

## APPENDIX A

### Sexual Assault Offense – Investigation Flow Chart Definitions

- **Sexual Assault:** Intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority or when the victim does not or cannot consent. For purposes of the Sexual Assault Prevention and Response (SAPR) Program, pursuant to DoD Directive 6495.01, the following offenses and their equivalent civilian statutes constitute sexual assault:
  - Rape
  - Forcible Sodomy (oral or anal sex)
  - Aggravated Sexual Assault
  - Aggravated Sexual Contact
  - Abusive Sexual Contact
  - Wrongful Sexual Contact
  - Indecent Assault (for allegations prior to October 1, 2007, after which this offense was merged into other UCMJ sex offenses. Only report in this entry for offenses committed on or before September 30, 2007, that are later reported but prior to the expiration of the statute of limitations (September 29, 2012).)
  - Attempts to Commit any of these Offenses
- **Unfounded:** Determination that the allegations, as made against the alleged offender, do not meet all the legal elements of any of the SAPR sexual assault offenses. These cases are either false or baseless.
- **Civilian or Foreign Authority - Person subject to the UCMJ:** A civilian or foreign authority has a sexual assault allegation for action or disposition and the alleged offender is subject to the Uniform Code of Military Justice (UCMJ).
- **Civilian or Foreign Authority - Person not subject to the UCMJ:** A civilian or foreign authority has a sexual assault allegation for action or disposition and the alleged offender is not subject to the UCMJ.
- **Offender Unknown:** The investigation is closed because the offender is unknown.
- **Command Action Precluded or Declined for Sexual Assault:** The command cannot or did not take action for one of the following reasons:
  - **Probable Cause for only Non-Sexual Assault Offense:** The commander took action on a non-sexual assault offense because the allegations made did not meet the required elements of, or there was insufficient evidence for, any of the above

- UCMJ offenses constituting the SAPR definition of sexual assault, but the allegations did meet the required elements of, and sufficient evidence for, another offense under the UCMJ (e.g., adultery, simple assault, assimilated crime under Article 134, UCMJ).
- **Offender's or Victim's Death:** Commander action is precluded due to the death of the alleged offender or victim.
  - **Victim Declined to Participate in the Military Justice Action:** Commander action is precluded or declined because the victim has declined to further cooperate with military authorities or prosecutors in a military justice action.
  - **Insufficient Evidence of any Offense:** Although the allegations made against the alleged offender meet the required elements of at least one of the criminal offenses that constitute the SAPR definition of sexual assault, there is not enough evidence to legally prove those elements beyond a reasonable doubt and proceed with the case. (Note: If the reason for concluding that there is insufficient evidence is because the victim declined to cooperate, then that reason for being unable to take action should be entered as "victim declined to participate in the military justice action", not that there was just "insufficient evidence.")
  - **Statute of Limitations:** Determination that pursuant to Article 43 of the UCMJ the applicable statute of limitations has expired and the case may not be prosecuted.
  - **Evidence Supports Command Action for Sexual Assault: (NOTE: For each case, only record the action taken once and in accordance with the type of commander action first encountered in descending order of the following list. Further actions also taken lower in the descending list should not also be recorded for purposes of the SAPR Disposition Report.)**
    - **Court-Martial Charge Preferred (Initiated):** A court-martial charge was preferred (initiated) for at least one of the offenses that constitute the SAPR definition of sexual assault. See Rule for Courts-Martial 307 and 401.
    - **Nonjudicial Punishment (Article 15, UCMJ):** Disciplinary action for at least one of the UCMJ offenses that constitute the SAPR definition of sexual assault was initiated pursuant to Article 15, UCMJ.
    - **Administrative Discharge:** Commander action to involuntarily separate the offender from military service.

- **Other Administrative Action:** In the absence of an administrative discharge action, any other administrative action that was initiated (including corrective measures such as counseling, admonition, reprimand, exhortation, disapproval, criticism, censure, reproach, rebuke, extra military instruction, or other administrative withholding of privileges or any combination of the above). See: Rule for Courts-Martial 306. (Note: Cases should only be placed in this category when an administrative action, other than an administrative discharge, is the only action taken, otherwise report the action taken as the other action taken (i.e., court-martial, nonjudicial punishment, administrative discharge, or civilian or foreign court action).