

## Army Improves Help for Sexual Assault Victims

Pvt. Jessica Kenyon was in the Army from 2005 to 2006. In that short time, she says she was raped twice and also

forcibly groped by three fellow soldiers.

She stayed silent because she feared retaliation and being ostracized, she said. She sought counseling after the groping because the cumulative trauma was crippling her ability to work, she said.

“I felt like I was betraying my country,” she said.

Instead of trying to help her, she said her commanders tried to charge her with adultery for becoming pregnant, despite having already filed divorce papers from her husband.

She told Military Times that the fetus, which she later miscarried, probably belonged to one of her alleged rapists.

Kenyon eventually was allowed to separate with an honorable discharge. She says the soldier who groped her

drew 45 days of extra duty and was busted two paygrades for lying on a statement.

Kenyon has since founded two online support networks for military sex assault victims. As far as she knows, her alleged attackers are still in the military.

Some female soldiers still endure experiences like Kenyon’s. But Defense Department data indicate the

Army is more aggressive about responding to sex assault cases than it used to be.

The Army’s prosecution rates have leapt by 20 percentage points, and it now claims the highest conviction rate of any service. As highly publicized lawsuits and a new documentary film focus a spotlight on sexual assault in the ranks, the data beg the questions: What is the Army now doing right, and why haven’t the other services adopted the Army model?

### Recognizing a Problem

At the time Kenyon served, DoD’s efforts to formally address sexual assault in the ranks were in their infancy. DoD created a Sexual Assault Prevention and Response Office in 2004 but didn’t begin publishing service-specific statistics until three years later. As soon as the data came out, Army leaders

admitted they

had a problem.

“In 2007, the Department of Defense had almost 2,700 reported cases of sexual assault. Over

1,500 of those cases were in the Army — over half the total number, and we are less than half the population of the department,” Gen. George Casey, former Army chief of staff, said at a convention in 2008.

In the 2008 SAPRO report, the Army said it sent 56 of the 999 cases it investigated to court-martial — less than 6 percent.

In 2010, the most recent year for which data are available, 26 percent of reported Army sexual assaults went to court-martial, and 58 percent of those ended in convictions or other-than-honorable discharges in lieu of court-martial — tops among the services.

Comprehensive private-sector statistics on sex assault convictions are hard to come by. But in 1998, the Justice Department tracked rape cases in some of the largest U.S. counties and found a conviction rate of 52 percent.

Army officials say improvement in sex assault convictions began with a focus from the top.

“Our goal ... [is that] when people talk about sexual assault prosecution and investigation, they’re not going to look to Chicago or New York or Dallas or Los Angeles,” former Army Secretary Pete Geren said in 2009. “They’re going to look to the United States Army as setting the standard.”

Anne Munch, a Colorado prosecutor-turned-consultant who helped craft Army sex-crimes prosecution policy, said all the services are improving their approach to dealing with sexual assaults, but the Army is using tried-and-true strategies from the best civilian prosecution offices.

For example, it is emulating some civilian district attorney offices in setting up specialized departments of experienced lawyers to deal solely with sexual assault and domestic violence cases, Munch said.

The special prosecutors coordinate with a special victims unit in the Army’s Criminal Investigation Command. SVU agents attend two-week training led by Munch and Russell Strand, a former CID agent who now heads the family advocacy law enforcement training division at the Army Military Police School at Fort Leonard Wood, Mo.

Strand said Army sex assault investigators are using emerging research about phenomena such as “tonic immobility” — victims becoming physically paralyzed by fear during an assault — and “forensic physiological evidence.”

Victims’ memories often are distorted by trauma, creating inconsistencies in testimony that can damage cases. Forensic physiological evidence, particularly “forensic experiential trauma interviews,” can help re-create the event from a victim’s perspective, Strand said, helping explain typical victim behavior that a court-martial panel might find baffling, such as a delay in reporting an attack.

Army SVU agents, who investigate sexual assaults full time, travel to installations around the globe mentoring agents with less specialized training.

“That’s essential,” Strand said. “When we first began this, most people in criminal justice didn’t see the difference between a sexual assault case and a murder case or any other kind of case as far as the investigative skills that needed to go into it.”

The Army hired 26 special investigators and 14 special victim prosecutors in 2010.

#### Other Branches: Mixed Results

As the Army refines its policies on sex-crime investigations and prosecutions, it still largely walks that path alone. Some investigators from other services have taken part in Army

training, but the other branches have eschewed its special prosecution units.

The Navy had the second-highest rate of sex assault convictions and discharges in lieu of court-martial among the services in 2010 at 45 percent, but sent far fewer sex assault cases to prosecution, 17 percent. Overall, the Navy had the highest percentage of cases, 63 percent, in which the alleged perpetrator received no criminal, administrative or nonjudicial punishment.

Navy officials point out that they have their own training programs, such as sexual assault prosecution mobile training teams that roam the globe from one command to the next. But they have no plans to set up a

special prosecutions

unit.

“Comparing the Army and Navy is like comparing the Poconos and Philadelphia — we’re that different,” said Theresa Scalzo, deputy director of the year-old Navy Trial Counsel Assistance Program.

“The Army’s got about four times the caseload we do,” said Scalzo, a former Pennsylvania prosecutor. “What we have instead of special victim prosecutors are senior trial counsel, similar to civilian jurisdictions. Small- to medium-sized jurisdictions will pick one or two people [to be] special victim prosecutors, but they do other stuff. There’s just not enough to keep them busy full time.”

The Marine Corps sent the highest percentage of sexual assault cases to court-martial in 2010, at 32 percent, but had the lowest rate of convictions and discharges in lieu of court-martial, 30 percent.

The Corps has a trial counsel assistance program similar to the Navy’s but no dedicated sex assault prosecution team. In contrast to the Army’s push for specialization, the Corps states in the 2010 SAPRO report that it maintains “a preference for generalists” in its Judge Advocate General’s corps.

The Air Force sent about 25 percent of its 211 sex assault cases to court-martial in 2010, with 36 percent of prosecutions ending in conviction or discharge in lieu of court-martial. That year, the Air Force began hiring specialized sex crimes investigators, and now has 19.

An Air Force official who guides sexual assault prosecution policy expressed satisfaction with the service’s existing senior trial counsel program — highly trained prosecutors who assist in all complex cases, not just sexual assaults.

## Renewed Attention

Top-level focus on sex assaults in the ranks is intensifying. Defense Secretary Leon Panetta announced forcewide policy changes in December, including a mandate to

transfer sex assault victims to other units if they so desire. The new policy is trickling down; the Army issued its implementing memorandum March 7.

Panetta also said DoD finally will create a uniform, centralized sexual assault reporting system across the services — something mandated by Congress in 2009 — that should make it easier to compare the services’ performance in prosecuting sexual assaults.

Greg Rinckey, a former Army JAG who now defends military clients, said that kind of attention may build pressure for all services to move toward the Army model.

Rinckey also pointed to the stir created by “The Invisible War,” a documentary about military

sexual assault and retaliation against victims that has garnered publicity in recent weeks.

“A lot of problems ... were brought out in that documentary,” said Rinckey, who was interviewed for the film. “I think the services are going to have to say that they’re going to get serious on sexual assaults, and I think one of the easiest ways to say they’re doing it is [by] forming a special task force within each of the services’ JAG corps, modeled on the Army.”