



March 2022

# SEXUAL ASSAULT

DOD and Coast  
Guard Should Ensure  
Laws Are  
Implemented to  
Improve Oversight of  
Key Prevention and  
Response Efforts

# GAO Highlights

Highlights of [GAO-22-103973](#), a report to congressional committees

## Why GAO Did This Study

Sexual assault is a heinous crime that can have lasting, harmful effects on victims, and contradicts the core values that DOD and the Coast Guard expect servicemembers to follow.

The National Defense Authorization Act (NDAA) for Fiscal Year 2020 includes a provision for GAO to review the armed forces' implementation of statutory requirements related to sexual assault prevention and response from fiscal years 2004 through 2019. This report identifies and describes the status of each statutory requirement for sexual assault prevention and response contained in the NDAs. It also evaluates the extent to which DOD and the Coast Guard implemented the statutory requirements, and assessed their effectiveness when directed by statute.

GAO reviewed statutory requirements, and assessed information from DOD and the Coast Guard on implementation and effectiveness.

## What GAO Recommends

GAO is making 23 recommendations to improve oversight of DOD's and the Coast Guard's sexual assault prevention and response efforts, including that DOD establish an evaluation plan, and that DOD and the Coast Guard establish mechanisms to track and to document that relevant laws are implemented. DOD and the Department of Homeland Security, the parent agency of the Coast Guard, concurred with all 23 recommendations, and each noted respective actions it was taking to address them.

View [GAO-22-103973](#). For more information, contact Brenda S. Farrell at (202) 512-3604 or [farrellb@gao.gov](mailto:farrellb@gao.gov).

March 2022

# SEXUAL ASSAULT

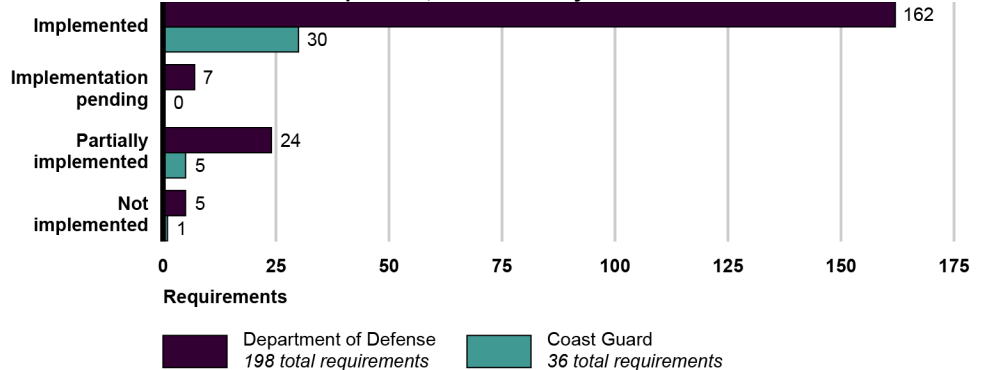
## DOD and Coast Guard Should Ensure Laws Are Implemented to Improve Oversight of Key Prevention and Response Efforts

### What GAO Found

Congress passed 249 statutory requirements directing the Department of Defense (DOD) and the Coast Guard to address prevention of and response to sexual assault incidents, and most remain in force. The statutory requirements covered four broad categories: Victim Assistance and Advocacy (37 percent); Management and Oversight (33 percent); Military Justice and Investigations (21 percent); and Prevention Efforts (9 percent).

DOD fulfilled most of these statutory requirements, such as establishing comprehensive policies to prevent and respond to sexual assault as well as training for sexual assault forensic and nurse examiners. However, DOD partially implemented 24 requirements and did not implement 5 requirements. (See figure.) For example, DOD did not report certain information in annual reports; establish and implement an evaluation plan to assess the effectiveness of the outcomes of its programs and activities related to sexual assault prevention and response; or ensure the tracking of commander compliance for conducting organizational climate assessments.

**Implementation Status of Statutory Requirements That the Department of Defense and the Coast Guard Were Directed to Implement, as of February 2022**



Source: GAO analysis of National Defense Authorization Acts and agency information. | GAO-22-103973

Until DOD fully implements all of these statutory requirements, such as those related to program evaluations, Congress and DOD may continue to lack necessary data about the effectiveness of programs and activities, which can affect oversight. Additionally, DOD may not ensure compliance with the laws and may not fully implement efforts to support victims and prevent sexual assaults.

The Coast Guard implemented most statutory requirements to prevent and respond to sexual assault. However, the Coast Guard partially implemented five statutory requirements and did not implement one. For example, the Coast Guard established policies for victims who asked to be transferred, but did not meet statutory requirements for timelines to make decisions on whether to transfer victims. In general, without oversight structures that include mechanisms to track and document implementation of statutory requirements, DOD and the Coast Guard may be unable to ensure they are fully meeting their responsibilities to help prevent and respond to sexual assault.

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## Abbreviations

DOD	Department of Defense
DHS	Department of Homeland Security
NDA	National Defense Authorization Act
NGB	National Guard Bureau
OMB	Office of Management and Budget
OSD	Office of the Secretary of Defense
SAPR	Sexual Assault Prevention and Response
SAPRO	Sexual Assault Prevention and Response Office
SHARP	Sexual Harassment/Assault Response and Prevention
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

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March 28, 2022

The Honorable Jack Reed  
Chairman  
The Honorable James M. Inhofe  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Adam Smith  
Chairman  
The Honorable Mike Rogers  
Ranking Member  
Committee on Armed Services  
House of Representatives

Sexual assault is a heinous crime that can have lasting, harmful effects on victims. It contradicts the core values that the Department of Defense (DOD) and the Coast Guard expect servicemembers to follow and disrupts mission readiness.<sup>1</sup> In a February 2021 memorandum concerning DOD's efforts to prevent and respond to sexual assault, Secretary of Defense Lloyd J. Austin III stated that "Sexual assault and harassment remain persistent and corrosive problems across the total force."<sup>2</sup> Secretary Austin indicated that DOD's efforts to counter these assaults were falling far short of what is required to make lasting change. Additionally, Secretary Austin ordered several immediate actions and established a 90-day Independent Review Commission on Sexual Assault in the Military (Independent Review Commission) with the aim of examining sexual assault and harassment in the military. In June 2021, the Independent Review Commission made more than 80

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<sup>1</sup>DOD guidance defines sexual assault as intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following specific Uniform Code of Military Justice offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these acts. Department of Defense Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Jan. 23, 2012) (Incorporating Change 5, effective Nov. 10, 2021).

<sup>2</sup>Secretary of Defense Memorandum, *Immediate Actions to Counter Sexual Assault and Harassment and the Establishment of a 90-Day Independent Review Commission on Sexual Assault in the Military* (Feb. 26, 2021).

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recommendations covering several areas, such as accountability and prevention.<sup>3</sup>

DOD reported that the estimated prevalence of sexual assault in the military increased from 2016 to 2018 for active-duty servicemembers. According to DOD, an estimated 6.2 percent of women and 0.7 percent of men (roughly 20,500 total servicemembers) reported in 2018 having been sexually assaulted, up from 4.3 percent of women and 0.6 percent of men (roughly 14,900 total servicemembers) in 2016.<sup>4</sup> Further, according to DOD's Office of People Analytics *2019 Workplace and Gender Relations Survey of Reserve Component Members Overview Report*, the prevalence of sexual assault in the Reserve component remained statistically unchanged from 2017 to 2019.<sup>5</sup> DOD stated in the *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2018*, that the increased prevalence of sexual assault in the

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<sup>3</sup>Independent Review Commission on Sexual Assault in the Military, *Hard Truths and the Duty to Change: Recommendations from the Independent Review Commission on Sexual Assault in the Military* (July 2, 2021).

<sup>4</sup>Department of Defense, *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2020* (May 6, 2021). See, also Office of People Analytics, *2018 Workplace and Gender Relations Survey of Active Duty Members, Overview Report*, Report No. 2019-027 (May 2019).

<sup>5</sup>Specifically, in 2019, the report stated that 3.1 percent of Reserve component women (roughly 4,819 total servicemembers) and 0.3 percent of men (roughly 1,748 total servicemembers) reported experiencing a sexual assault in the prior 12 months. Per the Office of People Analytics report, the target population of the survey consisted of members from the Selected Reserve in Reserve Units, Active Guard/Reserve, or Individual Mobilization Augmentee programs from the Army Reserve, Army National Guard, Navy Reserve, Marine Corps Reserve, Air Force Reserve, and the Air National Guard. The Selected Reserve refers to one of three subcategories of the Ready Reserve (the other two are the Individual Ready Reserve and the Inactive National Guard); Coast Guard Reserve is a component of the Selected Reserve, but it was not sampled for the 2019 survey. Office of People Analytics, *2019 Workplace and Gender Relations Survey of Reserve Component Members, Overview Report*, Report No. 2020-054 (May 2020).



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military indicates it remains a persistent challenge that does not diminish easily.<sup>6</sup>

The Coast Guard, according to an Office of People Analytics survey report, also experienced an increase in the prevalence of sexual assault from 2016 to 2018. An estimated 3.1 percent of female active-duty servicemembers (roughly 184 servicemembers) reported in 2018 having been sexually assaulted in the prior 12 months, which was a statistically significant increase from 2.0 percent in 2016.<sup>7</sup> In a June 2021 report concerning sexual assault, the Coast Guard stated that it remains fully committed to eliminating sexual assault from its ranks.<sup>8</sup>

We have issued numerous reports on the prevention of and response to sexual assault in the military and have made over 100 recommendations to strengthen DOD efforts in this area. DOD has made progress in addressing these recommendations.<sup>9</sup>

The National Defense Authorization Act (NDAA) for Fiscal Year 2020 included a provision for us to identify the statutory requirements concerning sexual assault prevention and response in the military in each NDAA from fiscal years 2004 through 2019, and provide a report to the Committees on Armed Services of the Senate and the House of Representatives.<sup>10</sup> Per the statute, our report is to include the status of each statutory requirement, as well as an assessment of the armed

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<sup>6</sup>Department of Defense, *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2018* (Apr. 26, 2019). According to the *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2020*, DOD delayed the scheduled *Workplace and Gender Relations Survey of Active Duty Members*, which estimates the prevalence of sexual assault and sexual harassment among active duty servicemembers, because of COVID-19 and the potential impact of the pandemic on estimated prevalence rates. Department of Defense, *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2020*.

<sup>7</sup>Office of People Analytics, *2018 Workplace and Gender Relations Survey of Active Duty Members, Overview Report*. The prevalence rate for active-duty men in the Coast Guard did not change from 2016 to 2018. However, the Office of People Analytics report noted that in many cases data were not reportable for Coast Guard men due to low reliability.

<sup>8</sup>Department of Homeland Security, *Sexual Assault in the U.S. Coast Guard (FY 2020)* (June 16, 2021).

<sup>9</sup>Appendix I provides a list of GAO related reports and open recommendations.

<sup>10</sup>National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 540M (2019).

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forces' implementation of the statute and efforts to assess the effectiveness of the actions taken to meet the requirement.

This report (1) describes the status of statutory requirements concerning sexual assault prevention and response in the military that were contained in the NDAA from fiscal years 2004 through 2019; (2) evaluates the extent to which DOD implemented the statutory requirements for preventing and responding to sexual assaults, and assessed the effectiveness of requirements when directed by statute; and (3) evaluates the extent to which the Coast Guard implemented the statutory requirements for preventing and responding to sexual assaults, and assessed the effectiveness of requirements when directed by statute.<sup>11</sup>

For the first objective, we identified relevant sections from each NDAA from fiscal years 2004 through 2019 by searching key terms, such as sexual assault, rape, sex, and special victims' counsel and then grouped related elements (i.e., any subsections, paragraphs, and subparagraphs).<sup>12</sup> We reviewed each statutory requirement to determine whether the statute was in force. To determine which statutory requirements were in force we developed and applied definitions concerning in force, in force / amended, repealed, and expired to each statute. We also determined categories of sexual assault prevention and response requirements, by developing a schema of detailed topics and

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<sup>11</sup>For the purposes of this report, when we refer to DOD, it generally includes the Office of the Secretary of Defense level offices, such as the Office of the Under Secretary of Defense for Personnel and Readiness, Assistant Secretary of Defense for Manpower and Reserve Affairs (which provides policy, direction, and oversight of the Family Advocacy Program), and DOD Sexual Assault Prevention and Response Office; the military departments (the Department of the Army, the Department of the Navy, and the Department of the Air Force); each of the military services (Army, Navy, Marine Corps, and Air Force); and the National Guard Bureau. On December 20, 2019, the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, established the United States Space Force as a military service within DOD. Since the Space Force did not exist when any of the statutory requirements at issue in this review were made effective, we did not gather data from the Space Force. In some instances, certain statutory requirements included the reserve component. For example, the National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1724 (2013), amended the National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 584(a) (2011), to require timely access to a sexual assault response coordinator by any member of the National Guard or reserve.

<sup>12</sup>Of the NDAA's we reviewed from fiscal years 2004 through 2019, we found 150 numbered sections related, at least in part, to sexual assault prevention and response.

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subcategories. We then assigned each requirement to the topics and subcategories, and grouped them into broad categories.

For our second and third objectives, we developed a questionnaire based on the statutory requirements we identified and analyzed responses and documentation from DOD and Coast Guard concerning their efforts to implement the requirements and assess effectiveness when directed by statute. We conducted pretests with DOD and Coast Guard officials to ensure feasibility and clarity of the questionnaire items. The final questionnaire was distributed to relevant DOD and Coast Guard officials, who then circulated the questionnaire internally.

To determine DOD's and Coast Guard's implementation of the statutory requirements, two analysts reviewed each requirement and reached concurrence based on the responses and documentation provided in the questionnaire by DOD and Coast Guard officials. Further, attorneys from GAO's Office of the General Counsel also reviewed each statutory requirement for relevance and reviewed the implementation status assigned by the analysts for legal sufficiency and appropriateness. In reviewing DOD's and Coast Guard's efforts to implement the statutory requirements we also considered—for example—to which organization(s) the requirement applied. To determine implementation was accomplished, we generally relied on documentation, such as published guidance or policy, to verify DOD and Coast Guard efforts to implement the statutory requirements.

To identify which statutory requirements required DOD and Coast Guard to assess effectiveness, we searched all of the statutory requirements we had identified for key terms, such as effective, assess, and measure. If one or more key terms were present in the statutory requirement, one analyst then reviewed the statutory requirement and made a determination regarding whether it required an assessment of effectiveness. Each determination was then reviewed by a separate analyst. Attorneys for GAO's Office of the General Counsel then reviewed the determinations for legal sufficiency and appropriateness.

We also contacted several organizations within DOD and the Coast Guard, such as the DOD Sexual Assault Prevention and Response Office (SAPRO); Department of the Army, Sexual Harassment/Assault Response and Prevention, Army Resilience Directorate; and the Coast Guard, Sexual Assault Prevention Response and Recovery Program, and Health, Safety, and Work-Life Directorate. We interviewed relevant DOD and Coast Guard officials about their respective SAPR programs and

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efforts to implement the statutory requirements. Our scope and methodology is described in detail in appendix II.

We conducted this performance audit from November 2019 to March 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### DOD Roles and Responsibilities

In DOD, the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), SAPRO, the Secretaries of the military departments, and the National Guard Bureau (NGB) have various responsibilities concerning the oversight and management of sexual assault prevention and response. For example:

- **USD(P&R).** As the principal staff assistant and advisor to the Secretary of Defense on matters such as readiness and training and welfare, the USD(P&R) develops overall policy and provides oversight for the DOD SAPR program; oversees SAPRO; and provides technical assistance through the Director of SAPRO to the heads of the DOD components in addressing matters concerning SAPR.<sup>13</sup>
- **SAPRO.** SAPRO serves as DOD's single point of authority, accountability, and oversight for its sexual assault prevention and response program. SAPRO is responsible for, among other things,
  - developing programs, policies, and training standards for sexual assault prevention, reporting, and response;

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<sup>13</sup>Various offices and organizations within DOD play a role in addressing unwanted sexual behaviors in the military—including sexual harassment, sexual assault, and domestic violence involving sexual assault. In addition to SAPRO, USD(P&R) oversees the Office for Diversity, Equity, and Inclusion, which, among other things, develops harassment prevention and response policies, to include those related to sexual harassment. USD(P&R) also oversees the Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy, which is responsible for DOD's Family Advocacy Program—a program for preventing and responding to child abuse and neglect and domestic abuse in military families. The Family Advocacy Program coordinates services to victims of sexual assault perpetrated by, for example, a spouse or intimate partner.

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- overseeing the collection and maintenance of data on reported allegations of sexual assault involving servicemembers;
  - developing oversight metrics to measure the effectiveness of SAPR programs and related activities, such as training; and
  - establishing reporting categories and monitoring specific goals included in the annual SAPR assessments of each military service.<sup>14</sup>
- **Military services SAPR programs.** The Secretaries of the military departments are responsible for establishing policies for preventing and responding to sexual assault within their respective department, and for ensuring compliance with DOD policy, as well as applicable laws. Each military service has its own SAPR policy and program.<sup>15</sup> Relevant military service policies include guidance concerning responsibilities of commanders, sexual assault response coordinators, and victim advocates, as well as training requirements for servicemembers and some DOD federal civilian employees. Military service policies also include guidance concerning the oversight of SAPR programs, to include overall implementation, evaluation, and assessments of effectiveness. Moreover, the military services' policies provide that SAPR programs should be assessed to determine that services are being provided to victims of sexual assault in accordance with DOD policy and law.
  - **NGB.** The Chief of the NGB establishes and implements SAPR policy and procedures for eligible National Guard members, including the requirement for timely access to a sexual assault response coordinator or SAPR victim advocate by any National Guard member.<sup>16</sup> Applicable NGB policy also includes guidance regarding implementation of and monitoring compliance with NGB sexual assault prevention and response policies, instructions, and

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<sup>14</sup>Department of Defense Instruction 6495.02, vol. 1, *Sexual Assault Prevention and Response: Program Procedures* (Mar. 28, 2013) (Incorporating Change 6, Nov. 10, 2021).

<sup>15</sup>The Army is the only military service to combine its efforts to prevent and respond to incidents of sexual assault as well as sexual harassment as they relate to servicemembers into a single program referred to as the Sexual Harassment/Assault Response and Prevention (SHARP) program. In this report, we generally refer to all the military services (to include the Army's) and NGB's programs to prevent and respond to sexual assault as SAPR programs.

<sup>16</sup>The Chief of the NGB executes the NGB's roles and responsibilities on behalf of and with the approval of the Secretaries of the Army and Air Force, and in coordination with SAPRO and the State Adjutants General.

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procedures, as well as ensuring such policies and procedures are consistent with applicable laws. Further, the Directors of the Army National Guard and Air National Guard assist the Chief of the NGB in carrying out functions of the NGB as they relate to the Army National Guard and Air National Guard on all matters related to the NG SAPR program.<sup>17</sup>

Throughout DOD the following SAPR personnel provide various support services to eligible victims of sexual assault, including servicemembers, their adult dependents, and some DOD civilian employees:<sup>18</sup>

- **Sexual assault response coordinators.** Sexual assault response coordinators serve as the single point of contact for coordinating appropriate and responsive care for adult sexual assault victims at an installation or within a geographic area. Among other things, sexual assault response coordinators oversee sexual assault awareness, prevention, and response training; coordinate with health care providers for medical treatment, including emergency care, for victims of sexual assault; and track the services provided to an eligible victim of sexual assault from the initial report through final disposition and resolution.
- **Victim advocates.** Victim advocates can provide nonclinical crisis intervention, referrals, and ongoing nonclinical support to adult sexual assault victims. Such support may include providing information on available options and resources and liaising with other relevant organizations and agencies, depending upon the needs of the victim.

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## Coast Guard Roles and Responsibilities

Similar to DOD, the Coast Guard has its own SAPR program. The Coast Guard SAPR program covers education and training, response capability, victim support, and reporting procedures. According to Coast Guard policy, the ultimate purpose of the program is to eliminate sexual assault within the Coast Guard and provide response services when a sexual assault does occur.<sup>19</sup> Additionally, Coast Guard's policy, similar to DOD's, provides guidance concerning the implementation of related SAPR

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<sup>17</sup>In June 2019, the NGB consolidated the SAPR Office activities of the Army National Guard, Air National Guard, and NGB under the NGB Manpower and Personnel Directorate.

<sup>18</sup>Eligible servicemembers include active duty victims of sexual assault, as well as National Guard and Reserve Component members who are sexually assaulted when performing active service or inactive duty training.

<sup>19</sup>Coast Guard, Commandant Instruction M1754.10E, *Sexual Assault Prevention and Response (SAPR) Program* (Dec. 7, 2016).

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activities, such as development and dissemination of training to effectively implement the SAPR program. Like DOD, the Coast Guard SAPR program also includes sexual assault response coordinators and victim advocate personnel.

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## Military Justice System

The Uniform Code of Military Justice provides the statutory framework of the military justice system and establishes the complete code of military criminal law.<sup>20</sup> It also outlines the jurisdiction and basic procedure of the military justice system, and provides the legal framework for conducting investigations and prosecutions of allegations of misconduct by servicemembers. Every active-duty member of the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard is subject to the Uniform Code of Military Justice, as are members of a reserve component while on active duty or in inactive-duty training.<sup>21</sup>

When a servicemember is accused of an offense such as sexual assault, military criminal investigators, commanding officers, and military lawyers (known as judge advocates) have responsibilities related to the investigation and adjudication of the alleged criminal conduct. An investigation is usually conducted in DOD by one of the three military criminal investigative organizations—the Army Criminal Investigation Command, the Naval Criminal Investigative Service, or the Air Force Office of Special Investigations; in the Coast Guard, the Coast Guard

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<sup>20</sup>10 U.S.C. §§ 801-946a.

<sup>21</sup>Members of the Army National Guard or Air National Guard on inactive-duty training are subject to the Uniform Code of Military Justice only when the inactive-duty training is in the federal service.

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## Most Laws to Prevent and Respond to Sexual Assault Remain In Force

Investigative Service would conduct such an investigation.<sup>22</sup> Military criminal investigators are responsible for a variety of investigatory tasks, including interviewing witnesses, alleged victims, and suspects, and gathering physical evidence. Special Victims' Counsel or Victims' Legal Counsel, depending on the military service, provide legal assistance or representation to eligible victims of sex-related offenses.

NDAAs from fiscal years 2004 through 2019 included 249 statutory requirements directing DOD and the Coast Guard to address prevention of and response to sexual assault incidents. Of these, 73 percent (181 of 249) remained in force as of October 2021.<sup>23</sup> The remaining 27 percent (68 of 249) had expired or been repealed. Our work showed that the total number of in force statutory requirements generally grew from fiscal year 2004 through 2019, as new requirements were enacted and previous requirements remained in force. (See fig. 1.)

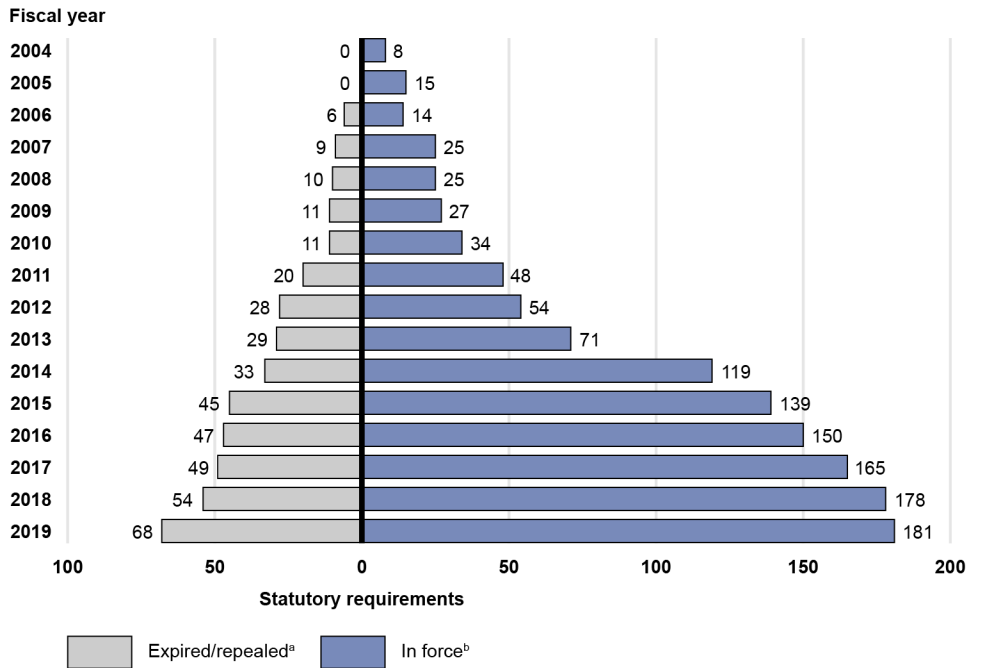
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<sup>22</sup>The U.S. Army Criminal Investigation Command has responsibility for investigating alleged sexual assault incidents that occur in the Army; the Naval Criminal Investigative Service has responsibility for investigating such incidents in the Navy and the Marine Corps; the Air Force Office of Special Investigations has responsibility for investigating such incidents in the Air Force and the Space Force; and the Coast Guard Investigative Service has the responsibility for investigating such incidents in the Coast Guard. In accordance with DOD policy, a unit commander may not conduct internal command-directed investigations into allegations of sexual assault or delay immediately contacting the relevant military criminal investigative organization. According to Chief of NGB guidance, DOD guidance and Army and Air Force regulations applicable to the National Guard require all unrestricted reports of sexual assault be referred to the appropriate military criminal investigative organization or civilian law enforcement organization and the Sexual Assault Response Coordinator. State National Guard units fall under the command and control of their Governor and must comply with State law. If The Adjutant General of any State or the Commanding General of the District of Columbia National Guard determine, after referral to the applicable military criminal investigative organization or civilian law enforcement organization, that further investigation of an Unrestricted Report of sexual assault is necessary, NGB Office of Complex Administrative Investigations is available to assist The Adjutant Generals by providing an administrative investigation into the allegation of sexual assault: Chief National Guard Bureau Instruction 0400.01B, *National Guard Complex Administrative Investigations* (Apr. 12, 2018).

<sup>23</sup>Appendix III provides a table of the list of statutory requirements we identified, including the status of each as of October 2021. We define, an in force statutory requirement is one that has not expired or been repealed. These statutory requirements are those that are still valid or ongoing. While we identified 150 numbered statutory sections related to sexual assault prevention and response in the military in the NDAs we reviewed, we determined that some of those numbered sections contained more than one related requirement, so that those requirements totaled 249. For purposes of this report, we have numbered these 249 requirements sequentially as "statutory requirements" 1-249.



**Figure 1: Cumulative Number and Status of Sexual Assault Prevention and Response Statutory Requirements in the National Defense Authorization Acts (NDAA) from Fiscal Years 2004–2019**



Source: GAO analysis of National Defense Authorization Acts. | GAO-22-103973

Note: For 2019, the status of the statutory requirements were determined as of October 4, 2021, rather than the date of enactment of the NDAA for Fiscal Year 2019.

<sup>a</sup>The statutory requirements that were expired or repealed as of the date of enactment of each NDAA. Expired requirements are those that have passed their expiration date or period of validity; repealed requirements are those that have been revoked or annulled.

<sup>b</sup>The statutory requirements in force as of the date of enactment of each NDAA. In force requirements are those that are still valid or ongoing.

Below are examples of statutory requirements that are in force, in force with one or more amendments, have expired, or have been repealed as of October 2021:

- **Statutory requirement that remains in force.** Section 536 of the NDAA for Fiscal Year 2018 requires that the baseline Special Victims' Counsel training include training to recognize and deal with the unique challenges often faced by male victims of sexual assault.<sup>24</sup>

<sup>24</sup>National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 536 (2017): statutory requirement 228.

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- **Statutory requirement that remains in force with one or more amendments.** Section 1713 of the NDAA for Fiscal Year 2014 amended title 10, U. S. Code, by inserting section 674, which allows for the secretary concerned to provide guidance to commanders on their authority to make a timely determination or take action on the temporary administrative reassignment or removal of a member on active duty accused of committing a sexual assault or related offense. This section was amended by section 1071 of the Carl Levin and Howard P. “Buck” McKeon NDAA for Fiscal Year 2015—in order to correct a typographical error in the original provision—but otherwise remains in force.<sup>25</sup>
  - **Statutory requirement that expired.** Section 526 of the NDAA for Fiscal Year 2004 mandated that not later than 12 months after the date on which all members of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies were appointed, the task force was to submit to the Secretary of Defense a report. That report was to recommend ways DOD and the departments of the Army and Navy may more effectively address matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy.<sup>26</sup> We determined this statutory requirement was expired because it had a set deadline, which had passed.
  - **Statutory requirement that was repealed.** Section 527 of the NDAA for Fiscal Year 2004 called for the Secretaries of the military departments to prescribe policy on actions to address sexual harassment and violence at the military service academies. This requirement was repealed and replaced by section 532 of the John Warner NDAA for Fiscal Year 2007, which revised and clarified the survey and reports required on the military service academies, among other things.<sup>27</sup>

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<sup>25</sup>Pub. L. No. 113-66, § 1713(a)-(b) (2013); Pub. L. No. 113-291, § 1071(f)(8) (2014) (*codified* as amended at 10 U.S.C. § 674); statutory requirement 117.

<sup>26</sup>National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 526(b)-(c) (2003); statutory requirement 2. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: GAO, *Supplemental Material for GAO-22-103973: Status of DOD and Coast Guard Implementation of Statutory Requirements to Prevent and Respond to Sexual Assaults, 2004–2019*, GAO-22-105275 (Washington, D.C.: Mar. 28, 2022).

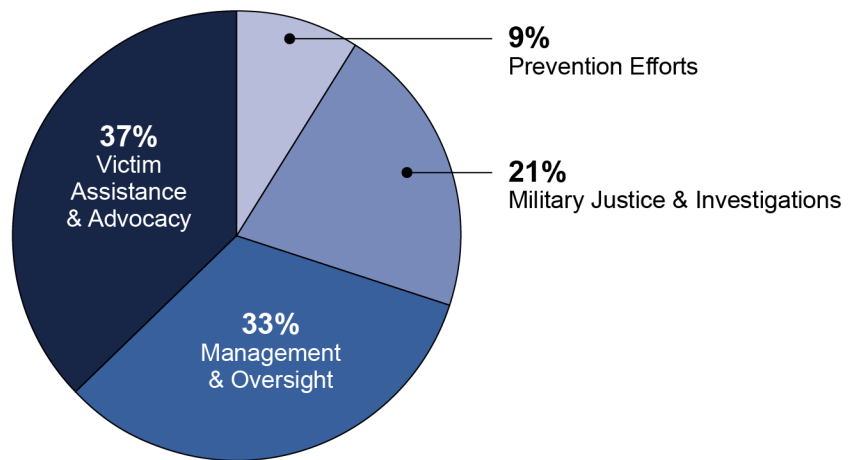
<sup>27</sup>Pub. L. No. 108-136, § 527(a) (2003); statutory requirement 5. John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 532 (2006); statutory requirement 21.

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We found that the 249 statutory requirements from fiscal years 2004 through 2019 covered four broad categories: Victim Assistance and Advocacy; Management and Oversight; Military Justice and Investigations; and Prevention Efforts. (See fig. 2.)

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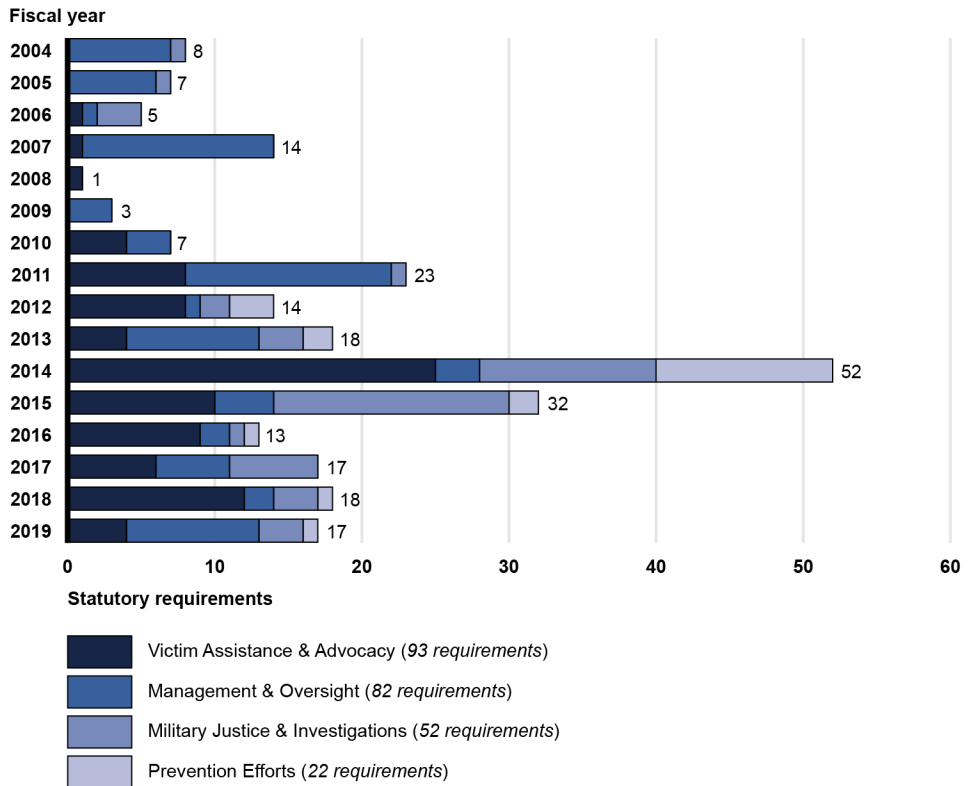
**Figure 2: Sexual Assault Prevention and Response Statutory Requirements for the Department of Defense and the Coast Guard Fiscal Years 2004–2019, by Category**



Source: GAO analysis of National Defense Authorization Acts. | GAO-22-103973

The types of sexual assault prevention and response statutory requirements varied by year. For example, the NDAA for Fiscal Year 2012 was the first of the NDAAs within the period of our review that contained requirements associated with what we identified as the sexual assault prevention efforts category. (See fig. 3.)

**Figure 3: Number of Sexual Assault Prevention and Response Statutory Requirements for the Department of Defense and the Coast Guard in Each National Defense Authorization Act, Fiscal Years 2004–2019, by Category**



Source: GAO analysis of National Defense Authorization Acts. | GAO-22-103973

The following are examples of the types of statutory requirements that are under each of the four broad categories:

**Victim Assistance and Advocacy.** This category centers on providing support to victims of sexual assault and includes areas such as victim privacy and safety, medical care, advocacy, and legal assistance. For example, one statutory requirement is that the Secretary of Defense will establish a training and certification program for sexual assault response coordinators and sexual assault victim advocates.<sup>28</sup> Another statutory

<sup>28</sup>Pub. L. No. 112-81, § 584(c) (2011): statutory requirement 77.

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requirement mandated that legal assistance be provided by civilian or military counsel to victims of sexual assault.<sup>29</sup>

**Management and Oversight.** This category focuses on the management structures for overseeing efforts to prevent and respond to sexual assaults in the military. It includes areas such as policy, planning, and the collection and reporting of data. For example, one statutory requirement is that the Secretary of Defense will develop a comprehensive policy for the prevention of and response to sexual assaults involving members of the armed forces.<sup>30</sup> Another statutory requirement relates to preventing retaliation by members of the armed forces against other members who report or otherwise intervene on behalf of the victim of an alleged sex-related offense.<sup>31</sup>

**Military Justice and Investigations.** This category focuses on the overall investigation and disposition of military sexual assault cases and includes areas such as investigation, disposition of cases, and judicial processes. For example, one statutory requirement is that the Secretaries of the military departments will assign at least one full-time sexual assault nurse examiner to certain military medical treatment facilities.<sup>32</sup> In another statutory requirement, commanding officers who receive a report of a sex-related offense involving a member of the armed forces will immediately refer the report to the appropriate military criminal investigation organization.<sup>33</sup>

**Prevention Efforts.** This category centers on preventing sexual assaults and includes areas such as organizational culture, leadership, and education and training. For example, one statutory requirement relates to the development of a sexual assault prevention and response training curriculum that covers different levels of training, such as initial entry and

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<sup>29</sup>Pub. L. No. 112-81, § 581(b) (2011) (*codified* at 10 U.S.C. § 1565b): statutory requirement 71.

<sup>30</sup>Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 577(a)-(b), (d) (2004): statutory requirement 12.

<sup>31</sup>National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, § 539(a)-(c) (2015): statutory requirement 194.

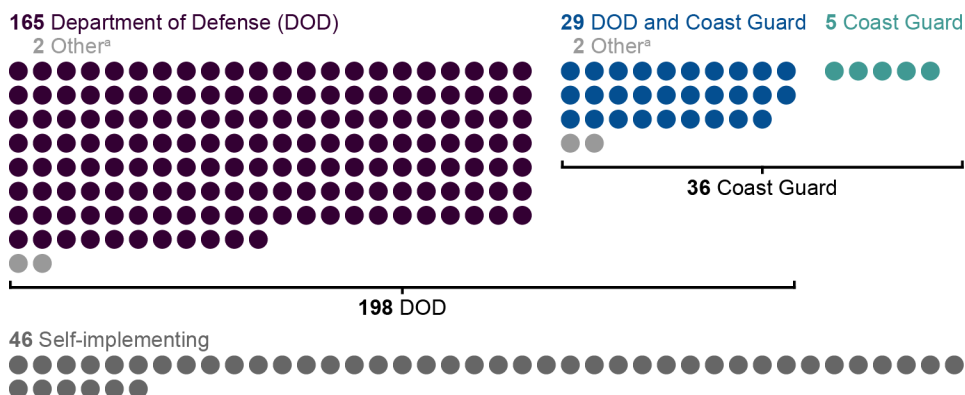
<sup>32</sup>Pub. L. No. 113-66, § 1725(b) (2013): statutory requirement 132. A full-time sexual assault nurse examiner is to be assigned to each military medical treatment facility in which an emergency department operates 24 hours per day.

<sup>33</sup>Pub. L. No. 113-66, § 1742 (2013): statutory requirement 144.

accession programs and annual refresher training.<sup>34</sup> Another statutory requirement is that the Secretary of Defense will ensure that results of command climate assessments are provided to the relevant individual commander, as well as the next higher level of command.<sup>35</sup>

Most sexual assault prevention and response statutory requirements were directed to DOD, the Department of Homeland Security as it pertained to the Coast Guard, or both. The statutory requirements were directed most frequently to DOD (198 requirements) versus the Coast Guard (36 requirements). See figure 4.

**Figure 4: Number of Sexual Assault Prevention and Response Statutory Requirements, by Organization Directed to Implement the Statute**



Source: GAO analysis of the National Defense Authorization Acts. | GAO-22-103973

<sup>a</sup>Other: Some statutory requirements were not directed to a particular organization, but still required implementation. For these four requirements, we identified that all four applied to DOD, and of those four, only two applied to Coast Guard.

We identified 46 requirements as self-implementing, which we defined as requirements that did not direct any particular entity to take an action. Some examples of self-implementing requirements are those that

<sup>34</sup>Pub. L. No. 112-81, § 585(a) (2011): statutory requirement 78.

<sup>35</sup>Pub. L. No. 113-66, § 587(a) (2013): statutory requirement 101. Per DOD guidance, commanders of military commands are required to conduct command climate assessments to determine the overall health and effectiveness of the organization. These assessments provide an opportunity for servicemembers and civilian employees to express opinions regarding the manner and extent to which leaders respond to allegations of problematic behaviors, to include sexual assault, sexual harassment, and prohibited discrimination. Department of Defense Instruction 1350.02, *DOD Military Equal Opportunity Program* (Sept. 4, 2020).

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repealed a previous statute, amended a statute by providing a specific definition for a term, or further expanded the scope of the statute.

Since our analysis of the statutory requirements from fiscal years 2004 through 2019, Congress and the President enacted additional statutory requirements related to sexual assault prevention and response in the NDAs for fiscal years, 2020, 2021, and 2022, thus demonstrating continued interest in and oversight of DOD and Coast Guard efforts to prevent and respond to sexual assault in the military.<sup>36</sup> These statutes covered a number of different areas, such as efforts to provide support to victims of sexual assault and to establish prevention-focused entities, policies, and programs at the DOD and Coast Guard, as well as changes to the prosecution of sexual assault cases and related crimes.<sup>37</sup>

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## DOD Implemented Most Laws, but Several Issues Limit Oversight

DOD implemented most statutory requirements to prevent and respond to sexual assault in the military enacted from fiscal years 2004 through 2019. However, DOD partially implemented or did not implement some statutory requirements related to oversight responsibilities of its SAPR program. Specifically, DOD's annual reports lacked some required information. DOD also did not establish a required evaluation plan to assess SAPR policies and activities. Certain statutory requirements concerning the oversight of commander compliance to conduct assessments were either partially or not implemented. In some instances, DOD policies or DOD actions did not align with certain statutory requirements. Lastly, DOD lacked documentation to demonstrate it had implemented certain statutory requirements.

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<sup>36</sup>See appendix IV for a list of statutes concerning sexual assault prevention and response in the NDAs for Fiscal Years 2020 and 2021.

<sup>37</sup>National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, §§ 531 and 533 (2021). The NDAA for Fiscal Year 2022 was enacted in late December 2021, in the final stages of processing this report. We were unable to analyze the new statute before finalizing the report, so it does not account for new changes that might otherwise impact the information presented here.

## DOD Implemented Most of Its Requirements to Prevent and Respond to Sexual Assault

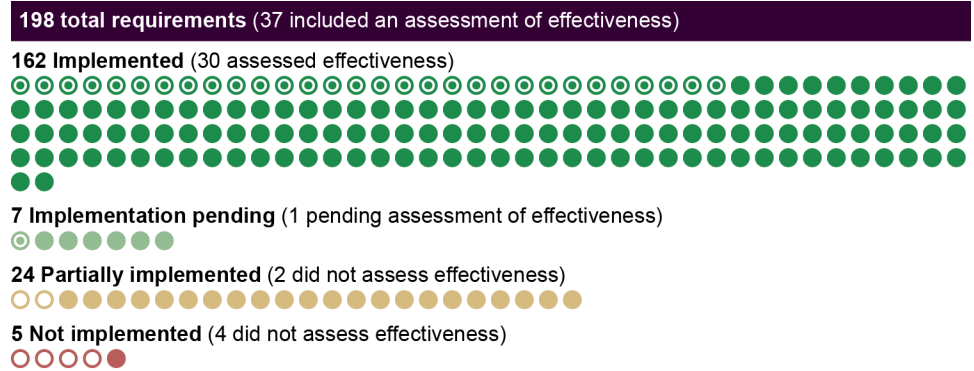
### Sexual Assault Prevention and Response Laws Pending Implementation by the Department of Defense

Our analysis found that 4 percent (7 of 198) of the statutory requirements were pending implementation by DOD. We determined statutory requirements were pending if at least one element (i.e., subsection or subparagraph) was still being implemented by DOD, based on information and documentation provided by DOD. For example, these included recent laws from 2019 where the deadline is at a future date and efforts are ongoing; and GAO recommendations codified into law and that were still pending implementation by DOD. Appendix V provides a complete list of those statutory requirements that are pending implementation by DOD.

Source: GAO analysis of the National Defense Authorization Acts for Fiscal Years 2004–2019 and Department of Defense information. | GAO-22-103973

DOD implemented 82 percent (162 of 198) of the statutory requirements to prevent and respond to sexual assault in the military.<sup>38</sup> Some statutory requirements were still pending implementation by DOD. (See sidebar.) Figure 5 below provides an overview of DOD’s overall efforts to implement the statutory requirements, including those that required DOD to assess the effectiveness of actions taken to meet the requirement. However, DOD partially implemented 12 percent (24 of 198) of the statutory requirements, and did not implement three percent (5 of 198) of them. The statutory requirement that DOD partially implemented or did not implement spanned many years: some statutes were from 2004, 2007, and 2014.

**Figure 5: Status of Statutory Requirements That the Department of Defense Was Directed to Implement to Prevent and Respond to Sexual Assault, Fiscal Years 2004–2019**



Source: GAO analysis of National Defense Authorization Acts and Department of Defense information. | GAO-22-103973

Note: The National Defense Authorization Act (NDAA) for Fiscal Year 2020 included a provision for GAO to review the armed forces’ implementation of statutory requirements related to sexual assault prevention and response in the military contained in NDAAs for fiscal years 2004 through 2019. GAO evaluated the extent to which DOD implemented the statutory requirements for preventing and responding to sexual assaults, and the extent to which DOD assessed the effectiveness of requirements when directed by statute.

<sup>38</sup>As previously noted, when we refer to DOD, it generally includes the Office of the Secretary of Defense level offices, such as the Office of the Under Secretary of Defense for Personnel and Readiness, Assistant Secretary of Defense for Manpower and Reserve Affairs (which provides policy, direction, and oversight of the Family Advocacy Program), and DOD Sexual Assault Prevention and Response Office (SAPRO); the military departments (Department of the Army, Department of the Navy, and Department of the Air Force); each of the military services (Army, Navy, Marine Corps, and Air Force) and the National Guard Bureau.



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Each statutory requirement was unique and each required varied levels of effort by DOD to implement. For example, one statutory requirement may call for the establishment of a program, while another may require recurring annual reports.<sup>39</sup>

Several major aspects of DOD's SAPR program and related activities were mandated by or codified in the statutory requirements. In the initial years of program development, from about 2004 through 2007, NDAA's contained several statutory requirements centered on the establishment of DOD's management and oversight capabilities for the SAPR program. In response, DOD established the following SAPR activities:

- annual assessment of the military service academies, to include the Armed Forces Workplace and Gender Relations Survey; and
- comprehensive policies on the prevention of and response to sexual assaults.<sup>40</sup>

From 2008 through 2010, statutory requirements aimed to improve or expand DOD's capacity to address sexual assault by, for example, the establishment of a plan to implement its comprehensive policies, and a centralized, case-level database for the collection of information regarding sexual assaults—the Defense Sexual Assault Incident Database.<sup>41</sup>

By 2011, statutory requirements began to center on improving DOD's efforts related to victim assistance and advocacy and military justice and investigation. In response, DOD established the following victim assistance and advocacy activities:

- the expansion of services to dependents, civilian employees, certain defense contractors, and the reserve components; and

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<sup>39</sup>For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: [GAO-22-105275](#)

<sup>40</sup>Pub. L. No. 108-136, § 527 (2003): statutory requirement 6. Pub. L. No. 108-375, § 577 (2004): statutory requirements 12 and 14. Pub. L. No. 109-364, § 532 (2007): statutory requirements 22; 25; 28; and 30. National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-139, § 570(a)-(b) (2013): statutory requirements 85-86.

<sup>41</sup>Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, § 563(a)-(d) (2008): statutory requirements 36–37. National Defense Authorization Act for 2010, Pub. L. No. 111-84, § 567(a) (2009): statutory requirement 40.

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- efforts to ensure appropriate training and staffing of SAPR victim advocates and sexual assault response coordinators.<sup>42</sup>

The NDAA's also contained key statutory requirements related to strengthening military justice and investigation efforts concerning sexual assault. In response, DOD established the following activities related to SAPR investigative and legal processes:

- training and certification for sexual assault forensic examiners and nurse examiners; and
- the establishment of independent review organizations to make recommendations to the Secretary of Defense for the purpose of reviewing and assessing the adequacy of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault related offenses.<sup>43</sup>

By 2012, Congress began to pass statutory requirements to assist DOD in improving its efforts to prevent sexual assaults in the military, such as:

- a comprehensive DOD-wide SAPR training curriculum that focused on different levels of training, such as entry and accession programs, annual refresher training, professional military education, peer education, and specialized leadership training; and
- improved dissemination of the results of command climate assessments in the chain of command.<sup>44</sup>

Of the 198 statutory requirements, we identified 37 requirements that included language that required DOD to assess the effectiveness of efforts to prevent and respond to sexual assault. We found that DOD had conducted an assessment of effectiveness for 30 of those 37 statutory

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<sup>42</sup>Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 1622(a)-(c) (2011): statutory requirement 59. Pub. L. No. 111-383, § 1632(a), (f) (2011): statutory requirement 63. Pub. L. No. 111-383, § 1632(b), (f) (2011): statutory requirement 64. Pub. L. No. 112-81, § 584(c)-(d) (2011): statutory requirement 77.

<sup>43</sup>Pub. L. No. 112-239, § 576(a)-(f) (2013): statutory requirement 94. Pub. L. No. 113-66, § 1731(a)-(b) (2013): statutory requirement 135–136. Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 539(b)(1)-(3) (2014): statutory requirement 170. Pub. L. No. 113-291, § 545(a)-(b) (2014): statutory requirement 177. Pub. L. No. 113-291, § 546(a)-(f) (2014): statutory requirements 178–180. John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, § 547(a) (2018): statutory requirement 242.

<sup>44</sup>Pub. L. No. 112-81, § 585(a)(2) (2011): statutory requirement 78. Pub. L. No. 113-66, § 587(a) (2013): statutory requirement 101.

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requirements.<sup>45</sup> For example, DOD conducted assessments and made recommendations on how to improve SAPR programs at the military service academies.<sup>46</sup> Separately, DOD implemented methods to measure the effectiveness of plans related to sexual assaults involving members of the armed forces.<sup>47</sup>

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### DOD Annual Reports on Sexual Assault in the Military Lacked Required Information

DOD submitted the statutorily required *Department of Defense Annual Report on Sexual Assault in the Military* to Congress from 2005 through 2021, covering report years 2004 through 2020 (hereafter, DOD annual report(s)); however, DOD did not include some of the statutorily required information.<sup>48</sup> As the single point of authority and oversight for DOD's sexual assault prevention and response program, SAPRO officials stated that their office led the development of the DOD annual reports and

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<sup>45</sup>We independently determined which statutes required an assessment of effectiveness. We then compared these to DOD's and to Coast Guard's responses on assessing effectiveness from the questionnaire to identify whether DOD and Coast Guard respondents recognized the need to conduct an assessment. We found that when required by statute, DOD and Coast Guard respondents to the questionnaire recognized an assessment was needed in 19 of 83 responses. When not required by statute, DOD and Coast Guard respondents to the questionnaire recognized an assessment was needed in 141 of 1,162 responses.

<sup>46</sup>Pub. L. No. 108-136, § 526(b)-(c) (2003): statutory requirement 2.

<sup>47</sup>Pub. L. No. 111-84, § 567(a) (2009): statutory requirement 40.

<sup>48</sup>The submission and contents of these reports were largely governed by 13 statutory requirements. A list of statutorily required information for the annual reports is presented in Appendix VI. The statutory requirements related to the submission and contents of the annual report on sexual assault in the military expired in March 2021. However, the NDAA for Fiscal Year 2022, reinstated these requirements. See, Pub. L. No. 117-81, § 5491 (2021).

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distributed a data call to the military departments to develop the report, including Army, Navy, and Air Force enclosures to the report.<sup>49</sup>

The DOD annual report on sexual assault in the military has also served as an oversight tool for DOD. Specifically, SAPRO officials stated that the process of developing the report, including the data call, constitutes an annual evaluation used to ensure implementation and compliance with SAPR policies and program requirements. These same officials also stated that the results of the annual evaluation are used by SAPRO to oversee the development and execution of strategic program guidance and joint planning objectives for resources in support of the SAPR program, and to make recommendations on modifications to policy, law, and regulations.

DOD included most of the required information in its annual reports. However, DOD did not include some required information for certain years, including required assessments of effectiveness such as one concerning the adequacy of SAPR training.<sup>50</sup> DOD did not include the following required information or assessments:

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<sup>49</sup>Generally, per the related statutory requirements the Secretaries of the military departments were to submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. The Secretary of Defense was to submit each report received to the Committees on Armed Services of the Senate and House of Representatives. In the case of the Secretary of the Navy, separate reports were to be prepared for the Navy and the Marine Corps. In practice, however, SAPRO officials stated their office led the development of the report, and disseminated a data call (i.e., a standardized template) via Under Secretary of Defense for Personnel and Readiness memoranda to the Secretaries of the military departments. The data call required the Secretaries of the military departments to answer specific questions regarding their efforts to prevent and respond to sexual assault. The information from the data calls represented the military departments' enclosures to the DOD annual report on sexual assault. Regarding the reports for the Navy and the Marine Corps, there was generally one enclosure submitted for the Department of the Navy, but the enclosure included separate data calls for the Navy and Marine Corps.

<sup>50</sup>DOD partially implemented five statutory requirements related to the annual reports on sexual assault in the military. Three of those requirements are presented in this section, and the remaining two are presented in Appendix VII. The requirements in Appendix VII concern monitoring of cases when the assailant is a foreign national and ensuring timely response in deployed units, and information on reports of nonconsensual distribution of private sexual images. See, Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 1631(a)-(c) (2011): statutory requirement 60; and Pub. L. No. 115-91, § 537 (2017): statutory requirement 229, respectively.

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**Information on retaliation complaints.** Section 543 of the NDAA for Fiscal Year 2017 required that specific information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force be included in DOD annual reports.<sup>51</sup> DOD provided information on retaliation complaints in the report and included descriptions of the types of complaints, the gender of the complainant and offender, and the offices that received the complaints, among other required information.

However, the information was aggregated and not provided for each individual claim of retaliation for all applicable fiscal years (2016–2020). Further, DOD did not include required information related to investigations of retaliation. Specifically, DOD did not include a description of the results of completed investigations, including whether the results were provided to the complainant. DOD also did not include, if the investigation determined that retaliation occurred, whether the retaliation was an offense under the Uniform Code of Military Justice.

SAPRO officials stated that DOD has developed the capability to collect the information at the level of detail required by statute. However, prior to developing this capability, they had collected information on sexual-assault related retaliation using a data call—distinct from the data call described above. This data collection resulted in the aggregated information provided in the annual reports. SAPRO officials stated DOD has developed a new system of record—housed in the Defense Sexual Assault Incident Database—for tracking a sexual assault-related retaliation. According to SAPRO officials, this system became operational on October 1, 2020, and they plan to use it to support reporting for the fiscal year 2021 annual report. Including all of the information required in the annual reports is important, as it could better assist DOD and Congress in understanding the extent to which retaliation is occurring in the military.

**Assessments related to a sexual assault prevention and response evaluation plan.** Section 1631 of the NDAA for Fiscal Year 2011 required the Secretary of Defense to submit the results of assessments conducted under a sexual assault prevention and response evaluation plan together

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<sup>51</sup>National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 543 (2016): statutory requirement 200.

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with the annual reports.<sup>52</sup> DOD mentioned various assessment efforts in the DOD annual reports, such as surveys or evaluations at high risk installations. However, DOD did not state in its reports what the findings of such assessments were or how they may have informed decision-making regarding sexual assault prevention and response activities.

Further, as discussed below in relation to program evaluation, we found that DOD did not complete such an evaluation plan, and therefore we could not link any reported assessment activities in the annual reports to a plan. If DOD had included the results of assessments related to a SAPR evaluation plan in the DOD annual reports, as was required by statute, it could have assisted DOD and Congress in understanding the extent to which the SAPR program was achieving its intended outcomes.

**Assessment of SAPR training and mechanisms to eliminate or to reduce factors contributing to sexual assault.** Section 575 of the NDAA for Fiscal Year 2013 required the Secretaries of the military departments to assess the adequacy of sexual assault prevention and response activities carried out by training commands and include this information in the DOD annual reports.<sup>53</sup> While DOD provided a high-level overview of training activities, DOD did not make a clear determination concerning the adequacy of sexual assault prevention and response training for all applicable fiscal years (2013–2020).

SAPRO officials stated that DOD’s SAPR policy establishes training requirements both for SAPR personnel working in the training environment, and for the initial SAPR education and training for new servicemembers. These same officials also stated that there are special annotations in the Defense Sexual Assault Incident Database that allow DOD and SAPR military service program managers to track sexual assault reports related to the training environment. However, DOD did not provide any additional information regarding assessments completed concerning the adequacy of training activities. The inclusion of training requirements in policy, while important, does not demonstrate what efforts

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<sup>52</sup>Pub. L. No. 111-383, § 1631(d) (2011): statutory requirement 61. Specifically, this section referenced the results of assessments conducted under the evaluation plan required by section 1602(c) of the same national defense authorization act: statutory requirement 48.

<sup>53</sup>Pub. L. No. 112-239, § 575(b)-(c) (2013): statutory requirement 92.

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DOD or the military departments took to assess the effectiveness of training to prevent and respond to sexual assault.

In its report released July 2021, the Independent Review Commission stated that current training for servicemembers is outdated and out-of-touch.<sup>54</sup> The Independent Review Commission recommended that the military services modernize the content, delivery, and dosage of prevention knowledge and skill-building (i.e., prevention training) across the life-cycle development of servicemembers. If DOD and the Secretaries of the military departments had conducted the required assessment of the adequacy of SAPR training activities and included the information in the DOD annual reports, it could have assisted DOD and Congress in understanding the extent to which SAPR training activities were achieving intended outcomes.

Section 575 further required the Secretaries of the military departments to include in the DOD annual reports an assessment of the specific factors that may have contributed to sexual assault during that year, and the role of such factors.<sup>55</sup> The section also required DOD to include recommendations for mechanisms to eliminate or reduce the incidence of such factors. DOD did not consistently include this required information in the annual reports. Specifically, DOD did not include an analysis of factors or related recommendations in the annual reports for fiscal years 2013 and 2014—the first 2 years for which this was required. For fiscal year 2015–2020 reports, DOD generally discussed factors in the annual reports. For these same years, while DOD made no specific recommendations for mechanisms to eliminate or reduce the incidence of such factors, it outlined actions taken in support of DOD sexual assault prevention efforts that aimed to address such factors. For example, beginning in the fiscal year 2015 annual report, DOD provided periodic

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<sup>54</sup>Independent Review Commission on Sexual Assault in the Military, *Hard Truths and the Duty to Change*.

<sup>55</sup>Pub. L. No. 112-239, § 575(b)-(c) (2013): statutory requirement 92.

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updates on the applied prevention project—an effort intended to identify installation and community risk factors and develop associated actions.<sup>56</sup>

**GAO recommendations related to DOD's identification of risk and protective factors**

In 2015, we found that the Department of Defense (DOD) developed its 2014–2016 sexual-assault prevention strategy using the Center for Disease Control's framework for effective sexual-violence prevention strategies, but did not fully identify risk and protective factors, or link prevention activities to desired outcomes. We recommended that DOD identify risk and protective factors for all of the domains identified in its strategy, including the military community and its leaders. In response to our recommendation, DOD identified risk and protective factors for all of its domains.

Further, in 2017, we found that DOD's sexual harassment policies did not include risk and protective factors. We recommended that DOD fully include in its new policy for sexual harassment the principles in the Centers for Disease Control's framework for sexual violence prevention, including risk and protective factors, risk domains, and tertiary strategies. DOD implemented our recommendation, with the publication of the Department of Defense Harassment Prevention Strategy for the Armed Forces, Fiscal Years 2021–2026.

Source: GAO, Sexual Assault: Actions Needed to Improve DOD's Prevention Strategy and to Help Ensure It Is Effectively Implemented, [GAO-16-61](#) (Washington, D.C.: Nov 4, 2015); GAO, Sexual Violence: Actions Needed to Improve DOD's Efforts to Address the Continuum of Unwanted Sexual Behaviors, [GAO-18-33](#) (Washington, D.C.: Dec. 18, 2017). | [GAO-22-103973](#)

Since the enactment of this requirement, DOD has identified specific factors that may contribute to sexual assault (called risk factors), as well as factors that make it less likely that people will perpetrate or experience sexual assault (called protective factors). According to the Centers for Disease Control, sexual assault prevention activities work to identify and modify or eliminate risk factors, and to identify and enhance protective factors.<sup>57</sup> However, as noted above, the DOD annual reports from fiscal years 2013 through 2020 did not include specific recommendations for mechanisms to eliminate or reduce the incidence of such factors, which if included could have provided DOD and Congress necessary information to conduct oversight and make informed decisions about where to designate SAPR resources. We made recommendations related to DOD's identification of risk and protective factors in 2015 and 2017. (See sidebar.)

Further, in its July 2021 report, the Independent Review Commission identified that there is more work to be done in this area, and made a number of related recommendations. For example, it found that DOD leaders do not have the specific knowledge skills, and attitude to effectively oversee the prevention of sexual assault, including understanding the risk and protective factors. The commission recommended that DOD equip all leaders with prevention competencies and evaluate their performance.

The Secretary of Defense and the Secretaries of the military departments did not ensure that the data call used to develop the annual reports sufficiently met all the reporting requirements. Further, military service officials from the Army, the Navy, the Marine Corps, and the Air Force

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<sup>56</sup>According to the DOD annual report on sexual assault in the military for fiscal year 2015, the applied prevention project—initially named the installation prevention project—was designed to understand how the military services implement prevention initiatives within different units and the extent to which these initiatives reduce prevalence and risk factors associated with sexual assault. In the fiscal year 2016 and 2017 reports, DOD stated that the first phase of the project identified that few installations focused on research-informed actions to build skills and capacity to prevent the crime or used the kind of metrics of performance and effectiveness needed to evaluate programs and report on progress. The fiscal year 2018 report stated that the second phase of the project had begun.

<sup>57</sup>CDC, *Sexual Violence Prevention: Beginning the Dialogue* (2004).



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stated that they relied on the SAPRO data call template for the annual report to collect and include statutorily required information.<sup>58</sup>

The statutory requirements discussed above and in Appendix VII can help provide information to Congress and the public about DOD's efforts to prevent and respond to sexual assault in the military, and repeated enactments of requirements regarding these efforts in the NDAs from fiscal years 2004 through 2019 underscore the importance of the issue. Additionally, *Standards for Internal Control in the Federal Government* state that management should develop an oversight structure with an understanding of the overall responsibilities, assign those responsibilities to discrete units to enable the organization to operate in an efficient and effective manner, comply with applicable laws and regulations, and reliably report quality information that is complete, accurate, and timely, among other things.<sup>59</sup> As all of the required information was not included in prior annual reports, DOD and Congress may have relied on incomplete information to perform oversight responsibilities. Moving forward, it will be important for DOD to include all of the required information—or explain why it is not included and whether it will be included in future reports—to provide DOD and Congress the necessary information to conduct oversight and make informed decisions about where to direct SAPR resources.

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<sup>58</sup>Given the statutory requirement language (summarized above), we assessed the implementation of the requirements related to the DOD annual reports on sexual assault in the military for OSD, Army, Navy, Marine Corps, and Air Force, see our supplement to this report: [GAO-22-105275](#). However, as noted above, the development of the report was led by DOD SAPRO, and each military service provided information to DOD SAPRO via a data call (i.e. standardized template). Although the Marine Corps is not a military department, the Secretary of the Navy is required to provide two separate reports per the National Defense Authorization Act for Fiscal Year 2011, one for the Navy and one for the Marine Corps.

<sup>59</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept 2014). The Federal Managers' Financial Integrity Act requires federal executive branch entities to establish internal control in accordance with the standards. Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. In short, internal control helps managers achieve desired results through effective stewardship of public resources.

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## DOD Has Not Established a Required Evaluation Plan to Assess SAPR Program Effectiveness

DOD has not fully established an evaluation plan and mechanisms for assessing effectiveness of its SAPR program and related activities, as required by statute.<sup>60</sup> According to leading practices concerning evidence-based policymaking and program evaluation planning, agencies should establish evaluation plans.<sup>61</sup> Further, these same leading practices state that an evaluation or program evaluation is an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency. GAO leading practices concerning program evaluations defines effectiveness as the extent to which a program or intervention is achieving its intended goals, as determined by a program evaluation.<sup>62</sup> Leading practices concerning evidence-based policymaking and program evaluation planning also highlight that there are different types of evaluations.<sup>63</sup> For example, the Office of Management and Budget (OMB) memorandum related to program evaluation planning also states that there are different types of evaluations, but that outcome evaluations are best suited for helping an agency understand the extent to which a program, policy, or organization has achieved its intended outcome(s) and focuses on outputs and outcomes to assess effectiveness.<sup>64</sup> According to GAO leading practices, program evaluation and performance measurement are distinct but complementary. Performance

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<sup>60</sup>DOD either partially implemented or did not implement four statutory requirements related to program evaluations. Three of those requirements are presented in this section, and one is presented in Appendix VII. The requirement in Appendix VII concerns DOD's evaluation of the military services' efforts to prevent and respond to retaliation in connection with reports of sexual assaults. See, Pub. L. No. 114-328, § 545(a) (2016): statutory requirement 202.

<sup>61</sup>GAO, *Program Evaluation: Key Terms and Concepts*, [GAO-21-404SP](#) (Washington, D.C.: Mar. 22, 2021); OMB Memorandum No. M-19-23, *Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance* (July 10, 2019); and OMB Memorandum No. M-20-12, *Phase 4 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Program Evaluation Standards and Practices* (Mar. 10, 2020). OMB Memorandum No. M-19-23 instructs federal agencies on how to implement the Foundations for Evidence-Based Policy Making Act of 2018 (Pub. L. No. 115-435 (2019)), which mandated that federal agencies create certain plans and other products on a recurring basis, including evaluation plans. While not necessarily controlling for evaluation plans like the one under discussion here, the memorandum includes best practices for agencies to follow when practicing evidence-based policymaking.

<sup>62</sup>[GAO-21-404SP](#).

<sup>63</sup>[GAO-21-404SP](#); and OMB Memorandum No. M-20-12 (Mar. 10, 2020).

<sup>64</sup>OMB Memorandum No. M-20-12 (Mar. 10, 2020).

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measurement can tell an agency how a program is performing.<sup>65</sup> It concerns the ongoing monitoring and reporting of a program's (or strategy's) accomplishments and progress towards pre-established goals.<sup>66</sup> Lastly, these leading practices also link strategic plans to different planning and assessment efforts, suggesting that such plans may often serve a different purpose than an evaluation plan.<sup>67</sup>

Moreover, *Standards for Internal Control in the Federal Government* establish that the agency should determine an oversight structure to fulfill responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.<sup>68</sup> These same standards state that management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity's objectives, to include reviewing significant changes in a timely manner. We found that DOD partially implemented or did not implement or assess the effectiveness for several long-standing statutory requirements related to program evaluations and conducting assessments:

**DOD's development of an evaluation plan to assess the effectiveness of SAPR policy.** Section 1602 of the Ike Skelton NDAA for Fiscal Year 2011 requires the Secretary of Defense to revise and build upon DOD comprehensive policy for its sexual assault prevention and response program, and to develop and implement an evaluation plan for assessing the effectiveness of that revised comprehensive policy, in achieving its intended outcomes at the DOD and individual Armed Force levels.<sup>69</sup> Per this section, the military departments are also required to assess the adequacy of measures undertaken at military installations and by units of the armed forces under the jurisdiction of the Secretary to ensure the safest and most secure living and working environments with regard to preventing sexual assault.<sup>70</sup> We found that DOD did not develop

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<sup>65</sup>[GAO-21-404SP](#).

<sup>66</sup>[GAO-21-404SP](#); and OMB Memorandum No. M-19-23 (July 10, 2019).

<sup>67</sup>Specifically, the leading practices from GAO and OMB reference strategic plans developed in response to the Government Performance and Results Act.

<sup>68</sup> [GAO-14-704G](#).

<sup>69</sup>Pub. L. No. 111-383, § 1602(a) and (c) (2011): statutory requirements 47 and 48.

<sup>70</sup>Pub. L. No. 111-383, § 1602(c) (2011): statutory requirement 48.

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an evaluation plan and the military services did not assess the adequacy of measures undertaken at military installations to ensure safe and secure living and working environments with regard to preventing sexual assault, as required by statute.

Regarding the development and implementation of an evaluation plan, SAPRO officials could not provide a copy of an evaluation plan. Further, our review of DOD annual reports on sexual assault in the military from 2004 through 2020 found only broad mentions of the evaluation plan—most of which were simply repeating the statutory language.<sup>71</sup> Instead, SAPRO officials stated that several documents and efforts such as their standing Integrated Product Team meetings and various strategic plans, together represented the evaluation plan. SAPRO officials also indicated the DOD annual reports provide information regarding the related assessments. However, based on our assessment—the efforts and documents identified by SAPRO do not represent an evaluation plan.

Further, SAPRO and the Secretaries of the military departments did not provide copies of the assessments they say were conducted as part of the required evaluation plan. As previously noted SAPRO did not demonstrate it had develop such a plan. SAPRO officials responded that their actions to implement the statutory requirement, such as developing a strategic plan, were consistent with the statute. However, SAPRO's actions were not consistent with the statute, because a strategic plan, while an important planning document, is not an evaluation plan. Army and Navy officials also indicated that an assessment was not required. Air Force officials acknowledged that this required assessment had not yet been completed.

Until DOD establishes an evaluation plan for assessing the effectiveness of SAPR program policy and related activities, such as measures undertaken across DOD to ensure a safe and secure living and working environment, it will continue to have limited understanding about the outcomes of programs, projects, and processes to improve effectiveness, and inform decision-making about current and future SAPR activities.

**Oversight and evaluation standards to assess and evaluate the effectiveness of DOD's SAPR program in reducing the number of sexual assaults.** Section 1612(a) of the Ike Skelton NDAA for Fiscal

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<sup>71</sup>The DOD annual reports on sexual assault in the military from 2004 through 2006 covered calendar years (January through December). DOD annual reports from 2007 forward covered fiscal years (October through September).

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Year 2011 requires the Secretary of Defense to issue standards to assess and evaluate the effectiveness of the sexual assault prevention and response program of each armed force in reducing the number of sexual assaults involving members of the armed forces, among other things.<sup>72</sup> Although the provision does not provide further specificity on what the standards are to include, section 1612(b) (discussed below) requires the Secretary of Defense to use the evaluation plan developed under section 1602(c) (discussed above) to ensure that the Armed Forces implement and comply with the evaluation standards issued under section 1612(a). Although DOD identified standards to GAO, these standards were related to SAPR strategic planning efforts rather than standards to assess and evaluate effectiveness in response to section 1612(a). As previously noted, we also found that DOD had not developed the evaluation plan required by section 1602(c).<sup>73</sup>

SAPRO officials asserted that DOD strategic planning efforts, such as related metrics, which are published in DOD annual reports, are used to assess and evaluate the effectiveness of the SAPR programs.<sup>74</sup> Specifically, SAPRO officials stated that the strategic plans' lines of effort and metrics, such as the measure concerning prevalence (estimated incidents of unwanted sexual contact), represented the standards.<sup>75</sup> Officials also said that SAPRO measures prevalence through specific surveys, results of which are also published in DOD annual reports. However, the strategic plan states that the lines of effort were established to guide and to focus strategic planning efforts with corresponding objectives and end-states. Further, the strategic plan does not provide details regarding how the lines of effort and metrics are to be used to assess and evaluate the effectiveness of the SAPR program of each armed force in reducing the number of sexual assaults involving members of the armed forces. Additionally, we confirmed that the standards SAPRO identified were linked to DOD lines of effort established in SAPR

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<sup>72</sup>Pub. L. No. 111-383, § 1612(a) (2011): statutory requirements 54.

<sup>73</sup>Pub. L. No. 111-383, § 1602(c) (2011): statutory requirement 48. As previously noted, section 1602(c) of this NDAA requires the Secretary of Defense to develop and implement an evaluation plan for assessing the effectiveness of the revised comprehensive policy prepared under section 1602(a), among other things.

<sup>74</sup>Specifically, officials identified Department of Defense, *Sexual Assault Prevention and Response Strategic Plan* (Apr. 30, 2013) and related metrics.

<sup>75</sup>According to the DOD strategic plan, a line of effort links multiple tasks and missions to focus efforts toward establishing operational and strategic conditions. These lines of effort, for example, include areas like prevention and assessments. Department of Defense, *Sexual Assault Prevention and Response Strategic Plan* (Apr. 30, 2013).

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strategic plans in our review of the DOD annual reports from fiscal years 2011, when the evaluation plan was to be established, through 2020. Although the DOD annual reports mention assessments, we did not identify any results of the assessments related to the evaluation plan required by section 1602(c).

As previously noted, strategic planning efforts and related performance measurements can provide an agency information about how a program is performing. By contrast, evaluation planning and related program evaluations, in particular outcome evaluations, can help an agency understand whether a program or policy is effective in achieving its intended outcomes. It is ultimately unclear how the standards associated with SAPRO's strategic planning efforts can be used to assess and evaluate the effectiveness of the SAPR program of each Armed Force as envisioned under section 1612(a), especially in light of the absence of the evaluation plan required by section 1602(c).

SAPRO officials stated that their actions, such as the development of a strategic plan, were sufficient to meet the statute. However, SAPRO's actions are not consistent with the statutory requirement, which required the Secretary of Defense to issue standards to assess and evaluate the effectiveness of the sexual assault prevention and response program of each Armed Force in reducing the number of sexual assaults, among other things. Until DOD establishes an evaluation plan and standards to assess and evaluate the effectiveness of the military services' SAPR programs in reducing the number of sexual assaults involving members of the armed forces, it will continue to lack the necessary information to make informed decisions about whether and which of these program activities are reducing sexual assaults and if services to respond to such heinous acts have improved.

**Use of the SAPR evaluation plan to ensure compliance with assessment and evaluation standards.** Section 1612(b) of the Ike Skelton NDAA for Fiscal Year 2011 requires that the Secretary of Defense use the sexual assault prevention and response evaluation plan developed under section 1602(c) of the Ike Skelton NDAA for Fiscal Year 2011 to ensure that the armed forces implement and comply with assessment and evaluation standards issued under 1612(a).<sup>76</sup> As discussed, we found that DOD did not develop an evaluation plan, and

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<sup>76</sup>Pub. L. No. 111-383, § 1602(c), §1612(a)-(b) (2011): statutory requirements 48, 54, and 55.

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references to the required plan and related assessments were not identifiable in the DOD annual reports. Therefore, it is unclear how DOD used the standards to evaluate the effectiveness of the SAPR program in reducing the number of sexual assaults or improving victim response. Other than the DOD annual reports, SAPRO officials did not provide any documents related to this statutory requirement.

In various SAPR-related strategic planning documents DOD acknowledged the lack of processes for assessing the effectiveness of SAPR programs, such as those concerning retaliation and prevention. For example, the *DOD Retaliation Prevention and Response Strategy: Regarding Sexual Assault and Harassment Reports* from April 2016 stated that DOD lacked a long-term process to assess the effectiveness of efforts to prevent and respond to retaliation.<sup>77</sup> DOD also acknowledged limitations of assessment mechanisms. For example, the *Prevention Plan of Action 2019-2023* from April 2019 highlighted that actionable data is critical for institutional accountability.<sup>78</sup> This same plan stated that although prevalence surveys provide an indication of change within the military population as a whole, these surveys often lacked sufficient statistical power to measure effectiveness for specific approaches at the local or military service level.

A separate report by the Independent Review Commission on Sexual Assault in the Military released in July 2021 also found that the military services collect quantitative data and anecdotal information on various programs, such as the DOD Safe Helpline. However, the report noted that the military services do not conduct scientific evaluations to show whether such programs are truly working to improve the response to sexual assault.<sup>79</sup> Further, the report highlighted that it is not enough to implement practices that have been labeled as “best” or “promising”—an evaluation component is also necessary.

DOD partially implemented or did not implement long-standing statutory requirements related to program evaluations because it did not establish

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<sup>77</sup>Department of Defense, *DOD Retaliation Prevention and Response Strategy: Regarding Sexual Assault and Harassment Reports* (Apr. 2016).

<sup>78</sup>Office of the Secretary of Defense for Personnel and Readiness, *Prevention Plan of Action 2019–2023, The Department’s renewed strategic approach to prevent sexual assault* (Apr. 2019).

<sup>79</sup>Independent Review Commission on Sexual Assault in the Military, *Hard Truths and the Duty to Change*.

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an evaluation plan and mechanisms for assessing the effectiveness of its SAPR program and related activities in achieving intended outcomes. However, the evaluations and assessments discussed above and in Appendix VII can help provide DOD with information concerning the effectiveness of the SAPR program and related activities in preventing and responding to sexual assaults, and repeated enactments of requirements regarding these efforts in the NDAs from fiscal years 2004 through 2019 underscore the importance of the issue.

Until DOD establishes an evaluation plan and mechanisms for assessing the effectiveness of the SAPR program in achieving its intended outcomes—to include systematically tracking and evaluating SAPR program activities, such as policies, procedures, and training—it will continue to lack the necessary data about the effectiveness of the SAPR program. Until these long-standing requirements are implemented, DOD will continue to lack the ability to make informed decisions about whether the SAPR program and related activities are meeting intended outcomes to prevent and respond to sexual assault in the military.

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### DOD Has Not Fully Implemented Required Oversight of Commanders' Compliance to Conduct Command Climate Assessments

DOD is required by statute to complete command climate assessments.<sup>80</sup> According to DOD, command climate assessments are used to determine the overall health and effectiveness of an organization.<sup>81</sup> Such assessments provide an opportunity for servicemembers and civilian employees to express opinions regarding the manner and extent to which leaders, including commanders and supervisors, respond to allegations of problematic behaviors, such as sexual assault and sexual harassment. However, we found that the Army, Air Force, and Marine Corps did not implement several long-standing statutory requirements concerning command climate assessments:<sup>82</sup>

**Army's and Air Force's climate assessments and reporting by raters of commanders' compliance in performance evaluations.** Section 587(b) of the NDAA for Fiscal Year 2014 requires the Secretaries of the

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<sup>80</sup>The statutory requirements related to command climate assessment were directed to the Secretary of Defense and the Secretaries of the military departments. Each military service, including the Marine Corps, provided documentation and responses regarding the statutory requirements related to command climate assessments.

<sup>81</sup>DOD Instruction 1350.02.

<sup>82</sup>DOD partially implemented four statutory requirements concerning oversight of commanders' compliance to conduct command climate assessments.



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military departments to require that commanders include in performance evaluations and assessments a statement on whether the rated commander had conducted required command climate assessments. . Section 587(c) of the same NDAA further requires the Secretaries of military departments to require that the failure of a commander to conduct command climate assessments be noted in the commander's performance evaluation.<sup>83</sup>

In September 2015, we reported on DOD's compliance with certain statutory requirements related to conducting command climate assessments.<sup>84</sup> We found that some of the military services did not address sections 587(b) and 587(c), among other requirements related to conducting command climate assessments. As such, we recommended that these military services modify existing guidance or develop new guidance to comply with requirements set forth in the Fiscal Year 2014 National Defense Authorization Act and DOD guidance, which would include sections 587(b) and 587(c). As of August 2021, DOD had not fully addressed this recommendation.

During this review, we found that the Army and the Air Force still had not taken steps to require that commanders report this information. Specifically, Army and Air Force guidance documents do not require commanders to report this information in rated commanders' performance evaluations. For example:

- Army guidance states only that the completion of the command climate assessment is an item that is checked under certain inspection programs.<sup>85</sup> Army officials told us the Army is currently working on a rapid revision of this Army guidance.
- Air Force guidance also does not provide that commanders should report in subordinate commanders' performance evaluations whether the commander completed the required assessment; it only states that the evaluation should consider a commander's success in contributing to a healthy organizational climate, or command

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<sup>83</sup>Pub. L. No. 113-66, § 587(b)-(c) (2013): statutory requirements 102 and 103. These statutory requirements were implemented by the Navy and the Marine Corps.

<sup>84</sup>GAO, *Military Personnel: Additional Steps Are Needed to Strengthen DOD's Oversight of Ethics and Professionalism Issues*, [GAO-15-711](#) (Washington, D.C.: Sept. 3, 2015).

<sup>85</sup>Army Regulation 600-20, *Army Command Policy* (July 24, 2020).

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climate.<sup>86</sup> Further, although separate Air Force guidance includes a section dedicated to the defense equal opportunity climate survey, this section and other relevant sections do not provide that failure of a commander to conduct command climate assessment be noted in performance evaluations.<sup>87</sup>

We still believe that DOD should act on our previous recommendation from the September 2015 report to address these statutory requirements related to command climate assessments from the Fiscal Year 2014 National Defense Authorization Act. Until the Army and Air Force review and update guidance to require that commanders include in commanders' performance evaluations and assessments a statement on whether the commander conducted the required command climate assessments, as required by the statute, the Army and Air Force will continue to have limited visibility and oversight over this important commander responsibility aimed at ensuring the overall health of the organization.

**Army's tracking of commanding officers in conducting organizational climate assessments for purposes of preventing and responding to sexual assaults.** Section 1721 of the NDAA for Fiscal Year 2014 requires the Secretary of Defense to direct the Secretaries of the military departments to verify and track the compliance of commanding officers in conducting command climate assessments.<sup>88</sup> We found that Army did not implement this requirement because it had not consistently verified and tracked compliance of commanding officers in

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<sup>86</sup>Air Force Instruction 36-2406, *Officer and Enlisted Evaluations Systems* (Nov. 14, 2019) (incorporating Change 1, June 25, 2021).

<sup>87</sup>Department of the Air Force Instruction 36-2710, *Equal Opportunity Program* (June 18, 2020) (incorporating Air Force Guidance Memorandum 2021-01, Sept. 2, 2021).

<sup>88</sup>Pub. L. No. 113-66, § 1721 (2013): statutory requirement 127. This statutory requirement was implemented by OSD, the Navy, the Marine Corps, and the Air Force. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: [GAO-22-105275](#). In [GAO-15-711](#), we determined the Army had implemented the requirement found in section 1721 of the National Defense Authorization Act for Fiscal Year 2014. We based this assessment upon our analysis of Army Directive 2013-29 (Army Command Climate Assessments) (Dec. 23, 2013), which directly provided for the tracking of command climate assessments and stated the requirement would be incorporated into Army Regulation 600-20 upon revision of that regulation. Army Directive 2013-29 was later superseded by Army Regulation 600-20 (Dec. 24, 2020). During our current review, we determined AR-600-20 does not clearly call for tracking and verifying compliance with completion of command climate assessments. As such, Army did not fulfill the requirements for section 1721.

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conducting command climate assessments.<sup>89</sup> Army guidance includes some information about command climate assessments and indicates such assessments should be tracked. Specifically, the Army guidance states that completion of a command climate assessment is an item that is checked under certain inspection programs and noted in the Military Equal Opportunity database.<sup>90</sup> However, according to Army officials, the Army had previously used other systems to track and verify command climate assessment surveys. These same officials stated that when those systems went offline, verification of command climate assessments were greatly hindered. In the interim, Army officials stated that Army is using spreadsheets to track the completion of such assessments.

**Air Force’s and Marine Corps’ consideration of certain elements of command climate in performance appraisals of commanding officers.** Section 508 of the NDAA for Fiscal Year 2015 requires that the Secretary of a military department shall ensure that the performance appraisal of a commanding officer in an Armed Force under the jurisdiction of that Secretary indicates the extent to which the commanding officer has or has not established a command climate in which 1) allegations of sexual assault are properly managed and fairly evaluated; and 2) a victim of criminal activity, including sexual assault,

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<sup>89</sup>In September 2011, we reported that as part of DOD’s efforts to prevent and address incidents of sexual harassment, DOD and the services require that military commanders determine their organizational health and functioning effectiveness by periodically assessing their equal opportunity climate. However, we found that the required climate assessments were not always conducted. We recommended the Secretary of Defense direct the service secretaries to verify or track military commanders’ compliance with existing requirements that commanders periodically determine their organizational health and functioning effectiveness by periodically assessing their equal opportunity climate through “command climate” assessments. As of July 2021, we found that DOD was still working to address this recommendation. GAO, *Preventing Sexual Harassment: DOD Needs Greater Leadership Commitment and an Oversight Framework*, [GAO-11-809](#) (Washington, D.C.: Sept. 21, 2011). Appendix I provides a list of related GAO products and open recommendations concerning DOD’s sexual assault prevention and response efforts.

<sup>90</sup>Army Regulation 600-20.

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can report the criminal activity without fear of retaliation, including ostracism and group pressure from other members of the command.<sup>91</sup>

We found that Air Force and Marine Corps guidance did not provide that such information be captured in performance appraisals. Relevant sections of Air Force guidance do not state that the individual conducting the rating is to note whether the commander has or has not established a command climate in which 1) allegations of sexual assault are properly managed and fairly evaluated; and 2) a victim of criminal activity, including sexual assault, can report the criminal activity without fear of retaliation, such as ostracism.<sup>92</sup> Air Force guidance only states that the evaluation should consider the commander's success in contributing to a healthy command climate. According to Air Force officials, the statutory requirement language had been incorporated into prior iterations of guidance, but due to an administrative error, the language was removed when the guidance was later renewed. These same officials said the Air Force was working to update their guidance with the required statutory language. However, Air Force did not provide timeframe for when they expect to issue this guidance.

Similarly, Marine Corps guidance does not require that information about whether allegations of sexual assault are properly managed or that a victim of criminal activity can report the criminal activity without fear of retaliation be captured in Marine Corps performance evaluations (or Fitness Reports in the Marine Corps).<sup>93</sup> The guidance only states that the individual completing the evaluation summarize the commanding officer's ability to foster a command climate that is non-permissive of misconduct,

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<sup>91</sup>Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 508 (2014): statutory requirement 153. This statutory requirement was implemented by the Army and Navy. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: SUPPLEMENTAL MATERIAL FOR [GAO-22-103973](#): Status of DOD and Coast Guard Implementation of Statutory Requirements to Prevent and Respond to Sexual Assaults, 2004–2019.

<sup>92</sup>Air Force Instruction 36-2406, *Officer and Enlisted Evaluations Systems* (Nov. 14, 2019) (incorporating Change 1, June 25, 2021).

<sup>93</sup>Marine Corps Order 1610.7A, *Performance Evaluation System* (May 1, 2018). According to Marine Corps guidance, fitness reports provide the primary means for evaluating a Marine's performance to support the Commandant's efforts to select the best qualified personnel for—among other things—promotion, command, and duty assignments. The completion of fitness reports is a critical leadership responsibility.

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to include sexual assault, sexual harassment, and retaliation.<sup>94</sup> Further, Marine Corps officials stated that Manpower Management Division Records and Performance Branch does not track command climate reports nor enforce that such content be included in the fitness reports. Until the Air Force and Marine Corps review and update guidance to require that the performance appraisal of a commanding officer include, among other things, the extent to which the commanding officer has or has not established a command climate that ensures allegations of sexual assault are properly managed and fairly evaluated, these military services may continue to have limited oversight over this vital commander responsibility and victims may not be receiving necessary support or protections.

The Army, Air Force, and Marine Corps did not implement statutory requirements related to command climate assessments because they have not updated relevant guidance to ensure compliance with statutory requirements related to commanders' completion of climate assessments and the oversight of such activities, to include—in the case of the Army—the consistent tracking and validation of such assessments. However, the statutory requirements discussed above can help improve oversight of commanders' responsibilities to conduct command climate assessments, which—as DOD has noted—are important for understanding the overall health and effectiveness of an organization. Further, the repeated enactments of requirements regarding these efforts in the NDAs from fiscal years 2004 through 2019 underscore the importance of the issue.

Additionally, *Standards for Internal Control in the Federal Government* state that the agency should implement control activities through policies and should establish and operate monitoring activities to monitor the internal control system and evaluate the results.<sup>95</sup> These same standards also state that management should establish processes to evaluate performance against the agency expected standards of conduct and address any deviations in a timely manner. Moreover, Army guidance requires that the Army military equal opportunity professional note completion of a command climate assessment in the Military Equal Opportunity database.<sup>96</sup>

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<sup>94</sup>Marine Corps Order 1610.7A.

<sup>95</sup>[GAO-14-704G](#).

<sup>96</sup>Army Regulation 600-20.

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Until the Army, Air Force, and Marine Corps review and update guidance related to oversight of commanders' completion of such assessments and track this information in personnel service records, the Army, Air Force, and Marine Corps may not be fully utilizing a key tool to assess risk and protective factors related to the prevention of and response to sexual assault, to include overall effectiveness of DOD's SAPR program implementation at the command level. Further, the Army, Air Force, and Marine Corps will continue to not be in compliance with these long-standing statutory requirements aimed at improving commander accountability for ensuring a healthy and effective organizational climate.

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## DOD Policies Do Not Align with Certain Requirements

DOD established policies that addressed the following statutory requirements, but the policies did not fully align with the requirements:<sup>97</sup>

**DOD policy on enhanced protections for prospective and new members of the armed forces.** Section 1741 of the NDAA for Fiscal Year 2014 requires the Secretaries of the military departments to maintain a policy defining what constitutes an inappropriate and prohibited relationship, communication, conduct, or contact, including when such an action is consensual, between a member of the armed forces who exercises authority or control over, or supervises a prospective member of the armed forces, or a member of the armed forces undergoing entry-level processing or training.<sup>98</sup> The policy at minimum covers military personnel assigned to recruiting or assessing persons for enlistment or appointment; at a Military Entrance Processing Station; or, at an entry-level training facility or school of an Armed Force.

Section 1741 further requires that the Secretary of Defense, in response to the first substantiated violation of the policy, require the processing for administrative separation of any member of the armed forces who was not otherwise punitively discharged or dismissed from the armed forces.

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<sup>97</sup>DOD partially implemented four statutory requirements related to policies aligning with statute. Three of those requirements are presented in this section, and the remaining one is presented in Appendix VII. The requirement in Appendix VII concerns Army's consideration of additional medical evidence by boards for the correction of military records. See Pub. L. No 115-91, § 520(a)-(b) (2017): statutory requirement 215.

<sup>98</sup>Pub. L. No. 113-66, § 1741(a)-(c), and (f) (2013): statutory requirement 142. Section 1741(e) defines the terms "entry-level processing or training" and "prospective member of the Armed Forces".

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The Secretaries of the military departments are required to revise applicable regulations to ensure compliance with this requirement.

The Army, Air Force, and Marine Corps established the required policies covering recruiting, entry-level training, and schools of an Armed Force, but the Navy's policies did not fully align with the statute.<sup>99</sup> Specifically, none of the Navy's policies require the processing for administrative separation of relevant members of the armed forces after a substantiated violation when the member is not punitively discharged or dismissed, as required by the statute.<sup>100</sup>

The Secretary of Defense established the required policies concerning Military Entrance Processing Command, but they did not fully align with statute.<sup>101</sup> Specifically, these policies do not require the processing for administrative separation of any relevant member of the armed forces who has a substantiated violation as it relates to Military Entrance Processing Stations. United States Military Entrance Processing Command guidance—which governs personal relationships at military entrance processing stations—also does not clearly require the

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<sup>99</sup>Pub. L. No. 113-66, § 1741(a)-(c), and (f) (2013): statutory requirement 142. This statutory requirement was implemented by the Army, Marine Corps, Air Force, and Coast Guard. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: [GAO-22-105275](#).

<sup>100</sup>Chief of Naval Operations, OPNAV Instruction 5370.2E, *Navy Fraternization Policy* (Nov. 4, 2020); Commander, Naval Service Training Command Instruction 5370.1B, *Naval Service Training Command Fraternization Policy* (May 7, 2018); Navy Recruiting Command, COMNAVCUITCOMINST 1130.8K, *Navy Recruiting Manual-Enlisted Volumes I-V* (July 2016); and United States Naval Academy Instruction 5370.7, *Fraternization Policy* (Oct. 1, 2007).

<sup>101</sup>Department of Defense Instruction 1304.33, *Protecting Against Inappropriate Relations During Recruiting and Entry Level Training* (Jan. 28, 2015) (Incorporating Change 1, April 5, 2017); Department of Defense Directive 1145.02E, *United States Military Entrance Processing Command (USMEPCOM)* (Oct. 18, 2012) (Incorporating Change 1, effective May 22, 2018); and Department of Defense Manual 1145.02, *Military Entrance Processing Station (MEPS)* (July 23, 2018).

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processing for administrative separation of any member of the armed forces after a substantiated violation.<sup>102</sup>

Section 1741(f) further requires that the Secretary of Defense ensure that, to the extent practicable, the regulations established to carry out this section are uniform for each armed force. However, the Secretary of Defense did not ensure that the regulations were uniform as the United States Military Entrance Processing Command and relevant Navy policies were not consistently aligned with the statute.

By reviewing and updating their policies, the Secretary of Defense, the Army (serving as DOD executive agent of the United States Military Entrance Processing Command), and the Navy could provide sufficient protection to prospective and new members of the armed forces, as well as ensure alignment with statutory requirements.

**Army's expedited transfer policy.** Section 582 of the NDAA for Fiscal Year 2012 requires the Secretaries of the military departments to issue regulations to carry out section 673 of Title 10, U.S. Code, which relates to applications for permanent change of station or unit transfer for active duty servicemembers who are victims of a sexual assault or related offenses, within guidelines provided by the Secretary of Defense.<sup>103</sup> The regulations were to provide that the application for a change of station or unit transfer must be approved or disapproved by the member's commanding officer within 72 hours of submission. Additionally, if the application was disapproved by the commanding officer, the member was to be given the opportunity to request review by the first general officer or flag officer in the chain of command of the member, and that decision must be made within 72 hours of submission of the request for review.

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<sup>102</sup>Headquarters, United States Military Entrance Processing Command Regulation No 600-22, *Personnel—General Personal Relationships* (Feb. 5, 2019). As stated in DOD Directive 1145.02E, MEPS is an organization that processes applicants for accession into the military services to determine whether they meet the standards required by DOD. The directive further states that the Under Secretary of Defense for Personnel and Readiness through the Assistant Secretary of Defense for Readiness and Force Management and the Deputy Assistant Secretary of Defense for Military Personnel Policy, as appropriate, shall—among other things—provide overall guidance for implementing the policies and responsibilities concerning the United States Military Entrance Processing Command. Further, the Army serves as the DOD Executive Agent for the United States Military Entrance Processing Command, and is responsible for programming, budgeting, and funding all its operations.

<sup>103</sup>Pub. L. No. 112-81 § 582(a)-(b) (2011): statutory requirement 73.



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The statute was amended in 2021 to allow the Secretary concerned to change the regulations to use a time period of five calendar days, rather than 72 hours.<sup>104</sup>

Army's expedited transfer policies do not align with the timeliness requirements outlined in the statute.<sup>105</sup> Specifically, the policies do not include a provision requiring that, if the application was disapproved by the commanding officer, the victim shall be able to request a review by the first general officer or flag officer, and that that general officer's or flag officer's decision must be made within 72 hours of the submission of the request for review.<sup>106</sup> Army officials stated that they are updating their policies. However, officials did not provide documentation to support this or an anticipated publication date for the updated policies. Until Army reviews and updates its policies to ensure alignment with the statute, it cannot ensure compliance and may not be fully implementing efforts to support victims. For example, delays in decisions on expedited transfer requests may affect the ability of victims to make plans that can help ensure their emotional and physical well-being.

**Marine Corps inclusion of information on sex-related offenses in personnel service records.** Section 1745(a) of the NDAA for Fiscal Year 2014 requires that court-martial convictions, non-judicial punishment, and punitive administrative action for sex-related offenses be noted in the personnel service record of the offending member of the armed forces, regardless of the member's grade.<sup>107</sup> According to the section, the

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<sup>104</sup>The William M. (Mac) Thornberry NDAA for Fiscal Year 2021, § 531, amended 10 U.S.C. §673(b) to allow the required regulations to provide that applications for a change of station or unit transfer be approved or disapproved within five calendar days of submission, rather than 72 hours. Army's policy also did not align with this requirement.

<sup>105</sup>This statutory requirement was implemented by the Office of the Secretary of Defense, Navy, Marine Corps, Air Force, and National Guard Bureau. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: [GAO-22-105275](#).

<sup>106</sup>Secretary of the Army Memorandum, *Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)* (Oct. 3, 2011). Army Regulation 614-100, *Assignments, Details, and Transfers: Officer Assignment Policies, Details, and Transfers* (Dec. 3, 2019). Army Regulation 614-200, *Assignments, Details and Transfers: Enlisted Assignments and Utilization Management* (Jan. 25, 2019).

<sup>107</sup>Pub. L. No. 113-66, § 1745(a)-(c) (2013): statutory requirement 149. This statutory requirement was implemented by the Office of the Secretary of Defense, Army, Navy, and Air Force. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: [GAO-22-105275](#).

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notation may not be placed in the restricted section of the personnel service record. The section further requires that under uniform regulations prescribed by the Secretary of Defense, the commanding officer of a facility, installation, or unit to which the offending member is permanently assigned or transferred shall review the history of sex-related offenses as documented in the personnel service record of the member.

The Marine Corps issued an administrative message that required the specified conviction, non-judicial punishment or punitive administration action for sex-related offenses to be noted in the record in accordance with this requirement, and that commanding officers review personnel service records.<sup>108</sup> However, the administrative message does not state that the notation may not be placed in the restricted section of the record, and officials did not provide additional documentation. Marine Corps officials stated that it is incumbent upon Marine Corps organizations in advocate roles to vet and determine, and then validate, under their advocate role, what should or should not be included in a Marine's personnel service record. Until the Marine Corps reviews and updates its policy to align with statute, it cannot ensure that the notation is not being placed in the restricted section of the personnel service record.

DOD did not review and update certain policies to ensure compliance with statutory requirements. As noted above and in Appendix VII, DOD officials generally stated that necessary revisions to policies were ongoing or planned, or did not provide a specific reason for why policies did not align with statute. The policies discussed above and in Appendix VII can generally help improve victim advocacy and assistance and enhance sexual assault prevention efforts. Additionally, *Standards for Internal Control in the Federal Government* state that management should develop an oversight structure with an understanding of the overall responsibilities, assign those responsibilities to discrete units to enable the organization to operate in an efficient and effective manner, comply with applicable laws and regulations, and reliably report quality information.<sup>109</sup> These same standards state that management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity's objectives, to include reviewing significant changes in a timely manner. Without reviewing and updating its policies, or establishing policy as needed, to

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<sup>108</sup>MARADMIN 416/14, *Inclusion and Command Review of Sex-Related Offenses in OMPFS* (Aug. 22, 2014).

<sup>109</sup>[GAO-14-704G](#).

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ensure alignment with the statutory requirements, DOD cannot ensure compliance with law and may not be fully implementing efforts to support victims and prevent sexual assault in the military.

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## DOD Actions Did Not Align with Certain Requirements

DOD was unable to demonstrate its actions were consistent with the following statutory requirements:

**Army, Navy, and Air Force delayed entry program sexual assault prevention and response training.** Section 535 of the NDAA for Fiscal Year 2018 requires each Secretary concerned, to the extent practicable, to provide training on sexual assault prevention and response to individuals under their jurisdiction who are enlisted under a delayed entry program, and to complete such training before the date of commencement of basic training or initial active duty for training in the armed forces.<sup>110</sup> According to section 535, among other requirements, the training was to be provided through in-person instruction, whenever possible, and include instruction on the proper use of social media.

The Secretaries of the Army, the Navy, and the Air Force either partially implemented or did not implement this requirement:

- The Army established training in accordance with this requirement, but the training did not include all the required elements. Specifically, the training did not include information on the proper use of social media.
- The Navy did not provide documents showing that it established training in accordance with this requirement. Navy officials stated that the training is completed as part of the Navy Recruiting Command and United States Military Entrance Processing Command processes, but the documentation provided by officials did not support this statement. For example, the documentation provided by the Navy did not reference sexual assault or SAPR training in relation to the delayed entry program.
- The Air Force did not provide documents showing that it has established training in accordance with this requirement. Air Force officials stated that the training is completed as part of the Air Force Recruiting Services and United States Military Entrance Processing

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<sup>110</sup>Pub. L. No. 115-91, § 535(a)-(b) (2017): statutory requirement 227. This statutory requirement was implemented by the Marine Corps. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: [GAO-22-105275](#).

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Command processes, but the documentation provided by officials did not support this statement. Specifically, responses and additional documents provided by Air Force officials did not provide support that individuals entering through a delayed entry program are subject to sexual assault prevention and response training. The documentation provided only covered how sexual relationships between recruiters and recruits are considered unprofessional conduct.

Documenting this training in policy or other guidance would help the Army, the Navy, and the Air Force ensure individuals entering through the delayed entry program receive SAPR training that may build their capacity to meet the organizational need of preventing sexual assault in the military.

**Military service academy resource guides.** Section 545(a) of the John S. McCain NDAA for Fiscal Year 2019 requires the superintendents of the military service academies to develop and maintain a resource guide for students at the respective academies regarding sexual assault.<sup>111</sup> The guides are to include a list of specific information, such as details on the sexual assault reporting process and resources for support and counseling services. Among other requirements, each Superintendent is also required to distribute the guides to each student enrolled at the academy within 30 days and as soon as practicable to a student who reports being a victim of sexual assault.

The superintendents of the Army, the Navy, and the Air Force academies established resource guides in accordance with this requirement, but we found that the guides did not include all required information in accordance with the statute. Specifically:

- The Army's guide consists of the SHARP portion of its West Point mobile app. Army officials did not provide sufficient documentation to show that they distributed the guide in accordance with the statute.<sup>112</sup> Specifically, the Army did not provide documentation to show distribution of the mobile app to newly enrolled students at the beginning of each academic year, as required. Nor did officials provide documentation to show that students who reported being victims of sexual assault were provided or prompted to access the mobile app as soon as practicable.

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<sup>111</sup>Pub. L. No. 115-232, § 545(a)-(c) (2018): statutory requirement 241.

<sup>112</sup>Army officials updated their guide during the course of our review to add one required element: assurance that leadership will take appropriate corrective action.

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- The Navy developed a resource guide. However, the guide did not include a thorough explanation of prohibited conduct, including examples, or provide assurance that leadership will take appropriate corrective action. Further, Navy officials did not provide sufficient documentation to show that students who reported being victims of sexual assault were provided the guide as soon as practicable.
  - The Air Force developed a resource guide. The guide included all required information, but Air Force officials did not provide sufficient documentation to show that they distributed the guide in accordance with the statute. Specifically, Air Force officials did not provide documentation to show that newly enrolled students were given the guide, and that students who reported being victims of sexual assault were provided the guide as soon as practicable. According to Air Force officials, going forward they plan to document the dissemination of the resource guide electronically through an internal tracking tool.

By documenting these actions, in their respective military service academy's resource guide, the Secretaries of the military departments could better ensure that students of the military service academies receive the information they need to understand what constitutes sexual assault, how to report it, what services are available to victims, and other important information. By documenting the dissemination of these guides, using an existing internal tracking tool or by establishing such a tool, the Secretary of the Army and Secretary of the Air Force could better ensure the oversight of SAPR response activities to victims, as well as ensure compliance with the statutory requirement.

Secretaries of the military departments did not ensure that the actions required to implement the statutes were completed because the military departments did not—for example—document the actions in policy or other related guidance. DOD officials generally stated that they had implemented the statutory requirements, but as noted above did not provide sufficient documentation to demonstrate complete compliance. The statutory requirements discussed above can help DOD prevent sexual assault in the military through the review of personnel records, provision of training, and distribution of information concerning SAPR resources at the military service academies. Further, the *Standards for Internal Control in the Federal Government* establish that the agency should determine an oversight structure to fulfill responsibilities set forth

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by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.<sup>113</sup>

Documenting these actions in policy or other related guidance would help ensure that individuals enlisting into the Army, the Navy, and the Air Force in the delayed entry program receive sexual assault prevention and response training; and help ensure that students at the military service academies receive the information they need to understand what constitutes sexual assault and what services are available to victims, and other important information. Further, taking steps to document these required actions in policy or other guidance would help the Secretaries of the military departments oversee these activities, as well as ensure compliance with statutory requirements established to help improve DOD's ability to prevent and respond to sexual assaults.

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## DOD Lacked Documentation for Certain Requirements

Across the 16-year period we reviewed, we found that DOD did not provide documentation to demonstrate that it implemented the following statutory requirements:<sup>114</sup>

**Assessment of the Air Force Academy.** Section 526(e) of the NDAA for Fiscal Year 2004 required the Secretary of Defense, in coordination with the Secretary of the Air Force, to submit to the Committees on Armed Services of the Senate and House of Representatives an assessment of the effectiveness of corrective actions being taken at the United States Air Force Academy as a result of various investigations conducted at that Academy into matters involving sexual assault and harassment.<sup>115</sup> We found that the Air Force was unable to demonstrate implementation of this statutory requirement because officials did not provide us documentation. Air Force officials said that they did not have historical documentation for the time period requested. SAPRO officials referenced

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<sup>113</sup>[GAO-14-704G](#)

<sup>114</sup>DOD either partially implemented or did not implement seven statutory requirements related to this section. Three of those requirements are presented in this section, and the remaining four are presented in Appendix VII. The requirements in Appendix VII concern policy on sexual harassment and violence, a legislative proposal, a plan to track cases hindered by lack of supplies and plan for ensuring timely response in deployed units, and sexual harassment prevention and response policy. See Pub. L. No. 108-136, § 527(a) (2003): statutory requirement 5; Pub. L. No. 108-375, § 577(c) (2004): statutory requirement 13; Pub. L. No. 109-163, § 596(a)-(b) (2006): statutory requirement 19; and, Pub. L. No. 112-239, § 579(a) (2013): statutory requirement 97, respectively.

<sup>115</sup>Pub. L. No. 108-136, § 526(e) (2003): statutory requirement 4.

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other reviews of United States Air Force Academy completed during the same timeframe, such as the *Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy*.<sup>116</sup> However, we determined that these reports were not conducted in response to this statutory requirement. Without documentation that the required assessment was completed, DOD cannot demonstrate that it has an oversight structure to ensure compliance with statutory requirements, including that it fulfilled its statutory responsibility to assess the effectiveness of its actions to prevent and respond to sexual assault and harassment at the United States Air Force Academy.

**Completion of military service academy reports and transmittal to the Board of Visitors.** Section 532(a) of the John Warner NDAA for Fiscal Year 2007 requires the Secretaries of the Army, Navy and Air Force to direct their respective superintendents of the military service academies to submit to them a report on sexual harassment and violence involving academy personnel.<sup>117</sup> The section further requires the Secretary of Defense to transmit the annual report on each academy, together with the Secretary's comments on the report, to the Committees on Armed Services of the Senate and House of Representatives.<sup>118</sup> This

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<sup>116</sup>Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy, *Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy* (Sep. 22, 2003). The questionnaire we sent to DOD and Coast Guard officials requested that if documentation was not available for reasons such as mandatory disposition of the document per DOD or Coast Guard policy, officials support this by, for example, providing a copy of the specific policy that would have required the document to have been disposed of after a certain period of time. Where DOD or the Coast Guard were unable to provide documentation or other information indicating actions taken to implement a requirement, and without providing evidence that policy would have required such document to have been disposed of, we found the requirement to be "not implemented."

<sup>117</sup>Pub. L. No. 109-364, § 532 (2006).

<sup>118</sup>Specifically, this section required the Secretaries of the Army, the Navy, and the Air Force to direct their respective superintendent of their military academy to complete and submit to them an annual report on sexual harassment and violence involving academy personnel. The section further required the Secretaries of the military departments to transmit the report, with any comments, to the Secretary of Defense and to the Board of Visitors of the academy. The Secretary of Defense was to transmit the reports to the Committees on Armed Services of the Senate and House of Representatives.

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requirement replaced a similar requirement from the NDAA for Fiscal Year 2004.<sup>119</sup>

DOD did not submit to Congress the *Annual Report on Sexual Harassment and Violence at the Military Service Academies* for the first 2 required years: 2004 and 2005.<sup>120</sup> While Army officials provided copies of their reports for 2004 and 2005, Navy and Air Force officials stated they had no documentation. SAPRO officials stated that the first annual report completed was for 2006.<sup>121</sup> Since 2006, the annual reports have generally been transmitted to congressional committees in accordance with the statute.<sup>122</sup>

This section also required the secretaries of the Army, the Navy, and the Air Force to transmit their respective Superintendent's annual report to the Board of Visitors of their academies.<sup>123</sup> The secretaries could not provide documentation to support that the *Annual Report on Sexual Harassment and Violence at the Military Service Academies* was transmitted to the Board of Visitors for all applicable years: 2004–2020.<sup>124</sup>

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<sup>119</sup>Statutory requirement 7 (Pub. L. No 108-136, § 527(c) (2003)) originally required the superintendents of the military service academies to submit to their corresponding Secretaries an assessment on sexual harassment and violence involving academy personnel for the years 2004 to 2008. Pub. L. No. 109-364, § 532 (2006) repealed and replaced the original requirement. Statutory requirements 23, 26, 29, 31 further amended requirements for the military academies.

<sup>120</sup>The military service academies' academic program year is measured from June 1 until the following May 31. Therefore 2004 refers to academic program year 2003–2004, and 2005 refers to academic program year 2004–2005.

<sup>121</sup>2006 refers to academic program year 2005–2006.

<sup>122</sup>The 2016 report (academic program year 2015–2016) did not include documentation that the report was transmitted to Congress, such as transmittal letters to the appropriate congressional committees.

<sup>123</sup>The Board of Visitors is a statutorily mandated oversight body consisting of various congressional members (and congressionally designated persons in the case of the Air Force Academy Board of Visitors) and six persons designated by the President. The Board of Visitors is required to inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the respective military service academy that the Board of Visitors decides to consider. Each military service academy has a Board of Visitors. 10 U.S.C. §§ 7455, 8468, 9455.

<sup>124</sup>2004–2020 refers to academic program year 2003–2004 through academic program year 2019–2020.



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- Army officials stated that while the annual reports were discussed with the Board of Visitors, they were not aware of the requirement and would begin complying with it. As a result, Army officials provided documentation that they transmitted their report for 2020.
  - Air Force officials stated that they send an electronic link to the Board of Visitors, as well as a letter informing the Board of Visitors of the upcoming release of the annual report; however, they did not provide documentation to support this, except for documentation that they transmitted their report for 2020. According to Air Force officials, they will continue to document the notification to the Board of Visitors annually.
  - Navy officials stated that the reports were transmitted and discussed with the Board of Visitors during quarterly meetings, and provided documentation that they transmitted their report in 2018, but not for other years.

Without documentation that DOD submitted the *Annual Report on Sexual Harassment and Violence at the Military Service Academies* for the first 2 required years and that the secretaries of the Army, the Navy, and the Air Force transmitted their annual reports to the Board of Visitors of their academies, DOD cannot demonstrate it has an oversight structure to ensure compliance with statutory requirements, including that it fulfilled its statutory responsibility to provide designated oversight bodies the information they requested to perform their duties.

**Implementation report regarding availability of Special Victims' Counsel.** Section 1716 of the NDAA for Fiscal Year 2014 required the Secretary of Defense, in coordination with the Secretary of Homeland Security with respect to the Coast Guard, to submit to numerous congressional committees and other specified recipients, a report describing how the armed forces would implement a requirement regarding the availability of Special Victims' Counsel.<sup>125</sup> DOD completed an implementation report in accordance with the requirement, but did not provide documentation to support that it was submitted to the Joint Service Committee on Military Justice—one of six entities required to receive the report. Without documentation that the report was submitted to the Joint Service Committee on Military Justice, DOD cannot demonstrate that it has an oversight structure to ensure compliance with statutory requirements, including that it fulfilled its statutory responsibility

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<sup>125</sup>Pub. L. No. 113-66, § 1716(c) (2013); statutory requirement 126. This requirement referenced amendments to 10 U.S.C. § 1044e, which are captured in statutory requirements 121 through 124.

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to provide all of the designated entities with the information it requested to perform their oversight responsibilities.

DOD did not ensure implementation of statutes related to sexual assault prevention and response and maintain documentation, such as reports and evaluations requested by Congress, because it does not have an oversight structure—such as a consistent mechanism in place to track and document implementation of statutory requirements related to SAPR. According to SAPRO officials, they use different methods to track statutory requirements, such as a SharePoint dashboard and the Integrated Product Team meetings. SAPRO officials acknowledged that they have only used the SharePoint dashboard for a couple of years and that information on the statutory requirements in the dashboard may not be up-to-date because they do not update the status on a regular basis. Military service officials generally stated that their primary method of tracking requirements occurs when they are tasked by OSD officials to take action to implement a requirement, as statutory requirements are often directed to the Secretary of Defense and the official response to and implementation of the requirements is determined at the OSD-level. Air Force officials also stated that documentation was not available due to personnel turnover and the time passed since the enactment of the requirement.

The statutory requirements discussed above and in Appendix VII—as enacted by the NDAAs from Fiscal Years 2004 through 2019—are mandates for DOD to report on, change, or evaluate its sexual assault prevention and response activities, and also serve as mechanisms for congressional oversight. The *Standards for Internal Control in the Federal Government* establish that an agency should determine an oversight structure to fulfill responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.<sup>126</sup> These same standards also state that the oversight structure or body should oversee the agency’s internal control system, and should develop and maintain documentation of the system to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties.

Without an oversight structure that includes a consistent mechanism to track and document implementation of statutory requirements, DOD may

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<sup>126</sup>[GAO-14-704G](#).

be unable to ensure it is fulfilling its oversight responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders, as well as maintain organizational knowledge to mitigate risk and be responsive to congressional and other stakeholders requests for such information.

## Coast Guard Implemented Most Laws, but Did Not Fully Implement Some

Coast Guard implemented most statutory requirements to prevent and respond to sexual assault in the military enacted in NDAA's from 2004 through 2019. Coast Guard partially implemented or did not implement statutory requirements related to oversight responsibilities of its SAPR program. In particular, Coast Guard policies did not align with certain statutory requirements. In some instances, Coast Guard's actions were not consistent with required actions of certain requirements. Lastly, the Coast Guard lacked documentation to demonstrate it had implemented certain statutory requirements.

## Coast Guard Implemented Most Laws to Prevent and Respond to Sexual Assault

The Coast Guard implemented 30 of 36 of the statutory requirements to prevent and respond to sexual assault in the military.<sup>127</sup> The Coast Guard partially implemented five statutory requirements and did not implement one requirement. Some statutory requirements that the Coast Guard partially or did not implement related to policies not aligning with statutes, actions not aligning with statutes, and lack of documentation. Figure 6 below provides an overview of the Coast Guard's overall efforts to implement the statutory requirements.

**Figure 6: Status of Statutory Requirements That the Coast Guard Was Directed to Implement to Prevent and Respond to Sexual Assault, Fiscal Years 2004–2019**

36 total requirements (2 included an assessment of effectiveness)

30 Implemented (2 assessed effectiveness)



5 Partially implemented



1 Not implemented



Source: GAO analysis of National Defense Authorization Acts and Department of Homeland Security information. | GAO-22-103973

Note: The National Defense Authorization Act (NDAA) for Fiscal Year 2020 included a provision for GAO to review the armed forces' implementation of statutory requirements related to sexual assault prevention and response in the military contained in NDAA's for fiscal years 2004 through 2019. GAO evaluated the extent to which the Coast Guard implemented the statutory requirements for preventing

<sup>127</sup>For those 37 statutory requirements concerning assessing effectiveness, two related to Coast Guard. The Coast Guard implemented those two statutory requirements and assessment of effectiveness consistent with the statute.

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and responding to sexual assaults, and the extent to which the Coast Guard assessed the effectiveness of requirements when directed by statute.

As previously mentioned, each statutory requirement was unique and each required varied levels of effort by the Coast Guard to implement.<sup>128</sup> Examples of statutory requirements that illustrate the various types of efforts that the Coast Guard implemented include the following:

**Requirement to provide written notification of investigative results met.** Section 547(a)(2) of the NDAA for Fiscal Year 2017 requires the Secretary of Homeland Security to provide for written notification of the results of investigations of complaints of retaliation conducted by offices, elements, or personnel of the Department of Homeland Security or the Coast Guard to the member who submitted the complaint.<sup>129</sup> To support this requirement, Coast Guard officials provided the U.S. Coast Guard Civil Rights Manual.<sup>130</sup> The manual states that harassment report findings and outcomes are documented in final action memoranda, which are used to advise complainants of the investigation results.

**Requirement to submit a report on sexual assault victim recovery.** Section 3506(a) of the NDAA for Fiscal Year 2018 required the Commandant of the Coast Guard to submit a report on sexual assault prevention and response policies of the Coast Guard and strategic goals related to sexual assault victim recovery.<sup>131</sup> As a result, Coast Guard officials developed the *Sexual Assault Prevention and Victim Recovery* report.<sup>132</sup> In this report they detailed the Coast Guard strategic goals relating to sexual assault.

**Requirement to notify Congress of a general order.** Section 3521 of the John S. McCain NDAA for Fiscal Year 2019 required the Commandant of the Coast Guard to notify specific congressional committees if the Coast Guard did not have in effect a general order or

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<sup>128</sup>For a complete list of the statutory requirements and their implementation status by organization, see our supplement to this report: [GAO-22-105275](#).

<sup>129</sup>Pub. L. No. 114-328, § 547(a)(2) (2016): statutory requirement 205.

<sup>130</sup>Coast Guard, Commandant Instruction M5350.4D, *U.S. Coast Guard Civil Rights Manual* (May 20, 2019).

<sup>131</sup>Pub. L. No. 115-91, § 3506(a)-(b) (2017): statutory requirement 232.

<sup>132</sup>U. S. Coast Guard, *Sexual Assault Prevention and Victim Recovery Report to Congress* (Dec. 19, 2018).

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regulation prohibiting sexual harassment.<sup>133</sup> The Coast Guard put into effect a general order prohibiting sexual harassment.

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## Coast Guard Policies Do Not Align with Certain Requirements

The Coast Guard established policies that address the following statutory requirements, but the policies do not fully align with the requirement:

**Expedited transfer policy.** Section 1712 of the NDAA for Fiscal Year 2014 amended section 673(b) of Title 10, U.S. Code to require the Secretary of Homeland Security to issue regulations to carry out section 673—which relates to applications for consideration of a change of station or unit transfer submitted by an active duty servicemember who was a victim of a sexual assault or related offenses—within guidelines provided by the Secretary of Defense.<sup>134</sup> Previously, the regulations were to provide that the application for a change of station or unit transfer must be approved or disapproved by the member’s commanding officer within 72 hours of the submission of the application. Additionally, if the application was disapproved by the commanding officer, the member was to be given the opportunity to request review by the first general officer or flag officer in the chain of command of the member, and that decision must be made within 72 hours of submission of the request for review. The statute was amended in 2021 to allow the Secretary concerned to change the regulations to use a time period of five calendar days, rather than 72 hours.<sup>135</sup>

The Coast Guard’s expedited transfer policy does not align with the timeliness requirements. Specifically, its policy states that all expedited transfer applications from victims of sexual assault be forwarded by the

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<sup>133</sup>Pub. L. No. 115-232, §3521(a)(1) (2018): statutory requirement 248. Specifically, the House Committee on Transportation and Infrastructure, and the House Committee on Homeland Security, and the Senate Committee on Commerce, Science, and Transportation.

<sup>134</sup>Pub. L. No. 113-66, § 1712 (2013): statutory requirement 116. See also 10 USC § 101(a)(9)(D). Section 1712 amended section 673(b) of Title 10, U.S. Code, to strike “the Secretaries of the military departments” and insert “the Secretary concerned.” This effectively required the Secretary of Homeland Security (that is, the Secretary of the Department responsible for matters relating to the Coast Guard when it is not operating as a military service in the Department of the Navy) to issue relevant regulations under 10 U.S.C. § 673, as the Secretaries of the military departments were already required to do.

<sup>135</sup>Section 531 of the William M. (Mac) Thornberry NDAA for Fiscal Year 2021 amended section 673(b) to allow the required regulations to provide that applications for a change of station or unit transfer be approved or disapproved within 5 calendar days of submission, rather than 72 hours.

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victim's commanding officer, with their recommendation, to the Coast Guard Personnel Service Center within 72 hours of submission, rather than that the commanding officer must approve or disapprove the request within 72 hours of submission.<sup>136</sup> Further, the policy states that the flag officer who receives appeals from victims whose requests are disapproved must forward the appeal, with their recommendation, to the Coast Guard Personnel Service Center within 72 hours of submission, rather than that the decision must be made within 72 hours of submission. In further misalignment with the statute, the policy states that the service center will approve or disapprove the appeal within ten calendar days of receiving the request.

Without reviewing and updating its policies, to ensure alignment with statute, the Coast Guard cannot ensure compliance with law and may not be fully implementing efforts to support victims. For example, delays in decisions on expedited transfer requests may affect the ability of victims to make plans that can help to ensure their emotional and physical well-being. In November 2021, Coast Guard officials stated that they plan to update their policy to align with the statute, but do not have a timeframe for when the revisions will be finalized.

**Inclusion of information on sex-related offenses in personnel service records.** Section 1745(a) of the NDAA for Fiscal Year 2014 requires that court-martial convictions, non-judicial punishment, and punitive administrative action for sex-related offenses be noted in the personnel service record of the offending member of the armed forces, regardless of the member's grade; additionally, the notation may not be placed in the restricted section of the personnel service record.<sup>137</sup> The Coast Guard SAPR policy does not require that the specified conviction, non-judicial punishment or punitive administration action for sex-related offenses be noted in the personnel service record.<sup>138</sup> Coast Guard officials stated that they are working to correct their policy to align with this requirement, but did not provide documentation to support this or a timeframe for any revised publication.

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<sup>136</sup>Coast Guard, Commandant Instruction M1000.8A, *Military Assignments and Authorized Absences* (Oct. 7, 2013) (incorporating Commandant Change Note 1000, June 6, 2019).

<sup>137</sup>Pub. L. No. 113-66, § 1745(a)-(b) (2013): statutory requirement 149.

<sup>138</sup>Coast Guard, Commandant Instruction M1754.10E.

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In November 2021, Coast Guard officials told us that policies separate from the SAPR policy address this statutory requirement.<sup>139</sup> We found that these policies did include information concerning the mandatory notation in a member’s personnel record of any court-martial conviction and non-judicial punishment and included a process for capturing punitive administrative actions.<sup>140</sup> However, these policies did not state that a punitive administrative action for sex-related offenses must be noted in such records, as required by the statute. By updating the SAPR policies to specifically incorporate this requirement or updating these other policies to make specific reference to sex-related offenses, the Coast Guard would be better positioned to ensure that commanders have access to information on such offenses in personnel service records to ensure the safety and health of the command.

The Coast Guard did not ensure compliance with the statutory requirements referenced because it did not review and update certain policies as required. The policies discussed above can improve victim advocacy and assistance and enhance sexual assault prevention efforts. Further, the *Standards for Internal Control in the Federal Government* state that the agency, in coordination with management, should develop an oversight structure with an understanding of the overall responsibilities, assign those responsibilities to discrete units to enable the organization to operate in an efficient and effective manner, comply with applicable laws and regulations, and reliably report quality information.<sup>141</sup> These same standards state that management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity’s objectives, to include reviewing significant changes in a timely manner. Without reviewing and updating its policies, or establishing policy as needed, to ensure alignment with the statutory requirements, the Coast Guard cannot ensure compliance with those requirements and may not be fully implementing efforts to support victims and prevent sexual assault in the military.

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<sup>139</sup>The officials referenced Coast Guard, Commandant Instruction M1000.3A, *Officer Accessions, Evaluations, Promotions* (July 6, 2020); and Coast Guard, Commandant Instruction M1000.2C, *Enlistments, Evaluations, and Advancements* (Jan. 31, 2020).

<sup>140</sup>According to Coast Guard officials, the Coast Guard refers to a punitive administrative action as a “negative administrative action” or “administrative remarks”.

<sup>141</sup>[GAO-14-704G](#).

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## Coast Guard Actions Did Not Align With Certain Requirements

The Coast Guard was unable to demonstrate its actions were consistent with the following statutory requirements:

**Sexual assault prevention and response training for all individuals enlisted in the armed forces under a delayed entry program.** Section 535(a) of the NDAA for Fiscal Year 2018 requires the Secretaries of the military departments and the Secretary of Homeland Security, to the extent practicable, to provide training on sexual assault prevention and response to individuals under their jurisdiction who are enlisted under a delayed entry program, and to ensure that they complete such training before the date of commencement of basic training or initial active duty for training in the armed forces.<sup>142</sup> According to the section, among other things, the training was to be provided through in-person instruction whenever possible and include instruction on the proper use of social media.

The Coast Guard did not provide documentation to support that it had implemented the statutory requirement related to the SAPR training provided to individuals enlisted under a delayed entry program. Coast Guard officials indicated that relevant policy provided guidance regarding this training.<sup>143</sup> However, the Coast Guard policy is specific to the Recruiting Command's expectations concerning the prevention of sexual assault; sections concerning SAPR training are limited to servicemembers newly assigned to the Coast Guard Recruiting Command. The policy does not cover any aspects of the Coast Guard's delayed entry program and does not provide details regarding the SAPR training provided to individuals enlisted under this program.

In November 2021, Coast Guard officials stated that they plan to update relevant guidance to require SAPR training for individuals enlisting under a delayed entry program and provided draft guidance. However, Coast Guard officials did not provide a timeframe for when they plan to issue the guidance. According to officials, the Coast Guard also began to take other actions to address this statutory requirement, such as contracting with a company to provide digital SAPR training to recruits at various accession points. The Coast Guard could not demonstrate that it is ensuring that

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<sup>142</sup>Pub. L. No. 115-91, § 535(a) (2017): statutory requirement 227.

<sup>143</sup>Officials referenced U. S. Coast Guard, Coast Guard Recruiting Command Instruction 1754.1, *Sexual Assault Prevention and Response* (June 24, 2014).



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required education and training is being provided to individuals in the delayed entry training program.

**Public availability of information related to claims regarding discharge or release of members of the armed forces.** Section 521 of the NDAA for Fiscal Year 2018 requires boards of review—called Discharge Review Boards—to publish quarterly reports related to the number and outcome of claims reviewed by the board.<sup>144</sup> Coast Guard officials stated that they published all completed Discharge Review Boards through 2019, and that they are working to address the remaining backlog. Our review in December 2021 of the website where this information is published found that only those through 2018 are publicly available. Officials also stated that personnel turnover is a contributing factor preventing Coast Guard’s ability to address the backlog. Until the Coast Guard establishes an oversight structure that includes mechanisms to consistently track implementation of statutory requirements related to sexual assault prevention and response, such as publishing quarterly reports related to the processing and outcome of claims reviewed by Discharge Review Boards, it cannot ensure it is fulfilling its oversight responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.

The statutory requirements discussed above—as enacted by the NDAA for fiscal year 2018—can help provide sexual assault prevention and response training to those before entering basic training or initial active duty, as well as provide transparency in the discharge review results. Further, *Standards for Internal Control in the Federal Government* states that training is aimed at developing and retaining employee knowledge, skills, and abilities to meet changing organizational needs.<sup>145</sup> These standards also state that the agency should determine an oversight structure to fulfill responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.

Without documenting this training in policy or other related guidance, the Coast Guard cannot ensure that all individuals enlisted in the armed forces under a delayed entry program have received the SAPR training as required. Documenting this training would help ensure that these individuals are developing and retaining employee knowledge, skills, and

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<sup>144</sup>Pub. L. No. 115-91, § 521(b) (2017): statutory requirement 217. 10 U.S.C. § 1553(f).

<sup>145</sup>[GAO-14-704G](#).

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abilities to meet the organizational need of preventing sexual assault in the military. Further, publishing the required quarterly reports, could help Coast Guard ensure transparency of the discharge review process and compliance with the statute.

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### Coast Guard Lacked Documentation for Certain Requirements

The Coast Guard did not provide documentation to show that it fully implemented the following statutory requirements:

**Expansion of prohibited retaliatory personnel actions.** Section 1714 of the NDAA for Fiscal Year 2014 amended certain statutory requirements related to disclosures to an Inspector General and requirements to be taken in response.<sup>146</sup> Generally, section 1034 of Title 10, U.S. Code, prohibits retaliatory personnel actions as a reprisal against a member of the armed forces for making or preparing, or being perceived as making or preparing, certain communications to a Member of Congress, an Inspector General, or any person in the chain of command, among other recipients. The covered communications include those related to complaints or disclosures of information related to sexual assault or harassment. The statute outlines a series of requirements for the Inspector General of the Department of Homeland Security, including submitting a report on the results of various types of investigations to the Secretary of Homeland Security.<sup>147</sup>

Section 1714 of the NDAA for Fiscal Year 2014, among other changes, amended the statute to require that no later than 30 days after receiving a report from the relevant Inspector General, the Secretary of Homeland

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<sup>146</sup>Pub. L. No. 113-66, § 1714(a)-(f) (2013): statutory requirement 119. The provision amended section 1034 of Title 10, U.S. Code, expanding and enhancing certain prohibitions on retaliatory action. Section 1034(b)(2)(A) describes retaliatory personnel actions, such as the withholding, or threat to withhold, any favorable action.

<sup>147</sup>Among other provisions, section 1034 as amended requires an Inspector General, including the Inspector General of the Department of Homeland Security (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), after receiving an allegation, to: (1) expeditiously determine whether there is sufficient evidence to warrant an investigation of the allegation; (2) ensure the Inspector General conducting the investigation is outside the immediate chain of command and/or at least one organization higher in the chain of command than the organization of the member submitting the allegation and the individual(s) alleged to have taken the retaliatory action; (3) conduct a separate investigation if there has previously not been an investigation or if the Inspector General determines the original investigation was biased or otherwise inadequate; (4) submit a report on the results of the investigation to the Secretary of Homeland Security and transmit a copy of the report to the servicemember who made the allegation. See 10 U.S.C. § 1034(c)(4), (d), (e)(1), (j)(2).

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Security is to determine whether there is sufficient basis to conclude whether a prohibited personnel action has occurred. If the Secretary has determined that a prohibited personnel action has occurred, they are to order necessary action for the correction of the personnel record of that servicemember, and take any appropriate disciplinary action against the individual who committed the prohibited action.<sup>148</sup>

The Coast Guard and the Inspector General of the Department of Homeland Security established policy that addressed most of the requirements outlined in the statute.<sup>149</sup> However, the policy did not include the requirement for the Secretary of Homeland Security to determine whether corrective or disciplinary action should be taken within 30 days after receiving a report on the results of the investigation. Further, the Coast Guard and the Inspector General of the Department of Homeland Security did not otherwise provide documentation to support implementation of the requirement.<sup>150</sup> Until the Coast Guard develops a consistent mechanism to track implementation of statutory requirements related to sexual assault prevention and response, such as timely determination of corrective or disciplinary action for substantiated retaliatory personnel actions, it cannot ensure it is fulfilling its oversight responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.

**Implementation report regarding availability of Special Victims' Counsel.** Section 1716 of the NDAA for Fiscal Year 2014 requires the Secretary of Defense, in coordination with the Secretary of Homeland Security with respect to the Coast Guard, to submit to various congressional committees and certain other recipients a report describing how the armed forces would implement a requirement regarding the

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<sup>148</sup>Pub. L. No. 113-66, § 1714(e)(2) (codified at § 1034(f)). Subsequent amendments to section 1034(f)(1) simplified the provision somewhat to require that, not later than 30 days after receiving a report from the Inspector General, the Secretary of Homeland Security shall determine whether corrective or disciplinary action should be taken and, if so, shall take appropriate corrective or disciplinary action.

<sup>149</sup>Coast Guard, Commandant Instruction M1754.10E. U.S. Department of Homeland Security, Office of Inspector General Directive OIG-2016-005.v2, *OIG Handling of Whistleblower Retaliation Complaints* (Jan. 24, 2017).

<sup>150</sup>Section 1034(i), as amended, provides that the Secretary of Defense and the Secretary of Homeland Security shall prescribe regulations to carry out section 1034.

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availability of Special Victims' Counsel.<sup>151</sup> DOD, in coordination with the Secretary of Homeland Security, completed an implementation report in accordance with the requirement, but could not provide documentation to support that it was submitted to the Joint Service Committee on Military Justice—one of six recipients required to receive the report. In September 2021, Coast Guard officials stated that they were working to verify if the report was received by the Joint Service Committee on Military Justice. Without documentation that the report was submitted to the Joint Service Committee on Military Justice, Coast Guard cannot show that it fulfilled its statutory responsibility to provide all of the designated recipients with the required information to perform their oversight responsibilities.

The Coast Guard does not have an oversight structure that includes a consistent mechanism in place to track the implementation of statutory requirements related to sexual assault prevention and response and maintain documentation. Generally, the statutory requirements discussed above—enacted in various NDAs from fiscal years 2004 through 2019—are mandates for the Coast Guard to improve aspects of its sexual assault prevention and response activities. Further, the *Standards for Internal Control in the Federal Government* establish that the agency should determine an oversight structure to fulfill responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders.<sup>152</sup> These same standards also state that the oversight structure or body should oversee the agency's internal control system, and should develop and maintain documentation of the system to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties.

According to Coast Guard officials, they do not have a method for historically tracking statutory requirements and their implementation. They stated that they do monitor legislative requirements on an annual basis, and use informal taskers as needed to implement required changes; however, after the tasker is complete the information is no longer tracked or stored. Without an oversight structure that includes a consistent mechanism to track and document implementation of statutory requirements, the Coast Guard may be unable to ensure it is fulfilling its

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<sup>151</sup>Pub. L. No. 113-66, § 1716(c) (2013): statutory requirement 126. This statutory requirement referenced newly added section 1044e of Title 10, U.S. Code, which is captured in statutory requirement 123.

<sup>152</sup>[GAO-14-704G](#).

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oversight responsibilities set forth by applicable laws and regulations, relevant government guidance, and feedback from key stakeholders, as well as maintain organizational knowledge to mitigate risk and be responsive to congressional and other stakeholders requests for such information.

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## Conclusions

Sexual assault is an unacceptable crime with lasting consequences and harmful effects on victims, and contradicts the honor and values that DOD and the Coast Guard expect from servicemembers. According to our analysis, the NDAs from fiscal years 2004 through 2019 contained 249 statutory requirements aimed at improving DOD's and the Coast Guard's efforts to prevent and respond to sexual assault.

DOD met most statutory requirements, but several issues limit oversight of its SAPR program. We found DOD did not fully implement several statutory requirements concerning the prevention of and response to sexual assault, such as those concerning certain DOD annual reports on sexual assault in the military; program evaluations of SAPR programs and activities; and commander compliance with conducting certain assessments vital to monitoring the overall health and effectiveness of an organization. DOD also did not fully implement statutory requirements that directed DOD to assess the effectiveness of its SAPR programs, as it did not establish and implement an evaluation plan and standards for conducting evaluations. Further, long-standing statutes from several years ago, such as some from 2004, 2007, and 2014, have not been fully implemented by DOD. Absent fulfilling the statutory requirements, DOD may lack important information to ensure oversight of the SAPR program and related activities. DOD may also not be in compliance with fully implementing efforts to support victims and prevent sexual assault in the military.

The Coast Guard met most statutory requirements. However, the Coast Guard partially implemented five statutory requirements, such as establishing guidance (or regulations) related to considerations of applications from victims seeking to be transferred out of their units, but not meeting timelines for completion of the transfer decision. Additionally, the Coast Guard did not ensure sexual assault and prevention response training was provided to servicemembers in the delayed entry program. By establishing an oversight mechanism to track and document implementation of statutory requirements the Coast Guard will have a more efficient and effective way to ensure it is meeting its oversight responsibilities.

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## Recommendations for Executive Action

We are making a total of 23 recommendations, including 4 to DOD; 5 to the Army; 6 to the Navy; 4 to the Air Force; and 4 to the DHS, as it relates to the Coast Guard.

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments, include all required information in DOD annual reports, and if any required information is not included, explain why, and whether there is a plan to include it in future annual reports. (Recommendation 1)

The Secretary of the Army should ensure all required information is included in the annual reports. (Recommendation 2)

The Secretary of the Navy should ensure that the Navy and the Marine Corps include all required information in the annual reports. (Recommendation 3)

The Secretary of the Air Force should ensure all required information is included in the annual reports. (Recommendation 4)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness—in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments—sets a timeframe to establish, and establishes, an evaluation plan and mechanisms for assessing the effectiveness of the SAPR program and related activities—such as policies and training—in achieving its intended outcomes, as required by section 1602(c) and 1612(a) and (b) of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 and section 545(a) of the NDAA for Fiscal Year 2017. (Recommendation 5)

The Secretary of the Army should review and update guidance, and set a timeframe for completion, to ensure compliance with statutory requirements related to the consistent tracking of command climate assessments in the applicable database, as required by section 1721 of the NDAA for Fiscal Year 2014 and Army guidance. (Recommendation 6)

The Secretary of the Navy should ensure that the Commandant of the Marine Corps reviews and updates Marine Corps guidance, and sets a timeframe for completion, to ensure compliance with statutory requirements related to including command climate information in

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commanders' performance evaluations and assessments, as required by section 508 of the Carl Levin and Howard P. "Buck" McKeon NDAA for Fiscal Year 2015. (Recommendation 7)

The Secretary of the Air Force should review and update guidance, and set a timeframe for completion, to ensure compliance with statutory requirements related to including command climate information in commanders' performance evaluations and assessments, as required by section 508 of the NDAA for Fiscal Year 2015. (Recommendation 8)

The Secretary of Defense should review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and response statutory requirements, specifically section 1741(a)-(c) and (f) of the NDAA for Fiscal Year 2014, in coordination with Secretary of the Army as the DOD Executive Agent of the United States Military Entrance Processing Command. (Recommendation 9)

The Secretary of the Army should review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and response statutory requirements, specifically section 582(a) of the NDAA for Fiscal Year 2012, and section 520(a) of the NDAA for Fiscal Year 2018. (Recommendation 10)

The Secretary of the Navy should review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and response statutory requirements, specifically section 1741(a)-(c) and (f) of the NDAA for Fiscal Year 2014. (Recommendation 11)

The Secretary of the Navy should ensure that the Commandant of the Marine Corps reviews and updates policy or establishes policy, and sets a timeframe for completion, to ensure alignment with sexual assault prevention and response statutory requirements, specifically, section 1745(a)-(c) of the NDAA for Fiscal Year 2014 and updates such policies for compliance with the statute. (Recommendation 12)

The Secretary of the Army should take steps to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018 by—for example—documenting relevant actions in policy or other relevant guidance. (Recommendation 13)

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The Secretary of the Navy should take steps to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018 by—for example—documenting relevant actions in policy or other relevant guidance. (Recommendation 14)

The Secretary of the Air Force should take steps to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018 by—for example—documenting relevant actions in policy or other relevant guidance. (Recommendation 15)

The Secretary of the Army should ensure that the Superintendent of the United States Military Academy West Point takes steps to document actions, including the dissemination of the resource guide, taken in accordance with section 545(a)-(c) of the John S. McCain NDAA for Fiscal Year 2019. (Recommendation 16)

The Secretary of the Navy should ensure that the Superintendent of the United States Naval Academy takes steps to document actions taken in accordance with section 545(a)-(c) of the John S. McCain NDAA for Fiscal Year 2019. (Recommendation 17)

The Secretary of the Air Force should ensure that the Superintendent of the United States Air Force Academy takes steps to document actions, including the dissemination of the resource guide, taken in accordance with section 545(a)-(c) of the John S. McCain NDAA for Fiscal Year 2019. (Recommendation 18)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments, establishes an oversight structure that includes mechanisms to consistently track and document implementation of ongoing and future NDAA statutory requirements related to sexual assault prevention and response to ensure compliance with applicable laws and improve oversight of its SAPR program. (Recommendation 19)

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard, in collaboration with the Director of Health, Safety & Work Life Directorate, reviews and updates policy or establishes policy, and sets a timeframe for completion, to ensure alignment with sexual assault prevention and response statutory requirements, specifically,



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sections 1712 and 1745(a)-(c) of the NDAA for Fiscal Year 2014. (Recommendation 20)

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard, in collaboration with the Director of Health, Safety & Work Life Directorate, implements the education and training on sexual assault prevention and response for individuals enlisted under a delayed entry program by—for example—documenting such training in policy or other relevant guidance to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018. (Recommendation 21)

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard publishes quarterly reports related to the processing and outcomes of claims reviewed by the Discharge Review Boards to ensure compliance with section 521(b) of the NDAA for Fiscal Year 2018. (Recommendation 22)

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard, in collaboration with the Director of Health, Safety & Work Life Directorate, establishes an oversight structure that includes mechanisms to consistently track and document implementation of ongoing and future NDAA statutory requirements related to sexual assault prevention and response to ensure compliance with applicable laws and improve oversight of its SAPR program. (Recommendation 23)

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## Agency Comments and Our Evaluation

We provided a draft of this report to DOD and DHS for review and comment. In written comments reproduced in appendix VIII, DOD concurred with all 19 recommendations directed to it for executive action. DOD also provided some information about the actions it was taking to address many of the recommendations. For some recommendations DOD indicated that the Army was addressing them through efforts related to DOD's 90-day Independent Review Commission on Sexual Assault in the Military. However, DOD's response did not provide specific details regarding how these efforts would address these recommendations. We will continue to monitor DOD's implementation of all the recommendations to determine if the actions taken fully addressed them.

In written comments reproduced in appendix IX, DHS concurred with all 4 recommendations directed to it for executive action and noted the actions it was taking to address each recommendation. In response to recommendation 23 concerning a mechanism to consistently track and document implementation of statutory requirements related to sexual assault prevention and response, DHS noted that since February 2016 its

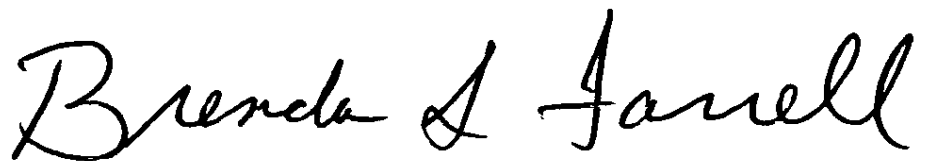
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system for tracking legislative requirements tracked only specific high profile statutory requirements. DHS's response stated that, beginning with the NDAA for FY 2022 enacted in December 2021, the system will now track every statutory requirement related to sexual assault. To determine if this recommendation has been fully addressed, we will monitor DHS's implementation of the changes to its system for tracking legislative requirements, such as policy documentation or actions demonstrating the change.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness, the Secretary of the Army, the Secretary of the Navy, the Chief of Naval Operations, the Commandant of the Marine Corps, the Secretary of the Air Force, the Chief of the National Guard Bureau, the Secretary of Homeland Security, the Commandant of the Coast Guard, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3604 or [farrellb@gao.gov](mailto:farrellb@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix X.



Brenda S. Farrell  
Director, Defense Capabilities and Management

# Appendix I: Table of Related GAO Reports and Open Recommendations, as of October 2021

**Table 1: GAO Related Reports and Open Recommendations to the Department of Defense and the Department of Homeland Security Related to Sexual Assault Prevention and Response, as of October 2021**

Report	Target agency	Open recommendations
<a href="#">GAO-08-296</a> <i>Military Personnel: The DOD and Coast Guard Academies Have Taken Steps to Address Incidents of Sexual Harassment and Assault, but Greater Federal Oversight Is Needed</i> (January 2008)	Congress, Department of Defense, and Department of Homeland Security: United States Coast Guard	There are no open recommendations associated with this report.
<a href="#">GAO-08-924</a> <i>Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Face Implementation and Oversight Challenges</i> (August 2008)	Congress, Department of Defense, and Department of Homeland Security: United States Coast Guard	There are no open recommendations associated with this report.
<a href="#">GAO-10-215</a> <i>Military Personnel: Additional Actions Are Needed to Strengthen DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs</i> (February 2010)	Department of Defense and Department of Homeland Security: United States Coast Guard	There are no open recommendations associated with this report.
<a href="#">GAO-11-579</a> <i>Military Justice: Oversight and Better Collaboration Needed for Sexual Assault Investigations and Adjudications</i> (June 2011)	Department of Defense	There are no open recommendations associated with this report.

**Appendix I: Table of Related GAO Reports and  
Open Recommendations, as of October 2021**

Report	Target agency	Open recommendations
<a href="#">GAO-11-809</a> <i>Preventing Sexual Harassment: DOD Needs Greater Leadership Commitment and an Oversight Framework</i> (September 2011)	Department of Defense	<p>There are three open recommendations associated with this report:</p> <ul style="list-style-type: none"> <li>To improve leadership's commitment to preventing and responding to incidents of sexual harassment, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness to develop a strategy for holding individuals in positions of leadership accountable for promoting, supporting, and enforcing the department's sexual harassment policies and programs.</li> <li>To improve implementation of the department's sexual harassment policies and programs, the Secretary of Defense should direct the service secretaries to verify or track military commanders' compliance with existing requirements that commanders periodically determine their organizational health and functioning effectiveness by periodically assessing their equal opportunity climate through "command climate" assessments.</li> <li>To enhance oversight of the department's program to help prevent and to address incidents of sexual harassment involving servicemembers, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness to ensure that the Office of Diversity Management and Equal Opportunity develops and aggressively implements an oversight framework to help guide the department's efforts. At a minimum, such a framework should contain long-term goals, objectives, and milestones; strategies to accomplish goals; criteria for measuring progress; and results-oriented performance measures to assess the effectiveness of the department's sexual harassment policies and programs. Such a framework should also identify and include a plan for ensuring that adequate resources are available to carry out the office's oversight responsibilities.</li> </ul>
<a href="#">GAO-13-182</a> <i>Military Personnel: DOD Has Taken Steps to Meet the Health Needs of Deployed Servicewomen, but Actions Are Needed to Enhance Care for Sexual Assault Victims</i> (January 2013)	Department of Defense	<p>There are no open recommendations associated with this report.</p>

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Appendix I: Table of Related GAO Reports and  
Open Recommendations, as of October 2021

Report	Target agency	Open recommendations
<a href="#">GAO-14-806</a> <i>Military Personnel: DOD Needs to Take Further Actions to Prevent Sexual Assault during Initial Military Training</i> (September 2014)	Department of Defense	There are no open recommendations associated with this report.

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Appendix I: Table of Related GAO Reports and Open Recommendations, as of October 2021

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GAO-15-284

*Military Personnel: Actions Needed to Address Sexual Assaults of Male Servicemembers*  
(March 2015)

Department of Defense

There are five open recommendation associated with this report:

- To improve DOD's ability to prevent sexual assaults of male servicemembers, to increase its responsiveness to male servicemembers who are sexually assaulted, and to help DOD's sexual assault prevention and response program realize the full benefit of the data it collects on sexual assault incidents, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military services, to develop a plan for data-driven decision making to prioritize program efforts.
  - To improve DOD's ability to prevent sexual assaults of male servicemembers, to increase its responsiveness to male servicemembers who are sexually assaulted, and to address challenges faced by male servicemembers as DOD continues to seek to transform its culture to address sexual assault, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military services, to develop clear goals with associated metrics to drive the changes needed to address sexual assaults of males and articulate these goals, for example in the department's next sexual assault prevention strategy.
  - To improve DOD's ability to prevent sexual assaults of male servicemembers, to increase its responsiveness to male servicemembers who are sexually assaulted, and to address challenges faced by male servicemembers as DOD continues to seek to transform its culture to address sexual assault, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military services, to include information about the sexual victimization of males in communications to servicemembers that are used to raise awareness of sexual assault and the department's efforts to prevent and respond to it.
  - To improve DOD's ability to prevent sexual assaults of male servicemembers, to increase its responsiveness to male servicemembers who are sexually assaulted, and to address challenges faced by male servicemembers as DOD continues to seek to transform its culture to address sexual assault, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military services, to revise sexual assault prevention and response training to more comprehensively and directly address the incidence of male servicemembers being sexually assaulted and how
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**Appendix I: Table of Related GAO Reports and  
Open Recommendations, as of October 2021**

Report	Target agency	Open recommendations
<a href="#">GAO-16-61</a> <i>Sexual Assault: Actions Needed to Improve DOD's Prevention Strategy and to Help Ensure It Is Effectively Implemented</i> (November 2015)	Department of Defense	<p>certain behavior and activities—like hazing—can constitute a sexual assault.</p> <ul style="list-style-type: none"> <li>To improve DOD's ability to prevent sexual assaults of male servicemembers, to increase its responsiveness to male servicemembers who are sexually assaulted, and to help ensure that all of DOD's medical and mental health providers are generally aware of any gender-specific needs of sexual assault victims, and that victims are provided the care that most effectively meets those needs, the Assistant Secretary of Defense for Health Affairs should, in collaboration with the services' Surgeons General, develop and issue guidance for the department's medical and mental health providers—and other personnel, as appropriate—based on the results of this evaluation that delineates these gender-specific distinctions and the care regimen that is recommended to most effectively meet those needs.</li> </ul> <p>There are two open recommendations associated with this report:</p> <ul style="list-style-type: none"> <li>To help ensure widespread adoption and implementation of DOD's sexual-assault prevention strategy and to fulfill its role as a framework that can assist leaders and planners in the development of appropriate tasks, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness, in conjunction with the Secretaries of the military departments, to ensure the military services' Sexual Assault Prevention and Response policies are aligned with the department's prevention strategy.</li> <li>To help improve DOD's ability to measure the effectiveness of the department's efforts in preventing sexual assault in the military, the Secretary of Defense should direct the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military departments, to fully develop the department's performance measures for the prevention of sexual assault so that the measures include all key attributes of successful performance measures.</li> </ul>
<a href="#">GAO-17-99</a> <i>Military Personnel: DOD Has Processes for Operating and Managing Its Sexual Assault Incident Database</i> (January 2017)	Department of Defense	There are no recommendations associated with this report.

**Appendix I: Table of Related GAO Reports and  
Open Recommendations, as of October 2021**

<b>Report</b>	<b>Target agency</b>	<b>Open recommendations</b>
<a href="#">GAO-17-217</a> <i>Sexual Assault: Better Resource Management Needed to Improve Prevention and Response in the Army National Guard and Army Reserve</i> (February 2017)	Department of Defense	There are no open recommendations associated with this report.
<a href="#">GAO-18-33</a> <i>Sexual Violence: Actions Needed to Improve DOD's Efforts to Address the Continuum of Unwanted Sexual Behaviors</i> (December 2017)	Department of Defense	There is one open recommendation associated with this report: <ul style="list-style-type: none"> <li>The Under Secretary of Defense for Personnel and Readiness should direct the Assistant Secretary of Defense for Readiness to incorporate in its continuum of harm prevention strategy all the elements that are key for establishing a long-term, results-oriented strategic planning framework. The elements are (1) a mission statement, (2) long-term goals, (3) strategies to achieve goals, (4) external factors that could affect goals, (5) use of metrics to gauge progress, and (6) evaluations of the plan to monitor goals and objectives. (Recommendation 4)</li> </ul>
<a href="#">GAO-19-109</a> <i>National Guard: Office of Complex Investigations Should Update Policies to Require Additional Documentation for Sexual Assault Cases</i> (December 2018)	Department of Defense	There are no open recommendations associated with this report.

Source: GAO. | GAO-22-103973

Note: To view the status and details of all GAO recommendations concerning the reports noted above click on the respective report number provided in each row of the table.



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# Appendix II: Objectives, Scope, and Methodology

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## Statutory Requirement and Objectives

Section 540M of the National Defense Authorization Act (NDAA) for Fiscal Year 2020 included a provision us to identify the statutory requirements related to sexual assault prevention and response in the military contained in the NDAs from fiscal years 2004 through 2019, as well as provide a report to the Committees on Armed Services of the Senate and House of Representatives.<sup>1</sup> According to the section, the report is to include—for example—the status of each statutory requirement, to include whether the requirement is still in force, repealed, or expired; an assessment of the extent to which each of the armed forces implemented the requirement; and an assessment of the extent to which each of the armed forces assessed the effectiveness of the actions taken to meet the requirement.

In this report we,

- describe the status of statutory requirements concerning sexual assault prevention and response in the military that were contained in the NDAs from fiscal years 2004 through 2019;
- evaluate the extent to which DOD implemented the statutory requirements for preventing and responding to sexual assaults, and assessed the effectiveness of requirements when directed by statute; and
- evaluate the extent to which the Coast Guard implemented the statutory requirements for preventing and responding to sexual assaults, and assessed the effectiveness of requirements when directed by statute.

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## Methods Used to Identify Statutory Requirements Concerning Sexual Assault Prevention and Response

For objective one, to identify statutory requirements on sexual assault prevention and response, we reviewed all sections within each NDAA for fiscal years 2004 through 2019 by searching key terms, such as sexual assault, rape, sex, and special victims' counsel. In coordination with attorneys from GAO's Office of the General Counsel, we determined requirements by reviewing the text of each numbered section and grouping elements (i.e., any subsections, paragraphs, and sub-paragraphs) together into one requirement when they were inherently part of the same effort.

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<sup>1</sup>National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 540M (2019). The NDAA for Fiscal Year 2022 was enacted in late December, 2021, in the final stages of processing this report. We were unable to analyze the new statute before finalizing the report, so it does not account for new changes that might otherwise impact the information presented here.

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To determine which statutory requirements were in force, we applied the following definitions:

- **In force.** A statutory requirement that has not expired or been repealed. In some instances, we determined that a requirement was “in force” if some part of it was ongoing, even if other elements (i.e., subsection(s)/paragraph(s)) had expired or been repealed. These statutory requirements are those that are still valid or ongoing.
- **In force / Amended.** A subset of in force requirements that have been changed by later legislation.
- **Repealed.** A statutory requirement that has been revoked or annulled.
- **Expired.** A statutory requirement (to include all sub-section(s) and paragraph(s)) that has fully passed its expiration date or date of validity. In some instances where we, in coordination with attorneys for GAO’s Office of the General Counsel, determined a requirement was expired—but no clear date was included in the statute for the expiration date—we used the enactment date of the following fiscal year’s NDAA for the expiration date.

As part of our review and analysis of the statutory requirements during this period, we also determined categories of sexual assault prevention and response requirements. Specifically, we developed a schema of detailed topics and subcategories, which we adapted from relevant frameworks and information on this topic, such as a September 2017 report issued by the Congressional Research Service and our review of the NDAA language.<sup>2</sup> We assigned each requirement to the topics and subcategories, and grouped them into a set of four broad categories: Victim Assistance and Advocacy, Management and Oversight, Military Justice and Investigations, and Prevention Efforts.

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## Methods Used to Evaluate DOD and Coast Guard Implementation and Assessment Efforts

For objectives two and three, to evaluate the extent to which DOD and Coast Guard implemented the statutory requirements for preventing and responding to sexual assaults, and assessed the effectiveness of requirements when directed by statute—we analyzed responses and documentation from DOD and Coast Guard officials concerning their efforts to implement and assess the effectiveness of the statutory requirements.

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<sup>2</sup>Congressional Research Service, *Military Sexual Assault: A Framework for Congressional Oversight*, R44944 (Sept. 12, 2017).

To collect responses and documentation from officials, we developed a questionnaire based on the statutory requirements we identified in objective one.<sup>3</sup> Prior to distributing the questionnaire, we conducted pretests to check that (1) the questions were clear and unambiguous; (2) terminology was used correctly; (3) the questionnaire did not place an undue burden on agency officials; (4) the information could feasibly be obtained; and (5) the survey was comprehensive and unbiased. We selected offices within DOD and Coast Guard with responsibilities concerning sexual assault prevention and response to pretest the questionnaire. Based on the feedback we received during the pretests, we made changes to the content and format of the questionnaire.

Responses to the questionnaire and supporting documentation were requested and received from officials from the Department of Homeland Security as it pertained to the Coast Guard, and several DOD organizations—the Office of the Secretary of Defense (e.g., Sexual Assault Prevention and Response Office (SAPRO)), Army, Navy, Marine Corps, Air Force, and National Guard Bureau.<sup>4</sup> For each organization, as applicable, we reviewed the responses and documentation received for each statutory requirement and assigned an implementation status. At least two analysts reviewed each requirement and reached concurrence based on the responses and documentation provided. Attorneys from GAO’s Office of the General Counsel also reviewed each requirement for relevance and reviewed the implementation status assigned by the analysts for legal sufficiency and appropriateness. To determine implementation was accomplished, we generally relied on documentation,

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<sup>3</sup>In coordination with attorneys from GAO’s Office of the General Counsel, we determined some statutory requirements to be self-implementing, which we defined as requirements that did not require any particular DOD or Coast Guard entity to take an action. These types of requirements, for example, related to certain amendments to the Uniform Code of Military Justice. Questionnaire instructions regarding self-implementing statutory requirements stated that a response to such requirements was not required; however, the instructions also clarified that DOD and Coast Guard officials could also provide responses if their respective organizations had taken action related to these requirements.

<sup>4</sup>The questionnaire we sent to DOD and Coast Guard officials requested that if documentation was not available for reasons such as mandatory disposition of the document per DOD or Coast Guard policy, officials support this by, for example, providing a copy of the specific policy that would have required the document to have been disposed of after a certain period of time. Where DOD or the Coast Guard were unable to provide documentation or other information indicating actions taken to implement a requirement, and without providing evidence that policy would have required such document to have been disposed of, we found the requirement to be “not implemented.”

such as published guidance, policy, or agency reports to verify DOD and Coast Guard efforts to implement the statutory requirements.

Statutory requirements consisted of one or more elements (i.e., any subsections, paragraphs, and sub-paragraphs). For example, a requirement with several elements could direct the Secretary of Defense to develop a policy, state that the policy should include specific items, and direct the Secretaries of the military departments to revise regulations in accordance with the policy.

To determine the implementation status in a consistent manner, we developed criteria and applied it in two steps. First, we reviewed each element of the statutory requirement and determined if the element was implemented, not implemented, pending implementation, or whether it was not directed to a specific organization. Second, we used the number of elements implemented to determine whether the statutory requirement in its entirety was implemented, partially implemented, not implemented, or pending implementation. Specifically, if all elements were implemented the requirement was implemented; if some, half, or most of the elements were implemented the requirement was partially implemented; if none of the elements were implemented the requirement was not implemented; and if at least one element of the requirement had efforts that were determined and substantiated to be pending implementation then the requirement was pending implementation.

When reviewing each organization's efforts to implement the statutory requirement, we also considered—for example—which organization(s) the statutory requirement applied to and whether the statute used permissive language such as “may” instead of “shall”. In consultation with general counsel, we determined that timeliness would not be considered as a factor to determine whether an element was implemented. For example, if a report by DOD was due to Congress on a specific date as specified in the statute, we determined implementation status based on whether the report was completed, even if the report was submitted past the deadline. Where appropriate, we also considered selected GAO and Office and Management and Budget leading practices concerning evidence-based policymaking and evaluation planning, as well as

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*Standards for Internal Control in the Federal Government.*<sup>5</sup> We found that certain key principles of internal controls—such as those related to exercising oversight, establishing structure, using quality information, and implementing control activities—were relevant and could assist DOD and Coast Guard to implement the statutory requirements as required.

To identify which statutory requirements required DOD and Coast Guard to assess effectiveness, we reviewed all the statutory requirements identified in objective one by searching key terms, such as effective, assess, measure, evaluate, and impact—and variations of those terms. If one or more key words was present in the requirement, one analyst then reviewed all the results and made a determination regarding whether the statute required an assessment of effectiveness. These determinations were then reviewed by a separate analyst to reach concurrence. Attorneys for GAO’s Office of the General Counsel then reviewed the determinations for legal sufficiency and appropriateness. Additionally, we analyzed and compared DOD’s and Coast Guard’s responses to assessing effectiveness from the questionnaire to our determinations regarding statutes that required such an assessment.<sup>6</sup>

To address objectives two and three, we also contacted several organizations within DOD and the Coast Guard. Specifically, within DOD we interviewed officials having key responsibilities concerning DOD’s sexual assault prevention and response (SAPR) program and activities: these included those offices within the Office of the Secretary of Defense

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<sup>5</sup>GAO, *Program Evaluation: Key Terms and Concepts*, [GAO-21-404SP](#) (Washington, D.C.: Mar. 22, 2021); OMB Memorandum No. M-19-23, *Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance* (July 10, 2019); OMB Memorandum No. M-20-12, *Phase 4 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Program Evaluation Standards and Practices* (Mar. 10, 2020); and GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

<sup>6</sup>For the 37 statutory requirements we identified as related to assessing effectiveness, each DOD organization (i.e., Office of the Secretary of Defense, Army, Navy, Marine Corps, Air Force, and National Guard Bureau) and Coast Guard is counted once per statute, if the statute is directed to that organization and GAO determined that the statute required DOD and/or Coast Guard to conduct an assessment of effectiveness. For the 166 statutory requirements (i.e., not including the 37 statutory requirements related to assessing effectiveness and the 46 requirements we determined were self-implementing), each DOD organization and Coast Guard is counted once per statute where the statute did not require an assessment of effectiveness or is not directed to that DOD organization and Coast Guard. How DOD and Coast Guard officials responded in their respective questionnaires regarding an assessment of effectiveness is separate from our analysis and determination regarding implementation and assessing effectiveness.

(OSD), such as Office of the Under Secretary of Defense for Personnel and Readiness and Sexual Assault Prevention and Response Office (SAPRO); Department of the Army, Sexual Harassment/Assault Response and Prevention, Army Resilience Directorate; Department of the Navy, Sexual Assault Prevention and Response Office and U.S. Navy Sexual Assault Prevention and Response, 21st Century Sailor Office; United States Marine Corps, Sexual Assault Prevention and Response, Marine and Family Programs Division; Department of the Air Force, Sexual Assault Prevention and Response, Air Force Integrated Resilience Office; and National Guard Bureau, Sexual Assault Prevention and Response Office, Manpower and Personnel Directorate. Similarly, we interviewed officials at the Coast Guard, Sexual Assault Prevention Response and Recovery Program, and Health, Safety, and Work-Life Directorate.

We conducted this performance audit from November 2019 to March 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provided a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix III: Sexual Assault Prevention and Response Requirements in National Defense Authorization Acts, 2004–2019

This appendix contains a list of the statutory requirements concerning sexual assault prevention and response in the National Defense Authorization Acts (NDAA) from fiscal years 2004 through 2019 that we identified, including the status of the requirements.

**Table 2: Status of National Defense Authorization Act (NDAA) Statutory Requirements Concerning Sexual Assault Prevention and Response from Fiscal Years 2004 through 2019**

GAO assigned statutory requirement number	NDAA section number and title	NDAA subsection(s) or paragraph(s)	Status of statutory requirement <sup>a</sup>	Statutory requirement repeal or expiration date
<b>NDAA for Fiscal Year 2004 (Public Law 108–136, Nov. 24, 2003)</b>				
1.	Sec. 526, Defense Task Force On Sexual Harassment And Violence At The Military Service Academies	(a) (f) (g) (h) (i)	Expired	9/28/2005
2.	Sec. 526, Defense Task Force On Sexual Harassment And Violence At The Military Service Academies	(b) (c)	Expired	9/23/2005
3.	Sec. 526, Defense Task Force On Sexual Harassment And Violence At The Military Service Academies	(d)	Expired	9/23/2005
4.	Sec. 526, Defense Task Force On Sexual Harassment And Violence At The Military Service Academies	(e)	Expired	9/23/2005
5.	Sec. 527, Actions To Address Sexual Harassment And Violence At The Service Academies	(a)	Repealed	10/17/2006
6.	Sec. 527, Actions To Address Sexual Harassment And Violence At The Service Academies	(b)	Repealed	10/17/2006
7.	Sec. 527, Actions To Address Sexual Harassment And Violence At The Service Academies	(c)	Repealed	10/17/2006
8.	Sec. 551, Extended Limitation Period For Prosecution Of Child Abuse Cases In Courts-Martial	No subsections. See NDAA text.	In Force / Amended	-
<b>Ronald W. Reagan NDAA for Fiscal Year 2005 (Public Law 108–375, Oct. 28, 2004)</b>				
9.	Sec. 571, Review On How Sexual Offenses Are Covered By Uniform Code Of Military Justice	(a) (b)	Expired	3/1/2005
10.	Sec. 576, Examination Of Sexual Assault In The Armed Forces By The Defense Task Force Established To Examine Sexual Harassment And Violence At The Military Service Academies	(a) (f)	Expired	3/28/2007
11.	Sec. 576, Examination Of Sexual Assault In The Armed Forces By The Defense Task Force Established To Examine Sexual Harassment And Violence At The Military Service Academies	(b) (c) (d) (e)	Expired	3/1/2010
12.	Sec. 577, Department Of Defense Policy And Procedures On Prevention And Response To Sexual Assaults Involving Members Of The Armed Forces	(a) (b) (d)	In Force	-
13.	Sec. 577, Department Of Defense Policy And Procedures On Prevention And Response To Sexual Assaults Involving Members Of The Armed Forces	(c)	Expired	3/1/2005

**Appendix III: Sexual Assault Prevention and  
Response Requirements in National Defense  
Authorization Acts, 2004–2019**

<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
14.	Sec. 577, Department Of Defense Policy And Procedures On Prevention And Response To Sexual Assaults Involving Members Of The Armed Forces	(e)	In Force	-
15.	Sec. 577, Department Of Defense Policy And Procedures On Prevention And Response To Sexual Assaults Involving Members Of The Armed Forces	(f)	Repealed	1/7/2011
<b>NDAAs for Fiscal Year 2006 (Public Law 109–163, Jan. 6, 2006)</b>				
16.	Sec. 551, Offense Of Stalking Under The Uniform Code Of Military Justice	(a) (b)	In Force / Amended	-
17.	Sec. 552, Rape, Sexual Assault, And Other Sexual Misconduct Under Uniform Code Of Military Justice	(a) (b)* (c) (d) (e) (f)	In Force / Amended	-
18.	Sec. 553, Extension Of Statute Of Limitations For Murder, Rape, And Child Abuse Offenses Under The Uniform Code Of Military Justice	(a) (b)	In Force / Amended	-
19.	Sec. 596, Improvement To Department Of Defense Capacity To Respond To Sexual Assault Affecting Members Of The Armed Forces	(a) (b)	In Force	-
20.	Sec. 596, Improvement To Department Of Defense Capacity To Respond To Sexual Assault Affecting Members Of The Armed Forces	(c)	Repealed	1/7/2011
<b>John Warner NDAA for Fiscal Year 2007 (Public Law 109–364, Oct. 17, 2006)</b>				
21.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(1) to 10 U.S.C. § 4361(a)-(b)	In Force / Amended	-
22.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(1) to 10 U.S.C. § 4361(c)	In Force / Amended	-
23.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(1) to 10 U.S.C. § 4361(d)	In Force / Amended	-
24.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(2) to 10 U.S.C. § 6980(a)-(b)	In Force / Amended	-



**Appendix III: Sexual Assault Prevention and  
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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
25.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(2) to 10 U.S.C. § 6980(c)	In Force / Amended	-
26.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(2) to 10 U.S.C. § 6980(d)	In Force / Amended	-
27.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(3) to 10 U.S.C. § 9361(a)-(b)	In Force / Amended	-
28.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(3) to 10 U.S.C. § 9361(c)	In Force / Amended	-
29.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	See requirements within the amendment made by (a)(3) to 10 U.S.C. § 9361(d)	In Force / Amended	-
30.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	(b)	In Force	-
31.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	(c)	In Force	-
32.	Sec. 532, Revision And Clarification Of Requirements With Respect To Surveys And Reports Concerning Sexual Harassment And Sexual Violence At The Service Academies	(d)	In Force	-
33.	Sec. 583, Inclusion In Annual Department Of Defense Report On Sexual Assaults Of Information On Results Of Disciplinary Actions	No subsections, see NDAAs text.	Repealed	1/7/2011

**Appendix III: Sexual Assault Prevention and  
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Authorization Acts, 2004–2019**

<b>GAO assigned statutory requirement number</b>	<b>NDAA section number and title</b>	<b>NDAA subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
34.	Sec. 701, Tricare Coverage For Forensic Examination Following Sexual Assault Or Domestic Violence	No subsections, see NDAA text.	In Force	-
<b>NDAA For Fiscal Year 2008 (Public Law 110–181, Jan. 28, 2008)</b>				
35.	Sec. 716, Review Of Gender- And Ethnic Group-Specific Mental Health Services And Treatment For Members Of The Armed Forces	(a) (b) (c)	Expired	4/27/2008
<b>Duncan Hunter NDAA for Fiscal Year 2009 (Public Law 110–417, Oct. 14, 2008)</b>				
36.	Sec. 563, Implementation Of Information Database On Sexual Assault Incidents In The Armed Forces	(a) (b) (c)*	In Force	-
37.	Sec. 563, Implementation Of Information Database On Sexual Assault Incidents In The Armed Forces	(d)	In Force	-
38.	Sec. 563, Implementation Of Information Database On Sexual Assault Incidents In The Armed Forces	(e)	In Force	-
<b>NDAA For Fiscal Year 2010 (Public Law 111–84, Oct. 28, 2009)</b>				
39.	Sec. 566, Deadline For Report On Sexual Assault In The Armed Forces By Defense Task Force On Sexual Assault In The Military Services	No subsections, see NDAA text.	Expired	12/1/2009
40.	Sec. 567, Improved Prevention And Response To Allegations Of Sexual Assault Involving Members Of The Armed Forces	(a)	Expired	4/26/2010
41.	Sec. 567, Improved Prevention And Response To Allegations Of Sexual Assault Involving Members Of The Armed Forces	(b)(1)	Expired	4/26/2010
42.	Sec. 567, Improved Prevention And Response To Allegations Of Sexual Assault Involving Members Of The Armed Forces	(b)(2)	Expired	11/27/2009
43.	Sec. 567, Improved Prevention And Response To Allegations Of Sexual Assault Involving Members Of The Armed Forces	(c)(1)	In Force	-
44.	Sec. 567, Improved Prevention And Response To Allegations Of Sexual Assault Involving Members Of The Armed Forces	(c)(2)	Expired	4/26/2010
45.	Sec. 598, Reports On Progress In Completion Of Certain Incident Information Management Tools	No subsections, see NDAA text.	In Force	-
<b>Ike Skelton NDAA for Fiscal Year 2011 (Public Law 111–383, Jan. 7, 2011)</b>				
46.	Sec. 1601, Definition Of Department Of Defense Sexual Assault Prevention And Response Program And Other Definitions	(a) (b)	In Force	-
47.	Sec. 1602, Comprehensive Department Of Defense Policy On Sexual Assault Prevention And Response Program	(a) (b)	In Force	-
48.	Sec. 1602, Comprehensive Department Of Defense Policy On Sexual Assault Prevention And Response Program	(c)	In Force	-

**Appendix III: Sexual Assault Prevention and Response Requirements in National Defense Authorization Acts, 2004–2019**

<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
49.	Sec. 1602, Comprehensive Department Of Defense Policy On Sexual Assault Prevention And Response Program	(d)	Expired	10/1/2011
50.	Sec. 1602, Comprehensive Department Of Defense Policy On Sexual Assault Prevention And Response Program	(e)	In Force	-
51.	Sec. 1611, Sexual Assault Prevention And Response Office	(a) (b)	In Force	-
52.	Sec. 1611, Sexual Assault Prevention And Response Office	(c)	In Force	-
53.	Sec. 1611, Sexual Assault Prevention And Response Office	(d)	In Force	-
54.	Sec. 1612, Oversight And Evaluation Standards	(a)	In Force	-
55.	Sec. 1612, Oversight And Evaluation Standards	(b)	In Force	-
56.	Sec. 1613, Report And Plan For Completion Of Acquisition Of Centralized Department Of Defense Sexual Assault Database	(a) (b)	Expired	4/1/2011
57.	Sec. 1614, Restricted Reporting Of Sexual Assaults	No subsections, see NDAA text.	In Force	-
58.	Sec. 1621, Improved Protocols For Providing Medical Care For Victims Of Sexual Assault	No subsections, see NDAA text.	In Force	-
59.	Sec. 1622, Sexual Assault Victims Access To Victim Advocate Services	(a) (b) (c)	In Force	-
60.	Sec. 1631, Annual Report Regarding Sexual Assaults Involving Members Of The Armed Forces And Improvement To Sexual Assault Prevention And Response Program	(a) (b) (c)	Expired	3/1/2021
61.	Sec. 1631, Annual Report Regarding Sexual Assaults Involving Members Of The Armed Forces And Improvement To Sexual Assault Prevention And Response Program	(d)	Expired	3/1/2021
62.	Sec. 1631, Annual Report Regarding Sexual Assaults Involving Members Of The Armed Forces And Improvement To Sexual Assault Prevention And Response Program	(e)	Expired	3/1/2021
63.	Sec. 1632, Additional Reports	(a)	Expired	12/31/2011
64.	Sec. 1632, Additional Reports	(b)	Expired	12/31/2011
65.	Sec. 1632, Additional Reports	(c)	Expired	12/31/2011
66.	Sec. 1632, Additional Reports	(d)	Expired	12/31/2011
67.	Sec. 1632, Additional Reports	(e)	Expired	12/31/2011
68.	Sec. 1632, Additional Reports	(f)	Expired	12/31/2011

**Appendix III: Sexual Assault Prevention and Response Requirements in National Defense Authorization Acts, 2004–2019**

<b>GAO assigned statutory requirement number</b>	<b>NDAA section number and title</b>	<b>NDAA subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
<b>NDAA for Fiscal Year 2012 (Public Law 112–81, Dec. 31, 2011)</b>				
69.	Sec. 541, Reform Of Offenses Relating To Rape, Sexual Assault, And Other Sexual Misconduct Under The Uniform Code Of Military Justice	(a) (b) (c) (d) (e) (f)	In Force / Amended	-
70.	Sec. 581, Access Of Sexual Assault Victims To Legal Assistance And Services Of Sexual Assault Response Coordinators And Sexual Assault Victim Advocates	(a)	Expired	6/28/2012
71.	Sec. 581, Access Of Sexual Assault Victims To Legal Assistance And Services Of Sexual Assault Response Coordinators And Sexual Assault Victim Advocates	See requirements within the amendment made by (b)(1) to 10 U.S.C. § 1565b(a)	In Force/ Amended	-
72.	Sec. 581, Access Of Sexual Assault Victims To Legal Assistance And Services Of Sexual Assault Response Coordinators And Sexual Assault Victim Advocates	See requirements within the amendment made by (b)(1) to 10 U.S.C. § 1565b (b)	In Force/ Amended	-
73.	Sec. 582, Consideration Of Application For Permanent Change Of Station Or Unit Transfer Based On Humanitarian Conditions For Victim Of Sexual Assault Or Related Offense	(a) (b)	In Force/ Amended	-
74.	Sec. 583, Director Of Sexual Assault Prevention And Response Office	No subsections, see NDAA text.	In Force	-
75.	Sec. 584, Sexual Assault Response Coordinators And Sexual Assault Victim Advocates	(a)	In Force/ Amended	-
76.	Sec. 584, Sexual Assault Response Coordinators And Sexual Assault Victim Advocates	(b)	In Force	-
77.	Sec. 584, Sexual Assault Response Coordinators And Sexual Assault Victim Advocates	(c)	In Force	-
78.	Sec. 585, Training And Education Programs For Sexual Assault Prevention And Response Program	(a)	In Force	-
79.	Sec. 585, Training And Education Programs For Sexual Assault Prevention And Response Program	(b)	In Force	-
80.	Sec. 585, Training And Education Programs For Sexual Assault Prevention And Response Program	(c)	In Force	-
81.	Sec. 586, Department Of Defense Policy And Procedures On Retention And Access To Evidence And Records Relating To Sexual Assaults Involving Members Of The Armed Forces	(a) (b) (c) (d)	In Force	-

**Appendix III: Sexual Assault Prevention and  
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Authorization Acts, 2004–2019**

<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
82.	Sec. 586, Department Of Defense Policy And Procedures On Retention And Access To Evidence And Records Relating To Sexual Assaults Involving Members Of The Armed Forces	(e)	In Force	-
<b>NDAAs for Fiscal Year 2013 (Public Law 112–239, Jan. 2, 2013)</b>				
83.	Sec. 523, Prohibition On Waiver For Commissioning Or Enlistment In The Armed Forces For Any Individual Convicted Of A Felony Sexual Offense	No subsections, see NDAAs text.	Repealed	12/26/2013
84.	Sec. 532, Additional Information In Reports On Annual Surveys Of The Committee On The Uniform Code Of Military Justice	See requirement within amendment made by this section to 10 U.S.C. §§ 946a(b)(3)(A) and (B)	In Force / Amended	-
85.	Sec. 570, Armed Forces Workplace And Gender Relations Surveys	(a)	In Force/ Amended	-
86.	Sec. 570, Armed Forces Workplace And Gender Relations Surveys	(b)	In Force/ Amended	-
87.	Sec. 571, Authority To Retain Or Recall To Active Duty Reserve Component Members Who Are Victims Of Sexual Assault While On Active Duty	See requirements within amendment made by (a) to 10 U.S.C. § 12323 (a)-(c)	In Force	-
88.	Sec. 572, Additional Elements In Comprehensive Department Of Defense Policy On Sexual Assault Prevention And Response	(a) (b)	In Force	-
89.	Sec. 573, Establishment Of Special Victim Capabilities Within The Military Departments To Respond To Allegations Of Certain Special Victim Offenses	(a) (b) (c) (d) (e)	In Force	-
90.	Sec. 573, Establishment Of Special Victim Capabilities Within The Military Departments To Respond To Allegations Of Certain Special Victim Offenses	(f)	Expired	7/1/2013
91.	Sec. 574, Enhancement To Training And Education For Sexual Assault Prevention And Response	No subsections, see NDAAs text.	In Force	-
92.	Sec. 575, Modification Of Annual Department Of Defense Reporting Requirements Regarding Sexual Assaults	(a) (b) (c)	Expired	3/1/2021
93.	Sec. 576, Independent Reviews And Assessments Of Uniform Code Of Military Justice And Judicial Proceedings Of Sexual Assault Cases	(a) (b) (c) (d) (e) (f) - as related to Response Systems Panel	Expired	6/27/2014

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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
94.	Sec. 576, Independent Reviews And Assessments Of Uniform Code Of Military Justice And Judicial Proceedings Of Sexual Assault Cases	(a) (b) (c) (d) (e) (f) - as related to Judicial Proceedings Panel	Expired	9/30/2017
95.	Sec. 577, Retention Of Certain Forms In Connection With Restricted Reports On Sexual Assault At Request Of The Member Of The Armed Forces Making The Report	(a) (b)	In Force/ Amended	-
96.	Sec. 578, General Or Flag Officer Review Of And Concurrence In Separation Of Members Of The Armed Forces Making An Unrestricted Report Of Sexual Assault	(a) (b) (c)* (d)	In Force	-
97.	Sec. 579, Department Of Defense Policy And Plan For Prevention And Response To Sexual Harassment In The Armed Forces	(a)(1), (a)(2)*	In Force	-
98.	Sec. 579, Department Of Defense Policy And Plan For Prevention And Response To Sexual Harassment In The Armed Forces	(b)(1), (b)(2)	Expired	6/1/2013
99.	Sec. 579, Department Of Defense Policy And Plan For Prevention And Response To Sexual Harassment In The Armed Forces	(b)(3)	Expired	12/26/2013
100.	Sec. 704, Use Of Department Of Defense Funds For Abortions In Cases Of Rape And Incest	No subsections, see NDAA text.	In Force	-
<b>NDAAs for Fiscal Year 2014 (Public Law 113-66, Dec. 26, 2013)</b>				
101.	Sec. 587, Improved Climate Assessments And Dissemination Of Results	(a)	In Force	-
102.	Sec. 587, Improved Climate Assessments And Dissemination Of Results	(b)	In Force	-
103.	Sec. 587, Improved Climate Assessments And Dissemination Of Results	(c)	In Force	-
104.	Sec. 1701, Extension Of Crime Victims' Rights To Victims Of Offenses Under The Uniform Code Of Military Justice	(a)	In Force / Amended	-
105.	Sec. 1701, Extension Of Crime Victims' Rights To Victims Of Offenses Under The Uniform Code Of Military Justice	(b)	Expired	1/2/2014
106.	Sec. 1703, Elimination Of Five-Year Statute Of Limitations On Trial By Court-Martial For Additional Offenses Involving Sex-Related Crimes	(a) (b) (c)	In Force	-
107.	Sec. 1704, Defense Counsel Interview Of Victim Of An Alleged Sex-Related Offense In Presence Of Trial Counsel, Counsel For The Victim, Or A Sexual Assault Victim Advocate	No subsections, see NDAA text.	In Force / Amended	-
108.	Sec. 1705, Discharge Or Dismissal For Certain Sex-Related Offenses And Trial Of Such Offenses By General Courts-Martial	(a) (b) (c)	In Force / Amended	-

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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
109.	Sec. 1706, Participation By Victim In Clemency Phase Of Courts-Martial Process	(a) (c)	In Force / Amended	-
110.	Sec. 1706, Participation By Victim In Clemency Phase Of Courts-Martial Process	(b)	In Force / Amended	-
111.	Sec. 1707, Repeal Of The Offense Of Consensual Sodomy Under The Uniform Code Of Military Justice	(a) (b)	In Force / Amended	-
112.	Sec. 1708, Modification Of Manual For Courts-Martial To Eliminate Factor Relating To Character And Military Service Of The Accused In Rule On Initial Disposition Of Offenses	No subsections, see NDAAs text.	In Force	-
113.	Sec. 1709, Prohibition Of Retaliation Against Members Of The Armed Forces For Reporting A Criminal Offense	(a) (b)	In Force	-
114.	Sec. 1709, Prohibition Of Retaliation Against Members Of The Armed Forces For Reporting A Criminal Offense	(c)	Expired	6/24/2014
115.	Sec. 1711, Prohibition On Service In The Armed Forces By Individuals Who Have Been Convicted Of Certain Sexual Offenses	(a) (b)	In Force	-
116.	Sec. 1712, Issuance Of Regulations Applicable To The Coast Guard Regarding Consideration Of Request For Permanent Change Of Station Or Unit Transfer By Victim Of Sexual Assault	No subsections, see NDAAs text.	In Force	-
117.	Sec. 1713, Temporary Administrative Reassignment Or Removal Of A Member Of The Armed Forces On Active Duty Who Is Accused Of Committing A Sexual Assault Or Related Offense	(a) (b)	In Force / Amended	-
118.	Sec. 1713, Temporary Administrative Reassignment Or Removal Of A Member Of The Armed Forces On Active Duty Who Is Accused Of Committing A Sexual Assault Or Related Offense	(c)	In Force	-
119.	Sec. 1714, Expansion And Enhancement Of Authorities Relating To Protected Communications Of Members Of The Armed Forces And Prohibited Retaliatory Actions	(a) (b) (c) (d) (e) (f)	In Force / Amended	-
120.	Sec. 1715, Inspector General Investigation Of Allegations Of Retaliatory Personnel Actions Taken In Response To Making Protected Communications Regarding Sexual Assault	No subsections, see NDAAs text.	In Force / Amended	-
121.	Sec. 1716, Designation And Availability Of Special Victims' Counsel For Victims Of Sex-Related Offenses	See requirements within the amendment made by (a)(1) to 10 U.S.C. § 1044e(a)-(d) and (h)	In Force / Amended	-

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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
122.	Sec. 1716, Designation And Availability Of Special Victims' Counsel For Victims Of Sex-Related Offenses	See requirements within the amendment made by (a)(1) to 10 U.S.C. § 1044e(e) and (h)	In Force / Amended	-
123.	Sec. 1716, Designation And Availability Of Special Victims' Counsel For Victims Of Sex-Related Offenses	See requirements within the amendment made by (a)(1) to 10 U.S.C. § 1044e(f) and (h)	In Force / Amended	-
124.	Sec. 1716, Designation And Availability Of Special Victims' Counsel For Victims Of Sex-Related Offenses	(a)(2)	In Force	-
125.	Sec. 1716, Designation And Availability Of Special Victims' Counsel For Victims Of Sex-Related Offenses	(b)	In Force	-
126.	Sec. 1716, Designation And Availability Of Special Victims' Counsel For Victims Of Sex-Related Offenses	(c)	Expired	3/26/2014
127.	Sec. 1721, Tracking Of Compliance Of Commanding Officers In Conducting Organizational Climate Assessments For Purposes Of Preventing And Responding To Sexual Assaults	No subsections, see NDAA text.	In Force	-
128.	Sec. 1722, Advancement Of Submittal Deadline For Report Of Independent Panel On Assessment Of Military Response Systems To Sexual Assault	No subsections, see NDAA text.	Expired	6/27/2014
129.	Sec. 1723, Retention Of Certain Forms In Connection With Restricted Reports And Unrestricted Reports On Sexual Assault Involving Members Of The Armed Forces	(a) (b)	In Force	-
130.	Sec. 1724, Timely Access To Sexual Assault Response Coordinators By Members Of The National Guard And Reserves	No subsections, see NDAA text.	In Force	-
131.	Sec. 1725, Qualifications And Selection Of Department Of Defense Sexual Assault Prevention And Response Personnel And Required Availability Of Sexual Assault Nurse Examiners	(a)	In Force	-
132.	Sec. 1725, Qualifications And Selection Of Department Of Defense Sexual Assault Prevention And Response Personnel And Required Availability Of Sexual Assault Nurse Examiners	(b)	In Force/ Amended	-
133.	Sec. 1725, Qualifications And Selection Of Department Of Defense Sexual Assault Prevention And Response Personnel And Required Availability Of Sexual Assault Nurse Examiners	(c)	Expired	4/25/2014



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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
134.	Sec. 1726, Additional Responsibilities Of Sexual Assault Prevention And Response Office For Department Of Defense Sexual Assault Prevention And Response Program	(a) (b)	In Force	-
135.	Sec. 1731, Independent Reviews And Assessments Of Uniform Code Of Military Justice And Judicial Proceedings Of Sexual Assault Cases	(a)	Expired	6/27/2014
136.	Sec. 1731, Independent Reviews And Assessments Of Uniform Code Of Military Justice And Judicial Proceedings Of Sexual Assault Cases	(b)	Expired	9/30/2017
137.	Sec. 1732, Review And Policy Regarding Department Of Defense Investigative Practices In Response To Allegations Of Uniform Code Of Military Justice Violations	(a)	Expired	6/24/2014
138.	Sec. 1732, Review And Policy Regarding Department Of Defense Investigative Practices In Response To Allegations Of Uniform Code Of Military Justice Violations	(b)	In Force	-
139.	Sec. 1733, Review Of Training And Education Provided Members Of The Armed Forces On Sexual Assault Prevention And Response	(a) (b) (c)	Expired	4/25/2014
140.	Sec. 1734, Report On Implementation Of Department Of Defense Policy On The Retention Of And Access To Evidence And Records Relating To Sexual Assaults Involving Members Of The Armed Forces	(a) (b)	Expired	6/24/2014
141.	Sec. 1735, Review Of The Office Of Diversity Management And Equal Opportunity Role In Sexual Harassment Cases	(a) (b)	Expired	12/19/2014
142.	Sec. 1741, Enhanced Protections For Prospective Members And New Members Of The Armed Forces During Entry-Level Processing And Training	(a) (b) (c) (f)	In Force	-
143.	Sec. 1741, Enhanced Protections For Prospective Members And New Members Of The Armed Forces During Entry-Level Processing And Training	(d)	Expired	4/25/2014
144.	Sec. 1742, Commanding Officer Action On Reports On Sexual Offenses Involving Members Of The Armed Forces	(a) (b)	In Force	-
145.	Sec. 1743, Eight-Day Incident Reporting Requirement In Response To Unrestricted Report Of Sexual Assault In Which The Victim Is A Member Of The Armed Forces	(a) (b) (c) (d)	In Force	-
146.	Sec. 1744, Review Of Decisions Not To Refer Charges Of Certain Sex-Related Offenses For Trial By Court-Martial	(a) (c) (d) (e)	In Force/ Amended	-
147.	Sec. 1744, Review Of Decisions Not To Refer Charges Of Certain Sex-Related Offenses For Trial By Court-Martial	(f)	In Force	-
148.	Sec. 1744, Review Of Decisions Not To Refer Charges Of Certain Sex-Related Offenses For Trial By Court-Martial	(g)	In Force	-

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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
149.	Sec. 1745, Inclusion And Command Review Of Information On Sex-Related Offenses In Personnel Service Records Of Members Of The Armed Forces	(a) (b) (c)	In Force	-
150.	Sec. 1745, Inclusion And Command Review Of Information On Sex-Related Offenses In Personnel Service Records Of Members Of The Armed Forces	(d)	In Force	-
151.	Sec. 1746, Prevention Of Sexual Assault At Military Service Academies	No subsections, see NDAA text.	In Force	-
152.	Sec. 1747, Required Notification Whenever Members Of The Armed Forces Are Completing Standard Form 86 Of The Questionnaire For National Security Positions	(a) (b)	In Force	-
<b>Carl Levin And Howard P. “Buck” McKeon NDAA for Fiscal Year 2015 (Public Law 113-291, Dec. 19, 2014)</b>				
153.	Sec. 508, Required Consideration Of Certain Elements Of Command Climate In Performance Appraisals Of Commanding Officers	No subsections, see NDAA text.	In Force	-
154.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(a)	In Force/ Amended	-
155.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(b)	In Force / Amended	-
156.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(c)	In Force	-
157.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(d)	In Force	-
158.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(e)	In Force	-
159.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(f)	In Force/ Amended	-
160.	Sec. 531, Technical Revisions And Clarifications Of Certain Provisions In The National Defense Authorization Act For Fiscal Year 2014 Relating To The Military Justice System	(g)	In Force	-
161.	Sec. 533, Access To Special Victims’ Counsel	(a) (b)	In Force	-
162.	Sec. 534, Enhancement Of Victims’ Rights In Connection With Prosecution Of Certain Sex-Related Offenses	(a)	In Force	-
163.	Sec. 534, Enhancement Of Victims’ Rights In Connection With Prosecution Of Certain Sex-Related Offenses	(b)	In Force	-
164.	Sec. 534, Enhancement Of Victims’ Rights In Connection With Prosecution Of Certain Sex-Related Offenses	(c)	In Force	-

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<b>GAO assigned statutory requirement number</b>	<b>NDAA section number and title</b>	<b>NDAA subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
165.	Sec. 534, Enhancement Of Victims' Rights In Connection With Prosecution Of Certain Sex-Related Offenses	(d)	In Force	-
166.	Sec. 535, Enforcement Of Crime Victims' Rights Related To Protections Afforded By Certain Military Rules Of Evidence	No subsections, see NDAA text.	In Force/ Amended	-
167.	Sec. 536, Modification Of Military Rules Of Evidence Relating To Admissibility Of General Military Character Toward Probability Of Innocence	(a) (b)	In Force	-
168.	Sec. 538, Modification Of Department Of Defense Policy On Retention Of Evidence In A Sexual Assault Case To Permit Return Of Personal Property Upon Completion Of Related Proceedings	No subsections, see NDAA text.	In Force	-
169.	Sec. 539, Requirements Relating To Sexual Assault Forensic Examiners For The Armed Forces	(a)	In Force	-
170.	Sec. 539, Requirements Relating To Sexual Assault Forensic Examiners For The Armed Forces	(b)(1) (b)(2) (b)(3)	In Force	-
171.	Sec. 539, Requirements Relating To Sexual Assault Forensic Examiners For The Armed Forces	(b)(4)	In Force	-
172.	Sec. 539, Requirements Relating To Sexual Assault Forensic Examiners For The Armed Forces	(c)	Expired	4/18/2015
173.	Sec. 539, Requirements Relating To Sexual Assault Forensic Examiners For The Armed Forces	(d)	In Force	-
174.	Sec. 541, Review Of Decisions Not To Refer Charges Of Certain Sex-Related Offenses For Trial By Court-Martial If Requested By Chief Prosecutor	No subsections, see NDAA text.	In Force	-
175.	Sec. 542, Analysis And Assessment Of Disposition Of Most Serious Offenses Identified In Unrestricted Reports On Sexual Assaults In Annual Reports On Sexual Assaults In The Armed Forces	(a) (b) (c)	Expired	3/1/2021
176.	Sec. 543, Plan For Limited Use Of Certain Information On Sexual Assaults In Restricted Reports By Military Criminal Investigative Organizations	(a) (b)	Expired	12/19/2015
177.	Sec. 545, Additional Duties For Judicial Proceedings Panel	(a) (b)	Expired	9/30/2017
178.	Sec. 546, Defense Advisory Committee On Investigation, Prosecution, And Defense Of Sexual Assault In The Armed Forces	(a) (b) (c) (e)	In Force	-
179.	Sec. 546, Defense Advisory Committee On Investigation, Prosecution, And Defense Of Sexual Assault In The Armed Forces	(d)	In Force	-
180.	Sec. 546, Defense Advisory Committee On Investigation, Prosecution, And Defense Of Sexual Assault In The Armed Forces	(f)	Expired	09/30/2017

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<b>GAO assigned statutory requirement number</b>	<b>NDAAs section number and title</b>	<b>NDAAs subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
181.	Sec. 547, Confidential Review Of Characterization Of Terms Of Discharge Of Members Of The Armed Forces Who Are Victims Of Sexual Offenses	(a) (b) (c)	Repealed	12/12/2017
182.	Sec. 552, Applicability Of Sexual Assault Prevention And Response And Related Military Justice Enhancements To Military Service Academies	(a)	In Force	-
183.	Sec. 552, Applicability Of Sexual Assault Prevention And Response And Related Military Justice Enhancements To Military Service Academies	(b)	In Force	-
184.	Sec. 585, Deadline For Submission Of Report Containing Results Of Review Of Office Of Diversity Management And Equal Opportunity Role In Sexual Harassment Cases	No subsections, see NDAA text.	Expired	4/1/2015
<b>NDAAs for Fiscal Year 2016 (Public Law 114-92, Nov. 25, 2015)</b>				
185.	Sec. 531, Enforcement Of Certain Crime Victim Rights By The Court Of Criminal Appeals	No subsections, see NDAA text.	In Force/ Amended	-
186.	Sec. 532, Department Of Defense Civilian Employee Access To Special Victims' Counsel	No subsections, see NDAA text.	In Force	-
187.	Sec. 533, Authority Of Special Victims' Counsel To Provide Legal Consultation And Assistance In Connection With Various Government Proceedings	No subsections, see NDAA text.	In Force	-
188.	Sec. 534, Timely Notification To Victims Of Sex-Related Offenses Of The Availability Of Assistance From Special Victims' Counsel	(a) (b)	In Force	-
189.	Sec. 535, Additional Improvements To Special Victims' Counsel Program	(a)	In Force	-
190.	Sec. 535, Additional Improvements To Special Victims' Counsel Program	(b) (c)	In Force	-
191.	Sec. 536, Enhancement Of Confidentiality Of Restricted Reporting Of Sexual Assault In The Military	(a) (b)	In Force	-
192.	Sec. 537, Modification Of Deadline For Establishment Of Defense Advisory Committee On Investigation, Prosecution, And Defense Of Sexual Assault In The Armed Forces	No subsections, see NDAA text.	Expired	2/23/2016
193.	Sec. 538, Improved Department Of Defense Prevention And Response To Sexual Assaults In Which The Victim Is A Male Member Of The Armed Forces	(a) (b)	In Force	-
194.	Sec. 539, Preventing Retaliation Against Members Of The Armed Forces Who Report Or Intervene On Behalf Of The Victim Of An Alleged Sex-Related Offense	(a) (b) (c)	In Force	-
195.	Sec. 540, Sexual Assault Prevention And Response Training For Administrators And Instructors Of Senior Reserve Officers' Training Corps	No subsections, see NDAA text.	In Force	-

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<b>GAO assigned statutory requirement number</b>	<b>NDAA section number and title</b>	<b>NDAA subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
196.	Sec. 541, Retention Of Case Notes In Investigations Of Sex-Related Offenses Involving Members Of The Army, Navy, Air Force, Or Marine Corps	(a) (b) (c) (d)	In Force	-
197.	Sec. 544, Modification Of Rule 104 Of The Rules For Courts-Martial To Establish Certain Prohibitions Concerning Evaluations Of Special Victims' Counsel	No subsections, see NDAA text.	In Force	-
<b>NDAA for Fiscal Year 2017 (Public Law 114-328, Dec. 23, 2016)</b>				
198.	Sec. 524, Medical Examination Before Administrative Separation For Members With Post-Traumatic Stress Disorder Or Traumatic Brain Injury In Connection With Sexual Assault	No subsections, see NDAA text.	In Force	-
199.	Sec. 535, Treatment By Discharge Review Boards Of Claims Asserting Post-Traumatic Stress Disorder Or Traumatic Brain Injury In Connection With Combat Or Sexual Trauma As A Basis For Review Of Discharge.	No subsections, see NDAA text.	In Force	-
200.	Sec. 543, Inclusion In Annual Reports On Sexual Assault Prevention And Response Efforts Of The Armed Forces Of Information On Complaints Of Retaliation In Connection With Reports Of Sexual Assault In The Armed Forces	No subsections, see NDAA text.	Expired	3/1/2021
201.	Sec. 544, Extension Of The Requirement For Annual Report Regarding Sexual Assaults And Coordination With Release Of Family Advocacy Program Report	No subsections, see NDAA text.	Expired	3/1/2021
202.	Sec. 545, Metrics For Evaluating The Efforts Of The Armed Forces To Prevent And Respond To Retaliation In Connection With Reports Of Sexual Assault In The Armed Forces	(a)	In Force	-
203.	Sec. 545, Metrics For Evaluating The Efforts Of The Armed Forces To Prevent And Respond To Retaliation In Connection With Reports Of Sexual Assault In The Armed Forces	(b)	In Force	-
204.	Sec. 546, Training For Department Of Defense Personnel Who Investigate Claims Of Retaliation	(a) (b)	In Force/ Amended	-
205.	Sec. 547, Notification To Complainants Of Resolution Of Investigations Into Retaliation	(a)	In Force	-
206.	Sec. 548, Modification Of Definition Of Sexual Harassment For Purposes Of Investigations By Commanding Officers Of Complaints Of Harassment	(a) (b)	In Force	-
207.	Sec. 574, Requirement For Annual Family Advocacy Program Report Regarding Child Abuse And Domestic Violence	(a) (b) (c)	Expired	4/30/2021
208.	Sec. 5105, Rights Of Victim	(c)	In Force	-
209.	Sec. 5162, Jurisdiction Of General Courts-Martial	No subsections, see NDAA text.	In Force	-

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210.	Sec. 5301, Sentencing	(a) (b)	In Force	-
211.	Sec. 5322, Limited Authority To Act On Sentence In Specified Post-Trial Circumstances	No subsections, see NDAA text.	In Force	-
212.	Sec. 5410, Prohibited Activities With Military Recruit Or Trainee By Person In Position Of Special Trust	No subsections, see NDAA text.	In Force	-
213.	Sec. 5430, Rape And Sexual Assault Offenses	(a) (b) (c)	In Force	-
214.	Sec. 5522, Annual Reports	See requirement within amendment made by this section to 10 U.S.C. §§ 946a(b)(3)(A) and (B)	In Force	-
<b>NDAA for Fiscal Year 2018 (Public Law 115-91, Dec. 12, 2017)</b>				
215.	Sec. 520, Consideration Of Additional Medical Evidence By Boards For The Correction Of Military Records And Liberal Consideration Of Evidence Relating To Post-Traumatic Stress Disorder Or Traumatic Brain Injury	(a) (b)	In Force	-
216.	Sec. 521, Public Availability Of Information Related To Disposition Of Claims Regarding Discharge Or Release Of Members Of The Armed Forces When The Claims Involve Sexual Assault	(a)	In Force	-
217.	Sec. 521, Public Availability Of Information Related To Disposition Of Claims Regarding Discharge Or Release Of Members Of The Armed Forces When The Claims Involve Sexual Assault	(b)	In Force	-
218.	Sec. 521, Public Availability Of Information Related To Disposition Of Claims Regarding Discharge Or Release Of Members Of The Armed Forces When The Claims Involve Sexual Assault	(c)	In Force	-
219.	Sec. 522, Confidential Review Of Characterization Of Terms Of Discharge Of Members Who Are Victims Of Sex-Related Offenses	(a)	In Force	-
220.	Sec. 522, Confidential Review Of Characterization Of Terms Of Discharge Of Members Who Are Victims Of Sex-Related Offenses	(b)	In Force	-
221.	Sec. 522, Confidential Review Of Characterization Of Terms Of Discharge Of Members Who Are Victims Of Sex-Related Offenses	(c)	In Force	-
222.	Sec. 523, Training Requirements For Members Of Boards For The Correction Of Military Records And Personnel Who Investigate Claims Of Retaliation	(a)	In Force	-

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<b>GAO assigned statutory requirement number</b>	<b>NDAA section number and title</b>	<b>NDAA subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
223.	Sec. 523, Training Requirements For Members Of Boards For The Correction Of Military Records And Personnel Who Investigate Claims Of Retaliation	(b)	In Force	-
224.	Sec. 533, Punitive Article Under The Uniform Code Of Military Justice On Wrongful Broadcast Or Distribution Of Intimate Visual Images Or Visual Images Of Sexually Explicit Conduct	(a)	In Force	-
225.	Sec. 533, Punitive Article Under The Uniform Code Of Military Justice On Wrongful Broadcast Or Distribution Of Intimate Visual Images Or Visual Images Of Sexually Explicit Conduct	(b)	In Force	-
226.	Sec. 534, Garnishment To Satisfy Judgment Rendered For Physically, Sexually, Or Emotionally Abusing A Child	(a) (b)	In Force	-
227.	Sec. 535, Sexual Assault Prevention And Response Training For All Individuals Enlisted In The Armed Forces Under A Delayed Entry Program	(a) (b)	In Force	-
228.	Sec. 536, Special Victims' Counsel Training Regarding The Unique Challenges Often Faced By Male Victims Of Sexual Assault	No subsections, see NDAA text.	In Force	-
229.	Sec. 537, Inclusion Of Information In Annual SAPRO Reports Regarding Military Sexual Harassment And Incidents Involving Nonconsensual Distribution Of Private Sexual Images	(a) (b)	Expired	3/1/2021
230.	Sec. 538, Inclusion Of Information In Annual SAPRO Reports Regarding Sexual Assaults Committed By A Member Of The Armed Forces Against The Member's Spouse Or Other Family Member	No subsections, see NDAA text.	Expired	3/1/2021
231.	Sec. 707, Expansion Of Sexual Trauma Counseling And Treatment For Members Of The Reserve Components	No subsections, see NDAA text.	In Force/ Amended	-
232.	Sec. 3506, Report On Sexual Assault Victim Recovery In The Coast Guard	(a) (b)	Expired	6/10/2018
<b>John S. McCain NDAA for Fiscal Year 2019 (Public Law 115-232, Aug. 13, 2018)</b>				
233.	Sec. 533, Authorities Of Defense Advisory Committee On Investigation, Prosecution, And Defense Of Sexual Assault In The Armed Forces	No subsections, see NDAA text.	In Force	-
234.	Sec. 535, Uniform Command Action Form On Disposition Of Unrestricted Sexual Assault Cases Involving Members Of The Armed Forces	No subsections, see NDAA text.	In Force	-
235.	Sec. 536, Standardization Of Policies Related To Expedited Transfer In Cases Of Sexual Assault Or Domestic Violence	(a)(1)	In Force	-
236.	Sec. 536, Standardization Of Policies Related To Expedited Transfer In Cases Of Sexual Assault Or Domestic Violence	(b)	In Force	-

**Appendix III: Sexual Assault Prevention and Response Requirements in National Defense Authorization Acts, 2004–2019**

<b>GAO assigned statutory requirement number</b>	<b>NDAA section number and title</b>	<b>NDAA subsection(s) or paragraph(s)</b>	<b>Status of statutory requirement<sup>a</sup></b>	<b>Statutory requirement repeal or expiration date</b>
237.	Sec. 542, Security Clearance Reinvestigation Of Certain Personnel Who Commit Certain Offenses	No subsections, see NDAA text.	In Force	-
238.	Sec. 543, Development Of Oversight Plan For Implementation Of Department Of Defense Harassment Prevention And Response Policy	(a) (b) (c)	Expired	7/1/2019
239.	Sec. 544, Oversight Of Registered Sex Offender Management Program	(a) (b)	In Force	-
240.	Sec. 544, Oversight Of Registered Sex Offender Management Program	(c)	Expired	6/1/2019
241.	Sec. 545, Development Of Resource Guides Regarding Sexual Assault For The Military Service Academies	(a) (b) (c)	In Force	-
242.	Sec. 547, Report On Victims Of Sexual Assault In Reports Of Military Criminal Investigative Organizations	(a)	In Force/ Amended	-
243.	Sec. 562, Department Of Defense Education Activity Policies And Procedures On Sexual Harassment Of Students Of Activity Schools	(a)	In Force	-
244.	Sec. 562, Department Of Defense Education Activity Policies And Procedures On Sexual Harassment Of Students Of Activity Schools	(b) (c)	In Force	-
245.	Sec. 702, Pilot Program On Treatment Of Members Of The Armed Forces For Post-Traumatic Stress Disorder Related To Military Sexual Trauma	(a) (b) (c) (e) (f)	In Force	-
246.	Sec. 702, Pilot Program On Treatment Of Members Of The Armed Forces For Post-Traumatic Stress Disorder Related To Military Sexual Trauma	(d)	In Force	-
247.	Sec. 1089, Policy On Response To Juvenile-On-Juvenile Problematic Sexual Behavior Committed On Military Installations	(a) (b)	In Force	-
248.	Sec. 3521, Alignment With Department Of Defense And Sea Services Authorities	(a)(1)	Expired	8/26/2018
249.	Sec. 3521, Alignment With Department Of Defense And Sea Services Authorities	(a)(2)	In Force / Amended	-

Source: GAO analysis of NDAAAs for fiscal years 2004 through 2019. | GAO-22-103973

Note: We determined that a requirement was “in force” if some part of it was ongoing, even if other sub-section(s) or paragraph(s) had expired or been repealed: in those instances, an asterisk is used to denote what sub-section(s) or paragraph(s) of a requirement have expired or been repealed. The NDAA for Fiscal Year 2022 was enacted in late December, 2021, in the final stages of processing this report. We were unable to analyze the new statute before finalizing the report, so it does not account for new changes that might otherwise impact the information presented here.

<sup>a</sup>Expired is a designation for a requirement that has fully passed its expiration date or date of validity. Repealed is a designation for a requirement that has been fully revoked or annulled by later legislation. In force is a designation for a requirement that has not expired or been repealed. In force / Amended is a subset of “in force” requirements that have been changed by later legislation.



# Appendix IV: Sexual Assault Prevention and Response Sections in National Defense Authorization Acts, Fiscal Years 2020–2021

This appendix contains a list of sections in the Fiscal Year 2020 and 2021 National Defense Authorization Acts (NDAA) related to sexual assault prevention and response.<sup>1</sup> These sections cover a number of different areas, such as efforts to provide support to victims of sexual assault and to establish prevention-focused entities, policies, and programs at the Department of Defense and the Coast Guard.

**Table 3: National Defense Authorization Act (NDAA) Sections Concerning Sexual Assault Prevention and Response for Fiscal Years 2020 and 2021**

Section number	Title
<b>NDAA for Fiscal Year 2020 (Public Law 116–92, Dec. 20, 2019)</b>	
521	Advice And Counsel Of Trauma Experts In Review By Boards For Correction Of Military Records And Discharge Review Boards Of Certain Claims
525	Training Of Members Of Boards For Correction Of Military Records And Discharge Review Boards On Sexual Trauma, Intimate Partner Violence, Spousal Abuse, And Related Matters
534	Public Access To Dockets, Filings, And Court Records Of Courts-Martial Or Other Records Of Trial Of The Military Justice System
535	Extension Of Defense Advisory Committee On Investigation, Prosecution, And Defense Of Sexual Assault In The Armed Forces
536	Authority For Return Of Personal Property To Victims Of Sexual Assault Who File A Restricted Report Before Conclusion Of Related Proceedings
538	Notification Of Significant Events And Documentation Of Preference For Prosecution Jurisdiction For Victims Of Sexual Assault
540	Increase In Investigative Personnel And Victim Witness Assistance Program Liaisons
540A	Training For Sexual Assault Initial Disposition Authorities On Exercise Of Disposition Authority For Sexual Assault And Collateral Offenses
540B	Training For Commanders In The Armed Forces On Their Role In All Stages Of Military Justice In Connection With Sexual Assault
540C	Timely Disposition Of Nonprosecutable Sex-Related Offenses
540D	Department Of Defense-Wide Policy And Military Department-Specific Programs On Reinvigoration Of The Prevention Of Sexual Assault Involving Members Of The Armed Forces
540E	Recommendations On Separate Punitive Article In The Uniform Code Of Military Justice On Sexual Harassment
540H	Report On Expansion Of Air Force Safe To Report Policy Across The Armed Forces
540I	Assessment Of Racial, Ethnic, And Gender Disparities In The Military Justice System
540K	Report On Preservation Of Recourse To Restricted Report On Sexual Assault For Victims Of Sexual Assault Following Certain Victim Or Third-Party Communications
541	Improvement Of Certain Special Victims' Counsel Authorities

<sup>1</sup>The NDAA for Fiscal Year 2022 was enacted in late December, 2021, in the final stages of processing this report. We were unable to analyze the new statute before finalizing the report, so it does not account for new changes that might otherwise impact the information presented here.

**Appendix IV: Sexual Assault Prevention and  
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Section number	Title
542	Availability Of Special Victims' Counsel At Military Installations
549	Notice To Victims Of Alleged Sexual Assault Of Pendency Of Further Administrative Action Following A Determination Not To Refer To Trial By Court-Martial
550	Treatment Of Information In Catch A Serial Offender Program For Certain Purposes
550B	Defense Advisory Committee For The Prevention Of Sexual Misconduct
550C	Training For Special Victims' Counsel On Civilian Criminal Justice Matters In The States Of The Military Installations To Which Assigned
555	Consideration Of Request For Transfer Of A Cadet Or Midshipman At A Military Service Academy Who Is The Victim Of A Sexual Assault Or Related Offense
570A	Limitations And Requirements In Connection With Separations For Members Of The Armed Forces Who Suffer From Mental Health Conditions In Connection With A Sex-Related, Intimate Partner Violence-Related, Or Spousal-Abuse Offense
591	Clarification Of The Term "Assault" For Purposes Of Workplace And Gender Relations Surveys
599	Information For Members Of The Armed Forces On Availability Of Services Of The Department Of Veterans Affairs Relating To Sexual Trauma
718	Comprehensive Policy For Provision Of Mental Health Care To Members Of The Armed Forces
<b>NDA for Fiscal Year 2021 (Public Law 116–283, Jan. 1, 2021)</b>	
531	Modification Of Time Required For Expedited Decisions In Connection With Applications For Change Of Station Or Unit Transfer Of Members Who Are Victims Of Sexual Assault Or Related Offenses
532	Confidential Reporting Of Sexual Harassment
533	Additional Bases For Provision Of Advice By The Defense Advisory Committee For The Prevention Of Sexual Misconduct
534	Additional Matters For 2021 Report Of The Defense Advisory Committee For The Prevention Of Sexual Misconduct
535	Inclusion Of Advisory Duties On The Coast Guard Academy Among Duties Of Defense Advisory Committee For The Prevention Of Sexual Misconduct
536	Modification Of Reporting And Data Collection On Victims Of Sexual Offenses
537	Modification Of Annual Report Regarding Sexual Assaults Involving Members Of The Armed Forces
538	Coordination Of Support For Survivors Of Sexual Trauma
539	Policy For Military Service Academies On Separation Of Alleged Victims And Alleged Perpetrators In Incidents Of Sexual Assault
539A	Safe-To-Report Policy Applicable Across The Armed Forces
539B	Accountability Of Leadership Of The Department Of Defense For Discharging The Sexual Harassment Policies And Programs Of The Department
539C	Reports On Status Of Investigations Of Alleged Sex-Related Offenses
539D	Report On Ability Of Sexual Assault Response Coordinators And Sexual Assault Prevention And Response Victim Advocates To Perform Duties
539E	Briefing On Special Victims' Counsel Program
539F	Briefing On Placement Of Members Of The Armed Forces In Academic Status Who Are Victims Of Sexual Assault Onto Non-Rated Periods

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**Appendix IV: Sexual Assault Prevention and  
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<b>Section number</b>	<b>Title</b>
549B	Improvements To Department Of Defense Tracking Of And Response To Incidents Of Child Abuse, Adult Crimes Against Children, And Serious Harmful Behavior Between Children And Youth Involving Military Dependents On Military Installations
549C	Independent Analysis And Recommendations On Domestic Violence In The Armed Forces
8282	Expedited Transfer In Cases Of Sexual Assault; Dependents Of Members Of The Coast Guard

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Source: GAO analysis of NDAAAs for fiscal years 2020 and 2021. | GAO-22-103973

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# Appendix V: Sexual Assault Prevention and Response Laws Pending Implementation by the Department of Defense

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This appendix contains a list of the seven statutory requirements related to sexual assault prevention and response that are pending implementation by the Department of Defense (DOD). Requirements that were determined to be pending had some or all elements that reasonably may not be implemented because the deadline for the requirement is at a future date or the efforts are still ongoing.<sup>1</sup>

- **Improve prevention and response to sexual assault for male victims.** Section 538 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 directed the Secretary of Defense, in collaboration with the Secretaries of the military departments, to develop a plan to improve DOD prevention and response to sexual assaults in which the victim is a male member of the armed forces.<sup>2</sup> This section codified recommendations we made in a 2015 report.<sup>3</sup> Our assessment of implementation and effectiveness found that, as of August 2018, DOD had identified steps it has taken or is taking to evaluate the extent to which differences exist in the medical and mental health-care needs of male and female sexual assault victims and the care regimen best suited to meet those needs in response to our recommendation.<sup>4</sup> In March 2020, DOD was still working to implement the remaining recommendations, such as developing a plan for data-driven decision making to prioritize its sexual assault prevention efforts pertaining to males who experience sexual assault and clear goals with associated metrics.

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<sup>1</sup>Statutory requirements were pending if at least one element (i.e., subsection or subparagraph) was still being implemented by DOD and this was substantiated through documentation, such as a draft policy. These included, for example, recent laws from 2019 where the deadline is at a future date and efforts are still ongoing, as well as GAO recommendations codified into law and that were pending implementation by DOD.

<sup>2</sup>National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, § 538 (2015): statutory requirement 193.

<sup>3</sup>GAO, *Military Personnel: Actions Needed to Address Sexual Assaults of Male Servicemembers*, [GAO-15-284](#) (Washington, D.C.: March 2015).

<sup>4</sup>Regarding an assessment of effectiveness, DOD took actions to implement our recommendation to systematically evaluate the extent to which differences exist in the medical and mental health-care needs of male and female sexual assault victims, and the care regimen, if any, that will best meet those needs. Specifically, DOD collaborated with the RAND Corporation to assess the needs of male sexual assault victims in the armed forces. RAND issued a report on this research in 2018. In addition, a study for the Defense Health Agency was completed in July 2018 of the patterns of health care utilization of service members who have experienced a sexual assault, and the analysis was conducted by gender among other factors.

- **DOD standardization of expedited transfer policies in cases of sexual assault or domestic violence.** Section 536 of the NDAA for Fiscal Year 2019 required the Secretary of Defense to modify all policies necessary to establish a standardized expedited transfer process for a member of the Army, Navy, Marine Corps, or Air Force who is the alleged victim of sexual assault, regardless of whether the case is handled under the SAPR program or the Family Advocacy Program.<sup>5</sup> DOD's current expedited transfer policy does not apply to victims covered under the Family Advocacy Program.<sup>6</sup> DOD officials stated they are in the process of reissuing DOD Instruction 6400.06, *Domestic Abuse Involving DOD Military and Certain Affiliated Personnel*, to include providing guidance on expedited transfers for servicemembers who are victims of sexual assault and whose cases are handled under the Family Advocacy Program.
- **DOD expansion of expedited transfer policies in cases of sexual assault or domestic violence.** Section 536 of the NDAA for Fiscal Year 2019 required the Secretary of Defense to establish a policy to allow the transfer of a member of the Army, Navy, Marine Corps, or Air Force whose dependent is the victim of a sexual assault perpetrated by a member of the armed forces who is not related to the victim.<sup>7</sup> While the DOD SAPR program has updated its policy in accordance with this requirement, the Family Advocacy Program policy is pending the reissuance of DOD Instruction 6400.06, as noted above.<sup>8</sup> Family Advocacy Program officials stated the reissuance will include providing guidance in accordance with this requirement.
- **Establish a uniform command action form to report final disposition of cases.** Section 535 of the NDAA for Fiscal Year 2019 directed the Secretary of Defense to establish a uniform command action form, applicable across the armed forces, for reporting the final disposition of cases of sexual assault.<sup>9</sup> DOD developed a Uniform

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<sup>5</sup>John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No 115-232, § 536(a)(1) (2018): statutory requirement 235.

<sup>6</sup>Department of Defense Instruction 6495.02, vol. 1, *Sexual Assault Prevention and Response: Program Procedures* (Mar. 28, 2013) (Incorporating Change 6, Nov. 10, 2021).

<sup>7</sup>Pub. L. No 115-232, § 536(b) (2018): statutory requirement 236.

<sup>8</sup>Under Secretary of Defense for Personnel and Readiness Memorandum, *Revisions to the Sexual Assault Prevention and Response Program's Expedited Transfer Policy* (Feb 10, 2020); DOD Instruction 6495.02.

<sup>9</sup>Pub. L. No. 115-232, § 535 (2018): statutory requirement 234.

Standardized Disposition Form for cases of sexual assault per the NDAA requirement. According to officials, the form is currently with the DOD Forms Management office for formal staffing with the military services and appropriate DOD organizations. According to DOD officials, the projected publication date for the form is no later than December 2021.

- **Designate an oversight official or entity.** Section 544 of the NDAA for Fiscal Year 2019 directed the Secretary of Defense to designate a single official or existing entity within the Office of the Secretary of Defense (OSD) with principal responsibility for providing oversight of the registered sex offender management program.<sup>10</sup> The section also specified four required duties for the official or entity, two of which are pending implementation. Specifically, OSD officials stated they are currently developing the capability to perform the duty to compile data on members serving in the military departments who have been convicted of a qualifying sex offense by implementing enhancements to their continuous vetting system. Additionally, OSD officials stated they have revised DOD Instruction 5525.20, *Registered Sex Offender (RSO) Management in DOD*, to assign the duty of maintaining statistics on the total number of active duty servicemembers in each military department who are required to register as sex offenders to the Secretaries of the military departments; the DOD Instruction is pending publication.
- **Annual assessment of outcomes.** Section 702 of the NDAA for Fiscal Year 2019 authorized the Secretary of Defense to carry out a pilot program to assess the feasibility and advisability of using intensive outpatient programs of short duration to treat members of the armed forces suffering from post-traumatic stress disorder resulting from military sexual trauma, including treatment for substance abuse, depression, and other issues related to such conditions. Each organization or institution that participates in a partnership under the pilot program shall, among other things, annually assess outcomes for members of the armed forces individually and among the organizations and institutions participating in the pilot program with respect to the treatment being carried out.<sup>11</sup> Our assessment of implementation and effectiveness found that DOD had taken steps to implement the various elements of the requirement, as required by statute, but that implementation was still pending for all the elements, including the element concerning

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<sup>10</sup>Pub. L. No. 115-232, § 544(a)-(b) (2018): statutory requirement 239.

<sup>11</sup>Pub. L. No. 115-232, § 702(a)-(c), (e)-(f) (2018): statutory requirement 245.

annually assessing outcomes. Per DOD documentation concerning the status of the pilot program, the final report concerning the findings of the program is expected to be complete in February 2022.

- **Establish a policy for allegations.** Section 1089 of the NDAA for Fiscal Year 2019 directed the Secretary of Defense to establish a policy on response to allegations of juvenile-on-juvenile problematic sexual behavior committed on military installations.<sup>12</sup> The required policy was to provide for a number of elements, including that DOD establish a centralized database of information on each incident of problematic sexual behavior that is reviewed by the Family Advocacy Program under the policy, and that the database include specific information for each incident. DOD established the policy, but it did not include the elements related to the database.<sup>13</sup> According to OSD officials, the centralized database is in the testing environment with a projected release date of early 2022.

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<sup>12</sup>Pub. L. No. 115-232, § 1089 (2018): statutory requirement 247.

<sup>13</sup>Officials identified volume 1 of DOD Manual 6400.01 as establishing the policy. Department of Defense Manual 6400.01, vol. 1, *Family Advocacy Program (FAP): FAP Standards* (July 22, 2019).

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# Appendix VI: Required Information for the Department of Defense Annual Report on Sexual Assault in the Military

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The Department of Defense (DOD) submitted the statutorily required *Department of Defense Annual Report on Sexual Assault in the Military to Congress* for 2004 through 2020 (annual report). The submission and contents of these annual reports were largely governed by thirteen statutory requirements, as listed throughout the tables below. Section 577(f) of the Ronald W. Reagan National Defense Authorization Act (NDAA) for Fiscal Year 2005 (statutory requirement 15) established the requirement for the annual reports, and was subsequently amended by the NDAA for Fiscal Years 2006 and 2007 (statutory requirements 20 and 33).<sup>1</sup> Section 1631 of the Ike Skelton NDAA for Fiscal Year 2011 (statutory requirements 60, 61, and 62) repealed and replaced the requirement from section 577(f) of the NDAA for Fiscal Year 2005. Subsequent statutory requirements amended section 1631 of the NDAA for Fiscal Year 2011 (92, 99, 175, 200, 201, 229, 230).<sup>2</sup>

Table 4 describes the list of information that was statutorily required to be contained in the annual reports. Table 5 describes information that was to be submitted together with the annual reports, such as the results of assessments. Table 6 describes information related to the submission of annual reports to the Secretary of Defense by the Secretaries of the military departments, and the submission of the reports to Congress by the Secretary of Defense, including deadlines for submission, among other things.

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<sup>1</sup>Pub. L. No. 108-375, § 577(f) (2004), *as amended by* Pub. L. No. 109-163, § 596(c) (2006) *and* Pub. L. No. 109-364, § 583 (2006). For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: GAO, *Supplemental Material for GAO-22-103973: Status of DOD and Coast Guard Implementation of Statutory Requirements to Prevent and Respond to Sexual Assaults, 2004–2019*, [GAO-22-105275](#) (Washington, D.C.: Mar. 28, 2022).

<sup>2</sup>Pub. L. No. 111-383, § 1631 (2011). The statutory reporting requirement expired in March 2021. However, the National Defense Authorization Act for Fiscal Year 2022, enacted in December 2021 as GAO's report was in final processing, reinstated the requirement and extended it through March 1, 2026. Pub. L. No. 117-81, § 549I (2021).



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**Table 4: Information That Is Statutorily Required to Be in the Department of Defense Annual Report on Sexual Assault in the Military**

Required information	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
<b>Information consistently required in the reports (from the time of enactment)</b>		
The number of sexual assaults committed against members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated.	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
	NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2011–2020
(2) The number of sexual assaults committed by members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated. The information required by this paragraph may not be combined with the information required by paragraph (1).	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
	NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2011–2020
(3) A synopsis of each substantiated case, organized by offense, and, for each such case, the action taken in the case, and beginning in the 2006 report, including the type of disciplinary or administrative sanction imposed, if any. Beginning in the 2011 report, this was specified to include courts-martial sentences, nonjudicial punishments administered by commanding officers pursuant to section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), and administrative separations.	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
	NDAA for FY2007 § 583: statutory requirement 33	2006–2010
	NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2011–2020
Beginning in the 2013 report, the synopses were also required to include additional information:	NDAA for FY2013 § 575: statutory requirement 92	2013–2020
<ul style="list-style-type: none"> <li>• If charges are dismissed following an investigation conducted under section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), the case synopsis shall include the reason for the dismissal of the charges.</li> <li>• If the case synopsis states that a member of the Armed Forces accused of committing a sexual assault was administratively separated or, in the case of an officer, allowed to resign in lieu of facing a court-martial, the case synopsis shall include the characterization (honorable, general, or other than honorable) given the service of the member upon separation.</li> <li>• The case synopsis shall indicate whether a member of the Armed Forces accused of committing a sexual assault was ever previously accused of a substantiated sexual assault or was admitted to the Armed Forces under a moral waiver granted with respect to prior sexual misconduct.</li> <li>• The case synopsis shall indicate the branch of the Armed Forces of each member accused of committing a sexual assault and the branch of the Armed Forces of each member who is a victim of a sexual assault.</li> <li>• If the case disposition includes non-judicial punishment, the case synopsis shall explicitly state the nature of the punishment.</li> <li>• The case synopsis shall indicate whether alcohol was involved in any way in a substantiated sexual assault incident.</li> </ul>		
(4) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by the report in response to incidents of sexual assault.	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
	NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2011–2020

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Required information	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
(5) The number of substantiated sexual assault cases in which the victim is a deployed member of the Armed Forces and the assailant is a foreign national, and the policies, procedures, and processes implemented by the Secretary concerned to monitor the investigative processes and disposition of such cases and any actions taken to eliminate any gaps in investigating and adjudicating such cases.	NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2011–2020
(6) A description of the implementation of the accessibility plan implemented pursuant to section 596(b) of such Act, including a description of the steps taken during that year to ensure that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit, location, or environment. <sup>c</sup>	NDAA for FY2006 § 596(c): statutory requirement 20 NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2007–2010 2011–2020
(7) The number of applications submitted under section 673 of title 10, United States Code, during the year covered by the report for a permanent change of station or unit transfer for members of the Armed Forces on active duty who are the victim of a sexual assault or related offense, the number of applications denied, and, for each application denied, a description of the reasons why the application was denied.	NDAA for FY2013 § 575: statutory requirement 92	2013–2020
(8) An analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by units, commands, and installations during the year covered by the report, including trends relating to prevalence of incidents, prosecution of incidents, and avoidance of incidents.	NDAA for FY2013 § 575: statutory requirement 92	2013–2020
(9) An assessment of the adequacy of sexual assault prevention and response activities carried out by training commands during the year covered by the report.	NDAA for FY2013 § 575: statutory requirement 92	2013–2020
(10) An analysis of the specific factors that may have contributed to sexual assault during the year covered by the report, an assessment of the role of such factors in contributing to sexual assaults during that year, and recommendations for mechanisms to eliminate or reduce the incidence of such factors or their contributions to sexual assaults.	NDAA for FY2013 § 575: statutory requirement 92	2013–2020
(11) An analysis of the disposition of the most serious offenses occurring during sexual assaults committed by members of the Armed Force during the year covered by the report, as identified in unrestricted reports of sexual assault by any members of the Armed Forces, including the numbers of reports identifying offenses that were disposed of by each of the following: <ul style="list-style-type: none"> <li>• Conviction by court-martial, including a separate statement of the most serious charge preferred and the most serious charge for which convicted.</li> <li>• Acquittal of all charges at court-martial.</li> <li>• Non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).</li> <li>• Administrative action, including by each type of administrative action imposed.</li> <li>• Dismissal of all charges, including by reason for dismissal and by stage of proceedings in which dismissal occurred.</li> </ul>	NDAA for FY2015 § 542: statutory requirement 175	2014–2020

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Required information	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
<ul style="list-style-type: none"> <li>• (12) Information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force as follows:               <ul style="list-style-type: none"> <li>• A narrative description of each complaint.</li> <li>• The nature of such complaint, including whether the complainant claims professional or social retaliation.</li> <li>• The gender of the complainant.</li> <li>• The gender of the individual claimed to have committed the retaliation.</li> <li>• The nature of the relationship between the complainant and the individual claimed to have committed the retaliation.</li> <li>• The nature of the relationship, if any, between the individual alleged to have committed the sexual assault concerned and the individual claimed to have committed the retaliation.</li> <li>• The official or office that received the complaint.</li> <li>• The organization that investigated or is investigating the complaint.</li> <li>• The current status of the investigation.</li> <li>• If the investigation is complete, a description of the results of the investigation, including whether the results of the investigation were provided to the complainant.</li> <li>• If the investigation determined that retaliation occurred, whether the retaliation was an offense under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).</li> </ul> </li> </ul>	NDAA for FY2017 § 543: statutory requirement 200	2016–2020
(13) Information and data collected through formal and informal reports of sexual harassment involving members of the Armed Forces during the year covered by the report, as follows: <ul style="list-style-type: none"> <li>• The number of substantiated and unsubstantiated reports.</li> <li>• A synopsis of each substantiated report.</li> <li>• The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed, if any, such as— conviction and sentence by court-martial; imposition of non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice); or administrative separation or other type of administrative action imposed.</li> </ul>	NDAA for FY2018 § 537: statutory requirement 229	2019–2020
(14) Information and data collected during the year covered by the report on each reported incident involving the nonconsensual distribution by a person subject to chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), of a private sexual image of another person, including the following: <ul style="list-style-type: none"> <li>• The number of substantiated and unsubstantiated reports.</li> <li>• A synopsis of each substantiated report.</li> <li>• The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed, if any, such as— conviction and sentence by court-martial; imposition of non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice); or administrative separation or other type of administrative action imposed.</li> </ul>	NDAA for FY2018 § 537: statutory requirement 229	2019–2020

**Appendix VI: Required Information for the  
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Required information	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
<b>Information not consistently required, or one-time requirements</b>		
A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Armed Forces concerned.	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
A description of the implementation during the year covered by the report of the tracking system implemented pursuant to section 596(a) of the National Defense Authorization Act for Fiscal Year 2006, including information collected on cases during that year in which care to a victim of rape or sexual assault was hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.	NDAA for FY2006 § 596(c): statutory requirement 20	2007–2010
A description of the required supply inventory, location, accessibility, and availability of supplies, trained personnel, and transportation resources needed, and in fact in place, in order to be able to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.	NDAA for FY2006 § 596(c): statutory requirement 20	2007–2010
Not later than December 31, 2011, the Secretary of Defense shall establish a consistent definition of “substantiated” for purposes of paragraphs (1), (2), (3), and (5) of subsection (b) and provide synopses for those cases for the preparation of reports under this section.	NDAA for FY2011 § 1631(a)-(c): statutory requirement 60	2011

Source: GAO analysis of the NDAA for fiscal years 2004–2019. | GAO-22-103973

<sup>a</sup>NDAA from fiscal years 2004 through 2019 included 249 statutory requirements directing DOD and the Coast Guard to address sexual assault prevention and response efforts. Thirteen of the 249 requirements were related to the completion and submission of DOD annual reports on sexual assault in the military.

<sup>b</sup>Applicable report years refers to the DOD annual reports on sexual assault in the military to which the amendment(s) or new requirement(s) applied. Note that this refers to the calendar or fiscal years the reports cover, and not necessarily the year the report was submitted. The DOD annual reports on sexual assault in the military from 2004 through 2006 covered calendar years (January through December), but DOD annual reports from 2007 forward covered fiscal years (October through September). The applicable report years were determined using the enactment date and text of the relevant statute (i.e., the statutory requirement).

<sup>c</sup>In 2011, statutory requirement 60 amended paragraph (6) to change the last phrase from “...in a deployed unit.” to “...in a deployed unit, location, or environment.”

**Appendix VI: Required Information for the  
Department of Defense Annual Report on  
Sexual Assault in the Military**

**Table 5: Information to Be Submitted with the Department of Defense Annual Report on Sexual Assault in the Military**

Required information	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
An assessment by the Secretary of the military department submitting the report of the implementation during the preceding fiscal year of the policies and procedures of such department on the prevention of and response to sexual assaults involving members of the Armed Forces in order to determine the effectiveness of such policies and procedures during such fiscal year in providing an appropriate response to such sexual assaults.	NDAA for FY2005 § 577(f): statutory requirement 15	2005–2010
<p>The Secretary of Defense is to forward the annual reports from the Military Departments to the Committees on Armed Services, together with</p> <ul style="list-style-type: none"> <li>• the results of assessments conducted under the evaluation plan required by section 1602(c)<sup>c</sup> (2011–2020)</li> <li>• such assessments on the reports as the Secretary of Defense considers appropriate (2011–2020)</li> </ul> <p>Beginning with the report regarding 2014:</p> <ul style="list-style-type: none"> <li>• an assessment of the information submitted to the Secretary pursuant to subsection (b)(11)<sup>d</sup> (2014–2020)</li> </ul>	<p>NDAA for FY2011 § 1631(d): statutory requirement 61</p> <p>NDAA for FY2015 § 542: statutory requirement 175</p>	<p>2011–2020</p> <p>2014–2020</p>
As part of the report submitted in 2014, the Secretary of Defense shall include information and data collected under the plan during the preceding year regarding substantiated incidents of sexual harassment involving members of the Armed Forces.	NDAA for FY2013 § 579(b)(3): statutory requirement 99	2013
Information regarding a sexual assault committed by a member of the Armed Forces against the spouse or intimate partner of the member or another dependent of the member shall be included in such reports in addition to the annual Family Advocacy Program report. The information may be included as an annex to such reports.	NDAA for FY2018 § 538: statutory requirement 230	2018–2020

Source: GAO analysis of the NDAs for fiscal years 2004–2019. | GAO-22-103973

<sup>a</sup>NDAs from fiscal years 2004 through 2019 included 249 statutory requirements directing DOD and the Coast Guard to address sexual assault prevention and response efforts. Thirteen of the 249 requirements were related to the completion and submission of DOD annual reports on sexual assault in the military.

<sup>b</sup>Applicable report years refers to the DOD annual reports on sexual assault in the military to which the amendment(s) or new requirement(s) applied. Note that this refers to the calendar or fiscal years the reports cover, and not necessarily the year the report was submitted. The DOD annual reports on sexual assault in the military from 2004 through 2006 covered calendar years (January through December), but DOD annual reports from 2007 forward covered fiscal years (October through September). The applicable report years were determined using the enactment date and text of the relevant statute (i.e., the statutory requirement).

<sup>c</sup>Section 1602(c) refers to the NDAA for FY2011 section 1602(c), which required a sexual assault prevention and response evaluation plan, among other things.

<sup>d</sup>Subsection (b)(11) refers to the NDAA for FY2015 section 542(a), which required an analysis of the disposition of the most serious offenses occurring during sexual assaults committed by members of the Armed Force, among other things.

**Appendix VI: Required Information for the  
Department of Defense Annual Report on  
Sexual Assault in the Military**

**Table 6: Statute Regarding the Submission of the Department of Defense Annual Report on Sexual Assault in the Military**

Required action	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
(1) Not later than January 15 of each year, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
(4) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives each report submitted to the Secretary under this subsection, together with the comments of the Secretary on the report. The Secretary shall submit each such report not later than March 15 of the year following the year covered by the report.	NDAA for FY2005 § 577(f): statutory requirement 15	2004–2010
(5) For the report under this subsection covering 2004, the applicable date under paragraph (1) is April 1, 2005, and the applicable date under paragraph (4) is May 1, 2005.		
Not later than March 1, 2012, and each March 1 thereafter through March 1, 2017, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.	NDAA for FY2011 § 1631(a): statutory requirement 60	2011–2020
(d) SUBMISSION TO CONGRESS.—Not later than April 30 of each year in which the Secretary of Defense receives reports under subsection (a), the Secretary of Defense shall forward the reports to the Committees on Armed Services of the Senate and House of Representatives.	NDAA for FY2011 § 1631(d): statutory requirement 61	2011–2020
(1) REPEAL.—Subsection (f) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 113 note) is repealed.	NDAA for FY2011 § 1631(e): statutory requirement 62	N/A
(2) SUBMISSION OF 2010 REPORT.—The reports required by subsection (f) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 113 note) covering calendar year 2010 are still required to be submitted to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives pursuant to the terms of such subsection, as in effect before the date of the enactment of this Act.		

**Appendix VI: Required Information for the  
Department of Defense Annual Report on  
Sexual Assault in the Military**

Required action	Statutory requirement(s) <sup>a</sup>	Applicable report years <sup>b</sup>
<p>Section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4433; 10 U.S.C. 1561 note) is amended—</p> <p>(1) in subsection (a), by striking “March 1, 2017” and inserting “March 1, 2021”, and</p> <p>(2) by adding at the end the following new subsection: “(g) COORDINATION OF RELEASE DATE BETWEEN ANNUAL REPORTS REGARDING SEXUAL ASSAULTS AND FAMILY ADVOCACY REPORT.—The Secretary of Defense shall ensure that the reports required under subsection (a) for a given year are delivered to the Committees on Armed Services of the Senate and House of Representatives simultaneously with the Family Advocacy Program report for that year regarding child abuse and domestic violence, as required by section 574 of the National Defense Authorization Act for Fiscal Year 2017.”.</p>	NDAAs for FY2017 § 544: statutory requirement 201	2016–2020

Source: GAO analysis of the NDAAs for fiscal years 2004-2019. | GAO-22-103973

<sup>a</sup>NDAAs from fiscal years 2004 through 2019 included 249 statutory requirements directing DOD and the Coast Guard to address sexual assault prevention and response efforts. Thirteen of the 249 requirements were related to the completion and submission of DOD annual reports on sexual assault in the military.

<sup>b</sup>Applicable report years refers to the DOD annual reports on sexual assault in the military to which the amendment(s) or new requirement(s) applied. Note that this refers to the calendar or fiscal years the reports cover, and not necessarily the year the report was submitted. The DOD annual reports on sexual assault in the military from 2004 through 2006 covered calendar years (January through December), but DOD annual reports from 2007 forward covered fiscal years (October through September). The applicable report years were determined using the enactment date and text of the relevant statute (i.e., the statutory requirement).

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# Appendix VII: Remaining Examples of Laws DOD Did Not Fully Implement

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## DOD Annual Reports on Sexual Assault in the Military Lacked Required Information

**Monitoring of cases when assailant is a foreign national and ensuring timely response in deployed units.** Section 1631 of the NDAA for Fiscal Year 2011 required the DOD annual reports to include the number of substantiated sexual assault cases in which the victim is a deployed member of the armed forces and the assailant is a foreign national.<sup>1</sup> The section further required information on the policies, procedures, and processes implemented by the Secretary concerned to monitor the investigative processes and disposition of such cases and any actions taken to eliminate any gaps in investigating and adjudicating such cases. Although information on the number of substantiated cases when the assailant is a foreign national was included for all applicable fiscal years (2011–2020), information on the policies, procedures, and processes was included for only 2 fiscal years (2011–2012). In response to why this information was not included in all reports, SAPRO officials stated that the investigation of adult sexual assault is the responsibility of the DOD Inspector General and outside of their purview. These same officials also stated that consistent policies, procedures, and processes related to the investigation of all adult sexual assault cases (regardless of the assailant) is established in DOD guidance.<sup>2</sup>

This section also required the DOD annual reports to include a description of the implementation of the accessibility plan implemented pursuant to section 596(b) of the NDAA for Fiscal Year 2006, including a description of the steps taken during that year to ensure that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault.<sup>3</sup> Although DOD generally included information in accordance with this requirement for the first 3 applicable fiscal years (2011–2013), DOD did not include information related to steps taken to ensure an appropriate and timely response for sexual assault victims in deployed units for the majority of fiscal years (2014–2020). SAPRO officials stated that this information was not included in all reports because they established requirements for

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<sup>1</sup>Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 1631(a)-(c) (2011): statutory requirement 60.

<sup>2</sup>Officials referenced DOD Instruction 5505.18, *Investigation of Adult Sexual Assault in the Department of Defense* (Mar. 22, 2017) (Incorporating Change 3 effective Nov. 10, 2021).

<sup>3</sup>National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163 § 596(b) (2006), which required an accessibility plan for deployed units, among other things: statutory requirement 19.



SAPR programs in deployed environments in DOD Instruction 6495.02, *SAPR Program Procedures*.<sup>4</sup> They also stated that they periodically check on how the military services conduct SAPR operations in deployed environments by including related questions in the data calls for the annual reports for fiscal years 2015, 2016, and 2020.

However, as noted above, the DOD annual reports did not include all required information for numerous years after the enactment of the requirement, which if included could assist DOD and Congress in identifying the extent to which the gaps or concerns that the statutory requirements were intended to address were addressed.

**Information on reports of nonconsensual distribution of private sexual images.** Section 537 of the NDAA for Fiscal Year 2018 required specific information and data on each reported incident involving the nonconsensual distribution by a person subject to the Uniform Code of Military Justice of a private sexual image of another be reported in DOD annual reports.<sup>5</sup> Although information on the number of reports was included, a synopsis of each substantiated report and the action taken in the case of each substantiated report was not included for any applicable fiscal years (2019–2020). According to Office for Diversity, Equity, and Inclusion officials, the Department was developing the capability to collect the information at the level of detail directed in the statute, and they stated that it would be included as part of the fiscal year 2020 DOD annual report on sexual assault in the military. However, we identified that a synopsis of each report and the action taken in the case of each report was still not included in that report. If included, this information could assist DOD and Congress in understanding how reported incidents were being resolved across DOD.

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DOD Has Not Established  
a Required Evaluation  
Plan to Assess SAPR  
Program Effectiveness

**Metrics to evaluate the military services efforts to prevent and respond to retaliation in connection with reports of sexual assaults.** Section 545 of the NDAA for Fiscal Year 2017 requires SAPRO to establish and issue to the military departments metrics to be used to evaluate the efforts of the armed forces to prevent and respond to retaliation in connection with reports of sexual assault in the armed

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<sup>4</sup>DOD Instruction 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures* (March 28, 2013).

<sup>5</sup>National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 537(a) (2017): statutory requirement 229.

forces.<sup>6</sup> We found that SAPRO did establish the required metrics, but it did not provide sufficient evidence that the metrics are being used to evaluate the retaliation prevention and response efforts in connection with the reports of sexual assault.

According to SAPRO officials, the metrics were established in the January 2017 *DOD Retaliation Prevention and Response Strategy Implementation Plan*.<sup>7</sup> The plan states that the USD(P&R) was to submit a report to the Secretary of Defense by September 30, 2020 with a complete assessment of the retaliation prevention and response strategy. The report was also to include an examination of DOD's progress against program metrics and non-metrics. When we requested a copy of the report, SAPRO officials ultimately acknowledged that they did not issue the report, and in turn did not complete the required assessment.

Instead of a report and assessment, SAPRO officials stated, SAPRO drafted a third volume to DOD's existing guidance concerning sexual assault prevention and response: DOD Instruction 6495.02. DOD officials provided us a draft copy of the referenced instruction, which included a list of metrics to assess DOD's retaliation efforts. In October 2021, SAPRO officials stated that the instruction was pending publication and awaiting completion of formal coordination. However, SAPRO officials did not provide an estimated publication date for the additional volume related to DOD instruction 6495.02.

SAPRO officials did not acknowledge a separate requirement to assess effectiveness. They stated that their actions, such as the development of a draft instruction, were sufficient to meet the statute. However, section 545 requires SAPRO to establish and issue to the military departments metrics to be used to evaluate the efforts of the armed forces to prevent and respond to retaliation in connection with reports of sexual assault. Until SAPRO takes steps to evaluate the armed forces' efforts to prevent and respond to retaliation in connection with reports of sexual assault, such as developing an evaluation plan, it will have limited understanding about the effectiveness of retaliation efforts across DOD and information to ensure oversight of such activities.

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<sup>6</sup>National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 545(a) (2016): statutory requirement 202.

<sup>7</sup>DOD, *DOD Retaliation Prevention and Response Strategy Implementation Plan* (Jan. 2017).

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DOD Policies Do Not Align  
With Certain  
Requirements

**Army consideration of additional medical evidence by boards for the correction of military records.** Section 520 of the NDAA for Fiscal Year 2018 requires boards for the correction of military records to consider additional medical evidence for certain claims, and to review these claims with liberal consideration when the claim is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury that is related to combat or military sexual trauma, as determined by the Secretary concerned.<sup>8</sup> Army's policy does not address these requirements and no other documentation was provided.<sup>9</sup> Army officials stated that the regulation is being revised, but did not provide documentation to support this statement or a timeline for its publication. Until Army reviews and updates its policy to ensure alignment with statute, it cannot ensure that its boards for the correction of military records are in compliance with the law.

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DOD Lacked  
Documentation for Certain  
Requirements

**Policy on sexual harassment and violence.** Section 527 of the NDAA for Fiscal Year 2004 required DOD to establish a policy on sexual harassment and violence applicable to personnel of the Army, Navy, and Air Force military service academies.<sup>10</sup> The policy was to include specific elements, and the statute required that, when prescribing the policy, the Superintendent of each academy should take into consideration the findings, conclusions and recommendations of the Panel to Review Sexual Misconduct Allegations at the United States Air Force Academy, among other things.<sup>11</sup> The Office of the Secretary of Defense and Navy prescribed policies in alignment with this requirement and the policies

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<sup>8</sup>Pub. L. No 115-91, § 520(a) (2017): statutory requirement 215. This requirement amended 10 U.S.C. § 1552. This statutory requirement was implemented by the Navy and Air Force. For a complete list of the statutory requirements and implementation status by organization, see our supplement to this report: GAO, *Supplemental Material for GAO-22-103973: Status of DOD and Coast Guard Implementation of Statutory Requirements to Prevent and Respond to Sexual Assaults, 2004–2019*, [GAO-22-105275](#) (Washington, D.C.: Mar. 28, 2022).

<sup>9</sup>Army Regulation 15-185, *Army Board for Correction of Military Records* (Mar. 31, 2006).

<sup>10</sup>National Defense Authorization Act for Fiscal Year 2004, Pub. L. No 108-136, § 527(a) (2003): statutory requirement 5.

<sup>11</sup>The Panel to Review Sexual Misconduct Allegations at the United States Air Force Academy was established pursuant to title V of the Emergency Wartime Supplemental Appropriations Act, 2003, Pub. L. No. 108-11 (2003).

included the required elements.<sup>12</sup> Army prescribed a policy but it did not include the required elements, and Air Force did not prescribe a policy.<sup>13</sup> However, Army and Air Force did later develop such policies<sup>14</sup> in accordance with a 2007 statutory requirement amending existing requirements for military service academy polices on sexual harassment and sexual violence.<sup>15</sup> DOD therefore eventually established policies in alignment with this requirement, but we could not identify that the findings, conclusions and recommendations of the panel were taken into consideration when prescribing the policies. Without the documenting of such efforts, DOD cannot demonstrate that it has an oversight structure to ensure compliance with statutory requirements, including that it fulfilled its statutory responsibility to consider the findings, conclusions, and recommendations of the panel.

**Legislative proposal.** Section 577 of the NDAA for Fiscal Year 2005 required the Secretary of Defense to submit to Congress a proposal for legislation necessary to enhance the capability of DOD to address matters relating to sexual assaults involving members of the armed forces.<sup>16</sup> DOD did not provide documentation that this occurred. SAPRO officials stated that they could not identify documentation in their historical files, but noted that at the time, SAPRO was not yet in existence and that DOD guidance establishes that USD(P&R) has the responsibility to identify legislative changes needed to ensure the future availability of resources in support of SAPR policies. In addition, SAPRO officials stated that DOD has, since then, a documented history of submitting legislative proposals to Congress via the Office of Management and Budget. Without the documenting of such efforts, DOD cannot demonstrate that it has an oversight structure to ensure compliance with statutory requirements,

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<sup>12</sup>DOD Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Oct. 6, 2005); DOD Instruction 6495.02, *Sexual Assault Prevention and Response Program Procedures* (June 23, 2006); U.S. Naval Academy Instruction 1752.2, *Sexual Assault Victim Intervention (SAVI) Program* (Sept. 27, 2004).

<sup>13</sup>U.S. Military Academy Policy Memorandum 109-03, *Sexual Misconduct Report (SMR) Reporting Procedures* (June 29, 2004).

<sup>14</sup>Army Regulation 600-20, *Army Command Policy* (Mar. 18, 2008); Air Force Instruction 36-6001, *Sexual Assault Prevention and Response Program (SAPR)* (Sept. 29, 2008).

<sup>15</sup>John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 532 (2006): statutory requirements 21, 24, and 27.

<sup>16</sup>Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 577(c) (2004): statutory requirement 13.

including that it fulfilled its statutory responsibility to provide Congress with the information it requested to perform its oversight responsibilities.

**Plan to track cases hindered by lack of supplies and plan for ensuring timely response in deployed units.** Section 596 of the NDAA for Fiscal Year 2006 requires the Secretary of Defense to develop and implement a plan, and submit the plan to congressional committees, for a system to track cases in which care to a victim of rape or sexual assault, or the investigation or prosecution of an alleged perpetrator was hindered by the lack of availability of a rape kit or other needed supplies, or by the lack of timely access to appropriate laboratory testing resources.<sup>17</sup> SAPRO officials stated that beginning in March 2012, the required information began to be tracked in the Defense Sexual Assault Incident Database, and prior to that it was tracked in DOD's annual reports, beginning in the fiscal year 2007 report. However, DOD did not provide documentation to show that a plan was submitted to the congressional committees.

This statute also required the Secretary of Defense to submit to congressional committees a plan for ensuring accessibility and availability of supplies, trained personnel, and transportation resources for responding to sexual assaults occurring in deployed units. SAPRO officials stated that the plan was established in relevant guidance.<sup>18</sup> Although we identified that the guidance did direct the military services to take actions in line with the requirement, documentation was not provided to show a plan was transmitted to congressional committees.

Without documentation that the plans described above were submitted to Congress, DOD cannot demonstrate that it has an oversight structure to ensure compliance with statutory requirements, including that it fulfilled its statutory responsibility to provide Congress with the information it requested to perform its oversight responsibilities.

**Sexual harassment prevention and response policy.** Section 579 of the NDAA for Fiscal Year 2013 requires the Secretary of Defense to develop a comprehensive policy to prevent and respond to sexual

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<sup>17</sup>Pub. L. No. 109-163, § 596(a) (2006): statutory requirement 19.

<sup>18</sup>Officials referenced DOD Instruction 6495.02, *Sexual Assault Prevention and Response Program Procedures* (June 23, 2006). This instruction was most recently updated November 10, 2021.

harassment in the armed forces, that the policy include specific elements, and that a report be submitted to Congress setting forth the policy by January 2014.<sup>19</sup> In 2017, we reported on the implementation of this requirement and identified that the DOD policies in place did not include one required element.<sup>20</sup> We recommended that the new policy in draft at the time include this element. DOD subsequently issued guidance that included the required element, and our recommendation was closed as implemented.<sup>21</sup> However, DOD did not provide documentation that a report setting forth any of the aforementioned policies was submitted to Congress in accordance with this requirement. Without the documenting of such efforts, DOD cannot demonstrate that it has an oversight structure to ensure compliance with statutory requirements.

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<sup>19</sup>Pub. L. No. 112-239, § 579(a) (2013): statutory requirement 97.

<sup>20</sup>GAO, *Sexual Violence: Actions Needed to Improve DOD's Efforts to Address the Continuum of Unwanted Sexual Behaviors*, [GAO-18-33](#) (Washington, D.C.: Dec. 18, 2017).

<sup>21</sup>DOD Instruction 1020.03, *Harassment Prevention and Response in the Armed Forces* (Feb. 8, 2018). Note that in the John S. McCain NDAA for Fiscal Year 2019, Congress required the Secretary of Defense to develop a plan for overseeing the implementation of DOD Instruction 1020.03 (Statutory Requirement 238).

# Appendix VIII: Comments from the Department of Defense



FORCE RESILIENCY

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

Ms. Brenda Farrell  
Director, Acquisition and Sourcing Management  
U.S. Government Accountability Office  
441 G Street, NW  
Washington DC 20548

Dear Ms. Farrell,

This is the Department of Defense (DoD) response to the GAO Draft Report GAO-22-103973, "SEXUAL ASSAULT: DOD and Coast Guard Should Ensure Laws Are Implemented to Improve Oversight of Key Prevention and Response Efforts," dated January 22, 2022 (GAO Code 103973).

Each year, the Department provides a comprehensive report to the Committees on Armed Services of the Senate and House of Representatives, and more recently, the Committees on Veterans' Affairs of the Senate and House of Representatives. The Department continues to execute its SAPR program while also incorporating the many policy and legislative changes stemming from the work of various committees and organizations tasked with assessing DoD's sexual assault efforts. The annual reports provide an opportunity to inform the relevant committees of the Department's progress and identify those areas that require further action. The Department will ensure that the reports contain the relevant information in compliance with the requirements set forth in the National Defense Authorization Acts.

The Department concurs with 19 recommendations directed at the Department of Defense in this report and is currently taking steps to address them.

Attached is DoD's response to the subject report. My point of contact is Dr. Nathan Galbreath who can be reached at [nathan.w.galbreath.civ@mail.mil](mailto:nathan.w.galbreath.civ@mail.mil) and (703)409-7253.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth B. Foster", with a long horizontal flourish extending to the right.

Elizabeth B. Foster  
Executive Director, Force Resiliency

Enclosure  
As stated

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**Appendix VIII: Comments from the Department of Defense**

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**RECOMMENDATION 1:** The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments, include all required information in DOD annual reports, and if any required information is not included, explain why, and whether there is a plan to include it in future annual reports.

**DoD Response: Concur.** DoD SAPRO is utilizing oversight assessments and surveys of and data calls to the Military Services and National Guard Bureau to ensure NDAA-required information is included in annual reports (i.e., the DoD Annual Report on Sexual Assault in the Military and the Annual Report on Sexual Harassment and Violence at the Military Service Academies). If the required information cannot be included in the current year's annual reports, DoD will provide a plan for including it in future annual reports.

**RECOMMENDATION 2:** The Secretary of the Army should ensure all required information is included in the annual reports.

**DoD Response: Concur.** The Army is addressing these recommendations through efforts related to the Department of Defense 90-Day Independent Review Commission (IRC) on Sexual Assault in the Military. On 26 Feb 21, Secretary of Defense (SD) published a memo directing "Three (3) Immediate Actions to Counter Sexual Assault and Harassment and the Establishment of a 90-Day Independent Review Commission on Sexual Assault in the Military."

**RECOMMENDATION 3:** The Secretary of the Navy should ensure that the Navy and Marine Corps include all required information in the annual reports.

**DoD Response: Concur.** Currently, Navy and Marine Corps complete the annual report using preformatted templates provided from the Secretary of Defense.

**RECOMMENDATION 4:** The Secretary of the Air Force should ensure all required information is included in the annual reports.

**DoD Response: Concur.** The Department of the Air Force concurs with this recommendation, and will review the National Defense Authorization Act to ensure that all required information is included in all future DoD annual reports.



**RECOMMENDATION 5:** The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness—in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments—sets a timeframe to establish, and establishes, an evaluation plan and mechanisms for assessing the effectiveness of the SAPR program and related activities—such as policies and training—in achieving its intended outcomes, as required by section 1602(c) and 1612(a) and (b) of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 and section 545(a) of the NDAA for Fiscal Year 2017.

**DoD Response: Concur.**

**RECOMMENDATION 6:** The Secretary of the Army should review and update guidance, and set a timeframe for completion, to ensure compliance with statutory requirements related to consistent tracking of such assessments in the applicable database, as required by section 1721 of the NDAA for Fiscal Year 2014 and Army guidance.

**DoD Response: Concur.** The Army is addressing these recommendations through efforts related to the Department of Defense 90-Day Independent Review Commission (IRC) on Sexual Assault in the Military. On 26 Feb 21, Secretary of Defense (SD) published a memo directing “Three (3) Immediate Actions to Counter Sexual Assault and Harassment and the Establishment of a 90-Day Independent Review Commission on Sexual Assault in the Military.”

**RECOMMENDATION 7:** The Secretary of the Navy should ensure the Commandant of the Marine Corps reviews and updates Marine Corps guidance, and sets a timeframe for completion, to ensure compliance with statutory requirements related to including command climate information in commanders’ performance evaluations and assessments, as required by section 508 of the Carl Levin and Howard P. “Buck” McKeon NDAA for Fiscal Year 2015.

**DoD Response: Concur.** The Marine Corps (M&RA Manpower Management Division) will update Marine Corps guidance to ensure compliance with statutory requirements.

**RECOMMENDATION 8:** The Secretary of the Air Force should review and update guidance, and set a timeframe for completion, to ensure compliance with statutory requirements related to

including command climate information in commanders' performance evaluations and assessments, as required by section 508 of the NDAA for Fiscal Year 2015.

**DoD Response: Concur.** The Department of the Air Force concurs with this recommendation and is in the process of updating commanders' performance evaluations.

**RECOMMENDATION 9:** The Secretary of Defense should review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and Response statutory requirements, specifically section 1741(a)-(c) and (f) of the NDAA for Fiscal Year 2014, in coordination with Secretary of the Army as the DOD Executive Agent of the United States Military Entrance Processing Command.

**DoD Response: Concur.**

**RECOMMENDATION 10:** The Secretary of the Army should review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and Response statutory requirements, specifically section 582(a) of the NDAA for Fiscal Year 2012, and section 520(a) of the NDAA for Fiscal Year 2018.

**DoD Response: Concur.** The Army is addressing these recommendations through efforts related to the Department of Defense 90-Day Independent Review Commission (IRC) on Sexual Assault in the Military.

**RECOMMENDATION 11:** The Secretary of the Navy should review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and Response statutory requirements, specifically section 1741(a)-(c) and (f) of the NDAA for Fiscal Year 2014.

**DoD Response: Concur.** The Navy will update policies providing enhanced protections for prospective members and new members of the Navy during entry-level processing and training, as required.

**RECOMMENDATION 12:** The Secretary of the Navy should ensure the Commandant of the Marine Corps reviews and updates policy or establishes policy, and sets a timeframe for completion, to ensure alignment with sexual assault prevention and Response statutory

requirements, specifically, section 1745(a)-(c) of the NDAA for Fiscal Year 2014 and updates such policies for compliance with the statute.

**DoD Response: Concur.**

**RECOMMENDATION 13:** The Secretary of the Army should take steps to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018 by—for example—documenting relevant actions in policy or other relevant guidance.

**DoD Response: Concur.** The Army is addressing these recommendations through efforts related to the Department of Defense 90-Day Independent Review Commission (IRC) on Sexual Assault in the Military.

**RECOMMENDATION 14:** The Secretary of the Navy should take steps to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018 by—for example—documenting relevant actions in policy or other relevant guidance.

**DoD Response: Concur.** The Navy will update policies requiring Sexual Assault Prevention and Response training for all individuals enlisted in the Navy under the Delayed Entry Program, as required.

**RECOMMENDATION 15:** The Secretary of the Air Force should take steps to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018 by—for example—documenting relevant actions in policy or other relevant guidance.

**DoD Response: Concur.**

**RECOMMENDATION 16:** The Secretary of the Army should ensure that the Superintendent of the United States Military Academy West Point takes steps to document actions, including the dissemination of the resource guide, taken in accordance with section 545(a)-(c) of the John S. McCain NDAA for Fiscal Year 2019.

**DoD Response: Concur.** The Army is addressing these recommendations through efforts related to the Department of Defense 90-Day Independent Review Commission (IRC) on Sexual Assault in the Military.

**RECOMMENDATION 17:** The Secretary of the Navy should ensure that the Superintendent of the United States Naval Academy takes steps to document actions taken in accordance with section 545(a)-(c) of the John S. McCain NDAA for Fiscal Year 2019.

**DoD Response: Concur.** The United States Naval Academy will maintain and distribute a Sexual Assault Prevention and Response (SAPR) resource guide providing a SAPR program overview, definitions and resources and services for midshipmen, as required.

**RECOMMENDATION 18:** The Secretary of the Air Force should ensure that the Superintendent of the United States Air Force Academy takes steps to document actions, including the dissemination of the resource guide, taken in accordance with section 545(a)-(c) of the John S. McCain NDAA for Fiscal Year 2019.

**DoD Response: Concur.** The Department of the Air Force concurs with this recommendation and will ensure that the Superintendent of the United States Air Force Academy takes steps to document actions, including the dissemination of the resource guide.

**RECOMMENDATION 19:** The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments, establishes an oversight structure that includes mechanisms to consistently track and document implementation of ongoing and future NDAA statutory requirements related to sexual assault prevention and Response to ensure compliance with applicable laws and improve oversight of its SAPR program.

**DoD Response: Concur.**

# Appendix IX: Comments from the Department of Homeland Security

U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

March 1, 2022

Ms. Brenda S. Farrell  
Director, Defense Capabilities and Management  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Management Response to Draft Report GAO-22-103973, "SEXUAL ASSAULT:  
DOD and Coast Guard Should Ensure Laws Are Implemented to Improve  
Oversight of Key Prevention and Response Efforts"

Dear Ms. Farrell:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive recognition that the U.S. Coast Guard implemented most of the 36 statutory requirements that the Coast Guard was directed to implement in National Defense Authorization Acts (NDAA) from fiscal years (FY) 2004 through 2019, to prevent and respond to sexual assault in the military. The Coast Guard remains committed to strengthening processes to eliminate, or substantially reduce, sexual assaults in its ranks, as well as improving upon processes to ensure victims have full access to protection and support without reprisal.

The draft report contained 24 recommendations, including 4 for DHS with which the Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for GAO's consideration.

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**Appendix IX: Comments from the Department  
of Homeland Security**

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Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H CRUMPACKER  Digitally signed by JIM H  
CRUMPACKER  
Date: 2022.03.01 09:27:25 -05'00'

JIM H. CRUMPACKER, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations  
Contained in GAO-22-103973**

GAO recommended that the Secretary of Homeland Security ensure that the  
Commandant of the Coast Guard:

**Recommendation 20:** In collaboration with the Director of Health, Safety & Work Life Directorate, review and update policy or establish policy, and set a timeframe for completion, to ensure alignment with sexual assault prevention and response statutory requirements, specifically, sections 1712 and 1745(a)-(c) of the NDAA for Fiscal Year 2014.

**Response:** Concur. The U.S. Coast Guard’s Office of Health, Safety & Work-Life Directorate (CG-11) will make policy updates, as required by sections 1712 and 1756(a)-(c) of the National Defense Authorization Act for FY 2014, which are planned for release in the fall of 2022. Estimated Completion Date (ECD): September 30, 2022

**Recommendation 21:** In collaboration with the Director of Health, Safety & Work Life Directorate, implement the education and training on sexual assault prevention and response for individuals enlisted under a delayed entry program by—for example—documenting such training in policy or other relevant guidance to ensure compliance with section 535(a)-(b) of the NDAA for Fiscal Year 2018.

**Response:** Concur. The Official Military Personnel File (OMPF) of all Delayed Entry Program (DEP) members include “proof” of any training taken with regard to sexual assault prevention and response, which shall be included in the initial accession package for inclusion into the OMPF. If training is documented on a CG-3307 form (the U.S. Coast Guard’s Administrative Remarks form), that document will be uploaded in the system housing the OMPF (currently, Perceptive, but eventually in iPERMS). This upload action is in accordance with business processes established by the Coast Guard’s Business Operations Division, Capabilities Branch (BOPS-C), which also requires that—if training is documented in Coast Guard Business Intelligence, Direct Access, or other systems, then a proof of completion document will be produced and uploaded to the service member’s OMPF, or the system recording completion will need to interface directly with iPERMS to automatically send a human-readable document that is automatically entered into the specific member’s OMPF. The Coast Guard, including the Sexual Assault Prevention Response & Recovery program, Coast Guard Recruiting Command, and BOPS-C, will continue to manually process accession documents until the transition to the automated system iPERMS, which is currently scheduled to “go-live” in mid-August 2022. Once a document providing proof of training is produced, BOPS-C will add this documentation to the service member’s OMPF in accordance with CIM 1080.10 (series), PSCINST M1080.10 (series), and PPCINST M1000.2 (series). CIM

1080.10/PSCINST 1080.10 (series) is scheduled to be implemented before the end the of calendar year 2022. ECD: December 30, 2022.

**Recommendation 22:** Publish quarterly reports related to the processing and outcomes of claims reviewed by the Discharge Review Boards to ensure compliance with section 521(b) of the NDAA for Fiscal Year 2018.

**Response:** Concur. The Coast Guard's Office of Safety and Environmental Health (CG-113) is currently rebuilding the Discharge Review Board program and staff, to include: (1) hiring a full time civilian employee; (2) clearing a multi-year backlog of cases; and (3) reviewing data entry, as well as data management practices. The requirement to track this type of data will be incorporated into an internal Microsoft Access data management system and quarterly reporting will begin in the fall of 2022. ECD: September 30, 2022.

**Recommendation 23:** In collaboration with the Director of Health, Safety & Work Life Directorate, establish an oversight structure that includes mechanisms to consistently track and document implementation of ongoing and future NDAA statutory requirements related to sexual assault prevention to ensure compliance with applicable laws and improve oversight of its SAPR [Sexual Assault Prevention and Response] program.

**Response:** Concur. Beginning in February of 2016, the External Coordination Division (CG-823) launched a legislation requirements tracking system, the Assigned Congressional Tracking System (ACTS). ACTS is a Microsoft-Excel based platform used to for the timely assignment and tracking of specific high profile legislative requirements to ensure that: (1) required actions, authorities, or deliverables are not overlooked or unaccounted for; and (2) transfers of required actions between subject matter experts are tracked. To address this recommendation, beginning with the NDAA for FY 2022 (Pub. L. No. 117-081, enacted December 27, 2021), ACTS currently tracks every statutory requirement related to sexual assault and prevention, not just specific high profile requirements.

The Department requests that GAO consider this recommendation resolved and closed, as implemented.



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# Appendix X: GAO Contact and Staff Acknowledgments

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## GAO Contact

Brenda S. Farrell, (202) 512-3604 or [farrellb@gao.gov](mailto:farrellb@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Gina Hoffman (Assistant Director), Rebecca Guerrero (Analyst-in-Charge), Kirsten Briggs, Vincent Buquicchio, Christopher Gezon, Kelsey Griffiths, Grace Haskin, Chad Hinsch, Lashai McCullough, Juliee Conde-Medina, Amanda Miller, Clarice Ransom, Priscilla Tsai, and Guiovaney Venegas made key contributions to this report.

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