessment includes questions about multiple environments, to include home and the workplace. Survivors are assessed for their perception or experience of potential danger from their leadership or peers via reprisal or ostracism. The safety assessment contains a safety plan component that survivors can complete and take with them to help improve coping, social support, and resource access during their recovery period.

SAPR Integrated Product Team (IPT). A team of individuals that advises the USD(P&R) and the Secretary of Defense on policies for sexual assault issues. The SAPR IPT serves as the implementation and oversight arm of the SAPR Program. It coordinates policy

and reviews the DoD's SAPR policies and programs and monitors the progress of program elements. For additional information see paragraph (c) of Appendix A to this part.

SAPR Program. A DoD program for the Military Departments and the DoD Components that establishes SAPR policies to be implemented worldwide. The program objective is an environment and military community intolerant of sexual assault.

SAPR VA. A person who, as a victim advocate, shall provide non-clinical crisis intervention, referral, and ongoing non-clinical support to adult sexual assault victims. Support will include providing information on available options and resources to victims. The SAPR VA, on behalf of the sexual assault victim, provides liaison assistance with other organizations and agencies on victim care matters and reports directly to the SARC when performing victim advocacy duties. Personnel who are interested in serving as a SAPR VA are encouraged to volunteer for this duty assignment.

SAPRO. Serves as the DoD's single point of authority, accountability, and oversight for the SAPR program, except for legal processes and criminal investigative matters that are the responsibility of the Judge Advocates General of the Military Departments and the IG, respectively.

SARC. The single point of contact at an installation or within a geographic area who oversees sexual assault awareness, prevention, and response training; coordinates medical treatment, including emergency care, for victims of sexual assault; and tracks the services provided to a victim of sexual assault from the initial report through final disposition and resolution.

Secondary victimization. The re-traumatization of the sexual assault, abuse, or rape victim. It is an indirect result of assault that occurs through the responses of individuals and institutions to the victim. The types of secondary victimization include victim blaming, inappropriate behavior or language by medical personnel and by other organizations with access to the victim post assault.

Senior commander. An officer, usually in the grade of O–6 or higher, who is the commander of a military installation or comparable unit and has been designated by the Military Service concerned to oversee the SAPR Program.

Service member. An active duty member of a Military Service. In addition, National Guard and Reserve Component members who are sexually assaulted when performing active service, as defined in 10 U.S.C. 101(d)(3), and inactive duty training.

Sexual assault. Intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following specific UCMJ offenses: Rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these acts.

SVC. Attorneys who are assigned to provide legal services in accordance with section 1716 of Public Law 113–66 and Service regulations. The Air Force, Army, National Guard, and Coast Guard refer to these attorneys as SVC. The Navy and Marine Corps refer to these attorneys as VLC.

SVIP capability. A distinct, recognizable group of appropriately skilled professionals, including MCIO investigators, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel, who work collaboratively to:

(1) Investigate and prosecute allegations of child abuse (involving sexual assault or aggravated assault with grievous bodily harm), domestic violence (involving sexual assault or aggravated assault with grievous bodily harm), and adult sexual assault (not involving domestic offenses)

(2) Provide support for the victims of such offenses. For additional information see paragraph (bb) of Appendix A to this part.

Trauma informed care. An approach to engage people with histories of trauma that recognizes the presence of trauma symptoms and acknowledges the role that trauma has played in their lives. Trauma-informed services are based on an understanding of the vulnerabilities

or triggers of trauma survivors that traditional service delivery approaches may exacerbate, so that these services and programs can be more supportive and avoid re-traumatization.

Victim. A person who asserts direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault. The term encompasses all persons 18 and over eligible to receive treatment in military medical treatment facilities.

VLC. Attorneys who are assigned to provide legal services in accordance with section 1716 of Public Law 113–66, ''The National Defense Authorization Act for Fiscal Year 2014,'' and Service regulations. The Air Force, Army, National Guard, and Coast Guard refer to these attorneys as SVC. The Navy and Marine Corps refer to these attorneys as VLC.

VWAP. Provides guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement. Particular attention is paid to victims of serious and violent crime, including child abuse, domestic violence, and sexual misconduct. For additional information see paragraph (aa) of Appendix A to this part.

§ 103.4 Policy.

(a) This part implements the DoD SAPR policy and the DoD SAPR Program Unrestricted and Restricted Reporting options are available to Service members and their adult military dependents. For further information see paragraph (c) of Appendix A to this part.

(b) The DoD SAPR Program focuses on prevention, education and training, response capability (defined in §103.3), victim support, reporting procedures, and appropriate accountability.

(c) While a sexual assault victim may disclose information to whomever he or she chooses, an official report is made only when a DD Form 2910 is signed and filed with a SARC or SAPR VA, or when a Military Criminal Investigative Organization (MCIO) investigator initiates an investigation.

(d) For Restricted and Unrestricted Reporting purposes, a report can be made to healthcare personnel, but healthcare personnel then immediately contact the SARC or SAPR VA to fill out the DD Form 2910.

(e) State laws or regulations that require disclosure of PII of the adult sexual assault victim or alleged perpetrator to local or State law enforcement shall not apply, except when reporting is necessary to prevent or mitigate a serious and imminent threat to the health or safety of an individual.

(f) Unless a DD Form 2910 is filed with a SARC, a report to a Chaplain or military attorney may not result in the rendering of SAPR services or investigative action because of the privileges associated with speaking to these individuals. A Chaplain or military attorney should advise the victim to consult with a SARC to understand the full scope of services available or facilitate, with the victim's consent, contact with a SARC.

(g) The SAPR Program shall:

(1) Focus on the victim and on doing what is necessary and appropriate to support victim recovery, and also, if a Service member, to support that Service member to be fully mission capable and engaged. The SAPR Program shall provide care that is gender-responsive, culturally competent, and recovery-oriented. For further information see paragraph (c) of Appendix A to this part.

(2) Not provide policy for legal processes within the responsibility of the Judge Advocates General of the Military Departments provided in 10 U.S.C. chapter 47 and the Manual for Courts-Martial or for criminal investigative matters assigned to the IG DoD.

(h) Standardized SAPR requirements, terminology, guidelines, protocols, and guidelines for instructional materials shall focus on awareness, prevention, and response at all levels as appropriate.

(i) The terms ''Sexual Assault Response Coordinator (SARC)'' and ''SAPR Victim Advocate (VA),'' as defined in §103.3, shall be used as standard terms throughout the DoD to facilitate communications and transparency regarding SAPR capacity. For further information regarding SARC and SAPR VA roles and responsibilities, see paragraph (c) of Appendix A to this part.

(1) *SARC*. The SARC shall serve as the single point of contact for coordinating appropriate and responsive care for sexual assault victims. SARCs shall coordinate sexual assault victim care and sexual assault response when a sexual assault is reported. The SARC shall supervise SAPR VAs but may be called on to perform victim advocacy duties.

(2) *SAPR VA*. The SAPR VA shall provide non-clinical crisis intervention and on-going support, in addition to referrals for adult sexual assault victims. Support will include providing information on available options and resources to victims.

(j) An immediate, trained sexual assault response capability shall be available for each report of sexual assault in all locations, including in deployed locations. The response time may be affected by operational necessities but will reflect that sexual assault victims shall be treated as emergency cases. For further information see paragraph (c) of Appendix A to this part.

(k) Victims of sexual assault shall be protected from coercion, retaliation, and reprisal. For additional information see paragraph (g) of Appendix A to this part.

(l) Victims of sexual assault shall be protected, treated with dignity and respect, and shall receive timely access to comprehensive healthcare (medical and mental health) treatment, including emergency care treatment and services. For additional information see paragraph (c) of Appendix A to this part.

(m) Emergency care for victims of sexual assault shall consist of emergency healthcare and the offer of a sexual assault forensic examination (SAFE). For additional information see paragraph (h) of Appendix A to this part.

(1) Sexual assault patients shall be given priority and shall be treated as emergency cases. A sexual assault victim needs immediate medical intervention to prevent loss of life or suffering resulting from physical injuries (internal or external), sexually transmitted infections, pregnancy, and psychological distress. Individuals disclosing a recent sexual assault shall, with their consent, be quickly transported to the exam site, promptly evaluated, treated for serious injuries, and then, with the patient's consent, undergo a SAFE. For additional information see paragraph (ff) of Appendix A to this part.

(2) Sexual assault patients shall be treated as emergency cases, regardless of whether physical injuries are evident. Patients' needs shall be assessed for immediate medical or mental health intervention. Sexual assault victims shall be treated uniformly regardless of their behavior because when severely traumatized, sexual assault patients may appear to be calm, indifferent, submissive, jocular, angry, emotionally distraught, or even uncooperative or hostile towards those who are trying to help. For additional information see paragraph (h) of Appendix A to this part.

(n) There will be a safety assessment capability for the purposes of ensuring the victim, and possibly other persons, are not in physical jeopardy. A safety assessment will be available to all Service members, adult military dependents, and civilians who are eligible for SAPR services, even if the victim is not physically located on the installation. The installation commander or the deputy installation commander will identify installation personnel who have been trained and are able to perform a safety assessment of each sexual assault victim, regardless of whether he or she filed a Restricted or Unrestricted Report. Individuals tasked to conduct safety assessments must occupy positions that do not compromise the victim's reporting options. The safety assessment will be conducted as soon as possible, understanding that any delay may impact the safety of the victim.

(o) Service members and their dependents who are 18 years of age or older covered by this part who are sexually assaulted have two reporting options: Unrestricted or Restricted Reporting. Unrestricted Reporting of sexual assault is favored by the DoD. For additional information see paragraph

(c) of Appendix A to this part. Protections are taken with PII solicited, collected, maintained, accessed, used, disclosed, and disposed during the treatment and reporting processes. For additional information see paragraph (j) of Appendix A to this part. The two reporting options are as follows:

(1) Unrestricted Reporting allows an eligible person who is sexually assaulted to access healthcare and counseling and request an official investigation of the allegation using existing reporting channels (*e.g.*, chain of command, law enforcement, healthcare personnel, the SARC). When a sexual assault is reported through Unrestricted Reporting, a SARC shall be notified as soon as possible, respond, assign a SAPR VA, and offer the victim healthcare and a SAFE.

(2) Restricted Reporting allows sexual assault victims to confidentially disclose the assault to specified individuals (*i.e.*, SARC, SAPR VA, or healthcare personnel), in accordance with this part, and receive healthcare treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an official investigation. The victim's report to healthcare personnel (including the information acquired from a SAFE Kit), SARCs, or SAPR VAs will not be reported to law enforcement or to the victim's command, to initiate the official investigative process, unless the victim consents or an established exception exists in State laws or federal regulations. When a sexual assault is reported through Restricted Reporting, a SARC shall be notified as soon as possible, respond, assign a SAPR VA, and offer the victim healthcare and a SAFE. For additional information see paragraph (c) of Appendix A to this part).

(i) *Eligibility for Restricted Reporting*. The Restricted Reporting option applies to Service members and their military dependents 18 years of age and older. For additional information, see paragraph (c) of Appendix A to this part.

(ii) *DoD dual objectives*. The DoD is committed to ensuring victims of sexual assault are protected; treated with dignity and respect; and provided support, advocacy, and care. The DoD also strongly supports applicable law enforcement and criminal justice procedures that enable persons to be held accountable for sexual assault offenses and criminal dispositions, as appropriate. To achieve these dual objectives, DoD preference is for Unrestricted Reporting of sexual assaults to allow for the provision of victims' services and to pursue accountability. However, Unrestricted Reporting may represent a barrier for victims to access services, when the victim desires no command or law enforcement involvement. Consequently, the DoD recognizes a fundamental need to provide a confidential disclosure vehicle via the Restricted Reporting option.

(iii) *Designated personnel authorized to accept a Restricted Report*. Only the SARC, SAPR VA, or healthcare personnel are designated as authorized to accept a Restricted Report.

(iv) *SAFE confidentiality under Restricted Reporting*. A SAFE and its information shall be afforded the same confidentiality as is afforded victim statements under the Restricted Reporting option. See paragraph (c) of Appendix A to this part for additional information.

(v) *Disclosure of confidential communications*. In cases where a victim elects Restricted Reporting, the SARC, assigned SAPR VA, and healthcare personnel may not disclose confidential communications or SAFE Kit information to law enforcement or command authorities, either within or outside the DoD. In certain situations when information about a sexual assault comes to the commander's or law enforcement official's attention from a source independent of the Restricted Reporting avenues and an independent investigation is initiated, a SARC, SAPR VA, or healthcare personnel may not disclose confidential communications if obtained under Restricted Reporting. Improper disclosure of confidential communications protected under Restricted Reporting, improper release of healthcare information, and other violations of this policy or other laws and regulations are prohibited and may result in discipline pursuant to the UCMJ, or other adverse personnel or administrative actions. See paragraph

(c) of Appendix A to this part for additional information.

(p) Eligible victims must be informed of the availability of legal assistance and the right to consult with an SVC/VLC in accordance with section 1716 of the NDAA for Fiscal Year (FY) 2014 (Pub. L. 113–66).

(q) Enlistment or commissioning of personnel in the Military Services shall be prohibited and no waivers are allowed when the person has a qualifying conviction (see §103.3) for a crime of sexual assault.

(r) The DoD shall provide support to an active duty Service member regardless of when or where the sexual assault took place.

(s) Information regarding Unrestricted Reports should only be released to personnel with an official need to know or as authorized by law. Improper disclosure of confidential communications under Unrestricted Reporting or improper release of medical information are prohibited and may result in disciplinary action pursuant to the UCMJ or other adverse personnel or administrative actions.

(t) The DoD will retain the DD Forms 2910, ''Victim Reporting Preference Statement,'' and 2911, ''DoD Sexual Assault Forensic Examination (SAFE) Report,'' for 50 years, regardless of whether the Service member filed a Restricted or Unrestricted Report as defined in this part. PII will be protected in accordance with 5 U.S.C. 552a, also known as the Privacy Act of 1974 (5 U.S.C. 552a) and 32 CFR part 310 and Public Law 104–191.

(u) For document retention and SAFE Kit retention for Unrestricted Reports:

(1) The SARC will enter the Unrestricted Report DD Form 2910 in the DSAID (see §103.3) as an electronic record within 48 hours of the report, where it will be retained for 50 years from the date the victim signed the DD Form 2910. The DD Form 2910 is located at the DoD Forms Management Program website at *https://www.esd.whs.mil/Directives/forms/*.

(2) The DD Form 2911 shall be retained in accordance with the Department's internal policies. For further information, see paragraph (n) of Appendix A to this part. The DD Form 2911 is located at the DoD Forms Management Program website at *https://www.esd.whs.mil/Directives/forms/*.

(3) If the victim had a SAFE, the SAFE Kit will be retained for 5 years in accordance with section 586 of Public Law 112–81, as amended by section 538 of Public Law 113–291. For further information see paragraph (n) of Appendix A to this part. When the forensic examination is conducted at a civilian facility through a memorandum of understanding (MOU) or a memorandum of agreement (MOA) with the DoD, the requirement for the handling of the forensic kit will be explicitly addressed in the MOU or MOA. The MOU or MOA with the civilian facility will address the processes for contacting the SARC and for contacting the appropriate DoD agency responsible for accepting custody of the SAFE.

(4) Personal property retained as evidence collected in association with a sexual assault investigation will be retained for a period of 5 years. Personal property may be returned to the rightful owner of such property after the conclusion of all legal, adverse action and administrative proceedings related to such incidents in accordance with section 586 of the NDAA for FY 2012, as amended by section 538 of Public Law 113–291 and DoD regulations.

(v) For document retention and SAFE Kit retention for Restricted Reports:

(1) The SARC will retain a copy of the Restricted Report DD Form 2910 for 50 years, consistent with DoD guidance for the storage of PII. The 50-year time frame for the DD Form 2910 will start from the date the victim signs the DD Form 2910. For Restricted Reports, forms will be retained in a manner that protects confidentiality.

(2) If the victim had a SAFE, the Restricted Report DD Form 2911 will be retained for 50 years, consistent with DoD guidance for the storage of PII. The 50-year time frame for the DD Form 2911 will start from the date the victim signs the DD Form 2910, but if there is no DD Form 2910, the timeframe will start from the date the SAFE Kit is completed. Restricted Report forms will be retained in a manner that protects confidentiality.

(3) If the victim had a SAFE, the SAFE Kit will be retained for 5 years in a location designated by the Military Service concerned. When the forensic examination is conducted at a civilian facility through an MOU or a MOA with the DoD, the requirement for the handling of the forensic kit will be explicitly addressed in the MOU or MOA. The MOU or MOA with the civilian facility will address the processes for contacting the SARC and for contacting the appropriate DoD agency responsible for accepting custody of the forensic kit. The 5-year time frame will start from the date the victim signs the DD Form 2910, but if there is no DD Form 2910, the timeframe will start from the date the SAFE Kit is completed.

(4) Personal property retained as evidence collected in association with a sexual assault investigation will be retained for a period of 5 years. In the event the report is converted to Unrestricted or an independent investigation is conducted, personal property may be returned to the rightful owner of such property after the conclusion of all legal, adverse action and administrative proceedings related to such incidents in accordance with section 586 of Public Law 112–81, as amended by section 538 of Public Law 113–291, and DoD regulations. However, victims who filed a Restricted Report may request the return of personal property obtained as part of the sexual assault forensic examination at any time in accordance with section 536 of Public Law 116–92, and DoD regulations.

§ 103.5 Responsibilities.

(a) In accordance with the authority in DoD policy (see paragraph (t) of Appendix A to this part), the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall:

(1) Develop overall policy and provide oversight for the DoD SAPR Program, except legal processes in the UCMJ and criminal investigative matters assigned to the Judge Advocates General of the Military Departments, the Staff Judge Advocate to the Commandant of the Marine Corps, and IG DoD, respectively.

(2) Develop strategic program guidance, joint planning objectives, standard terminology, and identify legislative changes needed to ensure the future availability of resources in support of DoD SAPR policies.

(3) Develop metrics to measure compliance and effectiveness of SAPR training, awareness, prevention, and response policies and programs. Analyze data and make recommendations regarding the SAPR policies and programs to the Secretaries of the Military Departments.

(4) Monitor compliance with this part and internal policy (see paragraph (c) of Appendix A to this part), and coordinate with the Secretaries of the Military Departments regarding Service SAPR policies.

(5) Collaborate with Federal and State agencies that address SAPR issues and serve as liaison to them as appropriate. Strengthen collaboration on sexual assault policy matters with U.S. Department of Veterans Affairs on the issues of providing high quality and accessible health care and benefits to victims of sexual assault.

(6) Oversee the DoD Sexual Assault Prevention and Response Office (SAPRO). Serving as the DoD single point of authority, accountability, and oversight for the SAPR program, SAPRO provides recommendations to the USD(P&R) on the issue of DoD sexual assault policy matters on prevention, response, and oversight. The SAPRO Director will be appointed from among general or flag officers of the Military Services or DoD employees in a comparable Senior Executive Service position in accordance with Public Law 112–81, ''National Defense Authorization Act for Fiscal Year 2012.'' The SAPRO Director is responsible for:

(i) Implementing and monitoring compliance with DoD sexual assault policy on prevention and response, except for legal processes in accordance with paragraph (kk) of Appendix A to this part and Public Law 114–92, ''National Defense Authorization Act for Fiscal Year 2016,'' and criminal investigative matters assigned to the Judge Advocates General of the Military Departments, the Staff Judge Advocate to the Commandant of the Marine Corps, and IG DoD, respectively.

(ii) Providing technical assistance to the Heads of the DoD Components in addressing matters concerning SAPR.

(iii) Acquiring quarterly and annual SAPR data from the Military Services, assembling annual congressional reports involving persons covered by this part and DoD Instruction 6495.02, and consulting with and relying on the Judge Advocates General of the Military Departments and the Staff Judge Advocate to the Commandant of the Marine Corps in questions concerning disposition results of sexual assault cases in their respective Departments.

(iv) Establishing reporting categories and monitoring specific goals included in the annual SAPR assessments of each Military Service, in their respective Departments.

(v) Overseeing the creation, implementation, maintenance, and function of the DSAID, an integrated database that will meet congressional reporting requirements, support Service SAPR Program management, and inform DoD SAPRO oversight activities.

(vi) Overseeing development of strategic program guidance and joint planning objectives for resources in support of the SAPR Program, and making recommendations on modifications to policy, law, and regulations needed to ensure the continuing availability of such resources (Pub. L. 113–66).

(b) The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the authority, direction, and control of the USD(P&R), shall advise the USD(P&R) on DoD sexual assault healthcare policies, clinical practice guidelines, related procedures, and standards governing DoD healthcare programs for victims of sexual assault. The ASD(HA) shall:

(1) Direct that all sexual assault patients be given priority, so that they shall be treated as emergency cases.

(2) Require standardized, timely, accessible, and comprehensive medical care at MTFs for eligible persons who are sexually assaulted.

(3) Require that medical care be consistent with established community standards for the healthcare of sexual assault victims and the collection of forensic evidence from victims. For further information see paragraphs (h) and (ff) of Appendix A to this part.

(4) Establish guidance for medical personnel that requires a SARC or SAPR VA to be called in for every incident of sexual assault for which treatment is sought at the MTFs, regardless of the reporting option.

(c) The Director of Department of Defense Human Resources Activity (DoDHRA), under the authority, direction, and control of USD(P&R), shall provide operational support to the USD(P&R) as outlined in paragraph (a)(6) of this section.

(d) The General Counsel of the DoD (GC DoD) shall provide legal advice and assistance on all legal matters, including the review and coordination of all proposed issuances and exceptions to policy and the review of all legislative proposals, affecting mission and responsibilities of the DoD SAPRO.

(e) The Inspector General of the Department of Defense (IG DoD) shall:

(1) Develop and oversee the promulgation of criminal investigative and law enforcement policy regarding sexual assault and establish guidelines for the collection and preservation of evidence with non-identifiable personal information on the victim, for the Restricted Reporting process, in coordination with the ASD(HA).

(2) Oversee criminal investigations of sexual assault conducted by the DoD Components.

(3) Collaborate with the DoD SAPRO in the development of investigative policy in support of sexual assault prevention and response.

(f) The Secretaries of the Military Departments shall:

(1) Establish departmental policies and procedures to implement the SAPR Program consistent with the provisions of this part to include the military academies within their cognizance; monitor departmental compliance with this part and DoD internal policy. For further information see paragraph (c) of Appendix A to this part.

(2) Coordinate all Military Service SAPR policy changes with the USD(P&R).

(3) In coordination with the USD(P&R), implement recommendations regarding Military Service compliance and effectiveness of SAPR training, awareness, prevention, and response policies and programs.

(4) Align Service SAPR strategic plans with the DoD SAPR Strategic Plan.

(5) Align Service prevention strategies with the DoD Sexual Assault Prevention Strategy.

(6) Utilize the terms ''Sexual Assault Response Coordinator (SARC)'' and ''SAPR Victim Advocate (VA),'' as defined in this part as standard terms to facilitate communications and transparency regarding sexual assault response capacity.

(7) Establish the position of the SARC to serve as the SINGLE POINT OF CONTACT for ensuring that sexual assault victims receive appropriate and responsive care. The SARC should be a Service member, DoD civilian employee, or National Guard technician.

(8) Direct that the SARC or a SAPR VA be immediately called in every incident of sexual assault on a military installation. There will be situations where a sexual assault victim receives medical care and a SAFE outside of a military installation through an MOU or MOA with a local private or public sector entity. In these cases, the MOU or MOA will require that a SARC be notified as part of the MOU or MOA.

(9) Sexual assault victims shall be offered the assistance of a SARC and/or SAPR VA who has been credentialed by the D–SAACP. For further information see paragraph (w) of Appendix A to this part.

(10) Establish and codify Service SAPR Program support to Combatant Commands and Defense Agencies, either as a host activity or in a deployed environment.

(11) Provide SAPR Program and obligation data to the USD(P&R), as required.

(12) Submit required data to DSAID. Require confirmation that a multi-disciplinary CMG tracks each open Unrestricted Report, is chaired by the installation commander (or the deputy installation commander), and that CMG meetings are held monthly for reviewing all Unrestricted Reports of sexual assaults. For further information see paragraph (c) of Appendix A to this part.

(13) Provide annual reports of sexual assaults involving persons covered by this part and DoD Instruction 6495.02 to the DoD SAPRO for consolidation into the annual report to Congress in accordance with section 577 of Public Law 108–375.

(14) Provide data connectivity, or other means, to authorized users to ensure all sexual assaults reported in theater and other joint environments are incorporated into the DSAID, or authorized interfacing systems for the documentation of reports of sexual assault, as required by section 563 of Public Law 110–417.

(15) Ensure that Service data systems used to report case-level sexual assault information into the DSAID are compliant with DoD data reporting requirements, pursuant to section 563 of Public Law 110–417.

(16) Require extensive, continuing in-depth SAPR training for DoD personnel and specialized SAPR training for commanders, senior enlisted leaders, SARCs, SAPR VAs, investigators, law enforcement officials, chaplains, healthcare personnel, and legal personnel. For further information see paragraph (c) of Appendix A to this part.

(17) Require the installation SARC and the installation FAP staff to coordinate together when a sexual assault occurs as a result of domestic abuse or domestic violence or involves child abuse to ensure the victim is directed to FAP.

(18) Oversee sexual assault training within the DoD law enforcement community.

(19) Direct that Service military criminal investigative organizations require their investigative units to communicate with their servicing SARC and participate with the multidisciplinary CMG. For further information see paragraph (c) of Appendix A to this part.

(20) Establish procedures to ensure that, in the case of a general or special court-martial the trial counsel causes each qualifying victim to be notified of the opportunity to receive a copy of the record of trial (not to include sealed materials, unless approved by the presiding military judge or appellate court, classified information, or other portions of the record the release of which would unlawfully violate the privacy interests of any party, and

without a requirement to include matters attached to the record under Rule for Courts-Martial (R.C.M.) 1103(b)(3) in U.S. Department of Defense, ''Manual for Courts-Martial, United States''). A qualifying alleged victim is an individual named in a specification alleging an offense under Articles 120, 120b, 120c, or 125 of the UCMJ (10 U.S.C. 920, 920b, 920c, or 925), or any attempt to commit such offense in violation of Article 80 of the UCMJ (10 U.S.C. 880), if the court-martial resulted in any finding to that specification. If the alleged victim elects to receive a copy of the record of proceedings, it shall be provided without charge and within a timeframe designated by regulations of the Military Department concerned. The victim shall be notified of the opportunity to receive the record of the proceedings in accordance with R.C.M. 1103(g)(3)(C) in U.S. Department of Defense, ''Manual for Courts-Martial, United States''.

(21) Require that a completed DD Form 2701, ''Initial Information for Victims and Witnesses of Crime,'' be distributed to the victim. (DD Form 2701 is located at the DoD Forms Management Program website at *https://www.esd.whs.mil/Directives/forms/* and in DoD Instruction 1030.2). For further information see paragraph (n) of Appendix A to this part.

(22) When drafting MOUs or MOAs with local civilian medical facilities to provide DoD-reimbursable healthcare (to include psychological care) and forensic examinations for Service members and TRICARE eligible sexual assault victims, require commanders to include the following provisions:

(i) Local private or public sector providers notify the SARC or SAPR VA.

(ii) Local private or public sector providers shall have processes and procedures in place to assess that local community standards meet or exceed those set forth in U.S. Department of Justice, Office on Violence Against Women, ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,'' current version as a condition of the MOUs or MOAs.

(23) Comply with collective bargaining obligations, if applicable.

(24) Provide SAPR training and education for civilian employees of the military departments in accordance with section 585 of Public Law 112–81.

(25) Require the SARCs and SAPR VAs to collaborate with designated Special Victim Investigation and Prosecution (SVIP) Capability personnel during all stages of the investigative and military justice process to ensure an integrated capability to the greatest extent possible. For further information see paragraphs (bb) and (cc) of Appendix A to this part.

§ 103.6 Reporting options and sexual assault reporting procedures.

(a) *Reporting options.* Service members and military dependents 18 years and older who have been sexually assaulted have two reporting options: Unrestricted or Restricted Reporting. Unrestricted Reporting of sexual assault is favored by the DoD. However, Unrestricted Reporting may represent a barrier for victims to access services, when the victim desires no command or DoD law enforcement involvement. Consequently, the DoD recognizes a fundamental need to provide a confidential disclosure vehicle via the Restricted Reporting option. Regardless of whether the victim elects Restricted or Unrestricted Reporting, DoD shall maintain confidentiality of medical information. For further information see paragraph (j) of Appendix A to this part. DoD civilian employees and their family dependents and DoD contractors are only eligible for Unrestricted Reporting and for limited emergency care medical services at an MTF, unless that individual is otherwise eligible as a Service member or TRICARE beneficiary of the military health system to receive treatment in an MTF at no cost to them in accordance with this part.

(1) *Unrestricted reporting.* This reporting option triggers an investigation, command notification, and allows a person who has been sexually assaulted to access healthcare treatment and the assignment of a SARC and a SAPR VA. When a sexual assault is reported through Unrestricted Reporting, a SARC shall be notified, respond or direct a SAPR VA to respond, offer the victim healthcare treatment and a

SAFE, and inform the victim of available resources. The SARC or SAPR VA will explain the contents of the DD Form 2910 and request that the victim elect a reporting option on the form. If the victim elects the Unrestricted Reporting option, a victim may not change from an Unrestricted to a Restricted Report. If the Unrestricted option is elected, the completed DD Form 2701, which sets out victims' rights and points of contact, shall be distributed to the victim in Unrestricted Reporting cases by DoD law enforcement agents. If a victim elects this reporting option, a victim may not change from an Unrestricted to a Restricted Report.

(2) *Restricted Reporting.* This reporting option does not trigger an investigation. The command is notified that ''an alleged sexual assault'' occurred but is not given the victim's name or other personally identifying information. Restricted Reporting allows Service members and military dependents who are adult sexual assault victims to confidentially disclose the assault to specified individuals (SARC, SAPR VA, or healthcare personnel) and receive healthcare treatment and the assignment of a SARC and SAPR VA. A sexual assault victim can report directly to a SARC, who will respond or direct a SAPR VA to respond, offer the victim healthcare treatment and a SAFE, and explain to the victim the resources available through the DD Form 2910, where the reporting option is elected. The Restricted Reporting option is only available to Service members and adult military dependents. Restricted Reporting may not be available in a jurisdiction that requires mandatory reporting if a victim first reports to a civilian facility or civilian authority, which will vary by state, territory, and overseas agreements. See paragraph (c) of Appendix A to this part for additional information. However, section 536 of the NDAA for FY 2016 preempts mandatory reporting laws, provided the victim first reports to an MTF, except when reporting is necessary to prevent or mitigate a serious and imminent threat to the health or safety of an individual, thereby preserving the Restricted Reporting option. If a victim elects this reporting option, a victim may convert a Restricted Report to an Unrestricted Report at any time. The conversion to an Unrestricted Report will be documented with a signature by the victim and the signature of the SARC or SAPR VA in the appropriate block on the DD Form 2910.

(i) Only the SARC, SAPR VA, and healthcare personnel are designated as authorized to accept a Restricted Report. Healthcare personnel, to include psychotherapists and other personnel listed in Military Rule of Evidence (MRE) 513 of Office of the Chairman of the Joint Chiefs of Staff, ''DoD Dictionary of Military and Associated Terms,'' who received a Restricted Report (meaning that a victim wishes to file a DD Form 2910 or have a SAFE) shall contact a SARC or SAPR VA. For further information see paragraph (c) of Appendix A to this part.

(ii) A SAFE and the information contained in its accompanying Kit are provided the same confidentiality as is afforded victim statements under the Restricted Reporting option. For further information see paragraph (c) of Appendix A to this part.

(iii) The victim's decision not to participate in an investigation or prosecution will not affect access to SARC and SAPR VA services, medical and psychological care, or services from an SVC or VLC. These services shall be made available to all eligible sexual assault victims.

(iv) If a victim approaches a SARC, SAPR VA, or healthcare provider and begins to make a report, but then changes his or her mind and leaves without signing the DD Form 2910 (the form where the reporting option is selected), the SARC, SAPR VA, or healthcare provider is not under any obligation or duty to inform investigators or commanders about this report and will not produce the report or disclose the communications surrounding the report.

(b) *Disclosure of confidential communications.* In cases where a victim elects Restricted Reporting, the SARC, SAPR VA, and healthcare personnel may not disclose confidential communications or the SAFE and the accompanying Kit to DoD law enforcement or command authorities, either within or outside the DoD. In certain situations, information about a sexual assault may

come to the commander's or DoD law enforcement official's (to include MCIO's) attention from a source independent of the Restricted Reporting avenues and an independent investigation is initiated. In these cases, SARCs, SAPR VAs, and healthcare personnel are prevented from disclosing confidential communications under Restricted Reporting, unless an exception applies. An independent investigation does not, in itself, convert the Restricted Report to an Unrestricted Report. For further information see paragraph (c) of Appendix A to this part.

(c) *Independent investigations.* Independent investigations are not initiated by the victim. If information about a sexual assault comes to a commander's attention from a source other than a victim (victim may have elected Restricted Reporting or where no report has been made by the victim), that commander shall immediately report the matter to an MCIO and an official (independent) investigation may be initiated based on that independently acquired information.

(1) If there is an ongoing independent investigation, the sexual assault victim will no longer have the option of Restricted Reporting when:

(i) DoD law enforcement informs the SARC of the investigation, and

(ii) The victim has not already elected Restricted Reporting.

(2) The timing of filing a Restricted Report is crucial. In order to take advantage of the Restricted Reporting option, the victim must file a Restricted Report by signing a DD Form 2910 before the SARC is informed of an ongoing independent investigation of the sexual assault.

(i) If a SARC is notified of an ongoing independent investigation and the victim has not signed a DD Form 2910 electing Restricted Report, the SARC must inform the victim that the option to file a Restricted Report is no longer available. However, all communications between the victim and the victim advocate will remain privileged, subject to regulatory exceptions, except for the minimum necessary to make the Unrestricted Report.

(ii) If an independent investigation begins after the victim has formally elected Restricted Reporting (by signing the DD Form 2910), the independent investigation has no impact on the victim's Restricted Report, and the victim's communications and SAFE Kit remain confidential, to the extent authorized by law and DoD regulations.

(d) *Mandatory reporting laws and cases investigated by civilian law enforcement.* Health care may be provided, and SAFE Kits may be performed in a civilian healthcare facility in civilian jurisdictions which may require certain personnel (usually health care personnel) to report the sexual assault to civilian agencies or law enforcement. In some cases, civilian law enforcement may take investigative responsibility for the sexual assault case, or the civilian jurisdiction may inform the military law enforcement or investigative community of a sexual assault that was reported to it. In such instances, it may not be possible for a victim to make a Restricted Report or it may not be possible to maintain the report as a Restricted Report. Consistent with the NDAA for FY 2016, to the extent possible, DoD will honor the Restricted Report; however, sexual assault victims need to be aware that the confidentiality afforded their Restricted Report is not guaranteed due to circumstances surrounding the independent investigation and requirements of individual State laws for civilian healthcare facilities.

(e) *Initiating medical care and treatment upon receipt of report.* Healthcare personnel will initiate the emergency care and treatment of sexual assault victims, notify the SARC or the SAPR VA and make appropriate medical referrals for specialty care, if indicated. Upon receipt of a Restricted Report, only the SARC or the SAPR VA will be notified. There will be NO report to DoD law enforcement, a supervisory official, or the victim's chain of command by the healthcare personnel, unless an exception to Restricted Reporting applies or applicable law requires other officials to be notified. For further information see paragraph (c) of Appendix A to this part.

(f) *Victim's perception of the military justice system.* The DoD seeks increased reporting by victims of sexual assault. The Restricted Reporting option is intended to give victims additional time

and increased control over the release and management of their personal information and empowers them to seek relevant information and support to make more informed decisions about participating in the criminal investigation. A victim who receives support, appropriate care and treatment, and is provided an opportunity to make an informed decision about a criminal investigation is more likely to develop increased trust of the system which may increase a victim's desire to cooperate with an investigation and convert the Restricted Report to an Unrestricted Report.

(g) *Resources for victims to report retaliation, reprisal, ostracism, maltreatment, sexual harassment, or to request an expedited/safety transfer or Military Protective Order (MPO)/Civilian Protective Order (CPO).* SARCs and SAPR VAs must inform victims of the resources available to report allegations of retaliation, reprisal, ostracism, maltreatment, sexual harassment, or to request a transfer or MPO. If the allegation is criminal in nature and the victim filed an Unrestricted Report, the crime should be immediately reported to an MCIO, even if the crime is not something normally reported to an MCIO (*e.g.*, victim's personal vehicle was defaced). Victims can seek assistance on how to report allegations by requesting assistance from:

(1) A SARC or SAPR VA or SVC/VLC.

(2) An SVC or VLC, trial counsel and VWAP, or a legal assistance attorney to facilitate reporting with a SARC or SAPR VA.

(3) IG DoD, invoking whistle-blower protections. For further information see paragraph (g) of Appendix A to this part.

(h) *SARC procedures.* The SARC shall:

(1) Serve as the single point of contact to coordinate sexual assault response when a sexual assault is reported. All SARCs shall be authorized to perform victim advocate duties in accordance with Military Service regulations and will be acting in the performance of those duties.

(2) Comply with DoD Sexual Assault Advocate Certification requirements.

(3) Be trained in and understand the confidentiality requirements of Restricted Reporting and MRE 514. Training must include exceptions to Restricted Reporting and MRE 514.

(4) Be authorized to accept reports of sexual assault along with the SAPR VA and healthcare personnel. For further information see paragraph (c) of Appendix A to this part.

(5) Provide a 24 hour, 7 days per week, response capability to victims of sexual assault, to include deployed areas.

(6) In accordance with policy, ensure a safety assessment is performed in every sexual assault case. For further information see paragraph (c) of Appendix A to this part.

(i) SARCs shall respond to every Restricted and Unrestricted Report of sexual assault on a military installation, and the response shall be in person, unless otherwise requested by the victim. For further information see paragraph (c) of Appendix A to this part.

(ii) Based on the locality, the SARC may ask the SAPR VA to respond and speak to the victim.

(A) There will be situations where a sexual assault victim receives medical care and a SAFE outside of a military installation under an MOU or MOA with local private or public sector entities. In these cases, pursuant to the MOU or MOA the SARC or SAPR VA shall be notified, and a SARC or SAPR VA shall respond.

(B) When contacted by the SARC or SAPR VA, a sexual assault victim can elect not to speak to the SARC or SAPR VA, or the sexual assault victim may ask to schedule an appointment at a later time to speak to the SARC or SAPR VA.

(iii) SARCs shall provide a response that recognizes the high prevalence of pre-existing trauma (prior to the present sexual assault incident) and empowers an individual to make informed decisions about all aspects in the reporting process and to access available resources.

(iv) SARCs shall provide a response that is gender-responsive, culturally competent, and recovery-oriented.

(v) SARCs shall offer appropriate referrals to sexual assault victims and facilitate access to referrals. Provide referrals at the request of the victim.

(A) Encourage sexual assault victims to follow-up with the referrals and facilitate these referrals, as appropriate.

(B) In order to competently facilitate referrals, inquire whether the victim is a Reservist or an NG member to ensure that victims are referred to the appropriate geographic location.

(7) Explain to the victim that the services of the SARC and SAPR VA are optional and these services may be declined, in whole or in part, at any time. The victim may decline advocacy services, even if the SARC or SAPR VA holds a position of higher rank or authority than the victim. Explain to victims the option of requesting a different SAPR VA (subject to availability, depending on locality staffing) or continuing without SAPR VA services.

(i) Explain the available reporting options to the victim.

(A) Assist the victim in filling out the DD Form 2910, where the victim elects to make a Restricted or Unrestricted Report. However, the victims, not the SARCs or SAPR VAs, must fill out the DD Form 2910. Explain that sexual assault victims have the right and ability to consult with an SVC/VLC before deciding whether to make a Restricted Report, Unrestricted Report, or no report at all. Additionally, the SARC or SAPR VA shall explain the eligibility requirements for an SVC/VLC, as well as the option to request SVC or VLC services even if the victim does not fall within the eligibility requirements.

(B) Inform the victim that the DD Form 2910 signed by the victim will be uploaded to DSAID and retained for 50 years in Unrestricted Reports. The DD Forms 2910 and 2911 filed in connection with the Restricted Report shall be retained for 50 years, in a manner that protects confidentiality.

(C) The SARC or SAPR VA shall inform the victim of any local or State sexual assault reporting requirements that may limit the possibility of Restricted Reporting. At the same time, the victims shall be briefed about the protections and exceptions to MRE 514.

(ii) Give the victim a hard copy of the DD Form 2910 with the victim's signature. Advise the victim to keep the copy of the DD Form 2910 and the DD Form 2911 in their personal permanent records as these forms may be used by the victim in other matters before other agencies (*e.g.*, Department of Veterans Affairs) or for any other lawful purpose.

(iii) Explain SAFE confidentiality to victims and the confidentiality of the contents of the SAFE Kit. Inform the victim that information concerning the prosecution shall be provided to them. For further information see paragraph (aa) of Appendix A to this part.

(iv) Activate victim advocacy 24 hours a day, 7 days a week, for all incidents of reported sexual assault occurring either on or off the installation involving Service members and other covered persons. For further information see paragraph (c) of Appendix A to this part.

(v) Consult with command legal representatives, healthcare personnel, and MCIOs, (or when feasible, civilian law enforcement), to assess the potential impact of State laws or exceptions governing compliance with the Restricted Reporting option and develop or revise applicable MOUs and MOAs, as appropriate.

(vi) Collaborate with MTFs within their respective areas of responsibility to establish protocols and procedures to direct notification of the SARC and SAPR VA for all incidents of reported sexual assault and facilitate ongoing training of healthcare personnel on the roles and responsibilities of the SARC and SAPR VAs.

(vii) Collaborate with local private or public sector entities that provide medical care to Service members or TRICARE eligible beneficiaries who are sexual assault victims and a SAFE outside of a military installation through an MOU or MOA.

(viii) Establish protocols and procedures with these local private or public sector entities to facilitate direct notification of the SARC for all incidents of reported sexual assault and facilitate training of healthcare personnel of local private or public sector entities on the roles and responsibilities of SARCs and SAPR VAs, for Service members and persons covered by this policy.

(ix) Provide off installation referrals to civilian resources available to sexual assault victims, as needed.

(x) Document and track the services referred to and requested by the victim from the time of the initial report of a sexual assault through the final case disposition or until the victim no longer desires services.

(xi) Maintain in DSAID an account of the services referred to and requested by the victim for all reported sexual assault incidents, from medical treatment through counseling, and from the time of the initial report of a sexual assault through the final case disposition or until the victim no longer desires services. Should the victim return to the SARC or SAPR VA and request SAPR services after indicating that he or she no longer desired services, the case will be reopened and addressed at the CMG meeting.

(xii) A SARC will open a case in DSAID as an ''Open with Limited Information'' case when there is no signed DD 2910 (*e.g.*, an independent investigation or third-party report, or when a civilian victim alleged sexual assault with a Service member subject) to comply with section 563(d) of Public Law 110–417 and to ensure system accountability.

(xiii) Participate in the CMG to review individual cases of Unrestricted Reports of sexual assault.

(xiv) Offer victims the opportunity to participate in surveys asking for victim feedback on the reporting experience. Inform victims regarding what the survey will ask them and uses of the data collected.

(i) *SAPR VA procedures.* (1) The SAPR VA shall:

(i) Comply with DoD Sexual Assault Advocate Certification requirements in D–SAACP.

(ii) Be trained in and understand the confidentiality requirements of Restricted Reporting and MRE 514. Training must include exceptions to Restricted Reporting and MRE 514.

(iii) Facilitate care and provide referrals and non-clinical support to the adult victim of a sexual assault. Provide a response consistent with requirements for the SARC response. For further information see paragraph (c) of Appendix A to this part.

(iv) Support will include providing information on available options and resources so the victim can make informed decisions about his or her case.

(v) Be notified and immediately respond upon receipt of a report of sexual assault.

(vi) Provide coordination and encourage victim service referrals and ongoing non-clinical support to the victim of a reported sexual assault and facilitate care in accordance with the Sexual Assault Response Protocols prescribed SAPR Policy Toolkit located on *www.sapr.mil*. Assist the victim in navigating those processes required to obtain care and services needed. It is neither the SAPR VA's role nor responsibility to be the victim's mental health provider or to act as an investigator.

(vii) Report directly to the SARC while carrying out sexual assault advocacy responsibilities.

(2) [Reserved]

(j) *Healthcare professional procedures.* This paragraph (j) provides guidance on medical management of victims of sexual assault to ensure standardized, timely, accessible, and comprehensive healthcare for victims of sexual assault, to include the ability to elect a SAFE Kit. This policy is applicable to all MHS personnel who provide or coordinate medical care for victims of sexual assault covered by this part.

(1) Require that a SARC be immediately notified when a victim discloses a sexual assault so that the SARC can inform the victim of both reporting options (Restricted and Unrestricted) and all available services (*e.g.*, SVC/VLC, Expedited Transfers, Military Protective Orders, document retention mandates). The victim can then make an informed decision as to which reporting option to elect and which services to request (or none at all). The victim is able to decline services in whole or in part at any time.

(2) There must be selection, training, and certification standards for healthcare providers performing SAFEs in MTFs.

(i) *Selection.* (A) Have specified screening and selection criteria consistent with Public Law 112–81. For further information see paragraphs (h) and (ff) of Appendix A to this part.

(B) In addition to the requirements in Public Law 104–191, licensed DoD providers eligible to take SAFE training must pass a National Agency Check that will determine if they have been convicted of sexual assault, child abuse, domestic violence, violent crime (as defined by the Federal Bureau of Investigation's Uniform Crime Reporting Program) or other felonies.

(C) If the candidate is a non-licensed professional, he or she must meet the same screening standards as those for SARCs in the D–SAACP certification program.

(ii) *Training for healthcare providers performing SAFEs in MTFs.* Healthcare providers who may be called on to provide comprehensive medical treatment to a sexual assault victim, including performing SAFEs, are: Obstetricians, gynecologists, and other licensed practitioners (preferably family physicians, emergency medicine physicians, and pediatricians); advanced practice nurses with specialties in midwifery, women's health, family health, and pediatrics; physician assistants trained in family practice or women's health; and registered nurses. These individuals must receive specialized training aimed at preparing them to proficiently perform the duties of conducting a SAFE.

(A) In addition to the responder training requirements and the healthcare personnel training requirements, healthcare providers performing SAFEs shall be trained and remain proficient in conducting SAFEs.

(B) All providers conducting SAFEs must have documented education, training, and clinical practice in sexual assault examinations. For further information see paragraphs (h) and (ff) of Appendix A to this part.

(iii) *Certification.* (A) Provider must pass all selection and screening criteria.

(B) Provider must submit documentation by trainer that healthcare provider has successfully completed SAFE training and is competent to conduct SAFEs independently. Documentation can be in the form of a certificate or be recorded in an electronic medical training tracking system.

(C) Provider must obtain a letter of recommendation from her or his commander.

(D) Upon successful completion of the selection, training, and certification requirements, the designated medical certifying authority will issue the certification for competency. Certification is good for 3 years from date of issue and must be reassessed and renewed at the end of the 3-year period.

(3) In cases of MTFs that do not have an emergency department that operates 24 hours per day, require that a sexual assault forensic medical examiner be made available to a patient of the facility when a determination is made regarding the patient's need for the services of a sexual assault medical forensic examiner. For further information see paragraphs (h) and (ff) of Appendix A to this part.

(i) The MOU or MOA will require that a SARC be notified and that SAFE Kits be collected. For further information see paragraph (c) of Appendix A to this part.

(ii) When the forensic examination is conducted at a civilian facility through an MOU or a MOA with the DoD, the requirements for the handling of the forensic kit will be explicitly addressed in the MOU or MOA. The MOU or MOA with the civilian facility will address the processes for contacting the SARC and for contacting the appropriate DoD agency responsible for accepting custody of the forensic kit.

(4) Require that MTFs that provide SAFEs for Service members or TRICARE eligible beneficiaries through an MOU or MOA with private or public sector entities verify initially and periodically that those entities meet or exceed standards of the recommendations for conducting forensic exams of adult sexual victims. For further information see paragraphs (h) and (ff) of Appendix A to this part. In addition, verify that as part of the MOU or MOA, a SARC or SAPR VA is notified and responds and meets with the victim in a timely manner.

(5) Require that medical providers providing healthcare to victims of sexual assault in remote areas or while deployed have access to the proper equipment for conducting forensic exams.

For further information see paragraphs (h) and (ff) of Appendix A to this part.

(6) Implement procedures to provide the victim information regarding the availability of a SAFE Kit, which the victim has the option of refusing. If performed in the MTF, the healthcare provider shall use a SAFE Kit and the most current edition of the DD Form 2911.

(7) Require that care provided to sexual assault victims shall be gender-responsive, culturally competent, and recovery-oriented.

(8) In the absence of a properly trained DoD healthcare provider, the victim shall be offered the option to be transported to a non-DoD healthcare provider for the SAFE Kit, if the victim wants a forensic exam. Victims who are not beneficiaries of the Military Healthcare System shall be advised that they can obtain a SAFE Kit through a local civilian healthcare provider at no cost. For further information see paragraphs (h) and (ff) of Appendix A to this part.

(9) Upon completion of the SAFE, the sexual assault victim shall be provided with a hard copy of the completed DD Form 2911. Advise the victim to keep the copy of the DD Form 2911 in his or her personal permanent records as this form may be used by the victim in other matters before other agencies (*e.g.*, Department of Veterans Affairs) or for any other lawful purpose.

(10) Require that healthcare personnel maintain the confidentiality of a Restricted Report to include communications with the victim, the SAFE, and the contents of the SAFE Kit, unless an exception to Restricted Reporting applies. For further information see paragraph (c) of Appendix A to this part.

(11) Require that psychotherapy and counseling records and clinical notes pertaining to sexual assault victims contain only information that is required for diagnosis and treatment. Any record of an account of a sexual assault incident created as part of a psychotherapy exercise will remain the property of the patient making the disclosure and should not be retained within the psychotherapist's record.

(i) *Timely medical care.* To comply with the requirement to provide timely medical care, the Surgeons General of the Military Departments shall provide sexual assault victims with priority treatment as emergency cases, regardless of evidence of physical injury, recognizing that every minute a patient spends waiting to be examined may cause loss of evidence and undue trauma. Priority treatment as emergency cases includes activities relating to access to healthcare, coding, and medical transfer or evacuation, and complete physical assessment, examination, and treatment of injuries, including immediate emergency interventions.

(ii) *Clinically stable.* Require the healthcare provider to consult with the victim, once clinically stable, regarding further healthcare options to the extent eligible, which shall include, but are not limited to:

(A) Testing, prophylactic treatment options, and follow-up care for possible exposure to human immunodeficiency virus and other sexually transmitted diseases or infections (STD/I).

(B) Assessment of the risk of pregnancy, options for emergency contraception, and any follow-up care and referral services to the extent authorized by law.

(C) Assessment of the need for behavioral health services and provisions for a referral, if necessary or requested by the victim.

(k) *Safe kit collection and preservation.* For the purposes of the SAPR Program, forensic evidence collection and document and evidence retention shall be completed in accordance with established policy, taking into account the medical condition, needs, requests, and desires of each sexual assault victim covered by this part. For further information see paragraph (c) of Appendix A to this part.

(1) Medical services offered to eligible victims of sexual assault include the ability to elect a SAFE in addition to the general medical management related to sexual assault response, to include medical services and mental healthcare.

(2) The forensic component includes gathering information in DD Form 2911 from the victim for the medical forensic history, an examination, documentation of biological and physical findings, collection of evidence from

the victim, and follow-up as needed to document additional evidence.

(3) The process for collecting and preserving sexual assault evidence for the Restricted Reporting option is the same as the Unrestricted Reporting option, except that the Restricted Reporting option does not trigger the official investigative process, and any evidence collected has to be placed inside the SAFE Kit, which is marked with the RRCN in the location where the victim's name would have otherwise been written. The victim's SAFE and accompanying Kit is treated as a confidential communication under this reporting option. The healthcare provider shall encourage the victim to obtain referrals for additional medical, psychological, chaplain, victim advocacy, or other SAPR services, as needed. The victim shall be informed that the SARC will assist them in accessing SAPR services.

(4) The SARC or SAPR VA shall inform the victim of any local or State sexual assault reporting requirements that may limit the possibility of Restricted Reporting before proceeding with the SAFE.

(5) Upon completion of the SAFE in an Unrestricted Reporting case, the healthcare provider shall package, seal, and label the evidence container(s) with the victim's name and notify the MCIO. The SAFE Kit will be retained for 5 years in accordance with section 586 of Public Law 112–81. When the forensic examination is conducted at a civilian facility through an MOU or a MOA with the DoD, the requirement for the handling of the forensic kit will be explicitly addressed in the MOU or MOA. The MOU or MOA with the civilian facility will address the processes for contacting the SARC and for contacting the appropriate DoD agency responsible for accepting custody of the forensic kit. Personal property retained as evidence collected in association with a sexual assault investigation may be returned to the rightful owner of such property after the conclusion of all legal, adverse action and administrative proceedings related to such incidents in accordance with section 538 of Public Law 113–291.

(6) MOUs and MOAs, with off-base, non-military facilities for the purposes of providing medical care to eligible victims of sexual assault shall include instructions for the notification of a SARC (regardless of whether a Restricted or Unrestricted Report of sexual assault is involved), and procedures for the receipt of evidence and disposition of evidence back to the DoD law enforcement agency or MCIO. For further information see paragraph (c) of Appendix A to this part.

(7) Upon completion of the SAFE in a Restricted Reporting case, the healthcare provider shall package, seal, and label the evidence container(s) with the RRCN and store it in accordance with Service regulations. The SAFE Kit will be retained for 5 years in a location designated by the Military Service concerned. When the forensic examination is conducted at a civilian facility through an MOU or an MOA with the DoD, the requirement for the handling of the forensic kit will be explicitly addressed in the MOU or MOA. The MOU or MOA with the civilian facility will address the processes for contacting the SARC and for contacting the appropriate DoD agency responsible for accepting custody of the forensic kit. The 5-year time frame will start from the date the victim signs the DD Form 2910, but if there is no DD Form 2910, the timeframe will start from the date the SAFE Kit is completed.

(8) Any evidence and the SAFE Kit in Restricted Reporting cases shall be stored for 5 years from the date of the victim's Restricted Report of the sexual assault.

(9) The SARC will contact the victim at the 1-year mark of the report to inquire whether the victim wishes to change his or her reporting option to Unrestricted.

(i) If the victim does not change to Unrestricted Reporting, the SARC will explain to the victim that the SAFE Kit will be retained for a total of 5 years from the time the victim signed the DD Form 2910 (electing the Restricted Report) and will then be destroyed. The DD Forms 2910 and 2911 will be retained for 50 years in a manner that protects confidentiality. The SARC will emphasize to the victim

that his or her privacy will be respected and he or she will not be contacted again by the SARC. The SARC will stress it is the victim's responsibility from that point forward, if the victim wishes to change from a Restricted to an Unrestricted Report, to affirmatively contact a SARC before the 5-year SAFE Kit retention period elapses.

(ii) If the victim needs another copy of either of these forms, he or she can request it at this point, and the SARC shall assist the victim in accessing the requested copies within 7 business days. The SARC will document this request in the DD Form 2910.

(iii) At least 30 days before the expiration of the 5-year SAFE Kit storage period, the DoD law enforcement or MCIO shall notify the installation SARC that the storage period is about to expire and confirm with the SARC that the victim has not made a request to change to Unrestricted Reporting or made a request for any personal effects.

(iv) If there has been no change, then at the expiration of the storage period in compliance with established procedures for the destruction of evidence, the designated activity, generally the DoD law enforcement agency or MCIO, may destroy the evidence maintained under that victim's RRCN.

(v) If, before the expiration of the 5-year SAFE Kit storage period, a victim changes his or her reporting preference to the Unrestricted Reporting option, the SARC shall notify the respective MCIO, which shall then assume custody of the evidence maintained by the RRCN from the DoD law enforcement agency or MCIO, pursuant to established chain of custody procedures. MCIO established procedures for documenting, maintaining, and storing the evidence shall thereafter be followed.

(A) The DoD law enforcement agency, which will receive forensic evidence from the healthcare provider if not already in custody, and label and store such evidence shall be designated.

(B) The designated DoD law enforcement agency must be trained and capable of collecting and preserving evidence in Restricted Reports prior to assuming custody of the evidence using established chain of custody procedures.

(10) Evidence will be stored by the DoD law enforcement agency until the 5-year storage period for Restricted Reporting is reached or a victim changes to Unrestricted Reporting.

§ 103.7 Case management for unrestricted reports of sexual assault.

(a) *General.* CMG 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) *Procedures.* (1) 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.

(2) The CMG chair shall:

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

(ii) Require an update of the status of each MPO.

(iii) 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.

(iv) 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.

(v) 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, MEO). 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.

(vi) 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.

(vii) The CMG chair will, if it has not already been done, 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.

(viii) 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.

APPENDIX A TO PART 103—RELATED POLICIES

The SAPR Program is supported by the following policies:

(a) DoD Directive 6495.01, ''Sexual Assault Prevention and Response (SAPR) Program,'' Change 3, April 11, 2017 (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/649501p.pdf*).

(b) Sections 101(d)(3) and 113, chapter 47,[1] and chapter 80 of title 10, United States Code.

(c) DoD Instruction 6495.02, ''Sexual Assault Prevention and Response (SAPR) Program Procedures,'' May 24, 2017, as amended (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/649502p.pdf*).

(d) 32 CFR part 158, ''Operational Contract Support.''

(e) DoD Manual 6400.01, Volume 2, ''Family Advocacy Program (FAP): Child Abuse and Domestic Abuse Incident Reporting System,'' August 11, 2016 (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/640001m_vol2.pdf*).

(f) Public Law 114–92, ''National Defense Authorization Act for Fiscal Year 2016,'' November 25, 2015.

(g) DoD Directive 7050.06, ''Military Whistleblower Protection,'' April 17, 2015 (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/705006p.pdf*).

(h) U.S. Department of Justice, Office on Violence Against Women, ''A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,'' current version (available at *https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf*).

(i) 32 CFR part 310, ''DoD Privacy Program.''

(j) DoD Manual 6025.18, ''Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DOD Health Care Programs,'' March 13, 2019 (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/602518m.pdf?ver=2019-03-13-123513-717*).

[1] Chapter 47 is also known and referred to in this part as ''The Uniform Code of Military Justice (UCMJ).''

(k) Public Law 113–66, ''The National Defense Authorization Act for Fiscal Year 2014,'' December 2013.

(l) Title 5, United States Code.

(m) Public Law 104–191, ''Health Insurance Portability and Accountability Act of 1996,'' August 21, 1996.

(n) DoD Instruction 5505.18, ''Investigation of Adult Sexual Assault in the Department of Defense,'' March 22, 2017, as amended (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodi/550518p.pdf?ver=2018-02-13-125046-630*).

(o) Sections 584, 585, and 586 of Public Law 112–81, ''National Defense Authorization Act for Fiscal Year 2012,'' December 31, 2011.

(p) Public Law 113–291, ''Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015,'' December 29, 2014.

(q) DoD Manual 8910.01, Volume 1, ''DoD Information Collections Manual: Procedures for DoD Internal Information Collections,'' June 30, 2014, as amended (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/issuances/ dodm/891001m_vol1.pdf*).

(r) Public Law 110–417, ''The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009,'' October 14, 2008.

(s) DoD Instruction 5545.02, ''DoD Policy for Congressional Authorization and Appropriations Reporting Requirements,'' December 19, 2008 (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/issuances/dodi/554502p.pdf*).

(t) DoD Directive 5124.02, ''Under Secretary of Defense for Personnel and Readiness (USD(P&R)),'' June 23, 2008 (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodd/ 512402p.pdf*).

(u) Public Law 112–81, ''National Defense Authorization Act for Fiscal Year 2012,'' December 31, 2011.

(v) Department of Defense 2014–2016 Sexual Assault Prevention Strategy,'' April 30, 2014, *https://www.sapr.mil/index.php/prevention*.

(w) DoD Instruction 6495.03, ''Defense Sexual Assault Advocate Certification Program (D–SAACP),'' September 10, 2015 (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodi/ 649503p.pdf*).

(x) Section 577 of Public Law 108–375, ''Ronald Reagan National Defense Authorization Act for Fiscal Year 2005,'' October 28, 2004.

(y) U.S. Department of Defense, ''Manual for Courts-Martial, United States,'' current edition (available at *https://jsc.defense.gov/Portals/99/Documents/MCM2016.pdf?ver=2016-12-08-181411-957*).

(z) Title 10, United States Code.

(aa) DoD Instruction 1030.2, ''Victim and Witness Assistance Procedures,'' June 4, 2004 (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodi/103002p.pdf*).

(bb) DoD Instruction 5505.19, ''Establishment of Special Victim Investigation and Prosecution (SVIP) Capability within the Military Criminal Investigative Organizations (MCIOs),'' February 3, 2015, as amended (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodi/550519p.pdf*).

(cc) Directive-type Memorandum 14–003, ''DoD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support,'' February 12, 2014, as amended (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dtm/ DTM14003_2014.pdf*).

(dd) Title 32, United States Code.

(ee) Sections 561, 562, and 563 of Public Law 110–417, ''Duncan Hunter National Defense Authorization Act for Fiscal Year 2009,'' October 14, 2008.

(ff) U.S. Department of Justice, Office on Violence Against Women, ''National Training Standards for Sexual Assault Medical Forensic Examiners,'' current version (available at *https://www.ncjrs.gov/ pdffiles/ovw/241903*).

(gg) DoD Instruction 6025.13, ''Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS),'' February 17, 2011, as amended (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodi/ 602513p.pdf*).

(hh) Office of the Chairman of the Joint Chiefs of Staff, ''DoD Dictionary of Military and Associated Terms,'' current edition (available at *https://www.jcs.mil/ Portals/36/Documents/ Doctrine/pubs/dictionary.pdf*).

(ii) DoD 4165.66–M, ''Base Redevelopment and Realignment Manual,'' March 1, 2006 (available at *https://www.esd.whs.mil/ Portals/54/Documents/DD/ issuances/dodm/ 416566m.pdf*).

(jj) Public Law 111–84, National Defense Authorization Act for Fiscal Year 2010.

(kk) 10 U.S.C. Chapter 47, Uniform Code of Military Justice.

PART 107—PERSONAL SERVICES AUTHORITY FOR DIRECT HEALTH CARE PROVIDERS

Sec.

AUTHORITY: 10 U.S.C. 1091; Federal Acquisition Regulation (FAR), part 37.

SOURCE: 50 FR 11693, Mar. 25, 1985, unless otherwise noted.

§ 107.1 Purpose.

This part establishes policy under 10 U.S.C. 1091, ''Contracts For Direct