



**CALIFORNIA STATE SENATE  
COMMITTEE ON  
VETERANS AFFAIRS**

**report to the  
President pro Tempore  
regarding oversight of the  
California Military Dept.**

**MARCH 29 2013**

**1545-S**

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LOU CORREA  
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March 29, 2013

The Honorable Darrell Steinberg  
President pro Tempore  
California Senate  
State Capitol, Room 205  
Sacramento, California 95814

Dear Mr. President:

As Chairman of the Senate Veterans Affairs Committee (committee), I am reporting back to you on the Committee's oversight of reform efforts within the California Military Department (department).

One year ago, following a 5-0 Rules Committee recommendation, the Senate unanimously confirmed Major General (MG) David S. Baldwin as Governor Brown's appointee as The Adjutant General (TAG) for the State of California. At that time, you officially informed the TAG (by your letter of March 16, 2012) that the Senate had developed an "action plan" to assist him and the department in correcting specific deficiencies and generally reforming the department's troubled organizational culture and command climate.

You also directed the Veterans Affairs Committee, which I chair and has oversight jurisdiction over the department, to assume principle legislative responsibility for ensuring execution of this action plan. You authorized this committee to request and review information and conduct additional oversight hearings, as the committee might deem necessary.

On March 30, 2012, I wrote MG Baldwin a letter, which informed him of the committee's role in monitoring and assisting the department's execution of the action plan. My letter also reiterated the specific deficiencies you wanted corrected.

Throughout 2012 and into 2013, the committee maintained frequent two-way communications with the TAG and the department. The committee monitored reform efforts within the department as the TAG continued to shape and train his leadership team, and communicate and execute his strategic plan. The committee provided statutory support by introducing and enacting

In early 2013, the committee requested that the TAG provide the committee with a formal written response by early March, and that the response specifically address the extent and effectiveness of the department's reform efforts, focusing on the priorities you had established. In addition, we informed the TAG that the committee, after reviewing the report, would conduct an oversight hearing on the same topics in order to provide transparency to the public.

We received the TAG's written report on March 5 and conducted the public hearing on March 20. We added this new information to what we learned in the prior 12 months. I have enclosed my analysis of the Military Department's reform efforts for your inspection.

Thank you, Mr. President, for your strong leadership and clear mandate for vigorous oversight of the department. I trust that the Veterans Affairs Committee's oversight efforts met your expectations.

I have included various supporting documents. Some contain personal information regarding individual department employees, including their names and personnel grievances. I have redacted identifiable personal information so as to protect the privacy of these employees, as well as to ensure the integrity of active and ongoing grievance investigations and proceedings.

1. Letter, President pro Tempore to MG Baldwin (March 16, 2012).
2. Letter, Chairman Correa to MG Baldwin (March 30, 2012).
3. Letter, Senator Lieu to Chief, National Guard Bureau (November 21, 2012).
4. Letter, Chairman Correa to MG Baldwin (December 14, 2012).
5. Letter, MG Baldwin to Chairman Correa: Formal written response to the Committee (March 5, 2013) with following enclosures:
  - a. Enclosure 1: California Military Department: Sexual Assault Prevention and Response (SAPR) Program Report, (March 1, 2013).
  - b. Enclosure 2: National Guard Bureau Memorandum: Review of Draft Executive Summary (January 9, 2013).
  - c. Enclosure 3: National Guard Bureau Memorandum: Staff Assistance Visit to California National Guard 11-12 December 2012 (December 20, 2013).
  - d. Enclosure 4: Defense Equal Opportunity Management Institute: Selected Data from Organizational Climate Survey (September 2012).
  - e. Enclosure 5: California Military Department: Status of Complaints as of March 1, 2013 (March 5, 2013).
  - f. SB 807: Bill copy and fact sheet.
6. Agenda for the committee's oversight hearing of March 20, 2013.
7. Audit Report, U.S. Property and Fiscal Office for California: Audit of Sexual Assault and Response Program Expenditures at the 129<sup>th</sup> Rescue Wing (August 17, 2012).
8. SAPR color slides.
9. DEOMI Background Paper on EO/EEO (October 27, 2010).
10. Personnel complaints resolution process slides.
11. DEOMI survey slides.
12. BG Marianne Watson's testimony at March 20, 2013 hearing.

13. TAG's letter re State Active Duty positions (December 31, 2012).
14. SB 921: Bill copy and fact sheet.
15. LTC Kaufmann letter re Military Department Inspector General reporting (January 8, 2013).
16. Background information document on the California Military Department, prepared by Senate Veterans Affairs Committee staff (March 20, 2013).
17. TAG's Briefing Slides: Presentation to Senate Staff at Department Headquarters (December 19, 2012).

Should your staff have questions about specific technical details in this report, I encourage them to contact Wade Teasdale, Staff Director, Committee on Veterans Affairs, for assistance at (916) 651-1503

Sincerely,

A handwritten signature in black ink, appearing to read "Lou Correa", written in a cursive style.

LOU CORREA  
Senator, 34th District  
Chair, Committee on Veterans Affairs

## **Oversight of California Military Department**

### **Summary**

The Veterans Affairs Committee's oversight of the California Military Department during the past year was focused in specified areas and came to the following conclusions:

### **Organizational Culture**

The Adjutant General (TAG) has made a determined effort to change the culture by reinforcing professional values, reforming specific personnel-related programs, and replacing many of the long-time leaders with a younger, more diverse cadre of high-achievers from outside the historical cliques. For example, the department now has a "talent management" program to help actively identify highly qualified female and minority personnel for promotion and positions of greater responsibility.

### **Sexual Assault and Prevention Response (SAPR) Program**

The TAG hired a new statewide SAPR coordinator and is working to provide more full-time staff support to headquarters and for units around the state. In addition, the department has instituted a dual-track response system that allows the victim to choose between one course that focuses on the victim's personal welfare and privacy and another course that works to protect welfare and privacy while initiating investigations aimed at corralling the offender. Under the new rules, if a member of the victim's chain-of-command is notified of an incident, reporting and response is mandatory.

### **Alleged Misuse of SAPR Funds**

A formal audit of two fiscal years confirmed that SAPR funds were misused. Corrective actions were subsequently taken and policies have been revised.

### **Equal Opportunity (EO)/Equal Employment Opportunity (EEO)**

Department of Defense surveys demonstrated that the department's EO/EEO profile, as perceived by its employees, is significantly better than the average for the U.S military community. Challenges arise from the uniquely eclectic mix of different personnel categories (federal/state, military/civilian, full-time/part-time, paid/volunteer, single-status/dual-status)

that comprise the department. Members of the different categories constantly interact and conflict, and resolution can be complicated by the different rights, protections, and resolution processes for different employee types.

### State Active Duty Program

The Legislature enacted two significant legislative measures to reform the State Active Duty (SAD) program. SB 807 (Correa, 2012) made substantive changes to the SAD system to provide greater safeguards to prevent abuse and ensure greater accountability of service members. SB 921 (Lieu, 2012) established the California Military Department Inspector General and the California Military Whistleblower Protection Act to provide greater oversight of the department and improve protections for military and civilian whistleblowers.

### Resolution of Individual Complaints

The department presented data, largely validated by the U.S. National Guard Bureau, that all individual personnel complaints brought to the Senate Rules Committee during the TAG's 2012 confirmation process have been routed into appropriate resolution processes. Nearly all were in those processes prior to the Rules Committee's March 2012 hearing and many had already been adjudicated by federal agencies. Some are still in appeal, but are outside the department's jurisdiction.

### Going Forward

Although it is apparent that major progress is being made at the department, it is unlikely that all of the organization's significant problems can be fully addressed during this TAG's tenure. The Veterans Affairs Committee recommends that the past year's oversight effort should be considered as just a first step in an ongoing effort to help the department transform its culture and reputation. The ongoing effort should include frequent communications between the committee and the department on issues of concern as well as another report by the department due in March 2014.

Perhaps the key point to keep in mind is that approximately 98% of the Military Department is comprised of uniformed national guardsmen, mostly part-time but some full-time. Under federal law, the National Guard Bureau, Department of the Army, Department of the Air Force, and Department of Defense are responsible for overseeing the California National Guard and enforce its compliance in programs common to all branches and components of the U.S. Armed Forces, including, for example, professional values and ethics, equal opportunity, materiel and funds management, and operational readiness. If the California Guard, with the assistance of those federal entities, complies with the program requirements established by federal statute and regulation, nearly all the problems, which have come to light since 2010, would be remedied. (Nevertheless, due to the dual federal/state status of the National Guard, it is appropriate for the Governor and Legislature to monitor compliance with those standards.)

State-authorized programs, such as the state active duty program and the State Military Reserve, of course, lie outside federal purview and are under the direct oversight of the Legislature.

## **Organizational Culture**

During 2010-2011, the department was rocked by successive revelations of fiscal scandal. The resulting federal and state investigations determined that much of the department was awash in cronyism and rule-breaking. Historical cliquishness maintained a ruling “good old boys club” within the leadership echelon that facilitated favoritism for some and engendered disadvantage and bitterness for others. The organizational cultural led directly to what one internal whistleblower’s sworn statement to federal criminal investigators characterized as “systematic and historic abuse and mismanagement of fiscal law, guidance and policy.”

The discussion in the Rules Committee and on the Senate Floor during MG Baldwin’s 2012 confirmation as TAG made clear that the Senate intended to address not only specific issues within the department, but also desired a positive transformation of the broader organizational culture.

Despite the controversies, Pentagon sources provided external, objective data indicating that the average California National Guard member has a more favorable perception of this state’s Guard than the average Soldier, Sailor, Airman or Marine has of their respective active duty service branch.

Overhauling the culture in an organization of 25,000 mostly part-time employees, who are spread out in variously sized units over an area of 164,000 square miles, is no easily accomplished chore; however, it is clear that MG Baldwin has been turning the ship steadily during his tenure as the TAG, with his hand particularly heavy on the tiller since his Senate confirmation.

All but a few percent of the department’s employees are part of either the U.S. Army or U.S. Air Force, which makes much of the cultural solution obvious – simply requiring those federal uniformed employees to meet the standards and obligations inherent in their oath of service. It is not surprising that the centerpiece of the TAG’s own initiatives is a requirement that units and personnel focus more aggressively on the ethics-focused “Army Values” and “Air Force Values” promulgated by those two military departments at the Pentagon level.

The U.S. Army’s Field Manual 22-100 (Army Leadership) states, "But when soldiers take the oath, they promise to live by Army values." The U.S. Air Force’s Blue Book calls its values the "price of admission."

While it is true that the California Constitution requires “all public officers and employees, executive, legislative, and judicial” to take a very similar oath, individuals who have not served in the military can easily underestimate the crucial importance of professional ethics and values to the daily maintenance of the Armed Forces. The military’s core mission requires its personnel to be trained and expected, if necessary, to employ lethal weapons systems and engage in large-scale violence. The consequences of irresponsible, unethical, out-of-control behavior by military personnel can be horrendous for combatants, noncombatants, and even the environment.

One officer at the United States Military Academy wrote:

When the consequences of acting morally are unfavorable to the agent doing the acting, that agent needs powerful and compelling reasons to do the morally right thing. An agent needs to understand and truly believe that it is better to be fired than to violate his integrity. Given the unique nature of the military, this understanding is especially important. Since much of the purpose and function of the military revolves around committing acts of violence, it is especially important that its members understand and truly believe that it is better to be mutilated or killed than act immorally.

Accordingly, the U.S. Armed Forces instills and constantly reinforces professional values and ethics into all uniformed personnel. For example, the Army's official values are:

- Loyalty: Bear true faith and allegiance to the U.S. Constitution, the Army, your unit, and other Soldiers.
- Duty: Fulfill your obligations.
- Respect: Treat people as they should be treated.
- Selfless Service: Put the welfare of the Nation, the Army, and subordinates before your own.
- Honor: Live up to all the Army Values.
- Integrity: Do what's right—legally and morally.
- Personal Courage: Face fear, danger, or adversity (physical and moral).

The point here is that the Army and Air Force require that their professional values and ethics be drummed into all their troops, including those assigned to the National Guard.

It is logical to assume that if the part-time and full-time Army and Air National Guard members, who comprise nearly 98 percent of the California Military Department, simply adhere to the professional codes governing their respective services, those values and ethics will spill over and shape the culture of the entire department. However, those values are diametrically opposed to the values that gave rise to the scandal-causing behaviors.

One of TAG's major initiatives in reforming the culture has been a significant overhaul of the CalGuard's leadership cadre. He has replaced numerous senior and mid-level officers and replaced them with high-achievers whom he feels adhere to the reform goals. A stunning percentage of the newcomers are younger, female, and from minority groups. The TAG ensures that is being done with a talent identification program that seeks out highly qualified individuals among underrepresented groups.

Prior to MG Baldwin's assumption of command, five of every 30 possible senior leader positions were occupied by females or minorities. Today females and minorities fill 13 of every 30 leader slots, a 160% increase during the past two years.



More specifically, for Army Guard Brigade and Installation Commanders, five of 11 possible leader positions were filled by females or minorities, but now that figure is eight out of 11 slots, a 60% increase. Nine of the Air Guard's 83 command positions were held by females or minorities, but now they fill 21 of those command slots, a 133% increase.

In addition, the Committee received information indicating that some important aspects of the department's culture were not in dire shape. Survey data from the Department of Defense indicates that the California National Guard ranks well above average in a number of key metrics – when compared to the rest of the military, including both active and reserve components. This is discussed more fully under the Equal Opportunity/Equal Employment section below.

Much of the work supporting broad transformation is covered below under this report's more specific topic areas.

### **Sexual Assault Prevention and Response**

During the past year, the TAG placed considerable emphasis on upgrading the Sexual Assault Prevention and Response (SAPR) program. This is not primarily in response to alleged incidents within the Military Department, but is part of the federal defense establishment's recent aggressive rollout of SAPR and sexual harassment programs. The overall military community is experiencing an upward spike in incidents of sexual assault. The U.S. Army is in the fifth year of its "I Am Strong" sexual assault prevention campaign, under which all new soldiers are drilled on a set of 10 rules for proper sexual assault prevention-related behaviors. All members of the U.S. Air Force are required each year to have one hour of face-to-face sexual assault prevention training from a sexual assault response coordinator. These national initiatives require compliance by California's Army and Air National Guard units.

In November 2012, the department hired an experienced, dynamic civilian as the new statewide Sexual Assault Response Coordinator (SARC). The department's leadership is working to provide additional staffing support to the new SARC.

The organization has implemented a dual-track reporting system for sexual assault victims. Both tracks protect the welfare of the victim, but the system now allows the victim to decide between the two options. One track optimizes the victim's personal privacy and the psychological well-being. The other also initiates an investigation and provides the opportunity to hold offenders accountable.

The adjusted policies place a firm requirement that all supervisors report any allegations of sexual assault that come to their attention. The policies also meet the federal military's mandate that Bystander Intervention Training (BIT) be provided for all military personnel and civilian supervisors of military personnel by June 30, 2013. The BIT training provides military personnel with knowledge to recognize potentially harmful situations and take action to mitigate possible harm to colleagues, who may be subjected to sexual assault.

The department is working to ensure it has enough unit-level SARCs to meet workload requirements and Army and Air Force requirements for SAPR-related training.

Annex 5, MG Baldwin's March 5, 2013 includes his Enclosure 1, which represents the department response to the Senate regarding sexual assault issues. (It includes the sexual assault statistics and other relevant information.) Also, the department's new SARC coordinator presented on the upgraded SARC program at the Veterans Affairs Committee's March 20, 2013 hearing. Her visual slides are in Annex 8.

### **Improper Use of Federal SAPR Funds**

The day before the TAG's confirmation hearing in Senate Rules Committee, senior leaders in the California Air Guard requested an audit to address allegations that the 129<sup>th</sup> Rescue Wing (129 RQW) had misused SAPR training funds.

The President pro Tempore's letter to MG Baldwin, dated March 16, 2012, required the department to report the results of that audit as soon as completed, but no later than one year from the date of the letter. The audit was completed and published on August 17, 2012, and a copy delivered to the Veterans Affairs Committee on January 20, 2013. Although the copy was delivered several months later than requested, it arrived in time for the Committee to review it thoroughly and engage the department about past and future corrective actions.

Conducted by the United States Property and Fiscal Office (USPFO) for California, the audit examined if the funds had been expended for training or other uses beyond their specifically authorized SAPR-support purposes for fiscal year 2010-2012. Specifically, the audit was designed to determine whether 129 RQW officials properly:

- Expended SAPR funds
- Processed SAPR payment transactions
- Accounted for pilferable SAPR equipment

The audit determined that unit officials:

- Provided SAPR training when it was not required
- Expended (FY10) and obligated (FY11) SAPR funds for non-SAPR portions of an event held at an off-campus venue
- Did not identify erroneous SAPR payment transactions of nearly \$20,000
- Purchased over \$32,000 in audio/visual equipment in FY10 and FY11 for SAPR training, but did not add these pilferable assets to records used to maintain property accountability

Details are included in the audit, which is also included in this report package. The TAG presented hearing testimony about this audit. Additionally, the Committee heard detailed analysis from Mr. Daniel Bogart, Chief, Internal Review Divisions, USPFO for California. Mr. Bogart and another senior auditor conducted the audit in question.

The department has taken corrective actions and changed policies. According to the department, the SAPR funds issue and previous fiscal scandals, such as the incentive bonuses and student loan repayments, have led to the department employing more auditors and fiscal watchdogs. Annex 7 contains a copy of the audit report.

### **Equal Opportunity/Equal Employment Opportunity**

The federal Equal Opportunity (EO) program is intended for military employees and the Equal Employment Opportunity (EEO) program for civilian employees. They share the common goal of providing the commander and organization with guidance for a work environment free from discrimination. However, the programs are governed by different laws and regulations. (A brief white paper comparing the programs is contained as an annex to this report.)

In September 2012, the federal Defense Equal Opportunity Management Institute (DEOMI) surveyed the full-time members of the California National Guard regarding EO/EEO factors, Organizational Effectiveness factors, and Sexual Assault Prevention and Response factors. Of the approximately 4,000 full-time federal employees invited to participate, 3,122 completed the survey with an exceptional response rate of 77 percent.

The findings reveal that, on average, the members of the California National Guard generally perceive the EO/EEO fairness and competence of their organization more favorably than is typical for the U.S. military, including the active duty military and most other state national guards. The self-reported data run counter to the negative claims associated with the “Petty/Romero Report” and made by individual complainants during the confirmation process.

The DEOMI survey data were collected after MG Baldwin had served as TAG for nearly one and a half years. While this may reflect an upward trend under the current TAG, these types of perceptions do not change rapidly in that short a time frame. Therefore, it is likely that, despite its other problems, the California National Guard did not have a particular problem in this area prior to MG Baldwin’s tenure. (Note: Most EO/EEO complaints occurred at the local Army or Air Guard unit level, while most of the high-profile financial scandals occurred in the department headquarters in Sacramento or the Air Guard’s fighter wing headquarters in Fresno.)

The DEOMI survey compared employee perceptions across three entities – the California National Guard, the cumulative average of all 54 National Guards, and the cumulative average of the total U.S. military (including all branches of services and all active and reserve components). The participants rated their respective organizations on a Likert scale of 1 (Worst) to 5 (Best), as follows:

#### **Sexual Harassment/Discrimination:**

California National Guard	4.31
- <i>Female employees</i>	4.17
- <i>Male employees</i>	4.35
U.S. National Guard (National Avg)	4.29
Total U.S. Military	4.18

Differential Command Behavior toward Minorities

California National Guard	4.65
- <i>Minority employees</i>	4.56
- <i>Majority employees</i>	4.75
U.S. National Guard (National Avg)	4.62
Total U.S. Military	4.50

Positive EO Behaviors

California National Guard	4.11
U.S. National Guard (National Avg)	3.92
Total U.S. Military	4.01

Racist Behaviors

California National Guard	4.15
- <i>Minority employees</i>	4.02
- <i>Majority employees</i>	4.29
U.S. National Guard (National Avg)	4.07
Total U.S. Military	3.88

Age Discrimination

California National Guard	4.33
U.S. National Guard (National Avg)	4.39
Total U.S. Military	4.32

Religious Discrimination

California National Guard	4.62
U.S. National Guard (National Avg)	4.58
Total U.S. Military	4.47

Disability Discrimination

California National Guard	4.58
U.S. National Guard (National Avg)	4.52
Total U.S. Military	4.42

Trust in the Organization

California National Guard	3.50
U.S. National Guard (National Avg)	3.80
Total U.S. Military	3.45

In addition to the DEOMI survey findings, the department's improved EO/EEO profile was confirmed through an EO/EEO staff assistance visit to California by the National Guard Bureau on December 11-12, 2012. The Bureau memorialized and shared their findings in a document, dated December 20, 2012, which offered the following "Areas of strength identified by the NGB-EO":

- Strong senior leadership support for the EO/EEO Programs
- Experienced HRO, SEEM, and EEO Counselor on the team
- Air National Guard Annual Report and Affirmative Action Report successfully completed
- Outstanding Tracking of EO/EEO complaints
- Proper Storage of EO/EEO documents in accordance with (IAW) regulatory guidance
- Bi-weekly Adjutant General (TAG) Brief of all open EO/EEO complaints
- All open EO/EEO complaints within the CA NG were processed in a timely manner

The most confusing aspect of the EO/EEO system is results from the department's eclectic mix of personnel categories. The mix includes both paid and volunteer, both uniformed military and civilian, both full-time and part-time, and both federal and state. The different employee types have different grievance processes, which means that the department must be able to triage a situation and direct personnel to the appropriate process. However, this is further complicated because employees of different categories supervise and otherwise interact with one another. For example, a state active duty (SAD) employee may supervise a federal Active Guard/Reserve employee or vice versa. If they conflict, resolution processes may lean one way or the other or proceed in parallel. Another wrinkle occurs because some employees are dual-status in that they serve as both federal full-time civilian employees and part-time federal uniformed Guard members; or as both full-time uniformed SAD employees and part-time federal uniformed Guard members.

Whether uniformed or civilian, the vast majority of department employees are federal, a situation that places final adjudication and appeals for most EO/EEO complaints outside the ultimate jurisdiction of the department. This situation meant that nearly all the high-profile EO/EEO grievances of 2012 were adjudicated at external venues, such as the National Guard Bureau, Department of the Army (DA), Department of the Air Force (DAF), or Equal Employment Opportunity Commission (EEOC). These external agencies were able to provide this committee with objective, disinterested confirmation that the California Military Department had properly routed individual EO/EEO complaints through the appropriate resolution processes.

### **State Active Duty Program**

In June 2006, the State Auditor released Audit Report 2005-136, which concluded that the department had been engaging in questionable practices related to its SAD workforce. The summary for that audit report is enclosed.

Among other things, the audit determined that the department had not effectively reviewed its state active duty positions, and as a result may be paying more for some positions than if they were converted to state civil service or federal position classifications. For example, a colonel responsible for records management, printing, mail services, and supplies management was receiving an annual salary of about \$125,500, while a civil service counterpart in another state department with similar responsibilities was being paid an annual salary of \$62,300.

The 2006 audit also noted that SAD members who became whistleblowers did not have access to an independent authority to resolve complaints of alleged retaliation.

The report included a recommendation that the department review its hiring policy and practices for SAD members, as directed by TAG, and make the necessary changes in its policy and regulations to provide adequate guidance to its commanders and directors.

In response, Major General Wade, the TAG at that time, convened a reform panel to review the department's use of state active duty members. The panel's tasks included reviewing the SAD positions to determine if the responsibilities of those positions could be performed by other state or federal position classifications available to the department. The panel was also charged with addressing other past personnel practices, such as creating more SAD positions than the budget authorized. At that time, the department estimated it would take three to five years to implement any changes the panel recommended.

In January 2009 the State Auditor published Report 2008-041, titled "Recommendations Not Fully Implemented After One Year: The Omnibus Audit Accountability Act of 2006." That report stated:

The Department has fully implemented this recommendation. As directed by Major General Wade (the Adjutant General) the Review Panel (initially established as the Reform Panel) developed improved policies covering the hiring practices and policies of State Active Duty personnel. Effective February 1, 2008, the guidance establishing the Military Department's policies regarding State Active Duty was revised and published to reflect the changes recommended by the Review Panel. This regulation was subsequently updated November 7, 2008. This regulation was issued by the Adjutant General, to all California Military Department personnel, and will be updated annually or as deemed necessary.

Nevertheless, the federal and state investigations into the recent scandals identified that SAD personnel and policies were involved in several of them. Shortly after assuming his position as TAG, MG Baldwin stated his intention to thoroughly and effectively reform the program.

The President pro Tempore directed the TAG (letter, March 16, 2012) to work with the Legislature on legislation to reform the SAD program by statutory means. Accordingly, on April 16, 2012, after reviewing the department's proposed language, Senator Lou Correa amended language into an existing bill, SB 807, which subsequently was passed unanimously by both houses and signed into law by the Governor.

In addition, Senator Ted Lieu authored SB 921, which also passed both houses without opposition and was signed into law by the Governor in September 2012. That law helps protect SAD employees and whistleblowers by statutorily establishing a more independent inspector general (IG) within the department. Under this law, while the IG is subordinate to and supports the TAG, this senior officer also serves as a gubernatorial check on the department leadership and may not be unilaterally removed from the position by the TAG. (The IG serves at the pleasure of the Governor.)

Furthermore, the Senate Pro Tempore directed the Budget Committee to use its subcommittee hearings to examine the use of SAD positions in order to determine the necessity for them. On December 31, 2012, the TAG responded in writing with the following:

As of December 1 of this year, the Military Department was authorized a total of 535 SAD positions. To date, the department has reviewed approximately 47% of all SAD positions, or 253, to determine their appropriate classification. Of those reviewed, 13 have been converted and filled as SCS, 32 are currently in the process of being converted, and 10 positions have been identified for possible future conversion to SCS once they become vacant.

The TAG's letter included a detailed three-page spreadsheet detailing the position review. A copy of his letter and the spreadsheet are enclosed. He also stated that the SAD Review Panel would continue to meet monthly to review the remaining SAD positions, with all position reviews scheduled to be completed by July 1, 2013.

SAD personnel are used in a wide variety of ways. Some of the more interesting have been in support of the department's Joint Operations Center and in the impressive "Work for Warriors" program. Nevertheless, I believe that further proposed growth in the SAD force should be carefully monitored and controlled by the Legislature. The SAD ranks have grown rapidly over the past decade. I recommend whenever the Budget Committee receives requests to add SAD positions or convert state civil service positions into SAD positions that the Budget Committee staff consult with the Veterans Affairs Committee staff to better determine the specific policy application or operational necessity that the department has identified as justification.

As noted earlier in the EO/EEO section, the Military Department was a beneficiary of external federal agencies having reported that the department had properly routed the EO/EEO complaints made by individual federal employees through the appropriate grievance resolution processes. The department's state employees have different processes. Civilian state employees may have recourse outside the department to the State Personnel Board and enjoy union representation. On the other hand, the complaint process for SAD employees is contained solely within the department. The chain-of-command processes complaints up to the TAG, and the semi-autonomous department Inspector General provides an additional check. However, the department's approximately 500 SAD positions are concentrated in the Sacramento headquarters. Such a small, consolidated group may lack the geographical, administrative and interpersonal distance within the organization to provide the required objectivity – unlike the massive federal military system.

It may be worthwhile for the Legislature to explore with the TAG ways to provide SAD employees with external review or appellate rights outside the department. However, the Legislature should not attempt to establish an external system in statute without department input because the SAD program has a military culture, military disciplinary regulations, and distinct military needs. Systems modeled for purely civilian employees may not fit smoothly onto the department.

### **Resolution of Individual Grievances**

At various points during and after the TAG's confirmation process in early 2012, fifteen employees alleged to the Senate that the department had stonewalled resolution of more than 25 grievances filed against department supervisors. The President pro Tempore directed the TAG to ensure that those matters were processed in timely and proper manner. Nevertheless, in late 2012 and early 2013, television news stories were broadcast in the Bay Area and Los Angeles reporting that the department had not yet addressed these complainants' concerns.

The Veterans Affairs Committee review did not investigate the merits of individual allegations. Such an endeavor is outside the committee's jurisdiction and its expertise. Instead, the committee's work was to ensure that the complaints were being timely processed by the appropriate resolution processes established in by statute.

The committee contacted the department in late 2012 and early 2013, requesting detailed information on every specified grievance. Based upon detailed responses from both the California Military Department and its parent National Guard Bureau, it appears that every grievance has been addressed, mostly by federal agencies that have ultimate adjudicatory authority. In fact, it appears that virtually all of these complaints were already being processed beyond the Military Department prior to MG Baldwin's confirmation hearing, and some had already been adjudicated.

For example, in mid-December 2012, a National Guard Bureau EO team conducted a staff assistance visit to the California National Guard and offered the following analysis in its December 20, 2012, final report:

The following is the status of outstanding complaints by category:

- a. EO Complaints: Seven (7) open complaints, all of which are being timely processed at the state level.
- b. EEO Complaints: Thirteen (13) open complaints, all of which are being timely processed at the state level.
- c. Complaints moved from the EEO to the military EO process: Six (6) found to be military in nature by NGB-CMAD.

Much of the Rules Committee testimony and subsequent media reporting the alleged inactions were based upon their interpretations of a federal investigative document, referred to variously as



the “Petty/Romero Report,” “Petty Report,” “draft executive summary,” or “EXSUMM.” To help clear the air about these grievances, a review of that document is appropriate.

At the request of the federal Equal Employment Opportunity Commission (EEOC), the National Guard Bureau J1 (Human Resources) directed a team of two EO-trained Guard members (Petty and Romero) from other states to conduct an assistance visit California in May 2011 and investigate the allegations. After its visit, the team sent a report to the Bureau, which then evaluated the sufficiency of the report for meeting the EEOC’s needs and whether it contained any complaint-related matters that were not being addressed already in the appropriate adjudicative processes. In June 2012, the J1’s legal office reviewed the report and determined it was legally insufficient to meet its intended purposes. A December 2012 memorandum from the legal office to Bureau Comptroller Louis Cabrera included the following:

In June 2011, a legal review determined the EXSUM was legally insufficient due to, among other things, the inclusion of conclusory statements of fact and law without corroborating evidence other than the summary of unsworn statements of unidentifiable individuals. This terminal error was compounded by the lack of any evidence derived from the agency as required by National Guard Pamphlet (NG Pam) 600-22, Investigating Military Discrimination Complaints, 26 April 2002; National Guard Regulation (NOR) 600-23, Nondiscrimination in Federally Assisted Programs, 30 December 1974; and Title VI and Title VII of the Civil Rights Act of 1964.

In addition to being determined legally insufficient, the Petty report was deemed irrelevant because it was superseded by subsequent events. The memorandum to Mr. Cabrera continued:

The review recommended reopening the May 2011 assistance visit to ensure the visit was conducted in accordance with regulatory requirements. During this same time period, the CA NG independently submitted their response to the EEOC based primarily on the results of a Defense Equal Opportunity Management Institute (DEOMI) command climate assessment of the CA NG which was concluded in the spring of 2011. The CA NG response was provided to and briefed to senior officials at the EEOC in September 2011. Thus, the May 2011 assistance visit was not reopened and the draft EXSUM was not finalized as the CA NG had already formulated and submitted their response to the EEOC. The May 2011 assistance visit was also not reopened because, on 7 Feb 2012, the CA NG requested a new assistance visit. Although coordination for a new visit was immediately commenced, on 21 Feb 2012, the California Adjutant General (TAG) requested the assistance visit be held in abeyance until the CA NG could hire a new EO program manager. The new program manager was not on board until early November 2012.

In March 2013, the National Guard Bureau sent its J1, Brigadier General Marianne Watson from the Pentagon to testify at this Committee’s oversight hearing. The aforementioned legal office is one of the many Bureau elements that BG Watson supervises. Her public testimony reiterated that the Petty document had been “deemed to be legally insufficient and not appropriate for release under the Freedom of Information Act.”

## **Conclusions**

The California Military Department is still being transformed in response to the fallout from the federal criminal investigations, the State Senate's TAG confirmation process, and the Veterans Affairs Committee's yearlong oversight effort, which culminated in the department's report and the committee's public hearing. Any such large organization will continue to experience a significant number of personnel problems, including in the EO/EEO area. However, the California Military Department is pivoting sharply in a new direction in its ability and intent to address such problems – both preventively and responsively.

MG Baldwin has replaced a surprising number of senior- and mid-level leaders whom he felt represented institutional stasis. Although it is still too early to see how much this will shake up the cliques that historically have exercised disproportionate control over the department, the process is underway. The changes in the organizational leadership in terms of sexual, racial and ethnic diversity are radical. A generational shift appears to be underway as younger commissioned officers and sergeants are moving surge-like into positions of authority. The challenge is to ensure that this bold shift achieves cultural change without compromising technical capabilities.

The department is engaged in a wide variety of positive initiatives. Some involve aggressive training in problem areas, such as SAPR reform, where the TAG also hired and empowered the new SAPR coordinator. The department continues to ask external entities, such as, but not limited to the National Guard Bureau, to assess its compliance and effectiveness in the programs this Committee has scrutinized, such as EO/EEO. Other initiatives are soldier/airman support-oriented, such as the innovative "Work for Warriors" employment assistance program run effectively by a handful of SAD employees. The department has a steadily increasing focus on the overall physical/mental/economic wellness of employees, especially the part-time federal Guard members who have endured an extraordinary deployment schedule this past decade, particularly in support of the conflicts in Iraq and Afghanistan.

It is unlikely that the organization can be overhauled during this TAG's tenure in office. This committee's oversight effort and report should be considered a first step in helping the department transform its culture and its reputation. That should include another written report due in March 2014.



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# California State Senate

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**DARRELL STEINBERG**  
PRESIDENT PRO TEMPORE  
SIXTH SENATE DISTRICT

STANDING COMMITTEES:  
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CHAIR  
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March 16, 2012

Major General David S. Baldwin  
Adjutant General, California Military Department  
9800 Goethe Road, Box 10  
Sacramento, CA 95827

Dear General Baldwin:

I want to thank you for your letters responding to issues raised prior to, and during, your confirmation hearing before the Senate Rules Committee on February 15, 2012, as State Director and Adjutant General of the Military Department (CMD). You have been forthright, candid and responsive to the issues raised. Since your confirmation hearing, members of the Senate have received numerous emails and other contacts related to your pending confirmation. Many of these emails relate to issues previously provided to the Senate Rules Committee and considered during your confirmation hearing. The purpose of this letter is to memorialize your responses to the issues raised and to indicate the Senate's "Action Plan" for review of your Department's progress toward addressing these concerns.

In letters dated February 17, February 23 and February 24, 2012 (attached), you provided responses related to the following issues:

1. **Sexual Assault Prevention and Response (SAPR).** You have provided my office with a copy of a command policy memorandum that describes the Military Department's Sexual Assault Prevention and Response Program. In 2005, the United States Department of Defense established this program to promote prevention, encourage increased reporting of the crime of sexual assault, and improve response capabilities for victims. The DOD policy requires each military service to maintain its own program, document both restricted and unrestricted reports of sexual assault, investigate unrestricted reports of sexual assault, and hold subjects appropriately accountable.

**Action Plan:** Within one year, the CMD will report to the Senate Veterans Affairs Committee and the Chair of the Legislative Women's Caucus on implementation of this program, including providing pertinent statistics collected regarding sexual assaults in the CMD. The Committee and/or Caucus will review the information reported and, if necessary, request additional information and/or conduct oversight hearings on the matter.

2. **Alleged Improper Use of Federal SAPR Funds at 129<sup>th</sup> Rescue Wing.** Shortly before your confirmation hearing, the Rules Committee received an email raising questions as to whether SAPR training funds were used for other purposes. You have stated that you are informed that the uses were proper. However, you have requested an audit of the Wing's internal control process and procedures by the US Property Fiscal Officer to determine whether training funds were properly utilized.

**Action Plan:** The CMD will report the results of the audit to the Senate Veterans Affairs Committee as soon as the audit is completed but no later than the time requirement provided in Item 1 above.

3. **State Active Duty Personnel.** Several allegations have been made that the CMD use of State Active Duty (SAD) Personnel has been abused. You have stated that SAD servicemembers who provide active duty service under the command of the Governor for the Military Department play an essential role in the emergency response framework of the state. However, this class of servicemembers is exempt from state civil service rules and protections. Under your direction, a legislative proposal has been drafted to revise and clarify the provisions related to the use of SAD positions.

**Action plan:** Review legislative proposal through the legislative process. In addition, in budget subcommittee hearings, the Budget Committee will examine the use of SAD positions to determine the appropriateness and necessity of these positions and take appropriate action.

4. **Equal Opportunity/Equal Employment Opportunity Program Review.** Members of the Senate have received a number of complaints from CMD employees and servicemembers indicating that the system for making EO/EEO complaints is ineffective. In May of 2011, the California National Guard was visited by the National Guard Bureau and an assessment was conducted of the state's EO/EEO process. It has been alleged by Maj. Connie Wong that this report was buried by the department. You have indicated that, to your knowledge, no final report was ever provided. You provided a copy of a letter from you to the NGB dated February 23, 2012, in which you request a copy of any interim or final report of their findings. In a letter dated February 7, 2012, you requested that NGB conduct another assessment and review of the EO/EEO programs.

**Action Plan:** Upon receipt, a copy of the above report, and any subsequent reports, will be provided to the members of the Senate Committee on Veterans Affairs. The committee will take additional appropriate follow up action after review of the reports.

5. **Personnel Issues.** Over the last two months, members of the Senate have received a number of emails and letters related to individual claims of whistleblower retaliation, discrimination, sexism and cronyism within the CMD. They also allege that their attempts to complain about these matters are not addressed. Specifically, the following individuals provided testimony to the Senate Rules Committee that has been incorporated into the record of the hearing on your confirmation.

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

d. [REDACTED]

e. [REDACTED]

f. [REDACTED]

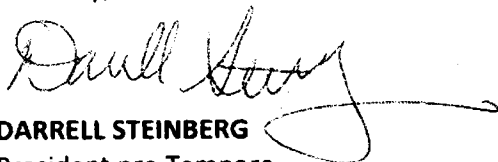
g. [REDACTED]

- [REDACTED]
- h. **Other employee complaints:** Additional employees testified before the Rules Committee. Your letters dated February 17 and 24, 2012, summarize the nature of the testimony and your response. In addition, a transcript of those proceedings is available for review.

**Response/Action Plan:** You have indicated that you have charged the new Air National Guard Commander with making rehabilitation of the 129<sup>th</sup> his number one priority. You have also stated that, as indicated above, you have asked the NGB to send a team of experts to California to reassess the CMD's internal processes for preventing discrimination and workplace harassment. You have invited Sen. Alquist and other senators to tour the 129<sup>th</sup> Rescue Wing. In your attached letters, you have provided detailed responses to the allegations discussed above. The Senate Veterans Affairs Committee will continue to request updates from you on the status of your inquiries into these matters, and your offers to assist specified employees with their particular concerns. At the request of Sen. Ted Lieu, you have provided copies of "Command Climate Survey" reports that examine the morale of the workforce. I urge the committee to conduct a follow-up hearing on matters related to the command climate of the California National Guard within the next six months. You have also formalized and issued a Commander's Open Door Policy memorandum. Additionally, you have stated that you support codifying the state military inspector general (IG) as well as ensuring that personnel have confidence in the IG system and access to whistleblower protections.

As I indicated at the conclusion of your confirmation hearing last month, you have demonstrated to my satisfaction to date that you possess the leadership, skills and abilities to make much needed improvements in the California National Guard. Many of the issues the department now faces were inherited by you. In order for our Military Department and our National Guard to be the best in the country, these systems must be reformed and repaired, so every servicemember has confidence in the chain of command and the EO/EEO, IG and military justice systems. With the action plan laid out above, the Senate will continue to monitor and oversee your progress as you address these important issues.

Sincerely,



**DARRELL STEINBERG**  
President pro Tempore  
Sixth Senate District

DS: aw  
Attachments





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# California State Senate

SENATOR  
LOU CORREA

THIRTY-FOURTH SENATE DISTRICT



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AND COMMUNITIES  
SELECT COMMITTEE ON  
YOUTH EMPOWERMENT AND  
YOUTH SERVICES AND  
GANG PREVENTION  
VICE-CHAIR  
VETERANS AFFAIRS  
MEMBER  
BANKING, FINANCE AND  
INSURANCE  
BUSINESS, PROFESSIONS AND  
ECONOMIC DEVELOPMENT  
MENTAL HEALTH SERVICES  
OVERSIGHT AND  
ACCOUNTABILITY COMMISSION

March 30, 2012

Major General David S. Baldwin  
Adjutant General, California Military Department  
9800 Goethe Rd., Box 10  
Sacramento, CA 95827

Dear General Baldwin:

Congratulations on your recent confirmation as The Adjutant General of the California Military Department. It has been my privilege to work with you since your appointment in April 2011 and I look forward to continuing our work to address the challenges, leadership, and responsibilities of the California Military Department (Department).

During the confirmation process the Senate reaffirmed its expectation to hold you accountable for reforming the Department. The Senate President Pro Tempore (Pro Tem), Darrell Steinberg, sent you a letter, dated March 16, 2012, outlining the Senate's "action plan" for review of the Department's progress towards addressing outstanding concerns. To that end, the Pro Tem has directed the Senate Veterans Affairs Committee (Committee) to review specified concerns and request additional information and/or conduct additional oversight hearings, as the Committee deems appropriate.

The purpose of this letter is to outline items in the Senate's "action plan" that require additional follow-up by the Committee. Below is a list of these items as well as other outstanding issues within the Department that the Committee will be reviewing.

1. **Sexual Assault Prevention and Response (SAPR).** The Department will provide a report to the Committee on the implementation of the SAPR program, which shall include statistics collected regarding reports of sexual assault within the Department. The report shall be provided within one year of the March 16, 2012 request.
2. **Alleged Improper Use of Federal SAPR Funds at 129<sup>th</sup> Rescue Wing.** The Department shall provide a report to the Committee on the results of an audit of the 129<sup>th</sup> Rescue Wing's internal control process and procedures by the US Property Fiscal Officer to determine whether Federal SAPR training funds were properly utilized. The results of the audit shall be provided as soon as the audit is completed, but not later than one year of the March 16, 2012 request.
3. **Equal Opportunity (EO)/Equal Employment Opportunity (EEO) Program Review.** The Department shall provide the Committee with a copy of all National Guard Bureau (NGB) reports developed in response to complaints received by members of the Senate concerning the



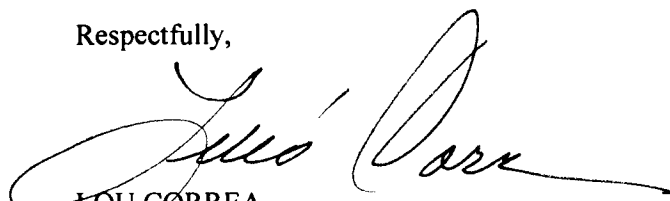
effectiveness of the EO/EEO process. Reports shall include, but not be limited to, any interim or final report produced by the NGB following a May 2011 assessment of the state's EO/EEO process and any subsequent NGB reports. Reports shall be provided to the Committee immediately upon receipt by the Department.

4. **Personnel Issues.** The Department shall continue to provide the Committee with updates on the Department's efforts to address complaints provided in testimony to the Senate Rules Committee, which have been incorporated into the record of the hearing on your confirmation. The Committee will also conduct a follow-up hearing on matters related to the command climate of the California National Guard within the next six months.
5. **State Active Duty (SAD) Personnel / SB 807 (Correa).** The Committee will review the Department's proposal to reform provisions in state law relative to SAD personnel. As we discussed, the proposal, which seeks to revise and clarify the provisions related to the use of SAD positions, will be amended into my bill, SB 807, and the existing contents will be removed.

As you know, the current version of SB 807, as amended June 13, 2011, would make modifications to the military pay system by excluding travel expenses and housing allowances from inclusion in determining a Department employee's pay rate for the purpose of calculating pension benefits. In discussions between my office and the Department's Governmental Affairs Division it has become apparent that the complexity of the military pay system requires further discussion by the Committee before any modifications are made. Hence, review of the military pay system shall also be included in a future oversight hearing of the Committee. It should be noted, that any findings and recommendations identified as a result of this hearing may be considered in future legislation.

As I have stated previously, I believe you are working hard to correct problems within the Department and that you possess the skills required to be a strong, innovative and effective leader. I am confident that you will continue to work with and on behalf of the California Military Department to renew its reputation in a manner consistent with its proud heritage of service and I look forward to partnering with you to address these important issues.

Respectfully,



LOU CORREA  
Chair, Senate Veterans Affairs Committee  
Senator, 34<sup>th</sup> District

Cc: Darrell Steinberg, Senate President pro Tempore  
Members, Senate Veterans Affairs Committee



Thank you for your attention to this extremely important issue. If you have any questions or concerns, please do not hesitate to contact me at 916-651-4028.

Sincerely,

A handwritten signature in cursive script that reads "Ted W. Lieu". The signature is fluid and elegant, with a long horizontal stroke at the end.

**TED W. LIEU**

California State Senator

Cc: California President pro Tempore Darrell Steinberg  
California Adjutant General, Major General David Baldwin  
California State Senator Lou Correa, Chair, Senate Committee on Veterans Affairs



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# California State Senate

SENATOR  
**LOU CORREA**  
THIRTY-FOURTH SENATE DISTRICT



COMMITTEES  
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AND COMMUNITIES  
MEMBER  
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INSURANCE  
JOINT SUNSET REVIEW  
SELECT COMMITTEE ON AUTISM (ASD)  
& RELATED SPECTRUM DISORDERS  
SELECT COMMITTEE ON ECONOMIC  
DEVELOPMENT & THE STATE  
PERMITTING PROCESS  
SELECT COMMITTEE ON  
HIGH SPEED RAIL

December 14, 2012

Major General David S. Baldwin  
Adjutant General, California Military Department  
9800 Goethe Road  
Sacramento, California 95827

Dear General Baldwin:

As you are aware, during your confirmation process earlier this year, the Senate developed an "action plan" to assist you and the California Military Department in correcting specific deficiencies and generally reforming the Department's troubled organizational culture and command climate.

## Post-Confirmation Response

Senate President pro Tempore Darrell Steinberg directed the Senate Veterans Affairs Committee (Committee), which has oversight jurisdiction over the Department, to assume principal legislative responsibility for ensuring execution of this action plan. The Committee has been charged with requesting and reviewing information and conducting additional oversight hearings, as the Committee deems necessary.

You received letters from the President pro Tempore (dated March 16, 2012) and the Committee (March 30, 2012) outlining the action plan, detailing specific concerns, and communicating an expectation that the Department will respond formally on all relevant matters within one year of the pro Tem's letter. I remind you that this response deadline is now just three months away. As Chair of the Committee, it is my intention to receive and review your written response and then conduct at least one public hearing to help ensure transparency for the public to allow the Committee to examine the response in greater detail.

## Recently Emerging Issues

The recent television news broadcasts by NBC affiliates in Los Angeles and the Bay Area alluded generally to employees and complaints, which appeared to be the very same ones brought earlier to the Senate's attention and discussed during the confirmation process, and included in the aforementioned letters. However, the broadcasts also presented new employees with additional criticisms of Department policies, actions or inaction, including allegations of



inadequate response to reports of sexual assault, racial insensitivity, and unsafe aviation practices.

I assume and expect that your upcoming formal response will include these televised allegations as well as any other additional complaints, televised or not, which have been brought to your attention since your Senate confirmation; however, due to the seriousness nature of these specific additional complaints, previously unknown to the Senate, I request an interim written response on those matters by Wednesday, January 16, 2013.

In addition, I want to reinforce that the Committee promptly be provided copies of any interim or final reports produced by the federal National Guard Bureau (NGB) or any other external review entity, which have evaluated the EEO/EO programs of the California National Guard (CalGuard) or any other element within the Department since January 2011. That request places particular emphasis on the report and supporting documents prepared in association with the May 2011 visit by the NGB State Equal Employment Managers (SEEMs) team, which may be the report mentioned in the recent broadcast news programs. I understand that the Department believes it has never received any final report or feedback associated with the SEEMs assessment of the CalGuard.

Any Adjutant General of the nation's largest state national guard inherently faces enormous challenges. You, in particular, have been assigned the daunting task of leading the Department and its exceptional members out of its recent difficulties. While the Senate is unequivocally committed to holding the Department's leadership accountable for ensuring success in this regard, we also stand available to assist you in any way feasibly in fulfilling this responsibility.

Respectfully,



LOU CORREA  
Chair, Senate Committee on Veterans Affairs  
Senator, 34<sup>th</sup> District

Cc: Edmund G. Brown, Governor of California  
Darrell Steinberg, Senate President pro Tempore  
Members, Senate Committee on Veterans Affairs





MILITARY DEPARTMENT  
OFFICE OF THE ADJUTANT GENERAL  
9800 Goethe Road - P.O. Box 269101  
Sacramento, California 95826-9101



March 5, 2013

Honorable Lou Correa  
Chairman, Senate Veterans Affairs Committee  
California State Senate  
Attention: Mr. Wade Teasdale  
1020 N Street, Room 251  
Sacramento, California 95814

Dear Senator Correa:

This is in response to your letter dated March 30, 2012, requiring the California Military Department (CMD) to provide an update to the Committee on concerns raised during my Senate confirmation hearing.

1. *The first requirement in your letter is to provide a report to the Committee on the implementation of the Department's Sexual Assault Prevention and Response (SAPR) program no later than March 16, 2013.*

The SAPR report is enclosure 1 to this letter.

2. *The second requirement is to provide the Committee with the audit ordered by the CMD regarding the 129th Rescue Wing's use of federal SAPR training funds during a unit training event in November 2011.*

The results of the audit in its entirety were provided to the Committee on January 20, 2013. To summarize, the audit found that the 129th Rescue Wing had historically misused SAPR funds under the leadership of the previous Wing Commander. The current Wing leadership discovered the problem and took corrective action to ensure that SAPR funds were not spent inappropriately for the unit training event in November 2011.

3. *The third requirement is to provide the Committee with a copy of all National Guard Bureau (NGB) reports related to complaints received by members of the Senate concerning the effectiveness of the Department's Equal Opportunity/Equal Employment Opportunity (EO/EEO) programs.*

I believe this requirement is related to an allegation that the CMD attempted to conceal the results of a National Guard Bureau (NGB) EO/EEO inspection report from May 2011 that has come to be known as the "Petty/Romero report."

The Department has requested that NGB release this document numerous times since first hearing of its existence during the confirmation hearing process. Senator Lieu also wrote to NGB asking for the release of the document.

The CMD received an official written response from the NGB in January 2012 (see enclosure 2, *Review of Draft Executive Summary*). The NGB response refers to the Petty/Romero report as the "Draft Executive Summary" or EXSUM. The NGB response states that the EXSUM is not, in fact, a report of an investigation. It describes the EXSUM as a group of unsworn statements from unidentified individuals. Therefore, according to the NGB, the EXSUM is neither legally sufficient nor releasable. The NGB response also indicates that all of the cases included in the EXSUM seem to have been addressed by the CMD in accordance with the appropriate adjudicatory processes.

The NGB conducted an EO/EEO Staff Assistance Visit (SAV) at the California National Guard (CNG) in December 2012 (see enclosure 3, *Staff Assistance Visit to California National Guard*). The CMD submitted the results of this visit to the Committee on January 2, 2013. The NGB EO/EEO SAV found that:

- The CMD exhibited strong leadership support for the EO/EEO programs
- The CMD has an experienced team managing the Department's EO/EEO programs
- The CMD has an outstanding record for tracking EO/EEO complaints
- All open EO/EEO complaints were processed by the CMD in a timely manner

In September 2012, the Defense Equal Opportunity Management Institute (DEOMI) surveyed 3,122 of the approximately 4,000 full-time members of the CNG regarding EO/EEO factors, organizational effectiveness factors, and sexual assault prevention and response factors. The results of the survey, summarized in enclosure 4 (DEOMI survey) found that in most cases, the CMD had better results than that of any other state and all active duty military components for performance measures related to preventing harassment, sexual assault, discrimination and racism.

4. *The fourth requirement was to provide the Committee with updates on the Department's efforts to address allegations made by several individuals during the Senate Rules Committee.*

Fifteen personnel that provided testimony at the March 2012 confirmation hearing filed formal complaints against members of the CMD.

A small number of these complaints are still ongoing. The vast majority have been investigated, adjudicated, and closed by military authorities higher than the CMD (see enclosure 5, *Status of Complaints*). Not one of these complaints or allegations has been substantiated.

5. *The fifth requirement outlined in your letter was related to reform legislation that you authored (SB 807).*

We are pleased that SB 807 was signed into law, and the Department has fully implemented the provisions in the bill. As a result, the State Active Duty (SAD) force will be more professional, better educated, and more operationally capable. I would like to thank you again for making it possible for the CMD to put in place these important reforms. I have included a fact sheet that outlines all of the provisions in SB 807 (see enclosure 6, *SB 807 Fact Sheet*).

I look forward to testifying before the Committee on March 20th to update all of the members of the Committee on the progress we have made on these important issues. Please do not hesitate to contact me directly if I can clarify an issue or answer any additional questions. My staff point of contact is LTC (CA) Darrin Bender at (916) 213-2349, or [darrin.bender@us.army.mil](mailto:darrin.bender@us.army.mil).

Sincerely,



David S. Baldwin  
Major General  
The Adjutant General

Enclosures:

1. Report – SAPR program
2. Review of Draft Executive Summary
3. Staff Assistance Visit to California National Guard
4. DEOMI survey
5. Status of Complaints
6. SB 807 Fact Sheet

**A**

MILITARY DEPARTMENT  
OFFICE OF THE ADJUTANT GENERAL  
9800 Goethe Road - P.O. Box 269101  
Sacramento, California 95826-9101



March 1, 2013

Honorable Lou Correa  
Chairman, Senate Veterans Affairs Committee  
California State Senate  
1020 N Street, Room 251  
Sacramento, California 95814

Dear Senator Correa:

This is in response to your letter, dated March 30, 2012, requesting a report on the implementation of the Military Department's Sexual Assault Prevention and Response (SAPR) Program.

The Military Department's SAPR Program was established in November 2005, when Mr. Robert May was appointed as the Joint Force Headquarters Sexual Assault Response Coordinator (SARC). In November of 2005, The Adjutant General issued the Department's first sexual assault policy letter under the new SAPR Program. In March 2006, the Department published the SAPR standard operating procedures (SOP), which provided initial guidance regarding the California National Guard's program for preventing and responding to sexual assault incidents. The SOP listed command responsibilities, duty descriptions and sexual assault reporting procedures. A majority of these policies are still in effect today.

In November 2012, Ms. Jennifer Lucero assumed responsibilities as the Joint Force Headquarters SARC. Her responsibilities include managing and implementing the SAPR for the Military Department; advising me on sexual assault statutory requirements and incidents; developing, conducting, and coordinating training; collaborating with various state and federal agencies; ensuring incidents are reported to the appropriate level; and ensuring victims receive guidance and support.

Military victims of sexual assault have two reporting options: *restricted* and *unrestricted*. California National Guard (CNG) members in a Title 10 status may utilize the restricted reporting option, which allows the sexual assault victim to confidentially disclose the details of the assault to specified individuals, and receive medical treatment, advocacy and counseling. However, an investigation is not initiated and the command is not notified. Although this Department prefers complete reporting so we can investigate and hold the perpetrator accountable, our first priority is to ensure the victim is protected and receives medical treatment and counseling. Restricted reporting is intended to give victims additional time and increased control over the release of their personal information, and to empower them to seek information and support to make more informed decisions about moving forward with a criminal investigation. However, at any time, victims may reconsider their option and change the report to an unrestricted report, which triggers an investigation.

Any report of sexual assault made through normal military reporting channels, which includes the victim's chain of command and law enforcement, is an *unrestricted* report. National Guard members in any status may use the unrestricted reporting option. This is the preferred reporting option because it initiates an investigation and provides the opportunity to hold offenders accountable. Both options allow the member access to medical care, counseling and victim advocacy services. Once a sexual assault is reported, the SARC appoints a victim advocate to provide crisis intervention, non-clinical support and care for the victim. The case is closed upon final legal disposition and when the victim no longer desires services.

There are different ways a CNG member can report a sexual assault. A victim may report to a SARC or victim advocate, or call the 24/7 Department of Defense Safe Helpline. The Safe Helpline can direct victims to local resources and connect them with the state SARC. Members are also encouraged to report sexual assault to the chain of command or law enforcement officials and to seek medical assistance, if necessary.

During 2012, the Department had 15 unrestricted reports and 5 restricted reports of sexual assault. In 2013 thus far, there have been 2 restricted and 2 unrestricted cases reported, one of which occurred prior to military service. Our SARC is creating a database to identify trends and track the status of each case to ensure victims are provided appropriate support and advocacy services. Our challenge is that most sexual assault cases are not reported for various reasons. Victims fear the offender will not be held accountable, they fear retaliation, or they do not trust their chain of command or the investigation process. To address some of these concerns, the National Guard Bureau (NGB) established the Office of Complex Investigations (OCI), which is a team of trained sexual assault investigators who will investigate a sexual assault at my request. If needed, we can request an out-of-state investigator at no cost to the state. This unbiased investigator adds credibility to the investigative process and eliminates the need to conduct internal investigations. Fortunately, the Military Department has two members who are trained OCI agents.

To ensure the SAPR Program functions effectively and victims are provided the appropriate amount of support, certain requirements must be met. Pursuant to Army Regulation 600-20, Army Command policy, each brigade or equivalent must have one SARC and one victim advocate, while each battalion must have two victim advocates. A comprehensive review of the SAPR Program determined there are approximately 66 SARC positions to be filled; however, there are only 55 CNG members who are properly trained to fill these positions. To ensure we have qualified people in place to support victims, the Department has scheduled an 80-hour training course for up to 50 new SARCs and victim advocates to take place in March 2013 in Los Alamitos.

Each California Air National Guard (ANG) Wing is required to have a SARC and enough victim advocates to support victims of sexual assault. Currently, each wing has a collateral duty SARC assigned and most wings have a sufficient number of victim advocates. Our Department SARC will host a 40-hour victim advocate course in May 2013 to provide training to ANG victim advocates.

California National Guard members receive sexual assault training every year, as required by the Headquarters of the Army and Air Force. In 2012, Army National Guard (ARNG) members received sexual harassment/assault response and prevention (SHARP) training. Leaders completed a 30-minute training session, while all other members completed two hours of training. Army National Guard members were also required to complete a one-hour computer-based training session. California ANG members attended 90 minutes of bystander intervention training. We are providing similar training this year.

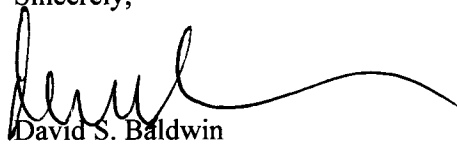
Outreach and community support is one of our priorities. In the coming months, Ms. Lucero will be collaborating with various community organizations to ensure resources are available for victims of sexual assault as well as determining what support she can provide those agencies. Currently, she is a member of the local Sexual Assault Advisory Council, which is chaired by WEAVE. She will also be working with the California Coalition Against Sexual Assault and will host training that will strengthen the military-civilian community partnership to respond to sexual assault incidents.

Eliminating sexual assaults from the military requires a positive, ongoing effort to instill and foster a professional culture. Our leaders are key to changing the culture by establishing a non-permissive climate. We know that the way our commanders deal with the crime and address the victim after the crime is reported, results in a climate of trust that is established within the unit. We will establish a climate of trust

by immediately taking care of the victim, providing medical care and counseling, contacting law enforcement, ensuring a timely and thorough investigation is conducted, as well as keeping the victim informed. Through increased reporting we can decrease overall incidents of sexual assault. By increasing reporting, we can hold offenders accountable and potential future offenders will know they will be investigated and held accountable as well. I can assure you that our leaders will be properly trained to effectively respond to incidents, avoiding the perception of revictimization, and creating a climate where victims are willing to report. Additionally, we will continue to train Guard members on bystander intervention and the reporting process.

If you have any questions, please do not hesitate to contact Lieutenant Colonel (CA) Darrin Bender, Chief of the State Policy and Liaison Office, at (916) 854-3705.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Baldwin", with a long horizontal flourish extending to the right.

David S. Baldwin  
Major General  
The Adjutant General

**B**





**NATIONAL GUARD BUREAU**

1636 DEFENSE PENTAGON  
WASHINGTON DC 20301-1636

MEMORANDUM FOR THE ADJUTANT GENERAL OF CALIFORNIA

09 JAN 2013

Subject: Review of Draft Executive Summary

1. Enclosed is a copy of my staff's communication to me regarding their review of the draft executive summary. It may have information that you find useful. It is my understanding that on 6 January 2013, your legal staff received over four hours of legal training from NGB on the legal issues raised in the enclosed document.
2. If I can be of further assistance to you, please do not hesitate to contact me.

A handwritten signature in blue ink, reading "Louis A. Cabrera", is positioned above the typed name.

LOUIS A. CABRERA  
Comptroller and Director,  
Administration and Management

Enclosure:  
As stated

## MEMORANDUM FOR NGB-ZC (Mr. Louis Cabrera)

SUBJECT: Review of the Draft Executive Summary of the CA NG EO/EEO Assistance Visit

1. On 03 December 2012, this office was asked to review the above mentioned draft Executive Summary (EXSUM)<sup>1</sup> to ascertain whether the draft EXSUM contained issues or matters that have not been otherwise addressed in appropriate adjudicative processes to date. I have completed the review on behalf of National Guard Bureau, the Office of the Chief Counsel (NGB-JA), based on the latest information we have available concerning the California National Guard (CA NG) complaint status.
2. The draft EXSUM contains two pages of generalized statements concerning the CA NG and the summaries of eight unsworn anonymous witness statements. The EXSUM provides no personally identifiable information and therefore this reviewer's ability to identify all the alleged complainants is limited, which in turn limits the ability to determine the status of each particular complaint.
3. Based on the contents of the summarized anonymous unsworn witness statements and the information available regarding pending or closed discrimination complaints, we were able to identify six of the eight anonymous witnesses. Each of the witnesses we were able to identify

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<sup>1</sup> The draft executive summary was the result of a May 2011 site assistance visit to aid the CA NG in formulating their response to the Equal Employment Opportunity Commission (EEOC) regarding an extra-procedural anonymous letter from a member of the CA NG. In June 2011, a legal review determined the EXSUM was legally insufficient due to, among other things, the inclusion of conclusory statements of fact and law without corroborating evidence other than the summary of unsworn statements of unidentifiable individuals. This terminal error was compounded by the lack of any evidence derived from the agency as required by National Guard Pamphlet (NG Pam) 600-22, *Investigating Military Discrimination Complaints*, 26 April 2002; National Guard Regulation (NGR) 600-23, *Nondiscrimination in Federally Assisted Programs*, 30 December 1974; and Title VI and Title VII of the Civil Rights Act of 1964. The review recommended reopening the May 2011 assistance visit to ensure the visit was conducted in accordance with regulatory requirements. During this same time period, the CA NG independently submitted their response to the EEOC based primarily on the results of a Defense Equal Opportunity Management Institute (DEOMI) command climate assessment of the CA NG which was concluded in the spring of 2011. The CA NG response was provided to and briefed to senior officials at the EEOC in September 2011. Thus, the May 2011 assistance visit was not reopened and the draft EXSUM was not finalized as the CA NG had already formulated and submitted their response to the EEOC. The May 2011 assistance visit was also not reopened because, on 7 Feb 2012, the CA NG requested a new assistance visit. Although coordination for a new visit was immediately commenced, on 21 Feb 2012, the California Adjutant General (TAG) requested the assistance visit be held in abeyance until the CA NG could hire a new EO program manager. The new program manager was not on board until early November 2012.

NGB-JA

SUBJECT: Review of the Draft Executive Summary of CA NG EO/EEO Assistance Visit

have pending or closed discrimination complaints which address the issues raised in their anonymous statements. Therefore, no separate additional action is required with respect to these witnesses as their allegations are being otherwise addressed in appropriate adjudicatory processes.

4.

[REDACTED]

[REDACTED]

2

[REDACTED]

3

[REDACTED]

NGB-JA

SUBJECT: Review of the Draft Executive Summary of CA NG EO/EEO Assistance Visit

6. The draft EXSUM contained several generalized conclusions based on the assertions made in the unsworn anonymous witness statements, such as:

- (a) management intimidation tactics;
- (b) mediation mismanagement;
- (c) CA NG legal adviser interference or overbearing presence in the mediation process;
- (d) State Equal Employment Manager (SEEM) lack of qualifications, education and training, and office mismanagement; and
- (e) a general hostile work environment created by racism, sexism, and offensive language.

7. Although appropriately deemed to be legally insufficient, these generalized conclusions should be addressed through comprehensive training and state command emphasis on EO/EEO. The current proposed assistance and training plan which has been coordinated between the CA NG and NGB has been specifically tailored to address each of aforementioned generalized conclusions. The training and assistance is to be conducted in three phases. It will involve comprehensive training for commanders, judge advocates, and EO/EEO personnel as well assistance in assessing the CA NG EO/EEO programs.

8. If you have any further comments, questions, or concerns in this matter, you may contact the undersigned at (703) 607-3331 or [anthony.m.sanchez16.civ@mail.mil](mailto:anthony.m.sanchez16.civ@mail.mil).

FOR THE CHIEF COUNSEL, NATIONAL GUARD BUREAU:



ANTHONY M. SANCHEZ  
Litigation and Employment Law Attorney

C



**NATIONAL GUARD BUREAU**  
111 SOUTH GEORGE MASON DRIVE, AH2  
ARLINGTON, VA 22204-1373

NGB-ZC-EO

20 December 2012

MEMORANDUM FOR NGB-ZC (Mr. Louis Cabrera)

SUBJECT: Staff Assistance Visit to California National Guard, 11-12 December 2012

1. On 11 and 12 December 2012 the National Guard Bureau, Equal Opportunity Office (NGB-EO), conducted a Staff Assistance Visit (SAV) with the California National Guard (CA NG). The NGB-EO SAV Team consisted of: Lieutenant Colonel (Lt Col) Audie Sanders, Team Leader; Sergeant Major (SGM) Tina Montgomery (NGB-EO); and Chief Master Sergeant (CMSgt) Dwight Martin, (NGB Complaints Management and Adjudications Division (NGB-CMAD)).

2. The team met with Colonel (COL) Laura Yeager, Chief of Staff, CA NG, to review the plan of action for the SAV. COL Yeager introduced members of her team: Lieutenant Colonel (LTC) Kimberly Derouen, Human Resource Officer (HRO); Mr. Trancey Williams, State Equal Employment Manager (SEEM); Ms. Niki Ching, Equal Employment Opportunity (EEO) Specialist; and Master Sergeant (MSG) Thomas Dalton Equal Opportunity (EO)/EEO Specialist.

3. It was mutually agreed that the National Guard Bureau (NGB) assistance would support the CA EO team with a self-assessment of their program and conclude with a final report provided by NGB to the CA NG by the end of December 2012.

4. With the assistance of NGB, the CA NG Joint Force Headquarters (JFHQ) EO/EEO Office completed their self-assessment using the Army National Guard (ARNG) SAV Checklist, the Air National Guard (ANG) Total Force Checklist, and their internal listing of all open EO/EEO complaints.

a. The Army Program review was conducted by MSG Dalton and SGM Montgomery resulting in opportunities to provide training, review of internal documents and plans, and suggestions for improving the program.

b. The Air Program review was conducted by MSG Dalton and Lt Col Sanders. The EO/EEO Office previously completed their self-assessment utilizing an older version of the ANG Checklist. Lt Col Sanders provided a copy of the current version and started the Checklist review process with MSG Dalton. MSG Dalton, an ARNG member, was unfamiliar with the ANG terms, acronyms, and EO Program processes

**NGB-ZC-EO**

**SUBJECT: Staff Assistance Visit to California National Guard, 11-12 December 2012**

within the ANG EO Program; therefore, Lt Col Sanders provided a detailed explanation and reference for each item on the Checklist that is applicable to the ANG.

5. The complaints review was conducted by CMSgt Martin. The following is the status of outstanding complaints by category:

a. EO Complaints: Seven (7) open complaints, all of which are being timely processed at the state level.

b. EEO Complaints: Thirteen (13) open complaints, all of which are being timely processed at the state level.

c. Complaints moved from the EEO to the military EO process: Six (6) found to be military in nature by NGB-CMAD.

6. Areas of strength identified by the NGB-EO:

a. Strong senior leadership support for the EO/EEO Programs;

b. Experienced HRO, SEEM, and EEO Counselor on the team;

c. ANG Annual Report and Affirmative Action Report successfully completed;

d. Outstanding Tracking of EO/EEO complaints;

e. Proper Storage of EO/EEO documents in accordance with (IAW) regulatory guidance;

f. Bi-weekly Adjutant General (TAG) Brief of all open EO/EEO complaints; and

g. All open EO/EEO complaints within the CA NG were processed in a timely manner.

7. An out-brief was conducted by the SAV Team with Brigadier General (BG) Matthew Beevers, Assistant Adjutant General (A-TAG), and his leadership team. The following are comments and recommendations:

a. Conduct follow-up visits with each of the four Air Wings and each O-6 (Colonel) grade equivalent Army commands in the state for a comprehensive EO/EEO assessment, using the Checklists provided;

**NGB-ZC-EO**

**SUBJECT: Staff Assistance Visit to California National Guard, 11-12 December 2012**

b. Develop an Alternative Dispute Resolution (ADR) program and integrate it into the management and handling of complaints throughout the Command;

c. Expand training opportunities for EO/EEO Professionals (Equal Opportunity Advisors (EOAs), Equal Opportunity Leaders (EOLs), and ANG EOs) to enhance the effectiveness of the EO/EEO Programs at all levels. Specifically:

(1) Conduct an EOL Course; and

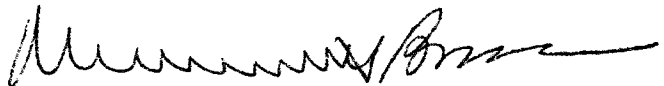
(2) Conduct refresher training with specific emphasis on EO/EEO Complaints Processing;

d. At the Air Wings, establish clear lines of communication for reporting and providing EO/EEO information to the JFHQ.

e. Establish procedures to ensure *all* complaints filed at the Brigade or Wing level are reported to the SEEM Office for tracking purposes;

f. Increase the emphasis and support from mid-management (Brigade/Wing level) for the EO/EEO Programs; and

g. Bi-weekly reports provided to the TAG should include the NGB Case Number.



**BARBARANETTE T. BOLDEN**  
Director, National Guard Bureau,  
Equal Opportunity Office



**D**



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## Making the California National Guard more Diverse

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### Minority & Female Officers in Senior Leadership Positions in the California National Guard

	Prior to MG Baldwin's Appointment	Today	% Increase
Senior Leaders in the CNG (30)	5 of 30	13 of 30	160%
Army Guard Brigade and Installation Commanders (11)	5 of 11	8 of 11	60%
Air National Guard Commanders (83)	9 of 83	21 of 83	133%

**We have increased Minority & Female Senior Leaders in the Cal Guard by 121%**





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## *Defense Equal Opportunity Management Institute Organizational Climate Survey*

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- In September 2012, the Defense Equal Opportunity Management Institute surveyed full-time members of the California National Guard regarding EO/EEO factors, Organizational Effectiveness factors, and Sexual Assault Prevention and Response factors
- Of the approximately 4000 full time members of the organization that were asked to participate, 3,122 completed the survey, or 77%
- The following slides illustrate the results of the California National Guard climate survey compared to those of the entire U.S. military, and the entire U.S. National Guard
- Scores rank from 1 to 5, with 5 being the best possible result

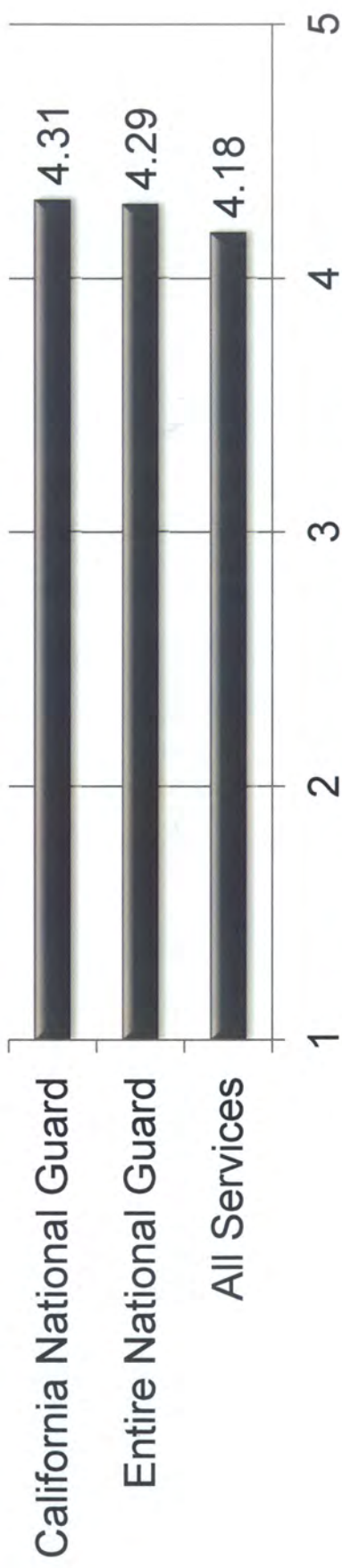




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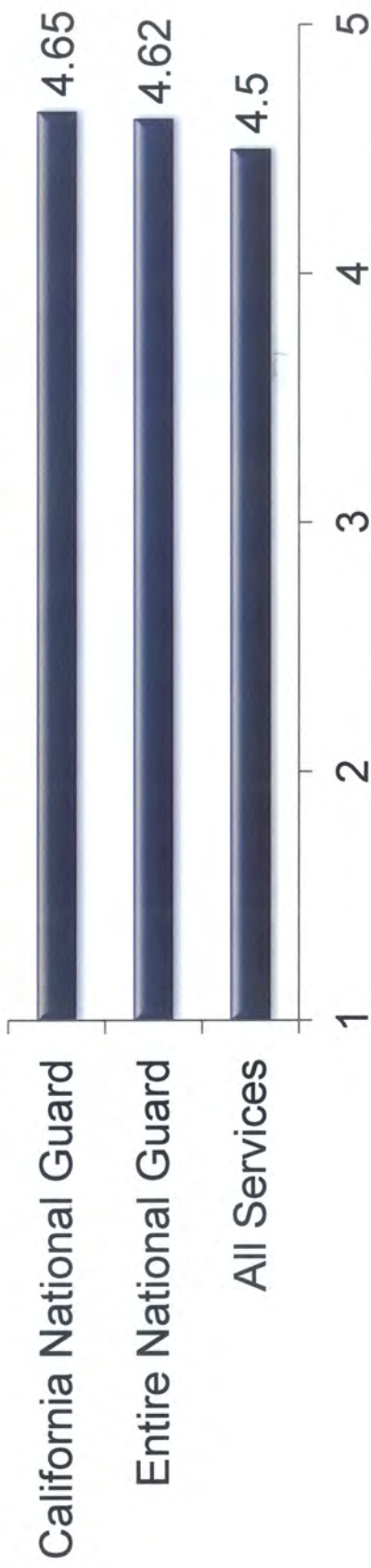
# Defense Equal Opportunity Management Institute Organizational Climate Survey

## Sexual Harassment / Discrimination



Your units score implies: **Very little chance of occurring**

## Differential Command Behavior Toward Minorities



Your units score implies: **Very little chance of occurring**

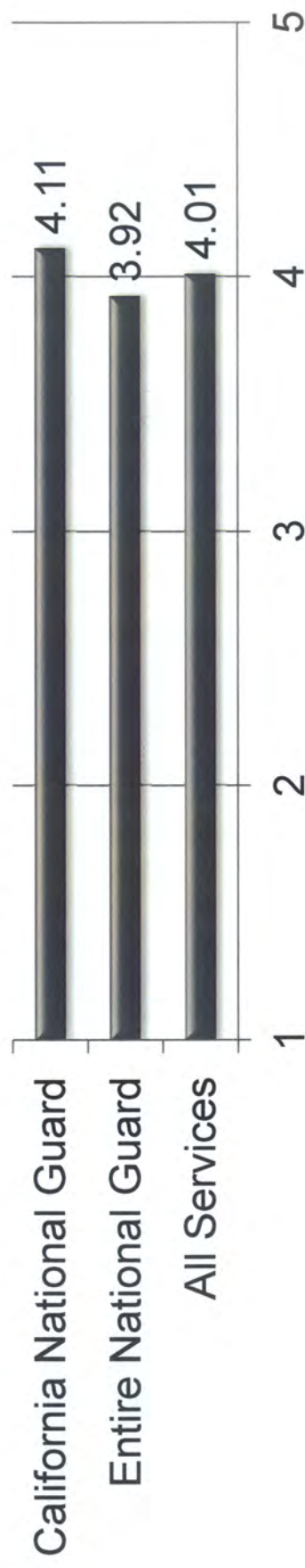




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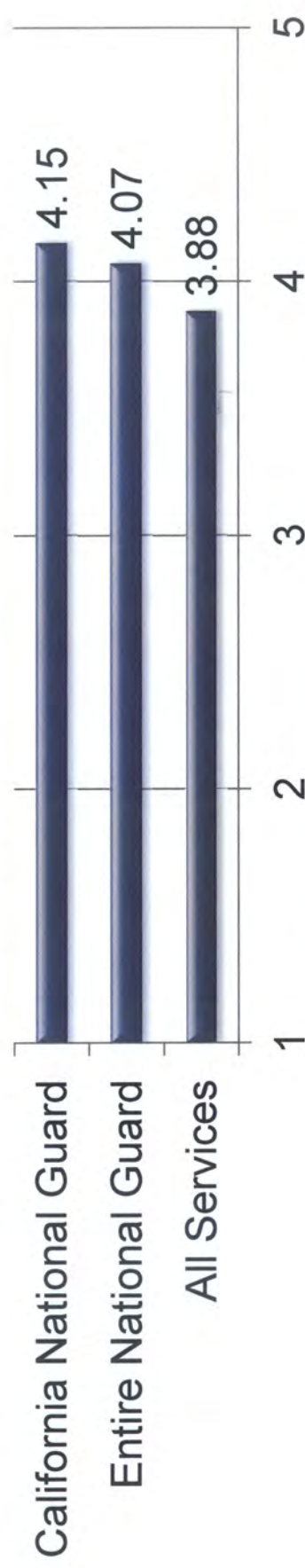
# Defense Equal Opportunity Management Institute Organizational Climate Survey

## Positive EO Behaviors



Your units score implies: Fairly high chance of occurring

## Racist Behaviors



Your units score implies: Small chance of occurring

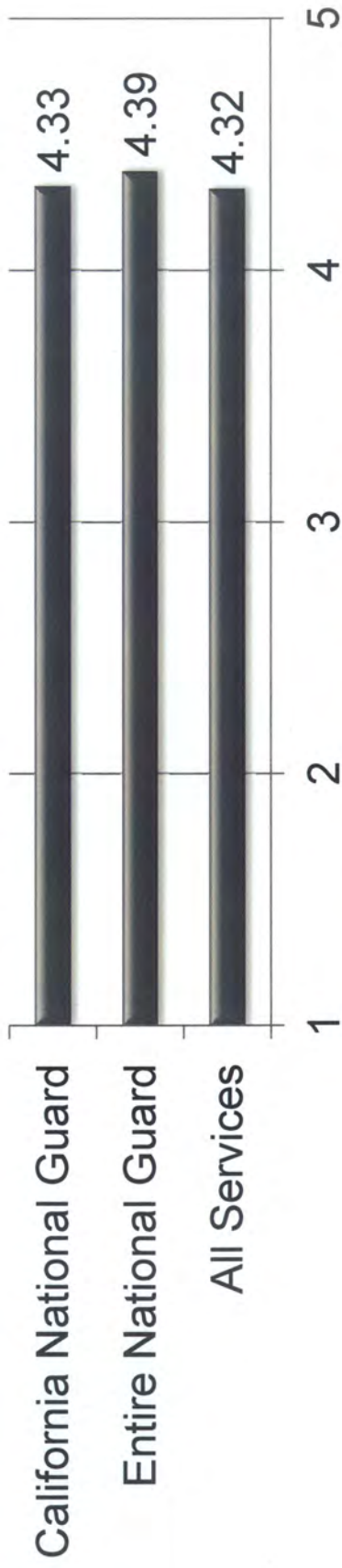




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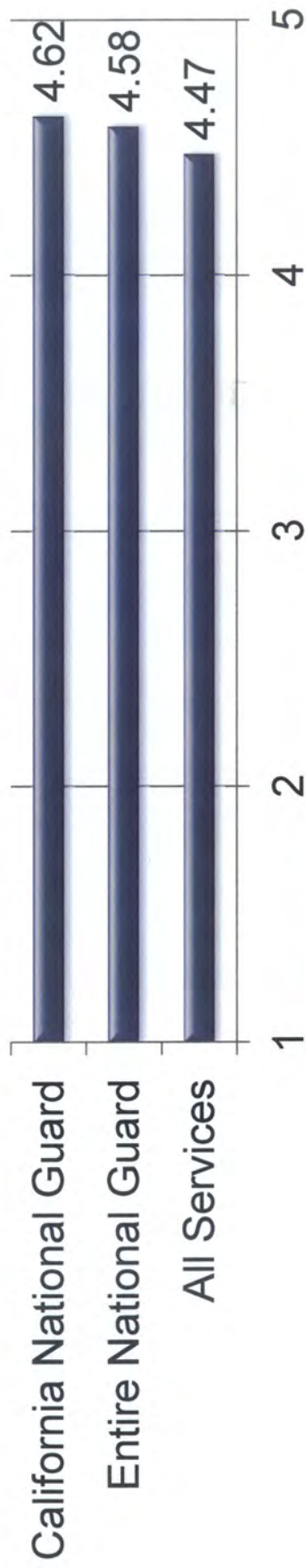
# Defense Equal Opportunity Management Institute Organizational Climate Survey

## Age Discrimination



Your units score implies: Very little chance of occurring

## Religious Discrimination



Your units score implies: Very little chance of occurring

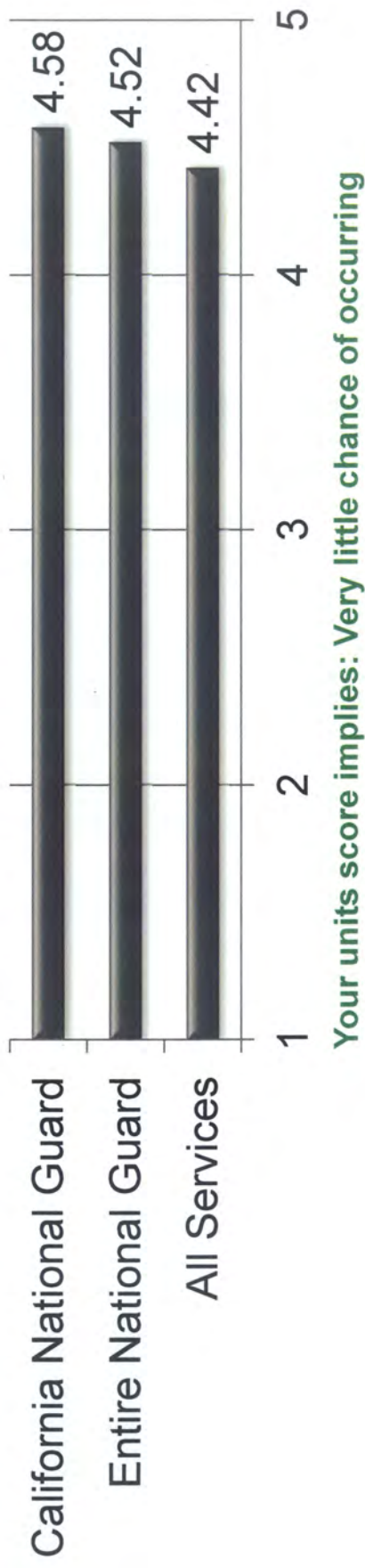




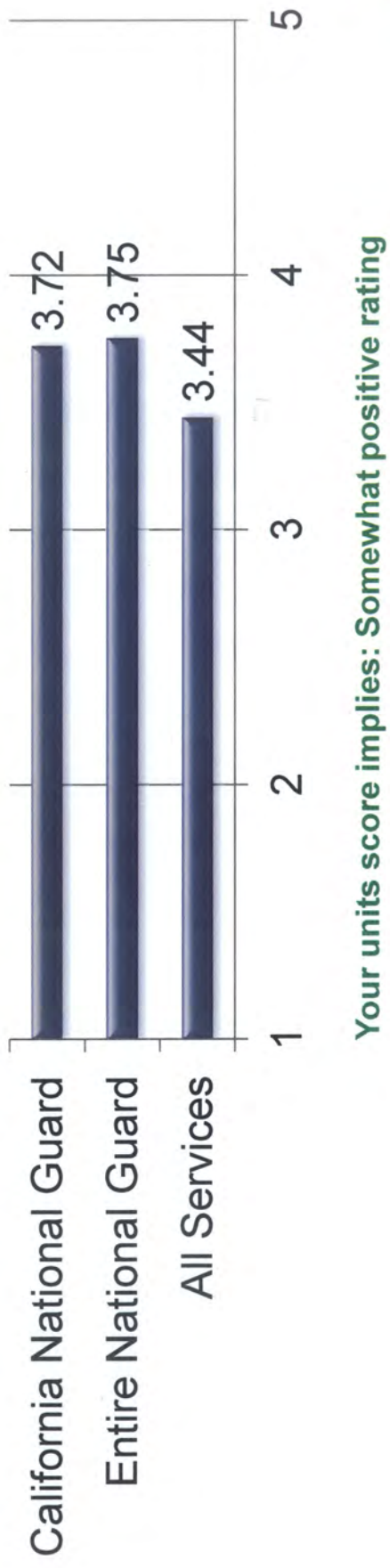
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# Defense Equal Opportunity Management Institute Organizational Climate Survey

## Disability Discrimination



## Organizational Commitment



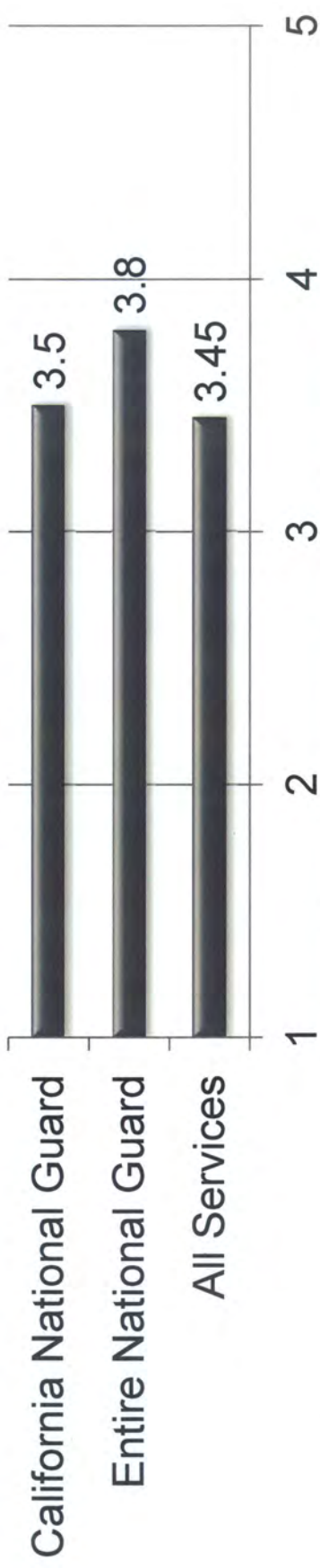


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# Defense Equal Opportunity Management Institute Organizational Climate Survey

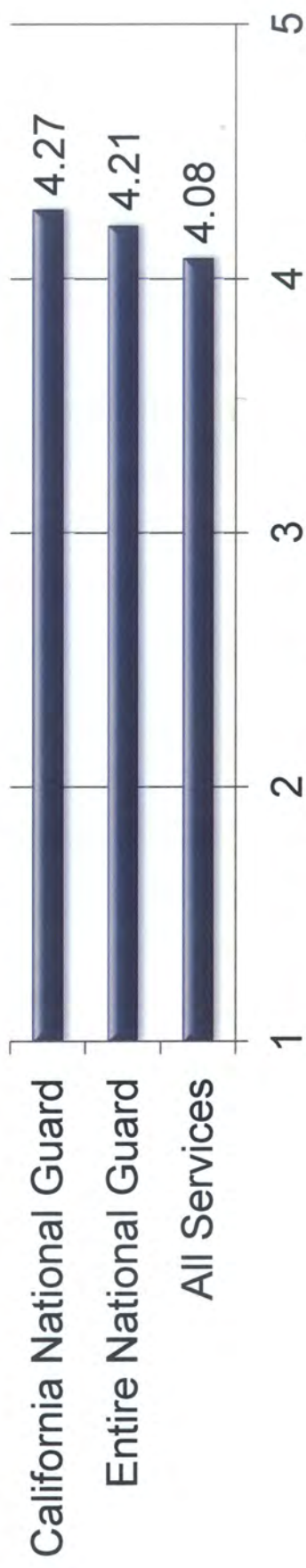
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## Trust in the Organization



Your units score implies: Somewhat positive rating

## Work Group Effectiveness



Your units score implies: Very positive rating



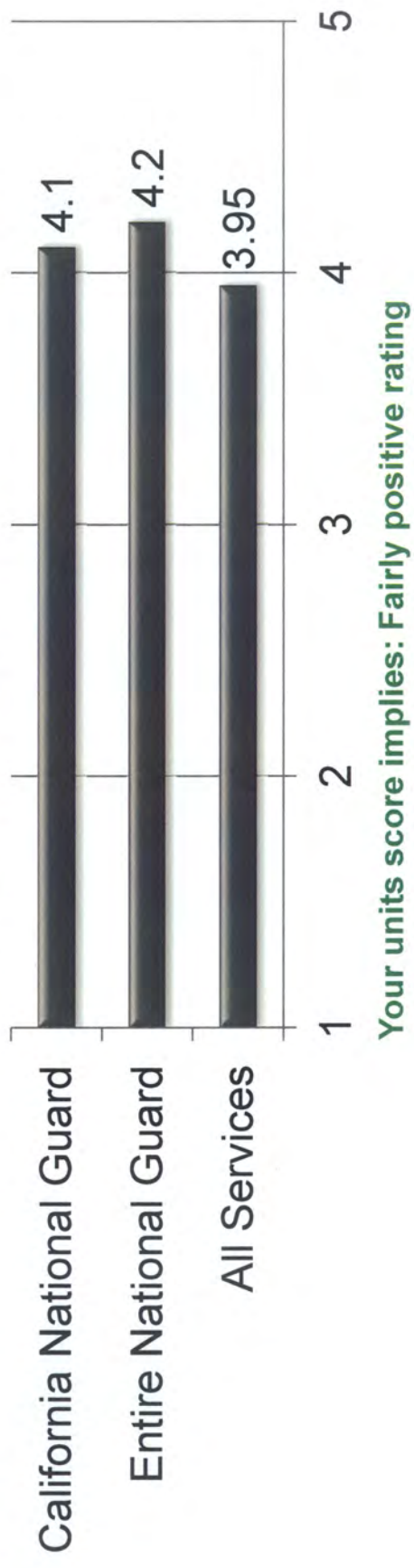




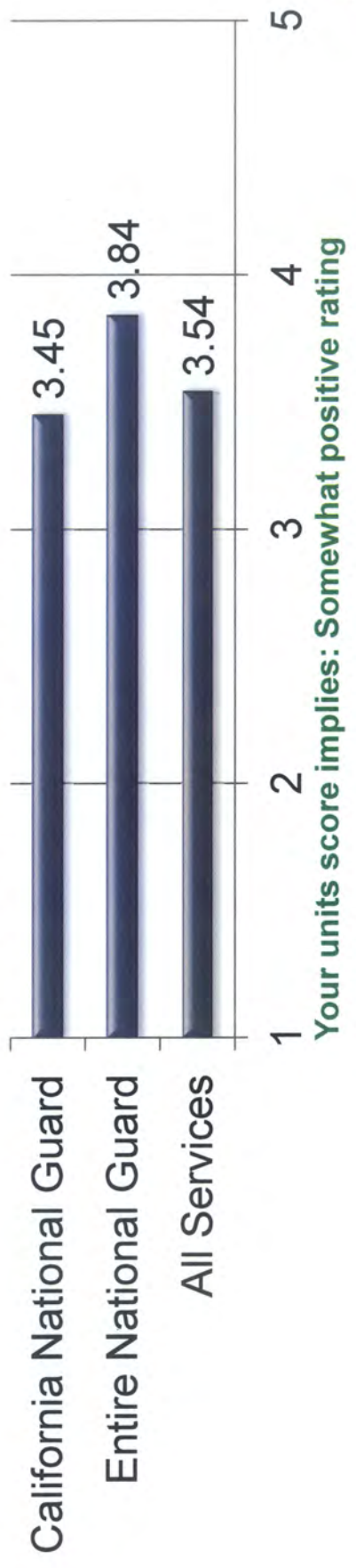
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# Defense Equal Opportunity Management Institute Organizational Climate Survey

## Work Group Cohesion



## Leadership Cohesion

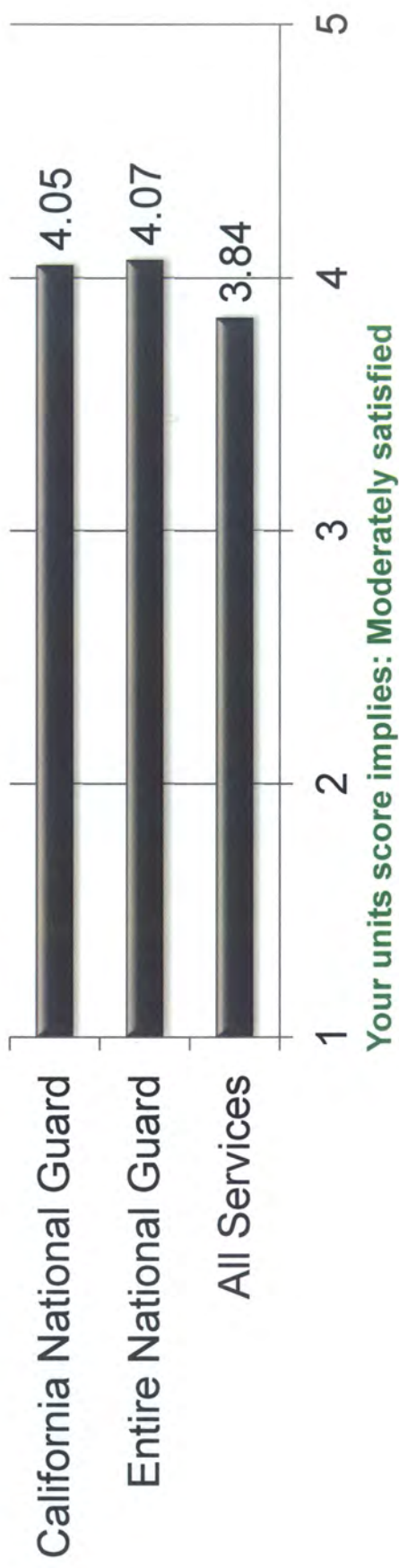




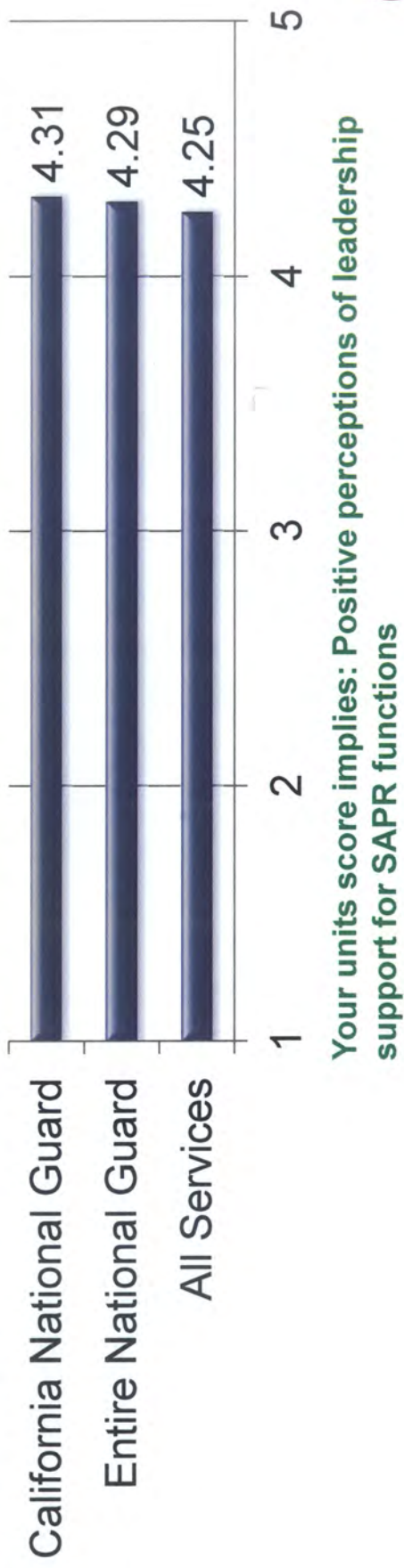
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# Defense Equal Opportunity Management Institute Organizational Climate Survey

## Job Satisfaction



## Leader Support for SAPR



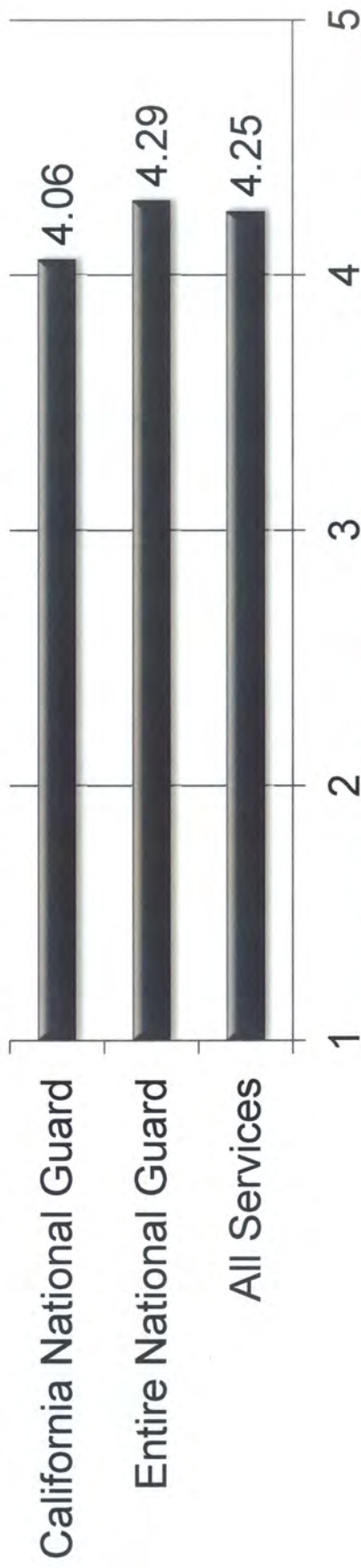


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# Defense Equal Opportunity Management Institute Organizational Climate Survey

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## SAPR Bystander Intervention Climate



Your units score implies: Moderate to rather strong likelihood of bystanders intervening to prevent sexual assault



**E**

Status of Complaints as of March 1, 2013

1. [REDACTED]
  - a. [REDACTED]
  - b. [REDACTED]
  - c. [REDACTED]
    - i. [REDACTED]
  - d. [REDACTED]
  - e. [REDACTED]
2. [REDACTED]
  - a. [REDACTED]
  - b. [REDACTED]
3. [REDACTED]
  - a. [REDACTED]
    - i. [REDACTED]
  - b. [REDACTED]
    - i. [REDACTED]
4. [REDACTED]
  - a. [REDACTED]
    - i. [REDACTED]
    - ii. [REDACTED]
    - iii. [REDACTED]
    - iv. [REDACTED]
5. [REDACTED]
  - a. [REDACTED]

6. [REDACTED]:

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]

7. [REDACTED]

- a. [REDACTED]

8. [REDACTED]

- a. [REDACTED]

9. [REDACTED]

- a. [REDACTED]

10. [REDACTED]

- a. [REDACTED]

11. [REDACTED]

- a. [REDACTED]

12. [REDACTED]

- a. [REDACTED]

13. [REDACTED]

- a. [REDACTED]
  - i. [REDACTED]
  - ii. [REDACTED]
  - iii. [REDACTED]

14. [REDACTED]

a. [REDACTED]

15. [REDACTED]

a. [REDACTED]

NOTE: Release authority for any IG information/documentation regardless of level is with the Department of Army or Air Force IG. Each has a dedicated FOIA office.

If TAG is under investigation, the Chief, NGB will notify GOV Brown and then make him aware of the outcome.

**F**



**Senate Bill No. 807**

CHAPTER 355

An act to amend Sections 142, 148, 161, 162, 164.1, and 166 of, to add Section 141.5 to, and to repeal Section 167 of, the Military and Veterans Code, relating to the state militia.

[Approved by Governor September 17, 2012. Filed with Secretary of State September 17, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 807. Correa. State militia.

Existing law provides that the Governor is the Commander in Chief of the Militia of the State. Existing law authorizes the Governor to order the active militia or any portion of the militia to perform military duty of every description, as described.

This bill would specify that the state active duty force consists of service members in active state service when ordered by the Governor. This bill would specify and revise conditions for state active duty for service members, as provided, and would authorize the Adjutant General to promulgate regulations in conformity with these provisions.

Existing law authorizes the Governor to make rules and regulations in conformity with the Military and Veterans Code that conform as nearly as practicable to those governing the United States Army, United States Air Force, and United States Navy.

This bill would instead require the Governor to direct the Adjutant General to make those rules and regulations.

Existing law specifies the membership of the office of the Adjutant General, including one officer who may be of the rank of brigadier general who is the Assistant Adjutant General. Existing law specifies that the Assistant Adjutant General is subordinate only to the Governor and the Adjutant General, and specifies 2 officers who may be of the rank of brigadier general, one of whom is the Deputy Adjutant General, Army Division and the other who is the Deputy Adjutant General, Air Division.

This bill would revise the ranks of officers in that office, by providing instead for one officer who may be of the rank of brigadier general who is the Deputy Adjutant General, and would require his or her duties to be assigned by the Adjutant General. This bill would, with regard to the Deputies Adjutant General, described above, provide for 2 officers who may be of the rank of brigadier general, one who is the Assistant Adjutant General, Army, and the other who is the Assistant Adjutant General, Air. This bill would also specify one officer who is the Chief of Staff and Director of the Joint Staff.

Existing law requires the Governor to appoint the Adjutant General. Existing law provides that the Adjutant General receives the same pay and allowances as received by a lieutenant general in the Army of the United States.

This bill would require the Governor to appoint the Adjutant General on state active duty in the grade of lieutenant general, and would make conforming changes to that provision relating to the pay and benefits of the Adjutant General.

Under existing law, in the event of the absence of the Adjutant General or of his inability to perform his duties, the officer designated by the Adjutant General or the senior officer in the Adjutant General's office performs those duties.

This bill would instead specify that those duties are to be performed by the Deputy Adjutant General or other officer designated by the Adjutant General.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The full-time state militia provides California with a well-trained state military force that plays an integral role in the state's emergency management system. The Governor, as Commander in Chief, commands all state military forces through the Adjutant General. California law requires the Adjutant General to command the state military for civil support, the California Cadet Corps, Youth Programs, and Funeral Honors Programs. In addition, the Adjutant General commands state military forces in military civil support when the public's safety is jeopardized because of manmade or natural disasters. The full-time state military force provides California with military capabilities used to prepare for, respond to, and recover from the effects of emergencies regardless of cause, size, location, or complexity. The state militia is comprised of federally trained California National Guard and experienced State Military Reserve service members who are capable of immediately employing resources to save lives, prevent human suffering, or mitigate great property damage within the State of California.

(b) State active duty plays an important role in the national response framework. Under the 10th Amendment to the United States Constitution, national emergency response frameworks recognize that state forces have primary responsibility for providing military support to state and local authorities in emergencies. National Guard civil support refers to support provided to civil authorities for domestic emergencies and for designated law enforcement and other duties by the National Guard while in state active duty or while having the status described in Title 32 of the United States Code. State active duty military forces and National Guard forces conduct all missions in accordance with the needs of the state and within the guidelines of state laws. Because the National Guard continuously builds

relationships with its civilian counterparts, when National Guard forces arrive to support an incident response, they usually integrate with first responders very quickly.

SEC. 2. Section 141.5 is added to the Military and Veterans Code, to read:

141.5. The state active duty force consists of service members in active state military service when ordered by the Governor in accordance with this code.

SEC. 3. Section 142 of the Military and Veterans Code is amended to read:

142. (a) The Governor may order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties, and to participate in small arms gunnery competitions in this state or in any other state or territory or the District of Columbia, or in any fort, camp, or reservation of the United States. He or she may also authorize the performance of military duty or participation in small arms or gunnery competitions by any part of the active militia anywhere without the state or without the United States. Cruise duty ordered for the Naval Militia may be required to be performed on United States vessels.

(b) Service members selected for permanent positions shall be selected using a military competitive selection process. A service member ordered to state active duty in accordance with this section who remains on state active duty for six consecutive years shall be eligible for career state active duty status and may remain on state active duty until the service member reaches 60 years of age or is separated for cause. At 60 years of age, a service member may remain on state active duty under temporary orders which may be renewed annually.

(c) Orders for a service member with less than six years of state active duty service shall expire annually unless renewed or the service member is separated for cause.

(d) When a service member reaches 64 years of age, or when federal recognition of his or her grade or rank is withdrawn, whichever occurs later, the service member shall be retired from state active duty.

(e) A service member on state active duty with the Military Department pursuant to this section shall be a current member of the California National Guard, retired or otherwise honorably separated from federal active military or California National Guard service with current membership in the State Military Reserve, or be a current member of the State Military Reserve with a minimum of two years of service. Service members on state active duty who retire federally from the California National Guard shall be automatically assessed into the State Military Reserve.

(f) A commissioned officer on state active duty assigned to a general officer position who, previous to that duty, held a state active duty position at a lower grade may revert to the grade last held upon vacation of the general officer position, if a position is available.

(g) Notwithstanding any other law, a service member who is on state active duty may be relieved from state active duty if the Adjutant General,

acting in good faith and on behalf of the Governor, abolishes a position. The department shall make reasonable attempts to place the service member in an available position for which the service member is otherwise qualified.

(h) The Adjutant General, under the authority of the Governor as Commander in Chief, shall promulgate regulations in conformity with this section.

SEC. 4. Section 148 of the Military and Veterans Code is amended to read:

148. The Governor shall direct the Adjutant General to make rules and regulations in conformity with this code which shall conform as nearly as practicable to those governing the United States Army, United States Air Force, and United States Navy. The rules and regulations shall have the same force and effect as the provisions of this code.

A finding by the Governor that it is impracticable to conform rules and regulations to those governing the United States Army, United States Air Force, or United States Navy shall be conclusive and the rules and regulations shall have force and effect over inconsistent rules, regulations, directives, manuals, or practices governing any of the Armed Forces of the United States.

SEC. 5. Section 161 of the Military and Veterans Code is amended to read:

161. Within the Military Department, the office of the Adjutant General consists of one officer of the rank of lieutenant general who is the Adjutant General, one officer of the rank of brigadier general who is the Deputy Adjutant General, one officer who may be of the rank of brigadier general who is the Assistant Adjutant General, Army, one officer who may be of the rank of brigadier general who is the Assistant Adjutant General, Air, one officer who may be of the rank of brigadier general who is the Chief of Staff and Director of the Joint Staff, and other officers as are prescribed by the laws or regulations of the United States. No person is eligible for appointment as the Deputy Adjutant General unless he or she has not less than a total of five years of commissioned service in the National Guard of the United States, of which at least three years shall be service as a field grade officer in the California National Guard within the preceding 10-year period prior to the date of appointment and of which at least three years shall have been in command of army or air troops at the battalion or equivalent or higher command level or three years as a staff officer at brigade or equivalent or higher staff level. The Deputy Adjutant General is subordinate only to the Governor and the Adjutant General and shall have his or her duties assigned by the Adjutant General.

SEC. 6. Section 162 of the Military and Veterans Code is amended to read:

162. The Governor, as Commander in Chief, shall appoint the Adjutant General, who shall be on state active duty, in the grade of lieutenant general, with the advice and consent of the Senate, and that person shall hold office at the pleasure of the Governor, or until his or her successor is appointed and has qualified. No person is eligible for appointment as Adjutant General

unless he or she had not less than a total of 10 years of commissioned service in the National Guard of the United States, of which at least four years shall be service as a field grade officer in the California National Guard within the preceding 10-year period prior to the date of appointment and of which at least four years shall have been in command of army or air troops at the battalion or equivalent or higher command level or four years as a staff officer at brigade or equivalent or higher staff level.

SEC. 7. Section 164.1 of the Military and Veterans Code is amended to read:

164.1. The Adjutant General shall receive the same pay and benefits pursuant to Section 320 as a lieutenant general in the Army of the United States and shall be paid in the same manner and at the same time as other service members on state active duty.

SEC. 8. Section 166 of the Military and Veterans Code is amended to read:

166. In the event of the absence of the Adjutant General or of his or her inability to perform his or her duties, the Deputy Adjutant General or other officer designated by the Adjutant General shall perform the duties of the Adjutant General. In the event of the absence or inability of those officers, the Governor may detail a National Guard officer to perform those duties.

SEC. 9. Section 167 of the Military and Veterans Code is repealed.

## SB 807 Fact Sheet

The bill clarifies current law and codifies existing internal policies governing the administration of full time state military members on SAD. The rules established in this bill mirror federal military procedures and represent best business practices for administration of a military force. There are no additional costs as a result of this bill.

Specifically, the provisions of this bill would:

- Establish legislative intent that the full-time state military force is commanded by the Governor and is an integral part of the State Emergency Management System and the National Response Framework
  - This broadly defines the purpose of the full-time state military force.
  - Concept of SAD is taken from federal model for the reserve components (AGR), where a small full time military force provides C2 and support for a large part time force.
  - Under the State Emergency Management System and Department of Defense doctrine, the Cal Guard is involved in both the state and federal response to a large “Katrina-like” emergency.
- Adds §141.5 to define the SAD system as a full-time military force under the command of the Governor
  - This clarification is necessary to define the term “State Active Duty” in statute and declare that the Governor, as Commander-in-Chief, under the auspices of the CMVC, orders Soldiers and Airmen to serve on SAD
- Amends §142 by adding subdivision (b) to provide that Servicemembers ordered to SAD shall be selected using a military competitive selection process.
  - The language requiring a competitive process is necessary to ensure that the best qualified Soldiers or Airmen are selected for SAD positions. This process adds transparency so every aspiring member of the force feels as though they have a fair chance of being selected.
- Amends §142 by adding subdivision (c) to codify that the Servicemember’s orders shall expire annually, and must be renewed until the Servicemember has served for 6 consecutive years
  - This language is necessary to ensure that only top quality officers and non-commissioned officers become part of the career SAD system. Similar to an apprenticeship, Servicemembers must demonstrate value to the organization over an extended period of time before they receive permanent status. This process is based on the federal Active Guard and Reserve (AGR) system
- Once selected, and after serving for six years, qualified Servicemembers would become part of the SAD career system until age 60. At age 60, the Servicemember’s orders would expire annually

- This section also declares that the SAD system is a career system, similar to the active duty military AGR system.
- The Military Department must compete with the active duty military for the best and the brightest within our ranks, making equal treatment essential
- Amends §142 by adding subdivision (d) to codify that when a service member reaches the age of 64, the Servicemember shall be retired from SAD.
  - The maximum retirement age for Servicemembers on active duty is 64. This language mirrors the federal regulations for maximum age restrictions.
- Amends §142 by adding subdivision (e) to state the minimum qualifications of a member ordered to SAD. The minimum qualifications require a status in the California National Guard or California State Military Reserve. State Military Reserve Servicemembers who have no prior federal military experience must be a member of the State Military Reserve for a minimum of two years
  - These minimum qualifications ensure that only members with the requisite military training, experience and knowledge can apply for positions in the full time state military
- Amends §142 by adding subdivision (f) to state that Servicemembers who hold general officer positions may revert to a lower grade held upon vacation of the general officer position, should another position be available
  - This already exists in the CMVC, and can be used by The Adjutant General to retain General Officers who are no longer needed at that rank
- Amends §142 by adding subdivision (g) to provide that Servicemembers may be part of a reduction-in-force when The Adjutant General abolishes the position in good faith.
  - This provision is based on an Attorney General opinion, and is necessary to allow the Military Department to manage the force during budget cuts
- Amends §142 by adding subdivision (h) to authorize The Adjutant General, under the authority of the Governor as Commander-in-Chief, to promulgate regulations concerning the full-time state military force
  - The SAD regulation already details all of the processes and procedures required to carry out the requirements put forth in the bill.
- Amends §148 to require the Governor to direct The Adjutant General to ensure that regulations governing the CMD conform to those of the active duty military when possible
  - This section applies not only to the regulations that govern of the SAD force, but also those regulations that apply to rest of the Department's activities and operations. This is necessary to ensure that the CMD uses Department of Defense rules and regulations, which represent best business practices for managing a military force, whenever possible

- Amends §161 to change the title of certain key personnel within the Office of The Adjutant General
  - Changes titles for the top four officers in the CMD to reflect modern military terminology
- Amends §164.1 to clarify that The Adjutant General serves on SAD and shall receive the same pay and benefits pursuant to Section 320, as all other state active duty Service members (versus “other state officers”)
  - The TAG is currently on SAD this clarify this fact. This language is necessary to ensure that the appropriate structure is in place to ensure that in the future there is consistent interpretation of rules governing allowable concurrent military duty for The Adjutant General
- Amends §166 to clarify that the Assistant Adjutant General shall perform the duties of The Adjutant General when The Adjutant General is unable, due to absence or inability, unless The Adjutant General designates another officer
  - This section clarifies the law already established in the CMVC
- Deletes §167. Current law concerning “§167 status” is confusing and there are not any processes associated with the status. It is frequently considered a “tenured” status. This section has on occasion led to variance from the intent and purpose of SAD
  - Section 167 is antiquated, and no longer appropriate for the CMD. It establishes a type of “tenure” for members of the Military Department that hold positions within the Office of the Adjutant General. This section is confusing and has been interpreted differently by different Adjutants General, resulting in the perception of cronyism and nepotism





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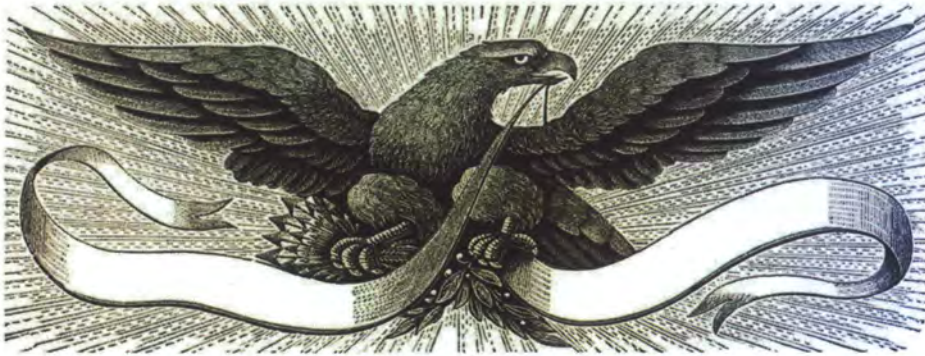
Informational Hearing:  
"Program Reforms within the California Military Department"

1. Opening Remarks. *Chairman Correa & Committee Members*
2. Introduction and Remarks *Major General David Baldwin  
The Adjutant General (TAG)  
California Military Department (CMD)*
3. State Active Duty (SAD) Program *LTC Darrin Bender, Government Affairs, CMD*
4. Personnel Complaint Resolution Processes
  - a. Equal Opportunity (EO)/  
Equal Employment Opportunity (EEO) *LTC Kimberly Derouen  
Director, Human Resources, CMD*
  - b. Inspector General (IG) Processes:  
Federal and State IGs *LTC David Kauffman  
Inspector General, CMD*
  - c. NGB Reports on CMD EO/EEO Program *Brigadier General Marianne E. Watson  
Director, Manpower and Personnel (J-1)  
United States National Guard Bureau (NGB)*
  - d. NGB Report regarding Complaints  
From 2013 Senate Confirmation Process *"*
5. Sexual Assault Prevention and  
Response (SAPR) Program *Ms. Jennifer Lucero  
Sexual Assault Response Coordinator, CMD*
6. USPFO audit on SAPR Training Funds  
129<sup>th</sup> Rescue Wing (Air National Guard) *Mr. Daniel Bogart, Chief, Internal Review Division  
United States Property and Fiscal Office (USPFO)*
7. Public Comment. *Chairman Correa*
8. Closing Remarks.



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**USPFO for California  
Internal Review Division  
Report of Audit**



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**Sexual Assault Prevention and Response Program  
Expenditures at the 129<sup>th</sup> Rescue Wing**

**Project Number 12-27**

**17 August 2012**



**\*\*FOR OFFICIAL USE ONLY\*\***

**Dissemination of this report beyond the original recipients should be coordinated with the USPFO for California Internal Review Division Chief, Mr. Daniel Bogart, commercial number (805) 594-6290.**

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## Executive Summary

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### REASON AUDITED

On 14 February 2012, the Deputy Adjutant General, Air requested that the USPFO audit the 129<sup>th</sup> Rescue Wing (129 RQW) expenditure of funds to secure a local venue to handle the entire wing for a November 2011 training event. Specifically, DAG Air requested the event and its funding be reviewed to ensure all actions occurred in accordance with regulations and guidance. The TAG expressed concern that the funds used may have been fenced just for Sexual Assault or Bystander Intervention training, and the training the unit conducted only included about 15 minutes of that training.

During the in-brief on 5 March 2012, the Wing Commander requested that USPFO also review the execution of Sexual Assault Prevention and Response (SAPR) funds to support mass training events conducted in 2010. We informed the Wing Commander that we had planned to review the 2009 and 2010 mass training events during our 5-9 March 2012 site visit after learning about them prior to our site visit. According to the Wing Commander, Wing leadership changed in July of 2011 at which time planning for a November 2011 mass training event was already underway. The 2009 and 2010 events followed similar models where SAPR-related training represented a fraction of the total agenda. Because IR reserves the right to expand or modify original audit objectives, USPFO expanded the scope of the audit to include the appropriateness of the 2009 and 2010 mass training event expenditures as well as SAPR-related transactions between fiscal years 2010 to 2012.

### MAGNITUDE

For fiscal years 2010 to 2012, the 129 RQW received a total of \$87,100 from NGB ANG for SAPR ESP code KH transactions and expended \$60,408.64 of the funds. In addition, the Wing spent \$25,015.14 of its O&M funds via GPC card purchases and contract awards between 2 November 2009 and 1 March 2012 towards SAPR-related transactions.

### OBJECTIVE

Our overall objective was to determine whether 129 RQW officials properly managed the SAPR Program. Specifically, for fiscal years 2010 to 2012, we determined whether 129 RQW officials properly:

- Expended SAPR funds.
- Processed SAPR payment transactions.
- Accounted for pilferable SAPR equipment.

### CONCLUSIONS

Overall, 129 RQW management of the SAPR Program required improvement. Specifically, we found that 129 RQW officials:

## Executive Summary

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- Provided SAPR training when it was not required. (See page 2 for details.)
- Expended (FY10) and obligated (FY11) SAPR ESP code KH funds for non-SAPR portions of off-campus venue costs. (See page 2 for details.)
- Did not identify erroneous SAPR payment transactions. Specifically, in mid-February 2011, DFAS processed five separate disbursements totaling \$19,667.64 that incorrectly cited SAPR ESP code KH funds. (See page 5 for details.)
- Purchased over \$32,000 in audio visual equipment in FY10 and FY11 for SAPR training, but did not add the pilferable assets to accountable records. (See page 8 for details.)

### AUDIT STAFF ASSIGNED



INEZ AZCONA  
Senior Auditor, Internal Review Division  
USPFO for California



DANIEL R. BOGART  
Chief, Internal Review Division  
USPFO for California

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## Tab A

### SAPR Funds Spent Unnecessarily

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#### BACKGROUND

**Sexual Assault Prevention and Response (SAPR) Training.** Department of Defense and Air Force SAPR policy requires installation-level Sexual Assault Response Coordinators (SARC) to ensure their supported population receives annual SAPR training updates.

**Bystander Intervention Training.** According to the 2009 Air Force Personnel Center (AFPC) directive, for fiscal years 2010, 2011, and 2012, SARCs were tasked with ensuring their corresponding population received a one-time Bystander Intervention Training (BIT) module; there was no requirement to provide annual SAPR training updates. The directive also specified that constituents, who received their fiscal year 2010 SAPR updates before 1 January 2010 (the Wing received their update 8 November 2009), should receive the one-time BIT module by 30 June 2012. The current 129 RQW SARC ensured that 563 constituents received the required BIT module during the drill weekend of 3 and 4 March 2012 – concluding the training on 5 March 2012, the day our fieldwork started at the Wing. The 129 RQW SARC intended to provide Bystander Intervention training to the remaining 300+ constituents no later than 6 May 2012.

**Funds Control.** NGB ANG assigns SAPR funds ESP code KH specifying that ESP coded items must be “used only for that purpose.” Specifically, according to the Limitations and Fences sections of the Fiscal Year 2010 to 2012 Air National Guard Financial Guidance documents, there are two basic types of limitations, legal and administrative.

**Legal Limitations.** Legal limitations are those statutory limitations that are directed by the agency that issues funds to the NGB (i.e. SAF/FM, OSD or Congress). Examples of legal limitations include: FC (Fund Codes), BAC (Budget Activity Codes), and CD (Counter Drug).

**Administrative Limitations.** Administrative limitations are imposed by NGB to control, protect, or limit specific programs due to political risk, specific tracking requirements, or other purposes in the best interest of the NGB corporate structure. For example, ESP coded funds are administratively limited and should only be used for that purpose.



## Tab A

### SAPR Funds Spent Unnecessarily

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#### AUDIT FINDING – SAPR FUNDS SPENT UNNECESSARILY

**Condition.** 129 RQW leadership did not always properly manage SAPR funds. Specifically:

- **SAPR Training Updates Provided When Not Required.** While the former and current 129 RQW SARCs provided annual SAPR training updates to their constituents in fiscal years 2010, 2011, and 2012 via mass training events in off-campus venues, the fiscal year 2011 and 2012 training was not required. Specifically, according to the AFPC directive, in fiscal years 2010, 2011, and 2012 (between 1 January 2010 and 30 June 2012) the only related training requirement for the 129 RQW’s SARCs was to ensure constituents received a one-time BIT module no later than 30 June 2012. As shown in Table 1 below, the former SARC provided an annual SAPR training update to the Wing on 8 November 2009 – two months prior to the BIT implementation window.
- **SAPR Funds Used for Non-SAPR Portion of Off-Campus Venue Cost.** For the fiscal year 2011 and 2012 SAPR training, 129 RQW officials improperly used SAPR funds to pay for the entire cost of the off-campus mass training event venues when a fraction of the total events were for SAPR training updates (see Table 1 below for details).

Fiscal Year (Mass Training Event Date)	2010 (8 Nov 2009)	2011 (5 Dec 2010)	2012 (6 Nov 2011)
Off-Campus Mass Training Event (MTE) Venue	Santa Clara Convention Center	Santa Clara Convention Center	San Jose Center for the Performing Arts
Total MTE Duration (in Minutes)	270	550	485
SAPR Training Segment Duration (in Minutes)	60	45	15
Percentage of SAPR Training Segment Minutes to Total MTE Minutes	22.2%	8.2%	3.1%
Total Venue Cost	\$5,376.00	\$6,509.00	\$9,580.25
SAPR Training Segment’s Prorated Share of the Total Venue Cost	<b>\$1,194.67</b>	<b>\$532.55</b>	<b>\$296.30</b>

NOTE: For FY11 and FY12, event venue contracts were initiated and paid using prior FY funding.

**Table 1. SAPR-Funded Prorated Share of Venue Cost.**

**Cause.** SAPR training was provided when not required because 129 RQW officials did not follow the 2009 AFPC memorandum directing them to provide a one-time BIT module in place of fiscal year 2011 and 2012 annual SAPR training updates. In addition, SAPR funds were expended (FY11 - 5 DEC 2010 training) and obligated (FY12 - 6 NOV 2011 training) for non-SAPR portions of off-campus venue costs because 129RQW

## Tab A

### SAPR Funds Spent Unnecessarily

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leadership did not follow the NGB ANG requirement that ESP coded items must be used only for their intended purpose.

**Impact.** As a result,

- For the SAPR training provided in FY10, Wing officials used the former SARC's O&M funded GPC card to pay the total venue cost of \$5,376. Note: FY10 SAPR ESP code KH funds did not arrive at the Wing until 19 April 2010; therefore, the Wing used a GPC card to cover the SAPR training.
- For the SAPR training provided in FY11, Wing officials improperly expended FY10 SAPR ESP code KH funds to pay the total venue cost of \$6,509. The SAPR-prorated share of the mass training event was only \$532.55. However, because the SAPR training was supposed to be replaced by the one-time BIT module, the entire \$6,509 was improperly paid.
- For the SAPR training provided in FY12, Wing officials initially obligated FY11 SAPR ESP code KH funds valued at \$9,580.25 on 28 September 2011 to cover the total venue cost, but later changed the fund cite to general FY 11 O&M on 1 March 2012.

**Management Corrective Action.** On 1 March 2012, the 129 RQW Wing Commander directed the contracting officer to modify the accounting code for the fiscal year 2012 (6 November 2011) mass training event from FY11 SAPR ESP code KH to a general FY11 O&M account.

**Recommendation A.1.** The 129 RQW Comptroller should direct the Financial Analysis Officer and SARC to only spend SAPR funds on required SAPR expenditures.

**Management Comments.** "a. The 129<sup>th</sup> Rescue Wing Commander concurs with the finding in A.1 and will require the 129 RQW Comptroller to direct the Financial Analysis Officer and SARC to only spend SAPR funds on required SAPR expenditures. Additionally, internal controls will be established to review funding authorizations and mitigate potential misuse of specified funds that are received annually regardless of SAPR-related training requirements."

"b. Further, in January of this year, the current 129 RQW SARC expressed concern to 129 RQW management that the November 2011 training event, as contracted, used specified SAPR funding for its entirety despite the fact that SAPR training was not performed. As a result, management officials directed an internal review to determine appropriate funding for November 2011 and subsequent events. On 29 February 2012, the accounting code for the fiscal 6 November 2011 mass training event was changed from SAPR ESP code KH to a general O&M account."

## **Tab A**

### **SAPR Funds Spent Unnecessarily**

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“c. Fifteen minutes were utilized at the November 2011 training event to introduce the newly appointed sexual assault response coordinators and provide a high level review of the SAPR program for the Wing. Bystander Intervention Training (BIT) commenced in January 2012. Four military trainers were funded to perform BIT during the March UTA using FY12 SAPR funds. The 129 RQW met its BIT target on 12 June 2012.”

Estimated Completion Date: 30 August 2012.

#### **Evaluation of Management Comments.**

Management comments addressed the issues presented in the audit results, and actions planned and taken should correct the problems identified. However, our audit work does not support the Wing’s management comments in paragraph b and the first 2 sentences of paragraph c above.

**Tab B**  
**Erroneous SAPR Payment Transactions**

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**AUDIT FINDING – ERRONEOUS SAPR PAYMENT TRANSACTIONS**

**Condition.** The 129 RQW Financial Analysis Officer did not identify erroneous SAPR transactions. Specifically, in mid-February 2011, DFAS processed five separate disbursements totaling \$19,667.64 that incorrectly cited SAPR ESP code KH funds (see Table 2 below for details). These payments were associated with invoices<sup>1</sup> from a liquid oxygen vendor named AERIS that had been received by the wing’s Financial Management unit on 27 September 2010 and submitted to DFAS for payment. According to DFAS representatives, five disbursements were originally posted to the correct line of accounting (LOA) for these invoices on 18 November 2010, but the bank rejected the payments citing an invalid account number. The 22 and 23 February 2011 transactions were thus an attempt by DFAS to reprocess valid payments, but they mistakenly cited the wrong LOA.

<b>AERIS Invoice Date</b>	<b>Voucher Number &amp; Fund Source</b>	<b>Posted Payment Date</b>	<b>Payment Amount</b>
7 January 2010	DD016820 – O&M	18 November 2010	\$1,074.25
7 January 2010	DD054024 – KH	22 February 2011	\$1,074.25
29 January 2010	DD016816 – O&M	18 November 2010	\$3,847.01
29 January 2010	DD054020 – KH	22 February 2011	\$3,847.01
19 February 2010	DD016819 – O&M	18 November 2010	\$11,750.00
19 February 2010	DD054564 – KH	23 February 2011	\$11,750.00
28 February 2010	DD016818 – O&M	18 November 2010	\$47.75
28 February 2010	DD054022 – KM	22 February 2011	\$47.75
22 June 2010	DD016817 – O&M	18 November 2010	\$2,948.63
22 June 2010	DD054021 - KH	22 February 2011	\$2,948.63

**Table 2. Duplicate Disbursements to AERIS with Fiscal Year 2010 Funds.**

As the SAPR fund holder, the 129 RQW Financial Analysis Officer should have detected the erroneous payments while monitoring the use of resources during daily operations. Likewise, as the Budget Officer, he should have identified the errors during the monthly Fall-In/Fall-Out analysis. Unfortunately, the erroneous postings were not discovered until March 2012 (during our audit), one year after DFAS inadvertently posted the second set of transactions.

**Cause.** This condition occurred because the 129 RQW Financial Analysis Officer did not:

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<sup>1</sup> The invoices represented five of the 28 SAPR/SARC-related payment transactions we reviewed. \$1,074.25 + \$3,847.01+\$11,750.00+\$47.75+\$2,948.63=\$19,667.64.

## Tab B

### Erroneous SAPR Payment Transactions

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- In his capacity as the SAPR fund holder, closely monitor the use of fenced SAPR funds from a prior year.
- In his capacity as the Budget Officer, periodically review CRIS Summary Reports for each ESP code to detect prior year transactions that do not relate to the specific ESP code under review.

**Impact.** As a result, \$19,667.64 was inappropriately posted to the SAPR ESP code KH line of accounting. While this was apparently done unintentionally by DFAS, administratively fenced SAPR funds were used for unauthorized purposes and resulted in incorrect accounting records.

**Management Corrective Action.** On 4 May 2012, the Wing's Financial Management Superintendent asked DFAS to research the cause of the duplicate payments (in response to our 8 March 2012 query regarding the cause of the duplicate payments). On 24 May 2012, DFAS confirmed that the vendor did not receive a duplicate payment. DFAS also acknowledged that its technicians inadvertently posted the five payments to the SAPR ESP code KH funds in February 2011 after the bank rejected the first round of payments posted to the general O&M fund. DFAS prepared and processed journal voucher entries to remove the erroneously posted transactions from the SAPR ESP code KH funds on 31 May 2012.

**Recommendation B.1.** The 129 RQW Comptroller should direct the Financial Analysis Officer to:

- In his capacity as the SAPR fund holder, closely monitor the use of fenced SAPR funds from a prior year.
- In his capacity as the Budget Officer, periodically review CRIS Summary Reports for each ESP code to detect prior year transactions that do not relate to the specific ESP code under review.

**Management Comment B.1.** "The 129 RQW Wing Commander concurs with the finding and recommendation and will require the 129 RQW Comptroller to direct the Financial Analysis Officer to:

- In his capacity as the SAPR fund holder, closely monitor the use of fenced SAPR funds from a prior year.
- In his capacity as the Budget Officer, periodically review CRIS Summary Reports for each ESP code to detect prior year transactions that do not relate to the specific ESP code under review."

## Tab B

### Erroneous SAPR Payment Transactions

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“Additionally, internal controls will be established to review and validate proper execution of specific ESP coded funds to ensure compliance oversight and mitigate potential errors such as duplicate payments.”

Estimated completion date: 30 August 2012.

**Recommendation B.2.** The 129 RQW Comptroller should direct the Resource Advisors to periodically review the CRIS Summary Reports for each ESP code under each Resource Advisor’s supervision to detect prior year transactions that do not relate to the specific ESP code under review.

**Management Comment B.2.** “The 129 RQW Wing Commander concurs with the finding and recommendation and will require the 129 RQW Comptroller to direct the Resource Advisors to periodically review the CRIS Summary Reports for each ESP code under each Resource Advisor’s supervision to detect prior year transactions that do not relate to the specific ESP code under review. Additionally, internal controls will be established to ensure Resource Advisors periodically review the CRIS Summary Reports for each ESP code under their supervision.”

Estimated completion date: 30 August 2012.

**Evaluation of Management Comments.** Management comments addressed the issues presented in the audit results, and the actions planned and taken should correct the problems identified.

## Tab C

### Pilferable SAPR Equipment Not on Accountable Records

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#### BACKGROUND

The 129<sup>th</sup> Rescue Wing Instruction 23-106, Organizational Purchase and Accountability Procedures, section 1, dated, 30 November 2011, specifies that “Unit Commanders must account for and control budget code 9 assets valued over \$2,500 and those they deem pilferable regardless of cost.”

AFI 65-601, Volume I, Financial Management, Budget Guidance and Procedures, Attachment 2, Statement of Financial Management Guidance For Resource Managers, A2.2, dated, 3 March 2005 states that “Each Air Force commander and manager is responsible for the effective, efficient, and economical use of all resources made available to his or her organization.”

#### AUDIT FINDING – PILFERABLE SAPR ASSETS NOT POSTED TO ACCOUNTABLE RECORDS

**Condition.** During fiscal years 2010 and 2011, the former and current SARC purchased 1,819 pieces of audio visual equipment valued at approximately \$32,000 (See Table 3 below for details). While the current SARC maintained the equipment items in a locked cabinet in the Public Affairs office, as of 9 March 2012, the pilferable items were not posted to accountable records.

Equipment Item	Quantity Purchased	Date Purchased	Purchase Price
Motorola Bar Code Scanners	4	2 November 2009	\$2,930.60
Turning Technologies Response Cards and Software Receivers	604	12 September 2010	\$22,396.00
Sony Lithium Batteries	1200	22 September 2011	\$1,176.00
Turning Technologies Software Receivers	3	23 September 2011	\$525.00
Vertical File Cabinet	1	22 September 2011	\$490.69
Quartet 60” Portable Cinema Screen	2	22 September 2011	\$1,320.68
Epson Powerlite LCD Projector	2	22 September 2011	\$1,949.90
Wireless Presentation Remote Integrated Laser Pointer	2	22 September 2011	\$106.80
Titan Wireless Portable PA	1	22 September 2011	\$1,559.22
<b>Total =</b>	<b>1,819</b>		<b>\$32,454.89</b>

**Table 3. Fiscal Year 2010 to 2011 SAPR-Related Equipment Purchases.**

**Cause.** 129 RQW Officials did not follow the procedures detailed in 129<sup>th</sup> Rescue Wing Instruction 23-106, dated, 30 November 2011. First, the Unit Commander did not account for and control budget code 9 assets valued over \$2,500 and those they deem pilferable. Second, the property records did not reflect current inventory and condition of property.

## Tab C

### Pilferable SAPR Equipment Not on Accountable Records

---

Third, neither the GPC Billing Officials, GPC holders, nor the Resource Advisor (in this case, the SARC) reported the purchases to the organizational equipment custodian for proper accounting.

**Impact.** In addition to properly securing equipment items, properly accounting for pilferable items further prevents asset loss.

**Audit Comment.** In September 2010, the former SARC requested and received (via the competitive bid process) 600 Training Response Cards and four accompanying software receivers. The system cost \$22,396.00. According to the former SARC, “the system ensures participation using a counter for responses; keeps session statistics for further reference or study; provides controlled feedback; and allows for real time interaction between speaker/trainees and for honest, discreet answers to sensitive questions.” While it is not unheard of for a DoD activity to purchase this equipment,<sup>2</sup> in the USPFO-IR's opinion, this additional equipment was not required to effectively provide annual SAPR training and should not have been purchased.

**Management Corrective Action.** On 16 March 2012, the Logistics Readiness Squadron Commander instructed the Wing's Equipment Manager to work with the SARC to add the SAPR equipment listed in Table 3 to the Wing's property book. As of 2 May 2012, all but three equipment items were added to the property book (see Table 4 below for details). While the lithium batteries are expendable items and the file cabinet is not pilferable, the three Turning Technologies Software Receivers are pilferable and should also be added to the Equipment Manager's property book.

Equipment Item (Quantity Purchased)	Purchase Date & Type of Purchase	Purchase Price
Sony Lithium Batteries (1200)	22 September 2011 - GPC	\$1,176.00
Turning Technologies Software Receivers (3)	23 September 2011 - GPC	\$525.00
Vertical File Cabinet (1)	22 September 2011 - GPC	\$490.69
<b>Total =</b>		<b>\$2,191.69</b>

**Table 4. SAPR Equipment Items Not Yet Posted to the Property Book.**

**Recommendation C.1.** The 129 RQW Equipment Manager should add the three Turning Technologies Software Receivers valued at \$525.00 to the property book.

**Management Comments.** “The 129 RQW Wing Commander concurs with the finding and recommendation and will require the 129 RQW Equipment Manager to add the three Turning Technologies Software Receivers valued at \$525.00 to the property book. In

---

<sup>2</sup> According to the Turning Technologies, Inc. Account Executive for Government Sales, the 146<sup>th</sup> Airlift Wing and a Los Angeles Air National Guard unit with a drug reduction mission purchased Response Card systems in 2011.



## Tab C

### **Pilferable SAPR Equipment Not on Accountable Records**

---

addition, the 129 RQW Wing Commander concurs with the USPFO-IR's assessment that the aforementioned electronics and software were not required to effectively perform required SAPR training. Consequently, internal controls will be established to ensure appropriate distribution of ESP coded funds for the procurement of hardware and/or software items that may enhance training effectiveness but fall outside of the parameters of the specific ESP code."

Estimated Completion Date: 30 August 2012.

**Evaluation of Management Comments.** Management comments addressed the issues presented in the audit results, and the actions planned and taken should correct the problems identified.

## Appendix I Audit Scope and Prior Audit Coverage

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### AUDIT SCOPE

**Audit Coverage.** We conducted our audit work between mid-February and late-May 2012. To determine whether 129 RQW officials properly managed the SAPR Program, we determined whether 129 RQW officials properly:

- **Expended SAPR funds.** To determine this subobjective, we reviewed and analyzed all 17 of the SAPR ESP code KH payment transactions, 10 GPC card SAPR-related purchases, and 1 SAPR-related O&M-funded contract award – all of which consumed fiscal year 2010 to 2012 monies. In addition, we interviewed the current and former SARCs, Wing Staff, Mission Support Group personnel, Contracting Officers, and Financial Management Unit personnel to identify key processes and decisions related to SAPR transactions and events. For example, to verify the amount of time allotted to SAPR versus non-SAPR topics during the fiscal year 2010, 2011, and 2012 mass training events, we analyzed the agendas presented to the attendees on the day of each event and calculated the time devoted to each topic.
- **Processed SAPR payment transactions.** To determine this subobjective, we interviewed key Financial Management Unit personnel, including the Financial Analysis/Budget Officer and the Financial Management Superintendent, to discuss each SAPR transaction and collect the corresponding supporting documents – invoices, travel vouchers, contract award documents, and journal vouchers.
- **Accounted for SAPR equipment.** To determine this subobjective, we interviewed and collected supporting documentation (invoices, GPC card receipts, and contract award documents) from the current and former SARCs, the Contracting Officers, and Logistics Readiness Squadron officials to verify the purchase price and receipt dates of each SAPR-related item and whether or not the Logistics Readiness Squadron officials received notification of the equipment purchases.

**Data Reliability.** We extensively relied on computer-processed data contained in the CRIS – Commander’s Resource Integration System. To establish data reliability, we compared output data to manual documents to validate data accuracy; reviewed output products for obvious errors, reasonableness, and completeness; and recalculated totals to verify math operations. Based on these tests, we concluded that the data were reliable in meeting the audit objective.

**Auditing Standards.** We conducted this audit in accordance with generally accepted government auditing standards and, accordingly, included internal control tests related to

## **Appendix I Audit Scope and Prior Audit Coverage**

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financial management processes. Specifically, we tested internal controls over expenditures, management oversight for detecting improper expenditures, and equipment management.

### **PRIOR AUDIT COVERAGE**

We did not identify any NGB-IR, Air Force Audit Agency, DoD Inspector General, or Government Accountability Office reports issued to the 129 RQW within the past 5 years that addressed the same or similar objectives as this audit.

## **Appendix II**

### **Final Report Distribution**

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**The Adjutant General**  
**Assistant Adjutant General**  
**Commander, California Air National Guard**  
**Chief of Staff, California Air National Guard**  
**Director of the Joint Staff**  
**129 RQW Wing Commander**  
**129 RQW Vice Wing Commander**  
**129 RQW Comptroller**



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# Sexual Assault Response Coordinator (SARC)

California Military Department SARC  
*Ms. Jennifer Lucero*

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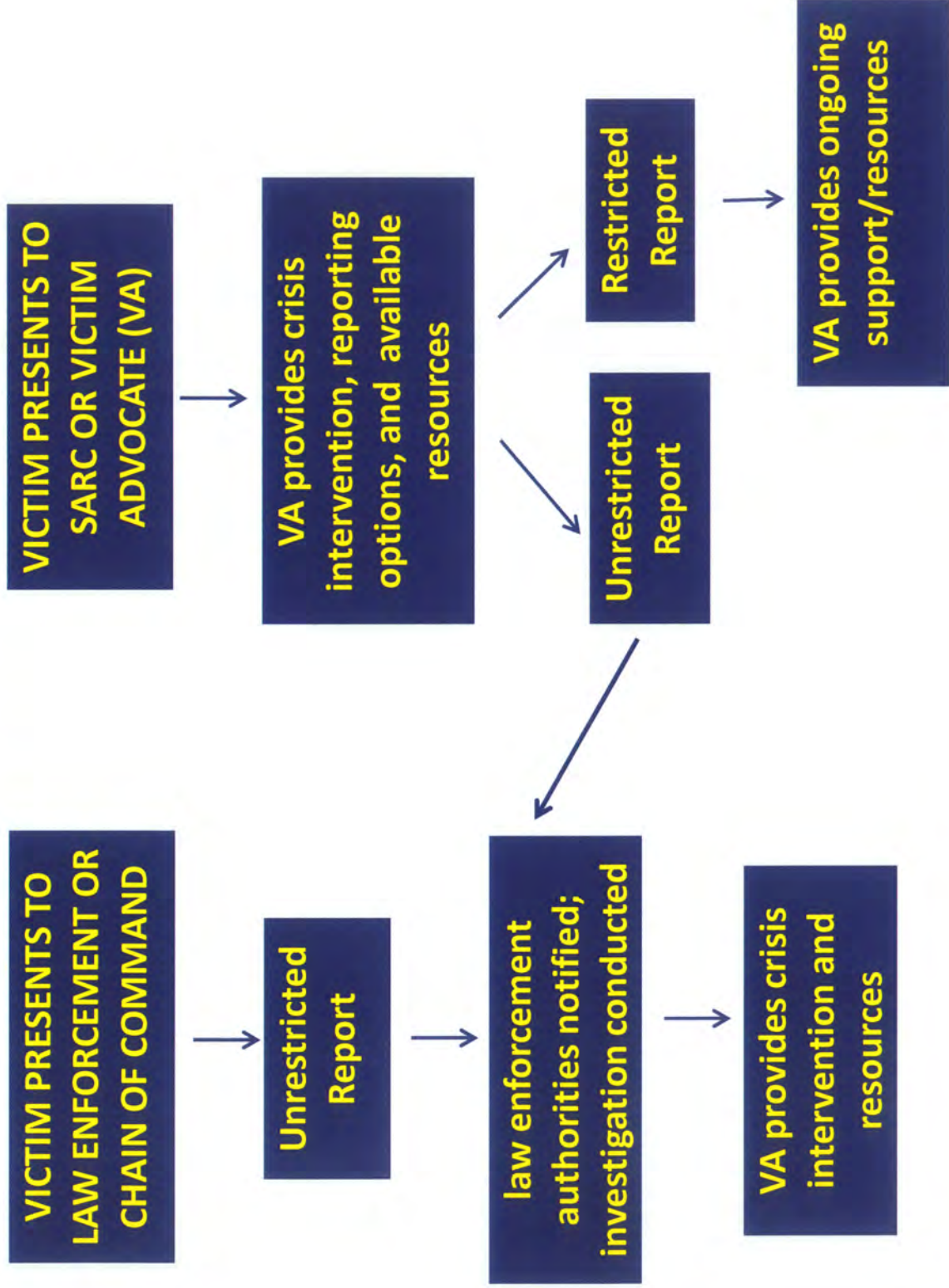
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## ***Sexual Assault Response Coordinator (SARC)***

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- Duties
  - Manage and implement the Sexual Assault Prevention and Response (SAPR) Program for California National Guard
  - Advisor to the Adjutant General on sexual assault statutory requirements and incidents
  - Ensure victims receive guidance and support
  - Develop, conduct, and/or coordinate sexual assault prevention training; conduct Victim Advocate training
  - Ensure incidents are reported to the appropriate level

# Sexual Assault Incident Occurs







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## SAPR Program Assessment

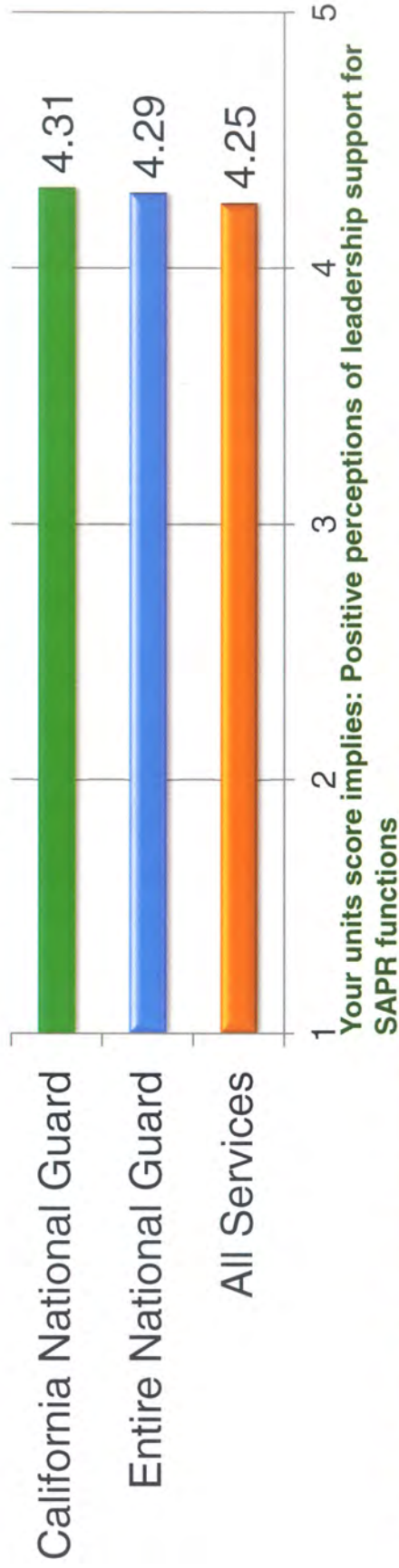
- Sexual Assault Cases
- SARCs and Victim Advocates (VA)
- Sexual Assault Training



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# Defense Equal Opportunity Institute Organizational Climate Survey

## Leader Support for SAPR



\* You are here. This denotes the lowest average of the two identified groups and the associated DI

Average	DISPARITY INDEX					
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1	2	3	4	5	
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
Minority 4.25  
Majority 4.39  
DI: 0.17

Average	DISPARITY INDEX					
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1	2	3	4	5	
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

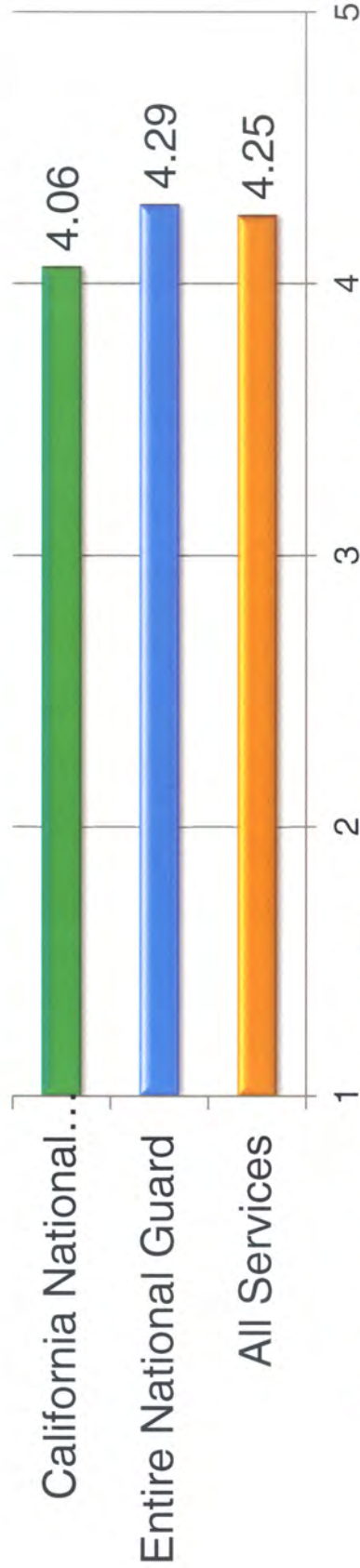
Average  
Women 4.21  
Men 4.34  
DI: 0.16



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# Defense Equal Opportunity Institute Organizational Climate Survey

## SAPR Bystander Intervention Climate



Your units score implies: Moderate to rather strong likelihood of bystanders intervening to prevent sexual assault

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

		DISPARITY INDEX				
Average	4.00 - 5.00	3.50 - 3.99	3.00 - 3.49	2.50 - 2.99	< 2.00	
0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22	
1	2	3	4	4	4	
Minority	Majority	DI:	Average	3.93	4.20	0.25

		DISPARITY INDEX				
Average	4.00 - 5.00	3.50 - 3.99	3.00 - 3.49	2.50 - 2.99	2.00 - 2.49	< 2.00
0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22	
1	2	3	4	4	4	4
Women	Men	DI:	Average	4.15	4.04	0.10



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## ***Sexual Assault Response Coordinator (SARC)***

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- **Way Ahead**
- **Commanders are the key to success**
  - Establish climate of trust
  - Ensure proper investigation/accountability
- **Aggressive stance**
  - Hold offenders accountable
- **Proactive approach: Focus on Prevention**
  - Bystander intervention
  - Change culture/establish professional work environment

***Through increased reporting we can decrease overall incidents of sexual assault.***



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# QUESTIONS?



**BULLET BACKGROUND PAPER**  
**ON**  
**MILITARY EQUAL OPPORTUNITY (EO),**  
**CIVILIAN EQUAL EMPLOYMENT OPPORTUNITY (EEO),**  
**AFFIRMATIVE EMPLOYMENT PROGRAMS (AEPs), AND DIVERSITY**

Mr. Eddie Wroblinski

DEOMI Instructor, DEOMI J-72



DEFENSE EQUAL OPPORTUNITY MANAGEMENT INSTITUTE  
DIRECTORATE OF RESEARCH

October 27, 2010

Bullet Background Paper 01-11

BULLET BACKGROUND PAPER  
ON  
MILITARY EQUAL OPPORTUNITY (EO), CIVILIAN EQUAL EMPLOYMENT  
OPPORTUNITY (EEO), AFFIRMATIVE EMPLOYMENT PROGRAMS (AEPs), AND  
DIVERSITY

This paper provides a summation of the primary differences and interrelationships between military EO, EEO, AEPs, and diversity, and highlights the statutory and regulatory sources for federal programs related to each. Note that these four elements are not mutually exclusive either in theory or intended outcomes. They are closely interrelated and implicit in each is the shared goal of enabling all Department of Defense (DoD) military and civilian employees (and applicants for civilian employment) to strive to reach their fullest potential unhindered by prejudice or discrimination and to contribute their uniquely individual talents, skills, and creative thinking to maximize organizational effectiveness and war fighting capability. The ideal point of convergence is a level playing field wherein a fully productive, diverse workforce, enjoys an equitable, inclusive, and accessible work environment free from discrimination.

**Basic tenets:**

- Military EO
  - Mandated through DoD Directives/policies (primarily DoDD 1350.2, *Department of Defense Military Equal Opportunity (MEO) Program*) and individual Service equal opportunity policies, regulations and instructions to promote an environment free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible.
    - Unlike in the EEO system, age, disability, and genetic information are not protected categories for filing EO complaints.
    - Coverage limited to active duty military, their family members, and retirees.
  - Ensures that the military Services (to include the Reserve components) establish MEO and affirmative action programs that identify and resolve EO problems through formulating, maintaining, and reviewing affirmative action plans (AAPs) with established objectives and milestones, including accountability in personnel management.
  - Provides complaint processing and resolution procedures to address alleged violations of EO policy. Military complaint processes are separate and distinct from civilian EEO channels.
    - Complaints may also be adjudicated through Inspector General (IG), commander-directed investigations, or the chain of command.



- Identification and resolution of EO issues is generally faster than on the civilian side.
- Necessitated to enhance mission capability and military readiness.

#### - EEO

- Mandated through laws and regulations to prevent and eliminate discrimination in employment policies or practices and provide equal access and fair, open, consideration in hiring, training, promotion, and other personnel actions.
  - Protected Title VII categories include race, color, religion, sex, national origin, age, disability, and genetic information
  - Coverage limited to federal civilian employees and applicants for employment. In exceptional cases, federal contractors may be included.
- Guidance within DoD is primarily contained in DoDD 1440.1, *The DoD Civilian Equal Employment Opportunity (EEO) Program*.
- Provides for federally controlled complaint mechanisms to redress alleged violations. Unlike military EO processes, the EEO appellate system can lead ultimately to district court.
- Necessitated by past discriminatory history.

#### - AEPs

- Synonymous with “Affirmative Action” and “Affirmative Programs of EEO,” AEPs are mandated through specific laws and regulations, as well as, many of the ones mandating other EEO concepts. The actual phrase "affirmative action" was first used in President John F. Kennedy's 1961 Executive Order 10925.
- May be defined as a programs of self-analysis, problem (barrier) identification, data collection, policy statements, and elimination of discriminatory policies and practices, past and present (DEOMI Handbook for Special Emphasis Program Managers, 27 Feb 07).
- The basic premise is to take “affirmative steps” to accomplish stated goals—it does not imply establishment of numeric quotas that must be met or provide for a lowering of employment qualifications or performance standards.
- AEPs attempt to achieve a representative workforce reflective of the sources from which it is derived through targeted outreach to underrepresented groups and measures progress.
  - Also authorize Special Emphasis Programs (SEPs) such as Black Employment Program, Hispanic Employment Program, Federal Women’s Program, etc., with an aim towards enhancing the employment and advancement of minorities, women, and individuals with disabilities.

---- DoD Directive 1440.1, *The DoD Civilian Equal Employment Opportunity (EEO) Program*, reads as follows:

...authorizes as an integral part of the Civilian EEO Program, the establishment of Special Emphasis Programs (SEPs) entitled the Federal Women's Program (FWP), the Hispanic Employment Program (HEP), and the *Program for People with Disabilities (PPD)*, the Asian/Pacific Islander Employment Program (AEP), the American Indian/Alaskan Native Employment Program (AIEP), and the Black Employment Program (BEP).

--- May use special hiring authorities such as “Schedule A” (noncompetitive hiring) or veterans preferences for individuals with disabilities and veterans.

- Diversity

-- Recognizes and values individual differences well beyond those protected categories acknowledged through EO/EEO/AEP laws and regulations (i.e., race, gender, color, ethnicity, etc). The organization institutionally views differences as assets and seeks to capitalize on the talents of each team member.

-- Not specifically mandated by law or statute, however, the business case for managing diversity effectively and the benefits of attaining a widely diverse workforce has been well established in both the civil and federal sectors.

-- Presupposes that a truly heterogeneous workforce is more engaged and produces superior quality products and services.

-- The Civil Service Reform Act of 1978 established that affirmative action be taken in the federal sector to ensure that “...the nation’s workforce reflects the diversity of the nation as a whole...”

-- DoD Directive 1020.02, *Diversity Management and Equal Opportunity (EO) in the Department of Defense*, 5 Feb 09, establishes policy, assigns responsibilities, and provides an overarching framework for DoD diversity, military EO, civilian EEO programs, and plans to prevent unlawful discrimination. Further, it legitimizes the establishment of military and civilian diversity management programs separate from existing equal opportunity programs.

--- The DoD Office of Diversity Management and Equal Opportunity (ODMEO) has established a civilian diversity manager position. ODMEO also established the Defense Diversity Working Group (DDWG) to increase diversity DoD-wide, particularly within the military Services.

### **Relationship with Special Observances:**

- Under public law, Congress authorizes the President to proclaim certain periods or months as national observances (Black/African American History, Women's History, Hispanic Heritage, etc.) intended to foster an understanding of each group's heritage and contributions to American culture. While these events are not specifically focused on employment issues in the context of EEO, they help to enhance an awareness of workforce diversity while encouraging inter-group communication and relationship building.
  
- In general, EEO, AEP, and SEP personnel should not sponsor observance events but may assist with them and conduct associated employment-related activities that are directly relevant to the goals of AEPs and SEPs.
  
- Military EO personnel, however, are generally authorized to plan, organize and conduct such observances.

Eddie Wroblinski/DEOMI/J-72/4-7908/26 Oct 10



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# Personnel Complaint Resolutions Processes

*Director of Human Resources*  
*LTC Kimberly DeRouen*

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## *Military Department Director of Human Resources*

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- Background
- Appointed 3 January 2012
- Key duties and responsibilities:
  - Develops and administers federal rules and policies
  - Recruitment and placement for federal technicians and ANG AGRs
  - Labor/Employee Relations/ Union contract management
  - Human Resource Development and HR systems management
  - Equal Employment Opportunity
  - Diversity



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## ***Military Department Director of Human Resources***

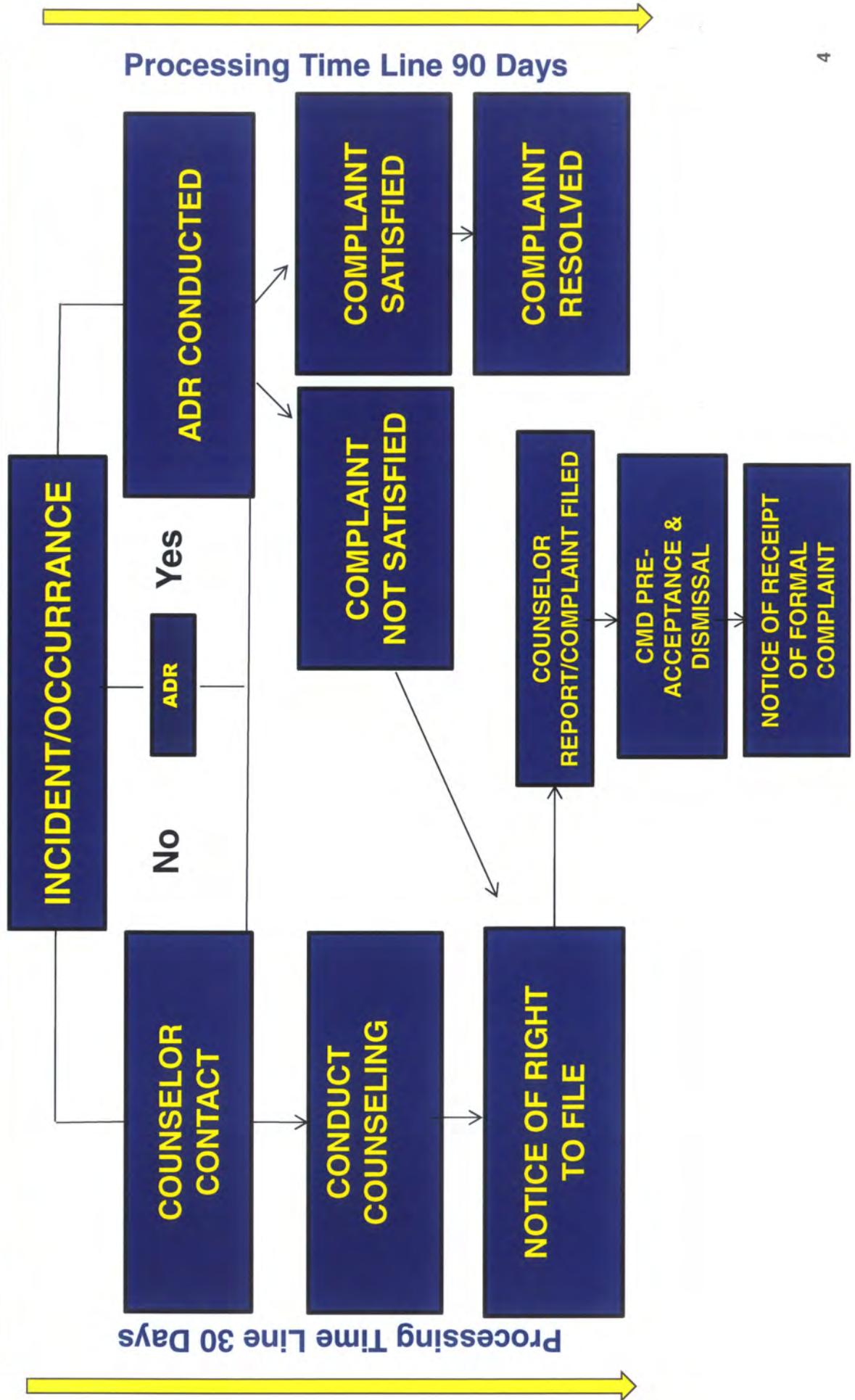
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- Current assessment of programs and policies
  - Equal Employment Opportunity Program
  - Diversity Strategic Plan
  - Union Contract Negotiations
- Proactive Approach
  - Early identification of issues and challenges
  - Programmed unit visits
  - Supervisor and employee training events
  - Senior Leaders support



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# EEO Complaint Process (Informal Federal 29 CFR 1614)

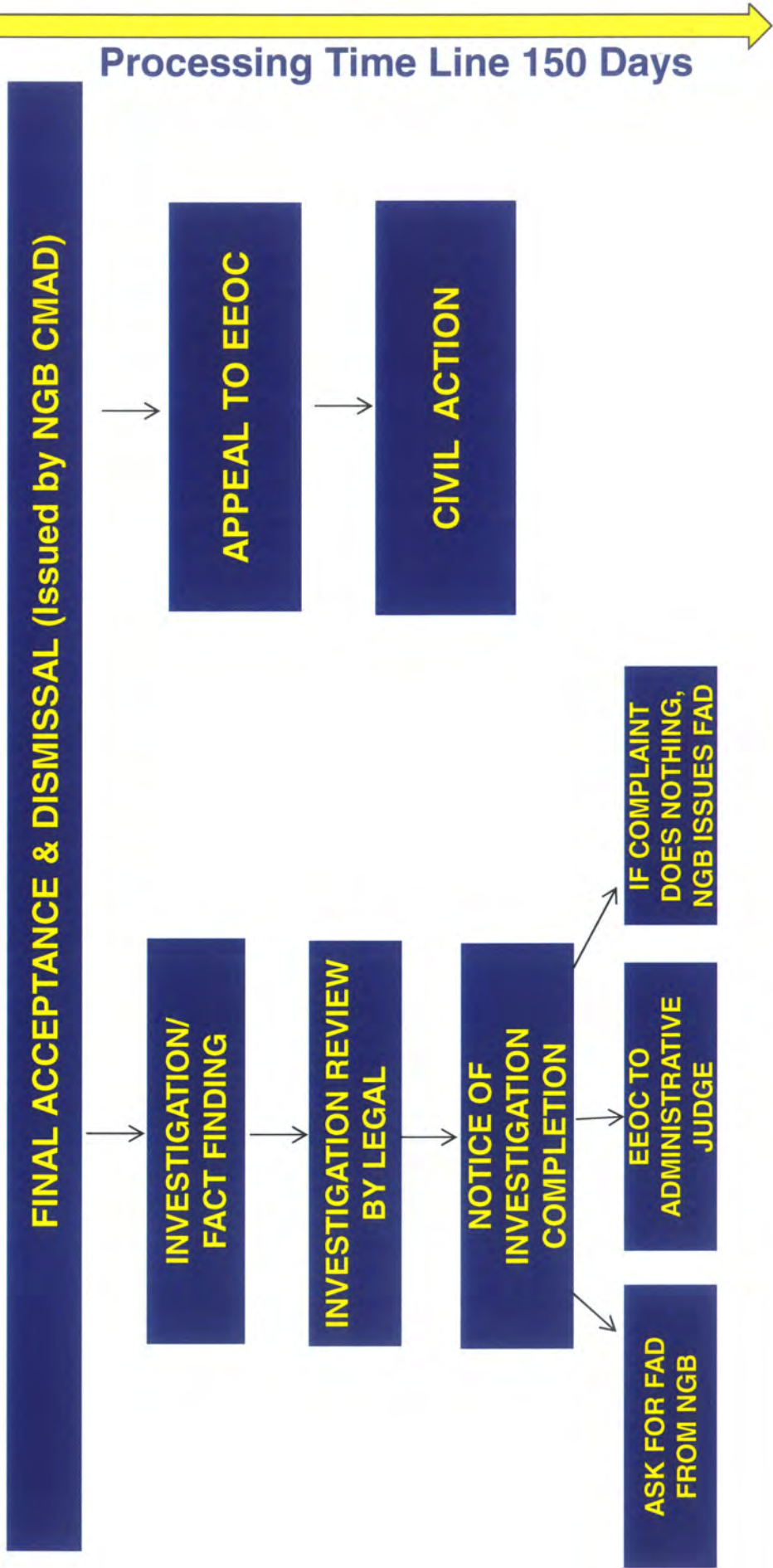






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# EEO Complaint Process (Formal Federal 29 CFR 1614)

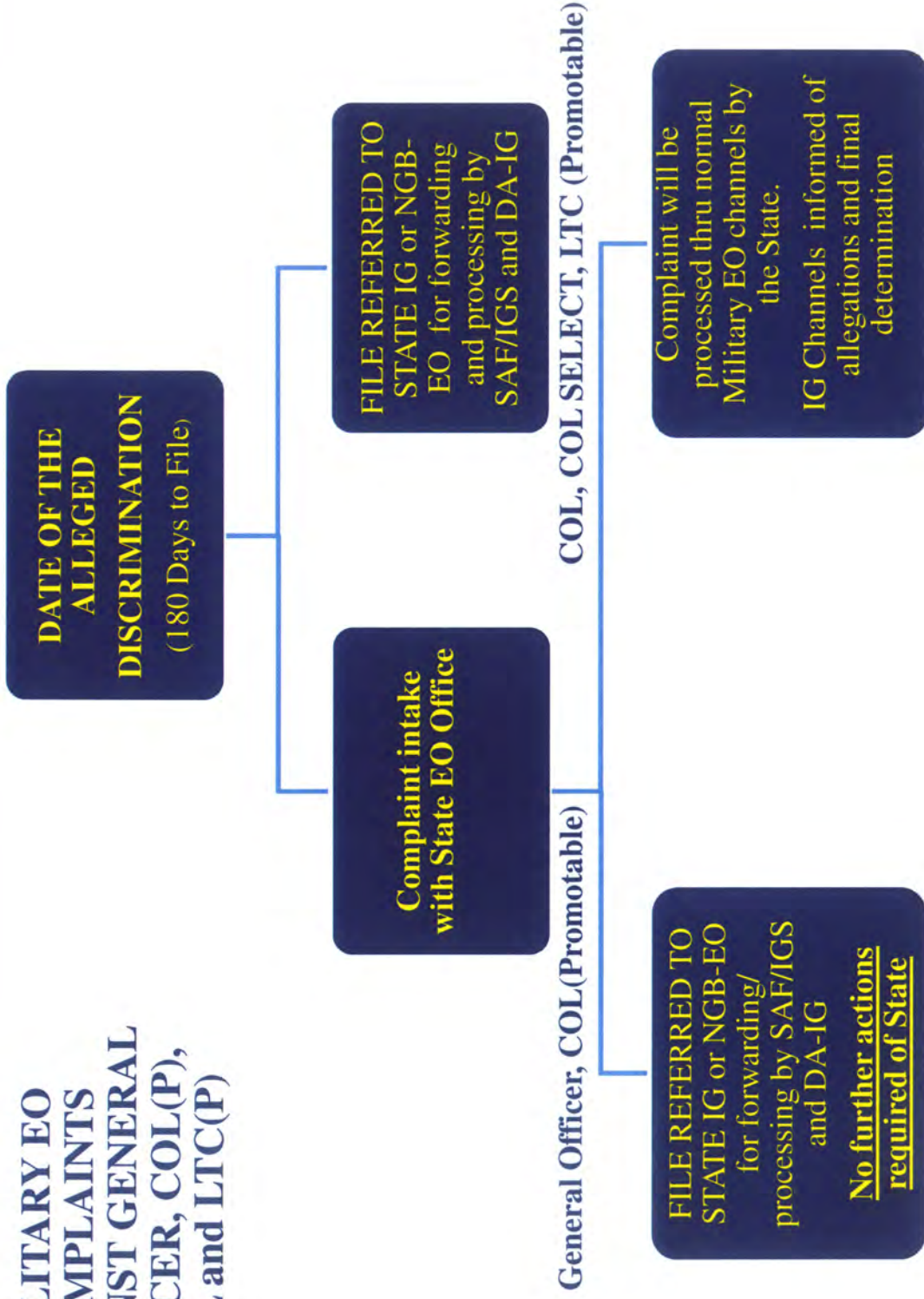




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# Military EO Complaint Process (NGR 600-22)

MILITARY EO  
COMPLAINTS  
AGAINST GENERAL  
OFFICER, COL(P),  
COL and LTC(P)





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# QUESTIONS?



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# Defense Equal Opportunity Management Institute Survey

September 2012





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# ***Defense Equal Opportunity Institute Organizational Climate Survey***

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- In September 2012, the Defense Equal Opportunity Management Institute surveyed full-time members of the California National Guard regarding EO/EEO factors, Organizational Effectiveness factors, and Sexual Assault Prevention and Response factors
- Of the approximately 4000 full time members of the organization that were asked to participate, 3,122 completed the survey, or 77%
- The following slides illustrate the results of the California National Guard climate survey compared to those of the entire U.S. military, and the entire U.S. National Guard
- Scores rank from 1 to 5, with 5 being the best possible result

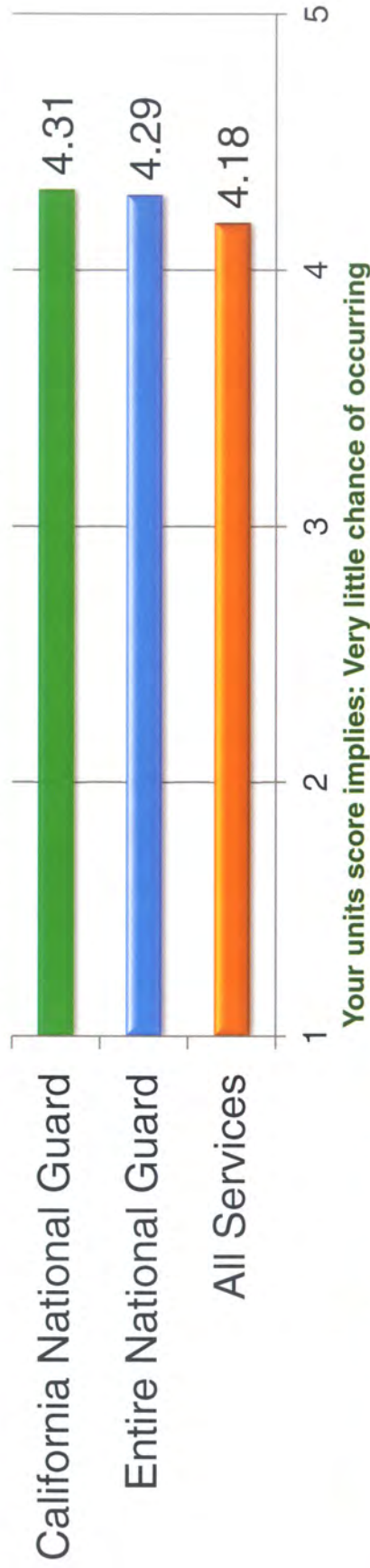




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Sexual Harassment / Discrimination



Your units score implies: Very little chance of occurring

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	1	1	2	2	>1.22
3.50 -3.99	1	1	2	2	>1.22
3.00 -3.49	1	1	2	2	>1.22
2.50 -2.99	3	3	4	4	>1.22
2.00 -2.49	3	3	4	4	>1.22
< 2.00	3	3	4	4	>1.22

Average  
Minority 4.26  
Majority 4.37  
DI: 0.13

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	1	1	2	2	>1.22
3.50 -3.99	1	1	2	2	>1.22
3.00 -3.49	1	1	2	2	>1.22
2.50 -2.99	3	3	4	4	>1.22
2.00 -2.49	3	3	4	4	>1.22
< 2.00	3	3	4	4	>1.22

Average  
Women 4.17  
Men 4.35  
DI: 0.21

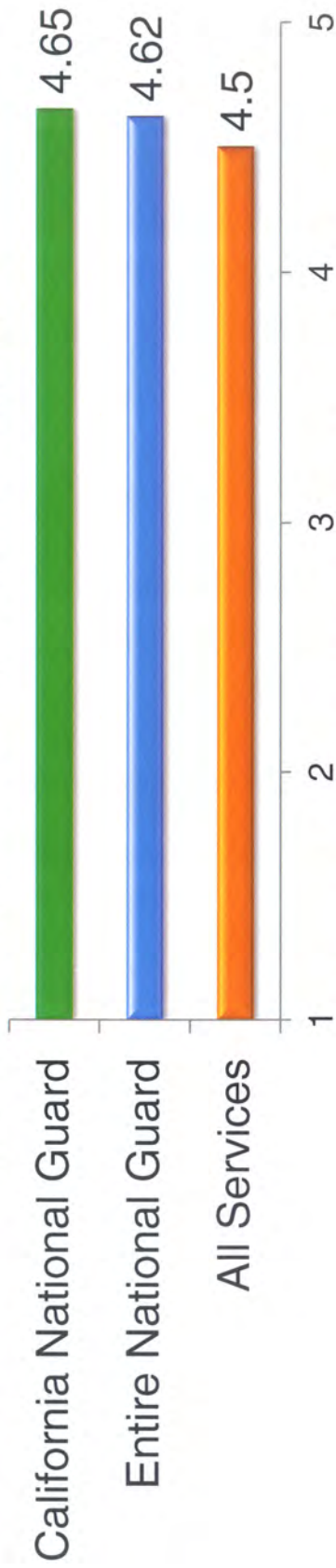




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Differential Command Behavior Toward Minorities



Your units score implies: Very little chance of occurring

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00-5.00	* 1	1	2	2	2
3.50-3.99					
3.00-3.49					
2.50-2.99	3				4
2.00-2.49					
< 2.00					

Average  
 Minority 4.56  
 Majority 4.75  
 DI: 0.30

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00-5.00	* 1	1	2	2	2
3.50-3.99					
3.00-3.49					
2.50-2.99	3				4
2.00-2.49					
< 2.00					

Average  
 Women 4.59  
 Men 4.66  
 DI: 0.10



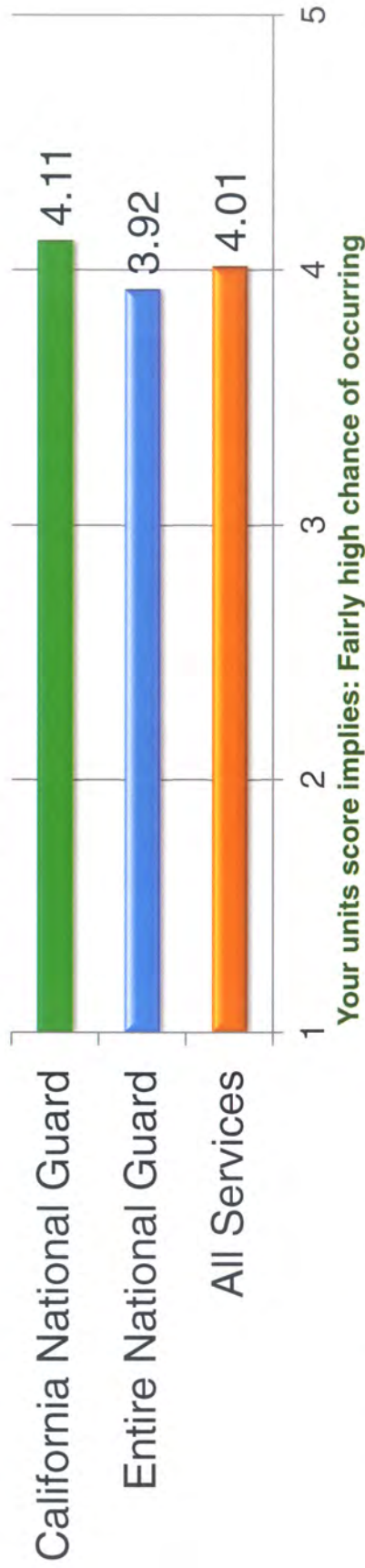




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Positive EO Behaviors



Your units score implies: Fairly high chance of occurring

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1	1	2	2	2	2
3.50 -3.99	1	1	2	2	2	2
3.00 -3.49	1	1	2	2	2	2
2.50 -2.99	3	3	3	3	3	3
2.00 -2.49	3	3	3	3	3	3
<2.00	3	3	3	3	3	3
					Average	
					Minority	4.00
					Majority	4.23
					DI:	0.24

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1	1	2	2	2	2
3.50 -3.99	1	1	2	2	2	2
3.00 -3.49	1	1	2	2	2	2
2.50 -2.99	3	3	3	3	3	3
2.00 -2.49	3	3	3	3	3	3
<2.00	3	3	3	3	3	3
					Average	
					Women	4.16
					Men	4.10
					DI:	0.06

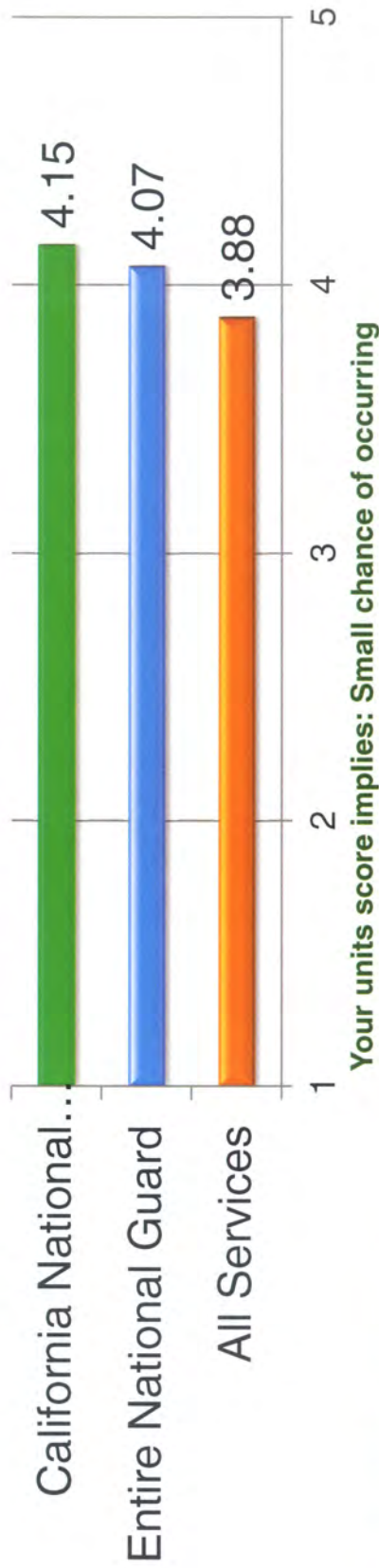




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Racist Behaviors



\* You are here. This denotes the lowest average of the two identified groups and the associated DI

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	* 1	1	2	2	2
3.50 -3.99		1	2	2	2
3.00 -3.49		1	2	2	2
2.50 -2.99		1	2	2	2
2.00 -2.49		1	2	2	2
< 2.00		1	2	2	2
<b>Average</b>					
Minority	4.02				
Majority	4.29				
DI:	0.29				

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	* 1	1	2	2	2
3.50 -3.99		1	2	2	2
3.00 -3.49		1	2	2	2
2.50 -2.99		1	2	2	2
2.00 -2.49		1	2	2	2
< 2.00		1	2	2	2
<b>Average</b>					
Women	4.14				
Men	4.16				
DI:	0.02				

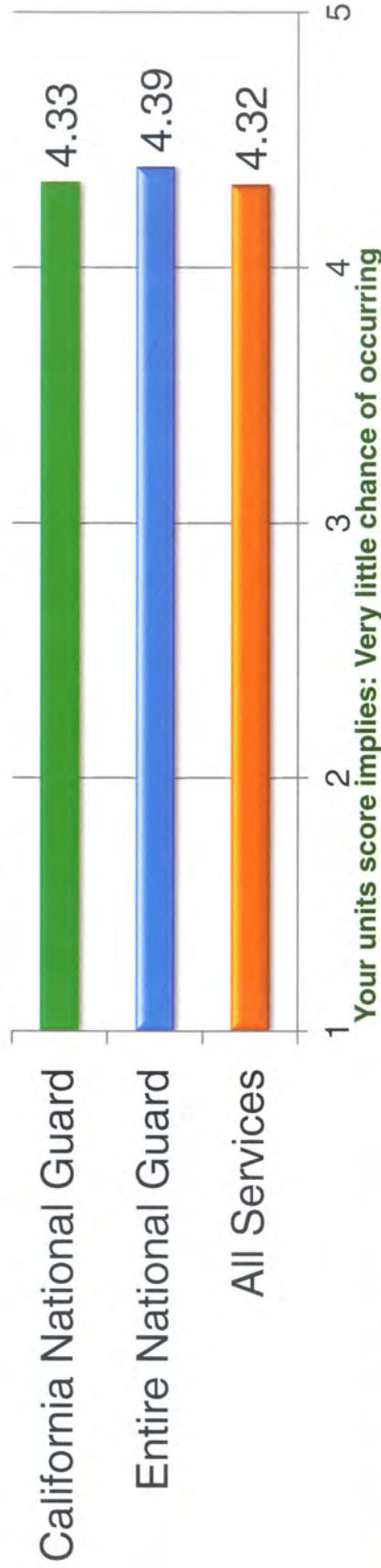




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Age Discrimination



1 Your units score implies: Very little chance of occurring

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 - 5.00	1	1	2	2	2	2
3.50 - 3.99	1	1	2	2	2	2
3.00 - 3.49	1	1	2	2	2	2
2.50 - 2.99	3	3	3	3	3	3
2.00 - 2.49	3	3	3	3	3	3
< 2.00	3	3	3	3	3	3
<b>Average</b>	<b>Minority</b>	<b>Majority</b>	<b>Average</b>			
	4.33	4.36	Women	4.29	Men	4.34
			DI:	0.03	DI:	0.05

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 - 5.00	1	1	2	2	2	2
3.50 - 3.99	1	1	2	2	2	2
3.00 - 3.49	1	1	2	2	2	2
2.50 - 2.99	3	3	3	3	3	3
2.00 - 2.49	3	3	3	3	3	3
< 2.00	3	3	3	3	3	3
<b>Average</b>	<b>Women</b>	<b>Men</b>	<b>Average</b>			
	4.29	4.34	Women	4.29	Men	4.34
			DI:	0.05	DI:	0.03

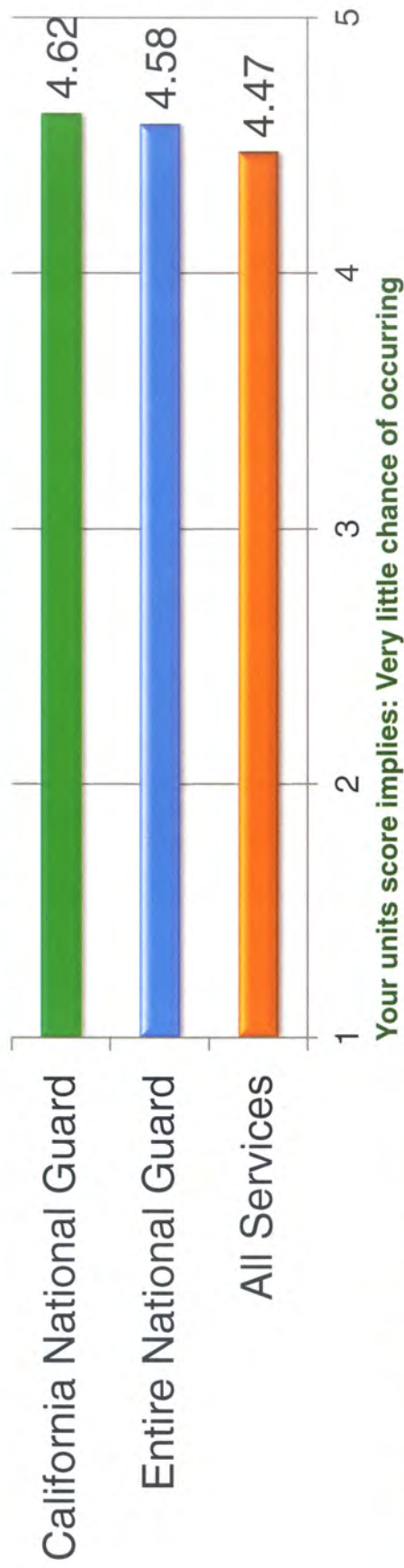




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Religious Discrimination



\* You are here. This denotes the lowest average of the two identified groups and the associated DI

		DISPARITY INDEX					
		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
Average							
4.00 -5.00	1						
3.50 -3.99							
3.00 -3.49							
2.50 -2.99	3						
2.00 -2.49							
< 2.00							

Average 4.59  
 Minority 4.67  
 Majority 0.13  
 DI:

		DISPARITY INDEX					
		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
Average							
4.00 -5.00	2						
3.50 -3.99							
3.00 -3.49							
2.50 -2.99	4						
2.00 -2.49							
< 2.00							

Average 4.62  
 Women 4.62  
 Men 0.01  
 DI:

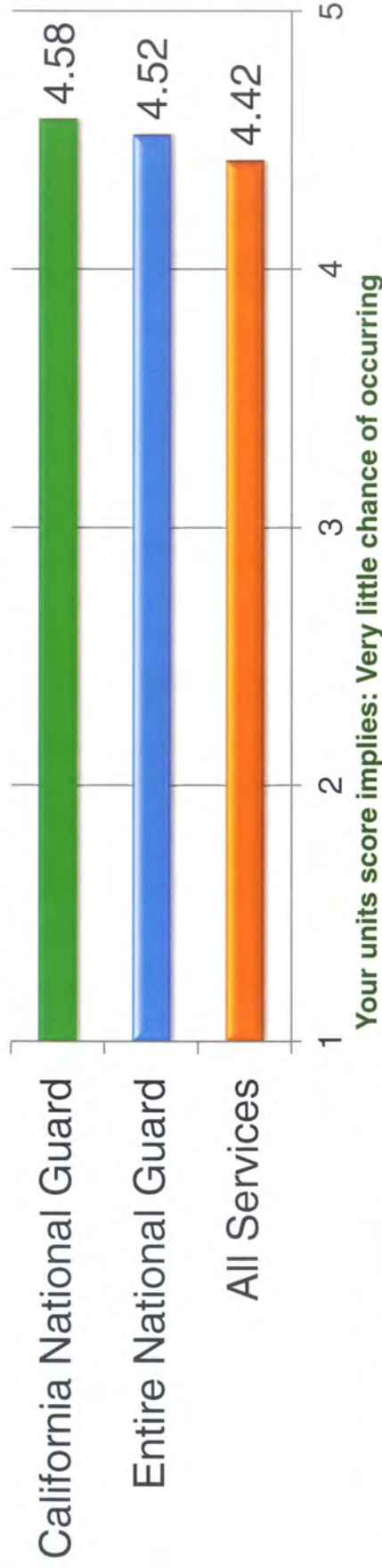




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Disability Discrimination



\* You are here. This denotes the lowest average of the two identified groups and the associated DI

		DISPARITY INDEX				
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1	2	2	2	2	2
3.50 -3.99						
3.00 -3.49						
2.50 -2.99	3					4
2.00 -2.49						
< 2.00						
<b>Average</b>	<b>Minority</b>	<b>Majority</b>	<b>DI:</b>	<b>Average</b>		
	4.57	4.61	0.06	Women	4.52	
				Men	4.59	
				DI:	0.09	

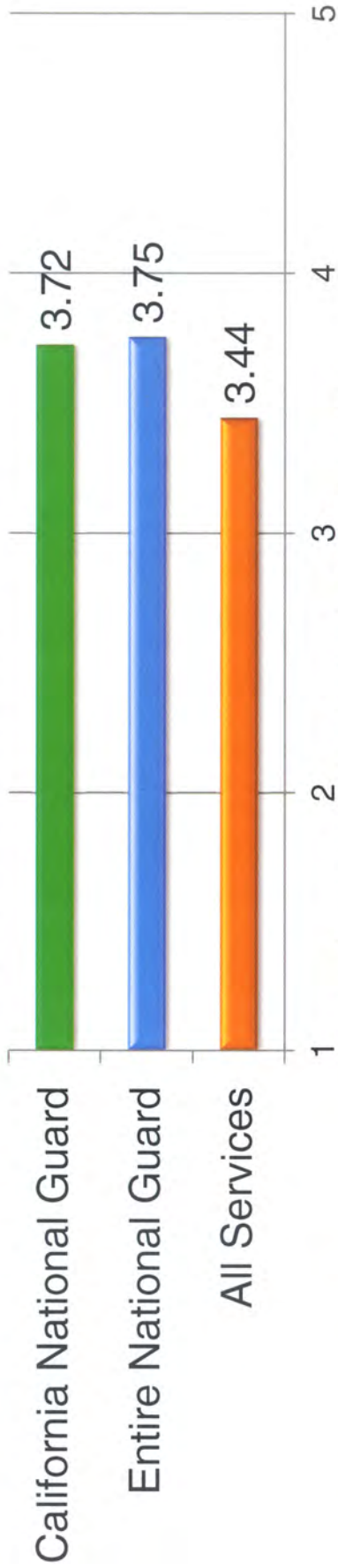




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Organizational Commitment



Your units score implies: Somewhat positive rating

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	1	1	2	2	2
3.50 -3.99	1	1	2	2	2
3.00 -3.49	1	1	2	2	2
2.50 -2.99	3	3	3	3	3
2.00 -2.49	3	3	3	3	3
< 2.00	3	3	3	3	3

Average

Minority 3.72  
Majority 3.75  
DI: 0.03

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	1	1	2	2	2
3.50 -3.99	1	1	2	2	2
3.00 -3.49	1	1	2	2	2
2.50 -2.99	3	3	3	3	3
2.00 -2.49	3	3	3	3	3
< 2.00	3	3	3	3	3

Average

Women 3.65  
Men 3.74  
DI: 0.09

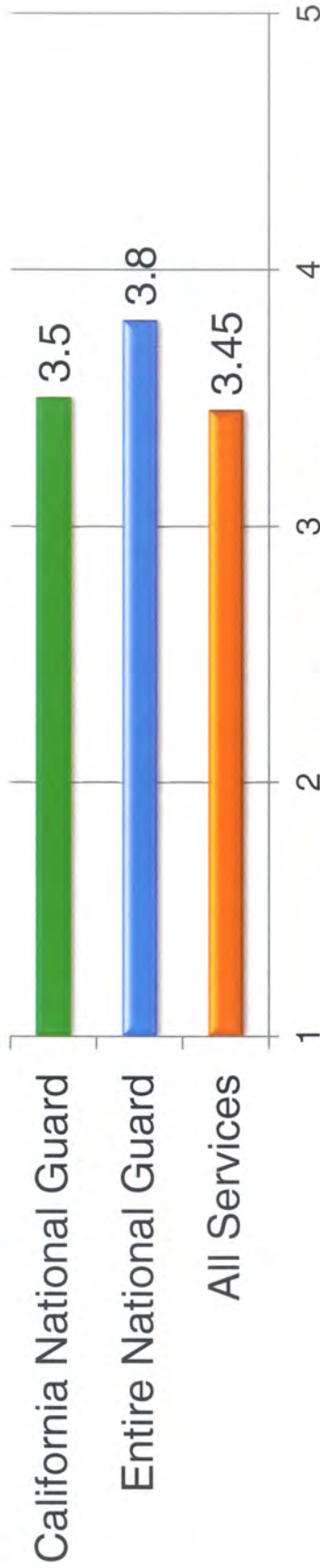




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Trust in the Organization



Your units score implies: Somewhat positive rating

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1		2			
3.50 -3.99	*					
3.00 -3.49						
2.50 -2.99	3					4
2.00 -2.49						
< 2.00						

Average 3.52  
Minority 3.52  
Majority 0.00  
DI:

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1		2			
3.50 -3.99						
3.00 -3.49	*					
2.50 -2.99	3					4
2.00 -2.49						
< 2.00						

Average 3.40  
Women 3.52  
Men 0.12  
DI:

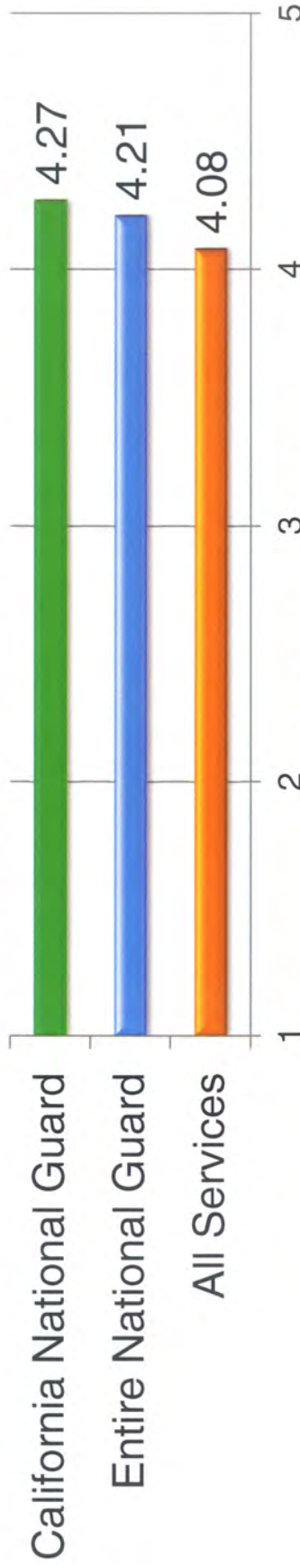




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Work Group Effectiveness



\* You are here. This denotes the lowest average of the two identified groups and the associated DI

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	# 1	2	2	2	>1.22
3.50 -3.99					
3.00 -3.49					
2.50 -2.99	3				4
2.00 -2.49					
< 2.00					

Average 4.26  
Minority 4.28  
Majority 0.02  
DI:

Average	DISPARITY INDEX				
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22
4.00 -5.00	* 1	2	2	2	>1.22
3.50 -3.99					
3.00 -3.49					
2.50 -2.99	3				4
2.00 -2.49					
< 2.00					

Average 4.18  
Women 4.29  
Men 0.13  
DI:



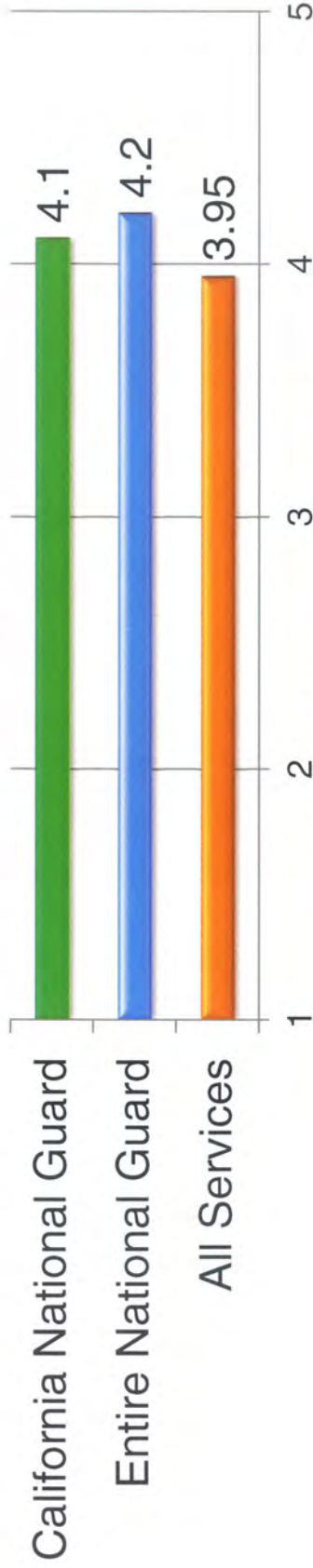




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Work Group Cohesion



Your units score implies: Fairly positive rating

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

		DISPARITY INDEX					
		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
Average							
4.00 -5.00	* 1	Green	Green	Green	Yellow	Orange	Red
3.50 -3.99		Green	Green	Yellow	Orange	Orange	Red
3.00 -3.49		Yellow	Yellow	Orange	Orange	Red	Red
2.50 -2.99	3	Orange	Orange	Orange	Red	Red	Red
2.00 -2.49		Red	Red	Red	Red	Red	Red
< 2.00		Red	Red	Red	Red	Red	Red

Average 4.10  
Minority 4.11  
Majority 0.01  
DI:

		DISPARITY INDEX					
		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
Average							
4.00 -5.00	2	Green	Green	Green	Yellow	Orange	Red
3.50 -3.99		Green	Green	Yellow	Orange	Orange	Red
3.00 -3.49		Yellow	Yellow	Orange	Orange	Red	Red
2.50 -2.99	4	Orange	Orange	Orange	Red	Red	Red
2.00 -2.49		Red	Red	Red	Red	Red	Red
< 2.00		Red	Red	Red	Red	Red	Red

Average 3.97  
Women 4.13  
Men 0.16  
DI:

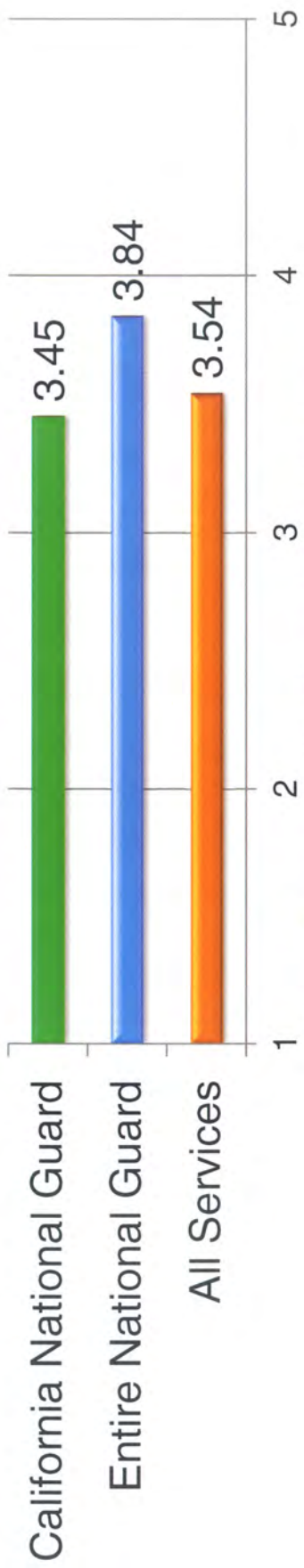




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Leadership Cohesion



Your units score implies: Somewhat positive rating

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

		DISPARITY INDEX				
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1	1	2	2	2	2
3.50 -3.99	1	1	2	2	2	2
3.00 -3.49	*	*	3	3	3	3
2.50 -2.99	3	3	3	3	3	3
2.00 -2.49	3	3	3	3	3	3
< 2.00	3	3	3	3	3	3

Average 3.51  
Minority 3.43  
Majority 0.07  
DI:

		DISPARITY INDEX				
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1	1	2	2	2	2
3.50 -3.99	1	1	2	2	2	2
3.00 -3.49	*	*	3	3	3	3
2.50 -2.99	3	3	3	3	3	3
2.00 -2.49	3	3	3	3	3	3
< 2.00	3	3	3	3	3	3

Average 3.44  
Women 3.46  
Men 0.02  
DI:

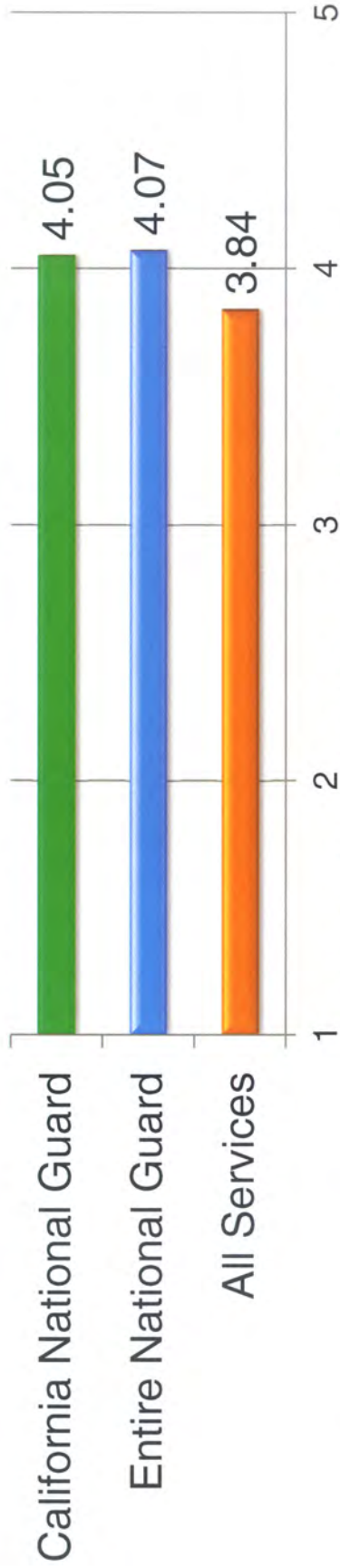




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# Defense Equal Opportunity Institute Organizational Climate Survey

## Job Satisfaction



Your units score implies: Moderately satisfied

\* You are here. This denotes the lowest average of the two identified groups and the associated DI

		DISPARITY INDEX				
Average	4.00-5.00	3.50-3.99	3.00-3.49	2.50-2.99	2.00-2.49	< 2.00
0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22	
* 1		2		4		
3		4				
Average		Minority		Majority		
4.12		4.00		0.16		

		DISPARITY INDEX				
Average	4.00-5.00	3.50-3.99	3.00-3.49	2.50-2.99	2.00-2.49	< 2.00
0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22	
* 1		2		4		
3		4				
Average		Women		Men		
4.00		4.06		0.08		





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# QUESTIONS?



## **Brigadier General Marianne Waston, Director of Manpower and Personnel for the National Guard Bureau – Talking points**

Good afternoon members of the State Senate Rules Committee, I am Brigadier General Marianne Watson, the Director of Manpower and Personnel for the National Guard Bureau in Arlington, Virginia. In that capacity, I am responsible for administration of the National Guard Bureau Equal Employment Opportunity - EEO - and Military Equal Opportunity - MEO - Programs. Although the National Guard in a Title-32 status operates under the State military control and direction of The Adjutant General, my office within the National Guard Bureau is responsible for ensuring that States do not use the federal funding provided for National Guard operations in a discriminatory fashion. In this context, we advise States regarding the formulation of their EEO/MEO programs and periodically assist them in assessing their programs. I would like to thank you for allowing me the opportunity to appear before you today and discuss our efforts to assist the California National Guard in assessing their EEO/MEO programs.

On August 31, 2012, at the request of the California National Guard, the Defense Equal Opportunity Management Institute conducted an Organizational Climate Assessment Survey within the full-time manning of the California National Guard. The Defense Equal Opportunity Management Institute assists organizations in training and program evaluations, to include conducting organizational climate surveys.

An organizational climate assessment survey, is conducted by distributing comprehensive questionnaires to members of organizations with as few as 16 members, and is suitable for military and/or civilian personnel. The survey allows leaders to proactively assess critical organizational climate dimensions that can impact organizational effectiveness. The survey is conducted in questionnaire format and uses the shared perceptions of an organization's members to measure climate factors associated with military equal opportunity and civilian equal employment opportunity issues, and provides an estimate of organizational effectiveness.

In addition, respondents can report whether they personally experienced discrimination or sexual harassment during the past 12 months while at work, indicate the type of discrimination they experienced and state whether they took action following the incident of discrimination or sexual harassment. Finally, respondents can report their level of satisfaction with how the issue of discrimination or sexual harassment was resolved, using a five-point (Very Satisfied to Very Dissatisfied) scale. The assessment provides commanders an accurate snapshot of their unit's climate, allowing them to proactively identify and correct climate issues that might otherwise grow more serious. This enables leaders to avoid what might otherwise become a hurdle to organizational effectiveness.

The National Guard Bureau recently received a courtesy copy of the results of the Climate Report of the Climate Assessment Survey of the Army and Air National Guard full-time personnel conducted on August 31st, 2012. The results are very encouraging.

Over twenty-one hundred full-time members participated in the comprehensive survey. The report contains an overall unit summary which compares the assessment results for the California National Guard to similar assessments conducted for all of the Active Duty Military Services and to those conducted within all other State National Guards. The report reflects that the California National Guard was as good, or better, than all active duty military components or other state national guards in all measured categories. In several important categories, the California National Guard scored significantly higher than their contemporaries.

On November 27, 2012, the California National Guard also requested assistance from the National Guard Bureau in assessing the California National Guard EEO/MEO programs. Specifically, the California National Guard requested a team of NGB EEO/EO experts to:

- Review compliance with regulatory authorities and the role of Alternate Dispute Resolution in the complaints management process;
- Review the role of the Staff Judge Advocate in the Alternate Dispute Resolution and EEO/EO processes; and
- Provide advice and assistance with training management for EEO/EO Programs.

In response to this request, the National Guard Bureau Equal Opportunity Office conducted a Staff Assistance Visit with the California National Guard on the 11th and 12th of December 2012. During this two day visit, three senior NGB EEO/MEO experts from within our Equal Opportunity and Complaints Management and Adjudications Offices, worked closely with personnel from the California National Guard to assist them in assessing California's EEO/EO programs, to include all pending or open complaints.

The Staff Assistance Team separately assisted in the assessment of both the California Army and Air National Guard's EEO/EO programs using long-standing evaluation criteria established by the Departments of the Army and Air Force. These evaluation criteria, in the form of comprehensive checklists, are used in assisting states in assessing their programs nationwide.

Based on the evaluations, the following areas of strengths were identified:

- Strong senior leadership support for the EO/EEO programs
- The presence of an experienced Human Resource Officer, State Equal Employment Manager, and Equal Employment Opportunity Counselor greatly enhanced the programs
- There was excellent tracking of EEO/EO complaints at the state level
- There was excellent senior involvement in EEO/EO complaint management as exhibited by the bi-weekly Adjutant General review of all open complaints.

At the time of the visit, there were a total of 20 EEO/EO complaints being processed by California. Our staff conducted a thorough and comprehensive assessment of each complaint to include a review of the timeliness of the processing within the California National Guard. Our review determined that all complaints were being processed in a timely manner at the state level. The team further identified some recommendations for internal action within the California National Guard that included:

- Follow up visits to each of the four Air Wings and each O6 grade equivalent commands in the state for comprehensive EEO/EO assessments
  
- Continue developing a more effective Alternate Dispute Resolution program;
  
- Expand training opportunities for EEO/EO professionals, including EEO courses and refresher training;
  
- Establish procedures that ensure all complaints filed at the Brigade or Wing level are reported to the State Equal Employment Manager for tracking purposes.

The California National Guard also requested that the National Guard Bureau review a 2011 draft executive summary submitted by CW5 Ronald Petty regarding the California National Guard EEO/EO programs. Although the draft Executive Summary had been previously deemed to be legally insufficient and not appropriate for release under the Freedom of Information Act, the NGB legal staff reviewed the draft document to ascertain whether it contained any issue that was not otherwise being addressed through appropriate EEO/EO adjudicative processes or other litigation. This review was completed on December 14, 2012. The review was promptly provided to the California National Guard for their consideration and resolution.

Since the December 2012 visit, NGB-EO has supported several training efforts within the California National Guard in an effort to address the areas of emphasis identified within MG Baldwin's request for assistance from November 27th.

In early January, 2013, the Office of the Chief Counsel, National Guard Bureau conducted over four hours of legal training for California National Guard Judge



Advocates on a wide of variety of legal topics pertaining to the processing of National Guard EEO/EO complaints. For example, California National Guard Judge Advocates received instruction on state-federal authorities pertaining to the California National Guard EEO/EO programs; compliance with regulatory authorities and the role of Alternate Dispute Resolution in the complaints management process; the role of the Staff Judge Advocate in the Alternate Dispute Resolution and EEO/EO processes; and recent developments in EEO/EO processing case law pertaining to the National Guard, among other topics. In addition, senior National Guard Bureau representatives from our Complaints Management and Adjudication Division and our Office of the Chief Counsel conducted over eight hours of intensive training for a large gathering of senior commanders and leaders within the California Army and Air National Guards over a two-day period in mid-January. The subjects included, but were not limited to, the proper processing of civilian and military complaints within the California National Guard; the roles of the commanders, the Adjutant General, and EO representatives within the EEO/EO processes. They also provided instruction regarding the importance of timeliness in the processing of complaints, the importance of command emphasis on the EEO/EO climate, and the proper duties and responsibilities of the State Equal Employment Manager in advising the senior leadership. Additionally, senior representatives from our Complaints Management and Adjudication Division met separately with the California National Guard EEO/EO representatives and Human Resource Officer to conduct an additional four hours of training on the proper processing of National Guard EEO/EO complaints.

In conclusion, it is my assessment that the California National Guard's EEO/EO programs are in compliance with regulatory authorities and that complaints are being properly and timely processed. Our assessment is buttressed by the recently released Defense Equal Opportunity Management Institute report on the Command Climate Assessment within the California National Guard. I respectfully thank you for the opportunity to provide this statement.



MILITARY DEPARTMENT  
OFFICE OF THE ADJUTANT GENERAL  
9800 Goethe Road - P.O. Box 269101  
Sacramento, California 95826-9101



December 31, 2012

Honorable Darrell Steinberg  
President Pro Tempore of the Senate  
California State Senate  
Capitol Building, Room 205  
Sacramento, California 95814

Dear Senator Steinberg:

In accordance with *Provision 5 of Item 8940-001-0001 of the Budget Act of 2012*, this letter and the enclosure serve as the Military Department's report to the Legislature regarding the status and review of all existing State Active Duty (SAD) positions that may be converted to State Civil Service (SCS) positions when they become vacant.


As of December 1 of this year, the Military Department was authorized a total of 535.7 SAD positions. To date, the Department has reviewed approximately 47% of all SAD positions, or 253, to determine their appropriate classification. Of those reviewed, 13 have been converted and filled as SCS, 32 are currently in the process of being converted, and 10 positions have been identified for possible future conversion to SCS once they become vacant.

The Department's SAD Review Panel will meet each month to review the remaining SAD positions, with all position reviews scheduled to be completed by July 1, 2013.

The enclosed attachment displays the SAD positions reviewed to date, those converted to SCS thus far, and those positions identified for conversion to SCS when they become vacant.

If you have any questions regarding this report, please do not hesitate to contact Lieutenant Colonel (CA) Darrin Bender, Chief of the State Policy and Liaison Office at (916) 854-3705.

Sincerely,

  
David S. Baldwin  
Major General  
The Adjutant General

Encl

MILITARY DEPARTMENT  
OFFICE OF THE ADJUTANT GENERAL  
9800 Goethe Road - P.O. Box 269101  
Sacramento, California 95826-9101



December 31, 2012

Honorable John A. Perez  
Speaker of the California State Assembly  
Capitol Building, Room 219  
Sacramento, California 95814

Dear Mr. Speaker:

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Sincerely,

A handwritten signature in black ink, appearing to read "David S. Baldwin".

David S. Baldwin  
Major General  
The Adjutant General

Encl

**SAD Position Review**  
as of December 2012

Position	Grade	Decision	SCS Class	Like Positions	Notes
Environmental Compliance Specialist	E7	Retain as SAD		2	
Deputy Director Joint Plans and Training 5/7	O5	Retain as SAD		1	
Military Project Inspector	E6	Retain as SAD		1	
Battle Captain	O3	Retain as SAD		4	
Executive Officer, Youth and Community Programs	O5	Retain as SAD		1	
Joint Staff Administrative Officer	W3	Retain as SAD		1	
Maintenance Chief	E7	Retain as SAD		1	
Senior Telecomm Specialist	W3	Retain as SAD		1	
E-SAD Pay Non-Commissioned Officer in Charge (NCOIC)	E7	Retain as SAD		1	
Aircraft Technical Inspector	E7	Retain as SAD		1	
Military Department Inspector General NCOIC	E6	Retain as SAD		1	
Youth Programs Platoon Sergeant	E6	Retain as SAD		7	
Youth Programs Squad Leader	E5	Retain as SAD		44	
Youth Programs Counselor	W2	Retain as SAD		2	
Chief-Planning, Programming and Construction (Facilities)	O5	Retain as SAD		1	
Firefighter	E5	Retain as SAD*		4	See Note 1.
Military Security Guard	E5	Retain as SAD		11	
Force Protection Specialist	E5	Retain as SAD		12	
Operations NCOIC	E7	Retain as SAD		4	
Emergency Pay Officer in Charge (OIC)	O2	Retain as SAD		1	
Logistics Officer	O4	Retain as SAD		1	
Engineer/Firefighter	E6	Retain as SAD*		6	See Note 1.
Firefighter	E5	Retain as SAD*		7	See Note 1.
Training Site Property Specialist	E6	Retain as SAD		2	
Physical Security Manager	O3	Retain as SAD		1	
Military Security Guard	E5	Retain as SAD		15	
Chief, Department of Public Works	O4	Retain as SAD		3	
Security Guard	E6	Retain as SAD		9	
Training Site Coordinator	O5	Retain as SAD		1	
Military Project Manager	O3	Retain as SAD		1	

Position	Grade	Decision	SCS Class	Like Positions	Notes
Inspector General	O6	Retain as SAD		1	
Director Sunburst Academy	O5	Retain as SAD		2	
Assistant Team Leader	E5	Retain as SAD		6	
Army Chief of Staff	O6	Retain as SAD		1	
Support Specialist-Oakland Military Institute	E4	Retain as SAD		2	
Military Security Guard	E4	Retain as SAD		34	
Emergency Pay NCO	E5	Retain as SAD		1	
Recruiter/Mentor	E5	Retain as SAD		4	
Position Control NCO	E7	Convert	AGPA	1	Converted
Chief Human Resources Officer	W4	Convert	SSM II	1	Converted
Fiscal NCO	E7	Convert	ABA	2	Converted
Administrative NCO	E5	Convert	Exec Secretary	5	Converted
Comptroller	O6	Convert	SSM III	1	Converted
Personnel NCO	E6	Convert	AGPA	1	Converted
Administrative NCO	E7	Convert	Exec Sec	1	Converted
Equal Opportunity Officer	O4	Convert	SSM II	1	Converted
Real Property Technician	E5	Convert	TBD	1	
Security Forces Administration NCOIC	E6	Convert	TBD	1	
Lead Instructor	E6	Convert	Mil Instructor	3	
Military Instructor	E5	Convert	Mil Instructor	3	
Admin/Resource Management Assistant	E4	Convert	SSA	1	
Administrative NCO	E5	Convert	Exec Sec	1	
Operations NCOIC	E9	Convert	TBD - CalEMA	1	See Note 2.
Exercise Planner Continuity of Operations	O4	Convert	TBD - CalEMA	1	See Note 2.
Exercise Planner Cyber	O4	Convert	TBD - CalEMA	1	See Note 2.
Exercise Planner	E7	Convert	TBD - CalEMA	1	See Note 2.
Exercise Planner Legal	O2	Convert	TBD - CalEMA	1	See Note 2.
Training-System Integration NCO	E9	Convert	TBD - CalEMA	1	See Note 2.
Senior Training NCO	E9	Convert	TBD - CalEMA	1	See Note 2.
Resource Management Analyst	E8	Convert	TBD - CalEMA	1	See Note 2.
Senior Training NCO	E8	Convert	TBD - CalEMA	1	See Note 2.
Resource Management NCO	E8	Convert	TBD - CalEMA	1	See Note 2.
Outreach Coordinator	E8	Convert	TBD - CalEMA	1	See Note 2.

Position	Grade	Decision	SCS Class	Like Positions	Notes
Senior Training and Exercise Coordinator	E8	Convert	TBD - CalEMA	1	See Note 2.
Training Coordinator	E7	Convert	TBD - CalEMA	1	See Note 2.
Logistics NCO	E7	Convert	TBD - CalEMA	1	See Note 2.
Training and Exercise Coordinator	E7	Convert	TBD - CalEMA	1	See Note 2.
Information Tech NCO	E7	Convert	TBD - CalEMA	1	See Note 2.
Assistant Information Tech NCO	E6	Convert	TBD - CalEMA	1	See Note 2.
Administrative NCO	E6	Convert	TBD - CalEMA	1	See Note 2.
Training Coordinator	E7	Convert	TBD - CalEMA	1	See Note 2.
HLS Exercise Coordinator	O5	Convert	TBD - CalEMA	1	See Note 2.
Senior Exercise Planner	O4	Convert	TBD - CalEMA	1	See Note 2.
Assistant Exercise Planner	O3	Convert	TBD - CalEMA	1	See Note 2.
Training and Exercise Coordinator	E7	Convert	TBD - CalEMA	1	See Note 2.
Administrative NCO	E6	Convert	TBD - CalEMA	2	See Note 2.
Senior Exercise Planner	O4	Convert	TBD - CalEMA	3	See Note 2.
Senior Procurement NCOIC	E8	Convert	TBD - CalEMA	2	See Note 2.
Procurement NCO	E7	Convert	TBD - CalEMA	1	See Note 2.
Assist Procurement NCO	E6	Convert	TBD - CalEMA	1	See Note 2.
<b>Total Positions Reviewed</b>				<b>253</b>	
<b>Total Positions Converted</b>				<b>13</b>	
<b>Total Positions Identified for Future Conversion</b>				<b>42</b>	

**Notes:**

- The Military Department is currently studying the potential conversion of the Joint Forces Training Base-Los Alamitos Fire Department from SAD to SCS. This would affect an additional 17 positions.
- The California Office of Emergency Management (CalEMA) proposes to convert these 32 positions from SAD to SCS.





## Senate Bill No. 921

### CHAPTER 731

An act to add Sections 55, 56, and 57 to the Military and Veterans Code, relating to the Military Department, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2012. Filed with  
Secretary of State September 28, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 921, Lieu. Military Department: Office of the Inspector General: California Military Whistleblower Protection Act.

Existing law establishes in state government the Military Department, which includes the office of the Adjutant General, the State Military Reserve, the California Cadet Corps, and the Naval Militia. There is also, within the Military Department, the inspector general, an office that inspects, audits, investigates, trains, and performs various duties necessary to support the mission of the Military Department.

This bill would establish specified requirements for the position of California's inspector general, including, among others, a requirement that the Governor appoint the inspector general. This bill would specify the duties of the California Military Department Inspector General, and would require the inspector general to continue to maintain a toll-free public telephone number and Internet Web site to receive complaints and allegations. This bill would authorize the inspector general to investigate specified complaints and allegations of misconduct upon written request of specified persons, and would provide that those requests are not a public record under the California Public Records Act.

This bill would establish the California Military Whistleblower Protection Act, which would prohibit a person from restricting a member of the Military Department from making specified communications to a Member of Congress, the Governor, a Member of the Legislature, or any state or federal inspector general, or from taking, or threatening to take, unfavorable personnel actions, or withholding, or threatening to withhold, favorable personnel actions, as a reprisal against a member of the Military Department for making specified communications. This bill would require the California Military Department Inspector General to take specified actions if a member of the Military Department makes allegations that a prohibited personnel action has been taken, or has been threatened to be taken, as provided.

This bill would require the Military Department to provide one training per year to the department's civil service employees regarding the role and responsibility of the California Military Department Inspector General and their rights under the California Whistleblower Protection Act, the California

Military Whistleblower Protection Act, and any other relevant state or federal law.

The California Constitution requires that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The Governor is the commander and chief of the state militia.

(b) The Military Department includes the office of the Adjutant General, the California National Guard, the State Military Reserve, the California Cadet Corps, and the Naval Militia.

(c) Within the Military Department, there currently exists an inspector general, who inspects, audits, investigates, trains, and performs various duties necessary to support command functions and the mission of the department.

(d) The California Military Department Inspector General and the California Military Whistleblower Protection Act are intended to mirror federal law and regulations that govern federal inspector generals, specifically the federal Inspector General Act of 1978 and the federal Military Whistleblower Protection Act. Members of the Military Department should be free to communicate and report waste, fraud, abuse of authority, violations of law, or threats to the public health and safety without fear of retribution.

(e) Public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.

SEC. 2. Section 55 is added to the Military and Veterans Code, to read:

55. (a) A person serving in the position of inspector general shall satisfy all of the following requirements:

(1) Be appointed by the Governor, with consideration of the recommendation of the Adjutant General and notification to the Senate Committee on Rules, and shall serve a four-year term from the effective date of appointment. The inspector general may not be removed from office during that term, except for good cause. An inspector general may not serve more than two consecutive terms.

(2) Meet the same qualifications established in this code for the Assistant Adjutant General.

(3) Be subordinate to the Adjutant General and serve on state active duty at the grade of O-6 or higher.

(b) (1) The inspector general may not serve as the Adjutant General or the Assistant Adjutant General for four years from the date of leaving the position of inspector general.

(2) A commissioned officer on state active duty appointed to the position of inspector general who, immediately prior to that duty, held a permanent state active duty position shall remain on state active duty upon vacating the inspector general position.

(c) The department shall, from the amount annually appropriated to it for purposes of this office, continue to fund the position of inspector general.

(d) The inspector general shall have access to all employees and documents of the department.

(e) The inspector general may receive communications from any person, including, but not limited to, any member of the department.

(f) The inspector general shall, at a minimum, continue to perform the functions of inspections, assistance, investigations, and teaching and training. The functions of the inspector general shall be performed in accordance with applicable service laws, rules, and regulations governing federal inspectors general.

(g) The inspector general shall continue to maintain a toll-free public telephone number and an Internet Web site to receive complaints and allegations, including, but not limited to, those described in subdivision (h) or the California Military Whistleblower Protection Act. The inspector general shall continue to post the telephone number and Internet Web site in clear view at every California National Guard armory, flight facility, airfield, or installation.

(h) (1) At the discretion of the inspector general or the Adjutant General, or upon a written request by the Governor, a Member of the Legislature, any member of the department, or any member of the public, the inspector general may investigate any complaint or allegation regarding the following:

(A) A violation of law, including, but not limited to, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.

(2) (A) For all written requests submitted by a Member of the Legislature, the inspector general shall respond in writing with his or her findings. The response shall contain only that information that may be lawfully disclosed, and, if a complaint or allegation is at issue, the response shall contain, at a minimum, information regarding whether the complaint or allegation was unfounded or sustained.

(B) If the inspector general conducts an investigation at the request of a Member of the Legislature, the inspector general shall submit to that member a report of his or her findings of that investigation. The report shall contain only information that may be lawfully disclosed, and shall contain, at a minimum, information regarding whether the complaint or allegations were unfounded or sustained.

(3) (A) A request described in paragraph (1) is not a public record and is not subject to disclosure under the California Public Records Act set forth in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(B) The inspector general shall not disclose to any person or entity the identity of a person making a written request or an allegation or complaint described in paragraph (1), unless the person making the request, allegation, or complaint has consented to the disclosure in writing.

(4) (A) When deemed appropriate by the inspector general, the inspector general may refer to the Chief of the National Guard Bureau any complaints or allegations described in paragraph (1), any violations of the Uniform Code of Military Justice, or any violations of any other state or federal law.

(B) When deemed appropriate by the inspector general, the inspector general may refer to the State Auditor any complaints or allegations described in subparagraph (B) of paragraph (1) or any violation of state or federal law.

(i) If the inspector general receives, or becomes aware of, an allegation, complaint, or misconduct regarding the Adjutant General or the Assistant Adjutant General, the inspector general shall immediately refer the matter to the Chief of the National Guard Bureau and the Governor for review. The inspector general, by order of the Governor, shall conduct an investigation regarding the allegations concerning the Adjutant General or the Assistant Adjutant General concurrently with any federal investigation where appropriate. The inspector general shall report the findings to the Governor under this subdivision.

(j) (1) (A) The inspector general shall, on or before July 1, 2013, and on or before July 1 each year thereafter, submit a report to the Governor, the Legislature, the Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans Affairs. The report shall include, but not be limited to, a description of significant problems discovered by the office and a summary of investigations conducted by the office during the previous year. Upon submitting the report to the Governor, the Legislature, the Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans Affairs the report shall be made available to the public and posted on the office's Internet Web site.

(B) A report to be submitted pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Upon the completion of an investigation conducted by the inspector general pursuant to paragraph (1) of subdivision (h) or Section 56, he or she shall also prepare and issue on a quarterly basis a public report that includes all investigations completed in the previous quarter. The inspector general shall submit a copy of the quarterly report to the Legislature, the Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans Affairs. The inspector general shall have the discretion to redact or otherwise protect the names of individuals, specific locations, or other facts that, if not redacted, might hinder prosecution under state or federal law or the Uniform Code of Military Justice related to the investigation, or

where disclosure of the information is otherwise prohibited by law, and to decline to produce any of the underlying materials. In a case where allegations were deemed to be unfounded, all applicable identifying information shall be redacted. Each quarterly report shall be made available to the public and posted on the office's Internet Web site.

(k) For purposes of this section, all of the following shall apply:

(1) "Department" means the Military Department.

(2) "Inspector general" means the California Military Department Inspector General.

(3) "Member of the department" means the Adjutant General, any person under the command of the Adjutant General, any person employed by the department, including, but not limited to, any service member or employee of the office of the Adjutant General, the California National Guard, the State Military Reserve, the California Cadet Corps, or the Naval Militia, any person on state active duty, any person with a state commission, or any civil service or part-time employee of the department.

(4) "Office" means the Office of the California Military Department Inspector General.

SEC. 3. Section 56 is added to the Military and Veterans Code, to read:

56. (a) This section shall be known, and may be cited, as the "California Military Whistleblower Protection Act."

(b) Notwithstanding any other law, a person shall not do any of the following:

(1) (A) Restrict a member of the department from communicating with a Member of Congress, the Governor, a Member of the Legislature, or any state or federal inspector general.

(B) Subparagraph (A) shall not apply to a communication that is unlawful.

(2) Take, or threaten to take, an unfavorable personnel action, or withhold, or threaten to withhold, a favorable personnel action, as a reprisal against a member of the department for making a communication to any person, including, but not limited to, any of the following:

(A) A Member of Congress.

(B) The Governor.

(C) A Member of the Legislature.

(D) The inspector general.

(E) The State Auditor.

(F) A federal inspector general or any other inspector general appointed under the Inspector General Act of 1978.

(G) Any member of a Department of Defense audit, inspection, investigation, or law enforcement organization.

(H) Any local, state, or federal law enforcement agency.

(I) Any person or organization in the chain of command of the department.

(J) Any other person or organization designated pursuant to regulation or any other established administrative procedures for such communications.

(c) Notwithstanding any other law, if a member of the department submits to an inspector general an allegation that a personnel action prohibited by

paragraph (2) of subdivision (b) has been taken or has been threatened to be taken against the member of the department, the inspector general shall take action as provided by subdivision (d).

(d) An inspector general receiving an allegation pursuant to subdivision (c) shall do all of the following:

(1) Expeditiously determine whether there is sufficient evidence, in accordance with federal regulations governing federal inspectors general, to warrant an investigation of the allegation.

(2) Conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing under both of the following circumstances:

(A) There has not been a previous investigation.

(B) There has been a previous investigation but the inspector general determines that the previous investigation was biased or otherwise inadequate.

(3) Upon determining that an investigation of an allegation is warranted, expeditiously investigate the allegation.

(e) If the inspector general is not outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken a personnel action prohibited by paragraph (2) of subdivision (b), the inspector general shall refer the allegation to the Chief of the National Guard Bureau and the Governor.

(f) (1) After completion of an investigation the inspector general shall submit a report on the results of the investigation to the Adjutant General and a copy of the report on the results of the investigation to the member of the department who made the allegation. The report shall be transmitted to the Adjutant General, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation.

(2) The report on the results of the investigation transmitted to the Adjutant General shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(3) Except for that information that is not required to be disclosed under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, in the copy of the report transmitted to the member of the department the inspector general shall ensure the maximum disclosure of information that may be lawfully disclosed. The copy of the report need not, however, include summaries of interviews conducted, or any document acquired, during the course of the investigation. These items shall be transmitted to the member of the department, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.

(4) If, in the course of an investigation of an allegation under this section, the inspector general determines that it is not possible to submit the report required by this subdivision within 180 days after the date of receipt of the allegation being investigated, the inspector general shall provide to the Adjutant General and to the member making the allegation a notice of all of the following:

(A) The reasons why the report may not be submitted within that time.

(B) When the report will be submitted.

(g) Nothing in this article is intended to supersede the rights, benefits, processes, and procedures already afforded to members of the department under existing law.

(h) For purposes of this section, all of the following shall apply:

(1) A "communication" means any communication or report in which a member of the department complains of, or discloses information that the member of the department reasonably believes constitutes evidence of, any of the following:

(A) A violation of law, including, but not limited to, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.

(2) "Department" means the Military Department.

(3) "Inspector general" means the California Military Department Inspector General.

(4) "Member of the department" has the same meaning as defined in Section 55.

(5) "Office" means the Office of the California Military Department Inspector General.

SEC. 4. Section 57 is added to the Military and Veterans Code, to read:

57. The Military Department shall provide, at a minimum, one training per year to the department's civil service employees regarding the role and responsibility of the California Military Department Inspector General and their rights under the California Military Whistleblower Protection Act, the federal Military Whistleblower Protection Act, and any other relevant state or federal law.

SEC. 5. The Legislature finds and declares that Section 2 of this act, which adds Section 55 to the Military and Veterans Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the confidentiality of those persons making complaints or allegations, as authorized by this act, from any form of retaliation for having made the complaint or allegation, it is in the state's interest to limit public access to information.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that Military Department personnel who are employed in state active duty, and thus are not under federal military oversight, as well as those subject to the control of these personnel, receive due process in the consideration of complaints and appeals of disciplinary actions, it is necessary for this act to take effect immediately.

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## **SB 921**

# **National Guard Inspector General**

### **Summary**

SB 921 would establish the California Military Department Inspector General and the California Military Whistleblower Protection Act.

### **Background**

The California Military Department is a unique state agency whose personnel may fall under both federal oversight, applied by various statutes and federal military regulations, as well as state laws and regulations under the Military and Veterans Code, depending on their current status.

One such status is 'state active duty.' The state active duty (SAD) force is at all times a state government entity operating under the control of the governor, as commander in chief, and the Adjutant General (TAG), who serves in a dual capacity as the director of the department and commander of all state military forces. A member of the department falls under the sole jurisdiction of the governor and the TAG when they are on SAD. Under California's constitution, SAD members are exempt from civil service. The department also employs many civil service personnel who report to SAD supervisors.

SAD status is different in several aspects from other service statuses. For example, one important command system in the military is the Inspector General (IG). Key functions for an IG include inspections, assistance, investigations, teaching and training as well as the implementation of the federal IG and whistleblower protections acts. The federal IG system is required by federal law to receive and

investigate complaints of fraud, waste and abuse, and provides investigation into complaints of whistleblower retaliation. However, the Federal Inspector General Act of 1978 and the Federal Military Whistleblower Protection Act don't automatically apply to SAD personnel.

Military and Veterans Code Sections 100 and 101 incorporate all acts and regulations of the United States and its Congress, including the federal IG and whistleblower protections acts, as long as the laws and regulations are not inconsistent with California's goals and constitutional rights as a state. These sections give great trust and leeway to the Adjutant General, including which federal laws apply and when.

Unfortunately, records show past department leaders have abused their power. Many of the egregious violations uncovered by both the Legislature and media reports were due to the inability of the department to exercise appropriate oversight. Complaints have also surfaced about the lack of internal controls and retaliation against whistleblowers. Until 2006, California didn't even have an IG for their SAD system.

Additionally, complaints regarding misconduct by senior officials within the department, including the TAG, are referred to the department itself, creating an inherent conflict of interest.

## **Why SB 921 Is Needed**

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Senate Bill 921 would restore confidence in the state's IG system by granting SAD personnel all the protections afforded by federal law. This bill would ensure that SAD personnel are safe to communicate and report waste, fraud, abuse of authority, violations of law or threats to the public health and safety without fear of retaliation. SB 921 also provides important protections to civil service employees at the department who report to SAD personnel by making retaliation by SAD members explicitly illegal.

In addition, SB 921 gives the state IG position further independence by requiring that the position be appointed by the Governor.

The state IG position is modeled after and mirrors the responsibilities of the federal IG.

### **Specifically, SB 921:**

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- Requires the Governor appoint the California Military Department Inspector General.
- Establishes minimum eligibility requirements, including that the inspector general serve on SAD at the grade of O-6, or Colonel, and have the same minimum qualifications for service as the Assistant Adjutant General (ATAG).
- Provides statutory authority to investigate complaints or allegations of the following:
  - A violation of law, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.
  - Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.
- Requires referral of complaints or allegations to the National Guard Bureau concerning the TAG and the ATAG.

- Creates the California Military Whistleblower Protection Act into the Military and Veterans Code.

### **For More Information**

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MILITARY DEPARTMENT  
OFFICE OF THE ADJUTANT GENERAL  
9800 Goethe Road - P.O. Box 269101  
Sacramento, California 95826-9101



January 8, 2013

Office of the Military Department Inspector General

Honorable Darrell Steinberg, President pro Tempore of the Senate

Honorable John A. Pérez, Speaker of the Assembly

Honorable Lou Correa, Chair, Senate Veterans Affairs Committee

Honorable Al Muratsuchi, Chair, Assembly Veterans Affairs Committee

Dear Gentlemen:

Pursuant to Senate Bill 921, Chapter 731 of the Statutes of 2012, this letter serves as the Military Department Inspector General's quarterly report regarding investigations completed by the Inspector General's office.

This reporting quarter, October 1, 2012 through December 31, 2012, the Military Department Inspector General did not complete any investigations. The Military Department Inspector General did complete six assistance cases, finalized one inspection and conducted six unit visits.

The Military Department Inspector General's office has two open assistance cases, one open investigation and one inspection expected to be completed in the next quarter.

Please direct any questions or comments concerning this quarterly report to the Military Department Inspector General at (916) 854-4205.

Sincerely,

A handwritten signature in black ink, appearing to read "David Kauffman".

David Kauffman  
Lieutenant Colonel  
Military Department Inspector General



## **Background: California Military Department**

The California Military Department (CMD or Department) is a state department located within the executive branch. The Department is comprised of several components and contains an eclectic mix of personnel. The mix includes both paid employees and volunteers, both uniformed military and civilian workers, both full-time and part-time, and both federal and state.

The entire Department is led by The Adjutant General (TAG). The TAG is “dual-hatted,” which means that he simultaneously lives in, operates under the authority of, and is responsible to two parallel, but interconnected worlds –the federal and state governments. Appointed by the Governor and confirmed by the California State Senate, the TAG also must meet the approval of the United States Congress and Department of Defense. The TAG administers all the federal and state organizational components and personnel categories within the CMD. The individual serving as TAG must be a federally recognized senior commissioned officer and is usually drawn from the ranks of the state’s Army National Guard or Air National Guard. Typically, the TAG is promoted to the rank of Major General. Directly assisting the TAG in running the Department is a Joint Staff of senior grade personnel.

Major General David S. Baldwin has served as California’s TAG since his appointment in April 2011.

### California National Guard

The CMD’s 24,000-person roster is dominated by its largest component, the California National Guard (CalGuard). The CalGuard is the largest of the 54 “state-level” National Guards located in U.S. states and territories.

The CalGuard is split into two components, the larger Army National Guard (ARNG) and the Air National Guard (ANG). Each of these is commanded by a federally recognized Guard general officer from the appropriate branch of service.

The ARNG is an official component of the United States Army. The ARNG joins with its "sister" reserve component, the purely federal United States Army Reserve (USAR), and the full-time Active Component to form the total United States Army.

Similarly, the ANG joins with its sister reserve component, the purely United States Air Force Reserve (USAFR) and the branch's Active Component to form the total United States Air Force.

(Note: The National Guard system does not contain sister elements associated with the other branches of the national armed forces – the United States Navy, United States Marine Corps, or United States Coast Guard. Those military branches have only one reserve component each and all are purely federal. These reserve components have no affiliations with any state governments.)

#### Federally-Funded Personnel

The CalGuard (ARNG and ANG combined) is comprised of about 22,000 Army and Air Force uniformed military personnel.

More than 95 percent of these federally recognized CalGuard soldiers and airmen are the traditional part-time citizen-soldiers. Typically, these individuals work at full-time civilian careers although some are college students. They drill with their Guard units at least one weekend per month and perform a minimum of two weeks (but often longer) on active duty status in annual training. When necessary, the federal government mobilizes them onto operational active duty tours (including combat), integrating them into the federal military force within their branch of service. In addition, the Governor may mobilize them onto state active duty status, such as battling wildfires or engaging other public safety support operations.

The remaining tiny slice of uniformed CalGuard troops work full-time as Guard members. They constitute a cadre that provides dedicated administrative and training support of the part-time force. Both full-time and part-time uniformed Guard members are federally trained and paid.

The CalGuard's administrative and training support cadre also includes a modest number of full-time, federally paid, non-uniformed civilian technicians. Some have dual status, laboring in civilian status during the standard work week, but also serving as a part-time uniformed Guard troop with the same military unit on drill weekends and for federal mobilization purposes. Other administrative technicians are not dual status and work only as civilians. They have no additional uniformed military association with the Guard.

### State-Funded Personnel

In addition to the personnel provided by the federal government, the CMD contains approximately 750 personnel funded by California state taxpayers.

About 500 of these are full-time uniformed personnel serving full-time on state active duty (SAD). These SAD positions are not federally recognized and place the employee at no risk of being mobilized federally as part of the national defense force. (However, existing state law provides that, in order to be eligible for "mobilization" by the state into a full-time SAD job, a person must fit one of the following profiles, which cross-link different CMD components:

- A current member of the California National Guard; or
- Retired or otherwise honorably separated from federal active military or California National Guard service with current membership in the State Military Reserve; or
- A current member of the State Military Reserve (SMR) volunteer component with a minimum of two years of service.

*[The primary rationale for SAD employment requiring active membership in either the CalGuard or the SMR is that both the Guard and SMR components fall under the "active state militia" defined in California statutes. Since members of the active militia may be called onto state active duty by the Governor, active membership in one or the other places the SAD applicant in the position of being eligible for "call up" into the SAD full-time job.]*

In addition to the uniformed SAD personnel, about 250 non-uniformed state civil servants provide administrative support to the CMD.

### State Military Reserve

Finally, the CMD includes the State Military Reserve (SMR), a purely volunteer component with approximately 1,000 active members.

### **Recent Controversies**

#### Whistleblowers, Investigations and News Stories

In October 2010 the *Sacramento Bee* launched a series of investigative stories on corruption in the CMD, especially in the Army and Air Guard elements.

The *Bee* articles reported that several whistleblowers affiliated with the California ARNG had alleged that recruiting and retention incentive programs, primarily in the form of cash bonuses and student loan repayments, were being improperly awarded in inappropriate amounts and/or to ineligible soldiers. The allegations suggested that as much as \$100 million had been wasted, perhaps



fraudulently, over the preceding decade. All moneys involved were federal taxpayer funds.

Various federal agencies, including the U.S. Department of Justice, Federal Bureau of Investigation, Internal Revenue Service, and U.S. Army Criminal Investigation Command conducted investigations, which have led to the conviction of at least one individual and the military discipline of several others.

In addition, several senior personnel in the California ANG's 144<sup>th</sup> Fighter Wing, which is based in Fresno, were replaced or disciplined for earning extra pay by abusing federal flight alert status and violating air crew safety regulations.

Finally, some senior officers, including MG William Wade, a former California TAG (2005-2008), were caught "double dipping" on pay; for example, simultaneously drawing federal pay as CalGuard members and state pay as SAD employees on the same days.

The above and other improprieties were revealed to the public and Legislature by the *Bee* stories and the ongoing fallout from the federal criminal investigations.

Beginning in late 2010, shortly after the first news stories, the Senate Committee on Veterans Affairs conducted a series of informational/oversight hearings on the scandals.

At the time the stories broke, Brigadier General Mary J. Kight (ARNG) was serving as the TAG for California. BG Kight had succeeded MG Wade as TAG following her appointment in early 2010 by Governor Schwarzenegger. Most of the publicized corruption had begun prior to her tenure as TAG, although she had been a senior officer in the CalGuard for a long time prior to her elevation to the top job. Other than a very small amount of state/federal pay-double-dipping apparently caused by misunderstanding of the regulations, BG Kight appeared to have been uninvolved with the corruption within the CMD.

Nevertheless, because she was serving at the helm as the scandals unraveled and was associated with some double-dipping, newly elected Governor Brown withdrew BG Kight's nomination before she faced Senate confirmation. In April 2011 Governor Brown appointed then-Colonel Baldwin to the TAG position.

Baldwin: Appointment and Confirmation

Following his appointment, MG Baldwin engaged in a whirlwind of reform activity, including relieving a number of senior ARNG, ANG and SAD officers from high-level command and staff positions. As his March 2012 confirmation hearing before the Senate Rules Committee approached, it appeared that his efforts had started achieving a measure of success. The remaining obstacle was a group of CMD employees with personal grievances.

Reflecting the diverse makeup of the CMD personnel structure, these individuals had filed various personnel complaints (sexual harassment and discrimination, racial harassment, etc.) during the preceding years. They stated their beliefs that the Department stonewalled resolution of their grievances and that the situation had not changed appreciably under MG Baldwin's 10 to 11 months as TAG. Some wrote to the Rules Committee urging that the Senate not confirm MG Baldwin as TAG. Several visited the State Capitol, speaking directly to members and staff serving on the Senate Rules Committee and Veterans Affairs Committee.

Finally, during the Rules Committee's February hearing, more than ten of the complainants publicly testified about their frustrations with non-resolution of their original complaints and the CMD's alleged stonewalling.

[CMD employees who wish to report waste, fraud, abuse, or otherwise "blow the whistle" have several avenues to do so under existing law and they are protected from reprisal when making such allegations. The proper avenue for complaint varies due to the multiple statuses which are possible for Department employees that may be subjects of a complaint and the unique nature of the Department. The proper system of justice/discipline also varies. In general, military members are subject to the Uniform Code of Military Justice (UCMJ), while civilians are subject to progressive discipline and adverse personnel action.]

During the Senate Rules hearing, MG Baldwin responded to the complainants by disagreeing with several complaints and expressing lack of knowledge of several others, but he committed he would have the Department ensure that all grievances were addressed by the appropriate process in a timely manner. By 5-0 vote, the Rules Committee passed MG Baldwin's confirmation to the Senate Floor.

In mid-March the full Senate confirmed him as TAG by a unanimous 35-0 vote. During the floor vote, Senate President pro Tempore Steinberg revealed a letter he sent to MG Baldwin. The letter contained an "action plan" expressing the Senator's determination that several CMD programs be reformed and that the specific personnel complaints be properly investigated and resolved. The letter

also tasked the Veterans Affairs Committee with ongoing oversight of these matters with all necessary authority to ensure Department compliance with the action plan. On March 30, 2012, Senator Correa sent his own letter to MG Baldwin, emphasizing the Veterans Committee's intention to follow through.

2012 "Reform" Legislation: SB 807 and SB 921

As the 2012 legislative session year advanced, SB 807 (Correa) was enacted. This CMD-sponsored bill changed the SAD program as follows:

- Specified that the SAD force consists of service members in active state service when ordered by the Governor.
- Specified and revised conditions for SAD for service members (as stated earlier).
- Authorizes the TAG to promulgate regulations in conformity with these provisions.

The Legislature also enacted SB 921 (Lieu), which established a statutory requirement that there be an Inspector General (IG) within the CMD appointed by the Governor and specified many of that office's responsibilities.

Federal IG System: Federal law mandates a Department of Defense Inspector General (DoDIG) system that is represented throughout all branches of the armed forces, including National Guard commands. This federal IG system is appropriate to receive complaints about any fraud, waste, and abuse (FWA) and violations of law, Army or Air Force instructions, or policy should be reported through the appropriate grievances channels. But individuals should attempt to resolve FWA issues and personal complaints at the lowest possible level, using command channels before elevating them to the next higher level or the IG. The subject of an IG complaint must be a military program or person. *(Note: The fact that a soldier or airman disagrees with a supervisor over a management style or "personality conflict" does not constitute an injustice or mismanagement.)*

Complaints must be promptly filed within IG, command, or other grievance channels. IGs may dismiss a complaint if there is no FWA, recognizable wrong or violation of law, regulation, or policy. Also, complaints should be received in a timely manner.

The federal military assigns an active senior officer to each state National Guard command to serve as the "federal inspector general." This federal IG advises the TAG on federal IG issues and serves as a complaint intake resource. Since the vast majority of CMD employees are National Guard members and all National Guard employees are federal, this is a vital resource.

Although prior to SB 921, there was no statutory requirement to do so, the CMD already had created a separate IG to handle complaints about certain state-level employees whose conduct would be outside the purview of the federal DoDIG system. This original "State IG" position was not appointed by the Governor and was not an independent as the newly created position under SB 921.

#### The Personnel Issues Re-Emerge

In November 2012 twin NBC television affiliates in the Bay Area and Los Angeles broadcast news reports, which seemed to communicate that the complainants still believed that they had not received resolution. This caused Veterans Affairs Chairman Correa to write the TAG, reminding him of the upcoming "one-year" review and also requesting that he respond directly on a couple of the complaints, which seemed to be "new" complaints against the CMD.

The TAG responded by providing a detailed briefing to a handful of key Senate staff on December 20<sup>th</sup>. The half-day presentation covered the CMD's programmatic reforms in detail and also provided the general process status on each individual complainant's case. Senate participants included the Senate Pro Tem's veterans/military policy advisor; the chiefs of staff for Senator Correa and Lieu, respectively; and the Senate VA Committee staff director.

#### **Oversight Hearing: March 20, 2013**

The March 20<sup>th</sup> hearing has been scheduled one year after the TAG's confirmation by the Senate, and its purpose is to review the specific issue concerns, which were stated in the Pro Tem's March 16, 2012 letter and reiterated in Chairman Correa's March 30, 2012 letter.

In response to Senator Correa's request, the TAG provided a written pre-hearing report to the Veterans Affairs Committee on Monday, March 11.



## SEXUAL HARASSMENT / DISCRIMINATION

Green = Organization Strength
Yellow = Slight Organization Concern

Orange = Moderate Organization Concern
Red = High Organization Concern

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Minority** 4.26  
**Majority** 4.37  
**DI:** 0.13

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Women** 4.17  
**Men** 4.35  
**DI:** 0.21

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## DIFFERENTIAL COMMAND BEHAVIOR TOWARDS MINORITIES

<b>Green = Organization Strength</b>
<b>Yellow = Slight Organization Concern</b>

<b>Orange = Moderate Organization Concern</b>
<b>Red = High Organization Concern</b>

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1				
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Minority** 4.56  
**Majority** 4.75  
**DI:** 0.30

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1				
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Women** 4.59  
**Men** 4.66  
**DI:** 0.10

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## POSITIVE EO BEHAVIOR

Green = Organization Strength
Yellow = Slight Organization Concern

Orange = Moderate Organization Concern
Red = High Organization Concern

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

Average	DISPARITY INDEX					
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Minority** 4.00  
**Majority** 4.23  
**DI:** 0.24

Average	DISPARITY INDEX					
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Women** 4.16  
**Men** 4.10  
**DI:** 0.06

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.



## RACIST BEHAVIORS

**Green = Organization Strength**

**Yellow = Slight Organization Concern**

**Orange = Moderate Organization Concern**

**Red = High Organization Concern**

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

		DISPARITY INDEX							
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22		Average
4.00 -5.00	*	1			2				
3.50 -3.99									
3.00 -3.49		3		4					
2.50 -2.99		3		4					
2.00 -2.49		3		4					
< 2.00		3		4					

**Minority** 4.02

**Majority** 4.29

**DI:** 0.29

		DISPARITY INDEX							
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22		Average
4.00 -5.00	*	1			2				
3.50 -3.99									
3.00 -3.49		3		4					
2.50 -2.99		3		4					
2.00 -2.49		3		4					
< 2.00		3		4					

**Women** 4.14

**Men** 4.16

**DI:** 0.02

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## AGE DISCRIMINATION

<b>Green = Organization Strength</b>
<b>Yellow = Slight Organization Concern</b>

<b>Orange = Moderate Organization Concern</b>
<b>Red = High Organization Concern</b>

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49				4		
2.50 -2.99	3					
2.00 -2.49						
< 2.00						

Average  
**Minority** 4.33  
**Majority** 4.36  
**DI:** 0.03

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49				4		
2.50 -2.99	3					
2.00 -2.49						
< 2.00						

Average  
**Women** 4.29  
**Men** 4.34  
**DI:** 0.05

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## RELIGIOUS DISCRIMINATION

**Green = Organization Strength**

**Yellow = Slight Organization Concern**

**Orange = Moderate Organization Concern**

**Red = High Organization Concern**

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1			2		
3.50 -3.99							
3.00 -3.49		3		4			
2.50 -2.99		3		4			
2.00 -2.49		3		4			
< 2.00		3		4			

**Average**

**Minority** 4.59

**Majority** 4.67

**DI:** 0.13

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1			2		
3.50 -3.99							
3.00 -3.49		3		4			
2.50 -2.99		3		4			
2.00 -2.49		3		4			
< 2.00		3		4			

**Average**

**Women** 4.62

**Men** 4.62

**DI:** 0.01

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## DISABILITY DISCRIMINATION

<b>Green = Organization Strength</b>
<b>Yellow = Slight Organization Concern</b>

<b>Orange = Moderate Organization Concern</b>
<b>Red = High Organization Concern</b>

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1			2	
3.50 -3.99						
3.00 -3.49						
2.50 -2.99	3		4			
2.00 -2.49						
< 2.00						

Average

**Minority** 4.57

**Majority** 4.61

**DI:** 0.06

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1			2	
3.50 -3.99						
3.00 -3.49						
2.50 -2.99	3		4			
2.00 -2.49						
< 2.00						

Average

**Women** 4.52

**Men** 4.59

**DI:** 0.09

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## ORGANIZATIONAL COMMITMENT

**Green = Organization Strength**

**Yellow = Slight Organization Concern**

**Orange = Moderate Organization Concern**

**Red = High Organization Concern**

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1					
3.50 -3.99	*						
3.00 -3.49							
2.50 -2.99		3		4			
2.00 -2.49							
< 2.00							

**Average**

**Minority** 3.72

**Majority** 3.75

**DI:** 0.03

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1					
3.50 -3.99	*						
3.00 -3.49							
2.50 -2.99		3		4			
2.00 -2.49							
< 2.00							

**Average**

**Women** 3.65

**Men** 3.74

**DI:** 0.09

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## TRUST IN ORGANIZATION

**Green = Organization Strength**

**Orange = Moderate Organization Concern**

**Yellow = Slight Organization Concern**

**Red = High Organization Concern**

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1					
3.50 -3.99	*						
3.00 -3.49					4		
2.50 -2.99		3					
2.00 -2.49							
< 2.00							

Average  
**Minority** 3.52  
**Majority** 3.52  
**DI:** 0.00

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1					
3.50 -3.99							
3.00 -3.49		*			4		
2.50 -2.99		3					
2.00 -2.49							
< 2.00							

Average  
**Women** 3.40  
**Men** 3.52  
**DI:** 0.12

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## WORK GROUP EFFECTIVENESS

Green = Organization Strength
Yellow = Slight Organization Concern

Orange = Moderate Organization Concern
Red = High Organization Concern

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

		DISPARITY INDEX							
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22		Average
4.00 -5.00	*	1						2	
3.50 -3.99									
3.00 -3.49									
2.50 -2.99								4	
2.00 -2.49									
< 2.00									

**Average**  
**Minority** 4.26  
**Majority** 4.28  
**DI:** 0.02

		DISPARITY INDEX							
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22		Average
4.00 -5.00	*	1						2	
3.50 -3.99									
3.00 -3.49									
2.50 -2.99								4	
2.00 -2.49									
< 2.00									

**Average**  
**Women** 4.18  
**Men** 4.29  
**DI:** 0.13

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## WORK GROUP COHESION

Green = Organization Strength

Orange = Moderate Organization Concern

Yellow = Slight Organization Concern

Red = High Organization Concern

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	*	1				2
3.50 -3.99						
3.00 -3.49						
2.50 -2.99	3		4			
2.00 -2.49						
< 2.00						

Average

Minority    4.10

Majority    4.11

DI:          0.01

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1				2
3.50 -3.99	*					
3.00 -3.49						
2.50 -2.99	3		4			
2.00 -2.49						
< 2.00						

Average

Women      3.97

Men         4.13

DI:          0.16

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.



## LEADERSHIP COHESION

Green = Organization Strength
Yellow = Slight Organization Concern

Orange = Moderate Organization Concern
Red = High Organization Concern

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

Average	DISPARITY INDEX					
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1					
3.50 -3.99					2	
3.00 -3.49	*			4		
2.50 -2.99	3					
2.00 -2.49						
< 2.00						

Average  
**Minority** 3.51  
**Majority** 3.43  
**DI:** 0.07

Average	DISPARITY INDEX					
	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	1					
3.50 -3.99					2	
3.00 -3.49	*			4		
2.50 -2.99	3					
2.00 -2.49						
< 2.00						

Average  
**Women** 3.44  
**Men** 3.46  
**DI:** 0.02

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

## JOB SATISFACTION

Green = Organization Strength
Yellow = Slight Organization Concern

Orange = Moderate Organization Concern
Red = High Organization Concern

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Minority** 4.12  
**Majority** 4.00  
**DI:** 0.16

	DISPARITY INDEX					
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99						
2.00 -2.49						
< 2.00						

Average  
**Women** 4.00  
**Men** 4.06  
**DI:** 0.08

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

### LEADER SUPPORT FOR SAPR

**Green = Organization Strength**

**Orange = Moderate Organization Concern**

**Yellow = Slight Organization Concern**

**Red = High Organization Concern**

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99			4			
2.00 -2.49						
< 2.00						

Average  
**Minority** 4.25  
**Majority** 4.39  
**DI:** 0.17

DISPARITY INDEX						
Average	0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00	* 1					
3.50 -3.99						
3.00 -3.49						
2.50 -2.99			4			
2.00 -2.49						
< 2.00						

Average  
**Women** 4.21  
**Men** 4.34  
**DI:** 0.16

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

### SAPR BYSTANDER INTERVENTION CLIMATE

**Green = Organization Strength**

**Yellow = Slight Organization Concern**

**Orange = Moderate Organization Concern**

**Red = High Organization Concern**

\* You are here. This denotes the lowest average of the two identified groups and the associated DI.

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1			2		
3.50 -3.99	*						
3.00 -3.49		3		4			
2.50 -2.99		3		4			
2.00 -2.49		3		4			
< 2.00		3		4			

**Average**

**Minority** 3.93

**Majority** 4.20

**DI:** 0.25

		DISPARITY INDEX					
Average		0.00-0.30	0.31-0.51	0.52-0.72	0.73-0.99	1.00-1.22	>1.22
4.00 -5.00		1			2		
3.50 -3.99	*						
3.00 -3.49		3		4			
2.50 -2.99		3		4			
2.00 -2.49		3		4			
< 2.00		3		4			

**Average**

**Women** 4.15

**Men** 4.04

**DI:** 0.10

Q1	Overall higher scores and group agree.	Report good findings and reinforce behaviors within the command.
Q2	Overall higher scores and group disagree.	Examine potential causes for disparity; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.
Q3	Overall lower scores and group agree.	Look for trends and examine comments, higher level policy, or leadership style; further isolate causes using focus groups/interviews, records, reports, observations, etc.
Q4	Overall lower scores and group disagree.	Examine comments; further isolate causes - focusing on the group with the lower mean - using focus groups/interviews, records, reports, observations, etc.

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