

Department of Defense (DoD) Fiscal Year (FY) 2022 Safe-to-Report Policy: Data Call Requirements and Instructions

Purpose: This data call requests information from the Military Departments (including Reservists and cadets and midshipmen at the Military Service Academies) and the National Guard Bureau (NGB), to be used to meet the requirements for the FY 2022 tracking of incidents of minor collateral misconduct involving Service member sexual assault victims that are subject to the Safe-to-Report Policy.

Background: Section 539A of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021 required the Secretary of Defense to issue a Safe-to-Report Policy prescribing the handling of alleged minor collateral misconduct involving a Service member who is the victim of an alleged sexual assault. The Safe-to-Report policy was issued through the Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Safe-to-Report Policy for Service Member Victims of Sexual Assault," on October 25, 2021, and is applicable to all members of the Military Departments (including Reservists and cadets and midshipmen at the Military Service Academies) and the National Guard. Section 539A also mandated the tracking of minor collateral misconduct that is subject to the Safe-to-Report Policy. The Safe-to-Report Policy Memorandum required the Secretaries of Military Departments (including Reservists and cadets and midshipmen at the Military Service Academies) and the Chief, NGB to provide requested data to the DoD Sexual Assault Prevention and Response Office (DoD SAPRO) for tracking purposes, to include why the collateral misconduct was deemed non-minor, or why the collateral misconduct was considered minor and subject to the Safe-to-Report Policy.

Instructions: The Military Departments and NGB shall complete the enclosed "Safe-to-Report Data Call" spreadsheet utilizing the instructions provided. Each organization should send a completed spreadsheet to its Sexual Assault Prevention and Response (SAPR) office to forward to the Department of Defense Sexual Assault Prevention and Response Office (DoD SAPRO) as outlined below. The Department of the Navy should prepare separate reports for the U.S. Navy and the U.S. Marine Corps, and the Department of the Air Force should prepare separate reports for the U.S. Air Force and U.S. Space Force. Safe-to-Report data pertaining to NGB members who were on Title 10 orders when the alleged collateral misconduct was reported to the unit commander will be included in the reports provided by the Departments of the Army and Air Force. Please do not provide any personally identifiable information in the spreadsheets submitted to DoD SAPRO.

The Department's Safe-to-Report Policy, published October 25, 2021, directed the Secretaries of the Military Departments and the Chief, NGB to provide their Safe-to-Report policies to DoD SAPRO within 180 days. Upon publication of your respective policy, each Military Department and NGB shall begin to track Safe-to-Report data for

the remainder of FY 2022, utilizing the enclosed data collection materials. DoD SAPRO will provide the data collection materials in an electronic format to the Military Departments and NGB. The due date for your respective SAPR offices to provide DoD SAPRO with FY 2022 Safe-to-Report data (covering the period from Military Department / NGB Safe-to-Report policy publication date through September 30, 2022) is November 15, 2022.

Each Military Service/NGB should provide one electronic spreadsheet to DoD SAPRO. The final document should have a title of "Safe-to-Report Case Synopses <Insert Your Service/NGB>," and no watermarks, such as *DRAFT* or *FOUO*. **Submit the document electronically through your Military Department/NGB SAPR office. The Military/NGB SAPR office will provide the consolidated spreadsheet to DoD SAPRO.**

In order to access the drop-down menu options available in the document, "Safe to Report Case Synopses," you must enable "macros." To enable macros, look for the "Security Warning" banner located below the "Clipboard" and above the formula bar when first opening the document. Click "Enable Content." If you cannot enable macros on your computer, delete the first 1000 formatted rows in the file and type in the numbers that correspond to your response (e.g., 1 & 3). To maintain consistency, please only use the response options provided. It may help to print the column headers to avoid scrolling up and down while entering data.

IMPORTANT: Please ensure the data provided are de-identified and validated by your respective Judge Advocate General to ensure the documented collateral misconduct is properly captured under the Safe-to-Report categories, as appropriate, and release of the data would not disclose privileged/protected communications or personally identifiable information.

Create a row for each victim of sexual assault who was suspected of collateral misconduct.

In each row, select/write a response underneath all the blue column headers (see example case highlighted in grey).

The following information shall be provided:

Defense Sexual Assault Incident Database Control Number (Column A): Provide the DSAID control number of the Unrestricted Sexual Assault Report for the Service member (victim) involved in the alleged collateral misconduct.

Service of the Victim (Column B): Provide the Service affiliation of the victim.

Select a response below:

- (1) Army
- (2) Navy
- (3) Marine Corps
- (4) Air Force
- (5) Space Force
- (6) NGB

Pay grade of the Victim (Column C): Provide the pay grade of the victim at the time of report.

Select a response below:

- (1) E-1
- (2) E-2
- (3) E-3
- (4) E-4
- (5) E-5
- (6) E-6
- (7) E-7
- (8) E-8
- (9) E-9
- (10) WO-1
- (11) WO-2
- (12) WO-3
- (13) WO-4
- (14) WO-5
- (15) O-1
- (16) O-2
- (17) O-3
- (19) O-4
- (19) O-5
- (20) O-6
- (21) O-7
- (22) O-8
- (23) O-9
- (24) O-10
- (25) C-1
- (26) C-2
- (27) C-3
- (28) C-4
- (29) M-1
- (30) M-2
- (31) M-3
- (32) M-4

(33) Prep school student

Gender of the Victim (Column D): Provide the gender of the victim.

Select a response below.

- (1) Male
- (2) Female

Date of Sexual Assault Report (Column E): Provide the date the report of sexual assault was made to DoD (from DD Form 2910, "Victim Reporting Preference Statement.") – mm/dd/year format.

Safe to Report Policy Used (Column F): Was the Safe-to-Report Policy, as outlined in USD-P&R Memo, "Safe-to-Report Policy for Adult Victims of Sexual Assault," October 25, 2021, and Military Department / NGB policy, used as guidance by the unit commander when assessing whether to discipline the sexual assault victim for the alleged collateral misconduct? NOTE: The threshold issue for the applicability of the Safe-to-Report Policy is determining whether the alleged collateral misconduct in question is "minor" or "non-minor."

Select a response below:

- (1) Yes
- (2) No

Reason Safe-to-Report Policy Not Used (Column G):

If Safe-to-Report Policy was used (if the answer to column F was "Yes"), please select "Not applicable, Safe to Report Policy WAS used" from the dropdown list.

If the Safe-to-Report policy was not used by the commander, why?

- "Collateral misconduct related to the sexual assault report was determined to be "non-minor," (e.g., may include aggravating circumstances, such as, harm to others, threatened the military mission, significant destruction of property). See guidance for determining "non-minor" collateral misconduct in USD-P&R Memo, "Safe-to-Report Policy for Adult Victims of Sexual Assault," October 25, 2021, and Military Department / NGB policy.
- Collateral misconduct WAS UNRELATED TO THE ALLEGED SEXUAL ASSAULT and known before the sexual assault was reported
- Collateral misconduct WAS UNRELATED TO THE ALLEGED SEXUAL ASSAULT and occurred after the sexual assault report
- Collateral misconduct accusation was not credible

Select a response below:

- (1) Collateral misconduct was not minor
- (2) Collateral misconduct was known BEFORE the sexual assault report
- (3) Collateral misconduct occurred AFTER the sexual assault report
- (4) Collateral misconduct accusation was not credible

(5) Not applicable, Safe-to-Report Policy WAS used

Timing of Action Taken for “Non-Minor” Collateral Misconduct (Column H): If the victim’s alleged collateral misconduct is determined to be “non-minor,” the commander still retains discretion on whether and when to take disciplinary action (i.e., no action may be taken or action may be taken before or after the final disposition of the sexual assault case). See guidance in DoDI 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures,” Volume 1, Enclosure 5, paragraph 8, “Collateral Misconduct in Sexual Assault Cases.”

Select a response below:

- (1) Collateral misconduct was deemed "non-minor," but no disciplinary action was taken
- (2) Collateral misconduct was deemed "non-minor," and disciplinary action was taken before final sexual assault case disposition
- (3) Collateral misconduct was deemed "non-minor," and disciplinary action was taken after final sexual assault case disposition
- (4) Not applicable; collateral misconduct was deemed “minor”

Adverse Action Taken (Columns I, J, and K): What, if any adverse action was taken in response to the collateral misconduct? If multiple actions were taken, please put ONE in each column: one in column I, one in column J, one in column K. If only one action was taken, fill out column I, and leave columns J and K blank.

- Court-martial charge(s) preferred
- Nonjudicial punishment
- Administrative discharge
- Other adverse administrative action (e.g., letter of reprimand (or Service equivalent) added to SM’s official personnel file, bar to reenlistment, relief from duties, negative efficiency report (related to the collateral misconduct), or other actions that will likely impact the Service member's career)
- Minor administrative action (e.g., written counseling (not placed in the official personnel file), verbal counseling, or other actions that likely won't impact the Service member's career)
- Action pending
- No action taken (PLEASE EXPLAIN IN COLUMN M – Narrative of Incident)
- Other (PLEASE EXPLAIN IN COLUMN M – Narrative of Incident)

Select a response below:

- (1) Court-martial charge(s) preferred
- (2) Nonjudicial punishment
- (3) Administrative discharge
- (4) Other adverse administrative action
- (5) Minor administrative action
- (6) Action Pending
- (7) No action taken (PLEASE EXPLAIN IN COLUMN M – Narrative of Incident)
- (8) Other (PLEASE EXPLAIN IN COLUMN M – Narrative of Incident)

Date Action Taken (Column L): Provide the date the commander elected not to pursue any disciplinary action against the Service member, or if disciplinary action was taken, the date of the last action(s) taken in columns I, J, and/or K – mm/dd/year format.

Short Narrative of the Safe-to-Report Incident (Column M): Provide a short narrative of the alleged collateral misconduct incident. The narrative should include:

- whether the collateral misconduct was deemed "minor" or "non-minor"
- the reason(s) why the collateral misconduct was deemed "minor" or "non-minor"
- an explanation of the applicable aggravating or mitigating circumstances (as described in the Safe-to-Report policy) in determining whether the Service Member's conduct was deemed "non-minor" or "minor," respectively.*
- a description of disciplinary action(s) taken for the collateral misconduct (if any)
- a listing of referrals to support services or removal from duty position (if any)**

PLEASE DO NOT INCLUDE ANY PERSONALLY IDENTIFIABLE INFORMATION.

*See guidance on aggravating and mitigating circumstances in USD-P&R Memo, "Safe-to-Report Policy for Adult Victims of Sexual Assault," October 25, 2021, and Military Department / NGB policy.

**The Safe-to-Report policy does not preclude the commander from fulfilling certain administrative requirements, for example: referral to substance abuse screening if the minor collateral misconduct involves any kind of substance abuse, referral to behavioral health or medical providers for a fitness for duty determination, or temporarily suspending access to critical positions such as positions in the personnel reliability program (PRP). It may be appropriate to temporarily decertify the victim from PRP status or other critical positions until appropriate evaluations can be conducted.