



March 7, 2019

Honorable Scott Fitzgerald
Wisconsin State Capitol
PO Box 7882
Madison, WI 53707

Dear Senator Fitzgerald:

Thank you for your letter dated February 19, 2019, requesting detailed information on the Wisconsin National Guard policies and procedures addressing sexual assault and sexual harassment. Sexual assault is a crime and we treat it as such. Neither sexual assault nor sexual harassment is tolerated.

The National Guard is a constitutionally unique organization. As such, there are times when we are serving on active duty and the sexual assault/harassment processes are managed by the parent service and the active duty command structure. However, these times are relatively few and most of the time, the National Guard serves in a state status. Accordingly, the sexual assault and sexual harassment processes are managed by the Wisconsin National Guard in accordance with state law, and under my command. This letter will focus on the National Guard processes.

The Wisconsin National Guard has taken numerous steps in recent years to protect service members and to prevent assault or harassment from taking place. We have also made it a priority to investigate allegations and, when those allegations are substantiated, prosecute and punish offenders.

The Wisconsin National Guard has a zero-tolerance policy regarding sexual assault and sexual harassment, and our leaders work actively to foster a culture of trust that encourages reporting and seeks to ensure that victims feel comfortable coming forward. Victims have two ways to report allegations of sexual misconduct – Restricted or Unrestricted. All members of the Wisconsin National Guard are briefed on both processes and are aware that they can file either type of report regardless of when the incident occurred. We have received reports that occurred in a military or civilian setting, with both military and/or civilian perpetrators, and that occurred before, during, and after service in the military. We never turn away a victim and it is the victim's choice on whether to make the report restricted or unrestricted.

Under a restricted report, victims confidentially disclose an assault allegation to specified individuals without initiating the investigative process. No notification is provided to the victim's or reported perpetrator's commander when a restricted report is made, the identities of those involved remain confidential at all levels of command, and the organization provides counseling as well as mental and physical health support. Under a restricted report, law

enforcement is not notified and, although I am briefed that a restricted report has been made, no details are provided to me.

Under an unrestricted report, victims choose to disclose an assault allegation without confidentiality. All unrestricted reports of sexual assault are referred to local law enforcement or the Wisconsin Department of Justice (DOJ). Based on the outcome of an investigation, the Adjutant General has the authority to take disciplinary or administrative action.

All cases are investigated and prosecuted in accordance with state law and informed by Department of Defense, Army, Air Force, and National Guard Bureau policy. When the complaint is substantiated by the law enforcement investigation, Guard members may be charged with a crime under with the Wisconsin Code of Military Justice (WCMJ). The WCMJ is modeled on the Uniform Code of Military Justice (UCMJ), which only applies to National Guard personnel when they serving on federal active duty with the Army or Air Force.

Prior to 2018, all cases were referred to local law enforcement based on the jurisdiction in which the offense occurred. In 2018, the Wisconsin National Guard entered into an agreement with the Wisconsin DOJ to be the primary law enforcement agency for all National Guard sexual assault allegations. If the law enforcement investigation substantiates the allegation of sexual assault, it is referred back to the Adjutant General for potential criminal charges under a court martial procedure. If the investigation does not substantiate sexual assault, the Wisconsin National Guard can initiate an independent administrative investigation into the allegations of sexual assault or refer the matter to the command chain to consider sexual harassment or other misconduct, which is handled administratively (no court martial).

Sexual assault is a violation of state law, and as such we are obligated to refer accusations of sexual assault to law enforcement authorities. We are equally committed to eliminating sexual harassment in our organization, because of the effect it can have on our workplace, morale and well-being of our service members and employees. Allegations of sexual harassment are first handled by trained equal opportunity representatives at the lowest appropriate organizational level, who mediate, counsel, advise, and mentor the individuals involved. Depending on the outcome, equal opportunity representatives may escalate concerns to higher levels for additional action and emphasis.

Sexual harassment is not a criminal offense. Accordingly, substantiated allegations of sexual harassment are handled by the appropriate commander using administrative punishment. This could include punishment such as letters of reprimand, loss of rank, and separation from the National Guard.

The best way to eliminate sexual assault and sexual harassment is to avoid it and we seek to do that through training and standards. We have the highest standards, which are centered on core values associated with our parent service. The Army's core values are loyalty, duty, respect, selfless service, honor, integrity, and personal courage. The Air Force's core values are integrity first, service before self, and excellence in all we do. We believe in these values and hold ourselves accountable for them. In addition, we conduct annual training to ensure all personnel are aware of our procedures and expectations.

The Wisconsin National Guard follows the training guidelines set by the U. S. Army's Sexual Harassment and Assault Prevention (SHARP) and U.S. Air Force's Sexual Assault Prevention and Response (SAPR) programs, which both treat assault and harassment as a single topic.

All Soldiers, Airmen, and civilians employed by this agency must undergo annual refresher training. Our senior leaders and commanders place great emphasis on expected standards of conduct as the best method to prevent bad behavior.

The Wisconsin National Guard has a sexual assault prevention and response office (SAPR), in which full time personnel provide support and services to victims. In this office, the Wisconsin National Guard employs a full-time Sexual Assault Response Coordinator (SARC) at Joint Force Headquarters and at each air base, who serve as the organization's primary coordinators for the care that sexual assault victims receive. SARC's are one of the specified individuals who receive restricted allegations of sexual assault. Through our SARC's, we provide services to victims to ensure health and well-being during all stages of the process. The SARC became a full-time position in 2008, and in 2013, the National Guard added a second employee to the SAPR office – a full-time victim advocate. The Wisconsin National Guard has more than 50 trained unit victim advocates working at all levels of the organization. The Wisconsin National Guard's victim advocates are accredited by the National Organization for Victim Assistance, which is an independent third party to the Department of Defense.

Stamping out sexual assault and harassment in this organization has long been an organizational priority. The attached Wisconsin National Guard Sexual Assault Prevention and Response Program Report published in 2015 outlines the measures we've implemented to continue addressing this issue.

In 2013, the Wisconsin National Guard became the first in the nation to create a team of legal advisors, known as special victim's counsels, to represent victims of sexual assault through the investigation and prosecution phases of cases. The Wisconsin National Guard can also request special victims counsel support from the National Guard Bureau. The special victims counsel exists specifically to provide expert legal advocacy to the victim on the topic of sexual assault.

In 2015, the Wisconsin National Guard advocated and worked proactively with the Wisconsin State Legislature and the governor to update the WCMJ's definition of sexual assault. Wisconsin became the first state to amend its state code to provide an enhanced Sexual Assault Punitive Article, Article 120.

In addition to the array of services provided at the state level, we also have the ability to leverage resources and assistance from the federal level. The National Guard Bureau created its Office of Complex Investigations to effectively investigate sexual assault with trained specialists and specific techniques and procedures designed for sexual assault cases. Two Wisconsin National Guard Soldiers and two Airmen are qualified Office of Complex Investigation investigators who can be appointed to investigate allegations in Wisconsin or in other states. Likewise, Wisconsin can refer allegations to the Office of Complex Investigation for external investigators when the

situation warrants, which will provide the Adjutant General with their independent findings. We have used this office several times for sexual assault allegations.

All Wisconsin National Guard personnel also have access to a 24-hour confidential DoD Safe Help Line that may be called to get access to resources, counseling and other support services related to sexual assault.

The organization annually observes Sexual Assault Awareness Month, participates in Denim Day observances, and our units devote time each year to incorporating specific training to discuss this important issue. I personally address this topic with leaders and service members throughout the organization on a regular basis.

I believe we have an extensive program that fosters an environment of trust. That being said, we continue to look for ways to improve our program. This issue will remain one of our organization's top priorities. We are committed to eliminating sexual assault and sexual harassment in our ranks, by eliminating the "bystander" mentality and empowering Soldiers, Airmen and employees to intervene at the first sign of potential harassment or assault and by actively promoting an environment that encourages increased reporting. We will continue to educate our force by providing training and valuable services to victims.

Lastly, let me assure you that I am personally involved in every allegation of sexual assault. During my tenure, when allegations were substantiated, I have taken appropriate disciplinary action up to and including court martial proceedings and successfully levied punishment against personnel who committed this crime. I have spoken to every unit about sexual assault and harassment, its toxic impact on our organization, and my expectations. When I spoke with them, I promised that I would not look the other way and I meant it.

It is an honor to serve as Wisconsin's Adjutant General and we remain grateful for your support.

A handwritten signature in black ink, appearing to read "Donald P. Dunbar". The signature is fluid and cursive, with a large initial "D".

Donald P. Dunbar
Maj Gen, Wisconsin National Guard
The Adjutant General