



# THE SAPR SOURCE

## THE DEFENSE RESOURCE ON SEXUAL ASSAULT PREVENTION AND RESPONSE

### SAPRO

Sexual Assault Prevention & Response Office

#### "THE ARMY IS SAPR STRONG"

By Marci Hodge, DoD Program Analyst

#### INSIDE THIS ISSUE:

- |   |          |
|---|----------|
| <b>"The Army is SAPR STRONG"....</b>                          | <b>1</b> |
| <b>The Military Implements new Sexual Assault Statute....</b> | <b>2</b> |
| <b>Director's Corner....</b>                                  | <b>3</b> |
| <b>Past/Current Quarter Events....</b>                        | <b>3</b> |

#### CONTRIBUTORS:

- Robert Reed, DoD Office of the General Counsel
- Marci Hodge, DoD Program Analyst
- Major Robert Stelle, United States Army Judge Advocate General
- Lori Gavaghan, DoD Senior

*"The Army strives ... to change the mindset of what are acceptable boundaries and make Soldiers aware of their responsibilities to live up to the Army values ..."*

*- Carolyn Collins, Army SAPR Program Manager*

On 15 June 2007, I had the chance to sit down with Carolyn Collins, the Army Sexual Assault Prevention and Response Program Manager, to discuss the Army Program and its progress since 2004. The United States Army has been very proactive in their sexual assault prevention and response policy. When the Department of Defense (DoD) stood up their Care for Victims Task Force, the Army also set up a Sexual Assault Task Force on February 6, 2004. As a result,

the Army Task Force Army crafted new guidance regarding sexual assault prevention and response on both the strategic and the tactical levels. That guidance eventually was published as part of Army Regulation (AR) 600-20, Chapter 8, in February 2006. AR 600-20 established policies centered on training, command response and risk assessment (prevention and protocol); integrating victim services; and standardizing data metrics necessary to evaluate and improve their integrated program and policy. In addition to the Task Force report, the Army implemented a SAPR action plan to ensure all policy and program requirements were met.

Since the release of DoD Instruction 6495.02 in June

2006, the Army has drafted a rapid revision for Chapter 8, which is in the process of review by all Army commands.

According to Collins, the Army SAPR program goals include creating a climate that minimizes sexual assault incidents, establishing sexual assault prevention training and awareness programs for Soldiers, ensuring that victims and subjects are treated according to Army policy, and encouraging victims to report incidents of sexual assault without fear. Army SAPR goals also address the demands of leadership and provide commanders and supervisors with the tools to understand their roles and responsibilities as they pertain to sexual assault, to thoroughly investigate allegations, and to take appropriate administrative and disciplinary action. Regulations require that within 45 days of assuming command, new commanders must receive leader training as part of installation in-processing procedures.

Army training programs have also focused on clarifying for Soldiers criminal behaviors associated with sexual assault. The rigorous training programs include both initial and annual recurring training for all Soldiers, as well as specialized training for first responders, including the Sexual Assault Response Coordinators, Victim Advocates, medical providers, chaplains, and



#### Army SAPR Website

Criminal Investigation Command (CID) agents. Training is conducted prior to and after a deployment as well. It has been made a part of the risk management tool on the Army Combat Readiness Center site at <https://crc.army.mil/home/>. In addition, most training presentations are available on the Army SAPR website at <http://www.sexualassault.army.mil/>.

The Army has been very innovative in its approach to instructing on this very sensitive subject matter by using interactive multimedia instruction methods. Vignettes with real world examples are paired with ethical decision making tools that help Soldiers see the consequences of their behavior. In an effort to continuously improve its approach, the Army has based its training on lessons learned from nationally renowned experts in sexual assault to "ensure the well-being of our Soldiers." Further program improvements came from recommendations from the Army Inspector General's service-wide program inspection, as well as the individual commands' program assessments, conducted in Calendar Year 2006.



## MILITARY IMPLEMENTS NEW SEXUAL ASSAULT STATUTE

BY MAJOR ROBERT STELLE

The law of sexual assault in the military is changing. Congress has passed amendments to Article 120 of the Uniform Code of Military Justice, 10 U.S.C. § 920, which go into effect on October 1, 2007.

Under the current law, there are a number of possible charges which are considered in sexual assault scenarios. First, a service member can be charged with the offense of rape if he "commits an act of sexual intercourse by force and without consent". He can also be charged with the offense of carnal knowledge for sexual intercourse with a minor under the age of sixteen. Sexual assaults not involving intercourse are typically charged as forcible sodomy under Article 125 (for non-consensual oral or anal sex) or as indecent assault under Article 134. If the victim is a minor, Article 134 also allows such an incident to be charged as indecent acts or liberties with a minor.

The "new" law dramatically expands the charging options for military commanders. While maintaining "rape" as the top charge under Article 120, the new statute creates several new offenses involving adult victims, including "aggravated sexual assault", "aggravated sexual contact", "abusive sexual contact", and "wrongful sexual contact."

Two important factors provide guidance in distinguishing between these offenses. First is the nature of the sexual misconduct. The new law differentiates between "sexual acts" – defined as penetration, however slight, of the vulva by the penis, finger or other object – and "sexual contact" – defined as the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person.

The second consideration is the type of force applied to consummate

the offense. The more serious charges require that the accused must use a higher level of force. The statute provides 5 theories which qualify – 1) using force to compel submission or prevent resistance by using or suggesting that a dangerous weapon will be used or by physical violence, strength, power or restraint, 2) causing grievous bodily harm, 3) threatening death, grievous bodily harm or kidnapping, 4) rendering another person unconscious, or 5) secretly or forcibly administering a drug or other intoxicant which renders the victim unable to resist. Sexual acts committed with one of these five theories of force are "rape". Sexual contact, on the other hand, which is committed with one of these same five theories, is the offense of "aggravated sexual contact".

Other offenses only require a lesser level of force. For example, instances where the accused causes bodily harm – less than grievous bodily harm – or threatens to harm someone – less than a threat to kill, kidnap, or cause grievous bodily harm – allow for the government to charge differently. Under such a scenario, a sexual act amounts to "aggravated sexual assault", while sexual contact amounts to the new offense of "abusive sexual contact". Some examples of the type of threats envisioned here are threatening to damage someone's property, expose a secret, accuse them of a crime, or harm their (or their spouse's) military career. This category of lesser force also includes situations where the accused takes advantage of a victim who is either passed out or too intoxicated to consent.

The new Article 120 also breaks down the offense of carnal knowledge into a number of different offenses involving child victims which generally mirror the new charges



available in cases with adult victims.

The new statutory language also provides some definitional guidance for commanders and military justice practitioners regarding such critical concepts as "consent" and "mistake of fact". For instance, the new Article 120 describes "consent" as "words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent ... A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent." Similarly, "mistake of fact" is described as a situation where the accused both subjectively and objectively believes that the victim is consenting. To be a valid defense, this mistaken belief of the accused must be reasonable based on all the circumstances, and the accused's intoxication is irrelevant to this consideration.

This transition period to the new charging structure will be challenging. Practitioners should not hesitate to contact the subject matter experts in their areas for assistance in understanding and applying the new law.

- Major Stelle is an Army Judge Advocate General (JAG) Officer currently serving as a Prosecutor/Training Officer with the U.S. Army Trial Counsel Assistance Program ("TCAP"). He has been in the Army for over 13 years and has been a JAG for over seven years. He has worked as a trial counsel (prosecutor), chief of military justice, defense counsel, and has been in his current position for two years.



## DIRECTOR'S CORNER

The last quarter has been a whirlwind of activity for us. It began successfully with our annual Sexual Assault Awareness Month (SAAM) ceremony at the Women in the Military Service Memorial at Arlington Cemetery. We were inspired to remain diligent in our prevention efforts by our keynote speaker, sexual assault survivor Katherine Koestner, as she retold her story of recovery. In addition, I participated in a local SAAM event at the Defense Language Institute in Monterey, California where I was able to meet with commanders, Sexual Assault Response Coordinators (SARC), the local rape crisis center, and over 200 students. I had the opportunity to spread our prevention message of "Stand Up Against Sexual Assault: Make a Difference." These events demonstrated the enthusiasm and hard work being put into making our Sexual Assault Prevention and Response (SAPR) programs successful.

In addition, Dr. David S.C. Chu, Under Secretary for Personnel and Readiness, chaired the first Sexual Assault Advisory Council (SAAC) meeting on April 12<sup>th</sup>, where he brought together our partners in SAPR. Members of the SAAC include representatives from the Mili-

tary Services, Health Affairs, the Inspector General, Joint Chiefs of Staff, and the Office of General Counsel as well as the Center for Disease Control and Prevention and the Departments of State, Justice, Veteran Affairs, and Health and Human Services. Dr. Chu directed SAPRO to establish sub-committees for policy, research, training and outreach to review best practices and to make recommendations for program improvement. The SAAC will reconvene in the fall to be briefed by the sub-committees.

Finally, in April, I led a DoD team to assess the SAPR programs at all three military academies as required by a Congressional mandate. We met all members of their Sexual Assault Response Teams (SARTs) including the Superintendents, SARCs, chaplains, medical personnel, investigators, and Judge Advocate Generals (JAGs). We also met with off post resources. All three Academies are passionate and creative when it comes to their SAPR programs. Our country should be proud of their efforts.

In addition, this month we will host a Sexual Assault Prevention Summit: A Collaborative Strategy for the Military here in the Washington,

DC metro area. Mr. Michael Dominguez, the Principal Deputy Under Secretary of Defense will offer the keynote address. The Summit participants will develop a strategic plan for sexual assault prevention for the military community. The areas we will discuss are: policies, organizational practices, collaboration, education, promotion and strengthening individual knowledge and skills about sexual assault prevention.

This summer will continue to be busy as we work with the Services to develop Standards for SAPR. Standards for SAPR will assist us in assessing the effectiveness of our programs. We hope that the creation of Department of Defense Standards will encourage others in the nation to follow our lead and develop standards for their programs as well.

In closing, I would like to thank everyone at the Academies, installations and staff who allowed us to visit them this past quarter. It was truly inspiring. I look forward to the coming months as we strive to make this program a benchmark for the nation!

- Dr. Kaye H. Whitley, SAPRO Director (Picture below)



### PAST / CURRENT QUARTER EVENTS

**Past Quarter:**

03 April 2007 from 2-4pm—Sexual Assault Awareness Month Observance, "Stand Up Against Sexual Assault... Make a Difference," at the Women's Memorial, Arlington Cemetery

12 April 2007—1st Annual Meeting of the Sexual Assault Advisory Council

April 2007—Conduct Military Service Academy Focus Groups or Assessments with Equal Opportunity

**Current Quarter:**

11-12 July 2007—Sexual Assault Advisory Council Subcommittee Meetings, Alexandria, VA

17-20 July 2007—Sexual Assault Prevention Summit: A Collaborative Strategy for the Military, Crystal City, VA

**Director's Speaking Engagements:**

20 August 2007—Army Medical Education Department Conference, San Antonio, TX

**13 September 2007—**

National Sexual Assault Conference, Baltimore, MD

**Quote of the Quarter:**

*"The military is a team and for a team to be successful, its members must rely on and trust one another. Teammates don't harass each other, don't discriminate against each other, don't rape each other and don't tolerate those who do."*

*- Dr. David S.C. Chu, Under Secretary of Defense (Personnel and Readiness), Sexual Assault Advisory Council Meeting, 12 April 2007*

**THE ARMY IS SAPR STRONG**  
(CONT'D FROM PAGE 1)

Based on the feedback from these assessments, the Army is currently staffing a SAPR Phase II Action Plan to improve the program's policies, services, and requirements.

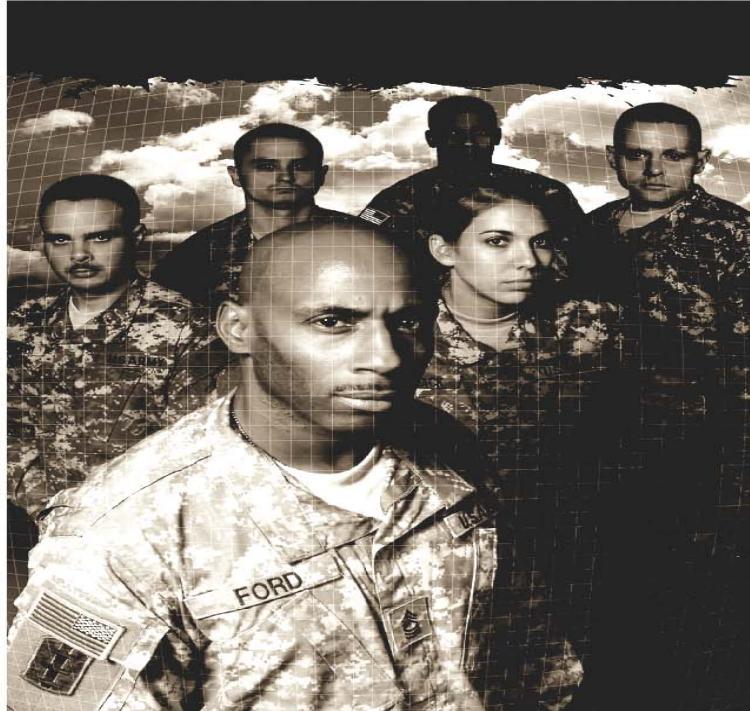
The Army SAPR Office has also been developing several goal-based initiatives. They are currently assisting the DoD SAPR office in the development of standards that will be used across the services to measure program effectiveness. The office is also revising training programs to more thoroughly address risk reduction measures, and expand education to Army civilians.

Collins and the other members of the Army SAPR Office are justifiably proud of the progress they have made. In their short existence, they have launched an effort to create a culture change about the limits of acceptable behavior, educated Soldiers about restricted and unrestricted reporting options, and helped clarify what constitutes a sexual assault. Collins added that their program strives "to change the mindset of what are acceptable boundaries and make Soldiers aware of their responsibilities to live up to the Army values and ethics...The Army does not tolerate sexual assault..."

**CALL TO DUTY**  
BOOTS ON THE GROUND**Stand Up Against Sexual Assault...  
Make a Difference.****SEXUAL ASSAULT  
PREVENTION  
AND RESPONSE**

DoD-SAPRO  
1401 Wilson Blvd, Ste. 402  
Arlington, VA 22209

Phone: 703-696-9422  
Fax: 703-696-9437  
E-mail:  
[SAPRO@wso.whs.mil](mailto:SAPRO@wso.whs.mil)



[WWW.SEXUALASSAULT.ARMY.MIL](http://WWW.SEXUALASSAULT.ARMY.MIL)

