

Vermont National Guard
Legislative Report
Fiscal Year 15



"Sexual Assault and Sexual Harassment; Report"
Vermont Statutes Annotated, Title 20, §427



STATE OF VERMONT
OFFICE OF THE ADJUTANT GENERAL
789 Vermont National Guard Road
Colchester, Vermont 05446-3099

3 December 2015

MEMORANDUM FOR: THE VERMONT LEGISLATURE

SUBJECT: Vermont National Guard Fiscal Year “Sexual Assault and Sexual Harassment; Report”

1. As required by law, attached is the third annual Vermont National Guard “Sexual Assault and Sexual Harassment; Report” (See Vermont Statutes Annotated, Title 20, 427). This report contains positive indicators regarding the Vermont National Guard programs. Commanders and leaders have created a climate where survivors of sexual assault are coming forward, with confidence that their reports will be taken seriously and knowledge that they will receive the support and care necessary.
2. The Vermont National Guard has a moral obligation to keep our men and women safe from those with intentions to attack their dignity and their honor. The Vermont National Guard is unequivocal in its commitment to ensure that survivors of sexual assault, gender discrimination based upon sexual orientation are protected, treated with dignity and respect, and provided proper care, while perpetrators are held accountable for their actions.
3. As each year passes, we will strive to improve both our programs and responses to these survivors, as it is our continuing commitment to the men and women of the Vermont National Guard.

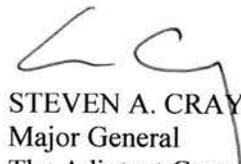

STEVEN A. CRAY
Major General
The Adjutant General

Table of Contents

Chapter I: Executive Summary	1
A. Sexual Assault	2
B. Sexual Harassment	2
C. Discrimination Based on Sexual Orientation.....	3
Chapter II: Reports	4
A. Sexual Assault.....	4
1. Introduction	4
2. Program Overview	5
a) Policies.....	6
b) Reporting Options	7
3. Statistical Data	9
4. Accomplishments	12
B. Sexual Harassment	18
1. Introduction	18
2. Program Overview	18
3. Statistical Data	19
4. Accomplishments	28
C. Discrimination Based on Sexual Orientation.....	31
1. Introduction	31
2. Program Overview	31
3. Statistical Data	31
4. Accomplishments	32

Chapter I: Executive Summary

In May 2013, the Governor signed into law a requirement for the Vermont Adjutant and Inspector General to provide a report on January 15, 2014 and annually thereafter regarding sexual assault, gender discrimination and discrimination based upon sexual orientation (see Vermont Statutes Annotated Title 20, §427, “*Sexual Assault and Sexual Harassment; Report*”).

This report is divided into two primary chapters: Executive Summary and Report. The Report section is divided into the three subjects: Sexual Assault, Sexual Harassment and Sexual Orientation Based Discrimination. Each report covers four topics: Introduction, Program Overview, Statistical Data, and Accomplishments.

At the end of Fiscal Year (FY) 15 (1 October 2014 to 30 September 2015), the Vermont National Guard had 3,904 members. Of those members, 411 were full-time employees with the remaining 3,493 as traditional members. The following is a display of all complaints within the three reporting subjects for FY 15:

Number of Complaints Made in the Prior Federal Fiscal Year (FY 15 = 1 Oct 14 – 30 Sep 15)

Type of Action	Total Cases	NG Member Accused ¹	NG Member Survivor ¹	Military Investigation	Civilian Criminal Investigation	Line of Duty Initiated	Referral to Outside Agencies	Cases that occurred in FY15 ²
Sexual Assault ³ <u>Unrestricted</u>	2	1	2	2 ⁴	1	2	2	1
Sexual Assault <u>Restricted</u>	5	0	5	N/A	N/A	2	5	3
Sexual Assault <u>Limited</u>	1 ⁵	0	1	0	0	0	1	0
Sexual Assault Total	8	1	8	2	1	4	8	4
Sexual Harassment	7	6	6	1	1	0	0	7
Discrimination based on Sexual Orientation	0	0	0	0	0	0	0	0

¹ While in a VTNG military status/under VTNG military jurisdiction.

² Of the cases reported in FY15, this column represents the number those cases in which the assault, harassment or discrimination occurred within FY15.

³ For the purposes of this report, sexual assault is defined by DoD Directive 6495.01, 23 January 2012, “Sexual Assault Prevention and Response Program” as amended on 30 April 2013. This definition is used for the purposes of awareness, prevention and response, and is not used to establish policy for legal processes or criminal investigations.

⁴ One unrestricted report was investigated by the civilian criminal authorities and military authorities which is accounted for in both sections and also filed as an EO complaint.

⁵ Case reported in FY15, occurred in FY00; Survivor no longer a Service member, though was provided support and referrals from VTNG.

A. Sexual Assault

Sexual assault has no place in the Vermont National Guard (VTNG); it is an attack on the values we defend and the cohesion our units demand. In 2010, the VTNG formalized its approach by establishing the Sexual Assault Prevention and Response Program (SAPR-P) to promote the prevention of sexual assault, encourage increased reporting, and improve response capabilities for survivors. Since that time, the VTNG continues to assess its programs resulting in improvements in processes and procedures which directly impacts the confidence the members of the VTNG have in the program and the VTNG leadership.

The Department of Defense (DoD) has also undergone extensive changes to the SAPR-P over the past few years, redesigning the comprehensive SAPR Strategic Plan (with five Lines of Effort (LOE)), which are detailed in the *DoD SAPR Strategic Plan, dated July 2014*, as well as altering many strategic publications which include *The Strategic Direction to the Joint Force on the SAPR Program*, *The DoD-Wide SAPR Strategic Plan* and *The 2014-2016 SAPR Prevention Strategy*. Nested within these plans, the VTNG has established three priorities for the SAPR-P. This report will explore FY15 accomplishments and FY16 plans for each of said priorities:

1. Establish a climate of dignity and respect which actively prevents violence within the organization;
2. Focus on the response to victims from initial report through recovery; promote confidence to strengthen resilience through advocacy; increase reporting;
3. Improve system accountability to provide a fair and trauma-informed system which promotes justice, efficiency and effectiveness;

The report section will also elaborate on the eight reported cases of sexual assault received during this reporting period, of which two are Unrestricted, five are Restricted and one is Limited.

B. Sexual Harassment

The VTNG continues to maintain a strong Equal Opportunity and Diversity Program. The emphasis of these programs focus on inclusion through embracing all members of our organization and community regardless of our differences. Commanders understand recruiting and retaining talented people is a top priority and fully comprehend how treating people with dignity and respect directly leads to the accomplishment of these goals. .

There continues to be a positive shift for the VTNG with regard to issues related to sexual harassment. As compared to FY14 reporting year, the trend continues to decrease in the number of formal sexual harassment cases. Further, in most cases, the commanders are finding resolution for the survivor at the lowest level. As the cases are resolved at this lower level, the more formal procedures and investigations are not necessary and actions are timely resolved without the delays which are necessitated by the more formal processes.

Specifically, all seven new cases reported in FY15, were resolved by the lowest level commander after a command inquiry into the complaint. Each case was then resolved at informal level to the satisfaction of the individual bringing the complaint. None of the individuals bringing the complaints sought the formal process. Our education process is proving to be beneficial in this regards, not only because the commanders are better educated to identify discrimination and harassment issues, but they are seeking the assistance of subject matter experts such as the Staff Judge Advocate (SJA) and State Equal Employment Manager (SEEM) in order to insure that actions are handled appropriately. This is especially true in cases where allegations also result in disciplinary actions against offender.

Evaluations of processes are on-going and we are continuing to re-evaluate our programs and implementing improvements to deter future incidents. But in sum, the VTNG saw improvement in both reporting, early resolution, holding offenders accountable, and implementation of actions to improve the command climate.

C. Discrimination Based on Sexual Orientation

Previously, the VTNG established a process to address these complaints through normal legal and Inspector General processes as the DoD had not released any specific process or procedure to address these complaints. However, this year, the DoD provided a process to address discrimination based upon sexual orientation. On June 8, 2015, the DoD added sexual orientation to the Diversity and Inclusion Management, Military Equal Opportunity (MEO), Civilian Equal Opportunity, and the DoD Civil Rights Programs (*Department of Defense Directive 1020.02E, Diversity Management and Equal Opportunity in the DoD*). The policy added sexual orientation to protected class status and inasmuch, results in treating these issues as with other claims of protected class discrimination.

Recognizing the importance of this new procedure, the VTNG provided a wide dissemination of the new procedure as well as updating policy memorandums implementing this new process.

Under either process, there were no reported cases during this fiscal year.

Chapter II: Reports

A. Sexual Assault

1. Introduction

The definition of sexual assault varies between agencies and criminal statutes. This report utilizes the definition of sexual assault found in the Department of Defense Directive (DoD) 6495.01;

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

The Department of Defense uses this definition for the purposes of awareness, prevention and response for reports of sexual assault. The VTNG SAPR-P reflects upon this definition to evaluate complaints and initiate proper processes; however, the VTNG does not use this definition to establish legal processes, conduct criminal investigations or take any disciplinary action.

Unless stated otherwise, this report will refer to sexual assault according to the DoD definition. It is important to note that the VTNG does not have jurisdiction over either a civilian or military crime of sexual assault. Under the Vermont State’s Annotated, Title 20, Section 941, the VTNG has criminal jurisdiction over “purely military offenses” and all other offenses will be tried in civil courts and prosecuted by civil authorities. As a result, all unrestricted reports of sexual assault are reported to local law enforcement for criminal investigation. If no action is taken by the civilian authorities or when any military action will not interfere with civilian actions, the VTNG contacts National Guard Bureau’s Office of Complex Investigations who will send a team of specially trained investigators to examine these allegations.

The DoD Sexual Assault Prevention and Response Office (SAPRO) organizes and reports Department progress in the SAPR-P using five levels of effort (LOE) within the *DoD SAPR Strategic Plan*. The VTNG SAPR-P reports based on slight adjustments to this guidance to provide a Vermont specific plan comprised of three out of the five LOE:

- 1) **Establish a climate of dignity and respect that actively prevents violence within the organization:** Reduce (with the goal of eliminating) the number of sexual assaults involving service members through policy and comprehensive prevention efforts which influence knowledge, skills and the motivation to intervene.

- 2) **Focus on the response to victims from initial report through recovery; promote confidence to strengthen resilience through advocacy; increase reporting:** Improve the quality of the VTNG's response to the reporting of sexual assault survivors through the implementation of programs, policies and advertising activities which advance survivor care; thereby, inspiring survivors to report sexual assaults, either restricted or unrestricted.
- 3) **Improve system accountability to provide a fair and trauma-informed system which promotes justice, efficiency and effectiveness:** Ensure the SAPR-P functions as intended; a fair and trauma-informed system which promotes justice, efficiency and effectiveness. The VTNG achieves system accountability through senior leadership oversight, data collection, analysis and reporting of case outcomes.

2. Program Overview

The VTNG hired its first full time Sexual Assault Response Coordinator (SARC) in early 2010. Under the direction of the full time SARC, the SAPR-P has created and implemented a survivor centered approach, separate from the chain of command, with statewide policies to ensure the rights and privacy of all Service members who report acts of sexual violence. In 2013, the VTNG SAPR-P received an additional asset and hired a full time Victim Advocate Coordinator (VAC) who works under the direction of the VTNG SARC.

In 2012, the National Guard Bureau established the Office of Complex Investigations (OCI) following a civilian law enforcement investigation that concludes without prosecution or in the cases where military investigations will not interfere with civilian investigations, the Adjutant General will request an OCI team of investigators (from outside the state) to conduct an investigation into allegations of sexual assault. These investigators must meet stringent requirements, have a legal or law enforcement and complete the grueling two week United States Army's Special Victim Unit's Investigator's Course held by the US Army Military Police School. The VTNG was one of the first states to utilize this program and continues to consult with the OCI on each case where sexual misconduct is alleged or suspected.

In November 2013, the DoD created the Special Victim's Counsel Program. The SVC is a judge advocate (military attorney) with specialized training to provide legal representation throughout the processes to qualifying Air and Army National Guard sexual assault victims. SVCs can attend interviews, hearings and proceedings with the survivor and communicate with investigators, prosecutors, commanders and other military personnel on behalf of the survivor. They can assist with expedited transfer requests, military protective orders or civilian protective orders. Although legal representation by a SVC in a civilian court is not authorized under this program, SVCs may assist the victim with these matters as permitted by state law. The VTNG has had an SVC since spring of 2014.

a) Policies

Currently, the VTNG has five policies⁶ directly related to the SAPR-P. Each policy plays a vital role in the improvement of the program and the climate around sexual violence within the organization.

- 1) Sexual Assault Prevention and Response Program Policy, 20 November 2015: Sexual assault degrades readiness and unit cohesion, and has no place within the VTNG. Commanders will report all unrestricted reports of sexual assault to law enforcement, and leaders will create a positive command climate which promotes the dignity and respect of all members.
- 2) Expedited Transfer of VTNG Members who report an Unrestricted Report of Sexual Assault, 5 June 2015: Members who file an Unrestricted report of sexual assault shall be informed of the option to request a temporary or permanent transfer from their assigned command to a different location within their unit of assignment or training. Commander will approve or disapprove the request within 72 hours. It also protects service members from reprisal or threat thereof and establishes a presumption in favor of transferring a member who initiates a transfer.
- 3) Prohibition of Pornographic and Sexually Explicit Material, reissued on 19 March 2013: Introduction, purchase, possession, transfer, sale, creation or display of any pornographic or sexually explicit photograph, videotape, CD/DVD, movie, drawing, book, website, magazine or similar representation on or about property owned, leased, used or licensed by the VTNG is prohibited.
- 4) Withholding Authority to Dispose of Misconduct Involving All Sexual Based Offenses, 27 March 2013: The Adjutant General has withheld authority to dispose of all alleged misconduct pertaining to sexual based misconduct. This policy allows for the Adjutant General to have visibility on all sexually based offenses.
- 5) Prevention and Response to Retaliation for Reports of Sexual Assault or Harassment, on 15 October 2015: Sexual assault, harassment and discrimination degrades our readiness and destroys unit cohesion. Unit readiness, and the trauma to the victim, is further impacted when retaliation or reprisal occurs against those who have demonstrated the courage to come forward with reports of sexual misconduct. The VTNG will not tolerate retaliation of any kind against those involved in a report of sexual misconduct.

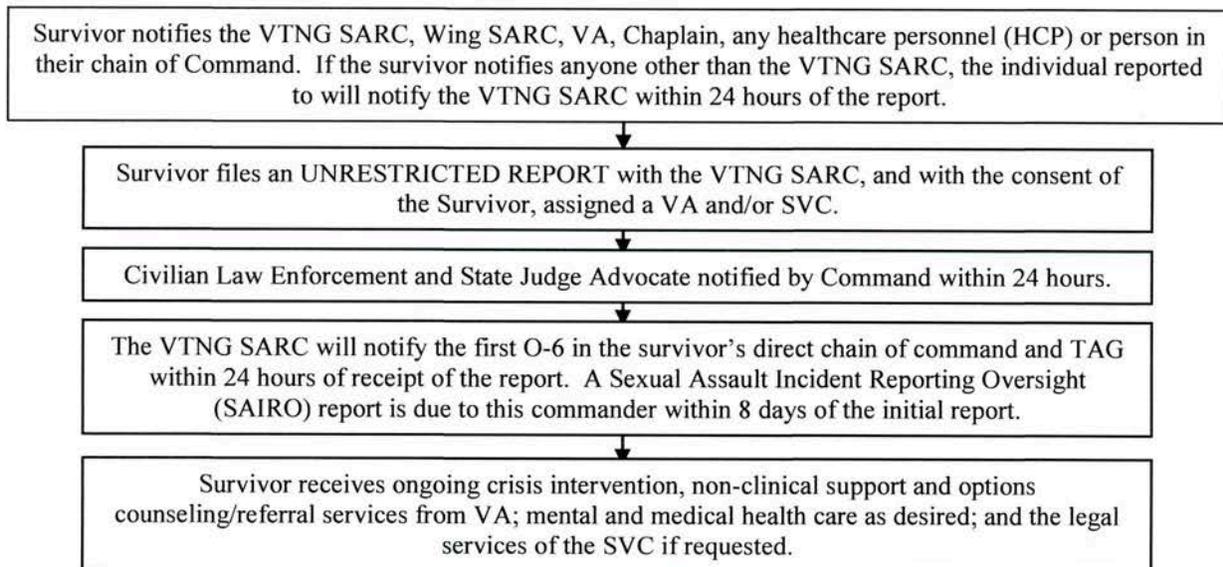
⁶ Policy Memorandums are reissued/ revised on a yearly basis or when there is a new Adjutant General.

b) Reporting Options

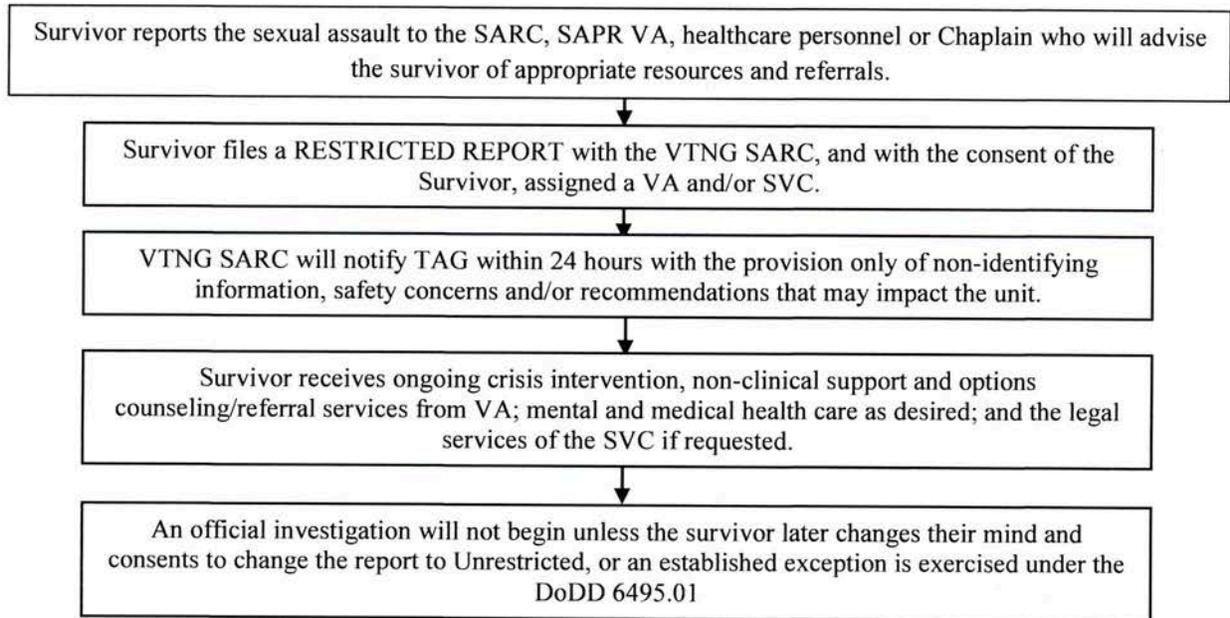
A survivor's decision to report is a crucial step following a sexual assault, but the survivor's desire for privacy often precludes reporting. Commanders must recognize the importance of establishing a system that promotes the privacy and confidentiality of survivors under their command in order to mitigate re-victimization and encourage reporting.

The VTNG SAPR-P offers four reporting options for Service members within the VTNG. Two of which relate to Service members in a duty status at the time of the assault, offering both confidential and non-confidential reporting options to ensure survivors receive the appropriate care and accountability. Below are the definitions and immediate procedures for Unrestricted (non-confidential) and Restricted (confidential) reports.

Unrestricted Reporting: Allows an individual covered by this policy to disclose that s/he is the survivor of a sexual assault, without requesting confidentiality of Restricted Reporting. Under this option, law enforcement is notified of the survivor's report, allowing them to initiate the official investigative process. Procedure summarized below:



Restricted Reporting: Allows sexual assault survivors, without triggering an official investigation, the option to confidentially disclose the assault to specified individuals (SARC, SAPR VA, healthcare personnel or Chaplain) to receive medical treatment, counseling and the assignment of a SARC and SAPR VA. Command will remain unaware of the report and will not notify law enforcement unless an established exception applies. If a survivor reports to anyone other than those listed above⁷, the VTNG cannot guarantee a Restricted Report.

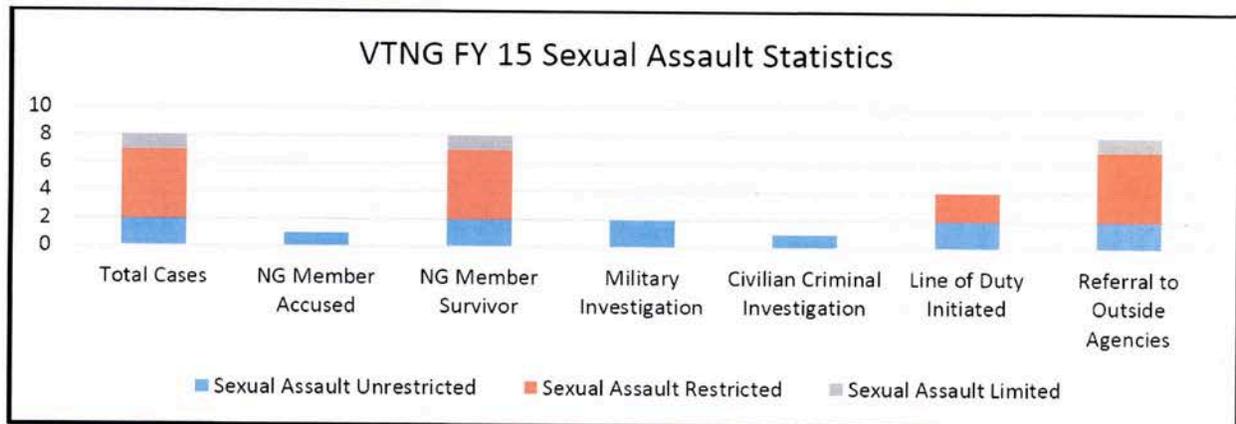


Limited Reporting: Available to National Guard and Reserve Members sexually assaulted while in a non-duty status and do not wish to initiate an official investigation. The VTNG cannot guarantee a Limited Report if a survivor reports to anyone other than VTNG SARC, VA, Chaplain, Health care professional, or civilian rape crisis agencies. Wing SARCs and VAs will submit all Limited Reports to the VTNG SARC within 24 hours of receipt who will, in turn, notify The Adjutant General with non-identifying information.

Civilian Reporting: Service members also have the option to report solely to civilian agencies. They can report to any rape crisis hotline, law enforcement agency or civilian hospital. Vermont laws and statutes govern confidentiality in these circumstances. The VTNG SAPR-P does not track Civilian Reports.

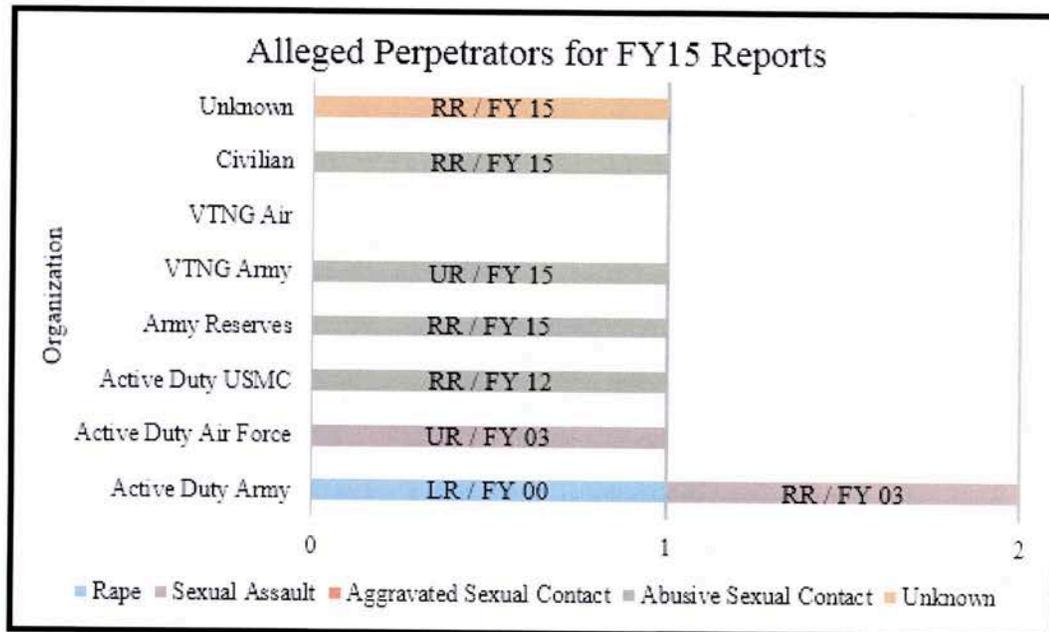
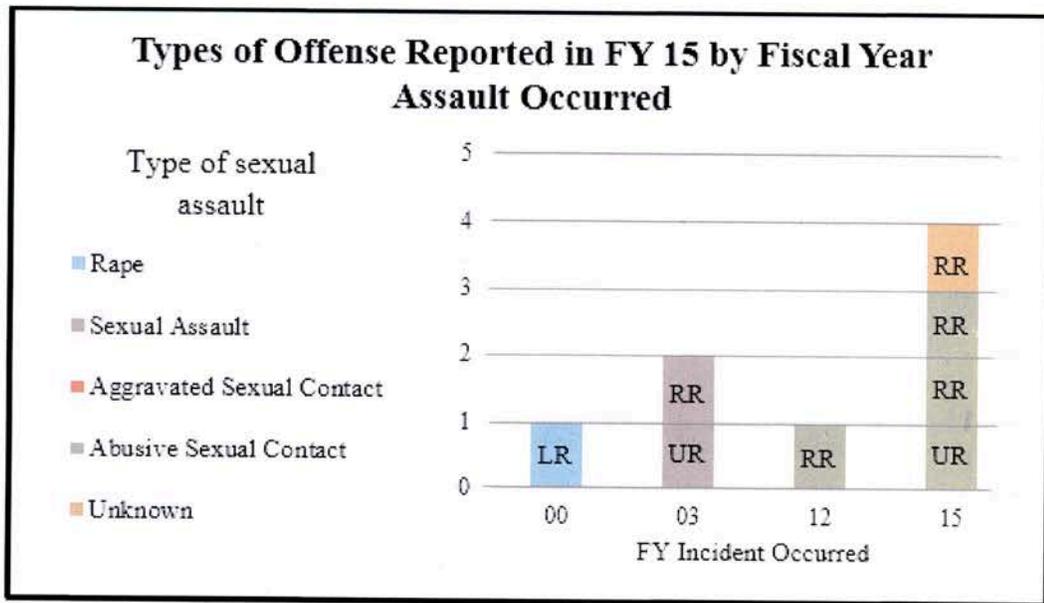
⁷ For Exceptions to Restricted Reporting, please see attached DD form 2910.

3. Statistical Data

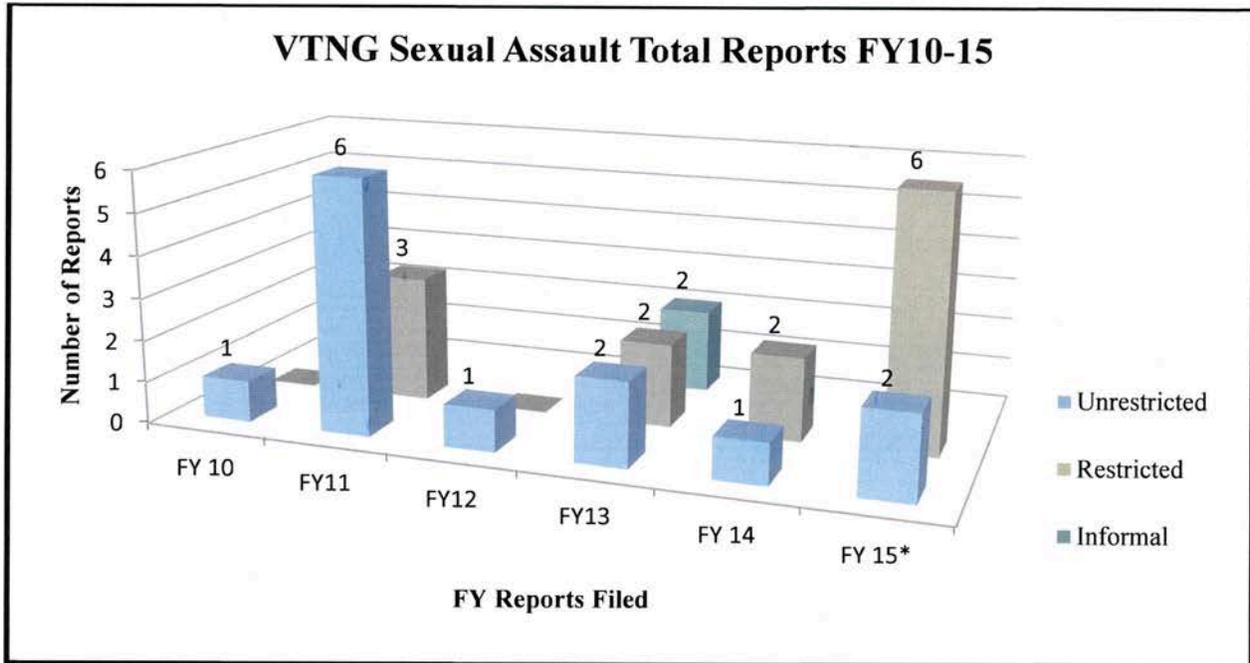


The VTNG SARC captures all sexual assault data for annual reporting requirements and trends (below) analysis utilizing case numbers with specific categories (above). These categories include (but not limited to) the report date of an assault, type of report, date of the offense, individual's duty status, both the survivor and offender's rank and military status if applicable, type of assault reported, investigative agency, case disposition, unit at the time of the assault and any use of alcohol or drugs by either party.

In FY15, the VTNG SARC received eight reports of sexual assault; one of which was allegedly perpetrated by a VTNG Service Member. The figures below display the types of sexual assault reports the VTNG received in FY15 broken down by the year the offence occurred. Of the eight reports received in FY15, one occurred in FY00, two in FY03, one in FY12 and four in FY15.



The prevalence of historical reporting in FY15 indicates improved trust and confidence in the SAPR system and the resources now available to survivors through agencies such as the Veterans Affairs and local community partners.



Restricted Reporting Data:

Survivors made five Restricted reports of sexual assault in FY15. Two of the individuals requested and received a line of duty determination, and the SARC referred all five to local support agencies. The VTNG also received one Limited Report in FY15 (which is counted in the total restricted reports). The individual filed this report concerning an offense that had occurred in FY00 but is no longer a Service member. The survivor did receive support and referrals to outside agencies as appropriate, but the VTNG SARC could not accept the case as restricted or unrestricted due to eligibility restrictions.

Unrestricted Reporting Data:

Survivors filed two Unrestricted reports of sexual assault in FY15. One Unrestricted report stemmed from an alleged offense that occurred in FY03 while the Service member served on Active Duty with the Air Force. The Air Force’s investigative agency, and the Office of Special Investigations has taken the case and that investigation *remains pending*. Local law enforcement investigated the other unrestricted report; the State’s Attorney decided not to prosecute the alleged offender. The action; however, constituted various other violations to include sexual harassment. As a result, the VTNG investigated the case under that procedure and guidance. Both survivors received Line of Duty determinations and referrals to outside agencies as appropriate.

Disposition Data for FY15 Unrestricted Reports			
Investigative Agency	Cases	Details	Disposition
Civilian	1	Non-prosecutable	N/A
Military	2	1) Active investigation pending with AF Criminal Investigations (Office of Special Investigations) 2) Civilian and military investigations	1) Action still pending 2) Administrative actions and initiation of Non-judicial discipline

Federalized Reports:

No sexual assault reports were filed involving federalized members in FY15, hence DoD did not provide any information regarding incident involving VTNG Service members.

4. Accomplishments

- Establish a climate of dignity and respect that actively prevents violence within the organization:

FY 15 Accomplishments:

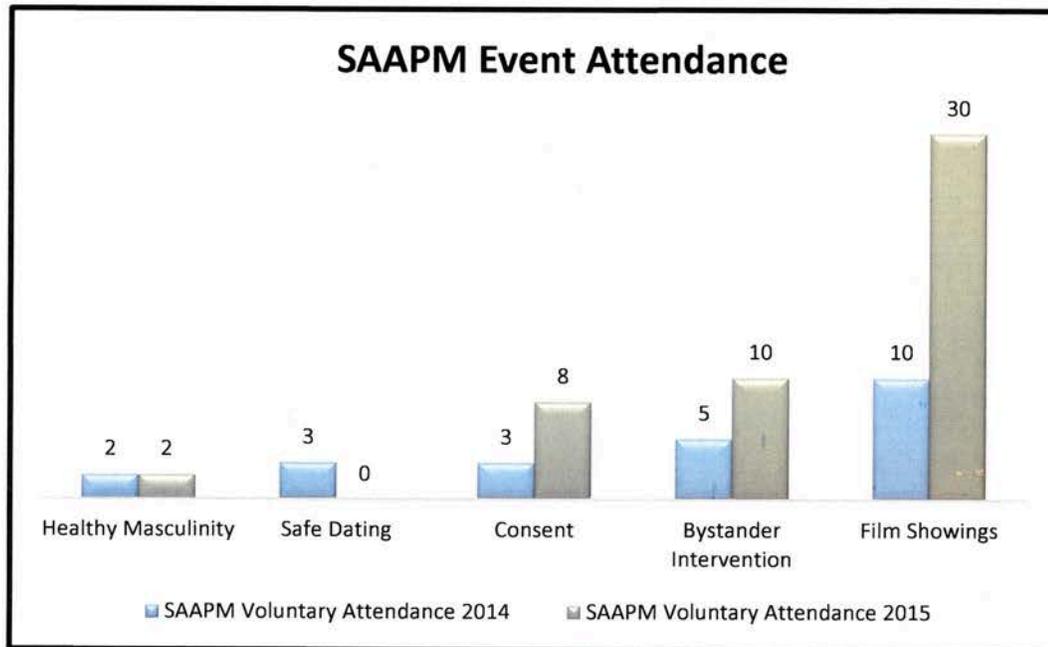
The VTNG implemented and continued a variety of training and education programs for Service members featuring primary prevention topics and diversity enlightenment sessions. Additional methods included specialized sexual assault training tailored for key positions throughout the organization, to include senior leaders, commanders, first responders, SAPR services members. Additionally, on April 3rd, 2015, Governor Peter Shumlin proclaimed April as Sexual Assault Awareness and Prevention Month (SAAPM).

In efforts to draw recognition to Sexual Assault Awareness and Prevention Month, the following events took place throughout the month of April:

- Classes hosted on primary prevention topics:
 - The Social Construction of Gender Roles and Healthy Masculinity
 - Healthy Sexuality and Safe Dating
 - Positive and Informed Consent
 - Skill Building for Bystanders
- Screenings and discussions based on the film, “Miss Representation.”

Other SAAPM Events included:

- VTNG Social Norms Campaign: Posters featuring key leaders and unit members using locally generated statistics from Command Climate Surveys to promote the prevalence of bystander intervention attitudes across the force. Includes the national DoD messaging theme: “It’s Time to Eliminate Sexual Assault; Know Your Part, Do Your Part.”
- ANG Teal Boot Display and Clothesline Project: Teal combat boots with signs displaying sexual assault statistics in unit orderly rooms.
- SAAPM Governor’s Proclamation.



FY 16 Plan:

In May 2013, The Adjutant General stood up a task force to transform the culture of the VTNG which the Deputy Adjutant General leads. The mission of this task force is to “employ a multidisciplinary approach in prevention, response, accountability, stakeholder knowledge, advocacy and recovery and assessment to prevent all types of violence and enhance our response.”

The task force has established five primary goals to improve the prevention and response to violence within the organization:

- a) Establish a climate of prevention to promote an environment of dignity and respect while preventing violence within the organization.
- b) Improve the response to enhance trust in the chain of command, increase reporting and reduce the occurrence of survivors feeling ostracized.
- c) Improve system accountability to provide a fair and equitable system which promotes justice, efficiency and effectiveness.
- d) Focus on advocacy and recovery of survivors from the initial reporting through their recovery to deliver effective support and response, instill confidence and trust, strengthen resilience and inspire survivors.
- e) Develop and implement assessment mechanisms to standardize, measure, analyze, assess and report program progress.

In FY16, the VTNG hopes to demonstrate sustained engagement and work on sexual assault within the VTNG by promoting senior leadership involvement in SAPR programs, fostering collaboration among the VTNG and civilian stakeholders, and by implementing primary prevention education into all SAPR/SHARP training blocks. Moreover, the VTNG will continue to reach out to survivors of sexual assault, civilian advocacy groups and veterans' organizations to inform them of SAPR program progress and gain their feedback.

- Focus on the response to victims from initial report through recovery; promote confidence to strengthen resilience through advocacy, increasing reporting:

FY 15 Accomplishments:

Diverse in priorities, the process of improving our sexual assault response includes multiple policy and program enhancements. The enhancements relevant to these priorities include the following:

- a) Starting in FY14, DoD requires all Army officers and non-commissioned officers to incorporate SAPR concerns into their annual evaluation. The rated individual's evaluation will now include goals and objectives in furtherance of committing themselves to eliminating sexual harassment and assault and to fostering climates of dignity and respect in their units.
- b) Memorandums of Agreement established between the VTNG and over two-thirds (66 agreements out of 75 agencies) of the Law Enforcement Agencies throughout the state of Vermont allowing both entities to exchange

information pertaining to investigations involving sexual assault, domestic violence, and any case deemed to be of a serious nature in which the alleged offender acted while on military orders at the time of incident and the survivor consents to the sharing of their information.

- c) Memorandum of Understanding between the VTNG and Vermont Network.
- d) Standard Operating Procedures for the VTNG SAPR Program completed and signed.
- e) DoD Sexual Assault Advocate Certification Program, with 23 VAs and SARCs trained and nationally credentialed.
- f) Strengthening Military-Civilian Community Partnerships regarding response to Sexual Assault. Through collaboration, the VTNG has augmented and enhanced its SAPR-P with a vast array of survivor services.
- g) Publication of new Prevention and Response to Retaliation Policy.
- h) Specialized Training: Senior Leader Training, Responder Training, SARCs and SAPR VAs, Commanders Training:
 - 74 Army and Air senior leaders⁸ received specialty SAPR Senior Leader training
 - 22 Commanders received SAPR Commander specific training
 - 100% of Chaplains and Chaplain's Assistants received Chaplain specific training
 - 70% of Advocates and SARCs trained and credentialed
 - Use of National Guard Bureau's Office of Complex Administrative Investigations for reported sexual assault cases
 - 72% of ARNG members SHARP Training
 - 95% of ANG members received annual SAPR training

⁸ The term "senior leaders" as defined by The VTNG includes all officers in the rank of O5 Commanders; O6, Colonel, and above (to include flag and general officers), enlisted members in the rank of E9, Sergeant Major, and above, and all warrant officers in the rank of CW4 and above.

FY 16 Plan:

From March 28 to April 8, 2016 the VTNG SAPR Program will host an 80 Hour Certification Course. This 80 hour course is a prerequisite for VAs to receive certification through the National Organization of Victim Advocacy (NOVA). As a result, the VTNG will increase the number of VAs certified to work with sexual assault survivors to at least 90% of the Department of Defense's manning requirements for Brigades and Battalions. This will create a network of knowledgeable VA professionals, capable of delivering trainings, distributing accurate and timely information of a dynamic SAPR-P, and acting as a point of contact for Commanders/Service members to access procedural and referral information.

On April 1-2, 2016, the VTNG SAPR Program will deliver 16 hours of continuing education to credentialed Air and Army VAs. Each VA is required to complete 32 hours of continuing education in order to maintain their certification. The training in March will focus on specific Advocacy skills; to include, active listening, person centered communication, empathy building and power / privilege / bias awareness. This continuing education will equip our VAs to effectively serve survivors through a trauma informed model throughout the recovery process.

The VTNG SARC will attend and complete the 2016-2017 Vermont Victim's Assistance Academy delivered by the Center for Crime Victim Services.

- Improve system accountability to provide a fair and trauma-informed system which promotes justice, efficiency and effectiveness:

FY 15 Accomplishments:

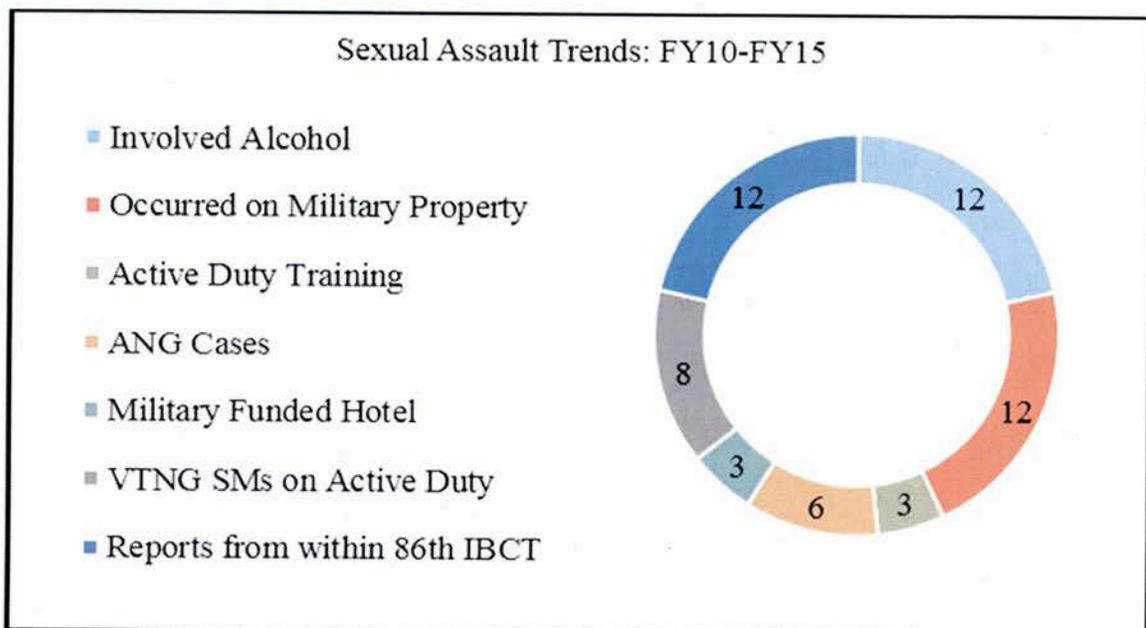
The Internal Control Program –a self-inspection based upon internal and external requirements examines 46 areas to assess the state of the program. FY15's assessment found the program complied with 45 items. In order to meet all components, the VTNG must meet manning requirements for Brigade and Battalion level Victim Advocates. Hosting the 80 Hour Certification Course as described above will assist the VTNG SAPR-P in meeting this requirement in FY16.

The VTNG implemented the Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey Report to electronically capture data related to the climate of a unit, the survey allows for specifically tailored questions to individual unit's needs and provides a comprehensive report of the data to commanders. This report specifically includes four questions related to the SAPR-P:

- Perception of leadership support
- Perception of barriers to reporting sexual assault
- Bystander intervention climate
- Individual knowledge of reporting options

The Defense Sexual Assault Incident Database (DSAID) is a secure web-based system used as a centralized repository for Service-specific case-level sexual assault data. DSAID allows for ad-hoc query and reporting as well as case management functionality. This system improves the data collection and reporting environment in which the VTNG SARC operates and also assists in allowing DoD SAPRO to extract the appropriate data to meet dynamic oversight needs.

Finally, the Director of the Joint Staff chairs the SAPR Committee (SAPR-C) that meets bi-monthly to provide executive oversight, procedural guidance and feedback concerning the installation's SAPR-P. This committee reviews the State's prevention program and the response to any sexual assault incidents occurring within the VTNG. This includes reviewing cases and procedures to improve processes, system accountability and survivor access to quality services.



Note: Of the 24 total cases, half involved alcohol, occurred on Military Property and were filed by Service Members within the 86th IBCT (MTN)

FY 16 Plan:

Throughout FY16 the VTNG SAPR Program will brief The Adjutant General quarterly to evaluate program performance and provide guidance with respect to all VTNG activities related to sexual assault prevention and response. The VTNG will conduct individual after action reviews of the use of the Office of Complex Investigations and Civilian Special Investigative Units to make recommendations and continually improve services. Additionally, the VTNG will implement survivor surveys that will analyze and assess variances in Restricted/Unrestricted reporting across the VTNG to identify trends and assess the feasibility of incorporating sexual assault prevention training into other VTNG programs.

B. Sexual Harassment

1. Introduction

Published 8 June 2015, DoDD 1020.02E Subject: Diversity and Equal Opportunity in the DoD established policy and assigned responsibilities to provide an overarching framework assisting in the prevention of unlawful discrimination by promoting equal opportunity, diversity and inclusion by utilizing the following:

- a) The DoD Diversity and Inclusion Management Program, in accordance with the authority in Executive order 13583.
- b) The DoD Military Equal Opportunity (MEO) Program in accordance with DoDD 1350.2.
- c) The DoD Civilian Equal Employment Opportunity (EEO) Program in accordance with DoDD 1440.1.
- d) The DoD Civil Rights Program in accordance with DoDD 5500.11 and DoDD 1020.1.

2. Program Overview

Any aggrieved individual, covered by the aforementioned directives, who believes that he or she has been illegally discriminated against due to any of the following, has the ability to file an individual complaint of discrimination:

- Race
- Color
- Religion
- National Origin
- Gender (including sexual harassment)
- Reprisal for having engaged in a protected equal opportunity activity, in a matter subject to the control of the VTNG.

A change effective 8 June 2015 by DoDD 1020.02E, directs cases of discrimination based on sexual orientation be considered, along with protected classes, as part of the MEO program. Individuals who have complaints of discrimination based upon sexual orientation now will be processed through the Equal Opportunity (EO) complaint system (governed by National Guard Regulation 600-22). Due to this policy revision, the individuals now have an established process and program in which to seek redress within the military system for this type of discrimination. The advantage of this new right is that the MEO and EEO processes offer remedies through alternate dispute resolution and mediation, which may not be available through the chain of command or IG's office.

The process involves the chain of command as the primary channel for resolving discrimination complaints. Allegations of discrimination will be referred for processing by the lowest appropriate command level in accordance with this regulation. This procedure provides the commander an opportunity to assist the complainant, inquire into the issues and allegations, administer corrective action, and to attempt to resolve the complaint (when at all possible). The sole mechanism for appealing the disposition of an informal complaint shall be to file a formal complaint. A formal complaint will be filed by completing NGB Form 333, Discrimination Complaint in the Army and Air National Guard.

3. Statistical Data

Public Law 11 2-239, 126 STAT. 1764, Section 579(b) requires the Secretary of Defense to collect and submit to Congress information and data on substantiated incidents of sexual harassment involving members of the Armed Forces for the preceding fiscal year. In May of 2014, the VTNG implemented the Reporting of Sexual Harassment Policy, which requires all Commanders to report incidents involving sexual harassment in which a member opts against choosing an IAW NGR 600-22. EO Leaders at the Unit level will complete an AGO VT Form 333-1 signed by the lowest level commander, which includes information on the steps taken by the command to correct the situation at the lowest level possible. This policy is a reporting requirement only, and does not displace the current regulations (along with other procedural requirements IAW NGR 600-22/ANGI 36-3).

The following data collection template supports the sexual harassment reporting requirement for the fiscal year ending September 30, 2015.

DATA COLLECTION TEMPLATE FOR SEXUAL HARASSMENT INCIDENTS

Background

Public Law 112-239, 126 STAT. 1764, Section 579(b) requires the Secretary of Defense to collect and submit to Congress January annually information and data on substantiated incidents of sexual harassment involving members of the Armed Forces for the preceding fiscal year, as part of the report required pursuant to section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

Sexual Harassment

The definition of sexual harassment applicable to this report is described in DoD Directive 1350.2, "*Department of Defense Military Equal Opportunity (MEO) Program.*" Sexual Harassment is a form of sex discrimination that involves unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay or career or submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating hostile, or offensive working environment. The data in this template includes information on formal and informal sexual harassment complaints determined by commanding officers to warrant an inquiry or investigation.

<p>A. TOTAL NUMBER OF SEXUAL HARASSMENT COMPLAINTS. In this section, record the total number of formal and informal complaints in each requested sub-category. The total number of formal and informal complaints should equal the sum of the sub-categories (for example, the total number of formal complaints should equal the sum of substantiated, unsubstantiated, and pending formal complaints).</p>	
A1. Formal Complaints	0
# Total formal complaints	
# Substantiated formal complaints	0
# Unsubstantiated formal complaints	0
# Pending formal complaints as of the end of the reporting fiscal year	0
A2. Informal Complaints	7
# Total informal complaints (referred for investigation/inquiry)	7
# Substantiated informal complaints (referred for investigation/inquiry)	7 ⁹
# Unsubstantiated informal complaints (referred for investigation/inquiry)	0
# Pending informal complaints as of the end of the reporting fiscal year	0
<p>B. COMPLAINTS INVOLVING THE SAME (REPEAT) OFFENDER. In this section, record the number of formal and informal complaints in each sub-category involving the same or “repeat” offender. The total number of formal and informal complaints should equal the sum of the sub-categories (for example, the total number of formal complaints should equal the sum of substantiated, unsubstantiated, and pending formal complaints).</p>	
B1. Formal Complaints	0
# Total formal complaints involving the same offender	0
# Substantiated formal complaints involving the same offender	0
# Unsubstantiated formal complaints involving the same offender	0
# Pending formal complaints involving the same offender as of the end of the reporting fiscal year	0
B2. Informal Complaints	2
# Total informal complaints involving the same offender	2
# Substantiated informal complaints involving the same offender	2
# Unsubstantiated informal complaints involving the same offender	0
# Pending informal complaints involving the same offender as of the end of the reporting fiscal year	0

⁹ One of the 7 cases were reported as a sexual assault and is also accounted for in that section of this report.

<p>C. DISPOSITION FOR REPEAT OFFENDERS IN SUBSTANTIATED COMPLAINTS. In this section, record the corrective action(s) taken for repeat offenders in formal and informal substantiated complaints. Use your analysis section to describe unusual circumstances (e.g., more than one offender in a complaint or more than one type of corrective action administered to one offender).</p>	
C1. Formal Substantiated Complaints	0
# Repeat offenders in formal substantiated complaints	0
# Repeat offenders pending corrective action as of the end of reporting fiscal year	0
# Repeat offenders with completed corrective action as of the end of the reporting fiscal year	0
# Courts-martial	0
# Non-judicial punishments	0
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	0
# Other (include comments in the analysis section of your report)	0
C2. Informal Substantiated Complaints	7
# Repeat offenders in informal substantiated complaints	1
# Repeat offenders pending corrective action as of the end of reporting fiscal year	0
# Repeat offenders with completed corrective action as of the end of the reporting fiscal year	0
# Courts-martial	0
# Non-judicial discipline	1
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	0
# Other (include comments in the analysis section of your report)	0
<p>D. NOTIFICATIONS TO GENERAL COURT MARTIAL CONVENING AUTHORITY (GCMCA). In this section, record the following: (1) the total number of formal and informal complaints (2) the number of formal and informal complaints that resulted in notification of the GCMCA; (3) the number of formal and informal complaints reported to the GCMCA within 72 hours; and (4) the number of complaints reported to the GCMCA beyond 72 hours</p>	

D1. # Formal Complaints (total from Section A1.)	0
# Formal complaints that resulted in GCMCA notification	0
# Formal complaints reported to GCMCA within 72 hours	0
# Formal complaints reported to GCMCA beyond 72 hours	0
D2. # Informal complaints (total from Section A2.)	7
# Informal complaints resulted in TAG notification	3
# Informal complaints reported to GCMCA within 72 hours	2
# Informal complaints reported to GCMCA beyond 72 hours	1
<p>E. LENGTH OF TIME BETWEEN WHEN THE INCIDENT OCCURRED AND WHEN THE COMPLAINT WAS REPORTED BY COMPLAINANT. DoD MEO policy encourages reporting of complaints within 60 days of the incident. In this section, record the following: (1) the total number of formal and informal complaints (2) the number of formal and informal complaints reported within 60 days following the incident; (3) the number of formal and informal complaints reported beyond 60 days of the incident; and (4) the number of formal and informal complaints where the time is unknown between when the incident occurred and when the complainant reported the incident.</p>	
E1. # Formal Complaints (total from section A1.)	0
# Formal complaints reported within 60 days following the incident	0
# Formal complaints reported beyond 60 days following the incident	0
# Formal complaints where the time is unknown between when the incident occurred and when the complainant reported the incident	0
E2. # Informal Complaints (Total from section A2.)	7
# Informal complaints reported within 60 days following the incident	7
# Informal complaints reported beyond 60 days following the incident	0
# Informal complaints where the time is unknown between when the incident occurred and when the complainant reported the incident	0
<p>F. OCCURRENCE OF SUBSTANTIATED COMPLAINTS. In his section, record the number of formal and informal substantiated complaints occurring On Duty (i.e., during duty hours) and Off Duty (i.e., during time off). Use the analysis section of your report to comment on specific circumstances that will add valuable information to the report.</p>	
F1. # Formal Substantiated Complaints (total from Section A1.)	0
# On Duty (i.e., during duty hours)	0
# Off Duty (i.e., during time off)	0
# Unknown/Unreported	0
F2. # Informal Substantiated Complaints (total from Section A2.)	7
# On Duty (i.e., during duty hours)	3
# Off Duty (i.e., during time off)	4
# Unknown/Unreported	0

G. NATURE OF ALLEGATIONS IN SUBSTANTIATED COMPLAINTS.	
In his section, record the number of formal and informal substantiated complaints occurring in the sub-categories of allegations identified below. The numbers in this section may not be additive since one complaint may contain several allegations.	
G1. Identify Nature of Allegation(s) in Substantiated Formal Complaints	
# Allegations of Crude/Offensive Behavior	0
# Allegations of Unwanted Sexual Attention	0
# Allegations of Sexual Coercion	0
G2. Identify Nature of Allegation(s) in Substantiated Informal Complaints	
# Allegations of Crude/Offensive Behavior	5
# Allegations of Unwanted Sexual Attention	2
# Allegations of Sexual Coercion	0
H. DISPOSITION FOR OFFENDERS IN SUBSTANTIATED COMPLAINTS.	
In this section, record the number of offenders in substantiated complaints; the number of offenders pending receipt of corrective actions as of the end of the reporting fiscal year; and the number of the types of completed corrective actions as of the end of the reporting fiscal year. Report this information for formal and informal substantiated complaints. Use your analysis section to describe unusual circumstances (e.g., more than one offender in a complaint or more than one type of corrective action administered to one offender). (G1.-G2.)	
H1. Formal Substantiated Complaints	0
# Offenders in formal substantiated complaints	0
# Offenders pending corrective action as of the end of reporting fiscal year	0
# Offenders with completed corrective action as of the end of reporting fiscal year	0
# Courts-martial	0
# Non-judicial punishments	0
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	0
# Other (include comments in the analysis section of your report)	0

H2. Informal Substantiated Complaints	7
# Offenders in informal substantiated complaints	6
# Offenders pending corrective action as of the end of reporting fiscal year	1
# Offenders with completed corrective action as of the end of reporting fiscal year	
# Courts-martial	0
# Non-judicial Discipline	1
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	3
# Other (include comments in the analysis section of your report)	2
I. OFFENDER CHARACTERISTICS IN SUBSTANTIATED FORMAL COMPLAINTS.	
I1. Male Offender(s) by Pay Grade and Employment	
# E1-E4	0
# E5-E6	0
# E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
I2. Female Offender(s) by Pay Grade and Employment	
# E1-E4	0
# E5-E6	0
# E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
J. OFFENDER CHARACTERISTICS IN SUBSTANTIATED INFORMAL COMPLAINTS.	

J1. Male Offender(s) by Pay Grade and Employment	
# E1-E4	3
# E5-E6	1
# E7-E9	1
# W01-W05	1
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
J2. Female Offender(s) by Pay Grade and Employment	
# E1-E4	0
# E5-E6	0
# E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
K. COMPLAINANT CHARACTERISTICS IN SUBSTANTIATED FORMAL COMPLAINTS (J1.-J2.)	
K1. Female Complainant(s) by Pay Grade	
# E1-E4	0
# E5-E6	0
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10:	0
K2. Male Complainant(s) by Pay Grade	
# E1-E4	0
# E5-E6	0
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0

L. COMPLAINANT CHARACTERISTICS IN SUBSTANTIATED INFORMAL COMPLAINTS (K1.-K2.)	
L1. Female Complainant(s) by Pay Grade	
# E1-E4	3
# E5-E6	2
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
L2. Male Complainant(s) by Pay Grade	
# E1-E4	0
# E5-E6	0
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
<p>M. RELATIONSHIP OF OFFENDER(S) TO COMPLAINANT (S) IN SUBSTANTIATED FORMAL AND INFORMAL COMPLAINTS. In this section, record the number of offenders in substantiated formal and informal complaints described in the sub-categories below. Use the “other” sub-category to capture a relationship not described below. Provide an explanation of the number in the other sub-category in your analysis section. (L1.-L2.)</p>	
M1. Relationship of Alleged Offender(s) to the Complainant(s) in Substantiated Formal Complaints	
# Military coworker:	0
# Member chain of command:	0
# Military subordinate:	0
# Military person of higher rank/grade who was not in chain of command:	0
# Other military person(s):	0
# Person in the local community:	
# Civilian:	0
# Contractor:	0
# Same unit:	0
# Same gender:	0
# Different gender:	0
# Other	0

M2. Relationship of Alleged Offender(s) to the Complainant(s) in Substantiated Informal Complaints	
# Military coworker:	4
# Member chain of command:	0
# Military subordinate:	1
# Military person of higher rank/grade who was not in chain of command:	0
# Other military person(s):	1
# Person in the local community:	0
# Civilian:	1
# Contractor:	0
# Same unit:	4
# Same gender:	0
# Different gender:	7
# Other:	0

The incidents reported here involve both on and off-duty, and all were reported hastily to members of the chain of command. A positive trend shows of a confidence in unit members bringing incidents to the chain of command which are considered to be early on the spectrum of sexual violence.

4. Accomplishments

During FY15, the VTNG continued to emphasize the strong tenants of Equal Opportunity and Diversity through staffing, active councils, training, observances, bi-annual newsletters, diversity board presentations and special events. Vermont TAG continues his representation on the National Joint Diversity Executive Council (NGB-JDEC). The National Guard Bureau's Joint Diversity Executive Council carries out Chief of National Guard Bureau priorities, which are related to the cultural climates of the National Guard.

The October 2014 Professional Development Day (PDD) was a venue for all Officers and Senior Non-Commissioned Officers to gather and be informed of emerging issues, then given an opportunity for discussion. The Adjutant General (TAG) focused the PDD on Diversity and Inclusion, speaking clearly on the real issues we face as an organization regarding sexual harassment, assault and the transformation of our culture from homogenous societies to more diverse units to include women in combat arms units. The TAG invited a prominent Diversity Leader as the key note speaker. Dr. J.W. Wiley helped to reemphasize the importance for leaders to step-up and challenge problematic behavior that exists solely to undermine a person because of a unique dimension of his or her personality. The State Equal Employment Manager and Sexual Assault and Response Coordinator assisted the TAG at the PDD in leading discussions on the prevention and response to sexual harassment and assault as well as preventing and managing hostile work environments and resiliency. Over 500 leaders participated, and the feedback was positive.

Our internal Joint State Diversity Executive Council (VT-JDEC) met quarterly over FY15 and reported efforts through Regional and National processes. The JDEC members include Senior Leaders, Key Staff Officers, Equal Opportunity Advisors, Special Emphasis Program Managers, as well as representatives from each Major Command. The Military Women's Special Emphasis Program Managers maintain an annual gender representation report, which thoroughly details the representation of women at every level and occupation. Recommendations and strategies are discussed with the Joint Senior Leadership Council. Three separate workshops were coordinated over FY15 on the topic of exploring the masculine/feminine traits and managing gender neutral teams. These workshops contribute to the overall strategic imperative of gender equality.

The Adjutant General's Cultural Transformation Task Force (CT-TF) was established in 2013, and augments the VT-JDEC by focusing on the following three areas which are led by internal guard members who set initiatives and report quarterly on progress made towards the Task Force end state:

- Prevention of Sexual Harassment, Assault and Response
- Non-Traditional Roles
- Gender Equality

Ten additional women have been assigned to Combat Arms units in the Vermont Infantry Brigade Combat Team (IBCT). The overall representation rate of the Vermont Army National Guard is 14%, with 19% of that 14% specifically assigned to the IBCT. The Task Force leader for the Non-Traditional Roles group held an information gathering meeting in September 2015 with the 2nd Canadian Military to discuss how they have successfully integrated females across their force to include infantry units. In June 2015, Department of Defense opened military occupational specialty (MOS) 12B Combat Engineer, historically only men could hold this MOS. The newly available 12B MOS has provided the Vermont Army National Guard with 150 additional positions available for women.

In the Army Guard, twenty-six Vermont Equal Opportunity Leaders received their initial 60 hour certification course in February, and an additional 24 joined them for two additional days of Diversity Facilitation Training. Currently 51 service members assist the Commanders in carrying out the Equal Opportunity and Diversity program. The Air National Guard Military Equal Opportunity Office qualified two additional officers, and a full staff of four personnel serve the 158th Fighter Wing.

The Vermont National Guard Command climate assessments program requires Commanders to conduct assessments within 90 days of command and annually thereafter. Over 50% of all Army units (1,000 personnel), and the entire Air National Guard (1,000 personnel) participated in the annual assessments. Equal Opportunity Advisors are trained to process major command roll-ups, analyze data and provide trends, recommendations and training management priorities to Commanders. Questions pertaining to sexual harassment, assault and equal opportunity provide the State Sexual Harassment Assault and Response Coordinator (SHARP), the Joint Force Headquarter Human Resource Equal Opportunity Officer (HREO) and State Equal Employment Manager (SEEM) opportunity to identify problematic issues of concern and

notify Commanders. There were no glaring problem areas during FY15. Although incidents of sexual harassment occur, the trend of early intervention and Commanders seeking subject matter experts to assist with resolution is apparent.

These collective efforts ensure the most respectful climates embody the men and women of the Vermont National Guard and deter incidents related to sexual violence from occurring. Concurrently, when incidents happen, the most efficient, respectful response hold violators accountable and promote trust in the processes which solidify the laws and policies supporting Equal Opportunity and Diversity.

C. Discrimination Based On Sexual Orientation

1. Introduction

On June 8, 2015, the DoD added sexual orientation to the Diversity and Inclusion Management, Military Equal Opportunity (MEO), Civilian Equal Opportunity, and the DoD Civil Rights Programs (*Department of Defense Directive 1020.02E, Diversity Management and Equal Opportunity in the DoD*). The policy adds sexual orientation to protected class status, along with race, color, national origin, religion, and gender. Collectively, these programs promote equal opportunity, diversity and inclusion management, and they are designed to prevent unlawful discrimination and harassment throughout the military.

2. Program Overview

Following the repeal of the Don't Ask Don't Tell (DADT) (*United States v. Windsor, 570 U.S. ___ (2013) (Docket No. 12-307)*), the DoD established a policy to provide military service members avenues in which to resolve complaints of discrimination based on sexual orientation. At the time, sexual orientation was not considered a part of a military organization's EO Program. Complaints were filed through service member command channels, and through the Inspector General (IG) system. DoDD 1020.02E currently directs organizational chains-of-command to be used as the "primary and preferred channel" in order to identify and correct discriminatory practices, process and resolve complaints of discrimination or harassment, and to ensure that MEO matters are taken seriously and acted on as necessary. The new policy also transferred complaints resolution responsibility from the IG to the MEO.

DoDD 1020.02E also provides protections for Department of Defense civilian employees by prohibiting unlawful employment discrimination based on race, sex (pregnancy, gender identity, and sexual orientation when based on sex stereotyping), color, national origin, age, religion, disability, and genetic information. The policy also protects DoD civilians from reprisal for participation in previous EEO activity. While not enforced by Equal Employment Opportunity Commission regulations, discrimination in employment based on other factors (i.e. status as a parent) may be addressed through other separate complaint and resolution systems.

3. Statistical Data

Prior to the above referenced change, the VTNG, in 2014, established a reporting procedure in a Memorandum, SUBJECT: Joint Policy Memorandum (NGVT-SJA) 2014-05 – Reporting Requirements for Complaints of Discrimination Based Upon Sexual Orientation. As a result of the new DoD policy, this policy memorandum was rescinded. Current DoDD 1020.02E guidance directs avenues of redress for discrimination complaints through the service member's chain of command, or their local Equal Opportunity Office. Complaints against Colonels (promotable) and Senior Officials through the Department of the Army Inspector General Investigations Division, or the Office of the Inspector General of the Air Force.

A review under both policies reveal that there were no formal or informal reports of discrimination based upon sexual orientation during this reporting period.

4. Accomplishments

There have been several major Sexual Orientation-related milestones within the last calendar year.

- a) The United States Supreme Court held on June 26, 2015, that the fundamental right to marry is guaranteed to same-sex couples under both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution (*Obergefell v. Hodges*, 576 U.S. ____ (2015) (Docket No. 14-556). The overturning of same-sex marriage bans provides Military service members and DA civilian same-sex spouses the accessibility to hundreds of marriage benefits.
- b) On 13 July 2015 Defense Secretary Ash Carter issued two directives, allowing transgender men and women to serve in the United States military. First, Secretary Carter ordered the creation of a Pentagon working group in order to “study over the next six months the policy and readiness implications of welcoming transgender persons to serve openly.” Second, Secretary Carter stated that all decisions to dismiss troops with gender dysphoria would be handled by the Pentagon's acting Under Secretary of Defense for Personnel and Readiness.¹ In recent months, all of the uniformed services have moved the aforementioned decision to their highest levels. In March of this year, the U.S. Army issued an All Army Activities directive protecting transgender Soldiers from being dismissed by mid-level officers, transferring the responsibility to its top civilian for personnel matters.
- c) The VTNG Equal Employment Manager continues to oversee discrimination complaints based on gender identity. Gender identity equality continues to be an agency priority, and the organization has amended its EO policy to include gender identity.
- d) The VTNG did not conduct any Sexual Orientation or Gender-Identity training in 2015, as the Department of the Army, Department of the Air Force, and the National Guard Bureau have not yet established service branch-centric guidance or training. However, the VTNG Equal Employment Manager did provide EO related training to VTNG EEO Counselors based on current DoDD 1020.02E policy. In addition, the legal office made wide spread distribution of the new policy to members of the VTNG as well as to all judge advocates.
- e) The VTNG maintains an ad hoc committee currently comprised of the organizations Staff Judge Advocate, Sexual Assault Response Coordinator, Equal Employment Manager, and the Inspector General in order to address various concerns related to this report, including discrimination based on sexual orientation. This committee will continue to develop policies, practices, and procedures to identify, train, report, and investigate any misconduct.