



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY CADET COMMAND
1ST CAVALRY REGIMENT ROAD
FORT KNOX, KY 40121-5123

ATCC-PAP (600-1b)

DEC 12 2022

MEMORANDUM FOR

Commanders, All Units Reporting Directly to This Headquarters
Directors and Chiefs, Primary and Special Staff Offices, HQ USACC

SUBJECT: Policy Memorandum 4 - Sexual Harassment/Assault Response and Prevention (SHARP)

1. References:

- a. National Defense Authorization Act (NDAA) for Fiscal Year 2020, 20 December 2019.
- b. DOD Directive 6495.01 (Sexual Assault Prevention and Response (SAPR) Program), 23 January 2012, (Incorporates change 4, effective 11 September 2020).
- c. DOD Directive 7050.06 (Military Whistleblower Protection).
- d. DOD Instruction 1020.03, (Harassment Preventing and Response in the Armed Forces), 8 February 2018 (Incorporates Change 1, effective 29 December 2020).
- e. DOD Instruction 6495.02 Volume 1 & 2, (Sexual Assault Prevention and Response (SAPR) Program Procedures), 28 March 2013, (Incorporates change 5, effective 9 April 2021).
- f. DOD Instruction 6495.02 Volume 1, (Sexual Assault Prevention and Response (SAPR) Program Procedures), 28 March 2013, Incorporates change 6, effective 10 November 2021.
- g. DOD Instruction 6495.02, Volume 3, (Sexual Assault Prevention and Response: Retaliation Response for Adult Sexual Assault Cases).
- h. DOD Instruction 6495.03, (Defense Sexual Assault Advocate Certification Program).
- i. Army Regulation 600-20, (Army Command Policy).
- j. Army Regulation 27-10, (Military Justice).

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k. Army Directive 2021-16, (Immediate Actions to Improve the Sexual Harassment / Assault Response and Prevention Program).

l. Army Directive 2022-13, (Reforms to Counter Sexual Assault and Sexual Harassment).

2. Purpose. To provide the USACC Commanding General's commitment for creating an environment free of sexual harassment and sexual assault, and his intent for leaders at all levels to stress the importance of the SHARP Program by fostering a climate which reduces the likelihood of an occurrence.

3. Sexual Harassment and Sexual Assault. Sexual harassment and sexual assault are unacceptable behaviors which are incompatible with Army values. Such behaviors degrade organizational readiness by affecting the ability to effectively work as a team and will not be tolerated. Personnel who participate in or condone misconduct (to include while online or using social media platforms) may be subject to criminal, disciplinary, and/or administrative action under the Uniformed Code of Military Justice (UCMJ) and other federal or local civilian laws.

4. This safety assessment will be conducted on a DD Form 2977, will be maintained in the victim's case file for 50 years.

5. Sexual Harassment is a form of sex discrimination involving:

a. Unwelcomed sexual advances

b. Requests for sexual favors, and/or

c. Other verbal or physical conduct of a sexual nature, including but not limited to:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career

(2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; and

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment; and is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

d. Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a

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military or civilian member is engaging in sexual harassment. Complaints of sexual harassment by service members or their Family members may be filed through the chain of command, the next higher echelon commander, SHARP representative, or Inspector General (IG). Civilian employees will file complaints through their management officials, IG, or Equal Employment Office. There are three types of complaints:

(1) An informal complaint is one that a Soldier or Family member does not wish to file in writing. An informal complaint is not subject to a time suspense but should be resolved within 14 calendar days of the complaint's receipt.

(2) A formal complaint is one that a complainant files in writing and swears to the accuracy of the information. Active-Duty Soldiers are encouraged to file their complaint within 60-calendar days, and Civilian employees have 45-calendar days from the date of the incident to file a complaint of sexual harassment. Formal complaints are immediately referred to the BDE commander. Commanders at all levels, along with the complainants, will follow the procedures for filing an informal, anonymous, or formal complaint outlined in AR 600- 20, Army Command Policy, para 7-8.

(3) An anonymous complaint is one received by a commanding officer or supervisor regardless of the means of transmission from an unknown or unidentified source alleging harassment. The individual (or source) is not required to divulge any personally identifiable information. All anonymous complaints, even those that cannot be investigated, will be referred to the subject's BDE commander for evaluation.

6. Sexual harassment complaint investigations.

a. Investigating Officers. If sufficient information exists to permit the initiation of an investigation, commanders will appoint investigating officers (IOs) to conduct sexual harassment complaint investigations under AR 600–20, Chapter 7. Sexual harassment complaint investigations will comply with processing timelines established by law and DoD and Army policies.

b. The USACC Commanding General signed an exception to policy permitting Brigade Commanders to appoint IOs from within the same brigade as a subject, but from a different ROTC program than the program in which the allegations arose. This authority may not be delegated.

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7. Military Protective Orders (MPOs).

a. The first O-6 in the subject's chain of command will implement mechanisms to protect complainants of sexual harassment and victims of sexual assault. When warranted by facts and circumstances, this may include Military Protective Orders.

b. For all sexual assault victims and sexual harassment complainants, the first O-6 in the subject's chain of command will, as soon as possible, but no later than six hours after determining an MPO is warranted (such as the presence of a threat of physical harm), ensure that the subject's commander issues a DD Form 2873 (Military Protective Order) to the Soldier (subject), submits it to the installation Directorate of Emergency Service or Provost Marshal Office (DES/PMO), and provides a copy to the protected individual (victim).

8. Separation or Elimination of Soldiers with Substantiated Complaints of Sexual Harassment.

a. Per Army Directive 2022-13, Commanders will generally initiate separation or elimination actions against all Soldiers who have a substantiated complaint of sexual harassment. Commanders may recommend retention of Soldiers if the complaint was minor and if they intend to rehabilitate the Soldier. Efforts to rehabilitate a Soldier deemed to have engaged in a minor substantiated complaint of sexual harassment will include the following components: sexual harassment refresher training, individual corrective counseling, and monitoring of behavior for a period of time as determined appropriate by the first O-6 commander in the Soldier's chain of command.

b. Exceptions. Substantiated complaints wherein the offender attempted or engaged in quid pro quo behavior, sexual touching offenses where the offender was the superior in a superior-subordinate relationship, or substantiated complaints involving repeat offenders are not appropriate for rehabilitation and separation or elimination actions will be initiated in these cases.

9. Consent. As used in the context of sexual assault, consent is 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 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 or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent means words or overt acts indicating a freely given agreement to sexual conduct by a competent person. A sleeping, unconscious, or incompetent person cannot consent to a sexual act.

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10. Reporting of Sexual Assault.

a. Restricted reporting. Restricted Reporting allows Service members and military dependents who are adult sexual assault victims to confidentially disclose the assault to specified individuals (SARC, VA, or healthcare personnel) and receive healthcare treatment and the assignment of a SARC and VA. A sexual assault victim can report directly to a SARC, who will respond or direct a VA to respond, offer the victim healthcare treatment and a Sexual Assault Forensics Exam (SAFE), and explain to the victim the resources available through the DD Form 2910, where the reporting option is elected. The Restricted Reporting option is only available to Service members and adult military dependents. Restricted Reporting may not be available in a jurisdiction that requires mandatory reporting if a victim first reports to a civilian facility or civilian authority, which will vary by State, territory, and overseas agreements. However, section 536 of the National Defense Authorization Act for Fiscal Year 2016 preempts mandatory reporting laws, provided the victim first reports to an MTF, in jurisdiction requiring mandatory reporting thereby preserving the Restricted Reporting option. If a victim elects this reporting option, a victim may convert a Restricted Report to an Unrestricted Report at any time. The conversion to an Unrestricted Report will be documented with a signature by the victim and the signature of the SARC or VA in the appropriate block on the DD Form 2910. Eligible victims may elect the Restricted Reporting option on the DD Form 2910 even if:

(1) The allegation has been inadvertently or previously disclosed to command by the victim, suspect, or third party; or

(2) There is an ongoing CID investigation of sexual assault reported by a third party and not due to the victim's disclosure to law enforcement.

b. Unrestricted reporting. This reporting option triggers an investigation, command notification, and allows a person who has been sexually assaulted to access healthcare treatment and the assignment of a SARC and a VA. When a sexual assault is reported through Unrestricted Reporting, a SARC shall be notified, respond, or direct a VA to respond, offer the victim healthcare treatment and a SAFE, and inform the victim of available resources. The SARC or VA will explain the contents of the DD Form 2910 and request that the victim elect a reporting option on the form. If the victim elects the Unrestricted Reporting option, a victim may not change from an Unrestricted to a Restricted Report. If the Unrestricted option is elected, the completed DD Form 2701, which sets out victims' rights and points of contact, shall be distributed to the victim in Unrestricted Reporting cases by DoD law enforcement agents. If a victim elects this reporting option, a victim may not change from an Unrestricted to a Restricted Report. Civilian employees are now eligible to file an Unrestricted report on the DD Form 2910 and file the following SHARP services:

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- (1) Crisis intervention.
- (2) Safety assessment.
- (3) Safety planning.
- (4) Accompaniment to appointments and interviews.
- (5) Case management.

c. Retaliation is an umbrella term encompassing actions taken by the chain of command or peers/coworkers such as engaging in ostracism or maltreatment, taking or threatening to take an adverse personnel action, or withholding or threatening to withhold a favorable personnel action in response to the protected communication. Such behavior will not be tolerated from either Military or Civilian personnel. Protected communications include:

(1) A lawful communication to a Member of Congress or to an Inspector General; and

(2) A communication to a covered individual or organization in which a member of the armed forces complains of, or discloses information that the member reasonable believes constitutes evidence of a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

d. Commanders will publicize how to report allegations of retaliation associated with making a report of sexual assault and the availability of support resources at their locations, including resources outside an individual's immediate chain of command or supervision (e.g., Service or IG DoD, installation SARC, SAPR VAs, DoD Safe Helpline).

(1) A commander who receives a retaliation report filed with a DD Form 2910-2, will immediately refer the matter to the appropriate Military Criminal Investigative Organization (MCIO), and will not attempt to assess the credibility of the retaliation report.

(2) If the MCIO declines to investigate the retaliation, then the commander may conduct internal, command-directed investigations on the retaliation allegations only, not on the original sexual assault. However, prior to commencing a command-directed investigation, the commander will notify the MCIO investigating the sexual assault to avoid any impediment to the criminal sexual assault investigation.

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e. Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the physical safety, medical needs, and privacy of victims under their command. After a report of sexual assault, commanders will also ensure compliance with procedures in AR 600-20, Army Command Policy, para 7-8.

11. Publicize Results of UCMJ Actions. Commanders will publish the nature and results of all judicial and non-judicial punishments, letters of reprimand, and adverse administrative actions and disseminate this information to troops using unit newsletters, bulletin boards, or some other form of mass communication.

12. Implement Connect to Care. Commanders will ensure Soldiers, Army Civilians, and Family members who seek assistance with any Army agency requesting SHARP services will receive a direct handoff to a Sexual Assault Response Coordinator or Victim Advocate.

13. Victim Rights:

- a. The right to be treated with fairness and respect for your dignity and privacy.
- b. The right to be reasonably protected from the accused offender.
- c. The right to reasonable, accurate, and timely notice of public preliminary hearings, pre-trial confinement hearings, court proceedings, and clemency and parole hearings related to the offense.
- d. The right to be present at all public proceedings related to the offense unless the hearing officer or military judge determines that your testimony would be materially altered if you as the victim heard other testimony.
- e. The right to reasonably confer with the prosecutor/Trial Counsel in the case.
- f. The right to receive available restitution.
- g. The right to be reasonably heard at:
 - (1) A public hearing concerning the continuation of any pre-trial confinement of the accused;
 - (2) A sentencing hearing related to the offense;
 - (3) A public Military Department Clemency and Parole Board hearing related to the offense.

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h. The right to submit a written statement for the consideration of the Convening Authority prior to taking any action on findings and sentencing.

i. The right to proceedings free from unreasonable delay.

j. The right to be provided information, if applicable, about the conviction, sentencing, imprisonment, Convening Authority's action, appellate review, and release of the offender.

14. Additional resource are available through the DoD Safe Helpline at 877-995-5247 or <https://safehelpline.org>.

15. Commanders will take an active role in eradicating sexual harassment and sexual assault to create a safe and secure environment. Together we will continue to preserve our core Army Values and ensure everyone is treated with dignity and respect.

16. Commanders will ensure assigned personnel know who to contact should they become a victim of sexual harassment and/or sexual assault, and understand they are free to report an incident without fear of retaliation.

17. For SHARP Reporting and/or Advocacy Services please call the Fort Knox SHARP Helpline (502) 851-3779 or the U.S. Army Cadet Command SHARP Helpline (855) 472-6538.

18. This memorandum will be posted on the organizations SHARP board as well as in areas deemed appropriate to be viewed by all personnel.

19. This policy is effective until superseded or rescinded.

20. Point of contact for this memorandum is Ms. Erin Bell, Cadet Command SHARP Program Manager, at 502-624-6206 or erin.m.bell10.civ@army.mil.



ANTONIO V. MUNERA
Major General, USA
Commanding