



CHIEF OF THE NATIONAL GUARD BUREAU MANUAL

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NATIONAL GUARD RETALIATION REPORTING PROCESSES RELATED TO UNRESTRICTED REPORTS OF SEXUAL ASSAULT

References: See Enclosure C.

1. Purpose. This manual provides procedural guidance for the response to an allegation of retaliation associated with an Unrestricted Report of sexual assault to facilitate services for the recovery of the retaliation reporter in accordance with (IAW) reference a, reference b, and reference c.
2. Cancellation. This manual cancels and replaces Chief of the National Guard Bureau Manual 1300.03A, 26 August 2020, "National Guard Retaliation Reporting Processes Related to Unrestricted Reports of Sexual Assault."
3. Applicability. This manual applies to the National Guard. The individuals in Table 1 may file an official report of retaliation through the National Guard Sexual Assault Prevention and Response (SAPR) Program by using the required Department of Defense (DoD) DD Form 2910-2, "Retaliation Reporting Statement for Unrestricted Sexual Assault Case" at reference d.
 - a. The alleged retaliation must be related to an Unrestricted Report of sexual assault initiated by a signed DD Form 2910 "Victim Reporting Preference Statement," at reference e.
 - b. National Guard Service members who are alleged offenders of Unrestricted Reports of sexual assault who feel they have been retaliated against based on the reported sexual assault are not eligible to file an official report of retaliation through the SAPR Program. Information on reporting retaliatory actions may be obtained through their chain of command, Staff Judge Advocate (SJA), State National Guard Command Office of the Inspector General (OIG), National Guard Bureau (NGB) OIG, or DoD OIG.
 - c. National Guard Service members who experienced reprisal or restriction while on Title 32 United States Code Dual Status Technician status, State Active Duty, or while training solely as a member of a State militia are ineligible to request assistance from the DoD OIG IAW reference f.

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- Adult sexual assault victim who previously made an official Unrestricted Report of sexual assault.
- Adult family members of an adult sexual assault victim who made an official Unrestricted Report of sexual assault.
- Witness to the sexual assault.
- Bystander who intervened in the sexual assault.
- National Guard SAPR professionals (see Glossary) involved in the case and other responders, such as Special Victims' Counsel, healthcare personnel, law enforcement, judge advocates, investigators, Chaplains, and Commanders.
- Other individuals associated with the incident, such as the victim's roommate, friend, or co-worker, who are perceived as supporting the victim, or who filed complaints, made statements, or testified in connection with an Unrestricted Report of sexual assault.

Table 1. Individuals Eligible to File a Retaliation Report Associated with an Unrestricted Report of Sexual Assault

4. Procedures. In accordance with reference a, this manual provides procedures for eligible individuals who wish to file a retaliation report through the National Guard SAPR Program, based on their perception of retaliatory behavior such as maltreatment, ostracism, reprisal, restriction or witness intimidation. The retaliation will be reported, discussed, and tracked during the monthly SAPR Case Management Group (CMG) meeting. This process includes filing a completed and signed DD Form 2910-2 with a National Guard SAPR professional (see Glossary). This action does not prohibit the eligible individual from seeking other options to address the alleged retaliation using a reporting option identified in Table 2, "Retaliation Reporting Options."

a. All allegations of reprisal and restriction are exclusively handled by the DoD OIG Whistleblower Reprisal Investigations Directorate. The "DoD Hotline -- Whistleblower Reprisal Complaints" may be accessed at reference g.

b. All eligible individuals will have unimpeded access to go to the DoD OIG at any time during the process to discuss and report retaliation IAW reference f and reference h. The individual may wish to consult with a National Guard SAPR professional, SJA, or a Special Victims' Counsel, if eligible, prior to filing an informal or formal complaint. See Enclosure A and Enclosure B for additional procedures.

- SAPR Program CMG Discussion: Required DD Form 2910-2.
- Immediate Commander or Commander outside the reporter's chain of command.
- Military Criminal Investigative Organization or civilian law enforcement (Potential Criminal Conduct).
- State National Guard Command OIG or NGB OIG.
- "DoD Hotline -- Whistleblower Reprisal Complaints" at reference g.
- DoD OIG (Reprisal and Restriction).

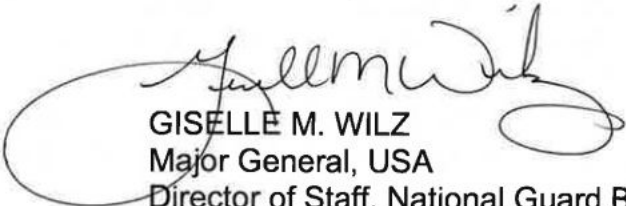
Table 2. Retaliation Reporting Options

5. Summary of Changes. Substantive revisions include:

- a. Expanding the applicability section including individuals eligible to file a retaliation report associated with an Unrestricted Report of sexual assault.
- b. Required CMG procedures to address filed retaliation allegations.
- c. Procedures and resources for SAPR Professionals who experience reprisal or retaliation.
- d. Options for eligible individuals to seek retaliation assistance and to file a report.
- e. Data collection methods and required metrics and non-metrics associated with retaliation.

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 reviewed annually by the Proponent/Office of Primary Responsibility for continued validity, and must be revised, reissued, canceled, or certified as current every ten years.


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Enclosures:

- A -- Retaliation Prevention and Report Processes
- B -- Data Collection and Metrics
- C -- References
- GL -- Glossary

ENCLOSURE A

RETALIATION PREVENTION AND REPORT PROCESSES

1. Prevention of Retaliatory Behaviors. Commanders and supervisors within the chain of command of a sexual assault victim or an alleged offender will maximize efforts to protect the eligible individuals identified in Table 1 of this manual from retaliation related to an Unrestricted Report of sexual assault made by the victim or through a third-party report (see Glossary) related to the Unrestricted Report. All retaliation prevention efforts will align IAW reference i. All retaliation-related training will be conducted IAW reference j. SAPR retaliation training must include the training definition of retaliation defined in this manual (see Glossary) The Commanders and supervisors will:

a. Detail professional conduct requirements with all members of their command leadership team, including officers, enlisted and civilian employees, to establish expectations.

b. Conduct a separate discussion with their other subordinates, both military and civilians, to share general information and requirements about retaliation, and to set expectations on keeping retaliatory behavior out of the command.

c. Verify the discussion includes the following topics focused on retaliation associated with a sexual assault or other misconduct:

(1) Appropriate, professional response by peers to a sexual assault victim and to an alleged offender when a sexual assault is reported in the unit.

(2) Promotion of healthy unit climates and prevention of incidents of retaliation against sexual assault victims, victim's family members, bystanders, witnesses, National Guard SAPR professionals, and other responders.

(3) Possible effects of incidents of retaliation, such as violation of good order and discipline, erosion of unit cohesion and military readiness, and deterrence in reporting sexual assault and other misconduct.

2. Retaliation Allegation Notification and Procedures.

a. Commanders and Supervisors Aware of an Allegation of Retaliation. Commanders and supervisors who become aware of an allegation of retaliation within their chain of command or supervisory command will:

(1) Immediately consult with their servicing SJA and the State National Guard Command OIG to verify the allegations are referred to the appropriate office for evaluation.

(2) Immediately notify the State SAPR Officer or State Lead Sexual Assault Response Coordinator (SARC) to ensure a servicing National Guard SAPR professional assists the retaliation reporter alleging retaliation based on an Unrestricted Report of

sexual assault, explains the purpose of the DD Form 2910-2, and assists the retaliation reporter in filing the required DD Form 2910-2 to provide consent for the CMG to discuss the retaliation allegations at the monthly SAPR CMG meetings, if desired.

(3) Verbally confirm with the servicing National Guard SAPR professional that a safety assessment was completed and will be re-administered monthly and when needed.

b. CMG Chair Receives Initial Report at CMG Meeting. A CMG Chair who receives the initial report of a retaliation allegation associated with an Unrestricted Report of sexual assault at a SAPR monthly CMG meeting will:

(1) Immediately consult with their servicing SJA and the State National Guard Command OIG to verify the allegations are referred to the appropriate office for evaluation.

(2) Request the CMG Co-Chair verify that the retaliation reporter receives information on the required use of the DD Form 2910-2 to consent to the discussion of their allegation of retaliation during the monthly SAPR CMG meetings and is assigned a servicing National Guard SAPR professional to offer assistance to the retaliation reporter.

c. Commanders Notified of a Filed DD Form 2910-2. Commanders who receive a retaliation report filed with a DD Form 2910-2 will:

(1) Not attempt to assess the credibility of the retaliation report.

(2) Consult with their servicing SJA to determine if referring the matter to a Military Criminal Investigative Organization or to civilian law enforcement is appropriate.

(3) Document if a referral to a Military Criminal Investigative Organization or to civilian law enforcement is not appropriate or if a referral to a Military Criminal Investigative Organization or civilian law enforcement is declined. If a referral is not deemed appropriate or a referral is declined, the Commander may conduct an internal, command-directed investigation only on the retaliation allegation and will:

(a) Consult with the servicing SJA, the State or Wing National Guard OIG, or NGB OIG to determine if a command-directed investigation on the retaliation is recommended. If recommended, the commander will appoint an individual independent of the unit or organization where the alleged retaliation originated to conduct the investigation of the retaliation allegation.

(b) Require the appointed individual to consult with the servicing SJA and to adhere to Service-specific regulations to conduct the investigation.

(c) Notify the Military Criminal Investigative Organization or civilian law enforcement investigating the sexual assault, as applicable, to avoid any interference with the criminal sexual assault investigation.

(d) Inform the retaliation reporter and servicing National Guard SAPR professional of the status of the command-directed investigation of retaliation allegation at the conclusion of the investigation. This requirement is non-delegable and is in addition to the requirement to provide the status to the SAPR CMG Chair.

(e) Provide the retaliation reporter and servicing SARC with the final disposition, administrative actions, and disciplinary actions taken against the Service member(s) suspected of or found accountable for retaliatory behavior in writing.

(f) Inform the State SAPR Officer, State Lead SARC or servicing National Guard SAPR professional if the command-directed investigation was not recommended and the reason it was not recommended, such as the DoD OIG or civilian law enforcement is investigating the retaliation. The State SAPR Officer, State Lead SARC or servicing National Guard SAPR professional with Defense Sexual Assault Incident Database (DSAID) access will enter this information into DSAID.

(4) Attend the monthly SAPR CMG meetings until the retaliation is resolved to ensure the Commander understands the impact on the retaliation reporter, and can provide the retaliation reporter with the required updates on the status of their retaliation report. If the alleged retaliator is the Commander, the next senior Commander in the retaliation reporter's chain of command will attend the monthly SAPR CMG meeting.

d. Servicing National Guard SAPR Professional. The servicing National Guard SAPR professional will:

(1) Inform the individual alleging retaliation of available support services and provide referrals to mental health providers, Chaplains, and Special Victims' Counsel, as appropriate.

(2) Discuss the types of retaliation and retaliatory behavior, reporting options, and investigative resources, to include their Commander, Military Criminal Investigative Organization, or civilian law enforcement.

(3) Provide a list of options identified in Appendix A of this Enclosure that are available for the individual alleging retaliation to seek assistance about the retaliation and discuss each one.

(4) Inform the individual alleging retaliation based on a complaint of reprisal or restriction that the complaints must be filed either directly with the DoD OIG, through the "DoD Hotline -- Whistleblower Reprisal Complaints" at reference g, or with the State National Guard Command OIG at any time to consult about or file a complaint. The servicing SARC will provide this information in a written format.

(5) Advise National Guard members on "State Active Duty," and National Guard technicians performing work as full-time civilian employees that they are not eligible to use the DoD OIG.

(6) Discuss the purpose and required use of the DD Form 2910-2 to file an official report of a retaliation allegation associated with an Unrestricted Report of sexual assault within the National Guard SAPR Program and to have the retaliation allegations discussed at the monthly SAPR CMG.

(7) Assist the individual who elects to file an official retaliation report through the SAPR Program in completing and filing the DD Form 2910-2 by using the procedures identified in Appendix B of this Enclosure.

(8) Consult with the local SJA if there are concerns about violating privileged communication, if applicable, with the retaliation reporter, prior to notifying the command.

(9) Notify the retaliation reporter's Commander and the SAPR CMG Chair of the retaliation report within 24 hours of the individual filing the official report by signing the DD Form 2910-2 and granting consent to discuss the retaliation at the monthly CMG. Exceptions to this notification include:

(a) Notify the next level in the retaliation reporter's chain of command if the alleged retaliator is the individual's immediate Commander or first-line supervisor.

(b) Notify the NGB Manpower and Personnel Sexual Assault Prevention and Response Division (NGB-J1-S), Victim Assistance and Advocacy (NGB-J1-S-VAA) Branch Regional Program Manager if the SAPR CMG Chair is the alleged retaliator.

(10) Not notify the command if informed by the retaliation reporter that they are pursuing action related to the allegations with the DoD OIG, Military Criminal Investigative Organization, or civilian law enforcement.

(11) Facilitate a safety assessment and heighten the attention on the sexual assault victim from self-harm, and threats from others. A sample safety assessment tool is at reference k. Continually assess the victim's safety and confirm the official retaliation report and assessment completion with the SAPR CMG Chair.

(12) Inform the National Guard Service member retaliation reporter of the availability of two types of general officer reviews using the DD Form 2910-2. In cases involving retaliation allegations against someone within their chain of command, the Service member may request a general officer from outside of their chain of command to conduct the review. The two types of reviews include:

(a) Administrative Separation. Service members who report retaliation because they are being processed for an administrative separation within one year of the final disposition of the victim's sexual assault case, such as one year from the court-martial verdict, have the right to request a review of the separation by a general officer within their chain of command.

(b) Adverse Career Impact. Service members, who believe there were adverse impacts to their military careers because they reported retaliation, have the right to discuss those career impacts with a general officer.

(13) Inform a victim who filed a restricted report of sexual assault, that retaliation allegations based on the restricted report cannot be investigated, which constrains the command's ability to respond and remedy any alleged retaliatory behavior. The servicing National Guard SAPR professional will:

(a) Inform the victim that the information shared on the retaliation allegation is defined as a "disclosure" and does not constitute an "official report" of retaliation, IAW reference I.

(b) Ask if the victim wants to convert to an Unrestricted Report using the DD Form 2910 and then file a retaliation report using the DD Form 2910-2. If the victim wishes to retain the initial restricted report, the servicing National Guard SAPR professional will complete the following in response to the retaliation disclosure:

1. Facilitate a safety assessment.
2. Discuss other options to seek assistance regarding the retaliation provided in Appendix A of this Enclosure.
3. Encourage the victim to seek assistance with a Special Victims' Council to discuss other ways to address the retaliation.
4. Notify the victim that they may file a complaint with the DoD OIG or through the "DoD Hotline -- Whistleblower Reprisal Complaints" at reference g for alleged reprisal based on being perceived as having filed or preparing to file a report of sexual assault.

(14) Discuss options available identified in Appendix A of this Enclosure to an individual who discloses alleged retaliation not associated with an Unrestricted Report filed with a signed DD Form 2910 and inform the individual that they are not eligible to file a DD Form 2910-2.

3. Required General Officer Notification and Action.

a. SAPR CMG Chair. The SAPR CMG Chair will notify the first general officer in the retaliation reporter's chain of command when:

(1) An eligible individual filed a DD Form 2910-2 and consented to discuss the retaliation in the SAPR CMG. The notification will include the following, if applicable:

(a) The retaliation report is against someone in the reporter's chain of command or supervisory chain.

(b) The suspect of the sexual assault allegation is the rater, reporting senior, or reviewing officer of the sexual assault victim who is also the retaliation reporter.

(2) A high-risk response team is activated for a sexual assault victim who also reported retaliation, and when the high-risk response team is deactivated.

(3) The retaliation is resolved and no longer on the monthly SAPR CMG agenda.

b. General Officer. The general officer will take the appropriate action when retaliation allegations are against an official who conducts evaluations on or rates the retaliation reporter's performance. This action may include removing the rater or reviewing official from the evaluation process of the retaliation reporter's chain of command IAW National Guard or Service-specific policy and procedures.

c. Retaliation Reporter. The retaliation reporter who alleges retaliation against an official who conducts evaluations on or rates the retaliation reporter's performance will with the assistance of their servicing National Guard SAPR professional inform the general officer if the retaliation report was filed through the "DoD Hotline -- Whistleblower Reprisal Complaints" at reference g to ensure appropriate action is taken concerning the rater, reporting senior or reviewing officer.

4. General Officer Reviews. A general officer requested by a retaliation reporter using a DD Form 2910-2 to conduct one of the two types of reviews identified in 2.d.(12) this Enclosure must receive a briefing by the State Lead SARC and by a National Guard Special Victims' Counsel prior to conducting a requested formal review. The briefing must include discussions on victim's rights, available resources, and a discussion of the common effects of trauma and stress.

5. SAPR CMG Meeting Procedures for Filed Retaliation Allegation.

a. SAPR CMG Chair. The Chair of the SAPR CMG will conduct oversight of the monthly CMG activities related to retaliation allegations until resolution. The SAPR CMG Chair will:

(1) Ensure the completion of an initial safety assessment and that additional assessments are conducted monthly, unless required more frequently, and verify the State Lead, Brigade or Wing SARC annotates the date and results of all safety assessments in the applicable module in DSAID following standard procedures.

(2) Track the timeframe for processing expedited transfers, to include the reasons for delays in reaching a decision, especially where there are allegations of retaliation.

b. Servicing National Guard SAPR Professionals Supporting Retaliation Reporters. Servicing National Guard SAPR professionals supporting retaliation reporters who filed a DD-Form 2910-2 at a monthly SAPR CMG meeting will:

(1) Present verbal updates from the retaliation reporter monthly and from the DoD OIG at the set 3-month intervals to the SAPR CMG Chair during the SAPR CMG meetings if the retaliation reporter indicated his or her consent on the DD Form 2910-2. The update will include information within the servicing National Guard SAPR professional's responsibilities that is not customarily provided by other stakeholders, such as support services and referrals offered and received by the retaliation reporter.

(2) Request, track, and upload status updates in DSAID for the monthly SAPR CMG meetings IAW Enclosure B.

(3) Confirm that the servicing National Guard SAPR professional who took the DD Form 2910-2 report notified the NGB-J1-S NGB-J1-S-VAA Regional Program Manager that the SAPR CMG Chair is the alleged offender of the sexual assault or the retaliation and that an appointed general officer is conducting oversight of the retaliation in place of the SAPR CMG Chair.

(4) Ensure retaliation communications with retaliation reporters are confidential, and for those eligible, handled as privileged communications. The servicing National Guard SAPR professional will limit disclosure of retaliation reporter information to only parties with a verified need to know, unless otherwise provided for in law or DoD policy.

(5) Verify that information provided to an OIG based on a retaliation reporter's decision to file a complaint with the OIG is limited to the information available on an 8-Day Report, such as date the sexual assault was reported. Any other information entered in DSAID will only be released by NGB-J1-S to NGB OIG for communication with the investigating OIG.

APPENDIX A TO ENCLOSURE A

OPTIONS TO SEEK RETALIATION ASSISTANCE AND REPORT PROCEDURES

1. National Guard SAPR professionals will discuss the information in Table 3 “Resources Available for Individuals Who Disclose Retaliation” with individuals who wish to report a retaliation allegation or to receive assistance.

Resources Available for Individuals Who Disclose Retaliation

- A National Guard SAPR professional or Special Victims’ Counsel, if eligible.
- A SARC on a different installation facilitated by the “DoD Safe Helpline” at <https://safehelpline.org/> accessed 23 October 2023.
- Their immediate Commander.
- A Commander outside their chain of command.
- National Guard personnel have the right to invoke their Service-specific reporting procedures regarding such allegations, for example, human resources department, dedicated Service programs for retaliation reporters that may be available in addition to the procedures in this manual.
- A general officer, if the retaliation involves an administrative separation or the National Guard Service member believes that there was an impact on his or her military career.
- Trial Defense Counsel, Area Defense Counsel, Special Victims’ Counsel, or a legal assistance attorney to facilitate reporting with a National Guard SAPR professional.
- DoD OIG at any time and specifically when invoking whistle-blower protections IAW reference f and reference h.
- Commander or National Guard SAPR professional to request an expedited transfer for retaliation reporters who filed an official Unrestricted Report.
- Commander or National Guard SAPR professional to request a safety transfer, military protective order, civilian protective order, or no contact order, if the eligible sexual assault victim or other retaliation reporter is in fear of their safety.
- Servicing civilian law enforcement who will assess the nature of the retaliation IAW applicable State and local laws.

Table 3. Resources Available for Individuals Who Disclose Retaliation

2. National Guard SAPR Professionals experiencing retaliation or reprisal by their supervisor, who may be a General Officer, State SAPR Officer or State Lead SARC, may utilize the resources available in Table 4 “Resources Available for National Guard SAPR Professionals Who Disclose Retaliation by a Supervisor” to report a retaliation allegation and to receive assistance.

Resources Available for National Guard SAPR Professionals Who Disclose Retaliation by a Supervisor

- NGB-J1-S Compliance and Accountability Branch to receive and file the completed DD Form 2910-2.
- Telephonic attendance at the monthly CMG by an NGB-J1-S Compliance and Accountability Branch representative as the victim’s representative.
- Special Victims’ Counsel, if eligible.
- A SARC on a different installation facilitated by the “DoD Safe Helpline” at <https://safehelpline.org/> accessed 23 October 2023.
- National Guard SAPR personnel reserve the right to invoke their Service-specific reporting procedures regarding such allegations, for example, human resources department and dedicated Service programs for retaliation reporters that may be available in addition to the procedures in this manual.
- DoD OIG at any time and specifically when invoking whistle-blower protections IAW reference f and reference h.
- NGB OIG when the allegation involves a General Officer.
- DoD Safe Helpline when the allegation involves a D-SAACP certified State SAPR Officer or State Lead SARC.
- Commander or National Guard SAPR professional to request a safety transfer, military protective order, civilian protective order, or no contact order, if the eligible sexual assault victim or other retaliation reporter is in fear of their safety.
- Servicing civilian law enforcement who will assess the nature of the retaliation IAW applicable State and local laws.

Table 4. Resources Available for National Guard SAPR Professionals Who Disclose Retaliation by a Supervisor

3. The Adjutants General of the States and Territories, the Commanding General of the District of Columbia, and Commanders will ensure reporting options for sexual assault, and reporting options for retaliation are posted in high-traffic locations and include this information in Table 5.

Required Information For Posting On Sexual Assault And Retaliation Reporting Options
<ul style="list-style-type: none">• Location, telephone numbers, and e-mail address for the local National Guard SAPR professionals and Special Victims' Counsel so individuals can discuss reporting options.• DoD Safe Helpline for crisis intervention, 24 hours a day, 7 days a week worldwide.• A process to aide individuals who wish to report outside their chain of command, to include DoD Safe Helpline which can directly link the individual to a SARC and other personnel outside their chain of command.• The Catch a Serial Offender "CATCH" Program IAW reference l and reference m.• Information for the "DoD Hotline -- Whistleblower Reprisal Complaints" at reference g.• Information regarding services furnished by the Secretary of Veterans Affairs to survivors of sexual trauma. This should also be posted in areas where sexual assault prevention staff normally post notices or information.• Information that persons eligible to file a retaliation report related to an unrestricted adult sexual assault report includes:<ul style="list-style-type: none">○ Adult sexual assault victim, who has or plans to make an Unrestricted Report of sexual assault.○ Adult sexual assault victim's adult family member (for example, spouse, son, daughter).○ Witness.○ Bystander (who intervened).○ National Guard SAPR professional assigned to the case.○ Other Responder, such as Special Victim's Counsel, healthcare personnel, law enforcement, judge advocates, Chaplains, and Commanders.○ Other individuals associated with the incident, such as the victim's roommate, friend, or co-worker perceived as supporting the victim.• Information on military equal opportunity and equal employment opportunity referrals to DoD OIG, State National Guard Command OIG, or NGB OIG for sexual harassment retaliation reports.

Table 5. Required Information for Posting On Sexual Assault and Retaliation Reporting Options

APPENDIX B TO ENCLOSURE A

PROCEDURES FOR PROCESSING DD FORM 2910-2

1. Eligible Retaliation Reporter. The eligible retaliation reporter in consultation with a National Guard SAPR professional will:
 - a. Complete the DD Form 2910-2 to report the allegations of retaliation within the SAPR Program related to an Unrestricted Report of adult sexual assault previously filed using a DD Form 2910.
 - b. Provide the completed form DD Form 2910-2 to their servicing National Guard SAPR professional or another National Guard SAPR professional.
2. National Guard SAPR Professional Retaliation Reporter. A National Guard SAPR Professional who experiences a retaliatory action will have the same resources and will follow the same process for filing a retaliation allegation and may seek assistance from their NGB-J1-S-VAA Regional Program Managers.
3. Servicing National Guard SAPR Professional. The servicing National Guard SAPR professional will:
 - a. Verify the retaliation reporter completed the DD Form 2910-2 and initialed the “Yes” box at (7) if they wish the retaliation allegation discussed at the SAPR CMG.
 - b. Verify that the alleged retaliation is linked to an Unrestricted Report of sexual assault in DSAID and will record the DSAID control number of the Unrestricted Report on the DD Form 2910-2.
 - c. Contact the NGB-J1-S VAA Regional Manager or DSAID Program Manager for assistance if the alleged retaliation cannot be linked to an Unrestricted Report in the National Guard DSAID.
 - d. Initiate the alleged retaliation case in DSAID within the linked Unrestricted Report of sexual assault DSAID case using the following steps:
 - (1) From the linked DSAID Case main page, select “Create New Retaliation Case”
 - (2) Click “OK” on the pop-up message to confirm the intent to create a new retaliation case on the designated DSAID case number or click “Cancel” to go back and verify the case information.
 - (3) The system will open the “Retaliation Case” in a new browser tab after “OK” is selected.
 - (4) Complete the fields on the “Retaliation Case” tab and after verifying the accuracy of the information, click “Save” at the bottom of the page.

(5) If the retaliation reporter is the sexual assault victim of the associated DSAID case, click "Import Victim Information," if not, manually type in the information and click "Save."

(6) Complete the steps without entering any victim Personally Identifiable Information or Health Insurance Portability and Accountability Act information and after verifying the information, click "Save."

e. Upload the DD Form 2910-2 into the DSAID file locker within 48 hours of the report, which may be extended to 96 hours in deployed locations with poor Internet connectivity, IAW reference I. The DD Form 2910-2 will be retained in DSAID for 50 years from the date the victim signed the form.

f. Inform the investigative entity if a link to an Unrestricted Report DSAID case is not established that no further updates to the National Guard SAPR professional are necessary as the retaliation report will not be tracked within the NG SAPR Program. This action does not have any effect on the investigation itself.

3. NGB-J1-S Regional Program Manager or DSAID Program Manager. NGB-J1-S Regional Managers or DSAID Program Manager will run a cross Services check to identify if there is a link to an Unrestricted Report when informed that a link does not exist within the National Guard DSAID and will:

a. Provide the requested Unrestricted Report DSAID control number to the National Guard SAPR professional for processing the retaliation report if a link between the alleged retaliation and an Unrestricted Report exists.

b. Inform the National Guard SAPR professional that the alleged retaliation does not have a direct link with an Unrestricted Report and cannot be entered into DSAID.

4. SAPR Related Inquiry on a Retaliation Reporter Disclosure. A discussion of an alleged act of retaliation associated with an Unrestricted Report of sexual assault between an individual and a National Guard SAPR professional is considered a disclosure or inquiry if the individual declines to complete a DD Form 2910-2. The National Guard SAPR professional will not release any details of the conversation, but will:

a. Ensure the individual who disclosed the alleged retaliation is notified of the various options identified in Appendix A of this Enclosure that individuals experiencing retaliation may use to seek assistance and make a report.

b. Facilitate a safety assessment IAW established sexual assault policy.

c. Treat the disclosure as a SAPR-related Inquiry (SRI) and will document the occurrence of the discussion in DSAID under the "SRI Module." If the National Guard SAPR professional is not authorized to use DSAID, they will request the NGB-J1-S Regional Program Manager to document the occurrence of the discussion in DSAID.

(1) If other persons, such as witnesses or supervisors, co-workers, friends, and family members of the sexual assault victim or retaliation reporter, approach the National Guard SAPR professional with retaliation-related questions, the discussions will also be documented in DSAID as an SRI.

(2) The National Guard SAPR professional will make the entries in the DSAID module within 48 hours of the SRI or within 96 hours if in deployed locations, such as areas of combat that have poor Internet connectivity.

d. Follow-up with the individual declining to complete or sign the DD Form 2910-2 one week after the initial meeting to ask if the individual:

(1) Made a retaliation report outside of the SAPR Program, such as with the DoD OIG.

(2) Intends to complete the DD Form 2910-2 and have the retaliation allegation discussed at the monthly CMG.

(3) Has any safety concerns.

5. Retaliation Reporter who Submitted a Signed DD Form 2910-2. The retaliation reporter may request a copy of their official retaliation report, signed DD Form 2910-2, through their servicing National Guard SAPR professional.

(1) Only the victim who made the sexual assault report may receive a copy of the signed DD Form 2910 associated with the retaliation allegation.

(2) The National Guard SAPR professional will be careful not to inadvertently reveal sexual assault case details to retaliation reporters who are not the sexual assault victim.

6. Requests for Release of Information. Any other requests for release of information such as under the Freedom of Information Act (see Glossary) will be referred to the appropriate National Guard or NGB office.

ENCLOSURE B

DATA COLLECTION AND METRICS

1. DSAID is the system of record for tracking official reports of sexual assault-related retaliation. Each allegation of retaliation in connection with an Unrestricted Report of sexual assault documented on a DD Form 2910-2 is recorded in DSAID. Retaliation data reporting will follow the same quarterly and annual requirements as outlined IAW reference I and will incorporate a synopsis of the retaliatory behavior, and the disciplinary action(s) taken in each substantiated retaliation report in the Annual Report of Sexual Assault in the Military. This information will be used to evaluate the National Guard's efforts to prevention and respond to retaliation.

a. Sexual Assault Response Coordinators and SAPR Victim Advocates authorized to use DSAID will track retaliation reports in DSAID from the date of initiation to completion of command action or disposition for the retaliation. Additionally, Sexual Assault Response Coordinators and SAPR Victim Advocates will:

(1) Be the only individuals to assist the retaliation reporter complete an official report using DD Form 2910-2.

(2) Upload the completed DD Form 2910-2 into the DSAID file locker within 48 hours of the report completion (may be extended to 96 hours in deployed locations with poor Internet connectivity), IAW established DD Form 2910 records management procedures for a storage period of 50 years.

(3) Not retain or upload any information in DSAID when the retaliation reporter chooses not to sign the DD Form 2910-2 or track the report within the SAPR Program. However, a related SRI will be documented in the SRI module in DSAID.

(4) Obtain information on the retaliation investigation from the SJA, civilian law enforcement, or other investigative organization for entry into the Retaliation Module in DSAID.

b. The NGB DSAID legal officer will document the final disposition of each retaliation report entered into the DSAID.

2. NGB-J1-S Compliance and Accountability Branch will assess the metrics and non-metrics associated with the prevention and response to retaliation related to a sexual assault report. This information may be obtained from DD Forms 2910-2, DSAID and surveys, and will include the information on Table 6 "Required Metrics and Non-Metrics Associated With Retaliation."

Required Metrics and Non-Metrics Associated With Retaliation

- Number of individuals alleging retaliation, which is discussed by the servicing SARC and others at the monthly CMG meeting.
- Number of reports received by the State National Guard Command OIG reported directly to DoD Sexual Assault Prevention and Response Office.
- Number of reports received by civilian law enforcement and command.
- Follow-on actions taken in retaliation cases discussed at the monthly CMG meetings:
 - Percentage of retaliation allegation cases in which the Chair of the monthly SAPR CMG meeting took at least one action, such as medical referral or standing up High-Risk Response Team.
 - Total number of actions taken by DoD personnel as the result of the current retaliation allegation discussed at the monthly SAPR CMG meeting such as expedited transfer, safety plan updated, or training for unit.
- Perceptions of retaliation by sexual assault victims captured through force-wide Department survey responses.
- Risk and protective factors relating to healthy unit climates from Defense Organizational Climate Survey results.
- Disciplinary or other military personnel action taken based on investigative reports conducted by the State National Guard Command OIG, civilian law enforcement, and command:
 - Outcomes for alleged retaliator.
 - Actions taken to support retaliation reporter.
- Matter(s) investigated for the report of retaliation:
 - Reprisal actions.
 - Restriction.
 - Ostracism.
 - Cruelty or maltreatment.

Table 6. Required Metrics and Non-Metrics Associated With Retaliation

- Criminal act for a retaliatory purpose in connection with an alleged sex-related offense within State Code or law.
- Source of the Report:
 - Adult sexual assault victim who previously made an Unrestricted Report of sexual assault.
 - Adult sexual assault victim's adult family member.
 - Witness to the sexual assault.
 - Bystander, who intervened in the sexual assault.
 - National Guard SAPR professional involved in the case.
 - Other Responder, such as Special Victims' Counsel, healthcare personnel, law enforcement, judge advocates, chaplains, and Commanders.
- Other individuals associated with the incident, such as the victim's roommate, friend, or co-worker perceived as supporting the victim.

Table 6 continued. Required Metrics and Non-Metrics Associated With Retaliation

ENCLOSURE C

REFERENCES

PART I. REQUIRED

- a. Chief of the National Guard Bureau (CNGB) Instruction 1300.01, 26 July 2020, "Sexual Assault Prevention and Response Program"
- b. DoD Directive 5105.77, "National Guard Bureau (NGB)," 30 October 2015, Incorporating Change 1, 10 October 2017
- c. Department of Defense Instruction 6495.02, Volume 3, 24 June 2022, "Sexual Assault Prevention and Response: Retaliation Response for Adult Sexual Assault Cases"
- d. DoD Forms Management Program, DD Form 2910-2, "Retaliation Reporting Statement for Unrestricted Sexual Assault Case"
<https://www.esd.whs.mil/Directives/forms/dd2500_2999/>, accessed 23 October 2023
- e. DoD Forms Management Program, DD Form 2910, "Victim Reporting Preference Statement," <https://www.esd.whs.mil/Directives/forms/dd2500_2999/>, accessed 23 October 2023
- f. DoD Inspector General Memorandum, 29 April 2021, "Military Whistleblower Protection Act Coverage for Members of the National Guard"
- g. Department of Defense Office of Inspector General, "DoD Hotline -- Whistleblower Reprisal Complaints," <<https://www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/Whistleblower-Reprisal/>>, accessed 23 October 2023
- h. DoD Directive 7050.06, 17 April 2015, "Military Whistleblower Protection," Incorporating Change 1, 12 October 2021
- i. DoD Instruction 6400.09, 11 September 2020, "DoD Policy on Integrated Primary Prevention of Self-Directed Harm and Prohibited Abuse or Harm"
- j. DoD Instruction 6495.02, Volume 2, 09 April 2021, "Sexual Assault Prevention and Response: Education and Training"
- k. United States Department of Defense Sexual Assault Prevention and Response, SAPR Policy Toolkit for SARCs, "Safety Assessment Tool"
<https://www.sapr.mil/sites/default/files/public/docs/policy/toolkit/Safety_Assessment_Tool_Reference_Copy.pdf>, accessed 23 October 2023
- l. DoD Instruction 6495.02, Volume 1, 28 March 2013, "Sexual Assault Prevention and Response: Program Procedures," Incorporating Change 7, 06 September 2022

m. DoD Instruction 5505.18, 22 March 2017, "Investigation of Adult Sexual Assault in the Department of Defense," Incorporating Change 4, 06 September 2022

PART II. RELATED

n. United States Department of Justice, Office of Information Policy, Freedom of Information Act, <<https://www.foia.gov/about.html>>, accessed 23 October 2023

o. United States Department of Defense Sexual Assault Prevention and Response, Sexual Assault and Prevention Response Office Reports, Retaliation Strategy and Plan, "DoD Retaliation Prevention and Response Strategy Implementation Plan," January 2017 <https://www.sapr.mil/sites/default/files/DoD_RPRS_Implementation_Plan.pdf>, accessed 23 October 2023

GLOSSARY

PART I. ACRONYMS

CMG	Case Management Group
DoD	Department of Defense
DoD OIG	Office of the Inspector General of the Department of Defense
DSAID	Defense Sexual Assault Incident Database
IAW	In accordance with
IG	Inspector General
NGB	National Guard Bureau
NGB-IG	National Guard Bureau Inspector General
NGB-J1-S	National Guard Bureau Manpower and Personnel Sexual Assault Prevention and Response Division
NGB-J1-S-VAA	National Guard Bureau Manpower and Personnel Sexual Assault Prevention and Response Victim Assistance and Advocacy Branch
SAPR	Sexual Assault Prevention and Response
SARC	Sexual Assault Response Coordinator
SJA	Staff Judge Advocate
SRI	Sexual Assault Prevention and Response-Related Inquiry

PART II. DEFINITIONS

Freedom of Information Act -- The Freedom of Information Act provides the public the right to request access to records from any federal agency. Federal agencies must disclose any information requested under the act unless it falls under one of nine exemptions which protect interests such as personal privacy, national security, and law enforcement in accordance with reference n.

Maltreatment -- An act involving cruelty that occurs when a person subject to the Uniform Code of Military Justice or State Code of Military Justice is cruel toward, oppresses, or maltreats any person subject to their orders, but not necessarily in their chain of command in accordance with reference c.

National Guard Sexual Assault Prevention and Response Professionals -- Include Defense Sexual Assault Advocate Program certified State Sexual Assault Prevention and Response Officer, National Guard Joint Forces Headquarters-State, Brigade, and Wing Sexual Assault Response Coordinators, National Guard Joint Force Headquarters-State Sexual Assault Prevention and Response Victim Advocates (formerly known as Victim Advocate Coordinators), and all full time, collateral duty, and volunteer Victim Advocates.

Ostracism -- The offense, with a nexus to military service, of 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 sexual assault; otherwise discourage the due administration of justice concerning a criminal offense because the perpetrator knew or believed that the member:

- Reported or was planning to report a sexual assault.
- Was a victim or alleged victim of a sexual assault.
- Was reported by another as being the victim of a sexual assault.
- Intervened to prevent or attempt to prevent a sexual assault from occurring.
- 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 sexual assault in accordance with reference o.

Reprisal -- Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making, preparing to make, or being perceived as making or preparing to make a protected communication in accordance with reference c.

Responders -- Generally include first responders in disciplines or positions, such as sexual assault response coordinators, sexual assault prevention and response victim advocates, healthcare personnel, law enforcement, and military criminal investigative organizations. Other responders may include judge advocates, Chaplains, and Commanders, who are not considered first responders in accordance with reference c.

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 General in accordance with reference c.

Retaliation -- An act that involves:

- Personnel Actions -- Wrongfully takes or threatens to take an adverse personnel action against any person; or wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person for making or preparing to make a protected communication, such as a sexual assault in accordance with reference c.
- Certain Social Interactions, Such as Ostracism -- With a connection to Military Service, wrongfully excluding a Service member from social acceptance or membership with the intent to inflict emotional distress, discourage reporting, and discourage the administration of justice in accordance with reference c.

- Involves Cruelty -- Occurs when a person subject to the Uniform Code of Military Justice or State Code of Military Justice is cruel toward, oppresses, or maltreats any person subject to their orders, but not necessarily in their chain of command. This may include physical or mental cruelty in accordance with reference c.

Third-Party Report -- A report of sexual assault made to a military criminal investigative organization or civilian law enforcement agency by an individual other than the victim, such as the victim's Commander, who receives knowledge of the sexual assault from other than the victim of the sexual assault, which results in an investigation of a sexual assault in accordance with reference h.

Witness Intimidation -- Conduct or acts that seek to improperly influence a witness' ability to testify or seeks to alter a witness' testimony such as threats of assault, obstruction of justice, threats, or damage to personal property in accordance with reference c.