



DEPARTMENT OF THE NAVY  
HEADQUARTERS  
NAVAL CRIMINAL INVESTIGATIVE SERVICE  
27130 TELEGRAPH ROAD  
QUANTICO VA 22134-2253

NCIS 3, CH-34  
Code 23  
17 Sep 20

From: Director, Naval Criminal Investigative Service

Subj: NCIS-3, Chapter 34, Sex Offenses (Category 8)

1. Purpose. Per reference (a), the Naval Criminal Investigative Service (NCIS) has the responsibility to conduct investigations of major criminal offenses within the Department of the Navy (DON), to include all reported incidents of sexual assault. The NCIS-3 manual, including this chapter, exists solely for internal agency guidance. This chapter does not place any limitations on otherwise lawful activities of the agency.

a. References are listed in Appendix A. Abbreviations and acronyms frequently used during the investigation of sexual assaults are listed in Appendix B. Proper definitions and preferred terms to be used in documenting sexual assault investigations are provided in Appendix C. Relevant Federal and criminal laws and jurisdictions are contained in Appendix D and Appendix E contains subcategory definitions relating to NCIS sexual assault case categories committed after the 1 January 2019, Uniform Code of Military Justice (UCMJ) revision.

b. Procedures for cases involving adult victims are contained in Appendix F. The special provisions described by the Catch a Serial Offender (CATCH) Program are provided in Appendix G. For information pertaining to the special provisions for child victim cases, see Appendix H. Appendix I describes the family advocacy program (FAP), and Appendix J is the sex offender registration information. Appendix K is a “Sex Offender Flowchart” providing helpful guidance on how to assess a complaint or allegation with respect to potential UCMJ Article 120 (sexual act or sexual contact) violations. Appendix L contains a list of the forms and templates discussed throughout this chapter and contains information on where the documents may be found.

2. Policy. NCIS personnel will follow Department of Defense (DoD) and DON policy regarding reports and investigations of sex offenses. Investigators should note the following references in particular:

a. Reference (b) mandates that military criminal investigative organizations (MCIOs) initiate investigations of all reported allegations of adult sexual assault, abusive sexual contact, and attempts, of which they become aware, that occur within their jurisdiction regardless of the

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severity of the allegation, except under the provisions of Appendix G of this chapter. NCIS sexual assault investigations will be timely, thorough, and comply with references (b) and (c).

b. NCIS will initiate separate investigations if additional allegations of criminal activity against the victim and/or a witness (e.g. threats, minor physical assaults, damage to property, etc.) as a result of providing information regarding a sexual assault are identified during the investigation. If allegations of reprisal, restriction, maltreatment, or ostracism against the victim and/or a witness are identified during the course of a sexual assault investigation, NCIS will immediately notify the appropriate DoD component with investigative authority.

c. NCIS will investigate all reports of adult sexual assault without regard to the known or assumed sexual orientation of the victims or subjects. Sexual orientation of victims, subjects, or anyone else associated with the case will not be documented in the investigation unless such details are specifically pertinent to the case. The primary NCIS agent or investigator assigned to conduct the sexual assault investigation must be properly trained in conducting such investigations. At a minimum, this must include training specified in reference (b).

d. Pursuant to reference (d), which provides detailed requirements for DON components to comply with DoD mandates, the NCIS Investigations, Operations and Compliance Department (Code 23B) will collect all data according to DoD annual reporting requirements and submit all data in coordination with Service inputs from the Navy and Marine Corps. Additionally, in adult sexual assault cases controlled by NCIS, metrics regarding the time elapsed between initiation and pending prosecution will be collected. Findings will be reported at least annually to the Secretary of the Navy (SECNAV) via the DON Sexual Assault Prevention and Response (SAPR) Office. Reference (e) establishes the Special Victim Investigation and Prosecution (SVIP) capability within the MCIOs.

e. In compliance with reference (f), NCIS will initiate an investigation on all allegations of sexual assault against a prisoner in a military confinement facility that fall within NCIS jurisdiction.

f. Helpful links and resources. All listed references (except references (h), (r), and (y)) are easily accessible via standard google searches and DoD/DON websites. For convenient access, links to the most common websites, as well as, references (h), (r), and (y) have been posted on the F&SV Policy & Representation Division (Code 23A2) lighthouse share page at the following location. The 23A2 share page also contains additional resources discussed throughout this chapter. The 23A2 share page can be accessed via the following link:

(b)(7)(E)

### 3. Cancellations

a. NCIS-3, Chapter 34, dated December 4, 2017.

b. NCIS Gen Admin 11C-0030: NCIS Policy Document 19-06: Change to Evidence Retention in Adult Sexual Assault Investigations, 3Oct19.

- c. NCIS Gen Admin 23-0057: Catch a Serial Offender (CATCH) Program, 28Jun19.
- d. NCIS Gen Admin 23-0020: Using Polygraph Services During Child Exploitation Investigations and Operations, 18Apr18.
- e. NCIS Gen Admin 11C-0029: Policy GENADMIN 17-04 Proper Documentation and Retention of Recorded Interviews for Sexual Offense (Category 8) Investigations, 27Dec17.
- f. NCIS Gen Admin 23B-0033: Update on Computer Related Child Sex Abuse Investigations, 22Nov02.
- g. NCIS Gen Admin 23B-0036: Collection of Evidence in Sexual Assault Investigations, 11May00.
- h. NCIS Gen Admin 11C-0010: NCIS Policy Document 20-06: Policy Changes Impacting Sex Offense Investigations, 4Feb20.

4. Responsibilities. The Criminal Investigations and Operations Directorate (Code 23) is responsible for tracking and updating NCIS on all policies regarding investigating sexual offenses within the purview of DoD and DON. Changes in policies will be communicated as needed via NCIS chapter updates, General Administration Messages (GEN), and via direct communication with the Executive Assistant Director (EAD) Pacific (PAC), EAD Atlantic (LANT), EAD Global, and their subordinate field offices.

5. Records Management. Records created as a result of this chapter, regardless of media and format, must be managed properly.

6. Review and Effective Date

a. This chapter will be reviewed every year on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, DoD, and SECNAV policy and statutory authority.

b. This chapter will automatically expire 10 years after the effective date unless reissued or canceled prior to the 10-year anniversary date.

(b)(6)

By direction

Releasability and distribution:

This chapter is not cleared for public release and is available electronically only via Naval Criminal Investigative Service Lighthouse Publications.

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**APPENDIX A  
REFERENCES**

- (a) SECNAVINST 5430.107A, Mission and Functions of the Naval Criminal Investigative Service, June 19, 2019
- (b) DoD Instruction 5505.18, Investigation of Adult Sexual Assault in the Department of Defense, March 22, 2017 (Incorporating Change 2, Effective January 31, 2019)
- (c) DoD Instruction 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures, March 28, 2013 (Incorporating Change 3, Effective May 24, 2017)
- (d) SECNAV Instruction 1752.4C, Sexual Assault Prevention and Response Program Procedures, August 10, 2018
- (e) DoD Instruction 5505.19, Establishment of Special Victim Investigation and Prosecution (SVIP) Capability within the Military Criminal Investigative Organizations (MCIOs), February 3, 2015 (Incorporating Change 2, Effective March 23, 2017)
- (f) 42 U.S.C. Ch. 147, Section 15601 et. seq., Prison Rape Elimination Act of 2003, September 4, 2003
- (g) Manual for Courts-Martial United States (2019 Edition)
- (h) 535 U.S. 234 (2002), *Ashcroft v. Free Speech Coalition*
- (i) 18 U.S.C. 2421, Chapter 117, Transportation for Illegal Sexual Activity and Related Crimes
- (j) 18 U.S.C. 2241-2248, Chapter 109A, Sexual Abuse
- (k) SECNAV Instruction 1752.3B, Family Advocacy Program (FAP), November 10, 2005
- (l) DoD Instruction 6400.01, Family Advocacy Program (FAP), May 1, 2019
- (m) DoD Instruction 6400.06, Domestic Abuse Involving DoD Military and Certain Affiliated Personnel, August 21, 2007 (Incorporating Change 4, Effective May 26, 2017)
- (n) DoD Instruction 5505.14, Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders, December 22, 2015 (Incorporating Change 1, March 9, 2017)
- (o) DoD Instruction 1030.2, Victim and Witness Assistance Procedures, June 4, 2004
- (p) DoD Directive 1030.01, Victim and Witness Assistance, April 13, 2004 (certified current as of April 23, 2007)
- (q) 10 U.S.C. 1561a, Civilian Orders of Protection: Force and Effect on Military Installations
- (r) JAG/COMNAVLEGSVCCOM Instruction 5817.2, Special Victim Investigation and Prosecution Policy, May 22, 2019
- (s) NCIS-1, Chapter 25, Section 1, SSD Report Writing, January 2010
- (t) NCIS-1, Chapter 37, Emergency and Extraordinary Expense Funds, April 2013
- (u) NCIS Scene Processing Guide, May 2019
- (v) NCIS-3, Chapter 36, Electronic Interceptions and Electronic Investigative Aids, May 2016
- (w) NCIS-1, Chapter 19, File Retention and Disposal of Closed Investigations, Operations, Sources, And Security Clearance Adjudication Cases, March 13, 2019
- (x) NCIS-3, Chapter 13, Evidence Custody System, December 2006
- (y) JAG Instruction 5810.3A, Navy Victims' Legal Counsel Program Manual, April 23, 2018
- (z) NCIS-3, Chapter 14, Interviews and Interrogations, August 2007
- (aa) 18 U.S.C. 3486, Administrative Subpoenas
- (ab) 18 U.S.C. 3509, Child Victims' and Child Witnesses' Rights
- (ac) 18 U.S.C. 2252 Certain Activities Relating to Material Involving the Sexual Exploitation of Minors

**APPENDIX A (CONTINUED)  
REFERENCES**

- (ad) 18 USC § 2252A, Certain Activities Relating to Material Constituting or Containing Child Pornography
- (ae) 18 U.S.C. 3771, Crime Victims' Rights
- (af) Gen Admin 20-0019: Computer Use in the Sexual Exploitation of Children, May 31, 2000
- (ag) NCIS-3, Chapter 9, Criminal Reduction Operations, September 2008
- (ah) NCIS-1, Chapter 46, Law Enforcement Information Sharing Systems, November 25, 2019
- (ai) 18 U.S.C. 5038, Use of Juvenile Records
- (aj) 18 U.S.C. 4042, Duties of Bureau of Prisons
- (ak) DoD Instruction 5525.20, Registered Sex Offender (RSO) Management in DoD, November 14, 2016 (Incorporating Change 1, Effective June 29, 2018)
- (al) 34 U.S.C. 20911 et. seq., Adam Walsh Child Protection and Safety Act of 2006

**APPENDIX B  
ACRONYMS AND ABBREVIATIONS**

AASAITP	Advanced Adult Sexual Assault Investigator Training Program
AFCCP	Armed Forces Center for Child Protection
AFSVTP	Advanced Family and Sexual Violence Training Program
ASAP	Adult Sexual Assault Program
AUSA	Assistant United States Attorney
CAR	Case Activity Record
CASS	Command Authorized Search and Seizure
CATCH	Catch a Serial Predator Program
CCN	Case Control Number
CEOS	Child Exploitation and Obscenity Section
CFL	Cyber Forensics Laboratory
CLEOC	Consolidated Law Enforcement Operations Center
CPII	Child Pornography Image Index
CPS	Child Protective Services
CRIS	Child Recognition and Identification System
CMG	Case Management Group
CSAI	Child Sexual Abuse Imagery
CSAM	Child Sexual Abuse Material
CVIP	Child Victim Identification Program
DAVA	Domestic Abuse Victim Advocate
DC3	Department of Defense Cyber Crimes Center
DCFL	Defense Computer Forensic Laboratory
DCII	Defense Central Index of Investigations
DSAID	Defense Sexual Assault Incident Database
D-DEx	Department of Defense Law Enforcement Defense Data Exchange
DFSA	Drug-Facilitated Sexual Assault
EEE	Emergency and Extraordinary Expense
ESP	Electronic Service Provider
FAP	Family Advocacy Program
FAR	Family Advocacy Representative
FBI	Federal Bureau of Investigation
FDE	Forensic Data Extraction
FIR	Field Information Report
HRRT	High-Risk Response Team
IA	Investigative Action
ICAC	Internet Crimes Against Children
IP	Internet Protocol
ICE	Immigration and Customs Enforcement
ISP	Internet Service Provider
JPAS	Joint Personnel Adjudication System
K-Net	Knowledge Network
MCIO	Military Criminal Investigative Organization
MPO	Military Protective Order

**APPENDIX B (CONTINUED)  
ACRONYMS AND ABBREVIATIONS**

MTF	Military Treatment Facilities
NCIC	National Crime Information Center
NLETS	National Law Enforcement Telecommunication System
PASS	Permissive Authorization for Search and Seizure
PSB-CY	Problematic Sexual Behavior in Children and Youth
ROI	Report of Investigation
RRCN	Restricted Reporting Case Number
SAFE	Sexual Assault Forensic Exam
SANE	Sexual Assault Nurse Examiner
SAPR	Sexual Assault Prevention and Response
SARC	Sexual Assault Response Coordinator
SART	Sexual Assault Response Team
SJA	Staff Judge Advocate
SMART	Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking
SMR	Sexual Maturity Rating
SORNA	Sexual Offender Registration and Notification Act
SSA	Supervisory Special Agent
SVIP	Special Victims Investigation and Prosecution
TCAP	Trial Counsel Assistance Program
TCTP	Trial Component Training Program
USACIL	U.S. Army Criminal Investigation Laboratory
UCMJ	Uniform Code of Military Justice
VIS	Victim Impact Statement
VLC	Victims' Legal Counsel
VPS	Victim Preference Statement
VWAP	Victim and Witness Assistance Program

**APPENDIX C**  
**DEFINITIONS AND PREFERRED TERMS**

1. It is preferred that appropriate anatomical or action terms be used in ROI documentation, vice the slang or street terms that a victim or subject may use during an interview. However, it is allowable and appropriate to use slang or street terms when taking a statement from someone, as a sworn statement should be in the interviewee's own words. Legal terms and phrases are copied from the UCMJ and need not be used in the investigation. Instead, accurate, factual descriptions are preferred to facilitate legal determinations.

2. Below is a list of terms often encountered in sexual assault investigations.

a. Abrasion. Area of the body surface denuded of skin and mucous membrane by some unusual or abnormal mechanical process.

b. Animal Abuse (Article 134). Characterized as "sex with an animal" contact between the sex organ or anus of a person and the sex organ, anus, or mouth of an animal or contact between the sex organ or anus and a person or object manipulated by a person, if done with the intent to arouse or gratify the sexual desire of any person.

c. Anus. Anal orifice, which is the lower opening of the digestive track, lying in the fold between the buttocks.

d. Bestiality (Title 10). Not used in UCMJ anymore (see Animal Abuse Article 134). Carnal copulation with an animal; or taking the sexual organ of an animal into a person's mouth, vagina, or anus; or placing a person's sexual organ in the mouth, vagina, or anus of an animal.

e. Broadcast (Article 120c). To electronically transmit a visual image with the intent that it be viewed by a person or persons.

f. Cervix. Portion of the uterus between the isthmus and the vagina.

g. Child Pornography (Article 134). (Also known as Child Sexual Abuse Imagery and Child Sexual Abuse Material). Material that contains either:

(1) An obscene visual depiction of a minor engaging in sexually explicit conduct. or

(2) A visual depiction of an actual minor engaging in sexually explicit conduct.

h. Child Sex Tourism. Traveling abroad for the purpose of sexually abusing children. Child sex tourists capitalize on their relative wealth and the lack of effective law enforcement in the destination countries to engage in illicit sex acts with children.

i. Clitoris. Small cylindrical erectile body situated at the anterior (superior) portion of the vulva (covered by a sheath of skin called the clitoral hood).

**APPENDIX C (CONTINUED)  
DEFINITIONS AND PREFERRED TERMS**

j. Commercial Sexual Exploitation of Children. The use of a child for sexual purposes and financial gain.

k. Consent (Article 120)

(1) A freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue will not constitute consent.

(2) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or fear or in response to a fraudulent representation that the sexual act serves a professional purpose or having been induced by artifice, pretense, or concealment that the person is another (someone else).

(3) Lack of consent may be inferred based on circumstances of the offense. The totality of the circumstances must be considered in determining whether a person gave consent, or whether a person did not resist or ceased to resist only because of another person's actions.

l. Consent (Article 120b). Lack of consent is not an element and need not be proven in any prosecution under Article 120b. A child not legally married to the person committing the sexual act, lewd act, or use of force cannot consent to any sexual act, lewd act, or use of force.

m. Contusion. A type of hematoma of tissue in which blood vessels are damaged by trauma allowing blood to seep, hemorrhage, or extravasate into the surrounding tissue.

n. Course of Conduct (Article 120)

(1) A repeated maintenance of visual or physical proximity to a specific person; or

(2) A repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

o. Cunnilingus. Oral stimulation of the vulva or clitoris.

p. Erection. When the penis fills with blood and is rigid; occurs when the male is in a sexually excited state.

q. Fellatio. Oral stimulation of the penis.

**APPENDIX C (CONTINUED)  
DEFINITIONS AND PREFERRED TERMS**

r. Force

(1) Use of a weapon;

(2) The use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or

(3) Inflicting physical harm sufficient to coerce or compel submission by the victim. For a child, it is also sufficient merely to inflict physical harm or, in the case of a parent-child or similar relationship, the use or abuse of parental or similar authority is sufficient to constitute the use of force.

s. Hymen Orifice. Opening to the vagina through the hymenal membrane.

t. Hymen. Membrane that partially, or rarely completely, covers the external vaginal orifice. It is located at the junction to the vestibular floor and the vaginal canal.

u. Indecent Broadcasting (Article 120c). Knowingly broadcasting or distributing any recording that the person knew or reasonably should have known was made under circumstances described by indecent viewing and/or indecent visual recording.

v. Indecent Viewing (Article 120c). Knowingly and wrongfully viewing the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy.

w. Indecent Visual Recording (Article 120c). Knowingly photographing, videotaping, filming, or recording by any means the private area of another person without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy.

x. Labia Majora. Rounded folds of skin forming the lateral boundaries of the vulva.

y. Labia Minora. Longitudinal, thin folds of tissue within the labia majora. In the prepubescent child, these folds extend from the clitoral hood to approximately the midpoint on the lateral wall of the vestibule. In the adult, they enclose the vestibule and contain the opening to the vagina.

z. Laceration. Wound made by tearing.

**APPENDIX C (CONTINUED)  
DEFINITIONS AND PREFERRED TERMS**

aa. Lewd Act (Article 120b)

(1) Any sexual contact with a child;

(2) Intentionally exposing one’s genitalia, anus, buttocks, or female areola or nipple to a child by any means, including via any communication technology, with intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person;

(3) Intentionally communicating indecent language to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

(4) Any indecent conduct, intentionally done with or in the presence of a child, including via any communication technology, that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

ab. Maltreatment. The treatment by peers or by other persons, that, when viewed objectively under all the circumstances, is abusive or otherwise unwarranted, unjustified, and unnecessary for any lawful purpose, that is done with intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice, and that results in physical or mental harm or suffering.

ac. Online Enticement of Children. The use of the Internet to entice and manipulate children into situations in which they become vulnerable to sexual exploitation, particularly child pornography, sexual contact, and abduction. Related investigations include “travelers,” in which online predators travel to the location of a child for the purpose of establishing physical contact.

ad. Ostracism. The exclusion from social acceptance, privilege, or friendship with intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice.

ae. Oral Copulation. Mouth-to-genital contact or genital-to-mouth contact.

af. Paraphilia. Recurrent, intense and sexually arousing fantasies, urges, or behavior that generally involve nonhuman objects, the suffering or humiliation of oneself or one’s partner, or children or other nonconsenting persons and that occur over a period of at least six months. Some examples of paraphilias include exhibitionism, fetishism, frotteurism, pedophilia, sexual masochism, sexual sadism, and voyeurism.

ag. Penis. Male sex organ composed of erectile tissue through which the urethra passes.

**APPENDIX C (CONTINUED)  
DEFINITIONS AND PREFERRED TERMS**

ah. Posterior Fourchette. Junction of the two labia minora posteriorly (inferiorly). This area is referred to as a posterior commissure in the prepubescent child. In children, the labia minora are not completely developed and do not connect inferiorly until puberty. In the post pubescent female, it is referred to as the posterior fourchette.

ai.. Private Area (Article 120c). Naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

aj. Prostitution (Article 120c). A sexual act or sexual contact on account of which anything of value is given to, or received by, any person. [Note: The definition under Article 134 is limited to adulterous (vaginal) sexual intercourse.]

ak. Rectum. Distal portion of the large intestine that ends at the anal canal.

al. Reprisal. Taking or threatening to take an unfavorable or adverse personnel action, or withholding or threatening to withhold a favorable personnel action for making or preparing to make a protected communication, such as reporting a criminal offense.

am. Restriction. Preventing or attempting to prevent a service member from making or preparing to make a lawful communication to a Member of Congress and/or an inspector general (IG).

an. Scrotum. Pouch that contains the testicles and their accessory glands.

ao. Sexual Act

(1) Penetration, however slight, of the penis into the vulva or anus or mouth; or

(2) Contact between the mouth and the penis, vulva, scrotum, or anus; or

(3) the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

ap. Sexual Contact. Touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

aq. Sexually Explicit Conduct (Title 18). Actual or simulated sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between persons of the same or opposite sex; bestiality; masturbation; sadistic or masochistic abuse; or lascivious exhibition of the genitals or private area of any person.

**APPENDIX C (CONTINUED)**  
**DEFINITIONS AND PREFERRED TERMS**

ar. Stalking (Article 130). Wrongfully engaging in a course of conduct which would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family, with knowledge that acts will place a specific person in reasonable fear, and where the acts do induce a reasonable fear.

as. Threatening or Placing Child in Fear. A communication or action that is of sufficient consequence to cause the child to fear that non-compliance will result in the child or another person being subjected to the action contemplated by the communication or action.

at. Vagina. Uterovaginal (genital) canal in the female. This internal structure extends from the uterine cervix to the inner aspect of the hymen.

au. Vulva. External genitalia or pudendum of the female. It includes the mons pubis (fatty area over the pubic bone), clitoris, labia majora, labia minora, vaginal vestibule (cavity containing the opening to the vagina and the urethra), urethral orifice, vaginal orifice, hymen, and the posterior fourchette.

**APPENDIX D  
CRIMINAL LAW AND JURISDICTION**

1. UCMJ. NCIS category “8” crimes are potential violations of the UCMJ Article 120 (Rape, sexual assault, and other sexual misconduct), and Article 134 (General Article). Regardless of where the offense occurs, NCIS maintains jurisdiction over all DON Service members including activated DON reservists, as they are subject to the UCMJ at all times. A major revision to Article 120 took effect June 28, 2012; earlier law applies to conduct before that date. The changes in 2012 expanded definitions of sexual act and sexual contact, modified definition of force, modified definition of consent, and restructured the offense categories of adult crimes (Article 120), stalking (Article 130), child sexual assault (Article 120b), and other sexual misconduct (Article 120c). Also, child pornography is now specifically listed within Article 134. A second revision to Article 120 took effect January 1, 2019 and narrowed the definition of sexual contact. The descriptions and the definitions in Appendix C are based on the current UCMJ. For offenses committed before June 28, 2012 and between June 28, 2012 and January 1, 2019, consult with the NCIS Legal Directorate and local staff judge advocates (SJAs) or prosecutors.

a. Sexual act vs. contact. Understanding the differences between a sexual act (a penetration crime) and sexual contact (a touching crime) is key to understanding Article 120. Appendix K is a “Sex Offender Flowchart” providing helpful guidance on how to assess a complaint or allegation with respect to potential UCMJ Article 120 (sexual act or sexual contact) violations.

b. Force and Consent. Force and consent are key factors of Article 120. Applicable definitions of “force” and “consent” are contained in Article 120 of reference (g), and may be found at the following link:  
[https://jsc.defense.gov/Portals/99/Documents/2019%20MCM%20\(Final\)%20\(20190108\).pdf?ver=2019-01-11-115724-610](https://jsc.defense.gov/Portals/99/Documents/2019%20MCM%20(Final)%20(20190108).pdf?ver=2019-01-11-115724-610)

c. Sodomy. Article 120 was amended on January 1, 2019 to include forcible sodomy.

d. Actual vs. “Virtual” Child Pornography. Child pornography under Article 134 includes both images involving actual children and obscene “virtual” images, which do not depict actual children. Investigators should note that virtual child pornography will raise constitutional free speech concerns in relation to reference (h). Accordingly, as with all Article 134 offenses, investigators should seek evidence that shows conduct “was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.”

e. Mistake of Fact and Apparent Age of Child Victims. Under Article 120b, individuals accused of child sex offenses may offer affirmative defense evidence of mistake of age for victims younger than 16 years, but not younger than 12 years.

f. Statute of Limitations. In 2006 Congress amended Article 43 by no longer explicitly tying the statute of limitations to crimes that carried a maximum sentence of death. Instead, service members “charged with absence without leave or missing movement in time of war, with murder, rape or sexual assault, or rape or sexual assault of a child...” could be tried and punished

**APPENDIX D (CONTINUED)**  
**CRIMINAL LAW AND JURISDICTION**

at any time without limitation; as a result, no prosecutorial time limitations have applied to these crimes since 2006. Recent case law provides that child and adult sex crimes committed before 2006 will have, at most, a five year statute of limitations. It is important to note that the statute of limitations is a bar to trial and not a bar to investigation. For sexual assault allegations committed before 2006, consult with relevant trial counsel instead of preemptively declining to investigate and asserting a legal defense on behalf of an accused. Trial counsels are ultimately the individuals with the authority to decline to prosecute because of an expired statute of limitations. If trial counsel deems successful prosecution of the case improbable because of a statute of limitations issue, then the investigation can be declined after consultation with trial counsel and NCIS Code 23. Consult NCIS Code 00L with any questions regarding the statute of limitations and its application to sexual assault offenses.

2. United States Code

a. The following sections of the United States Code (U.S.C.) are applicable to sexual offenses. Additional sections may apply.

<b>Sections of Title 18 U.S.C. applicable to sexual offenses</b>	
Section	Title
1384	Prostitution near military and naval establishments
1460	Possession with intent to sell, and sale, of obscene matter on federal property
1461	Mailing obscene or crime-inciting matter
1462	Importation or transportation of obscene matters
1463	Mailing indecent matter on wrappers or envelopes
1464	Broadcasting obscene language
1465	Transportation of obscene matters for sale or distribution
1466	Engaging in the business of selling or transferring obscene matter
1468	Distributing obscene material by cable or subscription television
1470	Transfer of obscene material to minors
2241	Aggravated sexual abuse (rape or child sexual assault)
2242	Sexual abuse
2243	Sexual abuse (rape or child sexual assault)
2244	Abusive sexual contact
2246	Definitions of “sexual act” and “sexual contact” under the U.S.C.
2247	Repeat offenders (rape or child sexual assault)
2251	Sexual exploitation of children
2251A	Selling or buying of children
2252	Certain activities relating to material involving the sexual exploitation of minors
2252A	Certain activities relating to material constituting or containing child pornography
2258	Failure to report child abuse
2260	Production of sexually explicit depictions of a minor for importation into the United States

**APPENDIX D (CONTINUED)**  
**CRIMINAL LAW AND JURISDICTION**

2425	Use of interstate facilities to transmit information about a minor
116	Female genital mutilation
<b>Section of Title 47 U.S.C applicable to sexual assault offenses</b>	
231	Restriction of access by minors to obscenity over the Internet

b. For child pornography offenses committed before January 12, 2012, there is no specific UCMJ charge, but sections of the U.S.C and state statutes are applicable and may be incorporated through Article 134. Under Title 18, a “minor” is any person under the age of 18.

c. Some Federal statutes that pertain to Internet solicitation fall under references (i) and (j), as listed below. Internet solicitation investigations will be worked under case sub-category 8E, Child Exploitation.

<b>Sections of Title 18 U.S.C. Chapter 117 applicable to sexual offenses</b>	
Section	Title
2421	Transportation generally
2422	Coercion and enticement
2423	Transportation of minors/transportation with intent to engage in criminal sexual activity
2424	Filing factual statement about alien individual
2425	Use of interstate facilities to transmit information about a minor
2426	Repeat offender
2427	Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense

d. An appropriate state penal code may apply, depending on the jurisdiction and/or victim(s) of this crime category.

**APPENDIX E**  
**SUB-CATEGORY DEFINITIONS**

[Note: For the case category of CRIMINAL SEX (Category 8), the definitions in the following sub-categories of NCIS sexual offense investigations assume offenses committed after the January 1, 2019, UCMJ revision detailed in Appendix D.]

1. Sexual Assault - Child (8B). Used for violations of UCMJ Article 120b (rape, sexual assault, and sexual abuse of a child), as well as for other offenses against a person younger than 16 years of age that do not fit specific requirements of Child Exploitation (8E) investigations.
2. Sexual Exploitation – Child (8E). Used for all investigations involving child pornography, online enticement of children to include attempts to meet a minor for sexual activity, commercial sexual exploitation of children, and child sex tourism as defined in Appendix C.
3. Stalking (8K). Used for violations of UCMJ Article 130, investigations involving any person who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to themselves or an immediate family member. By definition under Article 130, “course of conduct” means a repeated maintenance of visual or physical proximity to a specific person or a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats directed toward a specific person. In addition to the objective element (reasonable person test), violation of Article 130 also requires that the conduct actually induced fear and that the offender knew or should have known that the victim would be placed in fear. An investigation may initially be opened under case sub-category 7C (Communication of a Threat); however, if a pattern or repetitiveness arises, the case sub-category must be changed to reflect an 8K.
4. Sexual Misconduct - Adult (8M). Used for violations of Article 120c (other sexual misconduct: indecent viewing, visual recording, broadcasting, voyeurism, forcible pandering, or indecent exposure), Article 125 (animals only), Article 134 (indecent language), Article 134 (pandering and prostitution), and Article 93a (Prohibited activities with military recruit or trainee by person in position of special trust).
5. Electronic Misconduct (8P). Used to document receipt of non-criminal allegations involving the non-consensual posting or broadcasting of electronic media that was consensually created and obtained or inappropriate comments posted publicly in reference to such electronic media. UCMJ added Article 117a to address the posting or broadcasting of consensually created photos. Sub-category 8P reports will only be transmitted as an ROI (INFO) or ROI (CLOSED ONLY) under an Incident Title documenting referral to the commanding officer (CO) of each military member involved with the allegation. Allegations involving surreptitious or non-consensual video recording and/or photography that constitute a violation of UCMJ Article 120(c) or a felony violation under state law will be investigated under case sub-category 8M (Other Sexual Misconduct-Adult). Comments made in conjunction with electronic media that constitute a threat will be investigated under case sub-category 7C (Communication of a Threat).

**APPENDIX E (CONTINUED)**  
**SUB-CATEGORY DEFINITIONS**

6. Sexual Assault - Adult (8S). Used for violations of Article 120 (rape, sexual assault, and forcible sodomy) and sexual abuse, as defined reference (j). Investigations include those involving a rape, sexual assault, aggravated sexual contact, abusive sexual contact, and forcible sodomy of a person who has attained the age of 16. [Note: Prior sub-categories of 8D (Indecent Assault), 8F (Rape), and 8G (Sodomy) should be captured under the 8S sub-category.]

7. Special Inquiry (8X). Investigations in this subcategory involve situations that are potentially of a criminal sexual nature; however, a specific offense cannot be identified. Such inquiries normally require those investigative techniques utilized in cases within the basic category of sex offense investigations and will include interrogation where considered appropriate. When opening an 8X, the correct case sub-category is “Special Inquiry.” Once a specific offense has been identified, the case category must be changed to reflect the correct offense. A category 8X case will only be opened under an incident title. Once enough information has been developed to determine a victim and/or subject of a criminal offense, the case category must be changed to the correct offense.

Pages 20 through 43 redacted for the following reasons:

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Page(s) 20-43; Appendix (F); (b)(7)(E)

## APPENDIX G CATCH PROGRAM

### 1. Background

a. The National Defense Authorization Act for FY 2015, Section 543, required the Secretary of Defense to submit a plan to permit military criminal investigative organizations to access certain information in restricted reporting on sexual assaults to identify individuals suspected of committing multiple sexual assaults. When identifying such individuals, the restricted nature of reporting cannot be impacted. In response to this requirement, the “Catch a Serial Offender” (CATCH) Program was developed with the DON selected as the executive agent for the DoD. NCIS was designated within DON as the lead program manager for DoD and developed the CATCH software platform.

b. Pursuant to reference (b), the CATCH Program is designed to catalogue and centralize all victim-reported entries into a single database that is searchable to help determine the existence of any offender responsible for multiple sexual assaults. Participation in the CATCH Program is strictly voluntary; any adult victim eligible to file a restricted report of sexual assault may participate in CATCH. No victim information (name, personally identifiable information, or other contact information) is collected in the CATCH database.

2. Pursuant to reference (b), an individual who files a restricted report of sexual assault and signs the Victim Reporting Preference Statement (DD Form 2910) (Item 3 of Appendix L) has the option to submit details of the incident anonymously to NCIS without affecting the restricted nature of the report. The information will be used by NCIS to identify individuals who are suspected of perpetrating multiple sexual assaults.

3. The Sexual Assault Response Coordinator (SARC) or Victim Advocate is responsible for advising the victim on the provisions of the CATCH program to include providing instruction on how to provide the information to NCIS. An overview of the CATCH process is as follows:

a. Victim is notified of the CATCH program at the time they make their restricted report to the Victim Advocate or the SARC and sign the DD Form 2910). At that time, on the form, they will elect to either participate or not participate in the CATCH program.

b. If the victim elects to participate in the CATCH program, they are provided a logon and password generated by the SARC to access the CATCH website (victim link: <https://profile.ncis.navy.mil>). The logon credentials are only good for a limited amount of time. Specifically, when the victim gets the password, they have 10 days to log in or the credentials will expire. Once they do log in (within the 10-day mark) the credentials will stay good for 24-hours and they may log in and out up to 3 times in that 24-hour period.

c. NCISHQ Criminal Investigations and Operations Directorate personnel query victim submitted information via the CATCH website against all other CATCH entries and unrestricted reports in the DoD Law Enforcement Defense Data Exchange (D-DEx).

**APPENDIX G (CONTINUED)  
CATCH PROGRAM**

Access to the information in CATCH is purposely limited to only specifically identified and trained personnel at NCISHQ.

d. If a potential match exists, NCISHQ contacts the designated service Sexual Assault Prevention Response (SAPR) CATCH Program POC with the Defense Sexual Assault Incident Database (DSAID) number.

e. The SAPR CATCH Program POC contacts a pre-identified service SAPR CATCH Victim POC. The SAPR CATCH Victim POC contacts the restricted reporting victim regarding the potential match. The victim then has the option to:

- (1) Convert the report to unrestricted;
- (2) Take no further action; or
- (3) Request to no longer be contacted.

f. If a victim elects to have their report unrestricted, the victim will provide the SARC (via the SAPR CATCH Victim POC) with a newly signed DD Form 2910 and the SARC will contact NCISHQ to provide the victim's name and location.

g. NCISHQ will forward a referral to the field with the victim's information. NCIS investigations initiated from information submitted under the CATCH program will be handled under the provisions of Appendix F of this chapter.

4. The NCISHQ CATCH Program Team consists of the Code 23 Policy and Manpower Department (Code 23A) Division Chief and the Code 23 Investigations, Operations and Compliance Department (Code 23B) desk officers. Non-IT related CATCH inquiries from SARCs or the field can be sent to the NCISHQ CATCH Program Team via the following email group: [CATCHinformation@ncis.navy.mil](mailto:CATCHinformation@ncis.navy.mil). Authorized users needing IT related support should contact NCISHQ at 571-305-9999, option 2.

5. The CATCH Program procedures, victim information sheet, CATCH talking points for SARCs, and a copy of the updated DD Form 2910 are available on the Code 23 Lighthouse page under the Family and Sexual Violence (F&SV) Policy and Representation Division (Code 23A2) share page.

Pages 46 through 61 redacted for the following reasons:

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Page(s) 46-61; Appendix (H); (b)(7)(E)

**APPENDIX I  
FAMILY ADVOCACY PROGRAM**

1. The mission of the Family Advocacy Program, or FAP, under reference (k) is to promote public awareness within the military and civilian communities and coordinate professional intervention at all levels, including law enforcement, social services, health organizations, and legal entities. FAP is designed to break the cycle of abuse by identifying abuse as early as possible and by providing treatment to the affected family member. FAP works with individuals and families to strengthen family relationships and prevent child and spouse maltreatment. The program is dedicated to enhancing individual coping skills and alleviating the underlying causes of stress associated with family violence. FAP also provides education services in child abuse, spouse and family violence, parenting, and stress management. The objectives of FAP are to prevent spouse and child abuse, to encourage the reporting of all instances of such abuse, to ensure the prompt assessment and investigation of all abuse cases, to protect victims of abuse, and to treat all family members affected by or involved in abuse.

2. Interaction with Criminal Investigations. FAP is a support system for members who are suitable for rehabilitation and retention based on a command determination using an appropriate medical/counselor recommendation. FAP is not a substitute for disciplinary action. FAP does not prohibit or hinder the completion of an investigation by NCIS into allegations of criminal conduct. If NCIS opens an investigation based on information gained through FAP, FAP staff will coordinate with NCIS prior to interviewing or otherwise assessing suspected offenders. FAP may request NCIS to provide pertinent, case-specific information to present at the Incident Determination Committee (IDC). The IDC is a MDT of designated individuals working at the installation level, tasked with determining whether a report of child abuse (including child sexual assault), neglect, or domestic abuse (including spousal sexual assault) meets the relevant DoD criteria for entry into the Service FAP central registry as child abuse and domestic abuse incident. The agent representing NCIS at the IDC is a non-voting member. NCIS does not need to wait until the case is closed or the active investigation is complete to present the case at the IDC. If the agent believes presenting the case at IDC will hinder the investigation in some way, the agent should brief the SSA and advise FAP.

3. Notification to NCIS. FAP has guidelines concerning NCIS notifications. FAP will notify NCIS in all cases of child sex abuse, non-normative instances of PSB-CY, serious domestic abuse (unless under restricted reporting), family-related incidents involving stalking or other threatening behavior, threatening with or use of a weapon, strangulation, and any abuse that results in a fatality or injury. FAP will enact the PSB-CY MDT as necessary. NCIS must have an agent present at the MDT meeting. FAP will notify NCIS if allegations of child pornography are developed during the course of a FAP case. The FAP will annotate consultation with NCIS in the victim's FAP record book. Cases not opened by NCIS will be referred to base security/police.

4. Allegations Arising During Emergency Treatment. When an allegation or suspicion of criminal conduct is raised during emergency medical treatment, the attending medical or command personnel must seek appropriate investigative assistance from NCIS (except in

**APPENDIX I (CONTINUED)  
FAMILY ADVOCACY PROGRAM**

instances of restricted reporting). Liaison with local civilian law enforcement agencies is the responsibility of NCIS.

5. Confidentiality. Information received about FAP clients must be treated with the highest degree of confidentiality and protected within the rules and intent of the Privacy Act.

**APPENDIX J**  
**SEX OFFENDER REGISTRATION**

1. Various state and Federal laws require the registration of sex offenders with state law enforcement agencies. Each state determines the criteria for registration and notification, which is the means by which law enforcement disperses information to the public. Additional information regarding sex offender registration can be found at the U.S. Department of Justice National Sex Offender Public Website (<http://www.nsopw.gov>). In addition, the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) (<https://www.smart.gov>) aims to protect the public by supporting national implementation and provides guidance and technical assistance.
2. Duties of Prisons and Confinement Facilities. Pursuant to reference (aj), the Federal Bureau of Prisons, upon release of a designated sex offender from prison or upon an offender's sentence to probation, must provide notice to the chief law enforcement officer of the state and local jurisdiction in which the offender will reside and to the state or local agency responsible for the receipt and maintenance of sex offender registration information in the state or local jurisdiction in which the offender will reside. Per reference (ak), military confinement facilities have similar responsibilities. Because offenders do not always self-register as required, the DoD manages a notification program for military offenders who have been adjudged guilty of qualifying sex offenses or crimes against minors at special or general courts-martial. Military confinement facilities are responsible for ensuring notice to the proper authorities prior to the permanent release of a prisoner for whom sex offender notification is required.
3. The Sexual Offender Registration and Notification Act (SORNA). In accordance with reference (al), the SORNA reformed some of the older sexual offender registration laws. It extends the jurisdictions in which registration is required beyond the 50 States, the District of Columbia, and the principal U.S. territories, to include Indian tribal jurisdictions, and extends the classes of sex offenders and sex offenses for which registration is required. The SORNA requires that sex offenders in the covered classes register and keep the registration current in the jurisdictions in which they reside, work, or go to school. Covered offenses include most sexual acts and contact, attempts, and child sex offenses.
4. Overseas Applicability. The SORNA contains language pertaining to registered sex offenders who live overseas. A sex offender who goes abroad may remain subject in some respects to U.S. jurisdiction. For example, a sex offender may leave to live on an overseas U.S. military base as a dependent or employee or to work for a U.S. military contractor in another country. In such cases, notification about the individual's status as a sex offender and intended activities abroad is of interest to Federal authorities. The following requirements apply to sex offenders who leave the United States. Each jurisdiction in which a sex offender is registered as a resident requires the sex offender to inform the jurisdiction if the sex offender intends to commence residence, employment, or school attendance outside of the United States. Once the information is received, the jurisdiction must:

**APPENDIX J (CONTINUED)**  
**SEX OFFENDER REGISTRATION**

a. Notify all other jurisdictions in which the sex offender is required to register through immediate electronic forwarding of the sex offender’s registration information (including the sex offender’s expected residence, employment, or school attendance outside of the United States).

b. Notify the U.S. Marshals Service and update the sex offender’s registration information in the national databases.

5. NCIS Responsibility. Reference (ak) requires that if a service member is, or may be, required to register as a sex offender after being convicted of a qualifying offense under the UCMJ, as identified on the member’s DD Form 2707-1, “Department of Defense Report of Result of Trial,” (Item 13 of Appendix L) his or her convening authority or, if confined, servicing confinement facility will notify the appropriate state, territory, and the U.S. Marshals Service. Additionally, NCIS will be notified of the registration requirement.

a. Convening Authority Action. Utilizing DD Form 2791, “Notice of Release/Acknowledgement of Convicted Sex Offender Registration Requirement,” (Item 14 of Appendix L) the convening authority or the servicing confinement facility must notify NCIS of the pending discharge of an offender convicted at a special or general court-martial of a qualifying sex offense or crime against a minor requiring sex offender registration. The convening authority or servicing confinement facility will provide NCIS with the signed and completed DD Form 2791 indicating any sex offender registration requirement to be accomplished and documentation of the offender’s intended address of residence. Notification must also be given to NCIS immediately upon completion of any post-trial action that would affect the Service member’s reporting requirements.

b. NCIS Notifications. Upon receiving notice via DD Form 2791 of those offenders meeting the criteria of a qualifying sex offense, Code 23B2 will add the offender’s name and required information to the NCIC National Sex Offender Registry (NSOR). Code 23B2 will enter the following statement in Figure 1 in the NCIC NSOR Miscellaneous File to ensure civilian law enforcement agencies are aware the presence of the offender’s name is a legal requirement; however, it does not constitute sex offender registration.

“Subject has been convicted of an offense that will or may require registration as a sex offender in a SORNA jurisdiction. The subject is required to comply with applicable State, territory, or tribal sex offender registration upon relocation. The subject will remain resident in NCIC NSOR, under a military ORI, until verification of either (1) a State, territory, or tribal registration is received, or (2) a State, territory, or tribal determination that registration is not required is received.”

c. The offender will remain in the NCIC NSOR under a military ORI until NCIS is notified by the U.S. Marshals Service, a state, territory, or tribal sex offender registry that the offender has registered or that the offender is not required to register in that jurisdiction. Upon such

**APPENDIX J (CONTINUED)**  
**SEX OFFENDER REGISTRATION**

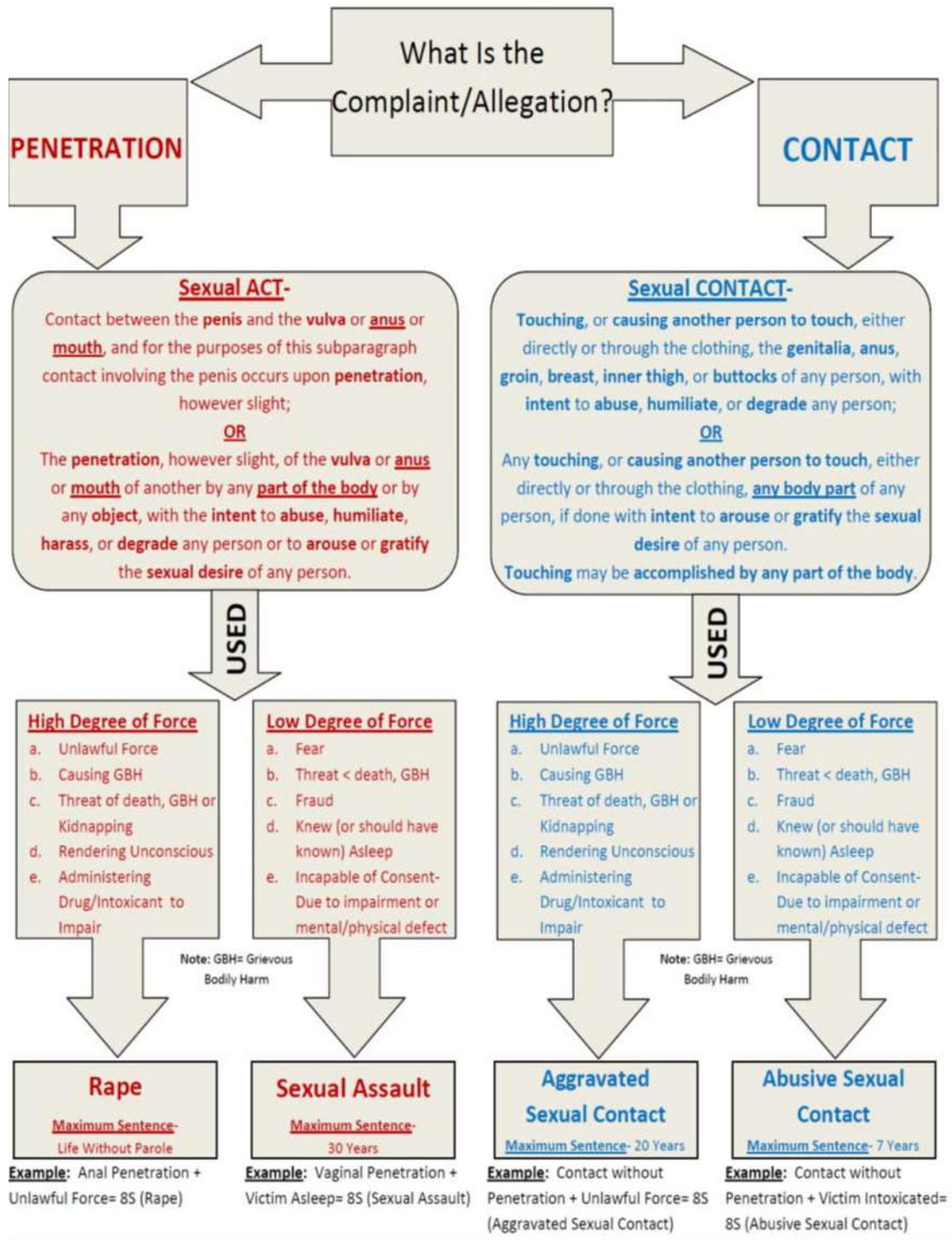
notification, Code 23B2 will remove the offender from the NCIC NSOR. Code 23B2 will keep appropriate records of all information transactions associated with this process.

d. Change in Conviction Status. In the event of post-trial action disapproving all findings (no conviction for a sex offense or crime against a minor is approved), NCIS must ensure prompt notice via memorandum to all recipients of prior notifications that the previous notice is withdrawn. Cases that are appealed will be held in extended retention until all action is complete.

APPENDIX K  
SEX OFFENDER FLOWCHART

Offenses committed on or after 28JUN12

Adult Sexual Offenses in the Military- *REVISED* Article 120, U.C.M.J



**APPENDIX L**  
**LIST OF CHAPTER RELATED FORMS**

1. Below is a list of the forms and templates discussed throughout this chapter. To ensure the most recent versions of the DD Forms, NCIS Forms and NCIS MFR Template are being utilized, they are **not** appended to this chapter. Instead, fillable versions are available to view, print, and/or download from the NCIS Lighthouse Publications and Forms page or the official DoD Forms Management Program website at: <https://www.esd.whs.mil/Directives/forms/>.
2. The relevant documents are as follows:
  - a. Item 1: NCIS 8S-Adult Sex Crimes Investigative Plan (NCIS Form 5580/128 (1-2020)).
  - b. Item 2: Authorization for Disclosure of Medical and Dental Information (NCIS Form 5580/2 (Rev. 12-2008)).
  - c. Item 3: Victim Reporting Preference Statement (DD Form 2910, September 2019)
  - d. Item 4: Initial Information for Victims and Witnesses of Crimes [VWAP] (DD Form 2701, March 2016)).
  - e. Item 5: Victim Preference Statement (VPS) (NCIS Form 5580/28 (7/2020)).
  - f. Item 6: DoD Sexual Assault Forensic Examination (SAFE) Report (DD Form 2911).
  - g. Item 7: NCIS MFR Template: “Sexual Assault Evidence Disposal Authorization” (5-2020)).
  - h. Item 8: Accountability of Child Sexual Abuse Material (NCIS Form 5580/154 (1-2020))
  - i. Item 9: NCMEC MCIO Submission Request Form (NCIS Form 5580/90 (04-2009)).
  - j. Item 10: Newly Identified Child Victim Submission Form (NCIS Form 5580/95 (5/2020)).
  - k. Item 11: Victim Notification Preference Form (NCIS Form 5580/96 (7/2020)).
  - l. Item 12: NCIS MFR Template: “Case File Review for Contraband Photographs” (01-2020).

**APPENDIX L (CONTINUED)**  
**LIST OF CHAPTER RELATED FORMS**

- m. Item 13: Department of Defense Report of Results of Trial (DD Form 2707-1).
- n. Item 14: Notice of Release/Acknowledgement of Convicted Sex Offender Registration Requirement (DD Form 2791, March 2013).

Pages 70 through 74 redacted for the following reasons:

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Page(s) 70-74; Appendix (M); (b)(7)(E)