



Wisconsin National Guard

**Office of Complex Investigations Assessment
Corrective Action Plan**

Presented to:
Governor Tony Evers

February 6, 2020

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I. Introduction

In accordance with Chief, National Guard Bureau (NGB) Manual (CNGBM) 0400.01A, NGB Chief Counsel appointed the National Guard Bureau Office of Complex Investigations (OCI) to conduct the assessment, which occurred between April 12, 2019 and October 31, 2019. The team was directed to provide assessment findings and recommendations that could be addressed by state civilian and military leadership in order to improve the overall health and readiness of the Wisconsin National Guard (WING).

The team identified 22 separate findings and 21 recommendations in the areas of (1) Sexual Assault Prevention and Response (SAPR) program implementation and management; (2) Sexual assault investigations; (3) Sexual harassment and Equal Opportunity (EO) program implementation; (4) Accountability through administrative and disciplinary actions; and (5) command climate. Three overarching recommendations were:

1. Update all written policies and procedures, as well as protocols and practices to conform with federal law, regulation and policy;
2. Request a National Guard Bureau staff assistant visit from the relevant program offices to facilitate program, system, and relationship updates, corrections and improvements;
3. Reinforce program management tools, processes and services through more deliberate communication and coordination with internal, external and higher echelon partners and resources.

On December 9, 2019 the Governor issued Executive Order 62 requiring the WING to develop a corrective action plan for the Governor's approval that implements each of the National Guard Bureau's Office of Complex Investigations 21 recommendations. Additionally, the plan would identify strategies to prevent sexual assault, sexual harassment and other sexual misconduct, including best practices of the National Guard from other states not later than February 7, 2020. Implementation of the corrective action plan shall be completed not later than September 1, 2020.

II. Executive Summary

The WING proposes a policy-driven process that implements the OCI's 21 recommendations as outlined in their assessment report. Policy will drive process. Process will drive change within the WING by instilling and supporting an organizational culture dedicated to protecting its members from sexual harassment and sexual assault.

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Not later than September 1, 2020, the WING will have revised its sexual harassment and sexual assault reporting procedures, investigation protocols and accountability measures. Strict compliance with federal regulation and guidance, supplemented with WING-developed processes will ensure proper reporting, investigation, accountability and victim welfare. Diligent and consistent execution of these processes constitute an overall comprehensive strategy to eliminate instances of sexual harassment and sexual assault in the WING.

First and foremost, the WING will immediately implement NGB and Department of Defense (DoD) service component policy and regulations/instructions. In particular, the WING is referring all allegations of sexual assault to local law enforcement and NGB-JA/OCI. Additionally, the organization is establishing Unfavorable Information Files for the Wisconsin Air National Guard.

The corrective action plan is organized around two basic WING regulations/instructions. The first addresses sexual assault reporting, investigation and accountability. The second addresses sexual harassment reporting, investigation and accountability. The regulations/instructions are synchronized through incorporating a common joint case management protocol at Wing/Major Subordinate Command (MSC) and State levels. State-level oversight will be accomplished by incorporating a Case Management Group (CMG) into a WING Community Health Council (CHC) chaired by the Adjutant General.

Dissemination of information at echelon and across the organization will be accomplished through a Status of Discipline protocol incorporated into senior leader conferences, metrics briefings, the CMG and CHC, as well as at echelon down to company/squadron level. Revising current WING policy memos will delegate disciplinary authority to lower echelon Commanders and centralizes investigation and disciplinary records.

This plan's goal is to create a culture free of sexual harassment and sexual assault, through an environment of prevention, education and training, response capability, victim support, reporting procedures, as well as appropriate accountability that enhances the safety and well-being of all persons covered in applicable regulations.

III. Execution

The WING Corrective Action Plan forms the foundational framework for sexual harassment and sexual assault reporting and accountability within the WING. WING instructions and policy memorandums describe the procedures to coordinate and integrate federal and state regulation requirements. This includes the use of a Status of Discipline (SOD) process involving a case tracking system and a modified Joint CMG and CHC.

Instruction Updates

1. Wisconsin National Guard Instruction (draft) – Sexual Assault Prevention and Response

The proposed comprehensive instruction incorporates and implements the applicable federal policies and regulations governing sexual assault prevention and response. Notable provisions include explicit guidance that, in accordance with CNGBI 0400.01B dated April 12, 2018, the WING will not conduct internal sexual assault investigations. All unrestricted allegations of sexual assault will be reported to the Adjutant General, to local law enforcement, and referred to NGB OCI. Unfavorable information action case files are established in accordance with applicable Army and Air Force service regulations.

The instruction establishes and describes the protocols for the Joint Case Management Group (JCMG) and CHC. Both the JCMG and the CHC form the framework for sexual assault case coordination and integration with reprisal and sexual harassment cases. The instruction incorporates a case tracking and repository system. Victims are referred to NGB Special Victims Counsel throughout each stage of the sexual assault reporting, investigation and adjudication process.

2. Wisconsin National Guard Instruction (draft) – Harassment and Discrimination

The proposed comprehensive instruction implements the applicable federal policies and service regulations/instructions governing harassment and discrimination (e.g. DoDI 1020.03, CNGBI 9601.01, and CNGBM 9601.01). The JCMG and the CHC at the State and Wing/MSA levels will be the coordinating mechanism of all sexual harassment and sexual assault allegations as part of the overall Status of Discipline Process.

Further, all allegations of sexual harassment and reprisal will be included in the JCMG agenda for proper state-level review and cross-organization coordination with the SAPR, EO and Inspector General (IG) investigation programs. Cases will be incorporated in the case tracking and repository systems. Victims are referred to NGB Special Victims Counsel throughout each stage of the sexual harassment reporting, investigation and adjudication process.

Policies Updates

As identified in the OCI assessment, the WING will bring its policies into compliance with applicable DoD/NGB guidance and regulations. Current WING policies will be reviewed and recommended for updating, rescinding and/or incorporation into WING instructions. New or updated policies intended to strengthen accountability include policies delegating greater discipline authority to lower level command and improving organizational span of control by granting command authority to the Deputy Adjutants General of their respective services.

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Status of Discipline Process

The Status of Discipline Process will be the means by which the WING leadership will track and monitor misconduct, coordinate disciplinary actions and disseminate information down the chain of command to individual Soldiers and Airmen. More specifically:

1. Commander's Case Updates: Commander's case updates to a Centralized Case Tracking System form the core of the WING's Status of Discipline process. For every allegation of misconduct, regardless of the type, commanders will establish a case file and provide updates from intake to final disposition.
2. Centralized Case Tracking System: Fed by the Commander's case updates, the WING will implement a centralized electronic case tracking system accessible at the Wing/MSC and state levels and feed the Status of Discipline process and the centralized investigation/case repository. Reports and data from the Centralized Case Tracking System will be utilized, reviewed and analyzed at the JCMG. All closed reports will be forwarded to the Office of the Staff Judge Advocate (OSJA) for filing.
3. Centralized Case File Repository: OSJA will establish an electronic and hard copy case repository for maintaining all closed cases.
4. Status of Discipline Briefings: Commanders at Wing/MSC level will incorporate routine Status of Discipline updates in their command briefings and ensure updates are disseminated to all members within their command. Updates will consist of summarized and sanitized closed misconduct case information occurring within the command. Status of Discipline briefings will also provide the venue for routine training on matters of disciplinary importance, such as sexual harassment, sexual assault, command influence, fraternization, etc. (reference – Commanders Legal Handbooks for Army/Air).
5. Victim Privacy: In accordance with federal regulation and guidelines, victim privacy will take priority in the overall Status of Discipline process.

Case Management Groups

Case Management Groups will be established at both the Wing/MSC and state levels and meet monthly. Representation will include the IG, the State Equal Employment Opportunity Manager (SEEM), Provost Marshal (PMO), Staff Judge Advocate (SJA), Sexual Assault Response Coordinator (SARC) and Chaplain. The groups will be chaired by Wing/MSC Commanders at the unit level and jointly by the Deputy Adjutants General for Army and Air at the state level. The state-level CMG constitutes a part of the overall Status of Discipline process.

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To create a common operating picture for leadership situational awareness across the organization, CMGs will use standard agenda and case tracking tools for coordinating all allegations of sexual assault, sexual harassment, reprisal/retaliation and other misconduct. Wing/MSA and state CMGs, in addition to tracking the status of all sexual harassment and sexual assault and reprisal/retaliation cases, will also track personnel vacancies, training and certification deficiencies, as well as get-well plans for each vacancy and deficiency.

Case integration teams will meet in conjunction with the state-level CMG. The case integration team will analyze and synchronize case data from the SARC, SEEM, IG and SJA in order to identify trends and make recommendation to the CHC.

The state-level CMG participates in the CHC meetings and provides updates to leadership on current sexual assault, sexual harassment and reprisal case status, as well as response coordination at the Wing/MSA and state levels.

Community Health Council

The WING will conduct a Community Health Council chaired by the Adjutant General. The CHC will meet on a bi-monthly basis and provide a venue for broad state-level oversight and synchronization of critical assessment areas to include, but not limited to, sexual harassment, sexual assault, equal opportunity, inspector general issues, diversity, recruitment and retention. The CHC constitutes a part of the overall Status of Discipline process.

As previously stated, the CMG will feed case data and analysis to the CHC for all matters involving sexual assault and sexual harassment and retaliation/reprisal. Status of Discipline updates, led by Wing/MSA Commanders and supported by the OSJA, will provide relevant data and situational awareness for all disciplinary matters occurring in the WING at any given time.

CHC will use a standardized agenda and case tracking slides for all allegations of sexual assault, sexual harassment, reprisal/retaliation and other misconduct.

In addition to tracking the status of all sexual harassment and sexual assault and reprisal/retaliation cases, the CHC will also track personnel vacancies, training and certification deficiencies, and get-well plans for each vacancy and deficiency.

Force Structure and Training/Certifications

The WING will identify full-time and drill-status SAPR and EO position vacancies and training deficiencies at state and Wing/MSA level and below. The training and certification status for positions that are currently filled will be tracked in accordance with established guidance. School slot allocation is a potential factor preventing full plan implementation ahead of the

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September 1, 2020 deadline. The WING will work diligently with NGB to secure expedited school/training allocations.

The WING will increase OSJA force structure appropriately to meet the task of providing effective and efficient legal support across the full spectrum of legal services required to support the Wisconsin Department of Military Affairs. Separately, the WING and the Air National Guard writ large lacks a resourced Air National Guard Defense Counsel program, undermining command credibility and efficiency and the fair and timely administration of military discipline. The WING will advocate to NGB for Area Defense Counsel resources.

Short-term, the WING will prioritize OSJA, SAPR and EO recruitments and, if necessary, reallocate resources from other programs to meet this plan's requirements. The WING will work with NGB long-term to define permanent staffing and resourcing solutions.

Training in legal, SA and EO issues will be conducted through formalized training and schooling, as well as routinely incorporated into the Status of Discipline process.

Best Practices

In coordination with NGB, WING is reviewing best practices from the national level and from other states. Among those presently identified are force structure, Status of Discipline briefings, case management, diversity/inclusion and SAPR/EO best practices.

One result of the OCI assessment of the WING is that a large number of other State National Guard agencies have initiated their own top-down reviews of their internal practices regarding sexual misconduct, discipline and accountability.

Timeline

Implementation timeline utilizes a four-phase approach. The plan may require further review, validation and adjustment prior to September 1, 2020, if it is determined particular elements of the plan are ineffective as written or can be improved upon.

1. Initiation (7 Feb – 31 Mar): Comprised of drafting WING regulations and policies; drafting CMG, Status of Discipline and CHC protocols; identifying OSJA, EO and SAPR force structure shortfalls and training deficiencies; and initiating recruitment to fill vacancies and secure training slots. The NGB Staff Assistance Team will complete its initial on-the-ground staff assistance visit and identify best practices.
2. Validation (1 Apr – 31 May): Focuses on final NGB review of WING instructions and policies and incorporate best practices. Conduct initial CMG, CHC and Status of Discipline meetings under new meeting protocols. Conduct initial roll-out and implementation of a case tracking and repository system. Identify SAPR and EO

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candidates and coordinate with NGB for expedited training and certification. Identify and recruit qualified OSJA personnel to fill newly created positions.

3. Execution (1 Jun – 30 Jul): WING instructions and policy memorandums are signed. CMG, CHC and Status of Discipline meeting protocols reach steady-state execution. Case tracking and repository systems are fully functioning. Vacant SAPR and EO positions are filled and incumbents enrolled in expedited training. Newly hired OSJA personnel are employed. Initial validation of all lines of effort takes place in coordination with NGB. NGB conducts its final staff assistance visit.
4. Full Implementation/Reassessment (1 Aug – 31 Aug): In conjunction with NGB, WING leadership internally validates that all 21 OCI Assessment recommendations are satisfied. The WING has an effective and executable strategy to prevent sexual assault, sexual harassment, reprisal and other sexual misconduct in its force. The WING continually reassesses and refines programs as needed.

IV. Conclusion

The corrective action plan reallocates resources and brings the WING into compliance with applicable DoD and NGB regulations and policies. It also implements protocols ensuring proper and effective coordination and oversight of all SAPR, EO and accountability programs at each command level. The plan is executable within the expected timeframes and when fully implemented may likely serve as a model program for the National Guard across all 54 states and territories.

V. Abbreviations and Acronyms

CHC – Community Health Council

CMG – Case Management Group

DoD – Department of Defense

EO – Equal Opportunity

IG – Inspector General

JCMG – Joint Case Management Group

MSC – Major Subordinate Command

NGB – National Guard Bureau

OCI – Office of Complex Investigations

OSJA – Office of the Staff Judge Advocate

PMO – Provost Marshall

SARC – Sexual Assault Response Coordinator

SAPR – Sexual Assault Prevention and Response

SEEM – State Equal Employment Opportunity Manager

SJA – Staff Judge Advocate

SOD – Status of Discipline

WING – Wisconsin National Guard