

**SEXUAL  
ASSAULT  
REPORTING  
TOOLKIT**  
for  
**SJAs**

**Current as of: 25 JUN 15**

**OJAG Code 20\***

**\*Please note other AORs may have different or additional local  
guidance on reporting methods**

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## 1. OVERVIEW

Although commands are primarily responsible for understanding and executing their responsibilities regarding proper reporting and documentation of alleged sexual assaults, Staff Judge Advocates (SJAs) and Command Services Attorneys play an essential role in ensuring command compliance with all applicable rules and instructions. This toolkit is designed to help effectively execute this oversight role and includes applicable references, checklists, templates, sample disposition documents, and abbreviated explanatory materials. This toolkit is not intended to be used for those cases covered by the Family Advocacy Program, consistent with DoD Directive 6400.01 and DoD Instruction 6400.06.

This toolkit is not meant to replace existing toolkits and local guides created for, and by, commands. In order to best support the commands in their areas of responsibility, SJAs and Command Services Attorneys should become familiar with all instructions and requirements referenced herein; local command structures and reporting chains; local sexual assault prevention and response (SAPR) resources and contacts; and all new rules and instructions pertaining to the reporting of alleged sexual assaults which might modify this toolkit.

NOTE: This toolkit attempts to delineate what is required per instruction, and what is recommended per OPNAV or OJAG. Decisions regarding operational reporting remain the responsibility of Commanding Officers.

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## 2. REFERENCES

- a. DoDD 6400.01 (Family Advocacy Program (FAP))
- b. DoDINST 6400.06 (Domestic Abuse Involving DoD Military and Certain Affiliated Personnel)
- c. DoDINST 6495.02 (Sexual Assault Prevention and Response (SAPR) Program Procedures)
- d. SECNAVINST 1752.4B (SAPR Instruction)
- e. OPNAVINST 1752.1B (SAVI Instruction)(currently being updated)
- f. DoDINST 5505.18 (Investigation of Adult Sexual Assault in the Department of Defense)
- g. DTM 14-007 (Sexual Assault Incident Response Oversight (SAIRO) Report)
- h. OPNAVINST F3100.6J (SPECIAL INCIDENT REPORTING (OPREP-3 PINNACLE, OPREP-3 NAVY BLUE, AND OPREP-3 NAVY UNIT SITREP) PROCEDURES
- i. NAVADMIN 272/12 (URGENT CHANGE 3 to F3100.6J)
- j. OPNAVINST 5800.7A (VWAP Instruction)
- k. SECDEF Memo dtd 20 APR 12
- l. NAVADMIN 195/28JUN2012 – IMPLEMENTATION OF SEXUAL ASSAULT INITIAL DISPOSITION AUTHORITY (SA-IDA) REQUIREMENT
- m. NAVADMIN 132/12 – EXPEDITED TRANSFER PROCEDURES FOR SERVICE MEMBERS WHO FILE UNRESTRICTED REPORTS OF SEXUAL ASSAULT
- n. NAVADMIN (014/15) - SEXUAL ASSAULT INCIDENT RESPONSE OVERSIGHT (8-DAY) REPORT

- o. COMNAVLEGSVCCOM 5810.1 (DISCLOSURE OF INFORMATION TO CRIME VICTIMS)
- p. ALNAV 061/14 – IMPLEMENTATION OF SEXUAL ASSAULT DISPOSITION REPORT (SADR) (NAVPERS 1751/2)
- q. NAVADMIN 189/14 – INCLUSION AND COMMAND REVIEW OF INFORMATION ON SEX-RELATED OFFENSES IN PERSONNEL SERVICE RECORDS
- r. P.L. 113-66 (FY14 NATIONAL DEFENSE AUTHORIZATION ACT)
- s. ALNAV 049/14 – IMPLEMENTATION OF CERTAIN PROVISIONS OF THE FY14 NATIONAL DEFENSE AUTHORIZATION ACT RELATED TO CRIME VICTIM RIGHTS
- t. ALNAV 050/14 – IMPLEMENTATION OF SECTION 1705 OF THE FY14 NATIONAL DEFENSE AUTHORIZATION ACT RELATED TO COURT-MARTIAL JURISDICTIONAL LIMITS AND MINIMUM SENTENCES FOR CERTAIN SEX OFFENSES
- u. ALNAV 051/14 – IMPLEMENTATION OF CERTAIN PROVISIONS OF THE FY14 NATIONAL DEFENSE AUTHORIZATION ACT RELATED TO CONVENING AUTHORITY DISPOSITION CONSIDERATIONS AND POST-TRIAL ACTIONS
- v. ALNAV 052/14 – IMPLEMENTATION OF SECTION 1744 OF THE FY14 NATIONAL DEFENSE AUTHORIZATION ACT RELATED TO ELEVATED REVIEW OF DISPOSITION DECISIONS REGARDING CERTAIN SEX-RELATED OFFENSES
- w. P.L. 112-239 (FY13 NATIONAL DEFENSE AUTHORIZATION ACT)

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### 3. REQUIREMENTS BASED ON TYPE OF REPORT

a. **RESTRICTED** – No report. Ensure commands do NOT inquire into or investigate details of the report, to include any personal identifying information. No OPREP-3 personnel incident report and no NCIS notification. Commands should monitor command climate and reinforce command SA prevention training.

b. **UNRESTRICTED** – Report and NCIS/SARC notification required for all incidents where the *alleged victim or offender is active duty, an adult dependent (over the age of 18 years), or a Reservist on active duty*. NCIS/SARC notification is also required for incidents involving civilians (DoD employees and contractors) who are sexually assaulted on property under Department of Navy jurisdiction and assigned OCONUS.

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### 4. REPORTING REQUIREMENTS BY CASE EVENT

#### a. Upon Initial Report of Sexual Assault

1. Notify SARC, DRC, SAPR VA, OR UVA :

Immediately [DoDINST 6495.02; SECNAVINST 1752.4B]

2. Notify NCIS:

**Immediately** [DoDINST 6495.02; DoDINST 5505.18; SECNAVINST 1752.4B; Section 1742 of FY13 NDAA].

Discuss physical evidence and preservation.

• Ensure internal command inquiry is not initiated

3. Report via OPREP-3: [OPNAVINST F3100.6J]

Determine who has OPREP-3 NAVY BLUE /UNIT SITREP responsibility:

• Per OPNAVINST 1752.1B (SAVI): Victim's command is responsible for initial and monthly reporting via OPREP-3 until resolution of the case.

• If the alleged victim is a civilian, alleged offender's command is responsible for reporting via OPREP-3.

• Gathering OPREP-3 information: Victim info should be collected by the command SAPR Data Collection Coordinator (DCC) via the SARC, SAPR VA, DRC, UVA, VLC (when possible) in order to limit undue stress on the alleged victim.

• DCC should draft the OPREP-3 to limit unnecessary information dissemination [per OPNAVINST 1752.1B].

• Ensure there is no comeback copy to the command (to prevent accidental dissemination of information beyond those with need to know) or take other steps to prevent wide dissemination.

• Ensure command consults with a JAG.

*Recommendation:* OJAG Code 20 recommends consulting JAG throughout initial reporting phase and beyond.

Determine type of OPREP-3 required and filing deadlines: (see next page)

OPREP-3 NAVY UNIT SITREP	OPREP-3 NAVY BLUE
<p>Sexual assault, <u>other than rape and forcible sodomy</u>, and <i>attempts</i> to commit these offenses.</p> <p><i>Sexual assault defined:</i> Intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent. For Unit SITREP purposes, this includes but is not limited to unwanted sexual contact that is aggravated or abusive (to include unwanted and inappropriate sexual contact) or attempts to commit these acts.</p>	<p>Rape or forcible sodomy: force or attempt to force an individual to perform or receive sexual intercourse, oral sex, anal sex, anal or vaginal penetration against one’s will or without one’s consent.</p> <p>- OR -</p> <p>Sexual assault <u>if media attention</u>: any unwanted or offensive touching of a sexual nature, attempted touching of the genitalia, breasts, or buttocks. This includes being made to sexually touch those areas or any other unwanted sexual contact.</p>

OPREP-3 NAVY UNIT SITREP	OPREP-3 NAVY BLUE
<p>Timeliness of Report:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Within <b>5 minutes</b>: <ul style="list-style-type: none"> <li>o Ensure voice report to Maritime Operations Center (MOC) (See OPNAVINST F3100.6J at 2-6 for MOC list)</li> </ul> </li> <li><input type="checkbox"/> Within <b>60 minutes</b>: <ul style="list-style-type: none"> <li>o Ensure voice report to ISIC</li> <li>o Ensure proper record message traffic</li> </ul> </li> </ul>	<p>Timeliness of Report:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Within <b>5 minutes</b>: <ul style="list-style-type: none"> <li>o Ensure voice report to Maritime Operations Center (MOC) (See OPNAVINST F3100.6J at 2-6 for MOC list)</li> </ul> </li> <li><input type="checkbox"/> Within <b>60 minutes</b>: <ul style="list-style-type: none"> <li>o Ensure proper record message traffic</li> </ul> </li> </ul>

4. Ensure alleged victim has been assigned/provided appropriate support

- Emergency medical care and treatment, as necessary.
- SAPR Command Liaison** to act as the single point of contact between alleged victim and command executive level.
- Ensure safety assessment is conducted.
- VWAP DD Form 2701 from NCIS [OPNAVINST 5800.7A and SECNAVINST 1752.4B] issued by law enforcement agent in Unrestricted Reports and SARC in Restricted Reports.
- Trained SAPR Victim Advocate/UVA, Deployed Resiliency Counselor, assigned/SARC**: Even if a SAPR VA is assigned already, ensure SARC is notified.
- Victims’ Legal Counsel (VLC)**: Inform victim of this option.
- Chaplain**: Provide victim access to Chaplain (suggested, not required).
- Expedited Transfer**: Ensure victim has been informed of the option to request expedited transfer. Command action required **w/in 72 hours** of request [SECNAVINST 1752.4B and MILPERSMAN 1300-1200].
- Alleged Offender’s Transfer: CO may reassign the alleged offender instead in the interest of good order and discipline.
- Military Protective Order (MPO) (DD Form 2873), if required [SECNAVINST 1752.4B].
  - If issued, notify NCIS of the MPO and individuals involved
  - If MPO is requested by a victim and is denied, forward the decision and rationale to deny a victim’s MPO request to the Installation CO or equivalent

command level for final decision in consultation with an SJA. [DoDI 6495.02]

- Recommend discussion with NCIS before issuing MPO to avoid potentially compromising the investigation.
- Ensure victim is aware of option to have civilian protective order (CPO) issued, if appropriate. Notify local authorities, SACMG Chair, and SARC of MPO/CPO (if issued).

5. Notify local authorities of MPO (if issued)

- Immediately** [OPNAVINST 1752.1B and SECNAVINST 1752.4B].
- Under Secretary of Defense Memorandum of June 26, 2014, “Placement of MPOs in the National Crime Information Center Protective Order File,” notification of civilian authorities of the issuance of the MPO and the names of those involved in the MPO is required for anyone listed in an MPO who resides off base at any time during the issuance of the MPO.
- Notify local authorities, SACMG Chair, and SARC of any changes made in the MPO/CPO.

6. Determine if pretrial restraint of the accused is appropriate

- Immediately** [RCM 304 and RCM 305]
- If pre-trial confinement is ordered:
- Notify victim of the date, time, and location of any pretrial confinement review hearing pursuant to RCM 305 [PUBLIC LAW 113-66 (FY14 NATIONAL DEFENSE AUTHORIZATION ACT); Article 6b, UCMJ and COMNAVLEGSVCCOMNOTE 5810.1; ALNAV 049/14]

7. Notify Installation CO [Per OPNAVINST 1752.1C]

- Within 24 hours** of receipt of Unrestricted Report of sexual assault

8. Submit Sexual Assault Incident Report Oversight (SAIRO) [DTM 097, “Sexual Assault Incident Response Oversight (SAIRO) Report;” and NAVADMIN 014/15]

- Within 8 calendar days:** See NAVADMIN 014/15 for responsibility to file, content and format required

9. First Flag Report (FFR): Personal/“In-person” assessment to first Flag Officer in the chain of command [NAVADMIN 272/12, Change 3 to OPNAVINST F3100.6J]:

- Within 30 days of initial report:** “In person” report from COs to their first flag officer to report the impact of sexual assault on command climate.
- This requirement applies to all COs of both victims and alleged offenders, regardless of which command submitted the special incident report. FFRs shall be made in person, if feasible. Telephone calls or VTCs are acceptable alternatives. E-mail reports are not an acceptable alternative.

10. Disposition Authority

- Determine if case needs to be forwarded to a SA-IDA.
- The SA-IDA is the first O-6 Special Court-Martial Convening Authority in either the administrative or operational chain of command.
- Only forward allegations for following the covered offenses [DoDINST 6495.02]:
  - Articles 120(a), 120(b), 125, and 80 of the UCMJ: (Rape, Sexual Assault, Forcible Sodomy, Attempts to commit these offenses)
  
- Within 30 days of allegation:*** Cases requiring SA-IDA action shall be forwarded to the SA-IDA for disposition determination.
  
- When two or more SA-IDAs are involved, communication between SA-IDAs is highly encouraged to ensure impact on sexual assault disposition is considered with regard to timing and collateral misconduct disposition. Coordination can be direct or through SJAs.

11. Victim collateral misconduct:

- Ensure command awareness of and compliance with guidelines on collateral misconduct action contained in SECNAVINST 1752.4B.  
When the alleged offenses fall under the purview of the SA-IDA, the victim's alleged collateral misconduct is withheld to the SA-IDA.
- Forward all administrative separation actions involving Service member victims that are recommended within one year of final disposition of sexual assault cases to the first flag officer in the separation authority's chain of command for review and concurrence of the circumstances of and grounds for the separation prior to effecting the separation action.

**b. While the Investigation is Ongoing**

1. Ensure updates and proper disclosure of information to victims. [ALNAV 049/14, SECNAVINST 1752.1B, COMNAVLEGSVCCOM 5810.1]

- Monthly:*** CO is required to provide updates to victims on the current status of any ongoing investigative, medical, legal, or command proceedings until the final disposition of the reported assault in accordance with VWAP procedures. This update must occur within 72 hours of the last SACMG and is a non-delegable responsibility. At the victim's request, this update may be in writing or delivered via the SARC, DRC, SAPR VA, UVA, or VLC.

2. Follow-up OPREP-3 NAVY UNIT SITREPS [per OPNAVINST 1752.1B; SECNAVINST 1752.4B, and OPNAVINST F3100.6J]

- Monthly:***
  - For monthly continuation (status) follow up OPREP-3 NAVY UNIT SITREPS:

- The victim's command is responsible for forwarding monthly continuation (status) follow up OPREP-3 NAVY UNIT SITREPs to provide new or revised information only, with a final OPREP-3 NAVY UNIT SITREP documenting official resolution of the case. If the victim is a civilian or from another Service, responsibility to report lies with the Subject's command.
- Ensure name and contact information for JAG consulted is listed in the final OPREP-3 NAVY UNIT SITREP.

3. Sexual Assault Case Management Group (SACMG):

**Monthly:** Meeting, which includes victim's CO and legal representative [SECNAVINST 1752.4B].

- Victim's CO shall participate in monthly SACMGs as applicable, except in extenuating circumstances (i.e., underway periods, deployment). This is a non-delegable commander responsibility.
- Ensure victim update within 72 hours of last SACMG.

Track retaliation, reprisal, ostracism, maltreatment, or other coercion claims from the victim, witness and alleged offender.

- Ensure victim is informed of opportunity to petition the BCNR if he/she experienced retaliation as result of making the report
- Ensure administrative separation in case of victim is reviewed by the first flag officer in the victim's chain of command

4. Legal Hold

Immediately ascertain EAOS of the Subject and discuss legal hold with SJA; execute well in advance of EAOS/HYT in order to retain jurisdiction.

### c. Upon Substantial Completion of Investigation

1. Determining Case Disposition:

Ensure alleged victim has been consulted on potential decisions in the case and Commanding Officer (SA-IDA when required) has been provided victim input **prior to the disposition decision. Where a VLC is assigned, VLC should be contacted to secure victim input and advised of disposition decision.** [Section 1744 of FY14 NDAA; ALNAVS 049/14 and 051/14].

Ensure alleged victim has been consulted on venue options (military or civilian prosecution).

**RLSO "Case Consult"/review for prosecutorial merit:** Ensure RLSO Trial Department has reviewed NCIS evidence package and provided a written case disposition recommendation to the alleged offender's CO/SA-IDA.

**Disposition Consult with SJA:** Ensure CO (SA-IDA when required) has reviewed options for disposition with its SJA or RLSO Command Services Attorneys. (This is different than a "case consult," by trial counsel which is based purely on prosecutorial merit.)

2. Ensure commanding officer (SA-IDA when required) makes INITIAL DISPOSITION decision in accordance with RCM 306, which allows:

- No action/Dismissal of charges
- Administrative Action (counseling, adsep, etc.)
- NJP
- Preferral/Referral to SPCM (per RCM 307 and RCM 407)
- Preferral and Article 32 Preliminary Hearing (per RCM 307 and RCM 405)
- Forwarding to superior or subordinate competent authority for disposition
- See Section 5 below for elevated review analysis post-Article 32 preliminary hearing
- Effective 24 June 2014, the character and military service of the accused is removed as listed matters a commander should consider in deciding how to dispose of an offense in the discussion pertaining to RCM 306. [Section 1708 of NDAA14; ALNAV 051/14]
- ***Jurisdictional limits on certain offenses:*** For sexual assault offenses committed on or after 24 June 2014, a general court-martial is the only court-martial to which the following sex offenses may be referred for adjudication: Articles 120(a) or (b); Article 120b(a) or (b); Article 125; or an attempt to commit those offenses that is punishable under Article 80 of the UCMJ. [Section 1705 of NDAA14; ALNAV 050/14]

3. Document the decision:

- Sexual Assault Disposition Report (SADR):*** Per ALNAV 061/14, upon final disposition of an Unrestricted Report of sexual assault, the CO of the Subject, and in some instances, of the victim, shall submit a SADR.

*Recommendation:* Commands should download a new form from the NPC every time a SADR is submitted in case the form's content is changed to ensure the most up-to-date version is completed.

- Provide copy of the SADR to NCIS and SARC at SACMG.
- If SA-IDA decision is to return case to subordinate command, create memorandum for the record. (See attached sample.) **DO NOT** send rationale or memo to subordinate convening authority (CA), as it could constitute unlawful command influence.

4. Track the decision [per NAVADMIN 272/12]:

- Provide copy of SADR to first flag** officer in the chain of command so GCMCA of alleged offender can close tracking of the case [NAVADMIN 272/12 (“The first flag officer in the chain of command will be responsible for tracking all sexual assault offenses under their cognizance.”)].
- The NAVADMIN does not specify whether the first flag officer of the victim or offender's command tracks this decision. Recommend BOTH victim and offender's first flag officers track this. If an alleged victim ends his/her military service while the alleged offender remains, the DoD retains jurisdiction and responsibility to complete disposition on the case. If the

alleged offender ends his/her military service while the alleged victim remains, the Department of Defense (often through NCIS) is expected to pass any investigative reports to local law enforcement with jurisdiction over the alleged offender.

- NCIS Special Agent is required to coordinate with local law enforcement agencies as to the outcome of cases not under military jurisdiction.

5. Sex Offense Accountability Record (SOAR) [per NAVADMIN 189/14]

- Submit the Sex Offense Accountability Record (NAVPERS 1070/887) when appropriate. (Court-martial conviction or nonjudicial punishment awarded for a violation of Articles 120, 120a, 120b, 120c, or 125 of the UCMJ; or an attempt to commit any of these offenses punishable under Article 80, UCMJ.)

6. Issue FINAL OPREP-3 message [OPNAVINST F3100.6J; NAVADMIN 272/12], including:

- Include disposition decision as provided by the JAG and SADR.
- Provide official resolution of case (i.e., completion of judicial, investigative, disciplinary, and/or administrative actions).
- Ensure the name and contact information for the JAG consulted in the case is included.

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## 5. Article 32 Preliminary Hearings

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a. Advice to Article 32 appointing authority:

1. Pre-Article 32:

- Appoint Preliminary Hearing Officer (PHO):
  - Judge advocate (unless not practical)
  - Senior to defense and government counsel
  - Establish PHO's authority (continuance/excludable delay)

2. Post-Article 32:

- Form of the charges
- Jurisdiction
- Recommendation

b. Advice to court-martial convening authority:

- Article 34 Advice (GCM)
- Court-martial convening order (verify existence)
  - Referral of charges   Elevated Review Consideration
    - ISIC
    - SECNAV
    - Chief Prosecutor Requested

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## 6. Post-trial Actions and Clemency

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Convening Authority Article 60 clemency power was significantly impacted by Section 1702 of NDAA FY14. See Enclosures 2 and 3 for Article 60(c)(3) and (c)(2) findings and sentence analysis.

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## 7. Sample Disposition Letters

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### Transmittal Letter: CO to SA-IDA

[LETTERHEAD]

5800

From: [Commanding Officer]  
To: [Sexual Assault Initial Disposition Authority]  
Subj: TRANSMITTAL OF MATTERS RELATED TO A SEXUAL ASSAULT  
ALLEGATION  
Ref: (a) Secretary of Defense Memorandum of 20 Apr 12  
(b) NAVADMIN 195/12 of 28 Jun 12  
Encl: (1) Report of investigation

1. In accordance with references (a) and (b), the enclosure is forwarded as a matter under your discretion as a Sexual Assault Initial Disposition Authority.

2. I have taken the following actions in this case: [issued an OPREP/SITREP, expedited transfer of alleged victim, issued a MPO, placed accused in PTC, etc.]

3. Optional: I make the following recommendation as to disposition in this case (include reasons to support recommendation).

4. My point of contact for this matter is XXX X. X. XXXXXXXX.

I. M. COMMAND

**Transmittal letter: SA-IDA to CO**

[LETTERHEAD]

5800

From: [Sexual Assault Initial Disposition Authority]  
To: [Commanding Officer]

Subj: TRANSMITTAL OF MATTERS RELATED TO A SEXUAL ASSAULT  
ALLEGATION

Ref: (a) Your letter XXXX of XX XXX XX

Encl: (1) Report of investigation

1. I have reviewed reference (a) and the enclosure thereto. I have determined that this matter does not warrant resolution at my level. Prior to making this determination, I consulted with [name of attorney, name of investigator, etc.], and considered the views of the alleged victim[s].

2. This matter is returned to you for any action, to include no action, as may lawfully be exercised by you in accordance with applicable laws and regulations.

3. My point of contact for this matter is XXX X. X. XXXXXXXX.

I.D. AUTHORITY