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December 16, 2011

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
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DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
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DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DoD FIELD ACTIVITIES

SUBJECT: Directive-Type Memorandum (DTM) 11-063 – Expedited Transfer of Military Service Members Who File Unrestricted Reports of Sexual Assault

References:
(a) DoD Directive 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," November 7, 2008
(b) DoD Instruction 6495.02, "Sexual Assault Prevention and Response Program Procedures," November 13, 2008
(c) DoD Directive 6400.1, "Family Advocacy Program (FAP)," August 23, 2004
(d) DoD Directive 5100.87, "Department of Defense Human Resources Activity (DoDHRA)," February 19, 2008
(e) Chapter 47 of title 10, United States Code (also known as "The Uniform Code of Military Justice (UCMJ)"

Purpose. This DTM:

- Establishes policy and procedures to expedite the transfer of a Service member who files an Unrestricted Report of sexual assault in accordance with Reference (a).

- Is effective upon its publication to the DoD Issuances Website; it shall be incorporated into Reference (b). This DTM shall expire effective June 16, 2012.

Applicability. This DTM applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the "DoD Components").

Definitions. See Glossary.

Policy. It is DoD policy that:

- Any threat to life or safety of a Military Service member shall be immediately reported to command and law enforcement authorities and a request to transfer the victim under these circumstances will be handled in accordance with established Service regulations. The Department recognizes that circumstances may also exist that warrant the transfer of a Service member who makes an Unrestricted Report of sexual assault but may not otherwise meet established criteria for effecting the immediate transfer of Service members. Those Service members may request a transfer pursuant to the procedures set forth in this DTM.

- Military Service members who file an Unrestricted Report of sexual assault shall be informed at the time of making the report, or as soon as practicable, of the option to request a temporary or permanent transfer from their assigned command or base, or to a different location within their assigned command or base. The Service members shall initiate the transfer request and submit the request to their commanding officers (COs). The commanding officer shall document the date and time the request is received.

- A presumption shall be established in favor of transferring a Service member (who initiated the transfer request) following a credible report of sexual assault. The CO, or the appropriate approving authority, shall make a credible report determination at the time the request is made after considering the advice of the supporting judge advocate, or other legal advisor concerned, and the available evidence.

- Expedited transfers of Service members who report that they are victims of sexual assault shall be limited to sexual assault offenses:

    - Defined in the Glossary. This DTM does not address victims covered under the Family Advocacy Program in DoD Directive (DoDD) 6400.1 (Reference (c)).

    - Reported in the form of an Unrestricted Report. If the Service member files a Restricted Report in accordance with Reference (a) and requests an expedited transfer, the Service member must affirmatively change his or her reporting option to Unrestricted Reporting on the DD Form

2910, "Victim Reporting Preference Statement," located at the DoD Forms Management Program website at http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm.

- The CO shall expeditiously process a transfer request from a command or base, or to a different location within the command or base. The CO shall request and take into consideration the Service member's input before making a decision involving a temporary or permanent transfer and the location of the transfer. If approved, the transfer shall also include the Service member's dependents or military spouse (as applicable).

- The CO must approve or disapprove a Service member's request for a permanent change of station (PCS), permanent change of assignment (PCA), or unit transfer within 72 hours from receipt of the Service member's request. The decision to approve the request shall be immediately forwarded to the designated activity that processes PCS, PCA, or unit transfers.

- If the Service member's request is disapproved by the CO, the Service member shall be given the opportunity to request review by the first general officer or flag officer in the chain of command of the member, or an SES equivalent (if applicable), and the decision to approve or disapprove the request must be made within 72 hours of submission of the request for review. If a civilian SES equivalent reviewer approves the transfer, the Secretary concerned shall process and issue orders for the transfer.

- Military Departments shall make every reasonable effort to minimize disruption to the normal career progression of a Service member who reports that he or she is a victim of a sexual assault.

- Military Service members who file Unrestricted and Restricted Reports of sexual assault shall be protected from reprisal, or threat of reprisal, for filing a report.

Responsibilities. See Attachment.

Releasability. UNLIMITED. This DTM is approved for public release and is available on the DoD Issuances Website at http://www.dtic.mil/whs/directives.

Attachments:
As stated

ATTACHMENT

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R) shall establish and implement policy and procedures for, and perform oversight of, the SAPR Program and the DoD Sexual Assault Prevention and Response Office (SAPRO).

2. DIRECTOR, DEPARTMENT OF DEFENSE HUMAN RESOURCES ACTIVITY (DoDHRA). The Director of DoDHRA, under the authority, direction and control of USD(P&R), shall provide operational support to the USD(P&R) as outlined in DoDD 5100.87 (Reference (d)).

3. DIRECTOR, SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE (SAPRO). The Director, SAPRO, under the authority, direction, and control of the USD(P&R) and through the Director, DoDHRA, shall:

a. Monitor the implementation of this DTM by the Military Departments.

b. Provide recommendations to the USD(P&R) on DoD SAPR policy.

4. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments shall:

a. Establish Department procedures to implement this DTM.

b. Require that Service members who make an Unrestricted Report of sexual assault be informed by the Sexual Assault Response Coordinator (SARC), Sexual Assault Prevention and Response Victim Advocate (SAPR VA), or the Service member's CO, at the time of making the report, or as soon as practicable, of the option to request transfer from the assigned command or base or to a different location within their assigned command or base.

c. Require that a CO or the appropriate approving authority make a determination and provide his or her reasons and justification on the transfer of a Service member based on a credible report of sexual assault. A CO shall consider:

(1) The Service member's reasons for the request.

(2) Potential transfer of the alleged offender instead of the Service member requesting the transfer.

(3) Nature and circumstances of the offense.

(4) Whether a temporary transfer would meet the Service member's needs and the operational needs of the unit.

(5) Training status of the Service member requesting the transfer.

(6) Availability of positions within other units on the installation.

(7) Status of the investigation and potential impact on the investigation and future disposition of the offense, after consultation with the investigating Military Criminal Investigative Organizations.

(8) Location of the alleged offender.

(9) Alleged offender's status (Service member or civilian).

(10) Other pertinent circumstances or facts.

d. Make every reasonable effort to minimize disruption to the normal career progression of a Service member who seeks a transfer following a report that he or she was the victim of sexual assault. The Service member's CO (or the CO's designee) shall directly counsel the Service member to ensure that he or she is fully informed regarding reasonably foreseeable career impacts, the potential impact of the transfer or reassignment on the investigation and case disposition, or the initiation of other adverse action against the alleged offender, or other possible consequences of granting the request. Service members requesting the transfer shall be informed that they may have to return for the prosecution of the case, if the determination is made that prosecution is the appropriate command action.

e. Require that expedited transfer procedures for members of the Reserve Components and members of the Army National Guard and Air Force National Guard who make Unrestricted Reports of sexual assault be established within available resources and authorities. If requested by the Service member, the command should allow for separate training on different weekends or times from the alleged offender or with a different unit in the home drilling location to ensure undue burden is not placed on the Service member and his or her family by the transfer. Potential transfer of the alleged offender instead of the Service member should also be considered. At a minimum, the alleged offender's access to the Service member who made the Unrestricted Report shall be restricted, as appropriate.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

CO	commanding officer
DoDD	DoD Directive
DoDHRA	DoD Human Resources Activity
DTM	Directive-Type Memorandum
G/FO	general or flag officer
PCA	permanent change of assignment
PCS	permanent change of station
SAPR VA	Sexual Assault Prevention and Response Victim Advocate
SAPRO	Sexual Assault Prevention and Response Office
SARC	Sexual Assault Response Coordinator
UCMJ	Uniform Code of Military Justice
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

PART II. DEFINITIONS

credible report. Having reasonable grounds to believe that an offense constituting sexual assault has occurred.

designated activity that processes PCS or PCA. The designated activity for the Air Force is the Air Force Personnel Center; for the Army, it is Human Resources Command for inter-installation transfers and the installation personnel center for intra-installation transfers; for the Navy, it is the Bureau of Naval Personnel; for the Marines, it is the order writing section of Headquarters Marine Corps; and for Air and Army National Guard, the designated activity is the National Guard Bureau or the Joint Forces Headquarters-State for the State involved.

Restricted Report. Defined in Reference (a).

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.

sexual assault. In accordance with chapter 47 of title 10, United States Code (Reference (e)), also known as the Uniform Code of Military Justice (UCMJ), UCMJ offenses and as defined in Reference (a) for SAPR purposes.

Unrestricted Report. Defined in Reference (a).