



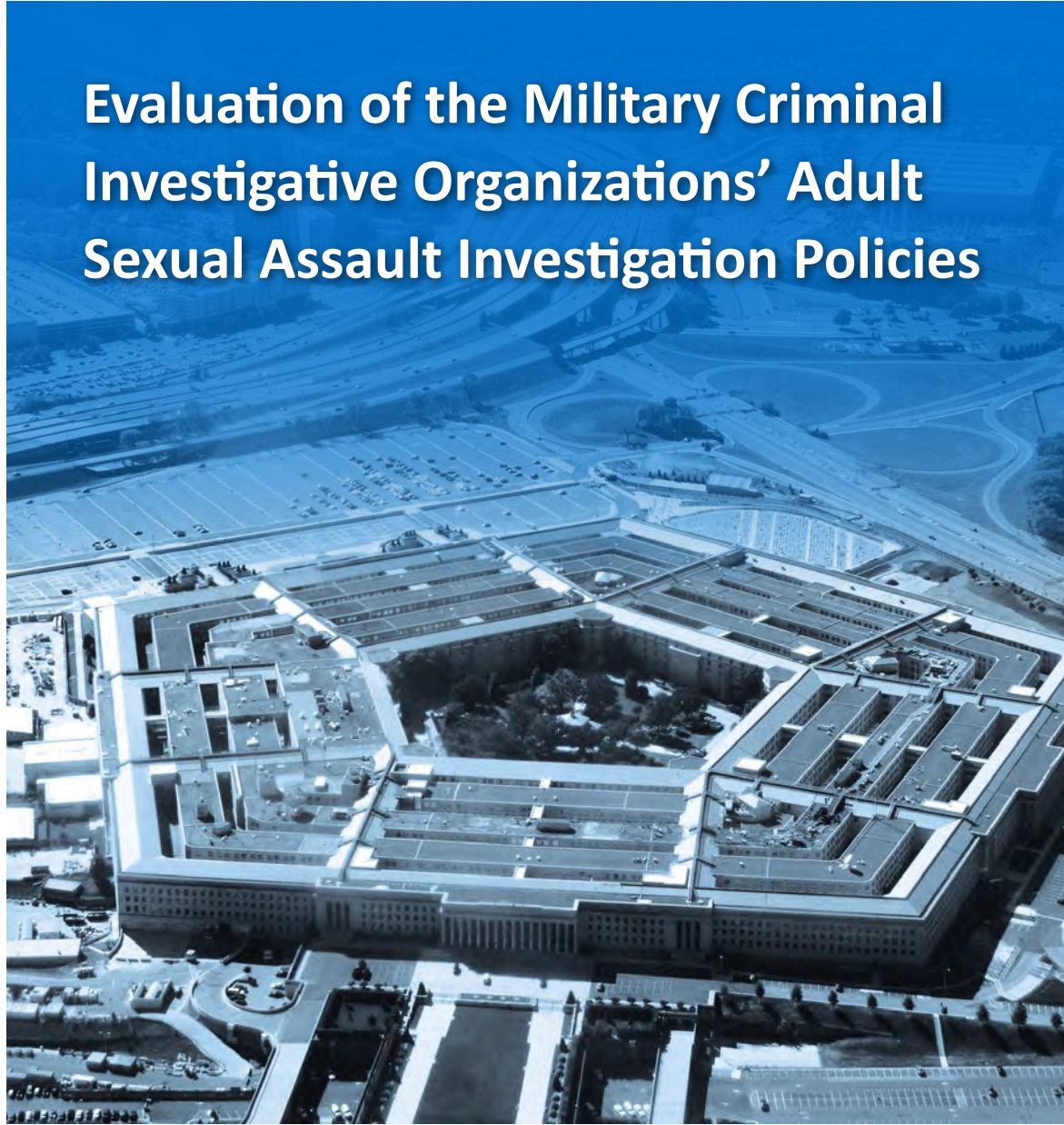
# INSPECTOR GENERAL

*U.S. Department of Defense*

SEPTEMBER 16, 2014



## Evaluation of the Military Criminal Investigative Organizations' Adult Sexual Assault Investigation Policies



INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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# Results in Brief

## *Evaluation of the Military Criminal Investigative Organizations' Adult Sexual Assault Investigation Policies*

September 16, 2014

### Objective

We evaluated the Military Criminal Investigative Organizations' (MCIOs') adult sexual assault investigation policies to determine whether they aligned with:

- DoD requirements,
- Service requirements,
- Council of Inspectors General on Integrity and Efficiency (CIGIE) Quality Standards for Investigations (QSIs), and
- Accepted law enforcement investigative techniques.

### Observations

- MCIO investigative policies generally align with DoD and Service requirements for adult sexual assault investigations.
- MCIO investigative policy addresses the CIGIE QSIs that are related to conducting high-quality criminal investigations.
- MCIO investigative policies consider nearly all of the applicable International Association of Chiefs of Police (IACP) investigative actions in their sexual assault investigative policies and guidance.

### Observations (Cont'd)

- A few IACP investigative guidelines and investigative strategies are partially addressed in MCIO adult sexual assault investigative policies and guidance but could be enhanced with language modification.
- Naval Criminal Investigative Service (NCIS) and Air Force Office of Special Investigations (AFOSI) investigative policies address a victim's right to Special Victim Counsel (SVC) if involved in collateral misconduct; however, they do not address what the investigator should do when encountering victim collateral misconduct.
- NCIS policy related to the victim preference statement (used when a victim decides not to cooperate with an investigation) contains potential victim blaming language.

### Recommendations

- The MCIOs evaluate IACP adult sexual assault investigative techniques identified as not currently aligned within MCIO policy for their relevance and applicability and consider incorporating them into their adult sexual assault investigation policy guidance.
- The Director, NCIS, and the Commander, AFOSI, evaluate the benefits and efficiencies of including DoD and Service sexual assault investigative policies in MCIO policies.
- The Director, NCIS, and the Commander, AFOSI, evaluate their procedures in a sexual assault investigation relating to victim collateral misconduct.
- The Director, NCIS, evaluate policy related to the victim preference statement and remove language that could cause agents to make statements that might be construed as implied victim blaming.



# Results in Brief

## *Evaluation of the Military Criminal Investigative Organizations' Adult Sexual Assault Investigation Policies*

### Management Comments and Our Response

The Commander, U.S. Army Criminal Investigation Command expressed concerns regarding the timeliness and accuracy of the report. The Director, NCIS, and the Commander, AFOSI, agreed in part with our

recommendations, but objected to our evaluation in a number of areas in the report. As a result of management comments, we performed additional evaluations of policies, evaluated work for relevance, and revised the report in some areas. No further comments are required.

## ***Recommendations Table***

Management	No Additional Comments Required
The Director and Commanders of the Military Criminal Investigative Organizations	1
The Director, Naval Criminal Investigative Service	2, 3, and 4
The Commander, Air Force Office of Special Investigations	2 and 3





**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

September 16, 2014

MEMORANDUM FOR COMMANDER, U.S. ARMY CRIMINAL INVESTIGATION COMMAND  
DIRECTOR, NAVAL CRIMINAL INVESTIGATIVE SERVICE  
COMMANDER, U.S. AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

SUBJECT: Evaluation of the Military Criminal Investigative Organizations' Adult Sexual Assault Investigation Policies (DODIG-2014-108)

We are providing this report for information and use. We evaluated the Military Criminal Investigative Organizations' (MCIOs') adult sexual assault investigative policies to determine if they align with DoD and Service policies, the Council of Inspectors General on Integrity and Efficiency (CIGIE) Quality Standards for Investigations, and the International Association of Chiefs of Police (IACP) sexual assault investigative protocols.

We determined the MCIOs' policies were comprehensive and aligned with DoD, Service, and CIGIE requirements and investigative actions. Further, almost all IACP sexual assault investigative actions, pertinent to MCIO investigations, are addressed in MCIO guidance. However, some MCIO policies could be enhanced to help ensure a more comprehensive approach to sexual assault investigations.

We considered management comments on a draft of this report when preparing the final report. Comments from the Commander, U.S. Army Criminal Investigation Command; Director, Naval Criminal Investigative Service; and Commander, Air Force Office of Special Investigations, conformed to the requirements of DoD Directive 7650.3. Therefore, no further comments are required.

We appreciate the courtesies extended to the evaluation staff during the evaluation. For additional information on this report, please contact Mr. Chris Redmond at (703) 604-8556 (DSN 664-8556).

A handwritten signature in black ink, likely of the Inspector General, is positioned above the title "Policy and Oversight".

Policy and Oversight

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## Acronyms and Abbreviations

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# Introduction

## Objectives

We evaluated the Military Criminal Investigative Organizations' (MCIOs') adult sexual assault<sup>1</sup> investigation policies and procedures to determine whether they aligned with DoD and Military Service mandates, as well as Council of Inspectors General on Integrity and Efficiency (CIGIE) Quality Standards for Investigations (QSIs) and accepted law enforcement adult sexual assault investigative techniques. The MCIOs include the U.S. Army Criminal Investigation Command (CID), Naval Criminal Investigative Service (NCIS), and Air Force Office of Special Investigations (AFOSI). See Appendix A for our scope and methodology and Appendix B for a list of references.

## Background

The DoD Office of Inspector General (DoD OIG) has statutory authority in accordance with the Inspector General Act of 1978, paragraph 8c(5), to “develop policy, monitor and evaluate program performance and provide guidance with respect to all Department activities relating to criminal investigation programs.” This authority is embodied in DoD Directive (DoDD) 5106.01, “Inspector General of the Department of Defense (IG DoD),” April 20, 2012, paragraph 5., “Responsibilities and Functions,” subparagraph 5.h. and in paragraph 5.a. of DoD Instruction (DoDI) 5505.03, “Initiation of Investigations by Defense Criminal Investigative Organizations,” March 24, 2011. The DoD OIG’s responsibilities regarding the Department’s sexual assault investigations are further specified in DoDD 6495.01, “Sexual Assault Prevention and Response (SAPR) Program,” January 23, 2012, Incorporating Change 1, April 30, 2013, enclosure 2, “Responsibilities,” paragraphs 5.a. and 5.b., and DoDI 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures,” March 28, 2013, Incorporating Change 1, February 12, 2014, enclosure 2, “Responsibilities,” paragraph 5.a. This guidance directs the DoD OIG to develop criminal investigative policy and to oversee the Department’s criminal investigative organizations’ investigations of sexual assaults. It is DoD policy (DoDI 5505.18, “Investigation of Adult Sexual Assault in the Department of Defense,” January 25, 2013, paragraph 3, “Policy,” subparagraph 3a) that the MCIOs “will initiate investigations of all offenses of adult sexual assault of which they become aware.”

<sup>1</sup> Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (to include unwanted and inappropriate sexual contact), or attempts to commit these acts. The definition generally encompasses offenses classified under Articles 120 and 125 of the Uniform Code of Military Justice (UCMJ) (10 United States Code (U.S.C.) Chapter 47, Subchapter X (Punitive Articles)) of the Manual for Courts-Martial United States (2012 Edition).

We evaluated DoD, Service, and MCIO adult sexual assault investigative policy guidance that was current as of the start of this evaluation – November 2011. However, before the completion of our evaluation, DoD published DoDI 5505.18, “Investigation of Adult Sexual Assault in the Department of Defense,” on January 25, 2013, and updated its sexual assault prevention and response policies in DoDI 6495.02 on March 28, 2013, and DoDD 6495.01 on April 30, 2013. In response to management comments on the draft report, on June 25, 2014, we obtained current policy guidance from the MCIOs and established June 26, 2014, as the conclusion of the policy evaluation. Additionally, we made appropriate report updates to ensure data accuracy, relevance, and objectivity based on an evaluation and analysis of updated policy issuances.

## Observation

### **The MCIOs' Adult Sexual Assault Investigative Policies Align with DoD and Service Policy Requirements, Federal Inspector General Investigative Quality Standards, and Law Enforcement Industry Adult Sexual Assault Investigative Techniques**

The MCIOs' policies and procedures related to sexual assault investigations with adult victims support DoD through their alignment with DoD and Military Service policies. The MCIOs' investigative policies incorporate CIGIE QIs that are relative to the conduct of high-quality criminal investigations, and they align with nearly all of the pertinent International Association of Chiefs of Police (IACP) adult sexual assault investigation techniques (investigative actions). We identified only a few of the IACP investigative actions addressed in MCIO sexual assault investigative policies that could be enhanced. The observations in this report highlight the MCIOs' comprehensive approach to adult sexual assault investigations. This report will be provided to the DoD OIG Policy and Programs Division to determine the need for additional DoD-level sexual assault investigative policy.

### **MCIO Policy Alignment with DoD Requirements**

MCIO policies align with DoD policy requirements; however, minor enhancements could improve them. AFOSI could enhance its guidance by requiring 30-day briefings to the commander who updates the victim on a monthly basis and by adding specificity to its guidance regarding participation in the case management group. CID and AFOSI could enhance their guidance in advising victims that Sexual Assault Response Coordinator (SARC), Victim Advocate (VA), and legal assistance services are optional. See Appendix C for comparison of DoD-mandated requirements across MCIOs and Appendixes H and L for details regarding recommended enhancements to CID and AFOSI policy.

## MCIO Policy Alignment with Military Service Requirements

CID and AFOSI have incorporated their Service-level sexual assault investigation policy requirements into their current MCIO policies. NCIS has one requirement, which is identified in the recently updated Secretary of the Navy Instruction (SECNAVINST) 1752.4B, “Sexual Assault Prevention and Response,” August 8, 2013, enclosure 3, “Responsibilities,” paragraph 4.b., that could be incorporated into NCIS policy guidance. This Instruction addresses the requirement to report sexual assault data for the DoD-Sexual Assault Prevention and Response Office (SAPRO) annual report. We recognize this requirement is being satisfied at the MCIO level, but the requirement is not mentioned within NCIS guidance documents. See Appendix D for a comparison of policies and Appendix I for details regarding recommended additions to NCIS policy.

## MCIO Policy Alignment with CIGIE QSI Actions

CIGIE QSIs apply to CIGIE member organizations (including the DoD OIG). The MCIOs are not CIGIE member organizations. Further, CIGIE QSIs are not limited to sexual assault investigations. Currently, no DoD issuances require the MCIOs to adhere to the CIGIE QSIs.<sup>2</sup> Nonetheless, we considered them in this project as a means of gauging the quality of the MCIOs’ investigative policies against an acceptable Federal standard. Additionally, given the DoD OIG’s statutory responsibility to establish policy for and oversee the Department’s criminal investigative programs, an indirect connection exists between CIGIE QSIs and the MCIOs. (The DoD OIG often uses the QSIs as benchmarks during evaluations of MCIO criminal investigative programs and operations.)

The 31 QSI actions considered during this evaluation may be applied to any category of civil, administrative, or criminal investigation; they are not limited to adult sexual assault investigations. We also included QSI actions beneficial for a thorough and well-written report of investigation. The MCIOs address the 31 QSI actions in their investigative policies. NCIS had already incorporated CIGIE QSIs into its investigative policy guidance. See Appendix E for a list of these QSI actions.

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<sup>2</sup> Section 11(c) (2)(A) of The Inspector General Reform Act of 2008 states that members of the CIGIE “shall adhere to professional standards developed by the Council.” In addition, CIGIE, “Quality Standards for Investigations,” 2011 states, “[t]he mission of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) shall be to address integrity, economy, and effectiveness issues that transcend individual Government agencies and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Offices of Inspectors General.” According to the CIGIE website, “[t]he CIGIE is comprised of all Inspectors General whose offices are established under section 2 or section 8G of the Inspector General Act of 1978 (5 U.S.C. App[endix]), those that are Presidentially-appointed/Senate Confirmed and those that are appointed by agency heads (designated federal entities).”

## MCIO Policy Alignment with Law Enforcement (IACP) Adult Sexual Assault Investigative Techniques

We considered numerous investigative and sexual assault response team (SART) protocols<sup>3</sup> along with IACP publications to select investigative techniques for conducting adult sexual assault investigations. The IACP website described that its National Law Enforcement Policy Center, under the direction of a broad-based advisory board of recognized law enforcement professionals, developed law enforcement policies, including a model policy, “Investigating Sexual Assault.” Our evaluation disclosed that the IACP investigative protocols incorporate input from leading subject matter experts and research findings from a broad-based advisory board of recognized law enforcement professionals with extensive field and management experience. For this evaluation, we selected the following IACP publications as the sources for identifying the pertinent adult sexual assault investigative techniques:

- “Investigating Sexual Assaults Model Policy,” May 2005 (hereafter referred to as “Model Policy”) and
- “Sexual Assault Incident Reports Investigative Strategies,” December 2008 (hereafter referred to as “Investigative Strategies”).

At the time we completed our work, no DoD issuances required the MCIOs to adhere to the IACP guidelines. We made our observations only to determine whether the MCIO’s policies and procedures aligned with a set of sexual assault investigative actions accepted by the law enforcement community.

Our evaluation of the Model Policy and Investigative Strategies identified 92 pertinent investigative actions related to the MCIOs’ adult sexual assault investigations. We compared the IACP investigative actions with the MCIOs’ policies, written procedures (such as, crime scene handbooks, investigative checklists, and other written guidance), and evidence of pertinent MCIO sexual assault investigative training (such as, copies of programs of instructions, lesson plans, or lesson training slides). The table reflects the extent to which each MCIO addressed the 92 IACP actions and the percentage of alignment. The MCIO policies and guidance

<sup>3</sup> “Model Guidelines and Sex Crimes Investigation Manual for Illinois Law Enforcement,” May 1996; “Guidelines for Sexual Assault Investigation,” California Commission on Peace Officer Standards and Training,” 1999; Massachusetts “Adult Sexual Assault Law Enforcement Guidelines 2009;” “Sexual Assault Response Teams (SART): A Model Protocol for Virginia,” May 2011; San Diego County “Sexual Assault Response Team (SART) Standards of Practice For Members of the Interdisciplinary SART Team,” April 2001; and others.

address nearly all (95 percent average) of the IACP actions. See Appendix F for a comparison of IACP actions and Appendixes G through L for details regarding recommended additions and/or enhancements to MCIO policy.

*Table. MCIO Alignment with Law Enforcement Sexual Assault Investigation Techniques*

Law Enforcement Techniques	CID		NCIS		AFOSI	
Addressed	90	98%	85	92%	88	96%
Could be added	1	1%	6	7%	3	3%
Could be enhanced	1	1%	1	1%	1	1%
<b>Total</b>	<b>92</b>	<b>100%</b>	<b>92</b>	<b>100%</b>	<b>92</b>	<b>100%</b>

## Other Observations

### ***Subject Matter Experts***

One IACP investigative action (Model Policy paragraph IV.D.2) recommends coordination with other professionals such as forensic examiners. Correspondingly, Government Accountability Office (GAO) Report No. GAO-11-579, “Military Justice: Oversight and Better Collaboration Needed for Sexual Assault Investigations and Adjudications,” June 2011, reported on page 16 that the Military Services employ “forensic science specialists” and “forensic consultant agent[s]” that “provide specialized forensic science support to field investigators.” Further, “the Air Force employs forensic science consultants and requires its investigators to work with a consultant immediately after being notified of a sexual assault incident.” Within CID, according to U.S. Army Criminal Investigation Command Regulation (CIDR) 195-1, “Criminal Investigation Operational Procedures,” April 22, 2014, paragraph 23.4.d, forensic science officers (FSOs) “respond to crimes scenes, . . . act as the unit sex crimes expert, . . . [and] review investigative reports, with particular emphasis on investigations involving crimes against persons, for investigative sufficiency and to assure applicable forensic techniques are used in the conduct of CID investigations.” NCIS uses a major case response team (MCRT) and, depending on the severity of the sexual offense and nature of the crime scene, may include a forensic science consultant (FSC). NCIS Manual 3, chapter 12, “Physical Evidence and the Crime Scene,” paragraph 12-21, “Development and Implementation of the Major Case Response Team (MCRT),” subparagraph 12-21.3, December 2007, directs that “[NCIS] agents investigating *complex* scenes should make immediate use of the



MCRT<sup>4</sup> [emphasis added]. Further, paragraph 12-22.1 of the Manual states that NCIS Forensic Consultants “can respond with the MCRT.” AFOSI requires coordination with a forensic science consultant at the onset of a sexual assault investigation, in accordance with Air Force Office of Special Investigations Manual (AFOSIMAN) 71-103, Volume 2, “Forensic Sciences,” August 17, 2011, paragraph 3.1., “Cases that Must Be Coordinated with a Forensic Science Consultant/Forensic Sciences Technician (FSC/FST).” Within NCIS and AFOSI, forensic psychologists are also on staff at MCIO headquarters for consultation.

### ***Victim Cooperation Decision***

The following three IACP actions address the victim’s decision to cooperate with an investigation.

- “Do not pressure the victim to make any decisions regarding participation in the investigation or prosecution during the initial interview or initial stages of the investigation” (Investigative Strategies).
- “In the immediate aftermath of a sexual assault, a victim shall not be expected or encouraged to make decisions regarding the investigation or charges related to the offense. Officers shall not introduce any forms for a victim to sign to decline an investigation” (Model Policy).
- “This department<sup>5</sup> shall respect a victim’s inability, or decision not, to be involved in criminal justice proceedings and always be willing to offer continued assistance and referrals” (Model Policy).

Within DoD, policy for sexual assault reporting is guided by DoDD 6495.01, paragraph 4.k., and DoDI 6495.02, enclosure 4. Some victims may report directly or indirectly to law enforcement, and some may report to non-law enforcement personnel. The level at which a victim reports a sexual assault will determine which of the two reporting options (Restricted or Unrestricted) are available to them. Victims that report directly or indirectly to command or law enforcement are not eligible for Restricted Reporting. If the victim is eligible for Restricted Reporting, enclosure 6, paragraph 1.h.(1)(a), states the SARC shall “[h]ave the victim fill out the DD Form 2910, “Victim Reporting Preference Statement,” where the victim elects to make a Restricted or Unrestricted Report.” Although this establishes policy to

<sup>4</sup> The MCRT is a group of professionals tasked with processing crime scenes and collecting evidence. According to the NCIS website, they also “respond to death scenes and assist[s] with the investigation of many other high-impact crimes, including sexual and/or aggravated assaults, acts of arson and wrongful destruction, and thefts.”

<sup>5</sup> The IACP uses the term “department” to refer to any investigative agency. As used here, “department” should not be construed to identify the DoD or any Service Department.

expect a victim to make a decision and sign a form before an investigation, this decision does not involve law enforcement personnel. The DD Form 2910 is filled out by the victim. According to DoDI 6495.02, enclosure 4, paragraphs 1.c. and 1.e., victims always have full access to victim services regardless of whether an eligible victim:

- elects Restricted or Unrestricted reporting, or
- reports directly or indirectly to command or law enforcement personnel, or
- agrees or declines to cooperate in the criminal investigation.

CIDR 195-1, paragraph 15.1.h.(7), states:

When making a restricted report, the victim is required to acknowledge in writing his understanding that restricted reporting may limit the ability of the government to prosecute the assailant and an understanding of the reasons DOD policy favors unrestricted reporting. The SAPR VA is responsible for informing the victim of his options under the restricted versus unrestricted reporting and for maintaining the document that records the victim's option.

NCIS uses a victim preference statement (VPS)<sup>6</sup> when a victim decides not to cooperate in an investigation. The VPS form has been lauded in a newsletter published by Sexual Assault Training and Investigations (SATI), managed by Archambault Consulting. The May 25, 2005, newsletter states:

SATI's Training Director. . . was pleased to find that NCIS uses one of the best waivers. . . [the Director] has seen. Specifically, the form documents that the victim has had the opportunity to consult with a victim advocate or other person before making the decision to suspend the investigation. The form also makes it clear that the victim is either unwilling or unable to participate at that time, but that he/she can change her mind at a later time.

Related to use of the VPS form, NCIS Manual 3, chapter 34, "Sex Offenses," paragraph 34-4.8.b, September 2007, states "[t]he agent should explain to the victim the possible consequences of not cooperating. . ." and NCIS Manual 3, chapter 6, "Investigative Theory and Procedures," paragraph 6-20.16.a., December 2006, states, "[i]n an understanding manner, the agent should explain to the victim the possible consequences of not cooperating, e.g. someone else being victimized by the suspect." Also, NCIS Manual 3, chapter 34, paragraph 34-4.8.d.(4), directs that

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<sup>6</sup> A VPS is a form used to document a victim's decision to no longer participate in the investigative process. The NCIS VPS documents that the victim had the opportunity to consult with a victim advocate or other person before making the decision to suspend the investigation. The form also makes it clear that if the victim is either unwilling or unable to participate at that time, he/she can change their mind at a later time.

the VPS form “will not be used during the initial interview with the victim unless the victim specifically requests no further contact with NCIS.” In addition, in accordance with NCIS Manual 3, chapter 6, paragraph 6-20.14, “[i]f the victim does decide to execute the VPS form or otherwise decline[s] to participate in the investigation, NCIS policy requires that all viable leads be exhausted prior to closing the investigation.”

AFOSIMAN 71-122, Volume 1, “Criminal Investigations,” September 28, 2012, paragraph 4.3.5.2, Incorporating All Changes Through Change 2, August 14, 2013, states:

Agents should ask the VICTIM to complete a written statement incorporating the VICTIM’s decision not to participate in the investigation. At a minimum, the statement should include the VICTIM’s desire not to participate in the investigation and a statement indicating the VICTIM understands that he or she may provide information at a later time.

We acknowledge the differences between DoD and MCIO guidance requiring or allowing the use of a form and IACP actions precluding the use of forms.

### ***Collateral Misconduct***

One critical issue for the MCIOs is how to proceed with a sexual assault investigation when it is discovered the victim may have violated a law or military regulation, or engaged in collateral misconduct. DoDI 6495.02 defines collateral misconduct as:

Victim misconduct that might be in time, place, or circumstance associated with the victim’s sexual assault incident. Collateral misconduct by the victim of a sexual assault is one of the most significant barriers to reporting assault because of the victim’s fear of punishment. Some reported sexual assaults involve circumstances where the victim may have engaged in some form of misconduct (e.g., underage drinking or other related alcohol offenses, adultery, fraternization, or other violations of certain regulations or orders).

The “Report of The Defense Task Force on Sexual Assault in the Military Services,” December 2009, reported on page 30 that “Service Members also fear punishment for collateral misconduct such as underage drinking, fraternization, adultery, or for being at an unauthorized location.”

The following IACP Model Policy action (paragraph D.4.b) addresses victim underage drinking:

Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and never used to discredit or discourage the victim from reporting the assault. The department priority is to conduct a thorough investigation of a sexual assault rather than prosecute victims for misdemeanor violations.

The IACP Model Policy action is directed toward the actions of police department personnel in investigating adult sexual assaults. As previously mentioned in the Victim Cooperation Decision section, in many instances, the sexual assault victim's initial contact is with the SARC and not law enforcement or MCIO personnel. DoDI 6495.02, enclosure (6), establishes SARC responsibilities as they relate to sexual assault. DD Form 2910, "Victim Reporting Preference Statement," section 1.d.(7), "Other Important Considerations for Unrestricted and Restricted Reports," June 2014, states, "I understand that I can also request a defense counsel to advise and assist me in the event that there is evidence that I committed misconduct around the time of the sexual assault allegation (for example, underage drinking)." This statement coincides with the requirement in DoDI 6495.02, enclosure 2, paragraph 6.m.(1), March 28, 2013, that the Secretaries of the Military Departments shall:

Establish procedures that require, upon seeking assistance from a SARC, SAPR VA, MCIO, the Victim Witness Assistance Program (VWAP), or trial counsel, that each Service member who reports that he or she has been a victim of a sexual assault be informed of and given the opportunity to: . . . [c]onsult with legal assistance counsel, and in cases where the victim may have been involved in collateral misconduct. . . to consult with defense counsel.

These protocols do not conflict with the IACP Model Policy because they are only used to protect the victim's Article 31b, Uniform Code of Military Justice (UCMJ), rights against self-incrimination and are not intended to be used to discredit or discourage the victim from reporting.

Additionally, DoDI 6495.02, enclosure 2, paragraph 6.r., states the Secretaries of the Military Departments shall:

Establish Military Service-specific guidance to ensure collateral misconduct is addressed in a manner that is consistent and appropriate to the circumstances, and at a time that encourages continued victim cooperation.

The Services have established policies that mirror requirements in DoDI 6495.02, paragraph 6.m.(1); however, this Instruction does not establish requirements for the MCIOs. Criminal investigative policy development is the responsibility of the DoD IG as specified in DoDD 5106.01, paragraph 5.h., which states, the DoD IG will “establish policy, monitor and evaluate program performance, and provide guidance with respect to all DoD activities relating to criminal investigation and law enforcement programs. . . .”

CIDR 195-1, paragraph 15.6.d., describes what it identifies as “non-CID purview offenses”<sup>7</sup> as follows:

If the allegation of a non-CID purview offense supports or contradicts the allegation of sexual assault, then the allegation of misconduct will be investigated only to the extent necessary to develop the primary offense of sexual assault. Under this circumstance, rights advisements will be administered when appropriate. . . . Non-CID purview offenses will be referred to the commander, in writing, for action deemed appropriate.

SECNAVINST 5430.107, “Mission and Functions of the Naval Criminal Investigative Service,” paragraph 6.a, December 28, 2005, states that “NCIS initiates, conducts, and directs criminal, counterintelligence, terrorism and related investigations and operations as deemed appropriate. . . .” and paragraph 3.i defines a “Major Criminal Offense” as an “offense punishable under the Uniform Code of Military Justice (UCMJ), or similarly framed federal, state, local, or foreign statutes, by confinement for a term of more than one year.” During the Response Systems to Adult Sexual Assault Crimes Panel (Response Systems Panel) on March 13, 2014, Subcommittee Meeting: Victim Services Subcommittee, the topic of “collateral misconduct” was addressed, specifically, how it is handled by investigators. The following information is listed under the Navy’s response:

In the majority of NCIS sexual assault investigations, the victim’s collateral misconduct does not rise to the felony level. Often, the misconduct is a status offense such as underage drinking or adultery or other minor UCMJ violation. That said, if misconduct is uncovered by the investigator during the course of the investigation, that information will be included in the NCIS investigative report and available for a commander to decide a course of action.

<sup>7</sup> CIDR 195-1 paragraph 15-6a, states, “non-CID purview offenses are Conduct Unbecoming an Officer; Failure to Obey General/Lawful Order; Fraternalization; Improper Relationship; Dereliction of Duty; Underage Drinking; Adultery; APCSM [Adult Private Consensual Sexual Misconduct], Adult Pornography, or other strictly unique military offenses.”

Further, under Response Systems Panel Recommendation 88, it states:

MCIOs document minor collateral misconduct information in the case file, which is provided to the victim's commander for action, but they do not follow the same practices regarding the legal requirement to stop and advise Service members of their Article 31 rights during an interview. Naval Criminal Investigative Service (NCIS) investigators told Panel members that NCIS has an unwritten policy that investigators will not read Article 31(b) rights to victims for minor collateral misconduct, regardless of the law's requirements, because NCIS only investigates felony level crimes.

However, this guidance is not incorporated into NCIS internal policy. NCIS policy, NCIS Manual 3, chapter 7, paragraph 7-6.a., states "[c]ivilian special agents are required to provide Article 31(b)/Tempia warnings when they conduct interviews and interrogations of persons suspected of a crime who are subject to the UCMJ. . . ."

AFOSI policy does not address legal requirements for investigators when victims make incriminating statements of collateral misconduct. AFOSI policy defers to commanders, who in accordance with, Air Force Instruction (AFI) 36-6001, "Sexual Assault Prevention and Response (SAPR) Program," September 29, 2008, Incorporating Change 1, September 30, 2009, Certified Current October 14, 2010, paragraph 6.3.3, "have the authority to determine the appropriate disposition of alleged victim misconduct, to include deferring disciplinary action until after disposition of the sexual assault case." Specifically,

When considering what corrective actions may be appropriate, commanders must balance the objectives of holding members accountable for their own misconduct with the intent to avoid unnecessary additional trauma to sexual assault victims and the goal of encouraging reporting of sexual assaults.

## MCIO Policies on Investigative Techniques

Some MCIO policies describe investigative techniques and actions that were not identified in DoD policies, CIGIE QSIs, IACP actions, or within another MCIO's policies. This practical, and sometimes extensive, guidance could greatly enhance an investigator's understanding of investigative techniques. We are providing the following techniques for consideration by the sister MCIOs.



CID Pamphlet 195-10, "Crime Scene Handbook," June 30, 1999, makes 11 suggestions for conducting the sexual assault forensic examination in paragraph 4.8. We identified that three of the suggestions relate to the sexual assault forensic examination (SAFE). The following three suggestions could be shared across the MCIOs:

- Ask the doctor to microscopically examine the victim for motile sperm.
- Ask the doctor to scan victim's body with an ultraviolet (UV) lamp to look for seminal fluid and fibers.<sup>8</sup>
- Consider attempting to develop latent fingerprint impressions on the skin if appropriate.<sup>9</sup>

CIDR 195-1 also contains these prosecutor-related actions.

- Paragraph 5.21.(7) states that Judge Advocate (JA) personnel are "invited to attend case review and/or investigative meetings on high profile or significant . . . investigations on a monthly basis" and "will be requested to conduct an AAR [After Action Review] of all prosecuted investigations to assist CID in identifying strengths and weaknesses in investigations."
- Paragraph 5.21.a. (3) states that "[i]nvestigative plan[s] (IP) on SSI [Serious or Sensitive Incident] investigations, and other cases deemed appropriate by the SAC [Special Agent in Charge]" are discussed with legal personnel to identify any potential "additional investigative activity."

NCIS guidance in the Sexual Assault Investigative Protocol Checklist, section 10, "Sexual Assault Collection Kit on Subject," which is referred to in NCIS 3, chapter 34, paragraph 34-4.4.a., as "investigative protocols," also addresses the SAFE by instructing investigators to "[d]ocument what type of equipment was used during the exam and if the toluidine blue test can be conducted."<sup>10</sup>

The U.S. Air Force and AFOSI policy guidance provide the following direction for legal coordination at the onset of an investigation, during, and at the conclusion of an investigation.

- "Within 30 days of the conclusion of any significant case whether disposed of by trial or otherwise, the local SJA [Staff Judge Advocate] and available members of the trial team will conduct a 'hot wash' [after

<sup>8</sup> Also cited in CID Pamphlet 195-12, "Sexual Assault Investigation Handbook," April 23, 2013.

<sup>9</sup> See previous footnote.

<sup>10</sup> "A National Protocol for Sexual Assault Medical Forensic Examinations - Adults/Adolescents, Second Edition," April 2013, page 98, states that "toluidine blue dye may be used to highlight trauma, either with or without the use of a colposcope."

action discussion] with the AFOSI field unit commander or SAIC [Special Agent-in-Charge] and case agent to review case lessons learned” (AFI 71-101, Volume 1, “Criminal Investigations Program,” April 8, 2011, paragraph 2.9.3.).

- “Prior to any Subject interview, the local servicing SJA will be notified of the intended Subject interview” (AFOSIMAN 71-118, Volume 4, “General Investigative Methods,” April 30, 2009, Certified Current April 5, 2012, Incorporating Changes Through Change 4, March 1, 2013, paragraph 4.6).
- “AFOSI and U.S. Air Force Judge Advocate [personnel] must develop a collaborative relationship focused on integrating investigative efforts and the legal process” (AFOSIMAN 71-121, “Processing and Reporting Investigative Matters,” January 13, 2009, Incorporating All Changes through Change 5, October 12, 2012, paragraph 1.5).

AFOSIMAN 71-118 provides a detailed description of mail covers<sup>11</sup> in chapter 7 and trash pulls<sup>12</sup> in chapter 8. These investigative techniques can help develop potential evidence and/or information regarding the offender(s) (subject(s)) in a sexual assault investigation. Both investigative techniques can provide relevant information that may aid in not only the identification and/or prosecution of subjects/suspects, but in the identification of potential witnesses and/or additional victims in a sexual assault investigation.

## Conclusions

### ***MCIO Policy Alignment with DoD, Service, CIGIE QSI, and IACP Investigative Actions***

The MCIOs’ adult sexual assault investigation policies and procedures support each agency’s needs for a thorough sexual assault investigation. The MCIOs have incorporated nearly all DoD and Service adult sexual assault investigative requirements into their policies. Although not mandated by DoD, the MCIOs have also incorporated, directly or indirectly, the pertinent CIGIE QSIs relating to conducting criminal investigations, including sexual assault, and those that facilitate a thorough and well-written report of investigation. The MCIOs address almost all of the pertinent IACP investigative actions in their policies.

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<sup>11</sup> The Manual states, “Mail covers are used to record data from outside covers of sealed mail or inside contents of unsealed mail within the United States Postal Service (USPS) channels.”

<sup>12</sup> The Manual states, “A trash pull is an investigative activity for collection of materials and refuse discarded by Subjects.”

## ***Subject Matter Experts***

AFOSIMAN 71-122, volume 1, paragraph 4.3.1, requires coordination with a forensic sciences agent at the onset of a sexual assault investigation. Neither CID nor NCIS requires this coordination at the onset of a sexual assault investigation. We brought this issue to the attention of the DoD OIG Policy and Programs Division for consideration of DoD-level policy implementation or update.

## ***Victim Cooperation Decision***

To achieve the dual objectives of victim support and offender accountability, DoDD 6495.01, paragraph 4.k.(2)(b), states:

DoD preference is for complete Unrestricted Reporting of sexual assaults to allow for the provision of victims' services and to pursue accountability. However, Unrestricted Reporting may represent a barrier for victims to access services, when the victim desires no command or law enforcement involvement. Consequently, the DoD recognizes a fundamental need to provide a confidential disclosure vehicle via the Restricted Reporting option.

DoD policy guidance of relying on the use of a form to require a victim to document an immediate or early investigation or prosecution decision contradicts IACP protocol opposing the timing and the use of such forms. However, it is justified because the victim is assisted in the completion of the form by a trained response coordinator and not an MCIO investigator. Additionally, we do not oppose NCIS' use of the victim preference statement in those instances when victims are not eligible for Restricted Reporting but do not wish to participate in the criminal investigation. Further, in those instances when victims do not wish to participate, NCIS guidance requires agents to explain to a victim the possible consequences of not cooperating. The implication that the victim's decision not to cooperate may result in the subject assaulting other victims could be perceived as victim blaming.

## ***Collateral Misconduct***

The CID addresses collateral misconduct in its policy guidance. However, neither NCIS nor AFOSI policy guidance address how investigators should proceed if a military sexual assault victim provides incriminating information about a collateral offense. Article 31(b), UCMJ, is clear that rights warnings are required before asking incriminating questions. Nonetheless, we brought this issue to the attention of the DoD OIG Policy and Programs Division for consideration of DoD-level policy implementation or update.

## Management Comments on the Report and Our Response

### *CID Comments*

CID expressed concerns with the efficacy of the report, stating the DoD OIG did not meet CIGIE standards in regards to the timeliness and accuracy of the report. They asserted “the report not only failed to meet the timely standard (26 months to provide a draft for comment). . . it also failed to meet the accuracy standard.”

### *Our Response*

In response to the concerns expressed by CID, the DoD IG Office of Audit Policy and Oversight reviewed this final report and associated evidence for factual data accuracy, fairness, and objectivity for compliance with the CIGIE Inspection and Evaluation reporting standards. (See Appendix M for details). We revised the report as appropriate to ensure data accuracy, relevance, and objectivity.

### *NCIS Comments*

NCIS expressed concern that our report contained a recommendation by IACP regarding the videotaping of victim interviews. NCIS indicated that its dialogue with IACP was contrary to the information in the draft report.

### *Our Response*

Our draft report cited IACP as an advocate of videotaping victim interviews. However, after further discussions with the IACP representatives, we have removed this topic from our report. The IACP representatives stated that the IACP currently takes a more neutral view of videotaping victim interviews.

### *AFOSI Comments*

AFOSI expressed concern regarding one DoD requirement identified as being absent from its policy. Specifically, the requirement mandates a multidisciplinary approach during a sexual assault investigation as outlined in DoDD 1030.01, “Victim and Witness Assistance,” April 23, 2007. AFOSI advised that this requirement is clearly contained in AFOSIMAN 71-122, volume 1.

### *Our Response*

We verified AFOSI’s assertion that its policy addresses this requirement and amended the report to reflect this compliance.

### *AFOSI Comments*

AFOSI expressed concern about the DoD requirement that mandates law enforcement to inform victims and witnesses of various stages of an investigation. AFOSI stated that they keep victims informed; however, they do so through the victim's chain of command, rather than with the victim directly.

### *Our Response*

During subsequent discussions with AFOSI, AFOSI agreed to evaluate the impact of clarifying its policy to provide monthly updates to the victim's chain of command.

### *AFOSI Comments*

AFOSI stated that all of the identified CIGIE standards within this report are incorporated into its policy and/or training.

### *Our Response*

During the reevaluation of CIGIE actions and MCIO guidance, we reduced our list of CIGIE investigative actions from 51 to 31 and removed those which we deemed inherent to an investigator based on training and experience. AFOSI's policies align with the 31 QSI standards.

## **Recommendations, Management Comments, and Our Response**

### ***Revised and Redirected Recommendations***

As a result of management comments and additional evaluation of MCIO guidance and policies, we reduced the number of IACP actions evaluated from 165 to 92 investigative actions related to the MCIOs and deleted the portion of this recommendation related to evaluating the Council of Inspectors General on Integrity and Efficiency Quality Standards for Investigation.

In addition, as a result of management comments and additional evaluation of MCIO guidance and policies, we redirected Recommendation 3 from the Commander, U.S. Army Criminal Investigation Command, to the Director, Naval Criminal Investigative Service, and the Commander, Air Force Office of Special Investigations.

### ***Recommendation 1. International Association of Chiefs of Police Actions***

We recommend that the Director and Commanders of the Military Criminal Investigative Organizations evaluate the International Association of Chiefs of Police actions identified as not currently aligned in Military Criminal Investigative Organization policy for their relevance and applicability and consider incorporating them into their adult sexual assault investigation policy guidance.

#### ***CID Comments***

CID considered IACP actions and incorporated them as appropriate into existing CID policy and training.

#### ***NCIS Comments***

NCIS has and will continue to evaluate DoD and Service sexual assault policies for inclusion in NCIS policy and commented that NCIS has an active and well-established relationship with the IACP.

#### ***AFOSI Comments***

AFOSI agreed and supports IACP Model Policy and Investigative Strategies. AFOSI will continue to ensure IACP model policy and investigative strategies are integrated into its policy and training.

#### ***Our Response***

The MCIO's comments are responsive. No additional comments are required.

### ***Recommendation 2. Collateral Misconduct***

We recommend that the Director, Naval Criminal Investigative Service, and the Commander, Air Force Office of Special Investigations, evaluate their procedures addressing actions to be taken relating to victim collateral misconduct in a sexual assault investigation.

#### ***NCIS Comments***

NCIS stated that its policy is aligned with the Department of Navy principles, which focus on a balanced military justice process.



### *AFOSI Comments*

AFOSI advised they have evaluated CID's policy pertaining to collateral misconduct and are considering integrating guidance similar to CID's into its policy.

### *Our Response*

NCIS and AFOSI comments are responsive. No further comments are required.

## ***Recommendation 3. Alignment with DoD and Service Policies***

**We recommend that the Director, Naval Criminal Investigative Service, and the Commander, Air Force Office of Special Investigations, evaluate the benefits and efficiencies of including DoD and Service sexual assault investigative policy in Military Criminal Investigative Organization policies.**

### *NCIS Comments*

NCIS evaluated the identified DoD and Service investigative requirements as recommended and commented that they evaluated and will continue to evaluate DoD and Service sexual assault policies for inclusion in NCIS policy.

### *AFOSI Comments*

AFOSI evaluated the identified DoD and Service investigative actions as recommended and emphasized the need for the DoD OIG to consider its training curriculum, both the 18-week basic criminal investigation course and advanced training programs, as a source when evaluating its policies and procedures.

### *Our Response*

NCIS and AFOSI comments are responsive. We reevaluated NCIS and AFOSI policy guidance used to develop their adult sexual assault investigation training curriculum and lesson plans. No further comments are required.

#### ***Recommendation 4. Victim Cooperation Decision***

We recommend that the Director, Naval Criminal Investigative Service, evaluate the policy verbiage related to the discussion of the victim preference statement with the victim, specifically, the language used to demonstrate a possible consequence of a victim's decision not to cooperate, to eliminate implied victim blaming.

#### ***NCIS Comments***

NCIS agreed with our recommendation and plans to update its policy.

#### ***Our Response***

NCIS comments are responsive. No further comments are required.

## Appendix A

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### Scope and Methodology

We announced the “Review of Department of Defense Sexual Assault Investigations,” on November 10, 2011. The overall objective of the project was to evaluate the adequacy of the Department’s sexual assault investigations with adult victims. The objectives of the project were to determine:

- whether MCIOs’ adult sexual assault investigative procedures comply with DoD and Military Service guidance, constituent community adult sexual assault investigation techniques, and CIGIE Quality Standards for Investigations, and
- whether MCIOs adequately investigated adult sexual assaults as required by the standards.”

Due to their complexity, we decided to evaluate and report each objective separately to facilitate the reporting of each in a timely manner. Additionally, the standards used for completion of the second objective, included DoD, Military Service, and MCIO policy requirements and did not include constituent community adult sexual assault investigation techniques and CIGIE QSI. The work related to the primary (second) objective was separately reported as “Evaluation of Military Criminal Investigative Organization Sexual Assault Investigations,” Report No. DODIG-2013-091, July 9, 2013, which documents the results of our evaluation of MCIO adult sexual assault investigations closed in 2010.

We performed this evaluation from November 2011 through June 2014, in accordance with CIGIE “Quality Standards for Inspection and Evaluation” January 2012 version. However, work on this project was at times held in abeyance due to the priority given to completing the evaluation of the MCIO’s adult sexual assault investigations. The CIGIE Quality Standards for Inspection and Evaluation specify that “[t]ime frames should be flexible in response to changing priorities,” and “are subject to change due to unforeseen circumstances, such as the need to expand the scope of an inspection or the need to add additional objectives.” Additionally, the congressional, national media, and public interest in military sexual assault, resulting in new legislation, required numerous changes in investigative policies at various levels.

In order to identify law enforcement adult sexual assault investigation techniques, we looked at numerous investigative protocols from multiple sources to include SART protocols from California, Illinois, and Virginia. Because no single policy can satisfy every unique law enforcement agency's needs, we sought a wide range of basic investigative actions that would generally be expected in a sexual assault investigation. The IACP published the IACP "Investigating Sexual Assaults Model Policy," May 2005, and the IACP issued the "Sexual Assault Incident Reports Investigative Strategies," December 2008.

For each of the actions identified within DoD and Service issuances, CIGIE QSIs and IACP "Model Policy" and "Investigative Strategies" documents, we evaluated MCIO guidance documents to determine the extent to which they addressed these requirements and actions. If guidance was identified, it was extracted and added to the MCIO spreadsheet under a column for that guidance document. Then we determined whether the extract could be enhanced or improved to give investigators a better understanding of the action. The spreadsheet cells were color-coded based on our analysis as follows: Green – MCIO policy guidance addressed IACP action sufficiently in that the policy meets the intent of the investigative action; Blue – MCIO policy could be enhanced; and Yellow – IACP investigative action is not addressed within MCIO guidance.

We issued our draft report on January 16, 2014, and solicited MCIO management comments. CID reported that it revised CIDR 195-1 and published CID Pamphlet 195-12. We reevaluated how all investigative actions were affected by these two new CID publications. We also asked NCIS and AFOSI for updated or new guidance documents, incorporating them into our analysis. Based on management comments, we again evaluated the applicability of CIGIE and IACP actions.

On June 25, 2014, we solicited current policy guidance from the MCIOs. Upon receipt of current listings and policies from each of the MCIOs, we established June 26, 2014, as the cut-off date of the policy evaluation. We evaluated the updated policies to determine the impact on our evaluation and made adjustments as appropriate.

## Prior Coverage

The GAO and DoD IG have issued three reports discussing topics related to sexual assault investigations in the last 5 years. These unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/pubs/index.cfm>.

GAO Report No. GAO-11-579, "Military Justice: Oversight and Better Collaboration Needed for Sexual Assault and Adjudications," June 2011

Report No. DODIG-2013-043, "Evaluation of the Military Criminal Investigative Organizations' Sexual Assault Investigation Training," February 28, 2013

Report No. DODIG-2013-091, "Evaluation of the Military Criminal Investigative Organizations' Sexual Assault Investigations," July 9, 2013

## Appendix B

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### References

#### ***Executive Order/Directive***

None

#### ***Federal Law***

Public Law 108-375, "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005," October 28, 2004

#### ***DoD Issuances***

- DoDD 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," January 23, 2012, Incorporating Change 1, April 30, 2013
- DoDD 5106.01, "Inspector General of the Department of Defense (IG DoD)," April 20, 2012
- DoDD 1030.01, "Victim and Witness Assistance," April 13, 2004, certified current as of April 23, 2007
- DoDI 6495.02, "Sexual Assault Prevention and Response (SAPR) Program Procedures," March 28, 2013, Incorporating Change 1, February 12, 2014
- DoDI 5505.18, "Investigation of Adult Sexual Assault in the Department of Defense," January 25, 2013, Incorporating Change 1, May 1, 2013
- DoDI 5505.07, "Titling and Indexing Subjects of Criminal Investigations in the Department of Defense," January 27, 2012
- DoDI 5505.03, "Initiation of Investigations by Defense Criminal Investigative Organizations," March 24, 2011
- DoDI 5505.14, "Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations," May 27, 2010
- DoDI 1030.2, "Victim and Witness Assistance Procedures," June 4, 2004
- "Report of The Defense Task Force on Sexual Assault in the Military Services," December 2009

\* Publications identified with an asterisk (\*) are not mentioned within the body of the report but were used to research the observations in this report.



## ***Service Issuances***

- AR 195-2, “Criminal Investigation Activities,” June 9, 2014
- AR 195-5, “Evidence Procedures,” February 22, 2013
- AR 600-20, “Army Command Policy,” March 18, 2008, Rapid Action Revision Issue Date September 20, 2012
- AR 27-10, “Military Justice,” October 3, 2011
- AR 190-45, “Law Enforcement Reporting,” March 30, 2007\*
- Army Techniques Publication 3-39.13, “Law Enforcement Investigations,” August 19, 2013\*
- OPNAVINST 1752.1B, “Sexual Assault Victim Intervention (SAVI) Program,” December 29, 2006\*
- SECNAVINST 1752.4B, “Sexual Assault Prevention and Response,” August 8, 2013
- SECNAVINST 5430.108, “Department of the Navy Sexual Assault Prevention and Response Office,” June 10, 2010
- SECNAVINST 5430.107, “Mission and Functions of the Naval Criminal Investigative Service,” December 28, 2005\*
- SECNAVINST 5800.14A, “Notice of Release of Military Offenders Convicted of Sex Offenses or Crimes Against Minors,” May 24, 2005
- Air Force Mission Directive 39, “Air Force Office of Special Investigations,” July 6, 2011
- Air Force Policy Directive (AFPD) 36-60, “Sexual Assault Prevention and Response (SAPR) Program,” March 28, 2008, Certified Current April 14, 2011
- AFPD 71-1, “Criminal Investigations and Counterintelligence,” January 6, 2010, Incorporating Through Change 2, September 30, 2011
- AFI 71-101, Volume 1, “Criminal Investigations Program,” April 8, 2011, Incorporating Change 1, May 16, 2013

\* Publications identified with an asterisk (\*) are not mentioned within the body of the report but were used to research the observations in this report.

- AFI 51-201, “Administration of Military Justice,” June 6, 2013
- AFI 36-6001, “Sexual Assault Prevention and Response Program,” September 29, 2008, Incorporating Change 1, September 30, 2009, Certified Current October 14, 2010

### ***MCIO Issuances***

- CID Pamphlet 195-12, “Sexual Assault Investigation Handbook,” May 27, 2014
- CID Regulation 195-1, “Criminal Investigation Operational Procedures,” April 22, 2014
- CID Pamphlet 195-10, “Crime Scene Handbook,” June 30, 1999
- NCIS Manual for Investigations, NCIS 3, chapter 7, “Rights Warnings and Self-Incrimination,” March 2013
- NCIS Manual for Administration, NCIS 1, chapter 45, “Managing Investigations and Operations,” October 2010\*
- NCIS Manual for Administration, NCIS 1, chapter 25, “SSD Report Writing,” January 2010\*
- NCIS Manual for Investigations, NCIS 3, chapter 12, “Physical Evidence and the Crime Scene,” December 2007
- NCIS Manual for Administration, NCIS 1, chapter 28, “Case Control System,” September 2007\*
- NCIS Manual for Investigations, NCIS 3, chapter 34, “Sex Offenses,” September 2007
- NCIS Manual for Investigations, NCIS 3, chapter 14, “Interviews and Interrogations,” August 2007
- NCIS Manual for Investigations, NCIS 3, chapter 6, “Investigative Theory and Procedures,” December 2006
- NCIS Manual for Fraud Investigations, NCIS 6, chapter 14, “Department of Defense Inspector General Subpoena,” undated\*

\* Publications identified with an asterisk (\*) are not mentioned within the body of the report but were used to research the observations in this report.

- NCIS Crime Scene Investigation Field Manual, May 2012\*
- NCIS Sexual Assault Investigative Protocol Checklist, undated
- AFOSI Instruction 35-101, "Public Affairs Policies and Procedures," January 7, 2014\*
- AFOSI Instruction 36-2901, "Standards of Professional Conduct for AFOSI Personnel," September 10, 2008
- AFOSIMAN 71-103, Volume 3, "Technical Services," June 5, 2012, Incorporating Change 1, September 20, 2013\*
- AFOSIMAN 71-122, Volume 1, "Criminal Investigations," September 28, 2012, Incorporating All Changes Through Change 2, August 14, 2013
- AFOSIMAN 71-118, Volume 4, "General Investigative Methods," April 30, 2009, certified current April 5, 2012, Incorporating All Changes Through Change 4, (IC-4, March 1, 2013)
- AFOSIMAN 71-121, "Processing and Reporting Investigative Matters," January 13, 2009, Incorporating All Changes through Change 5 (October 12, 2012)
- AFOSIMAN 71-103, Volume 1, "Air Force Polygraph Program," August 17, 2012\*
- AFOSIMAN 71-103, Volume 2, "Forensic Sciences," August 17, 2011\*
- AFOSIMAN 71-124, "Crime Scene Manual," September 30, 2003\*
- AFOSI Handbook 71-105, "An Agent's Guide to Conducting and Documenting Investigations," March 9, 2009, certified current April 11, 2012\*
- AFOSI Lesson Plan 01-12-09-01-11-01, "Sexual Assault Investigations," January 10, 2011\*
- AFOSI Advanced General Criminal Investigation Course presentation, "Sexual Assault Investigations," undated\*
- AFOSI Presentation, "Psychological Aspects of Sexual Assault Victims," undated\*

\* Publications identified with an asterisk (\*) are not mentioned within the body of the report but were used to research the observations in this report.

## ***Supplemental Guidance***

- Council of Inspectors General on Integrity and Efficiency (formerly President's Council on Integrity and Efficiency - Executive Council on Integrity and Efficiency), "Quality Standards for Investigations," November 15, 2011
- GAO Report No. GAO-11-579, "Military Justice: Oversight and Better Collaboration Needed for Sexual Assault and Adjudications," June 2011
- Army Medical Command Regulation 40-36, "Medical Facility Management of Sexual Assault," January 21, 2009
- Bureau of Medicine Instruction 6310.11A, "Sexual Assault Prevention and Response Medical-Forensic Program," May 2, 2013\*
- International Association of Chiefs of Police, "IACP Sexual Assault Incident Reports: Investigative Strategies," December 2008
- International Association of Chiefs of Police, "IACP Investigating Sexual Assaults Model Policy," May 2005

\* Publications identified with an asterisk (\*) are not mentioned within the body of the report but were used to research the observations in this report.

## Appendix C

### Comparison of DoD-Mandated Requirements Across MCIOs

Table C-1 depicts 14 requirements mandated in DoD issuances and the degree to which the MCIOs address each requirement in their internal guidance.

**Legend:**

MCIO guidance addresses the DoD requirement.	<b>G</b>
MCIO should consider enhancing its guidance to better address DoD requirement.	<b>B</b>
MCIO should consider adding DoD requirements to their guidance.	<b>Y</b>

*Table C-1. MCIO Guidance Alignment with DoD Requirements*

Mandated Action	DoD Issuance	DoD Requirements	CID	NCIS	AFOSI
1	DoDD 1030.01	4.4 Law enforcement and legal personnel directly engaged in the detection, investigation, or prosecution of crimes shall ensure that victims are accorded their rights.	<b>G</b>	<b>G</b>	<b>G</b>
2	DoDD 1030.01	4.4.1 [A] crime victim has the right to: [b]e treated with fairness and respect for the victim's dignity and privacy.	<b>G</b>	<b>G</b>	<b>G</b>
3	DoDD 1030.01	5.3.4 Ensure that a multidisciplinary approach is followed by victim and witness service providers, including law enforcement personnel, [and] criminal investigators. . . .	<b>G</b>	<b>G</b>	<b>G</b>
4	DoDD 5106.01	5.f. The DoDIG shall [c]onsider requests from DoD Components for the issuance of Subpoenas Duces Tecum seeking information from sources outside the Federal Government and Subpoenas Ad Testificandum seeking testimony from individuals not currently employed by the Federal Government or on active military duty, necessary for the performance of duties assigned by Reference (c [Inspector General Act of 1978, as amended, title 5, United States Code, Appendix]). [Because the DoD OIG shall consider requests from DoD Components, we expect the MCIOs to have related guidance.]	<b>G</b>	<b>G</b>	<b>G</b>
5	DoDI 1030.2	6.1. At the earliest opportunity after identification of a crime victim or witness, the local responsible official, law enforcement officer, or criminal investigation officer shall provide. . . the DD Form 2701, 'Initial Information for Victims and Witnesses of Crime, . . .'	<b>G</b>	<b>G</b>	<b>G</b>

Table C-1. MCIO Guidance Alignment with DoD Requirements (cont'd)

Mandated Action	DoD Issuance	DoD Requirements	CID	NCIS	AFOSI
6	DoDI 1030.2	6.2 If the victim or witness has not already received the DD Form 2701 from law enforcement officials, it shall be used by investigators as a handout to convey basic information and points of contact. The date it is given to the victim or witness is reportable and shall be recorded on the appropriate form authorized for use by the particular Service. This serves as evidence that the officer notified the victim or witness of his or her statutory rights.	G	G	G
7	DoDI 1030.2	6.2., and 6.2.1 through 6.2.3. Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of [t]he status of the investigation of the crime, to the extent providing such information does not interfere with the investigation. . . [t]he arrest of the suspected offender [, and]. . . [a] decision not to pursue further investigation.	G	G	B
8	DoDI 5505.03	1. [T]his Instruction. . . establishes policy and updates responsibilities and procedures under reference (b [DoD Directive 5106.1, "Inspector General of the Department of Defense"]) to ensure the independence, objectivity, and effectiveness of the Defense Criminal Investigative Organizations (DCIOs). [We evaluated whether MCIOs' guidance reflected their intent to be independent, objective, and effective.]	G	G	G
9	DoDI 5505.07	4.a. [O]rganizations that conduct criminal investigations shall place the names and identifying information of people under criminal investigations in the title blocks of investigative reports.	G	G	G
10	DoDI 5505.07	4.d. If a subject's identifying information requires removal or correction. . . investigating organizations shall remove such information as soon as possible.	G	G	G
11	DoDI 5505.18	Encl. 2, 1. The MCIO investigator assigned to an adult sexual assault investigation will ensure a Sexual Assault Response Coordinator (SARC) has been notified as soon as possible. . . .	G	G	G
12	DoDI 5505.18	Encl. 2, 8. MCIOs must include the DD Form 2911, "DoD Sexual Assault Forensic Examination Report," or reports from civilian sexual assault forensic exams conducted at civilian healthcare facilities (when DoD retains jurisdiction) as part of the archived file.	G	G	G

Table C-1. MCIO Guidance Alignment with DoD Requirements (cont'd)

Mandated Action	DoD Issuance	DoD Requirements	CID	NCIS	AFOSI
13	DoDI 5505.18	Encl. 2, 11. Pursuant to section 581 of Reference (o ["National Defense Authorization Act for Fiscal Year 2012," December 31, 2011]), the MCIO investigator assigned to conduct an adult sexual assault investigation must inform the victim of a sexual assault. . . of the availability of legal assistance and the services of a SARC or a [Sexual Assault Prevention and Response Victim Advocate]. The [victim] must also be informed that the legal assistance and the services of a SARC or a SAPR VA are optional and may be declined.	B	G	B
14	DoDI 6495.02	Encl. 9, 1.c.: MCIO, DoD law enforcement, and the legal representative or SJA shall provide case disposition; and 2.e.: For each victim, each CMG [Case Management Group] member who is involved with and working on a specific case will provide an oral update without violating victim confidentiality or disclosing privileged communications.	G	G	B



## Appendix D

### Comparison of Service-Mandated Requirements by MCIO

**Legend:**

MCIO addresses the Service requirement.	<b>G</b>
MCIO should consider enhancing its guidance to better address Service requirement.	<b>B</b>
MCIO should consider adding Service requirements to their guidance.	<b>Y</b>

Table D-1 depicts 24 Army Service requirements and the degree to which CID addresses those requirements.

*Table D-1. Army Service Requirements*

	Guidance	Requirement	CID
1	AR 600-20	8-2c. The Army will treat all victims of sexual assault with dignity, fairness, and respect.	<b>G</b>
2	AR 600-20	8-5d(3) Establish procedures in CID regulations that support the role of the SARC and provide status reports to the SARC on the investigative activity and other pertinent details to the extent that it will not jeopardize an ongoing investigation or the rights of a potential subject of an ongoing investigation.	<b>G</b>
3	AR 600-20	8-5d(4) Ensure that the Office of the Staff Judge Advocate is notified when a sexual assault occurs within Army jurisdiction.	<b>G</b>
4	AR 600-20	8-5d(6) Ensure that victims and witnesses are notified of their rights through a completed DD Form 2701 (Initial Information for Victims and Witnesses of Crime). Ensure that the victim and witness are informed of the status of the investigative activity, according to the procedures established by the SARC and to the extent that such actions will not jeopardize an ongoing investigation and the availability of services.	<b>G</b>
5	AR 600-20	8-5d(7) Ensure that disposition reports by battalion commanders or first lieutenant colonel in the chain of command, DA Form 4833 (Commander's Report of Disciplinary or Administrative Action), are entered into the Army Criminal Investigation and Intelligence System and reported to the Director, U.S. Army Crime Records Center.	<b>G</b>
6	AR 600-20	8-5d(8) Support the submission of sexual assault data into SADMS [Sexual Assault Data Management System].	<b>G</b>
7	AR 600-20	8-5d(10) Provide a representative with appropriate experience and level of expertise to serve on the Sexual Assault Review Board (SARB) (see Appendix F [of AR 600-20] for a detailed description of the SARB).	<b>G</b>
8	AR 600-20	8-5d(11) Establish procedures for implementing the provisions of confidentiality as defined in Appendix H [of Army Regulation [AR] 600-20].	<b>G</b>

Table D-1. Army Service Requirements (cont'd)

	Guidance	Requirement	CID
9	AR 600-20	8-5d(12) Immediately notify the SARC or the on-call IVA [Installation Victim Advocate], if after normal duty hours, of all incidents of sexual assault.	G
10	AR 27-10	5–13. Reports and investigation of offenses. a. Any military authority, including a military law enforcement agency, that receives a report of a serious offense, will advise the trial counsel at the initiation of and critical stages in, the investigation. The commanding general [sic], U.S. Army Criminal Investigation Command (USACIDC) may approve exceptions to this requirement on a case-by-case basis.	G
11	AR 27-10	5-13a. Trial counsel will confer regularly about all developing cases with local Criminal Investigation Command (CID) and military police (MP) personnel. Trial counsel should work closely with and provide legal advice to investigative entities throughout the investigative process.	G
12	AR 27-10	17-19b. Victim/witness protection. In cases where the life, well-being, or safety of a victim or witness is jeopardized by his or her participation in the criminal investigation or prosecution process, the SJA [Staff Judge Advocate] will ensure that appropriate law enforcement agencies are immediately notified. . . . The SJA should contact USACIDC for all victim and witness requests to be in the Federal Witness Protection program and for fear of life transfers.	G
13	AR 195-2	1–5. Objectives. The operational procedures of each Army USACIDC element will be directed toward attaining the following objectives: a. Ensuring known or suspected serious crimes and crimes which may result in damaging the public confidence in the Army are thoroughly and impartially investigated by USACIDC special agents.	G
14	AR 195-2	1-5c. Informing promptly appropriate authorities of facts uncovered during criminal investigations and crime prevention activities by preparing and submitting required reports in accordance with applicable directives.	G
15	AR 195-2	1-6. Policies. . . b. Serious crimes and incidents, in accordance with this regulation, will be reported to, and investigated by, USACIDC personnel. Commanders will immediately report all incidents or allegations of sexual assault to USACIDC. The commander of the appropriate USACIDC activity will direct the initiation of an investigation immediately upon receipt of information that a criminal incident falling within the investigative purview of USACIDC has occurred or is suspected. Once initiated, a criminal investigation will continue until completion.	G
16	AR 195-2	1-7. e. The USACIDC will determine appropriate investigative action in accordance with this regulation for all criminal incidents or allegations reported to it or developed through its own sources. Reports will be prepared reflecting the results.	G
17	AR 195-2	1-7f. The USACIDC element receiving reports of criminal incidents or allegations from other than the installation LE will notify the appropriate installation PM/DES [Provost Marshal/Director of Emergency Services] of the incident, unless such notification will compromise the investigation in accordance with this regulation.	G

Table D-1. Army Service Requirements (cont'd)

	Guidance	Requirement	CID
18	AR 195-5	1–1. This regulation provides standards for receiving, processing, safeguarding, and disposing of physical evidence acquired by special agents, investigative assistants and evidence custodians of the U.S. Army Criminal Investigation Command (USACIDC), Military Police (MP), and Department of the Army (DA) employees and contractor personnel who are assigned to civilian police or security guard positions involving the enforcement of law and security duties on Army installations or activities.	G
19	AR 195-5	1.1. This regulation is for the internal management, control, and disposition of evidence of criminal misconduct, including unrestricted reporting cases of sexual assault. It also applies to the management, control, and disposition of evidence kits and any other property released to Provost Marshal (PM) activities in sexual assault cases involving restricted reporting. It does not confer rights upon criminal defendants in judicial, nonjudicial, or administrative proceedings. Failure to follow any provision of this regulation will not affect the admissibility of evidence at a court-martial unless the Military Rules of Evidence independently result in a ruling that the evidence is not admissible.	G
20	AR 195-5	2-9.o. Personal property that is not contraband, as determined by the trial counsel, will be released to the rightful owner. Coordination will be made with victims of violent or traumatic crimes immediately prior to returning certain property (such as the clothing items worn during a sexual assault), to determine whether the owner wants the property returned or wants the property destroyed to preclude added embarrassment or emotional turmoil.	G
21	AR 195-5	2-9.k. Items of evidence collected involving blood and other body fluids should be handled as outlined in paragraph 2–14. Potentially infectious materials (for example, clothing and bedding from a sexual assault investigation) will be placed in a properly marked biohazard container and returned to the owner. Prior to the evidence being returned to the owner, the owner will be contacted and apprised of the possible hazard. If the owner declines to accept the possibly contaminated property, the property will be destroyed and disposed of in an appropriate and safe manner.	G
22	AR 195-5	2–15. Procedures for restricted or unrestricted reporting. Military victims of sexual assault can elect either restricted or unrestricted reporting. a. Unrestricted reporting requires normal law enforcement reporting, investigative, and evidence procedures.	G
23	AR 195-5	2-15.b. Restricted reporting requires that law enforcement and criminal investigative organizations not be informed of the victim's identity and not initiate any investigative procedures.	G
24	AR 195-5	5–2. Sealing a. General. (3) When possible, evidence should be packaged and shipped compartmentalized by forensic discipline. For example, separate and ship sexual assault kits/whole blood under separate registered mail from evidence that requires only latent print examinations. [Digital evidence must be separated from evidence requiring refrigeration. Compartmentalizing evidence facilitates the optimum storage and routing of the evidence, reduces unnecessary handling of items, and contributes to the thorough and timely examination of evidence by the appropriate forensic branches.]	G

Table D-2 depicts 11 Navy Service requirements and the degree to which NCIS addresses those requirements.

*Table D-2. Navy Service Requirements*

	Guidance	Requirement	NCIS
1	SECNAVINST 1752.4B	4. Director, Naval Criminal Investigative Service (NCIS) shall: a. Training. Ensure that all NCIS military and civilian personnel receive SAPR training in accordance with enclosure (10).	G
2	SECNAVINST 1752.4B	4. Director, Naval Criminal Investigative Service (NCIS) shall: b. Data Reporting. Collect all data according to DoD annual reporting requirements, as explained in enclosure (12), and submit all data in coordination with Service inputs from the Navy and Marine Corps.	Y
3	SECNAVINST 5800.14A	7.d. The Naval Criminal Investigative Service, upon notification from a convening authority concerning those military offenders adjudged at a general or special courts-martial for whom sex offender notification is required, shall: (1) Ensure required notifications are made in order to be received within 10 days of the completion of: (a) Judicial proceedings for those offenders meeting conditions of paragraph 7c (3) (a) and (b) (b) Any post-trial action described in paragraph 7c(5).	G
4	SECNAVINST 5800.14A	7.d.(2) Ensure enclosure (2) is used for making required notifications. [Notice of Release/Acknowledgement of Convicted Sex Offender Registration Requirements]	G
5	SECNAVINST 5800.14A	7.d.(3) Ensure written notice of an offender's return to the community is provided to (a) Officials outlined in paragraphs 7b (3) (a) , 7b (3) (b), and 7b (3) (c) for offenders returning to a destination inside the United States. (b) Officials outlined in paragraph 7b (4) for offenders returning to a destination outside the United States.	G
6	SECNAVINST 5800.14A	7.d.(4) Ensure prompt notification of all recipients of notifications that the previous notice is withdrawn in the event that notification of an offender's return to the community based on conviction for a sex offense or crime against a minor has been made, after which all such findings are disapproved in post-trial action described in paragraph 7(c) (5), and no conviction for a sex offense or crime against a minor is approved.	G
7	OPNAVINST 1752.1B	9.g.(3) The responsible special agent provides monthly case status updates to victims of sexual assault until the investigation is complete and sent to command for adjudication.	G
8	OPNAVINST 1752.1B	9.g.(4) Ensure special agent participation in the SACMG [Sexual Assault Case Management Group].	G

Table D-2. Navy Service Requirements (cont'd)

	Guidance	Requirement	NCIS
9	SECNAVINST 5430.107	7.c.(1)(a) NCIS may initiate, independent of command request, any investigative action within the purview of this instruction and need not solicit authorization to conduct any investigation. NCIS shall, however, normally apprise the immediate senior in command (ISIC) of the person or organization being investigated that an investigation has been initiated. Any commander, commanding officer or other appropriate command authority within the Navy or Marine Corps may request NCIS assistance.	G
10	SECNAVINST 5430.107	7c.(2) Dissemination and Retention of Reports: NCIS shall: (a) Provide to each command, prosecutorial authority or other appropriate activity a full report of investigation regarding any offenses or incidents investigated affecting that entity.	G
11	SECNAVINST 5430.107	7c.(2) Dissemination and Retention of Reports: NCIS shall: (b) Maintain a central repository for reports of investigation, counterintelligence data and security clearance adjudication files created by the DON [Department of the Navy] Central Adjudication Facility (DON CAF).	G

Table D-3 depicts eight Air Force Service requirements and the degree to which AFOSI addresses those requirements.

Table D-3. Air Force Service Requirements

	Guidance	Requirement	AFOSI
1	AFI 36-6001	2.7.1. DoD Directive requires the establishment of a multi-disciplinary case management group, chaired by the SARC, to meet monthly to review unrestricted cases, improve reporting, facilitate monthly victim updates, and discuss process improvement to ensure system accountability and victim access to quality services.  2.7.1.1. For unrestricted cases, the case management group includes the SARC, VA, <b>AFOSI</b> , SF [Security Forces], Healthcare Provider, HC [Chaplain], JA [Judge Advocate] and the reporting victim's commander.*	B
2	AFI 71-101V1	2.4. Defense Clearance and Investigations Index (DCII). AFOSI will index subjects of criminal investigations in DCII as soon as it is determined that credible information exists that the subject committed a criminal offense in accordance with AFD [Air Force Policy Directive] 71-1.	G

\* AFOSIMAN 71-122, volume 1, July 22, 2014, paragraph 4.3.3.3., addresses case management group participation. The publication of this guidance is not within the timeframe of this evaluation.

Table D-3. Air Force Service Requirements (cont'd)

	Guidance	Requirement	AFOSI
3	AFI 71-101V1	2.6. Deoxyribonucleic Acid (DNA) Samples. AFOSI and Security Forces will take DNA samples of suspects, normally when fingerprints are taken, and send to the United States Army Criminal Investigation Laboratory (USACIL) according to DoDI 5505.14, <i>Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations</i> .	G
4	AFI 71-101V1	2.9.1. AFOSI will work closely with the servicing SJA in matters involving violations of the Uniform Code of Military Justice (UCMJ) or where the Military Extraterritorial Jurisdiction Act (MEJA) may apply. This collaboration will begin at the initiation of and continue throughout substantive criminal investigations.	G
5	AFI 71-101V1	2.9.1. When appropriate, AFOSI will share investigative data (written statements, evidence, etc.) as well as information on anticipated leads in the investigation. AFOSI will also coordinate with the assigned trial team on all subject interviews when appropriate.	G
6	AFI 71-101V1	2.17. Sexual Assaults. AFOSI will initiate investigations as determined in Attachment 2 when unrestricted reports are received and will safeguard Sexual Assault Forensic Examination (SAFE) kits as evidence for restricted reports in accordance with AFI 36-6001.	G
7	AFI 71-101V1	3.1.5. PCA [Polygraph and Credibility Assessment] Examinations of Sexual Assault Victims. The Air Force PPMO [Polygraph Program Management Office] will only consider approving a request for a PCA examination of a sexual assault victim after the subject of the allegation, if known, declines the offer to take a PCA examination.  3.1.5.1. To avoid causing undue hardship for sexual assault victims, PCA examination of such victims will not ordinarily be approved unless circumstances clearly warrant it.	G
8	AFI 51-201	7.17. Law Enforcement and Investigative Personnel. At the earliest opportunity after identification of a crime victim or witness and when appropriate, law enforcement and investigative personnel shall provide to each victim and witness DD Form 2701, <i>"Initial Information for Victims and Witnesses of Crime."</i>	G

## Appendix E

### Comparison of CIGIE QSI Actions Across MCIOs

Table E-1 depicts 31 CIGIE Quality Standards of Investigation (actions) and the degree to which each MCIO addressed those actions.

**Legend:**

MCIO guidance addresses the CIGIE action.	<b>G</b>
MCIO should consider enhancing its guidance to better address CIGIE action.	<b>B</b>
MCIO should consider adding CIGIE actions to their guidance.	<b>Y</b>

*Table E-1. CIGIE Actions*

	CIGIE QSI Action	CID	NCIS	AFOSI
1	Determine the planned focus and objectives of the investigation.	G	G	G
2	Identify possible violation(s) of law, rule, or regulation and the corresponding elements of proof or standards.	G	G	G
3	Coordinate with appropriate authorities, if warranted (for example, another IG or the Federal Bureau of Investigation).	G	G	G
4	Determine the applicable judicial venue and coordinate with prosecutors, when appropriate.	G	G	G
5	Identify the investigative steps necessary to meet investigative objectives.	G	G	G
6	Use of a time-phased approach that ensures that individual leads are pursued on a timely basis and that periodic evaluations of progress occur. This would include an affirmative decision to continue or terminate the investigation.	G	G	G
7	Ensure that investigative steps include the identification of any causative factors that should be reported as weaknesses or internal control issues requiring corrective action by agency management.	G	G	G
8	Conduct investigations in a timely, efficient, thorough, and objective manner.	G	G	G
9	The investigator is a fact-gatherer and should not allow conjecture, unsubstantiated opinion, bias or personal observations or conclusions to affect work assignments.	G	G	G
10	He or she [the investigator] also has a duty to be receptive to evidence that is exculpatory, as well as incriminating.	G	G	G
11	A review of known information should precede a planned interview.	G	G	G
12	When conducting an interview, particular attention should be given to obtaining the interviewee's observation and knowledge of incidents and actions or statements of other persons connected with the event.	G	G	G

Table E-1. CIGIE Actions (cont'd)

	CIGIE QSI Action	CID	NCIS	AFOSI
13	The collection of evidence should be undertaken in such a way as to ensure that all known or obviously relevant material is obtained, the chain of custody is preserved, and the evidence is admissible in any subsequent proceeding.	G	G	G
14	The validity of information and evidence obtained during an investigation should be verified.	G	G	G
15	The results of investigative activities should be accurately and completely documented in the case file.	G	G	G
16	Internal investigative guidelines should specifically and clearly address due diligence and timeliness of the documentation.	G	G	G
17	Interviews, evidence collection, and other activities must be initiated, conducted, and reported in accordance with all applicable laws, rules, regulations, and should be conducted with due respect for the rights and privacy of those involved. This includes, for example, appropriate warnings and assurances, and grand jury restrictions.	G	G	G
18	Supervisory reviews of case activities should occur periodically to ensure that the case is progressing in an efficient, effective, thorough, and objective, manner.	G	G	G
19	Reports (oral and written) must thoroughly address all relevant aspects of the investigation and be accurate, clear, complete, concise, logically organized, timely and objective. All reports should accurately, clearly, and concisely reflect the relevant results of the investigator's efforts.	G	G	G
20	In any report, the facts should be set forth to facilitate reader comprehension. This should include a clear and concise statement of the facts and applicable law, rule, or regulation that was allegedly violated or that formed the basis for an investigation.	G	G	G
21	The principles of good report writing must be followed. A quality report will be logically organized, accurate, complete, concise, impartial, and clear and issued in a timely manner.	G	G	G
22	Reports should contain exculpatory evidence and relevant mitigating information when discovered during any administrative investigation. Exculpatory evidence in a criminal or civil investigation must be brought to the attention of the assigned prosecutor.	G	G	G
23	Evidence outlined in a report should be supported by documentation in the investigative case file.	G	G	G
24	The outcome or accomplishment (fines, savings, recoveries, indictments, convictions, suspensions and debarments, or management recommendations, etc.) should be documented in the file.	G	G	G
25	In some cases it may be appropriate to note specific allegations that were not investigated to ensure decisionmakers ( <i>sic</i> ) can take further action as they deem appropriate.	G	G	G
26	Systemic weaknesses or management problems disclosed in an investigation should be reported to agency officials as soon as practicable.	G	G	G



Table E-1. CIGIE Actions (cont'd)

	CIGIE QSI Action	CID	NCIS	AFOSI
27	Investigative data must be stored in a manner allowing effective retrieval, reference, and analysis while ensuring the protection of sensitive data (i.e., personally identifiable, confidential, proprietary, or privileged information or materials). One of the many hallmarks of an efficient organization is its ability to retrieve information that it has collected. An effective information management system creates and nourishes an institutional memory. This, in turn, enhances the entire organization's ability to conduct pattern and trend analyses and to fulfill the mandate of detection and prevention. Such a system also assists in the process of making informed judgments relative to resource allocation, training needs, investigative program development, and prevention and implementation of the investigative process.	G	G	G
28	The degree to which an organization efficiently achieves its goals is affected by the quality and relevance of information that is collected, stored, retrieved, and analyzed. Information, or the lack of it, has direct influence on management's ability to make sound decisions relating to investigative matters. Therefore, written directives should exist that define the organizational component responsible for record maintenance and the specific procedures to be performed.	G	G	G
29	Accurate processing of information is essential to the mission of an investigative organization. It should begin with the orderly, systematic, accurate, and secure maintenance of a management information system. Written guidance should define the data elements to be recorded in the system. The guidance should be based on legal requirements and needs and should cover the proper security and storage of personally identifiable and other sensitive information and the storage of discoverable information.	G	G	G
30	The investigative process often begins with information received in the form of a complaint from an individual. The initial complaint will rarely provide the agency with all the necessary information and may be the first indication of a serious violation of law. In accordance with the Inspector General Act, policies, procedures, and instructions for handling and processing complaints should be in place. Individuals receiving complaints should obtain all pertinent details. The agency should adopt procedures to ensure that basic information is recorded, held confidential, and tracked to final resolution.	G	G	G
31	Establish guidelines, including the level of the approving authority, for making a determination to initiate an investigation or to pursue another course of action. Case assignments should be based on resource considerations, geographical dispersion and level of experience of personnel, and current workloads. A decision not to investigate (refer to another entity or take no action) should be documented.	G	G	G

## Appendix F

### Comparison of IACP Actions Across MCIOs

Table F-1 depicts 25 actions identified in the IACP Investigative Strategies (IS). Each IACP action was evaluated to determine the extent to which each MCIO's policies address the requirement.

#### Legend:

MCIO addresses the IACP action.	<b>G</b>
MCIO should consider enhancing its guidance to better address IACP action.	<b>B</b>
MCIO should consider adding IACP actions to their guidance.	<b>Y</b>

Table F-1. Actions Identified within the IACP Investigative Strategies

	IACP Action	CID	NCIS	AFOSI
1	Create a timeline [for inclusion in report] to show trauma/post-assault behavior of the victim in context of previous behavior. For example, document dramatic physical changes such as weight loss/gain or reported changes in daily routines and/or work performance.	<b>G</b>	<b>Y</b>	<b>G</b>
2	Use the victim's exact words and place those words in quotations. Do not sanitize or "clean-up" the language used by the victim. Altered language may be used against the victim or officer in court.	<b>G</b>	<b>G</b>	<b>G</b>
3	If the victim was incapacitated as a result of voluntary alcohol or drug use, show why this is an issue of increased vulnerability rather than culpability.	<b>G</b>	<b>G</b>	<b>G</b>
4	Document any changes in victim/witness statements, especially as additional details are recalled following the initial trauma/shock of the assault.	<b>G</b>	<b>G</b>	<b>G</b>
5	If at some point a consensual encounter turned nonconsensual, ask the victim to describe details about how and when the perpetrator's behavior changed.	<b>G</b>	<b>G</b>	<b>G</b>
6	Victims may not be able to resist physically. This may be an indicator of force or fear and should be documented. <ul style="list-style-type: none"> <li>Perpetrators of sexual assault generally use only as much violence as needed to attain submission. Force or violence may not be overt if the perpetrator can commit the crime by using lesser means (i.e. a weapon isn't needed when you can use threats, alcohol, etc. [sic])</li> </ul>	<b>G</b>	<b>G</b>	<b>G</b>
7	Attend to the victim's immediate health and safety concerns and questions about reporting and the criminal justice process before beginning the interview.	<b>G</b>	<b>G</b>	<b>G</b>
8	Victims have a right to accept or decline all services. This does not mean that a thorough investigation should not be conducted.	<b>G</b>	<b>G</b>	<b>G</b>

Table F-1. Actions Identified within the IACP Investigative Strategies (cont'd)

	IACP Action	CID	NCIS	AFOSI
9	<p>Ask the victim if they would like to have a support person present for the interview.</p> <ul style="list-style-type: none"> <li>It is best practice to allow victims to have an advocate or a support person of their choosing present during the medical exam and/or law enforcement interview. Ask the victim privately who they would like present and take action to support their wishes.</li> </ul>	G	G	G
10	<p>While victims are entitled to have someone with them during the interview, look for signs of hesitation from the victim in revealing all of the details of the assault in front of someone with whom they are close, like a spouse or parent; or controlling or intimidating behavior by the support person towards the victim.</p>	G	Y	G
11	<p>Recognize the impact of trauma and how this affects an individual's behavior.</p> <ul style="list-style-type: none"> <li>Research shows that most victims of sexual assault never make a report to law enforcement. Of the victims who report, the majority do so after some delay. A delay in reporting should never deter a thorough investigation. A skillful prosecutor will be able to overcome any disadvantage a delay in reporting might cause when making the case in court.</li> <li>Most victims experience continuing trauma which may affect their physical, emotional, social, and economic state of being.</li> <li>Victims may experience difficulty remembering all the details of the sexual assault due to traumatic response. This does not mean they are lying or leaving out details intentionally. Often with time and as trauma recedes, details will emerge.</li> </ul>	G	G	G
12	<p>People react differently to trauma. Lack of emotion or the presence of emotion is not an indicator of the legitimacy of the assault, and either is common.</p>	G	G	G
13	<p>After sufficient time to conduct a thorough investigation, schedule a follow-up interview to gather any information the victim may have missed or not recalled earlier and to ask about or clarify additional information learned.</p> <ul style="list-style-type: none"> <li>Unless there are exigent circumstances requiring an arrest or identification, delaying the follow-up interview will generally enhance the investigation and the quality of information obtained.</li> </ul>	G	G	G
14	<p>Do not polygraph victims. The practice of submitting victims of sexual assault to a polygraph exam intimidates victims and destroys the trust victims and the communities have with law enforcement. Polygraphing negatively affects law enforcement's chance to successfully investigate sexual assault crimes.</p>	G	G	G
15	<p>"Physical evidence can be collected up to 120 hours (in some states) following a sexual assault. The victim should be advised, however, that critical physical evidence and documentation of injuries may be lost with a delayed exam.</p> <p>Note: The Model Policy (2005) reflects a cutoff at 92 hours, while the Investigative Strategies (2008) places the cutoff at 120 hours. This is most likely due to advancing forensic technology."</p>	G	G	G

Table F-1. Actions Identified within the IACP Investigative Strategies (cont'd)

	IACP Action	CID	NCIS	AFOSI
16	A victim's right to change their mind regarding moving forward with the investigation and prosecution should only be constrained by the statute of limitations. Even then, the victim may serve as a witness in another case involving the same suspect, so an interview and investigation should always be conducted.	G	G	G
17	As with other crimes, focus should remain on the suspect, not on the victim's character, behavior, or credibility.	G	G	G
18	<p>Obtain consent or acquire a court order to secure a suspect forensic exam for probative evidence.</p> <ul style="list-style-type: none"> <li>Like the victim, the suspect's body carries evidence and can potentially confirm aspects of the victim's account (e.g. identifying marks, injuries).</li> <li>In some jurisdictions, a suspect forensic exam can be done incident to arrest or by requesting a court order for non-testimonial evidence.</li> </ul> <p>Additionally, the Model Policy reflects, "A search warrant may be needed to collect any evidence from the body of the suspect or even to collect clothing. If the suspect consents to such evidence collection procedures, documentation of voluntary consent shall be provided in the police report."</p>	G	G	G
19	Remind the victim that, due to the nature of trauma, it is typical not to remember all of the details of the sexual assault. Think out loud with the victim to identify new information in the victim's account that may be used as evidence. This process may help jog additional memories.	G	G	G
20	<p>Grooming behavior, which may be indicative of premeditation is often used to test, select, and isolate victims and to make the potential victim feel comfortable and able to trust the perpetrator.</p> <ul style="list-style-type: none"> <li>Why did the suspect choose this victim? What might make her/him less credible and/or more vulnerable?</li> <li>How did the suspect create a situation to build trust?</li> <li>Did the suspect monitor the victim physically or through electronic means?</li> <li>What was the role of alcohol and/or drugs?</li> <li>Did the suspect isolate or attempt to isolate the victim?</li> <li>Why was the specific location for the assault chosen?</li> </ul>	G	G	G
21	<p>Sexual assault cases are typically portrayed as "he said/she said" but in reality are often "he said/they said" cases. Perpetrators of this crime frequently have a history of acts of sexual violence. Previously unreported offenses may be found by interviewing the [people in] suspect's social circles, [and] current and former partners.</p> <ul style="list-style-type: none"> <li>Prior victims should be interviewed and their statements included in the current investigation.</li> </ul>	G	G	G
22	Victims will often confide in someone (e.g. a close friend). These individuals are considered "outcry witnesses" and their statement can provide powerful corroboration.	G	G	G

*Table F-1. Actions Identified within the IACP Investigative Strategies (cont'd)*

	IACP Action	CID	NCIS	AFOSI
23	Suspects often boast or brag about their sexual encounters to a friend or friends. These individuals are also considered “outcry witness” and their statement(s) can provide powerful corroboration of the details of the assault.	G	G	G
24	Monitoring and surveillance are often precursors to sexual assault. Check if stalking charges may apply.	G	G	Y
25	Remain open to the possibility of drug-facilitated sexual assault. Victims of a drug-facilitated assault may report black-outs, gaps in time and memory, and a general uncertainty as to whether or not an assault occurred.	G	G	G

Table F-2 depicts 67 actions identified in the IACP Model Policy (MP). Each IACP action was evaluated to determine the extent to which each MCIO’s policies address the requirement.

*Table F-2. Actions Identified within the IACP Model Policy*

	IACP Action	CID	NCIS	AFOSI
1	To ensure critical evidence is not lost, communications personnel shall: a. ask whether the victim has bathed, douched, urinated, or made other physical changes and advise against doing so.	G	Y	G
2	Evaluate the scene.	G	G	G
3	Secure the crime scene to ensure that evidence is not lost, changed, or contaminated.	G	B	G
4	Inform the victim that an officer of the same sex will be provided if desired and available.	G	G	G
5	Record observations of the crime scene, including the demeanor of the suspect and victim and document any injuries or disheveled clothing.	G	G	G
6	Responding officers shall protect the integrity of the evidence and guard the chain of custody by properly marking, packaging, and labeling all evidence collected.	G	G	G
7	Label all evidence, including clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals (such as undergarments, pants, and shorts).	G	G	G
8	Obtain photographs and videotape of the crime scene prior to processing.	G	G	G
9	Obtain a diagram of the crime scene(s).	G	G	G

Table F-2. Actions Identified within the IACP Model Policy (cont'd)

	IACP Action	CID	NCIS	AFOSI
10	Officers shall introduce the need for a medical examination to the victim explaining the importance to investigative and apprehension efforts as well as for the victim's well-being. Officers shall not coerce victims to go to the hospital or to provide samples for drug screening.	G	G	G
11	DNA evidence plays a crucial role in the sexual assault investigation. In addition to the victim's and suspect's bodies and clothing, there are many other potential sources such as condoms, sheets, blankets, pillows, and bottles that may contain biological evidence such as blood, sweat, tissue, saliva, hair, and urine. To properly collect DNA evidence, officers shall use sterile gloves and change [the gloves] as needed.	G	G	G
12	[To properly collect DNA evidence] use sterile swabs, papers, solutions, and tools.	G	G	G
13	[To properly collect DNA evidence] package evidence in individual envelopes.	G	G	G
14	Avoid touching the area where potential DNA evidence may exist.	G	G	G
15	[To properly collect DNA evidence] avoid talking, sneezing, and coughing over evidence.	G	G	G
16	Air dry evidence before packaging.	G	G	G
17	[To properly collect DNA evidence] put evidence into new paper bags or envelopes, not plastic.	G	G	G
18	The [SAFE] kit shall not be allowed to freeze or be exposed to heat such as being near a car's interior heater.	G	G	G
19	The majority of non-stranger sexual assaults result in a consent defense. Thus, evidence of particular importance includes evidence of genital or nongenital injury.	G	G	G
20	[In non-stranger assault] obtain information regarding the suspect's size and strength in comparison to the victim's.	G	G	G
21	[In non-stranger assault] obtain information regarding the environment in which the assault took place (such as isolation or soundproofing).	G	G	G
22	Responding officers shall be familiar with information regarding the victim's behavior after the assault, including posttraumatic stress [in non-stranger assault].	G	G	Y
23	Based on the victim's emotional and physical state, questions of the victim concerning the assault and description and location of the suspect shall be limited.	G	G	G
24	Responding officers must identify and interview any potential witnesses, bearing in mind that there may be multiple crime scenes.	G	G	G

Table F-2. Actions Identified within the IACP Model Policy (cont'd)

	IACP Action	CID	NCIS	AFOSI
25	Based on the length of time between the assault and report of the crime and the individual's personal history, the victim may be in crisis and experiencing post-traumatic-stress disorder or rape trauma syndrome and exhibiting a range of behaviors that will likely change over time. <ul style="list-style-type: none"> <li>The victim's response to the trauma of a sexual assault shall not be used in any way to measure credibility. When drugs or alcohol are involved, the victim may have limited recollection or be unable to give a complete account of the crime. Not knowing the details of what happened may exacerbate the trauma experienced by the victim.</li> <li>Interviews shall be conducted promptly if the victim is coherent and consensual.</li> </ul>	G	G	G
26	Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings.	Y	Y	G
27	Investigators shall remain patient and maintain an open mind while listening to the victim's account.	G	G	G
28	Remember that victims may struggle with gaps in memory.	G	G	G
29	Avoid leading questions while conducting the interview.	G	G	G
30	Use simple terminology appropriate to the victim's age, sophistication, and intelligence.	G	G	G
31	Prior to initiating the interview, the officer shall interview any witness who might have seen or spoken with the victim before, during, or after the assault.	G	G	G
32	Prior to initiating the interview, the [investigator] shall: Take responsibility for excluding a support person when appropriate and offer the victim and support person an explanation.	G	Y	G
33	Secure a private location for the interview that is free from distractions.	G	G	G
34	Express sympathy to the victim and an interest in the victim's well-being.	G	G	G
35	Inform the victim of the need and importance of full disclosure of any and all recent drug use.	G	G	G
36	Explain the nature of the preliminary interview and the need for follow-up contacts.	G	G	G
37	Ask victims to explain what they remember and how they felt [during and after the assault].	G	G	Y
38	Explain that other professionals such as forensic examiners, detectives, evidence technicians, and prosecutors may have additional questions.	G	G	G
39	Remind the victim that visible evidence of injury may appear later, and to contact the investigators for additional photographs or other documentation.	G	G	G
40	Encourage the victim to contact the investigator with any additional information or evidence.	G	G	G

Table F-2. Actions Identified within the IACP Model Policy (cont'd)

	IACP Action	CID	NCIS	AFOSI
41	Explain how to contact police if harassed or intimidated by the suspect(s).	G	G	G
42	Delayed victim reporting is common in sexual assault cases due to the trauma and fear experienced by victims and should not deter a thorough investigation. Officers shall inquire about and document the reasons for a delayed report while avoiding questions that could be perceived as judgmental or accusatory.	G	G	G
43	Address any special needs of the victim, such as communication or mobility, and notify the victim advocate of the special need.	G	G	G
44	Explain to the victim the potential consequences if any part of the examination is refused.	G	G	G
45	Notify a victim advocate to offer the victim support when a forensic examination is to be conducted.	G	G	G
46	Advise the victim that the forensic examiner will collect any clothing that was worn during or immediately after the sexual assault.	G	G	G
47	Assist in arranging for clothing the victim may need after the examination.	G	G	G
48	Obtain a signed release from the victim for access to medical records.	G	G	G
49	When a forensic examination is indicated, the investigating officer shall brief the examining nurse or physician about the details of the sexual assault, as they are known at that time.	G	G	G
50	The nurse or physician shall brief the investigating officer at the conclusion of the examination.	G	G	G
51	If a drug-facilitated sexual assault is suspected, it is critical to obtain a urine sample from the victim as soon as possible.	G	G	G
52	Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and never used to discredit or discourage the victim from reporting the assault.	G	Y	B
53	Retrieve communications tapes and printouts.	G	G	G
54	Coordinate with relevant agencies, assistance organizations, service providers, or sexual assault response professionals to address the needs of the victim and to discuss the best means for keeping the victim informed.	G	G	G
55	In preparing for the interview, the investigator shall develop an investigative strategy based on the nature of the assault and the possible defenses available to the suspect (such as denial, mistaken identity, or consent). This strategy shall guide the questions and other evidence collection efforts. Critical evidence collection efforts include: evaluating whether a pretext phone call is appropriate.  Additionally, the Investigative Strategies states, "Pretext phone calls are a strong tool to be considered when the victim and suspect know each other. The transcript from a monitored call can provide useful evidence as facts are corroborated and the suspect makes admissions or gives improbable statements.	G	G	G



Table F-2. Actions Identified within the IACP Model Policy (cont'd)

	IACP Action	CID	NCIS	AFOSI
56	An in-depth follow-up interview shall be conducted after the victim has been medically examined and treated, and personal needs have been met.	G	G	G
57	In the event that the victim is still under the influence of drugs or alcohol, has been injured, or as a result of the assault has not slept, and barring exigent circumstances requiring an arrest or identification, the interview shall be delayed.	G	G	G
58	The interview shall be conducted in a location that is convenient, accessible, and comfortable for the victim. The investigator shall provide or arrange for transportation for the victim when needed.  Additionally, the Investigative Strategies states, "Help victims gain [back] a sense of control by involving them in the decision of when and where to hold the interview."	G	G	G
59	When contacting the victim, investigators should address arrest decisions including an explanation of the status of the case.	G	G	G
60	Document the victim's actions in response to the attack, the victim's state of mind during the attack, specific statements made by the perpetrator, and the nature of any relationship with the suspect and explain the importance of these questions from a prosecutorial standpoint.	G	G	G
61	Encourage the victim's continued support in the investigation, apprising the victim of future investigative and prosecutorial activities that will or may require involvement.	G	G	G
62	Respect a victim's inability, or decision not, to be involved in criminal justice proceedings and always be willing to offer continued assistance and referrals.	G	G	G
63	It is essential that the victim and suspect examinations [must] take place in different locations.	G	G	G
64	Immediately after the preliminary suspect interview, the investigating officer shall determine whether a forensic sexual assault examination should be obtained for the suspect.	G	G	G
65	[If the SAFE kit was based on voluntary consent,] the investigator shall clearly document the suspect's freedom to decline any part of the examination and to leave at any time.	B	G	G
66	First-line officers and supervisors shall be trained to collect cells from inside a suspect's cheek for DNA profiling. Cotton-tipped swabs or other buccal DNA collectors shall be readily available to investigators in the field.	G	G	G
67	Photograph and videotape of the suspect's injuries (if any).	G	G	G

## Appendix G

### Requirements CID Should Consider Adding to its Guidance

#### ***DoD Requirements***

None

#### ***Service Requirements***

None

#### ***CIGIE QSI***

None

#### ***IACP Actions***

Table G-1 depicts one action identified in IACP Model Policy (MP) and Investigative Strategies (IS) that CID should consider adding to its agency guidance. The IACP column shows the origin of the action: Model Policy (MP) or Investigative Strategies (IS).

*Table G-1. IACP Action*

	Action	IACP
1	Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings.*	MP

\* Includes: five subitems that “[i]nvestigators shall” do: “Remain patient and maintain an open mind while listening to the victim’s account”; “Remember that victims may struggle with gaps in memory”; “Avoid leading questions while conducting the interview”; “Use simple terminology appropriate to the victim’s age, sophistication, and intelligence”; and “Avoid using jargon or police, medical, or legal terms.” (IACP Investigating Sexual Assaults Model Policy, Effective Date May 2005, Section IV.C. 2. Victim Interview Protocol, page 4.) These five items are covered in CID policy guidance.

# Appendix H

## Requirements CID Should Consider Enhancing in its Guidance

### DoD Requirements

Table H-1 depicts one DoD requirement that CID should consider enhancing in its guidance.

Table H-1. DoD Requirement

	DoD Issuance	Requirement
1	DoDI 5505.18	Encl 2, 11. The MCIO investigator assigned to conduct an adult sexual assault investigation must inform the victim of a sexual assault ... of the availability of legal assistance and the services of a SARC or a SAPR VA. The member or dependent must also be informed that the legal assistance and the services of a SARC or a SAPR VA are optional and may be declined, in whole or in part, at any time.  [Enhance to include advisement that victim will be advised of the right to consult with the SARC, and the SARC and VA services are optional and may be declined, in whole or in part, at anytime.]

### Service Requirements

None

### CIGIE QSI

None

### IACP Actions

Table H.2 depicts one action identified in IACP Model Policy (MP) and Investigative Strategies (IS) that CID should enhance in its policy. The IACP column shows the origin of the action: Model Policy (MP) or Investigative Strategies (IS).

Table H-2. IACP Action

	Action	IACP
1	[If the SAFE kit was based on voluntary consent,] the investigator shall clearly document the suspect’s freedom to decline any part of the examination and to leave at any time.	MP

## Appendix I

### Requirements NCIS Should Consider Adding to its Guidance

#### ***DoD Requirements***

None

#### ***Service Requirements***

Table I-1 depicts one Navy requirement that NCIS should consider adding to its guidance.

*Table I-1. Navy Requirement*

	DoD Issuance	Requirement
1	SECNAVINST 1752.4B (Sexual Assault Prevention and Response)	Enclosure (3), "Responsibilities," paragraph 4.b., "Director, Naval Criminal Investigative Service (NCIS) shall: . . . Data Reporting. Collect all data according to DoD annual reporting requirements, as explained in enclosure (12), and submit all data in coordination with Service inputs from the Navy and Marine Corps."

#### ***CIGIE QSI***

None

## IACP Actions

Table I-2 depicts six IACP actions that NCIS should consider adding to its agency guidance. The IACP column shows the origin of the action: Model Policy (MP) or Investigative Strategies (IS). There are a number of actions the IACP attributes to non-investigators, but we maintain MCIO investigators should receive guidance and be knowledgeable about those actions.

*Table I-2. IACP Actions*

	Action	IACP
1	Create a timeline [for inclusion in the report] to show trauma/post-assault behavior of the victim in context of previous behavior. For example, document dramatic physical changes such as weight loss/gain or reported changes in daily routines and/or work performance.	IS
2	While victims are entitled to have someone with them during the interview, look for signs of hesitation from the victim in revealing all of the details of the assault in front of someone with whom they are close, like a spouse or parent; or controlling or intimidating behavior by the support person towards the victim.	IS
3	To ensure critical evidence is not lost, communications personnel [could include investigators] shall ask whether the victim has bathed, douched, urinated, or made other physical changes and advise against doing so.	MP
4	Prior to initiating the interview, the officer shall: . . . Take responsibility for excluding a support person when appropriate and offer the victim and support person an explanation.	MP
5	Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings.*	MP
6	Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and never used to discredit or discourage the victim from reporting the assault.	MP

\* Includes: five subitems that “[i]nvestigators shall” do: “Remain patient and maintain an open mind while listening to the victim’s account”; “Remember that victims may struggle with gaps in memory”; “Avoid leading questions while conducting the interview”; “Use simple terminology appropriate to the victim’s age, sophistication, and intelligence”; and “Avoid using jargon or police, medical ,or legal terms.” (IACP Investigating Sexual Assaults Model Policy, Effective Date May 2005, Section IV.C. 2. Victim Interview Protocol, page 4.) These five items are covered in NCIS policy guidance.

# Appendix J

## Requirements NCIS Should Consider Enhancing in its Guidance

### DoD Requirements

None

### Service Requirements

None

### CIGIE QSI

None

### IACP Actions

Table J-1 depicts one action identified in IACP Model Policy (MP) and Investigative Strategies (IS) that NCIS should enhance in its policy. The IACP column shows the origin of the action: Model Policy (MP) or Investigative Strategies (IS).

Table J-1. IACP Action

	IACP Action	IACP
1	Secure the crime scene to ensure that evidence is not lost, changed, or contaminated. [Suggest NCIS 3, chapter 34, paragraph 34-4.4, be enhanced by stating, "a detailed search <i>shall</i> be conducted as soon as possible."]	MP

# Appendix K

## Requirements AFOSI Should Consider Adding to its Guidance

### DoD Requirements

None

### Service Requirements

None

### CIGIE QSI

None

### IACP Actions

Table K-1. depicts three IACP actions that AFOSI should consider adding to its agency guidance. The IACP column shows the origin of the action: Model Policy (MP) or Investigative Strategies (IS).

Table K-1. IACP Actions

	Action	IACP
1	Monitoring and surveillance are often pre-cursors to sexual assault. Look to see if stalking charges may apply.	IS
2	Ask victims to explain what they remember and how they felt [during and after the assault].	MP
3	Responding officers shall be familiar with information regarding the victim’s behavior after the assault, including posttraumatic stress [in non-stranger assault].	MP

## Appendix L

### Requirements AFOSI Should Consider Enhancing in its Guidance

#### DoD Requirements

Table L-1 depicts three DoD requirements that AFOSI should consider enhancing in its guidance.

*Table L-1. DoD Requirements*

DoD Issuance	Requirement
DoDI 1030.2	<p>6.2. and 6.2.1 through 6.2.3 [Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of:] The status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.</p> <p>The arrest of the suspected offender.</p> <p>A decision not to pursue further investigation.</p> <p>[Enhance guidance to require briefings to commanders every 30 days so they can provide their required monthly victim briefings.]</p>
DoDI 5505.18	<p>Encl 2, 11. Pursuant to section 581 of Reference (o), the MCIO investigator assigned to conduct an adult sexual assault investigation must inform the victim of a sexual assault (defined as a member of the Armed Forces or a dependent) of the availability of legal assistance and the services of a SARC or a SAPR VA. The member or dependent must also be informed that the legal assistance and the services of a SARC or a SAPR VA are optional and may be declined, in whole or in part, at any time.</p> <p>[Enhance guidance to include guidance that the victim will be advised of the right to consult with the SARC and VA, and their services along with those of the Special Victim Counsel, are optional and may be declined, in whole or in part, at any time.]</p>
DoDI 6495.02	<p>Encl 9, 1.c.: Required CMG members shall include: ... MCIO . . . MCIO, DoD law enforcement, and the legal representative or SJA shall provide case dispositions.</p> <p>Encl 9, 2.e.: For each victim, each CMG member who is involved with and working on a specific case will provide an oral update without violating victim confidentiality or disclosing privileged communications.*</p>

\* AFOSIMAN 71-122, volume 1, paragraph 4.3.3.3., July 22, 2014, addresses case management group participation. The publication of this guidance is not within the timeframe of this evaluation.

#### Service Requirements

None

#### CIGIE QSI

None



**IACP Actions**

Table L-2 depicts one IACP investigative action that AFOSI should consider enhancing in its guidance. The IACP column shows the origin of the action: Model Policy (MP) or Investigative Strategies (IS).

*Table L-2. IACP Action*

	Action	IACP
1	Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and never used to discredit or discourage the victim from reporting the assault.	MP

## Appendix M

### Independent Review



INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22304-1500

July 31, 2014

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR POLICY AND OVERSIGHT

SUBJECT: Limited Scope Assessment of Investigative Policy and Oversight (IPO), Violent Crime Division's (VCD) final report, "Evaluation of the Military Criminal Investigative Organizations' Adult Sexual Assault Investigation Policies"

Personnel within my office performed a limited scope assessment of the subject IPO VCD final report to verify that IPO VCD appropriately addressed management comments and made appropriate adjustments in assuring that the report is factually accurate.

The IPO VCD final report as currently written satisfies the Quality Standards for Inspection and Evaluation (Blue Book) for evidence and reporting. In performing this assessment we in limited instances deferred to the professional judgment of IPO VCD.

If you have any questions regarding this memorandum, please contact me at (703) 604-8877 or by email at [Carolyn.Davis@dodig.mil](mailto:Carolyn.Davis@dodig.mil).

A handwritten signature in blue ink, reading "Carolyn R. Davis", is positioned above the typed name.

Carolyn R. Davis  
Assistant Inspector General  
Audit Policy and Oversight

## Management Comments

### CID Comments



DEPARTMENT OF THE ARMY  
U. S. ARMY CRIMINAL INVESTIGATION COMMAND  
27130 TELEGRAPH ROAD  
QUANTICO, VA 22134

REPLY TO  
ATTENTION OF

CIOP-ZC

19 February 2014

MEMORANDUM FOR Mr. Randolph Stone, Inspector General, Department of Defense,  
4800 Mark Center Drive, Alexandria, VA 22350-1500

SUBJECT: Review of the Military Criminal Investigative Organizations' (MCIOs') Sexual  
Assault Investigation Policies (Project No. 2011C019)

1. Thank you for affording us the opportunity to comment on the subject review. As provided below, we have serious concerns with the efficacy of this DODIG product in that the inspection report fails to meet the Council of Inspectors General on Integrity and Efficiency (CIGIE) quality standards. The report not only failed to meet the timely standard (26 months to provide a draft for comment); but as shown below, it also failed to meet the accuracy standard.

2. In that it took the DODIG 26 months to provide a draft report for comment, many of the policies inspected have since been changed or updated. It is disappointing that the DODIG could support a finding that "MCIOs' Sexual Assault Investigative Policies Generally Support DOD" when its analysis is so dated. The report itself admits that DOD has also updated several instructions in the interim (DODI 6495.01, 6495.02, 5505.18 and 5505.07). By publishing this report now, purporting to be the current state of MCIO investigative policies, the report fails to meet the expectations of this MCIO that strives to improve and provide the best possible investigative product to our Military. The DODIG inspection objective to review the MCIOs' policies against DOD and Service requirements, CIGIE quality standards policy, and law enforcement best practices clearly was not met given the numerous policy changes and lateness of the report. Much like two other recent DODIG reviews of sexual assault investigations, this report is severely flawed by inspection practices that fail to fall in line with DOD and CIGIE quality standards.

3. A full listing of current CID policies is attached. As opposed to what is stated in the DODIG report, all current CID policies on sexual assault comply with, and are aligned with, all current DOD and Army directives, regulations, and policies. Any charts, information, or tables within the DODIG report indicating otherwise are outdated.

4. A point-by-point rebuttal to each of the standards or requirements cited by the DODIG as missing from CID policy would not be productive given the age of the report and the other deficiencies contained within. For example, the DODIG recommends CID consider enhancing its guidance in regards to DODI 5505.07 to put all subject names in the DCII. The CID has entered all subject names in the DCII since 1972. It is a practice



## CID Comments (cont'd)

CIOP-ZC

SUBJECT: Review of the Military Criminal Investigative Organizations' (MCIOs') Sexual Assault Investigation Policies (Project No. 2011C019)

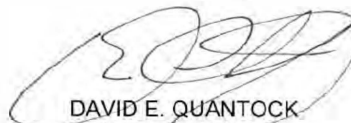
that is governed by CIDR 195-1, paragraphs 27-22 and 27-23. The DODIG also recommended CID enhance its policy in regards to DODI 5505.18 by having the investigator inform the victim of the availability of legal assistance and the services of a SARC or VA. Since at least 2005, CID has required its agents to explain and provide a DD Form 2701 to all victims of crimes; the DD Form 2701 notifies the victim of the availability of legal assistance and provides a local point of contact for that service. The CIDR 195-1, paragraph 15-1, also requires the agents to notify the SARC whenever a sexual assault is first encountered by CID (unless the SARC/VA is accompanying the victim).

5. Specific to Recommendation 1 (MCIOs evaluate the benefits and efficiencies of including DOD and Service sexual assault investigative policy in MCIO policy); a restatement of DOD and Service policy in a MCIO policy is neither beneficial nor efficient. The CID references DOD and Army policies in its publications, highlights important matters from those policies, and provides guidance when needed or appropriate in how to carry-out or comply with those policies (enclosed). The CID feels that is a more beneficial and effective method of aligning an MCIO policy with DOD and Service policies.

6. Specific to Recommendation 2 (MCIOs evaluate CIGIE quality standards of investigation and IACP "actions not currently aligned in MCIO policies for their relevance and applicability and consider incorporating them into their sexual assault policy guidance."); in our estimation, all 3 CIGIE and all 40 IACP "actions" were considered and, where appropriate, incorporated into existing CID policy and training.

7. We stand ready and willing to assist the DODIG in any efforts it may undertake to improve the quality of criminal investigations into allegations of sexual assault. We remain committed to ensuring the best possible support to our Army Soldiers, Civilians and Families.

8. The point of contact is [REDACTED] 571-305-4302 or email [REDACTED]



DAVID E. QUANTOCK  
Major General, USA  
Commanding

Encl

## CID Comments (cont'd)

### NEW / CHANGED POLICIES SINCE NOVEMBER 2011

1. UCMJ change to Article 120 (28 Jun 12)
2. CID Pam 195-12, Sexual Assault Investigation Handbook (23 Apr 13)
3. ALCID MESSAGES (Changes to CIDR 195-1):
  - 003-12, DA Form 4833 (Commander's Report of Disciplinary or Administrative Action) (12 Mar 12)
  - 004-12, Receipt and Development of Complaints (13 Mar 12)
  - 005-12, Subject and Victim Identification (13 Mar 12)
  - 006-12, Evidence Collection Regarding Restricted Reporting Sexual Assault Investigations on a Joint Base (20 Mar 12)
  - 010-12, Supplemental Reports of Investigation (21 May 12)
  - 011-12, Long-term Retention of Crime Scenes, Death Scenes and Recovery Scenes by Search and Seizure Warrant or Authorization (4 Jun 12)
  - 013-12, Utilization of CID Form 548-E for Request for Authorization to Conduct Consensual Intercept Operation or Notification of Consensual Intercept Operation (14 Jun 12)
  - 015-12, Sexual Assault Investigations (27 Jun 12)
  - 019-12, Mobile Phone Handling/Processing (4 Sep 12)
  - 020-12, DNA Collection Requirements for Criminal Investigations – Arrestees (Drug Offenders & Juveniles) (12 Sep 12)
  - 022-12, Release of Individuals Interviewed during High Risk Offense (13 Nov 12)
  - 023-12, Photographing Persons (19 Nov 12)
  - 001-13, Joint and Collateral ROIs (7 Jan 13)
  - 002-13, Requirements for Article 120 a, Article 125 Offenses and Attempts (7 Jan 13)
  - 003-13, Audio/Video and Electronic Recording of Interviews (8 Jan 13)
  - 008-13, Criminal History Name Checks (15 Mar 13)
  - 011-13, Eyewitness Identification (Lineups) (25 Apr 13)
  - 013-13, Guidance on Retention of Sexual Assault Evidence (8 May 13)
  - 015-13, Guidance on Reporting Numerous Subjects and Victims in Initial and Final ROIs (8 Jul 13)
  - 016-13, Policy Clarification for Off-Post Incidents (8 Jul 13)
  - 017-13, Trial Counsel and/or AUSA Coordination (31 Jul 13)
  - 018-13, APCSM regarding DoD Civilians (1 Aug 13)
  - 021-13, Dispatching of Status and Supplemental Reports (23 Oct 13)
  - 022-13, Sexual Assault Investigative Requirements (12 Nov 13)
  - 023-13, Conducting Canvass Interviews (14 Nov 13)
  - 024-13, Guidance on Retention of Sexual Assault Evidence (15 Nov 13)
4. Operations Memorandums
  - 006-12, Use of the Wizardized DA Form 4833 (Commander's Report of Disciplinary or Administrative Action) (8 Jun 12)

## CID Comments (cont'd)

007-12, DA Form 4833 (Commander's Report of Disciplinary or Administrative Action) (18 Jun 12)  
009-12, Entering Commander's Report of Disciplinary or Administrative Action taken into ACI2 (27 Jun 12)  
010-12, Reporting Criminal History to the Federal Bureau of Investigation  
011-12, Use of the Wizardized DA Form 4833 (Commander's Report of Disciplinary or Administrative Action) (18 Dec 12)  
001-13, Case Monitorship III reporting (25 Jan 13)  
003-13, Better Sexual Assault Investigations (6 May 13)  
007-13, Request for Medical Records in Support of Investigations (27 Aug 13)  
008-13, Documenting Activity in the Agent's Activity Summary (AAS) (19 Sep 13)  
013-13, CRC Name Checks for Child Care Providers and SARCs/VAs (24 Dec 13)



## NCIS Comments



DEPARTMENT OF THE NAVY  
HEADQUARTERS  
NAVAL CRIMINAL INVESTIGATIVE SERVICE  
27130 TELEGRAPH ROAD  
QUANTICO VA 22134-2253

February 18, 2014

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL, INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE

SUBJECT: Review of the Military Criminal Investigative Organizations Sexual Assault Investigations Policies (Project No. 2011C019) Naval Criminal Investigative Service Response

The Naval Criminal Investigative Service (NCIS) reviewed the draft report on the Review of the Military Criminal Investigative Organizations Sexual Assault Investigations Policies (Project No. 2011C019). I have provided the below information in response to the report.

The DOD IG review of the Military Criminal Investigative Organization's (MCIO) sexual assault investigation policies evaluated the MCIOs to determine if the MCIO policies aligned with DOD and Service requirements, as well as, best practices and standards established by the Council of Inspectors General on Integrity and Efficiency (CIGIE) and the International Association of Chiefs of Police (IACP). As a result of their evaluation, the DOD IG identified four recommendations requiring NCIS comment. Specifically, the DOD IG recommended: (1) NCIS evaluate the benefits and efficiencies of including all DOD and Service sexual assault investigative policy in NCIS policy, (2) Evaluate Council of Inspectors General and IACP best practices for relevance and applicability and consider incorporating those practices into NCIS policy, (3) Evaluate current NCIS policy language and eliminate segments which may imply victim blaming, (4) Evaluate NCIS procedures for sexual assault investigations relating to victim collateral misconduct.

In response: (1) NCIS has and will continue to evaluate DOD and Service sexual assault policies for inclusion into NCIS policy, (2) NCIS has an active and well established relationship with the IACP. Since 2008, NCIS has assigned a tenured investigator to serve as the NCIS Representative to the IACP. Through this formal relationship, NCIS maintains an open dialogue with the IACP and comfortably accesses IACP subject matter experts on various law enforcement topics, often to a greater degree than other law enforcement agencies. For example, in October 2012, while conducting an independent assessment on videotaping, NCIS communicated with the IACP and learned the IACP neither advocated nor opposed videotaping. When the DOD IG shared this report in January 2014, NCIS was surprised by the DOD IG reporting the IACP is pro-videotaping of victims. NCIS, once again utilizing our established relationship with the IACP, contacted the IACP and learned they had not changed their position on videotaping as suggested in the DOD IG report, (3) NCIS concurs the policy language identified in the DOD IG report may imply victim blaming. NCIS is currently revising it's policy for conducting sexual assault investigations and the identified language will be removed, (4) NCIS' charter clearly indicates NCIS investigates felony offenses. A result of the felony

## NCIS Comments (cont'd)

focus is that an NCIS investigator conducts an investigation on the critical issue, in this context a felony sexual assault, not peripheral misconduct. As such, an NCIS investigator can clearly articulate to a victim the focus of the investigation is on the sexual assault. There is recognition among military justice professionals that NCIS' charter allows for a preferred system as compared to systems that require an investigator to issue a victim their Article 31b rights for peripheral misconduct before proceeding with a felony investigation. NCIS' policy is aligned with Department of Navy principles regarding a balanced military justice process and NCIS' ability to focus on the felony offense is an example of that balance.

In conclusion, the Director, Naval Criminal Investigative Service, ensures the evaluation of policies will continue in an effort to improve efficiencies, apply best practices, and align with requirements. Further, NCIS will maintain its positive relationships with the IACP and the other MCIOs to remain current with investigative policies most applicable for our DOD environment. Additional management comments in response to this report are provided in the attached comments matrix.



Executive Assistant Director (Acting)  
Criminal Investigations and Operations Directorate



## AFOSI Comments



**DEPARTMENT OF THE AIR FORCE**  
**AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS**  
Quantico Virginia

18 February 2014

MEMORANDUM FOR IG, DOD, ATTN: Deputy IG for Policy and Oversight

FROM: HQ AFOSI/XR  
27130 Telegraph Road  
Quantico, VA 22134

SUBJECT: AFOSI Response to "The Review of the Military Criminal Investigative Organizations Sexual Assault Investigation Policies" DODIG Report No. 2011C019.

1. This memorandum is the Air Force Office of Special Investigations (AFOSI) response to the recommendations contained in draft DODIG Report No. 2011C019, pertaining to the *Review of the Military Criminal Investigative Organizations Sexual Assault Investigation Policies*. The report requests AFOSI management comments pertaining to three (# 1, 2 and 4) of the four total recommendations.
2. Before providing specific comments to issues identified in the report, AFOSI would like to provide context to some of the information provided here, as it relates to your objectives, scope and methodology employed in conducting this assessment, as well as the acute focus on written policy. As stated in the objectives portion of the report, this assessment project "...evaluated the Military Criminal Investigative Organizations' (MCIOs') guiding policies and procedures [underline added] relating to sexual assault. ..." AFOSI has extensive written policy; the AFOSI policy references listed on page 24 of the report alone constitute 1,147 pages. In addition, significant additional guidance pertaining to procedures, protocols and techniques for handling sexual assault cases is provided during AFOSI's 18-week in-residence Basic Criminal Investigation Course (BSIC) and through its various advance training programs. DODIG Report No. 2013-043, "Evaluation of MCIOs Sexual Assault Training," identified the extensive training MCIO investigators receive to properly handle sexual assault incidents in the Services. AFOSI feels draft DODIG Report No. 2011C019 should clearly convey to readers that not all procedures, protocols and techniques for conducting investigations are to be found in written policy but, rather, conveyed through a combination of written policy and training.
3. Pertaining to Recommendation 1, Alignment with DOD and Service Policies, Appendix H, Tables H-1 and H-2, *Requirements AFOSI Should Consider Including in its Guidance*, AFOSI provides the following comments.
  - a. DODD 1030.11 paragraph 5.3.4., "Ensure that a multidisciplinary approach is followed by victim and witness service providers, including law enforcement personnel and criminal investigators."

**AFOSI Comment:** Non-concur with the need for more guidance on this issue. AFOSI policy and training provides clear guidance emphasizing the need for agents to engage in the multidisciplinary handling of sexual assault investigations. Examples: AFOSI policy (AFOSIMAN 71-122V1) specifies (paragraph 4.3.3.1.), "AFOSI field units should develop and foster good working relationships with their local SARC," and (paragraph 4.3.3.5.), "AFOSI field units will conduct liaison with the SARC, VAs, local and base community organizations, and local law enforcement officials in an effort to create a cooperative working relationship on sexual assault matters..." Also, per AFOSIMAN 71-121 (paragraph 1.5.), "...AFOSI and the US Air Force Judge Advocate (USAF/JA) must develop a collaborative relationship focused on integrating investigative efforts and the legal process." In addition, per AFI 36-6001 (paragraph 2.7.), AFOSI is part of the installation level Case Management Group (CMG) for sexual assault

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## AFOSI Comments (cont'd)

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matters.” In addition, training conducted at the US Air Force Special Investigations Academy (USAFSIA) emphasizes the need for multidisciplinary collaboration.

b. DODI 1030.2, paragraph 6.2.1., “Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of the status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.”

**AFOSI Comment:** See comment under subparagraph d, below.

c. DODI 1030.2, paragraph 6.2.2., “Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of the arrest of the suspected offender.”

**AFOSI Comment:** See comment under subparagraph d, below.

d. DODI 1030.2, paragraph 6.2.3., “Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate of a decision not to pursue further investigation.”

**AFOSI Comment (This comment also applies to subparagraphs b and c, above.):** AFOSI concurs with the importance of victims being provided updates on investigations and the other information cited in these recommendations. However, AFOSI non-concurs with the requirement for AFOSI to provide such information directly to victims. While AFOSI appreciates the need to keep victims informed of the status and possible actions associated with investigations and justice actions, there are several associated problems with this guidance being directed specifically to AFOSI. First, release of information by AFOSI personnel isn’t governed solely by whether the information would (per sub-paragraph b), “...interfere with the investigation...” but also whether any information shared could potentially alter the testimony of a victim or witness at trial. More appropriately, the Air Force has determined, in accordance with guidance in AFI 36-6001 (dated 30 Sep 2009), paragraph 6.2., “The victim’s unit commander is responsible for ensuring the victim receives, at a minimum, a monthly update on the current status of all investigative, medical, legal and command proceedings pertaining to the unrestricted case, until final disposition of the sexual assault cases.” AFOSI personnel provide regular updates to local command authorities on the status of AFOSI investigations.

e. DODI 5505.07 paragraph 6.7., “Law enforcement investigators and criminal investigators shall make appropriate corrections to all reports of investigation and the DCII, which shall include, if appropriate, entering the correct name on the reports and in the DCII.”

**AFOSI Comment:** Concur. AFOSIMAN 71-121, *Processing and Reporting Investigative Matters*, dated 1 March 2013, paragraph 4.11.3., now requires inaccurate information, including DCII entries, be corrected as soon as possible.

f. DODI 6495.02, paragraph 9.1.c., “MCIO, DoD law enforcement, and the legal representative or SJA shall provide case disposition; and 2.e.: For each victim, each CMG member who is involved with and working on a specific case will provide an oral update without violating victim confidentiality or disclosing privileged communications.”

**AFOSI Comment:** Partially concur. AFOSIMAN 71-122V1, paragraph 4.3.3.2.1.9.3., already directs AFOSI agents be trained in the responsibilities of MCIOs as part of SAPR Case Management Groups in accordance with DODI 6495.02. As cited above, DODI 6495.02 requires the sharing of case disposition information. This requirement is already conveyed to agents in AFOSI training.

## AFOSI Comments (cont'd)

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However, AFOSI will assess the need to clearly summarize this requirement in the next revision to AFOSIMAN 71-122V1.

4. Pertaining to Recommendation 2, "...AFOSI should consider including...or enhancing...in its guidance...", *Council of Inspectors General on Integrity and Efficiency [CIGIE] Standards and International Association of Chiefs of Police [IACP] Action*, as detailed in Appendix H, *Requirements AFOSI Should Consider Including in its Guidance*, Tables H-3, H-4, and Appendix I, *Requirements AFOSI Should Consider Enhancing in its Guidance*, Tables I-1 and I-2, AFOSI provides the following comments.

**a. AFOSI Comment Pertaining to CIGIE Standards (Tables H-3 and I-1):** Partially Concur. AFOSI strongly supports the inclusion of CIGIE Standards in its guidance. Specifically, AFOSI assessed the 17 issues offered in support of the recommendations to "include" or "enhance" CIGIE Standards in AFOSI guidance. AFOSI feels it already emphasizes all 17 standards through written policy and/or through guidance provided in its robust agent training programs. Determining the nature and complexity of allegations, maintaining ongoing coordination with other Governmental officials, collecting and analyzing evidence through a number of techniques, eliciting relevant information from interviewees, producing quality reports of investigation, etc., are all topics AFOSI addresses either in its policy, training or both. In some instances, for example item number 4 in Table H-3, "He or she also has a duty to be receptive to evidence that is exculpatory, as well as incriminating...", AFOSI provides specific written guidance by stating, in AFOSII 36-2901, paragraph 3.1., "AFOSI special agents are obligated to obtain and present evidence supporting the innocence of an accused person as well as obtaining and presenting evidence to support a trial and possible conviction of a guilty party. An agent's primary responsibility is to obtain all the facts pertinent to an investigation and to furnish complete and accurate reports to the proper action authorities." AFOSI will continue to ensure CIGIE Standards are integrated in its policy and training programs.

**b. AFOSI Comment Pertaining to IACP Actions (Tables H-4 and I-2):** Partially Concur. AFOSI agrees with and supports IACP Model Policy (MP) and Investigative Strategies (IS). Specifically, AFOSI assessed the 85 issues offered in support of the recommendations to "include" or "enhance" IACP Actions in AFOSI guidance. As noted in the "Training Category" of Tables H-4 and I2, DODI 5505.18, *Investigation of Adult Sexual Assaults in the Department of Defense*, first published 25 January 2013, and DODI 6495.02, dated 28 March 2013, *Sexual Assault Prevention and Response (SPAR) Program Procedures*, the identified IACP Actions align with existing DOD policy and training requirements. In turn, AFOSI recently participated in a robust MCIO working group assessment, in response to DODIG Report No. DODIG-2013-043, to ensure the requirements outlined in these two DOD policy issuances are incorporated into MCIO training. The MCIO working group found MCIO training accommodates the requirements of the two DOD instructions and, in turn, IACP Actions identified in your report. AFOSI will continue to ensure IACP model policy and investigative strategies are integrated into its policy and training.

5. Pertaining to Recommendation 4, Collateral Misconduct, the report recommends, "[AFOSI]... evaluate...procedures addressing actions to be taken relating to victim collateral misconduct in a sexual assault investigation."

**AFOSI Comment:** Partially concur. AFOSI recognizes collateral misconduct, especially alcohol consumption on the part of underage victims, poses a barrier to reporting sexual offenses on the part of some victims. AFOSI provides extensive training and policy guidance on rights advisement, including the need to comply with the Manual for Court Martial, Military Rule of Evidence 305 "Warnings about

[REDACTED]

## AFOSI Comments (cont'd)

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rights.” AFOSIMAN 71-118V4, specifically states, “...agents will not ask any questions that could reasonably elicit incriminating responses prior to rights advisement.” The legal requirement for rights advisement does not recognize a difference in the status of a person being interviewed (suspect, victim or witness). AFOSI training and policy guide agents to consult with their servicing staff judge advocate for advice on matters of criminal law. However, AFOSI has evaluated U.S. Army Criminal Investigations Division (CID) policy, pertaining to “non-CID purview offenses,” and is considering integrating guidance similar to CID’s into AFOSI policy.

6. AFOSI appreciates the opportunity to provide comments on draft DODIG Report No. 2011C019. AFOSI is committed to developing and providing first-rate policy and training to AFOSI special agents to enable their abilities to conduct high quality investigations of crimes of violence. We sincerely appreciate the value this assessment serves; to in fostering discussions and needed actions geared to maintain and improve MCIO criminal investigators’ knowledge and skills. Please contact me, or [REDACTED] Associate Director of Criminal Investigations, if you have any questions about the comments we provided here.



Director, Strategic Programs and Requirements



## Acronyms and Abbreviations

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<b>AAR</b>	After Action Review
<b>AFI</b>	Air Force Instruction
<b>AFOSI</b>	Air Force Office of Special Investigations
<b>AFOSIMAN</b>	Air Force Office of Special Investigations Manual
<b>AFPD</b>	Air Force Policy Directive
<b>APCSM</b>	Adult Private Consensual Sexual Misconduct
<b>AR</b>	Army Regulation
<b>CAF</b>	Central Adjudication Facility
<b>CID</b>	U.S. Army Criminal Investigation Command
<b>CID PAM</b>	U.S. Army Criminal Investigation Command Pamphlet
<b>CIDR</b>	U.S. Army Criminal Investigation Command Regulation
<b>CIGIE</b>	Council of the Inspectors General on Integrity and Efficiency
<b>CMG</b>	Case Management Group
<b>DA</b>	Department of the Army
<b>DCII</b>	Defense Clearance and Investigation Index
<b>DCIO</b>	Defense Criminal Investigative Organizations
<b>DES</b>	Director of Emergency Services
<b>DNA</b>	Deoxyribonucleic Acid
<b>DoDD</b>	Department of Defense Directive
<b>DoDI</b>	Department of Defense Instruction
<b>DON</b>	Department of the Navy
<b>FSC</b>	Forensic Science Consultant
<b>FSO</b>	Forensic Science Officer
<b>GAO</b>	Government Accountability Office
<b>IACP</b>	International Association of Chiefs of Police
<b>IG</b>	Inspector General
<b>IP</b>	Investigative plan[s]
<b>IS</b>	Investigative Strategy
<b>ISIC</b>	Immediate Senior In Command
<b>IVA</b>	Installation Victim Advocate
<b>JA</b>	Judge Advocate
<b>MCIO</b>	Military Criminal Investigative Organization
<b>MCRT</b>	Major Case Response Team
<b>MEJA</b>	Military Extraterritorial Jurisdiction Act
<b>MP</b>	Model Policy
<b>MRE</b>	Rules of Evidence
<b>NCIS</b>	Naval Criminal Investigative Service

## Acronyms and Abbreviations (cont'd)

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<b>OIG</b>	Office of Inspector General
<b>OPNAVINST</b>	Department of the Navy Chief of Naval Operations Instruction
<b>PCA</b>	Polygraph and Credibility Assessment
<b>PDD</b>	Psychophysiological Detection of Deception
<b>PM</b>	Provost Marshal
<b>PPMO</b>	Polygraph Program Management Office
<b>QSI</b>	Quality Standards for Investigation
<b>RAs</b>	Resident Agencies
<b>SAC</b>	Special Agent-in-Charge
<b>SADMS</b>	Sexual Assault Data Management System
<b>SAFE</b>	Sexual Assault Forensic Examination
<b>SAIC</b>	Special Agent-in-Charge
<b>SAPR</b>	Sexual Assault Prevention and Response
<b>SAPRO</b>	Sexual Assault Prevention and Response Office
<b>SARB</b>	Sexual Assault Review Board
<b>SARC</b>	Sexual Assault Response Coordinator
<b>SART</b>	Sexual Assault Response Team
<b>SATI</b>	Sexual Assault Training and Investigations
<b>SAVI</b>	Sexual Assault Victim Intervention
<b>SECNAVINST</b>	Secretary of the Navy Instruction
<b>SF</b>	Standard Form/Security Forces
<b>SJA</b>	Staff Judge Advocate
<b>SVC</b>	Special Victim Counsel
<b>UCMJ</b>	Uniform Code of Military Justice
<b>USACIDC</b>	United States Army Criminal Investigation Command
<b>USACIL</b>	United States Army Criminal Investigation Laboratory
<b>U.S.C.</b>	United States Code
<b>USPS</b>	United States Postal Service
<b>UV</b>	Ultraviolet
<b>VA</b>	Victim Advocate
<b>VPS</b>	Victim Preference Statement
<b>VWAP</b>	Victim and Witness Assistance Program



# **Whistleblower Protection**

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