THE UNDER SECRETARY OF THE NAVY
WASHINGTON DC 20350-1000

April 4, 2012

MEMORANDUM FOR COMMANDANT OF THE MARINE CORPS
CHIEF OF NAVAL OPERATIONS

SUBJECT: Guidance for Expedited Transfer or Reassignment of Military Service Members Who File Unrestricted Reports of Sexual Assault

Reference: (a) Directive-Type Memorandum (DTM) 11-063 – Expedited Transfer of Military Service Members Who File Unrestricted Reports of Sexual Assault, dated December 16, 2011

Consistent with reference (a), it is Department of the Navy (DON) policy that there is a presumption in favor of transferring or reassigning a Service member, at his or her request, following a credible report of sexual assault. Commanders and civilian leaders shall consider requests for transfer or reassignment in an expedited manner. This policy applies to all Service members who file Unrestricted Reports of sexual assault. This policy does not apply to victims covered under the Family Advocacy Program in DoD Directive 6400.1. The Navy and Marine Corps Sexual Assault Prevention and Response Programs shall take steps to ensure Service members are informed of this policy.

This memorandum does not encompass requests for transfer or reassignment following a Service member's receipt of threats of bodily harm or death. Any such threat to a Service member should be reported immediately to command and law enforcement authorities. A Service member's request under these circumstances will be handled in accordance with established Service regulations.

Some Service members who have been sexually assaulted may not wish to remain in their current unit or organization after an alleged sexual assault incident. Requiring a Service member to remain when he or she wishes to leave may negatively affect the individual's safety and emotional well-being, as well as the functioning of the command. Expediting review of, and action on, a Service member's request for transfer or reassignment is an important component of a leader's response to a credible report of sexual assault.

For the purposes of this policy, a report of sexual assault is credible when the Service member's commander, or the appropriate approving authority as established by Service policy, after considering all available evidence and the advice of the supporting legal advisor, concludes that there are reasonable grounds to believe an offense constituting sexual assault has been committed against the person requesting the transfer or reassignment.

The Service member shall be informed at the time of his or her initial sexual assault report, or when practicable, of the transfer or reassignment policy. Request for a transfer or reassignment must be initiated by the Service member in writing to the commander and include the request for transfer or reassignment, the reason(s) for the request, and the preferred destinations or reassignments.

A transfer or reassignment includes, but is not limited to, the Service member's temporary or permanent movement to a unit within the same command, to a unit on the same installation, or to a unit at a different geographic location. A Permanent Change of Station (PCS) transfer out of the geographical area is to be granted on an exceptional basis. For Reserve Component members, a transfer or reassignment might include provisions to perform inactive duty training on a different weekend or at different times from the alleged offender or with a different unit in the home drilling location or geographical area.

The commander shall document the date and time that the request is received. Additionally, the commander must render a decision within 72 hours of receiving the Service member's transfer or reassignment request.

The commander shall consider the following factors in determining whether a transfer or reassignment is appropriate and, if so, the lowest level of transfer or reassignment that would meet both the needs of the Service member and the Navy or Marine Corps:

a. The credible report of sexual assault;

b. The Service member's written request for transfer or reassignment;

c. Operational necessity, including situational unique requirements in deployed areas;

d. The nature and circumstances of the offense;

e. The location of the alleged offender;

f. Potential transfer or reassignment of the alleged offender instead of the Service member;

g. The alleged offender's status (Military or Civilian);

h. After consultation with the investigating Military Criminal Investigative Organization, the status of the investigation and the potential impact of the Service member's transfer or reassignment on the investigation and future disposition of the allegation;

i. Training status of the Service member requesting the transfer or reassignment; and

j. Any other pertinent circumstances or facts.

The commander will make every reasonable effort to prevent a transfer or reassignment from negatively impacting the Service member's career progression. Prior to approving a request, the commander shall ensure that the victim is fully informed regarding reasonably foreseeable impacts on his or her career, the potential impact of the transfer or reassignment on the investigation and potential prosecution or initiation of other adverse action against the alleged offender, and other pertinent consequences of granting the request. Service members requesting transfer or reassignment shall be informed that they may have to return for the prosecution of the case, if the determination is made that prosecution is the appropriate command action. If, after being fully informed, the Service member elects to proceed with the request, the commander shall ensure that a reassignment is processed expeditiously and that an approved transfer is immediately forwarded to the appropriate activity for processing. If approved, a transfer shall also include the Service member's dependents and military spouse, as applicable. If, however, the Service member elects not to proceed with his or her request, the Service member shall withdraw the request in writing. A commander disapproving a request shall provide the reason(s) for the disapproval in writing. A Service member whose transfer or reassignment request is denied by the commander shall be given the opportunity to request a review by the first Flag Officer, General Officer, or member of the Senior Executive Service (SES) in the chain of command. The Service member must request in writing a review of the commander's disapproval. The Flag or General Officer or member of the SES shall be the final disapproval authority of the Service member's transfer or reassignment request. However, the Flag or General Officer may refer disapproval authority to another Flag or General Officer within the chain of command, or to a member of the SES, as appropriate.

The Flag or General Officer or SES member shall consider anew:

(1) Factors (a.) through (i.) which are delineated for commanders above;

(2) The written recommendation from the commander disapproving of the request; and

(3) Any other pertinent circumstance(s) from the Flag or General Officer command perspective.

The Flag Officer's, General Officer's, or SES member's decision to approve or disapprove the request must be made within 72 hours after receiving the Service member's submission for review.

The provisions of this memorandum are effective immediately. The policy established by this memorandum will be incorporated in the next revision of SECNAVINST 1752.4A. This memorandum is rescinded upon publication of the revised SECNAVINST 1752.4A in

which these policies are incorporated. Implementation instructions will also be incorporated into SECNAVINST 1752.4B.

My point of contact is Ms. Jill Loftus, Department of the Navy Sexual Assault Prevention and Response Office (DON-SAPRO) at (703) 614-4645; email: jill.loftus@navy.mil.

Robert O. Work

Copy to:
ASN (M&RA)
GC
JAG
SJA
DIR, NCIS
SAPRO