



# CHIEF OF THE NATIONAL GUARD BUREAU MANUAL

NGB-J1-SAPR  
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## NATIONAL GUARD RETALIATION REPORTING PROCESSES RELATED TO UNRESTRICTED REPORTS OF SEXUAL ASSAULT

References: See Enclosure C.

1. Purpose. This manual establishes the procedures for eligible National Guard (NG) members to report alleged retaliation associated with an Unrestricted Report of sexual assault in accordance with (IAW) references a through g.
2. Cancellation. This manual supersedes its previous edition, Chief of the National Guard Bureau Manual (CNGBM) 1300.03, 18 November 2019, "National Guard Retaliation Reporting Processes Related to Unrestricted Reports of Sexual Assault."
3. Applicability. This manual applies to the Army National Guard, the Air National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, consistent with reference h.
4. Procedures. NG members who are victims, alleged subjects, witnesses, intervening bystanders, or first responders associated with an official Unrestricted Report of sexual assault are eligible to make a retaliation report based on their perception of retaliatory behavior, such as maltreatment, ostracism, reprisal, or restriction. Reports will be tracked IAW references b and c. See Enclosures A and B for reporting procedures.
5. Summary of Changes. This manual has undergone substantial revision as described below.
  - a. Establishes the requirement to complete a form for recording official reports of retaliation associated with an Unrestricted Report of sexual assault (see Department of Defense Form 2910-2, "Retaliation Reporting Statement for Unrestricted Sexual Assault Cases," at reference i).
  - b. Designates the Sexual Assault Response Coordinators (SARCs) and Sexual Assault Prevention and Response Victim Advocates (SAPR VAs) as the

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only personnel authorized to assist the retaliation reporter in completing the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i).

c. Provides detailed instructions on the use and final disposition of the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i).

d. Establishes the Defense Sexual Assault Incident Database (DSAID) Retaliation Module as the system of record for tracking sexual assault related retaliation reports in Fiscal Year 2021.

e. Assigns the responsibility of documenting the final disposition of each retaliation case entered into the DSAID File Locker to the NG Investigations Compliance and Accountability Officer.

6. Releasability. This manual is approved for public release; distribution is unlimited. It is available at <<https://www.ngbpmc.ng.mil/>>.

7. Effective Date. This manual is effective upon publication and must be revised, reissued, cancelled, or certified as current every five years.



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Enclosures:

A -- Retaliation Report Processes

B -- Recording Reports in the Retaliation Data Call and Case Management  
Group Agenda

C -- References

GL -- Glossary

ENCLOSURE A

RETALIATION REPORT PROCESSES

1. General. NG Joint Force Headquarters–State (NG JFHQs-State) SARCs, wing SARCs, and SAPR VAs discuss retaliatory behavior, types of retaliation, reporting options, and investigative resources with eligible NG members who disclose perceived retaliation directly linked with an official Unrestricted Report of sexual assault. NG SAPR personnel reinforce this discussion with written information and inform the individuals of their option to go to an Inspector General (IG) at any time to receive consultation and file a complaint; or go to their commander; or a military criminal investigative organization (MCIO) or civilian law enforcement organization (LEO) to determine whether the retaliatory behavior is a criminal offense.

2. Referrals. NG JFHQs-State and wing SARCs and SAPR VAs may provide eligible NG members with referrals to consult with an IG or legal assistance attorney before deciding to file a retaliation report or to seek a resolution of the retaliatory behavior. When the eligible NG member is the victim of the sexual assault, NG JFHQs-State and wing SARCs and SAPR VAs may provide a referral to a Special Victims' Counsel (SVC) for consultation purposes. The SVC will discuss retaliation, reporting options, and investigative and military justice processes and will assist the individual in evaluating the range of options to resolve the retaliation allegation before the individual decides whether to file a retaliation report or seek a resolution of the retaliatory behavior.

3. Support. NG JFHQs-State and wing SARCs and SAPR VAs will:

a. Provide victim advocacy and support to a retaliation reporter throughout the process, including accompanying the individual to meetings with the command, investigators, and other first responders, if requested.

b. Inform eligible NG members of alternative means for resolving the retaliation allegations, including:

(1) Requesting intervention from a coworker, use of the reporter's chain of command, or other actions.

(2) Coordinating with command and the Staff Judge Advocate to address legal questions.

c. Follow up with eligible NG members and contact retaliation reporters following notification from an investigative body, other than an IG, of a victim's request to make an alleged sexual assault related retaliation report, and assist them in completing a "Retaliation Reporting Statement for Unrestricted Sexual Assault Cases" form (reference i), if desired. Upon completion of the report, the

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SARC or SAPR VA verifies that the report is directly linked to an Unrestricted Report of sexual assault previously entered into DSAID and annotates the DSAID case number on the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i).

(1) If the retaliation reporter:

(a) Signs the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i), the supporting SARC with DSAID access uploads the completed and signed “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i), into the DSAID File Locker within 48 hours of its completion and maintains it for 50 years. The SARC has up to 96 hours to upload the report into the DSAID File Locker at a deployed location.

(b) Declines to sign the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i), the SARC does not enter any information into DSAID and does not track the retaliation allegation.

(c) Authorizes discussing the report in the Case Management Group (CMG) meeting on the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i), the SARC notifies the CMG chair and annotates it on the agenda.

(d) Requests a copy of his or her “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i), the SARC will provide the individual with a copy of the form. The SARC will not provide a copy of the official sexual assault report (see Department of Defense Form 2910, “Victim Reporting Preference Statement” at reference j) associated with the retaliation report, unless the reporter is the sexual assault victim who filed the report.

(2) If the retaliation report cannot be linked to an Unrestricted Report of sexual assault in DSAID, the SARC or SAPR VA will contact the Army National Guard (ARNG) or Air National Guard (ANG) Program Manager for assistance in cross checking DSAID cases.

(a) If a direct link is found, the Program Manager will provide the case number to the SARC for inclusion in the “Retaliation Reporting Statement for Unrestricted Sexual Assault Cases” form (reference i) and subsequent entry into the DSAID File Locker.

(b) If a direct link is not found, the SARC will not enter the retaliation report into DSAID and will inform the investigative body that a link to an Unrestricted Report of sexual assault was not found. All contact between the investigative body and the SARC or SAPR VA pertaining to the retaliation report will stop.

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- d. Coordinate with SVCs when a retaliation report is made by a victim already represented by an SVC.
- e. Inform eligible NG members' commanders that the retaliation reporter wishes to pursue action relating to the allegations, with the exception of a retaliatory behavior that is a criminal offense, restriction, or reprisal.
- f. Track the sexual assault related retaliation cases in DSAID from date of initiation to completion of command action or disposition and update the information provided by the investigating body in DSAID.
- g. Provide disposition information for completed retaliation investigations to the NG Investigations Compliance and Accountability Officer for entry into DSAID.
- h. Provide updates to commanders of eligible NG members involved in a retaliation report and to the CMG Chair at the monthly CMG meetings, with the victim's consent.

NOTE: SARCs and SAPR VAs will take every precaution to avoid inadvertently revealing details of sexual assault cases to retaliation reporters who are not the sexual assault victims. Requests for release of information IAW reference k, will occur only after consultation with the legal officer and IAW National Guard Bureau (NGB) or Service issuances.

4. Investigative Resources. Eligible NG members may elect to make a retaliation report or seek resolution directly from an investigative resource without informing an NG JFHQs-State SARC, wing SARC, or SAPR VA. Investigative resources responsible for investigating or resolving the retaliation report include the command, ARNG IG, ANG IG, NGB IG, Service IG, Department of Defense (DoD) Office of the Inspector General (OIG), an MCIO or civilian LEO, and Equal Opportunity Offices. Investigative resources, other than the DoD IG, Military Service IGs, and NGB IGs will notify the NG JFHQ-State SARC or wing SARC within 48 hours of a victim's request to make an alleged sexual assault related retaliation report. Allegations of reprisal or restriction may only be filed with the DoD OIG or Military IG IAW reference g. SARCs assisting victims filing a report with the DoD OIG or Military Service IG will:

- a. Ask the retaliation reporter to provide a copy of the "Retaliation Reporting Statement for Unrestricted Sexual Assault Cases" form (reference i) to the DoD OIG, only if the victim consents to have the status of the reprisal case discussed at the monthly SAPR CMG meeting.
- b. Provide a copy of the "Retaliation Reporting Statement for Unrestricted Sexual Assault Cases" form (reference i) to the appropriate IG in the initial

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update request, if the retaliation reporter does not provide a copy of the form to the DoD OIG.

c. Request status updates regarding reprisal cases under the Department of Army Inspector General or DoD OIG investigation every 180 days until the IG reprisal investigation is closed, except when the retaliation reporter does not consent to discuss the reprisal case at the monthly SAPR CMG meeting.

(1) The SARCs will email:

- <SAPR-Reprisal@dodig.mil> to request updates.

(2) SARCs who do not receive an update will email:

- The NGB Manpower and Personnel SAPR Office at <ngb.sapro@mail.mil> with the following subject line, “DoD OIG Status Update Request.”

(3) The SARC will provide the reprisal reporter’s name and case number within the email. The NGB, Manpower and Personnel, Sexual Assault Prevention and Response Office will contact the DoD Sexual Assault Prevention and Response Office to get the case update.

5. Final Disposition. The NG Investigations Compliance and Accountability Officer will document the final disposition of each retaliation case entered into the DSAID Retaliation Module.

ENCLOSURE B

RECORDING REPORTS IN THE RETALIATION DATA CALL AND CASE  
MANAGEMENT GROUP AGENDA

1. The NG JFHQs-State SARC, in coordination with the wing SARC, will:
  - a. Verify the receipt of notification of a retaliation report and record the report in the DoD Retaliation Data Call by logging in to the restricted website at reference m and completing the required information. The SARC will also load the retaliation report into the DSAID File Locker, which becomes the system of record in Fiscal Year 2021.
  - b. Enter the retaliation report on the CMG meeting agenda, unless a discussion of the matter will compromise the integrity of the investigation by the MCIO or civilian LEO.
  - c. Confirm all retaliation reports associated with a sexual assault for discussion at the CMG.
  - d. Provide the State Staff Judge Advocate office with information on retaliation reports with concerns regarding privileged communications prior to presentation at the CMG.
  - e. Discuss the retaliation report(s) with CMG attendees and inform the CMG if an SVC is representing the victim.
  - f. Maintain the minutes of the CMG meeting as required by ARNG or ANG guidance.
2. The CMG Chair will provide referrals to an MCIO, civilian LEO, IG, equal opportunity representative, advisor or appropriate commander, or for other follow-on action if an investigation is not already under way. The Chair will track reports involving victims, SARCs, and SAPR VAs until resolution.
3. The commander will provide an update on the status of the retaliation case to the reporter.

ENCLOSURE C

REFERENCES

- a. CNGB Instruction 1300.01A, 26 June 2020, "Sexual Assault Prevention and Response Program"
- b. DoD Retaliation Prevention and Response Strategy Implementation Plan, January 2017
- c. Office of the Under Secretary of Defense for Personnel & Readiness Memorandum, 15 October 2019, "Defense Sexual Assault Incident Database Updates Involving the Replacement of Lost Forms, Retaliation Reporting, and Electronic Filing"
- d. DoD Instruction 6495.02, 28 March 2013, "Sexual Assault Prevention and Response (SAPR) Program Procedures," Incorporating Change 3, 24 May 2017
- e. Title 10 United States Code (U.S.C.), Section 932, Article 132, "Retaliation"
- f. DoD Instruction 5505.18, 22 March 2017, "Investigation of Adult Sexual Assault in the Department of Defense," Incorporating Change 2, 31 January 2019
- g. DoD Directive 7050.06, 17 April 2015, "Military Whistleblower Protection"
- h. DoD Directive 5105.77, 30 October 2015, "National Guard Bureau (NGB)," Incorporating Change 1, 10 October 2017
- i. DD Form 2910-2, April 2020, "Retaliation Reporting Statement for Unrestricted Sexual Assault Cases"
- j. DD Form 2910, April 2020, "Victim Reporting Preference Statement"
- k. 5 U.S.C. § 552, "Public information; agency rules, opinions, orders, records, and proceedings"
- l. 10 U.S.C. § 1034, "Protected communications; prohibition of retaliatory personnel actions"
- m. Retaliation Data Call (Restricted) on Guard Knowledge Online, <<https://gko.portal.ng.mil/joint/J1/SAPR/DoD%20Retaliation/SitePages/Home.aspx>> (accessed 20 August 2020)

## GLOSSARY

### PART I. ACRONYMS

ANG	Air National Guard
ARNG	Army National Guard
CMG	Case Management Group
CNGBM	Chief of the National Guard Bureau Manual
DoD	Department of Defense
DSAID	Defense Sexual Assault Incident Database
IAW	In accordance with
IG	Inspector General
LEO	Law enforcement organization
MCIO	Military criminal investigative organization
NG	National Guard
NG JFHQs-State	National Guard Joint Force Headquarters--State
NGB	National Guard Bureau
OIG	Office of the Inspector General
SAPR	Sexual Assault Prevention and Response
SAPR VA	Sexual Assault Prevention and Response Victim Advocate
SARC	Sexual Assault Response Coordinator
SVC	Special Victims' Counsel

### PART II. DEFINITIONS

Investigative Resources -- Entities with authority to investigate retaliation, such as commands, inspectors general, military criminal investigative organizations, and civilian law enforcement organizations.

Maltreatment -- Cruelty toward or oppression of a member of the National Guard or an employee of the National Guard by a superior with orders over the individual because the individual:

- a. Reported a sex-related offense or sexual harassment or is believed to have reported a sex-related offense or sexual harassment.
- b. Was the victim of a sex-related offense or sexual harassment or is believed to have been the victim of a sex-related offense or sexual harassment.
- c. Was reported by another as being the victim of a sex-related offense or sexual harassment or is believed to have been reported by another as being the victim of a sex-related offense or sexual harassment.
- d. Intervened, or attempted to intervene, to prevent or attempt to prevent a sex-related offense or sexual harassment or is believed to have intervened or

attempted to intervene to prevent or attempt to prevent a sex-related offense or sexual harassment.

e. Cooperated or is believed to have cooperated in an investigation, has served as a witness, will or may serve as witness, or is believed to have served as a witness, or it is believed that the individual will or may serve as a witness in the future in a criminal or disciplinary proceeding, or in an investigation, including an administrative investigation, involving a sex-related offense or sexual harassment in accordance with reference b.

Military Criminal Investigative Organizations -- United States Army Criminal Investigation Command, Naval Criminal Investigative Service, and Air Force Office of Special Investigations.

Ostracism -- The offense of, with a nexus to military service, wrongfully excluding a military member from social acceptance or membership in or association with a group of which such military member was a part or a reasonable person would conclude wanted to be a part with the intent to do any of the following: inflict emotional distress on the military member ("emotional distress" means a highly unpleasant mental reaction, such as anguish, grief, fright, humiliation, or fury); discourage reporting of a criminal offense or sexual harassment; otherwise discourage the due administration of justice concerning a criminal offense or sexual harassment because the perpetrator knew or believed that the member:

a. Reported or was planning to report a criminal offense or sexual harassment.

b. Was a victim or alleged victim of a criminal offense or sexual harassment.

c. Was reported by another as being the victim of a criminal offense or sexual harassment.

d. Intervened to prevent or attempt to prevent a criminal offense or sexual harassment from occurring.

e. Cooperated in an investigation or the member has served or will or may serve as a witness or otherwise cooperate in the future in a criminal, disciplinary, or administrative proceeding or investigation involving a criminal offense ~~or~~ sexual harassment in accordance with reference b.

Restriction -- Preventing or attempting to prevent a current Service member from making or preparing to make a lawful communication to a member of Congress or an Inspector Genera in accordance with reference b.

Retaliation -- An act by any member of the National Guard or employee of the National Guard that wrongfully takes or threatens to take an adverse personnel action against or wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication.

Retaliatory Behavior -- Misconduct such as maltreatment, ostracism, reprisal, and restriction in accordance with reference b.

Sexual Assault Prevention and Response Victim Advocate -- Specially trained and certified National Guard member who provides nonclinical crisis intervention, referral, and ongoing nonclinical support to adult sexual assault victims.

Sexual Assault Response Coordinator -- Specially trained and certified National Guard single point of contact at the Joint Force Headquarters–State, at the wing, or within a geographic area who oversees sexual assault awareness, prevention, and response.

Special Victims' Counsel -- National Guard Judge Advocates specially trained on legal issues concerning victims of sexual assault and certified to provide legal representation and counsel to victims throughout the military disposition of the offense.