

Vermont National Guard

Legislative Report

Fiscal Year 2017



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

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STATE OF VERMONT
VERMONT NATIONAL GUARD
789 Vermont National Guard Road
Colchester, VT 05446-3099

15 January 2018

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 fifth 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 honor. The Vermont National Guard is unequivocal in its commitment to ensure that survivors of sexual assault, sexual harassment and gender discrimination based on 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 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

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Chapter I: Executive Summary

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

This report is divided into four primary chapters: Executive Summary, Report, Organizational Assessment, and Addendum. The Report section is divided into three subjects: Sexual Assault, Sexual Harassment, and Sexual Orientation Based Discrimination. Each report covers two topics: case statistics with resolution summary and policy overview.

At the end of Fiscal Year (FY) 2017 (1 October 2016 to 30 September 2017), the Vermont National Guard (VTNG) had approximately 3,500 members. Of those members, about 943 were full-time employees with the remaining as traditional members.

In FY17, the VTNG Sexual Assault Response Coordinator (SARC) received two reports of sexual assault in which the incident occurred within FY17 and the accused was a member of the VTNG. The SARC responded to four additional reports pertaining to incidents which occurred in previous years. In addition, the Equal Opportunity & Diversity (EO&D) Office processed four incidents of sexual harassment. No service members filed reports related to discrimination based on sexual orientation.

The VTNG continues to make progress in honing evidenced-based prevention efforts, as well as refining a trauma-informed response to the full spectrum of sexual offenses. As a result of two years of bystander intervention training, service members reported in climate surveys an increased awareness of risk factors and demonstrated more willingness to intervene and prevent a potentially dangerous situation. Additionally, commanders continue to staff and resource key positions, such as a full-time SARC for the Vermont Air National Guard, as well as Equal Opportunity Advisors in each of the major Army Commands. As a result, survivors continue to demonstrate trust and confidence in these resources and express overall satisfaction with the VTNG’s response to their reports.

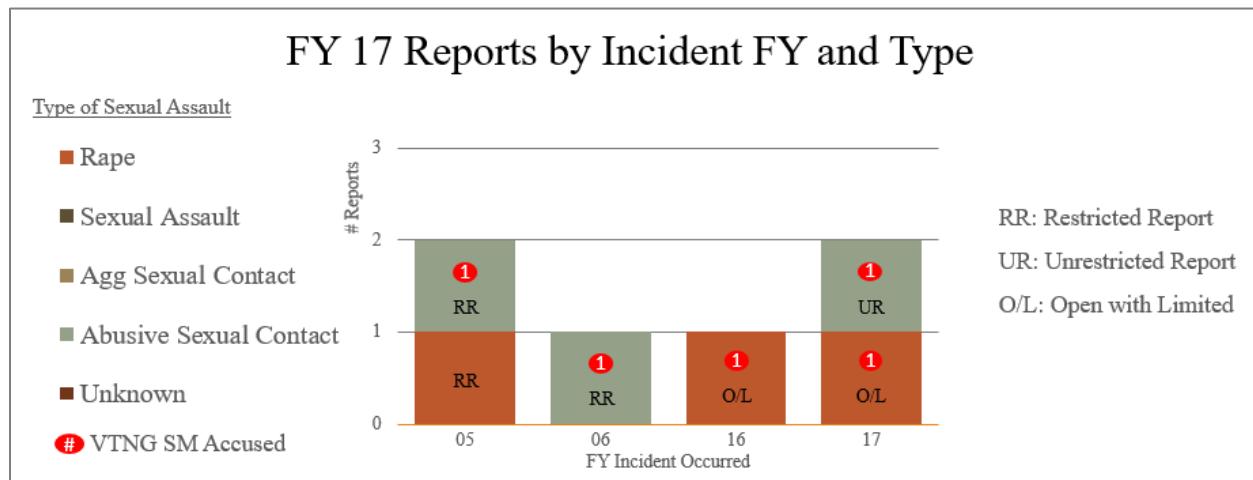
Chapter II: Reports

A. Sexual Assault

The VTNG accepts reports of sexual assault according to the Department of Defense (DoD) definition referenced in the Addendum of this report. Each case is captured in the Defense Sexual Assault Incident Database (DSAID), where the DoD compiles statistics for congressional reporting.

1. Statistical Data

The figures below display the types of sexual assault reports the VTNG received in FY17, broken down by the year each offense occurred. Of the six total reports received in FY17, three occurred between 2005-2006, one during FY16, and two throughout FY17.



Restricted Reporting Data:

Case Number	Incident Year	Survivor status time of incident	Accused status at time of incident	Type of Assault	LOD	Referrals
00048	2005	Civilian / F	Active Duty Recruiter	Rape	Yes	Yes
00212	2005	VTNG / F / E-5	VTNG / M / E-5	Abusive Sexual Contact	No	Yes
00218	2006	VTNG / F / E-5	VTNG / M / E-5	Abusive Sexual Contact	No	Yes

Unrestricted Reporting Data:

Case Number	Incident Year	Survivor status time of incident	Accused status at time of incident	Type of Assault	LOD	Referrals
00062 (O/L)	2016	Civilian / F	VTNG / M / E-5	Rape	N/A	N/A
00330 (O/L)	2017	Civilian / F	VTNG / M / E-3	Rape	N/A	N/A
00315	2017	VTNG / F / O-2	VTNG / M / O-2	Abusive Sexual Contact	Yes	Yes

FY17 Disposition Data: Reports Involving Accused VTNG Service Members					
Report Year	Case Number	Incident Year	Type of Report	Allegation	Disposition
2016	00296	2016	Unrestricted	Abusive Sexual Contact	Community Justic Center; AGR tour terminated, pending separation board
2016	00302	2016	Unrestricted	Abusive Sexual Contact	Community Justic Center; military discharge
2017	00062	2016	Open / Limited	Rape	Pending civilian trial
2017	00330	2017	Open / Limited	Rape	Pending State's Attorney
2017	00315	2017	Unrestricted	Abusive Sexual Contact	Pending OCI investigation

Federalized Reports:

No sexual assault reports were filed involving federalized members in FY17, hence the DoD did not provide any information regarding incidents involving VTNG service members.

2. Policies

Currently, the VTNG has five policies directly related to the SAPR program. 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, January 2018](#): 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, January 2018](#): 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.
- 3) [Prohibition of Pornographic and Sexually Explicit Material, reissued on January 2018](#): Introduction, purchase, possession, transfer, sale, creation or display of any pornographic material 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, January 2018: TAG has withheld authority to dispose of all alleged sexually based misconduct. This policy allows for TAG to have visibility on all sexually based offenses.
- 5) Prevention and Response to Retaliation for Reports of Sexual Assault or Harassment, on January 2018: 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.

B. Sexual Harassment

The VTNG reports statistical data for sexual harassment annually in accordance with Public Law 112-239, 126 STAT. 1764, Section 579(b) to the National Guard Bureau who consolidates data from each State. During FY17, the VTNG reported four sexual harassment cases. None of these cases included formal discrimination complaints, they were all resolved through leadership inquiry or the investigative process. The individual cases depicted below offer situational awareness regarding response and accountability.

1. Statistical Data

Case Number	Incident Year	Survivor status time of incident	Accused status at time of incident	Disposition
17-01	2016	Civilian / F	VTNG / M / O-2	Guilty of misdemeanors; pending Withdrawal of Federal Recognition
17-02	2017	VTNG / F / E-8	VTNG / M / O-5	Letter of Reprimand, subsequent retirement
17-03	2017	VTNG / F / E-4	VTNG / M / E-5	Loss of two ranks, offender transferred to new unit
17-04	2017	VTNG / F / E-7	VTNG / M / E-7	Formally counselled by leadership

2. Policies

The policy to report Sexual Harassment Incidents is relatively new (2014). Until the institution of this policy unit leadership handled sexually based incidents on their own without soliciting the help of subject matter experts. Now this policy drives accountability at the lowest level. Units send incident reports through Equal Opportunity staff to the state EO&D office. The EO manager and SARC then review incidents to determine trends or problem areas. This generates a feedback loop for commanders to use this information to drive training focus and improve prevention strategies.

- 1) NGVT-HRO Equal Employment Opportunity Policy, August 2017 Promotes equal employment opportunity and to identify and eliminate discriminatory practices and

policies (to include sexual harassment) in the VTNG. This policy applies to all Federal civilian employees and applicants for employment.

- 2) NGVT-HRO Equal Opportunity Policy, August 2017 Promotes equal opportunity and to identify and eliminate discriminatory practices and policies (to include sexual harassment) in the VTNG. This policy applies to all VTNG personnel serving in a Title 32 status, to include NG technicians when activities occur while the member serves in a military pay status or raises fitness for duty concerns in the reserve components.
- 3) NGVT-SJA Reporting of Sexual Harassment, December 2017 The policy provides guidance regarding the reporting of all incidents of sexual harassment through the Equal Opportunity channels. This is a reporting requirement only and does not supersede either of the policies listed above.

C. Discrimination Based on Sexual Orientation

Department of Defense Directive 1020.02E, Diversity Management and Equal Opportunity in the DoD effective June 8, 2015 establishes policy and assigns responsibilities to provide an overarching framework for addressing unlawful discrimination and promoting equal opportunity, diversity and inclusion through a multitude of executive orders, directives and policies. The policy added sexual orientation to protected class status and results in treating these issues as with other claims of protected class discrimination.

1. Statistical Data

During FY17, the VTNG received no reported cases of discrimination, hazing or bullying based on sexual orientation.

2. Policies

DoD as well as the Department of the Air Force and Headquarters, and the Department of the Army have recently published initial guidance on sexual orientation and transgender in the military. Until June 2016, the DoD generally prohibited openly transgender individuals from accession into the United States military and authorized the discharge of those individuals. Current DoD policy allows open service by transgender individuals. Air & Army directed the dissemination of awareness training during FY17. Both the Vermont Army and Air Guard conducted this Transgender Awareness Training at unit levels.

Chapter III: Organizational Assessment

The VTNG views the awareness and prevention of sexual misconduct as separate yet intrinsically linked approaches. Therefore, the paragraphs below summarize the efforts as a whole rather than by individual programs and concludes with a description of how the VTNG measures the effectiveness of these strategies.

A. Awareness

Many public health initiatives rely on strategies that raise awareness of a given issue in an effort to achieve a desired outcome. Sexual violence campaigns have long utilized this approach, most notably with Sexual Assault Awareness & Prevention Month (SAAPM). The following is a list of strategies employed by the VTNG in FY17 to increase awareness:

- Sexual Assault Awareness & Prevention Month
 - Webinars
 - Social Media postings
 - Classes
 - Clothesline Display
 - Sandwich Boards
 - Tabling
- Social Media postings
- Mandatory Trainings
- Family Program newsletter articles
- Posters throughout facilities

B. Prevention

These strategies target behaviors or environmental factors which contribute to a given issue and include awareness efforts as well as policy, social norms campaigning, and training programs. In FY17, the VTNG conducted the following prevention focused actions:

- Bystander intervention training
 - Air Force: Green Dot
 - Army: Step Up
- Lean In Series
- Joint Diversity Executive Council
- Military Women's Program

C. Assessment:

The military has several formal programs designed to assess program implementation and effectiveness. These include the Organization Inspection Program (OIP), and Military Inspection & Controls. Additionally, the VTNG formally surveys soldiers and airmen to determine the health and wellness of individuals and units; these surveys include the Defense

Equal Opportunity Climate Survey and the Unit Risk Inventory. Finally, the VTNG SAPR-P provides quarterly updates to TAG and other stakeholders.

1. Inspection Programs

The OIP is an Army quality assurance program conducted in a cascading sequence: state level program managers establish a checklist of measurable standards developed from DoD and Army regulation as well as state specific policy. Beginning in January, battalions will inspect companies, after which the brigades inspect the battalions. Finally in September, state program managers inspect the brigades. To meet the standard for the SAPR checklist, units must demonstrate that their soldiers understand state policy, receive training annually, and have credentialed Victim Advocates (VA) to report to and know how to make a report. Each year units score well, with the largest areas of improvement typically focused on the credentialing of VAs and capturing mandatory training conducted in digital tracking systems.

Similarly, the VTNG conducts Military Inspection & Control self assessments annually based on DoD and Service specific regulations. In FY17, the VTNG SAPR-P identified a shortage of credentialed VAs as the only non-compliant item.

2. Defense Equal Opportunity Climate Survey (DEOCS)

In accordance with DoD regulations, units conduct DEOCS annually or after a change of a command. The DEOCS assesses soldiers and airman perceptions of leadership and culture within the units; with emphasis on organizational effectiveness, equal opportunity and sexual assault prevention and response. Over the past several years, rollup data reflects a small percentage of service members who experience sexual harassment. For those who annotate an experience, they tend not to officially report to an EO Representative, rather they confront the offender or report to a supervisor; these actions align with DoD guidance to handle harassment at the lowest level. A slightly higher percentage reflects a marginal amount of sexist slurs, jokes, and/or comments. Focus groups and leader visits to units reveal a level of unconsciousness with regard to language which may be considered sexist or offensive. VTNG training formats have changed from briefings to facilitated discussions in our efforts to allow for more peer to peer dialogue.

One of the strengths indentified in the sexual assault segment of the survey is the service members recognition of risk regarding behavior which may lead to sexual assault and the service members subsequent willingness to intervene. The VTNG also assesses a favorable response to the reporting climate. Each Army unit has an appointed EO Leader who works with the Commander to implement strategies to improve command climate.

3. Unit Risk Inventory (URI)

URI is an Army mandated requirement completed by each soldier during their annual health screening. The URI assesses the individual's proclivity for risky behaviors such as alcohol and drug use, delinquency, sexual risk taking, and suicidal behavior.

The Center for Disease Control (CDC) identifies 12 risk factors associated with sexual violence. Of those 12, the URI directly measures four. Trend analysis over the last two years indicates a decrease in behaviors reported for each of these risk factors. For example, “rode with a driver under the influence” and, “having multiple sexual partners” served as the most significant improvements (4%).

Based on this data, the VTNG assesses that the combined efforts of the SAPR and EO&D-P, as well as trainings offered by the Suicide Prevention, Resiliency, and Army Substance Abuse Prevention programs are having a positive impact to reduce the risk of sexual violence in the organization.

4. Quarterly Updates

Each quarter the VTNG SAPR-P and EO&D-P provide separate updates to key stakeholders. During these briefings, the programs provide statistical trend data as well as identified best practices and anticipated initiatives. These briefings serve as an opportunity to ensure shared understanding throughout the leadership team as well as to hold the programs accountable for their efforts.

Chapter IV: Addendum

A. Sexual Assault

1. Lines of Effort and Definitions

Sexual assault has no place in the VTNG; it attacks the values we defend and the cohesion our units demand. In 2010, the VTNG formalized its approach by establishing the 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 impact the confidence members of the VTNG have in the program and VTNG leadership.

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

The definition of sexual assault varies between agencies and criminal statutes. This report utilizes the definition of sexual assault found in the DoD Directive 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 DoD 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. The VTNG does not use this definition to establish legal processes, conduct criminal investigations or take any disciplinary action.

Unless stated otherwise, the annual report will refer to sexual assault according to the DoD definition. 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, §941, the VTNG has criminal jurisdiction over "purely military offenses;" civil courts will try and prosecute all other offenses. As a result, all unrestricted reports of sexual assault are reported to local law enforcement for criminal investigation. If civilian authorities take no action or when any military action will not interfere with civilian actions, the VTNG contacts National Guard Bureau's Office of Complex Investigations (OCI) who will send a team of specially trained investigators to examine these allegations.

2. Program Overview

The VTNG hired its first full time 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 who works under the direction of the VTNG SARC. Most recently in 2016, the 158th Figher Wing hired a full time SARC to manage the prevention and response program for the Vermont Air National Guard.

In 2012, the National Guard Bureau established the OCI. Following a civilian law enforcement investigation that concludes without prosecution¹ 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 background and complete a grueling two week course held by the US Army Military Police School. Vermont 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 (SVC). 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 trained their first SVC in the spring of 2014.

¹ Prosecution includes resolution through the VT Community Justice Center process, which works directly with a victim to reach a conclusion agreeable to the victim.

3. 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 which promotes the privacy and confidentiality of survivors under their command in order to mitigate re-victimization and encourage reporting.

The VTNG SAPR-P offers three reporting options for service members which provide both confidential and non-confidential options to ensure survivors receive appropriate care and to hold offenders accountable. Service members who choose to report a sexual assault will elect either the unrestricted (non-confidential) or the Restricted (confidential) option by completing the DD Form 2910: Victim Reporting Preference Statement. Procedures for each reporting option are depicted in Figure 1: Sexual Assault Response Flow Chart on page 10.

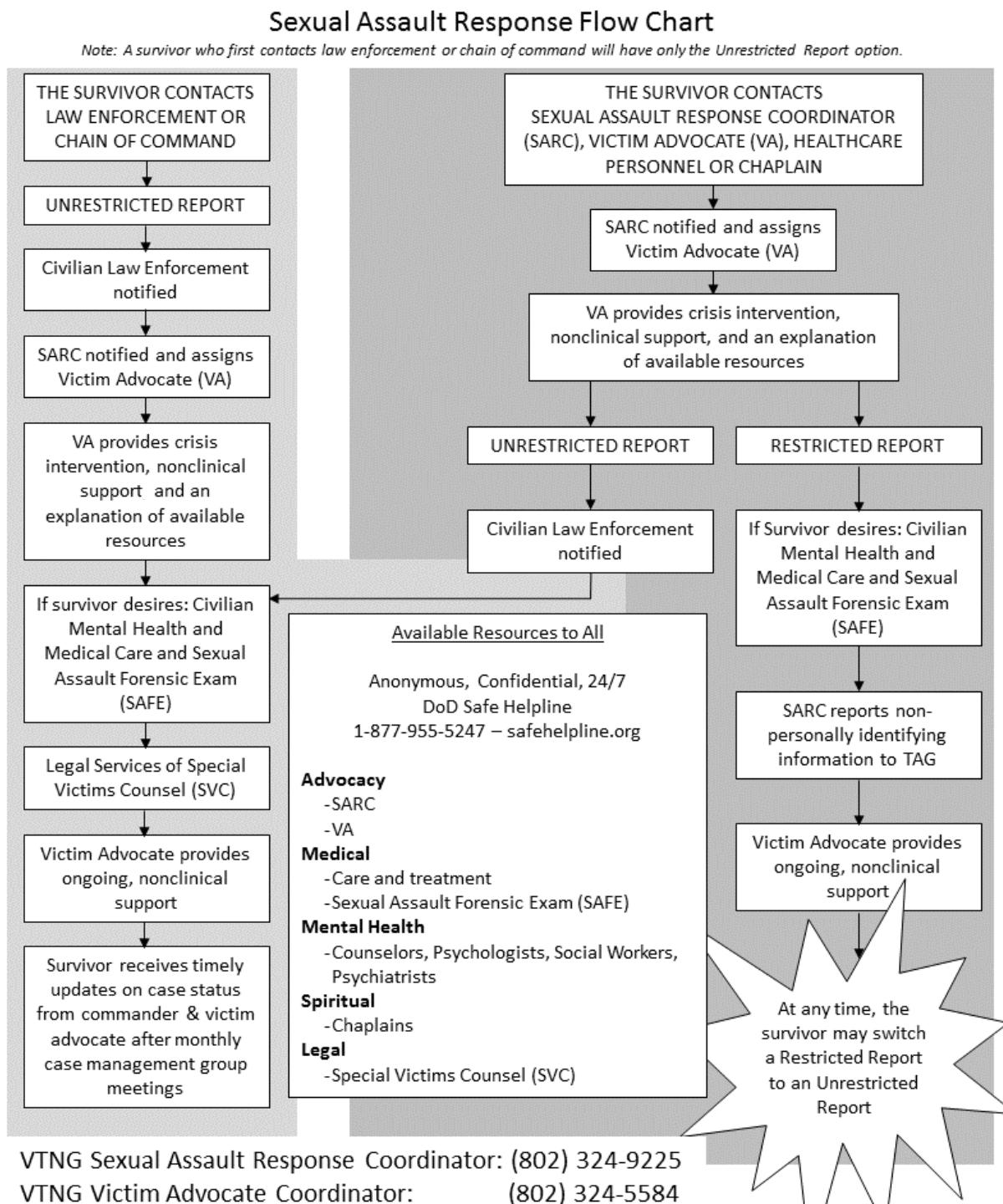
Unrestricted Reporting: Allows an individual covered by this policy to disclose that they are a survivor of a sexual assault, without requesting confidentiality of restricted reporting. Under this option, either the command or the survivor will notify law enforcement, allowing them to initiate the official investigative process.

Restricted Reporting: Allows sexual assault survivors 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 without triggering an official investigation. 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 above² the VTNG cannot guarantee a restricted report.

Open with Limited Information: Available to service members who refuse or decline services, or opt-out of participating in the investigative process. This classification may also be used for third-party reports of sexual assault, when the local law enforcement refuses to provide survivor information, when the incident includes a civilian survivor and a military subject, or in any other case where the survivor has not signed a DD Form 2910: Victim Reporting Preference Statement.

² For Exceptions to Restricted Reporting, please see attached DD form 2910.

Figure 1: Sexual Assault Response Flow Chart



NOTE: These steps are based on DoD Directives, 6495.01, 1030.01, and Directive Type Memorandum 14-007, and DoD Instructions 6495.02 and 1030.2. The response procedures may vary by Service or installation but must still comply with the requirements in these policies.

B. Sexual Harassment

The VTNG continues to maintain strong Equal Opportunity & Diversity Programs. The emphasis of these programs focuses on inclusion through embracing all the members of the organization and community regardless of 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.

1. Introduction

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:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person’s job, pay or career or
- b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decision affecting that person, or
- c. 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.

Public Law 112-239, 126 STAT. 1764, Section 579(b) requires the Secretary of Defense to collect information and data on substantiated incidents of sexual harassment involving members of the Armed Forces for the preceding fiscal year. The detailed report is required from each State National Guard annually in December.

In accordance with DoD Directive (DoDD) 1350.2, an allegation of sexual harassment that is submitted in writing to the authority designated for receipt of such complaints is a formal complaint. For the VTNG, the Human Resource Equal Opportunity Office manages the complaint process using National Guard Form 333. An informal complaint is an allegation of sexual harassment, made either orally or in writing that is not submitted as a formal complaint on National Guard Form 333. The sole mechanism for appealing the disposition of an informal complaint shall be to file a formal complaint. A substantiated complaint is when an allegation of sexual harassment in an informal or formal complaint is confirmed for a finding of sexual harassment through an inquiry or investigative process.

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.

In addition, 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, 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, the VTNG disseminated the new procedure widely and updated policy memorandums in accordance with this new process.

2. Program Overview

Any aggrieved individual, covered by the aforementioned directives, who believes 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), and/or reprisal for engaging in a protected equal opportunity activity, in a matter subject to the control of the VTNG.

The active Army maintains one Sexual Harassment Assault & Response Prevention (SHARP) Program which handles the full spectrum of sexually based offenses from harassment to violent rapes. In the National Guard, the Equal Opportunity Management Office coordinates the response to all sexually based offenses determined to be harassment. The State Sexual Assault Response Coordinator (SARC) handles all crimes of sexual assault. The VTNG SARC and the State Equal Employment Manager (SEEM) work together on prevention efforts with regard to the spectrum of sexual harm.

The SEEM and the SARC jointly monitor Unit Climate Assessments which solicit information pertaining to sexually based offenses, trust in the organization and knowledge of reporting options. Joint Policy Memorandum (NGVT-SJA) 2014-05, Reporting of Sexual Harassment incidents provides guidance for reporting minor sexually based infractions such as using offensive language related to sex or in the event a complainant does not wish to file officially and command is aware and has determined not to open an investigation. The policy instructs leaders at the lowest level to record the incident and channel through the Equal Opportunity Leaders to the Joint Force Headquarters Equal Opportunity Office. Both the SEEM & SARC have the opportunity to review minor incidents and how leadership responded to the situation at the unit level. By reviewing these incident reports and the responses by the leadership, the SEEM & SARC may identify trends and make recommendations to improve conditions thwarting more serious violations from occurring.

The VTNG integrates messages of dignity and respect into every message for service members. These words permeate the mission, vision and values of the organization. The long

history of the Military's diversity and ability to unify teams continues to be the foundation for new and innovative strategies preventing sexually based offenses. Our prevention training nests with Active Component training; the National Guard has unique opportunities to partner with other stakeholders to enhance strategies which promote respectful cultures.

In June of 2017, the Chief of the National Guard Bureau rescinded the requirement for the Army and Air Guard to develop Affirmative Action Plans. Rather, the focus now expands to all attributes of Diversity and Inclusion, which the VTNG's Diversity and Inclusion Strategic Plans seek to accomplish. The VTNG has a robust Joint Strategic Diversity Plan managed through the Joint Diversity Executive Council (JDEC). The JDEC has sub-committees representing the Asian, Black, Hispanic, American Indian/Alaskan Native, Persons with Disabilities and the Federal Women's Program.

The VTNG developed a special sub-committee under the Federal Women's Program, entitled VTNG Military Women's Program. *The MWP mission is to enhance readiness by increasing the representation of competent women in all grades and occupations. Develop an exchange of ideas and information to promote cross-cultural harmony and team synergy.* The VTNG created the MWP to focus on the challenges military women face serving in majority male organizations.

Research demonstrates the nexus between gender equality and power based sexual misconduct. Therefore, the VTNG actively conducts several events to promote gender equality and to increase the representation of women in command positions. The MWP reports gender representation annually to the Senior Leaders of the VTNG in a thorough report that identifies the overall percentage of women: representation in each grade, occupation, command rates, retention rates, full time status as well as the representation of women in newly opened combat arm occupations and units. VTNG 2018 Gender Report revealed an increase of females by 2% in the last five years compared to the NG overall growth rate of 1%. The programs will continue to coordinate and synchronize efforts in an effort to prevent sexual misconduct of any sort and to create inclusive environments free of harassment.

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. 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

Department of Defense's Policy to recruit citizens regardless of sexual orientation affirms the military's commitment to value each qualified recruit. The abolishment of the dated "Don't

Ask Don't Tell" Policy has provided more meaning to the Diversity and Inclusion program strategies and facilitated training discussions.

In July 2015 the Secretary of Defense announced no service member shall be involuntarily separated or denied reenlistment or continuation of active or reserve service on the basis of their gender identity, without the personal approval of the Under Secretary of Defense for Personnel and Readiness. Since this announcement the Air and Army National Guard have Service specific instructions for the management of service members who identify as transgender. The VTNG Equal Opportunity & Diversity Office is the central office for inquiries. On 30 September 2016 Department of Defense disseminated the, "Transgender Service in the U.S. Military, An Implementation Handbook" to the services. Units have incorporated Service training packages into the unit training calendars. The training provides a general understanding of the policies allowing open service of transgender service members and an overview of roles, responsibilities and associated processes.

