

Highlights of [GAO-11-579](#), a report to the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives

Why GAO Did This Study

The crime of sexual assault has serious consequences for both the aggrieved and the accused. The severity of these consequences underscores the importance of impartially administering justice in order to promote accountability and confidence that such allegations are taken seriously. GAO was asked to address the extent to which (1) the Department of Defense (DOD) conducts oversight of the military services' investigative organizations and (2) the services provide resources for investigations and adjudications of alleged sexual assault incidents. GAO also identified an issue relating to the military's criminal code during this review. GAO analyzed relevant DOD and service policies and procedures; reviewed applicable laws, including provisions of the Uniform Code of Military Justice; and interviewed senior DOD and service officials, including a total of 48 judge advocates and DOD civilian lawyers, at the headquarters level and at five selected military installations.

What GAO Recommends

GAO is recommending that DOD develop policy and provide oversight for sexual assault investigations and related training, and for the services to develop a plan to better leverage expertise and limited resources. DOD and the Inspector General concurred with the recommendations, although the Inspector General disagreed with the characterization of its performance. GAO believes its findings are accurate, as addressed more fully in the report.

View [GAO-11-579](#) or key components. For more information, contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov.

June 2011

MILITARY JUSTICE

Oversight and Better Collaboration Needed for Sexual Assault Investigations and Adjudications

What GAO Found

Pursuant to the National Defense Authorization Act for Fiscal Year 2005, the Office of the Secretary of Defense (OSD) developed a policy on sexual assault prevention and response. In June 2006, OSD published DOD Instruction 6495.02, which specifies that the DOD Inspector General's Office shall develop policy and oversee sexual assault investigations and related training for the DOD criminal investigative organizations. However, the Inspector General's Office has not performed these responsibilities, primarily because it believes it has other, higher priorities. For example, GAO found no evidence of Inspector General oversight at the service level for any of the 2,594 sexual assault investigations that DOD reported the services completed in fiscal year 2010. Without a policy and plan for conducting oversight, the Inspector General's Office will remain limited in its ability to help ensure consistency and accountability, and that training is being conducted in the most effective manner.

Consistent with the Secretary of Defense's priorities for sexual assault prevention and response, each service provides various resources to support investigations and adjudications of alleged sexual assault incidents. Specifically, each service has provided personnel who advise and assist on investigations and adjudications of sexual assault incidents. Each service's investigative and legal organizations also received funding, above their operating budgets, for efforts to enhance investigations and adjudications of sexual assault. For example, in fiscal year 2009, Army investigators received \$4.4 million to redesign training on sexual assault investigations. However, the services' investigative and legal organizations are not fully capitalizing on opportunities to leverage each other's expertise and limited resources. For example, the Secretary of Defense, as part of the Base Realignment and Closure process, recommended that the services' investigative organizations co-locate to achieve operational synergies. However, the services currently have no plan for using opportunities such as the co-location—a move that has cost over \$426 million and reportedly saved about \$53 million for infrastructure support from fiscal years 2006 through 2011—to better leverage expertise and limited resources. Judge advocates also collaborate on some initiatives, but do not have a plan for leveraging resources either. Without a plan, the services cannot help ensure that resources are sustained and efficiencies are maximized.

GAO met with judge advocates who consistently expressed concerns, similar to those noted in a 2009 Defense Task Force report, that a 2007 amendment to Article 120 of the Uniform Code of Military Justice complicates sexual assault prosecutions and may be causing unwarranted acquittals. Specifically, judge advocates stated that there is a lack of clarity with regard to the meaning of certain terms in the amended article, which makes it more difficult to prosecute these cases. Further, recent opinions issued by the Court of Appeals for the Armed Forces addressed constitutional issues that may arise related to the burden of proof in certain situations. For fiscal year 2012, DOD proposed revisions to Congress intended to remedy some of these issues.