

STATEMENT

OF

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BEFORE THE

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Chairman Gillibrand, Ranking Member Graham, and members of the Subcommittee, thank you for the opportunity to provide a statement on the Department of Defense's (DoD) approach to combating sexual assault and our progress in eliminating this crime in the armed forces. This statement will provide an update on our strategy, critical policy changes, Service-wide implementation of recent directives and military-wide efforts to improve the response and care for the victims and survivors of sexual assault.

Background

Sexual assault is a crime and has no place in the United States military. It is a violation of everything that we stand for and it is an affront to the values we defend. Our DoD-wide mission is to prevent and respond to this crime in order to enable military readiness and to reduce—with a goal to eliminate—sexual assault from the military. Secretary of Defense Chuck Hagel is committed to this mission and to eradicating this crime from our armed forces.

Sexual assault is a complex problem -- in our society, on our college campuses, as well as in the military environment. There is no single, "silver bullet" solution. Reducing and eliminating sexual assault requires a multi-pronged approach—one that leverages a wide range of initiatives and engages every Service member to prevent the crime from occurring in the first place. But when one does occur, we must have effective processes and expert people in place to support victims and ensure the delivery of justice.

Sexual assault is a crime. Under military law, it encompasses a range of offenses from rape to abusive sexual contact. The Uniform Code

of Military Justice (UCMJ) addresses these crimes by Article 120 (Rape, Sexual Assault, Aggravated Sexual Contact, and Abusive Sexual Contact), Article 125 (Forcible Sodomy), and Article 80 (Attempts to commit these crimes).

As you heard in the prior panel, sexual assault can destroy and disrupt peoples' lives in very personal *and very public ways* when it is disclosed. Because of this, both military and civilian victims are not often willing to make a report of the crime to an authority. Since victims are reluctant to officially report, how do we determine how often sexual assault occurs? To answer that question, we must use scientifically constructed, anonymous surveys. The Department has been surveying regularly on this topic since 2004. The most recent survey for which we have data was the Workplace and Gender Relations Survey of the Active Duty (WGRA) in 2010. In that survey, 4.4% of active duty women and nearly 1% of active duty men indicated they experienced some form of unwanted sexual contact in the year prior to being surveyed. "Unwanted sexual contact" is the survey term for the crimes that constitute sexual assault under the UCMJ that I just enumerated. But we wanted to know more than just a percentage rate. We wanted to know how many people 4.4% of active duty women and 1% of active duty men represent in the Department. Consequently, we used those percentage rates for women and men and our official population statistics, we call "end strength," to develop an estimated number of victims. Using the 2010 survey rates, we estimated that just over 19,000 men and women Service members may have experienced some form of unwanted sexual contact in 2010.

You may now want to know how many of those estimated 19,000 Service members reported the crime to a DoD authority in 2010. The answer is just over 2,600 Service members. Or, put another way, we were able to account for about 14% of our estimated number of Service member victims in the sexual assault reports made to the Department in 2010. This phenomenon -- where reports to law enforcement fall far short of the number of incidents estimated to actually occur -- is known as “underreporting.” Many experts in sexual assault believe that sexual assault is one of the most underreported crimes in U.S. society due to the stigma, fear, and shame many victims experience.

Combating a crime that stays mostly hidden from view despite the terrible toll it takes on the victims requires a coordinated, Department-wide approach. Our strategy is to apply simultaneous effort in five areas that we call lines of effort: Prevention, Investigation, Accountability, Advocacy, and Assessment. The underpinning in all these efforts is the focus on leaders at all levels and their responsibility to foster a command climate from top to bottom where sexist behaviors, sexual harassment, and sexual assault are not tolerated, condoned, or ignored: a climate where dignity and respect are core values we all live by and define how we treat one another; where a victim’s report is taken seriously and privacy is protected; where bystanders are trained and motivated to intervene and prevent unsafe behaviors; and, finally, a climate where offenders know they will be found and held appropriately accountable for their actions.

My office, SAPRO, partners with a broad spectrum of Department entities, exercising authorities given to me by Congress and the Secretary of Defense. As Director of SAPRO, I oversee implementation of the

comprehensive approach for the DoD Sexual Assault Prevention and Response program. My office serves as the single point of authority, accountability, and oversight for the sexual assault prevention and response (SAPR) program; and provides oversight to ensure that the military departments properly carry out SAPR program policy. To facilitate execution of these lines of efforts, we collaborate with a variety of stakeholders inside and outside the Department, to include: Department of Defense and senior Service leadership, the military legal community, the DoD Inspector General and investigative organizations, victim advocacy organizations, and other executive branch agencies such as the Department of Justice and the Department of Veterans Affairs. The latter is particularly important as we strive to ensure there is a continuous chain of support for service members transitioning to civilian life. Given the complexity and nature of this problem, both in the military and civilian society, we know there is no single solution to eliminate this crime.

The significant underreporting of sexual assault limits the military's ability to hold offenders appropriately accountable and prevents victims from receiving the care they need. Therefore, the Department has put policies in place to bring more victims forward to report these crimes. However, victims won't come forward unless we can demonstrate we will treat them with the dignity and respect everyone deserves. Gaining victims' trust is paramount. We cannot eliminate this crime without their committed involvement. We gain their trust by creating a climate where a victim's report is taken seriously, their privacy is protected, and they are provided the resources and attention to manage their care and treatment.

In 2005, the Department established two reporting options—restricted and unrestricted—recognizing the best way to encourage victims to make a report and get the recovery services they need is by encouraging them to report in a way that is most comfortable for them. Restricted reports allow sexual assault victims to confidentially disclose the assault to specified individuals [i.e., sexual assault response coordinator (SARC), sexual assault prevention and response (SAPR) victim advocate (VA), or healthcare personnel], and receive medical treatment, counseling, and assignment of a SARC and SAPR VA, without triggering an official investigation. Maintaining privacy is a prime concern for many victims. The Restricted reporting option allows victims this level of confidentiality. Since the option was first offered in 2005, over 5,000 men and women have made and maintained a Restricted Report. We strongly believe that these victims that would never have come forward but for the option of Restricted Reporting. Each year, about a quarter of sexual assault reports made to the Department are Restricted.

An Unrestricted Report allows sexual assault victims to access the same care and support services, but the sexual assault is reported to command and law enforcement. By Department policy, only a military criminal investigative organization may investigate a sexual assault. Since we introduced the two reporting options in 2005, the number of reports made to the Department has increased by 88%. That is, we had 88% more sexual assault reports in Fiscal Year 2011 than we did in 2004. While some may be concerned about a rising number of reports, the under-reported nature of this crime makes bringing more victims forward a key objective if we are going to assist victims in restoring their lives and hold

offenders appropriately accountable. Civilian research shows that more victims participate in care when they make a report of the crime. As a result, we see a rising number of reports as beneficial. With more reports, more victims are offered the care and counseling they need. Receiving more reports also means that the Department has a greater opportunity to hold offenders appropriately accountable.

Despite our progress in bringing more victims forward, we have much more work to do. We need the committed involvement of every Service member. Our troops take care of each other on the battlefield better than any other military in the world – and this same ethos of care must extend to caring for victims and combating sexual assault within our ranks.

Recent Initiatives

Over the past 15 months, the Department has initiated and implemented a variety of initiatives to fundamentally change the way the Department confronts sexual assault.

In December 2011, the Department issued guidance that mandated an increased document retention time for sexual assault reports, which includes investigative documentation, the sexual assault forensic exam report, and the victim's Reporting Preference Statement. Under this guidance, combined with the requirements of the recently enacted Fiscal Year (FY) 2013 National Defense Authorization Act (NDAA), reports of sexual assault will be kept for 50 years. This is particularly useful for veterans as this documentation could be used to support a benefit claim from the Department of Veterans Affairs. The Department also issued new policy that provides victims of sexual assault the option to request a

transfer from their current assignment or to a different location within their assigned installation. This expedited transfer policy requires that victims receive a response from their commander within 72 hours of the request. If denied, the victim may appeal to the first general or flag officer in their chain, who also has 72 hours to provide a response. From policy implementation in December 2011 through December 2012, the Services have approved 334 of 336 requests for expedited transfer.

Also in December 2011, the President signed an Executive Order adding Military Rule of Evidence 514 into military law. This new provision creates a privilege for communications between victims and their victim advocates in sexual assault cases. Providing this additional layer of confidentiality enhances victim trust by ensuring that communications between a victim and his or her victim advocate are protected.

In January 2012, the Secretary of Defense announced the implementation of the Department of Defense Sexual Assault Advocate Certification Program (D-SAACP). The Department contracted with a civilian victim advocacy organization to establish the DoD certification program in alignment with national standards. This program is now underway; to date, nearly 4,000 uniformed and civilian sexual assault response coordinators and victim advocates have met certification standards. The goal is for all DoD sexual assault response coordinators and victim advocates to be certified by October 2013. In January 2012, the Department also expanded sexual assault victim support to cover military spouses and adult military dependents, and ensured DOD civilians stationed abroad and DoD U.S. citizen contractors in combat areas receive emergency care after sexual assault.

In April 2012, the Secretary of Defense transmitted the Leadership, Education, Accountability and Discipline (LEAD) Act to Congress to further codify into law specific reforms to advance sexual assault prevention and response. These six provisions were included in the recently signed FY2013 NDAA. The new law includes the following provisions, all of which are now under policy development:

- Establish a Special Victims Capability within each of the Services, to ensure specially trained investigators, prosecutors, and victim-witness assistance personnel are available to assist with sexual assault cases and that each service has specially trained experts in evidence collection, interviewing, and interacting with sexual assault victims.
- Require all Service members to receive an explanation of all SAPR policies within fourteen days of entrance into active service as a way to educate our newest members on the resources available if victimized and to immediately underscore that the military culture does not tolerate sexual assault.
- Require records of outcome of disciplinary and administrative proceedings related to sexual assault be centrally located and retained for a period of not less than 20 years, in order to allow us to better track our progress in combating sexual assault and help us identify potential patterns of misconduct and systemic issues.
- Require Commanders to conduct an Organizational Climate assessment within 120 days of assuming command and an annual assessment thereafter, enabling leaders to measure whether they are

meeting the Department's goal regarding bystander intervention, command climate, and reducing barriers to reporting.

- Allow Reserve and National Guard personnel who have alleged to have been sexually assaulted while on active duty to request to remain on active duty or return to active duty until a determination is made as to whether the alleged assault occurred in the line of duty; and
- Mandate wider dissemination of SAPR resources, including victim resources such as the SafeHelpline.

In June 2012, the Secretary of Defense elevated the initial disposition decision for the most serious sexual assault offenses—rape, sexual assault, forcible sodomy, and attempts to commit these offenses—so that, at a minimum, these cases are addressed by a “Special Court- Martial Convening Authority” who is in the grade of O-6 grade (an officer at the Colonel or Navy Captain level) or above. This ensures that, in consultation with Judge Advocates General, disposition decisions for cases of sexual assault are made by experienced commanders. Elevating the initial disposition authority also ensures these cases remain within the chain of command, so our leaders retain responsibility and accountability for the problem of sexual assault.

Also in June 2012, our Safe Helpline was expanded to help transitioning service members who have experienced sexual assault. The DoD Safe Helpline is an anonymous and confidential crisis support service for adult members of the DoD community. It is available 24/7, worldwide by “click, call, or text.” The expanded service offered for transitioning Service

members helps smooth the transition from DoD to the Department of Veterans Affairs. As of February 28, 2013, www.SafeHelpline.org has received 114,290 unique visits (each computer is counted once and the unique visits number does not represent sexual assault victims), and the 8,142 visitors have been helped (completed a live session).

In September 2012, the Secretary of Defense received the findings from the pre-command training assessment he ordered in January 2012. My office, along with training, curriculum, advocacy, and military education subject matter experts, assessed pre-command and senior enlisted leader training conducted by the Marine Corps, Navy, and Air Force and reviewed Army's newly developed Sexual Harassment / Assault Response and Prevention (SHARP) Program training support package for senior enlisted leaders. Upon reviewing our report, the Secretary directed the military Services to take the following steps to improve training quality and consistency across the services:

- Develop and implement standardized core competencies, learning objectives, and methods for objectively assessing the effectiveness of SAPR programs.
- Provide a dedicated block of SAPR instruction that incorporates best practices including interactive instruction with vignettes, exercises, and classroom discussion.
- Provide a quick-reference SAPR "Commander's Guide" that personnel can then use in subsequent leadership roles.

- Assess commanders' and senior enlisted leaders' understanding of the key SAPR concepts and skills and develop and implement refresher training to sustain skills and knowledge.

These core competencies and learning objectives for pre-command curriculum were developed collaboratively with all the Services and were published to the field in February 2013.

In September 2012, in response to criminal acts and misconduct at Joint Base San Antonio-Lackland, the Secretary of Defense ordered a sweeping review and assessment of all initial military training of enlisted personnel and commissioned officers. As a result, the Services reviewed a variety of important elements of their training enterprises:

- Selection, training, and oversight of instructors and leaders who directly supervise initial military training. This review is specifically considering the potential benefits of increasing the number of female training instructors;
- Manning, including the ratio of instructors to students and the ratio of leaders in the chain of command to instructors;
- Internal controls in place to identify and prevent behavior inconsistent with established standards by instructors and leaders throughout all phases of initial military training;
- Student accessibility to SAPR services;
- Timing, content, and delivery of SAPR-related training; and
- Timing, content, and effectiveness of student feedback mechanisms.

The Services submitted their findings and recommendations in February 2013 and they are currently being reviewed in detail.

In October 2012, the Defense Sexual Assault Incident Database (DSAID) achieved its full deployment to the field, enhancing our ability to collect data on sexual assault reports uniformly across the Department. DSAID has three primary functions: standardization of reporting, managing victim care, and providing business management for sexual assault response coordinators. It is a common database that all Services are using, allowing the Department and each Service to track every report from beginning to end. Additionally, the system interfaces with the Services' investigative systems, integrating criminal and case management data. Reporting preference forms will be maintained in DSAID for 50 years, which will assist victims seeking disability compensation for military sexual trauma through the Department of Veterans Affairs.

SAPR Strategy: Five Lines of Effort

In May 2012, as an integral part of the Department's efforts to combat sexual assault, the Joint Chiefs of Staff published the "Strategic Direction to the Joint Force on Sexual Assault Prevention and Response." This strategic direction emphasizes senior leaders' involvement and ownership in addressing sexual assault among the ranks. It is an unprecedented "32-Star" guidance written to synchronize Departmental efforts as we combat sexual assault along the previously described five lines of effort. With this joint guidance as our foundation, the Department is in the process of revising our DoD-wide SAPR strategy along these five lines of effort:

- **Prevention.** Our prevention goal is to standardize and deliver effective prevention methods and programs. It is critical that our entire military community work together to preclude criminal behavior from occurring. We have evaluated and are standardizing every sexual assault prevention and response training course our Services offer to our commanders, senior enlisted noncommissioned officers, our newest enlisted troops and to the Sexual Assault Response Coordinators and Victim Advocates. We are standardizing this training with best practices—the best practices within our current training and from the civilian sexual assault training—and making them common practices. We are establishing policy to reduce the impact of high-risk behaviors. We are reaching out to a variety of sexual assault prevention practitioners and researchers to ascertain which prevention policies and programs might work. And each Service has launched enhanced training programs; this new interactive training prominently features senior leaders, thus underscoring the importance of creating the right culture and bystander intervention. Our desired end state is an environment where the cultural imperatives of mutual respect and trust, professional values, and team commitment are reinforced to create an environment where sexual assault is not tolerated.
- **Investigation.** We continue to expand our efforts to achieve high competence in every investigation of sexual assault, which begins with an unrestricted report. Our investigative resources need to yield timely and accurate results. By DoD Policy, investigations are conducted entirely independent from the military chain of command.

When an unrestricted report is filed, the case is referred for investigation to a professionally-trained Military Criminal Investigative Organization that is independent of the chain of command. Each military Department has its own MCIO—the Army’s Criminal Investigative Division, the Navy Criminal Investigative Service, and the Air Force Office of Special Investigations. The MCIOs are overseen by their Services’ Secretaries and policy oversight is provided by the DoD Inspector General (IG). In FY 2012, the DoD IG conducted oversight reviews of closed adult sexual assault cases and adequacy of training. The Department funded over four hundred seats at the US Army Special Victim Investigators Course through FY 2017 and funded the US Army Criminal Investigative Laboratory through FY 2017 for five additional DNA examiners to keep sexual assault case evidence processing time under 60 days. We revised the Sexual Assault Forensic Exam Kit to align DoD evidence collection with national standards. Finally, we implemented a DoD-wide directive to keep investigative documentation for 50 years in unrestricted reports.

- **Accountability.** Holding offenders appropriately accountable in the military justice system is the objective in the accountability line of effort. Commanders are a critical part of this justice system. They are responsible for the readiness of their unit, as well as the health and welfare of their assigned Service members. To this end, Commanders establish standards of behavior, enforce these standards, and hold people accountable for meeting them. Inherent in this responsibility is the authority to address misconduct and

offenses and impose discipline in accordance with the military justice system. Preventing and responding to sexual assault should be no different from another crime or offense; offenders must be held appropriately accountable. It is a common misstatement that commanders conduct investigations of sexual assault cases. By DoD policy, sexual assault complaints are investigated by military criminal investigative organizations that are independent of the chain of command. The results of these investigations are provided to commanders, who then are responsible for taking appropriate actions. Removing disciplinary authorities from a commander's purview would jeopardize the good order and discipline of the unit, and impact unit readiness.

The military justice system provides tools to commanders to appropriately punish offenders depending on the facts and circumstances of each case, to include the severity of the misconduct. In developing a Special Victims Capability, which will enable the Services' ability to deliver enhanced investigation and prosecution of sexual offenses, child abuse, and serious domestic violence, we are establishing training programs so that investigators, prosecutors, judge advocates, victim witness assistance personnel, and paralegals, are specially trained in the latest technologies, policies, and emerging trends. The Special Victims Capability program will enable sexual assault practitioners to better investigate and prosecute, as appropriate, these complex and challenging cases.

- Advocacy. Victim care has been central to our approach since our office was established. Our goal is to standardize and deliver

effective victim support, response, and reporting options, so that we instill confidence, restore resilience, and inspire victims to report -- from the initiation of a report through case disposition in the justice system to victim recovery. When our victims report a sexual assault, they are provided a safe environment and receive medical care, counseling, legal assistance, and victim witness assistance. Because sexual assault is such an underreported crime, it is imperative that our program inspire victim confidence and motivate victim reporting—a necessary bridge to greater victim care and increased offender accountability. To this end, we implemented policy that provides for an expedited transfer for victims and a Certification Program for SARCs and Victim Advocates. We expanded emergency care and support services to DoD civilians stationed abroad and DoD US citizen contractors in combat areas. We expanded the DoD Safe Helpline to help transitioning service members who have experienced sexual assault. And to ensure policy making is informed by the voices of victims, we conducted a recent Survivor Summit where victims shared their experiences and insights with policy leaders.

- **Assessment.** We aim to effectively standardize, measure, analyze, and assess sexual assault prevention and response program progress in our final line of effort. Assessment is an enduring process of data collection and analytics designed to improve program effectiveness and is embedded within each of the other four lines of effort. This effort includes valuable feedback from Service members in the form of surveys and also includes feedback from commanders, victims, and victim advocates. Our goal is to incorporate responsive,

meaningful, and accurate systems of measurement and evaluation into every aspect of our programs in order to determine the impact we are having on reducing and eliminating sexual assault. We have initiated more frequent Department-wide surveys—now every two years, instead of four—and we have placed sexual assault prevention and response questions on the climate surveys that are available to Commanders. Administered in the tens of thousands each month, these climate assessments provide invaluable feedback to Commanders on the climate in the unit, service member propensity to report, and the barriers to reporting that exist within individual units.

In conclusion, I do not submit this statement or speak before the US Senate Committee on Armed Services in an effort to minimize the problem of sexual assault in the military. In the Department of Defense, we fully recognize we have a problem and we will continue to confront the brutal realities until this problem is solved. I am here to report that the Department is firmly committed to this goal and that we remain persistent in confronting this crime through prevention, investigation, accountability, advocacy, and assessment so that we can reduce, with a goal of eliminating, sexual assault from the military.