



DEPARTMENT OF THE ARMY
HEADQUARTERS, EIGHTH ARMY
UNIT #15236
APO AP 96271-5236

EACG (600)

12 APR 2022

MEMORANDUM FOR All Eighth Army Soldiers, Civilians and Family Members

SUBJECT: Eighth Army Command Policy Letter #7, Sexual Harassment/Assault Response and Prevention (SHARP) Program

1. References:

- a. National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012, PL 112-81, dated 31 December 2011.
- b. Department of Defense Directive (DoDD) 6495.01, Sexual Assault Prevention and Response (SAPR) Program, 23 January 2012 (incorporating Change 5, effective 05 November 2021).
- c. Department of Defense Instruction (DoDI) 6495.02, vol 1, Sexual Assault Prevention and Response: Program Procedures, 28 March 2013 (incorporating Change 6, effective 10 November 2021).
- d. DoDI 6495.02, vol 2, Sexual Assault Prevention and Response: Education and Training, 9 April 2021.
- e. DoDI 6495.03, Defense Sexual Assault Advocate Certification Program (D-SAACP), 28 February 2020.
- f. DoDI 6400.09 DoD Policy on Integrated Primary Prevention of Self-Directed Harm. And Prohibited Abuse or Harm, 11 September 2020.
- g. Deputy Secretary of Defense Memorandum, Subj: Updates to Department of Defense Policy and Procedures for the Sexual Assault Prevention and Response Program and Adult Sexual Assault Investigation, dated 10 November 2021.
- h. Army Regulation (AR) 27-10, Military Justice, 20 November 2020.
- i. AR 600-20, Army Command Policy, 24 July 2020.
- j. AR 690-600, Equal Employment Opportunity Discrimination Complaints, 09 February 2004.

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k. HQDA EXORD 221-12, 2012 Sexual Harassment/Assault Response and Prevention (SHARP) Program Synchronization Order, 23 June 2012.

l. ALARACT 344/2013, HQDA EXORD 052-14, Army Installation and Below Website Information for Sexual Assault Related Phone Numbers to Reach a SHARP Sexual Assault Response Coordinator (SHARP/SARC) or Survivor Advocate (SHARP/VA), 31 December 2013.

m. ALARACT 188/2014, HQDA EXORD 193-14, Screening of SHARP Program Personnel and Others in Identified Positions of Significant Trust, 25 July 2014.

n. ALARACT 013/2021 Additional Sexual Harassment/Assault Response and Prevention Program Guidance: Expedited Transfers, 24-month Sexual Assault Response Coordinator and Victim Advocate Stabilization, and SHARP personnel incentives, dated 22 February 2021.

o. HQDA EXORD 204-16, Sexual Harassment and Assault Readiness Effort, 14 June 2016.

p. Army Directive (AD) 2018-16, Subject: Suitability Criteria for Military Personnel in Specified Positions, dated 08 November 2018.

q. AD 2018-23, Subject: Improving the Effectiveness of Essential and Important Army Programs: Sexual Harassment/Assault Response and Prevention, Equal Opportunity, Suicide Prevention, Alcohol and Drug Abuse Prevention, and Resilience. Dated 08 November 2018.

r. AD 2021-30, Subject: Sexual Harassment/Assault Response and Prevention Services for the Army Civilians, dated 02 September 2021.

s. AD 2021-16, Subject: Immediate Actions to improve the Sexual Harassment/Assault Response and Prevention Program, dated 05 May 2021.

t. United States Forces Korea (USFK) Regulation (Reg) 600-20, Sexual Assault Prevention and Response Program, 16 July 2015.

u. USFK Reg 690-1, Regulations and Procedures - Korean Nationals, 1 July 2017.

v. United States Forces Korea Command Policy Letter #9, Sexual Assault Prevention and Response (SAPR), 02 January 2014.

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w. US Army Pacific Sexual Harassment/Assault Response and Prevention – Policy Memorandum, dated 29 October 2021.

2. Purpose. Eighth Army (8A) is committed to providing a safe environment for all personnel assigned to support this command. This policy promotes a command climate that encourages survivors to report incidents of sexual harassment and sexual assault without fear of retribution, retaliation, or intimidation. Sexual harassment and sexual assault are not in keeping with Army Values. The SHARP Program enhances the safety, well-being, and readiness of 8A by fostering a culture free of sexual harassment and sexual assault through prevention, education and training, response capability, survivor support, reporting procedures, and appropriate accountability.

3. Background. Behaviors associated with sexual harassment and sexual assault continue to erode the trust between Soldiers, DACs, and Family members as well as between the leader and the led. This is a sacred trust that cannot and should not be broken. Incidents of sexual harassment and sexual assault tear the fabric of our Army community. These actions undermine the trust necessary for a highly functioning organization and jeopardize our readiness for the “Fight Tonight” mission in Korea. Eighth Army does not tolerate nor condone sexual harassment, sexual assault, or associated retaliatory behaviors. The Chain of Command at all echelons will take this direct threat to our readiness very seriously and do all within their power to eliminate it from our formation.

4. Discussion.

a. **Sexual Harassment** is a form of gender discrimination. It involves unwelcomed sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person’s job, pay, or career. It is categorically prohibited when submission to or rejection of such conduct by a person is used as a basis for career employment decisions affecting that person; or such conduct unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive environment.

(1) Military personnel have the right to present a sexual harassment complaint to the command through the SHARP Program without fear of intimidation, reprisal, retaliation, or further harassment. Concerns about sexual harassment issues ought to be resolved at the lowest possible level within the organization.

(2) Sexual harassment complaint options include anonymous, informal and formal complaints:

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(a) An *anonymous* complaint is a report of sexual harassment from an unknown or unidentified source. The individual reporting the information is not required to divulge any personal identifying information. Commanders will publicize and enable anonymous reporting through 8A SHARP hotline, or official telephone lines. All anonymous complaints, even those that cannot be investigated will be referred to the alleged Subject's Brigade (BDE) Commander for evaluation.

(b) An *informal* complaint is any complaint that a Soldier or Family member of the Service Member does not wish to file in writing. Informal complaints may be resolved directly by the individual, with the help of another unit member, the Sexual Assault Response Coordinators (SARCs) or the Victim Advocates (VAs), the commander, or other person in the complainant's chain of command. The SARCs who receive or discuss informal resolution of sexual harassment complaints will maintain a memorandum of record (MFR) regarding the complaint and resolution actions taken. The SARC will ensure that the complainant understands that if a commander is informed of a complaint of sexual harassment, by the complainant or another party, the Commander will inquire into the matter.

(c) A *formal* complaint is any complaint that a complainant files in writing and swears to the accuracy of the information. Formal complaints require specific actions, are subject to timelines, and require documentation of the actions taken. An individual files a formal complaint using a DA Form 7746 (Sexual Harassment Complaint) with the assistance of a BDE SARC. The complainant has 60 calendar days from the date of the alleged incident to file a formal complaint. The responsible BDE commander will report all formal sexual harassment complaints to the first General Court-Martial Convening Authority (GCMCA) within three calendar days (72 hours).

(3) DA civilian employees should report any instance of sexual harassment to the Equal Employment Opportunity (EEO) Office, IAW AR 690-600. DA Civilian employees may contact the 8A EEO at DSN: (315) 755-0320 or commercial 0503-355-0320.

(4) Korean Employees should report any instance of sexual harassment to their supervisor or management, following the Grievance Process outlined in USFK Reg 690-1, chapter 13-5.

b. **Sexual Assault** is a crime defined as intentional sexual contact, characterized by use of force, physical threat, or abuse of authority or when the survivor does not or cannot consent. The term sexual assault includes a broad category of sexual offenses including, but not limited to rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or

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age of survivor. Failure by the survivor to offer physical resistance is not "Consent." Sexual assault is incompatible with the Army Values and is punishable under the UCMJ and other federal and local civilian laws.

(1) Soldiers and adult dependents of Service Members who are survivors of sexual assault have two reporting options: Restricted and Unrestricted reporting.

(a) *Restricted* reporting option allows a Soldier or Family member over the age of 18 who is a sexual assault survivor, on a confidential basis, to disclose the details of the assault to a SARC, VA or Healthcare Providers, without triggering an investigative. The survivor who elects the restricted reporting option will have access to victim advocacy services, medical treatment, counseling, optional Sexual Assault Forensic Examination (SAFE) and special victim counsel legal services.

i. Survivor may elect to make a Restricted Report of sexual assault at all times, EXCEPT IN cases where the victim:

- Personally reported the incident to law enforcement including Military Criminal Investigation Organizations (MCIOs); or
- Previously filed an Unrestricted Report with a signed DD Form 2910 for the same incident.

ii. Survivor can file a Restricted Report EVEN IF:

- The allegation has been inadvertently or previously disclosed to command by the victim, suspect, or third party;
- The matter has been reported to law enforcement, to include MCIOs, by anyone other than the victim; or
- An investigation is initiated, in progress, or closed.

iii. **Commander Responsibility:** A survivor's election to make a Restricted Report does not preclude command or the MCIO from conducting an investigation of sexual assault. Once the victim's commander becomes aware that the victim of an Independent Investigation has later filed a Restricted Report, he/she will not ask the SARC/VA any details about the Restricted Report, nor will the commander seek to speak to the victim about the reported sexual assault incident.

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(b) *Unrestricted* reporting option allows a sexual assault survivor to request an official investigation of his/her sexual assault incident. The survivor will have access to victim advocacy services, medical treatment, counseling, special victim counsel legal services, optional SAFE and consideration for military protection orders and Expedited Transfers. Details regarding the incident will be limited to only those personnel with a legitimate need to know.

(c) *Non-Participating survivors*: If a survivor approaches a SARC, VA or a healthcare provider, but changes his/her mind and decides not to file either a Restricted or Unrestricted report, the SHARP professional or healthcare provider is not under any obligation to inform the investigators or commanders or disclose the communications surrounding the incident. The survivor's decision not to participate in an investigation or prosecution does not affect access to victim advocacy services, medical and psychological care, or services from an SVC.

(d) *Independent Investigation*: In the situation that sexual assault incident may come to the Commander's or DoD law enforcement official's attention from a source independent of the Restricted Reporting avenues, an independent investigation will be initiated. An independent investigation does not, in itself, convert the Restricted Report to an Unrestricted Report.

(2) When a sexual assault survivor seeks assistance first with healthcare personnel, the healthcare personnel will immediately contact the SARC. The SARC/VA will explain both reporting options, victim advocacy services and resources, expedited transfer, special victim counsel, and complete the DD Form 2910, Survivor Reporting Preference Statement, with the survivor's consent. Chaplains and military attorneys cannot take official reports. A report to a Chaplain or military attorney may not result in the rendering of SHARP services or trigger an investigative action because of the privileges associated with speaking to these individuals.

(3) All sexual assault survivors have the right to speak to a Special Victim Counsel (SVC) and SHARP Professional (SARCs and VAs). Communication between the survivor and SHARP Professional is confidential and protected under Military Rule of Evidence (MRE) 514.

(4) Service Members and adult dependent sexual assault survivors of non-domestic abuse are eligible to request Expedited Transfers.

(5) Survivors electing either one of the reporting options will be treated with fairness, dignity, and respect. It is paramount to protect the individual's privacy and avoid instances of secondary or subsequent victimization.

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c. Commanders, supervisors, and leaders at every level are responsible for providing a safe environment for those in their charge. Leaders at all levels must take action to eliminate risk factors for sexual harassment and sexual assault from all work areas, living quarters, and recreational facilities throughout the command.

d. Our leaders are in the best position to mentor their subordinates in an effort to prevent incidents of sexual harassment and sexual assault before they occur. 8A leaders can make a difference by positively influencing the behavior of those in their commands. This effort requires diligence and persistence at every echelon of command and entails immediate responses to inappropriate remarks or jokes, inappropriate material that displays people as objects or other behaviors or relationships that appear inappropriate. Dealing with these circumstances early demonstrates that the command values all individual members and that objectifying people of the same or opposite sex will not be tolerated.

e. Leaders must brief their subordinates regarding the command's commitment to eliminate sexual harassment and sexual assault. Where prevention fails, commanders and leaders must ensure survivors have access to prompt, informed, professional, and compassionate care. Commanders, supervisors, and leaders must be familiar with the SHARP Program, its related regulation and policies, and the duties and responsibilities of first responders, such as SHARP professionals (SARCs and VAs), SVCs, Sexual Assault Medical Forensic Examiner, Law Enforcement, Healthcare providers, and the Army Victim Witness (Liaison) Assistance Program (VWAP, see AR 27-10, Chapter 18).

f. The 8A SHARP Hotline (DSN: 158 or 763-5700 or cell/land line: 0503-363-5700) is available 24 hours a day and 7 days a week. It is the immediate way to seek assistance for a sexual assault survivor or sexual harassment complainant. The automated message will instruct the caller to press the number correlating to their assigned Area and a credentialed on-call SHARP professional will answer and respond.

g. Command teams will protect individuals who file sexual harassment complaints or sexual assault reports from actual or perceived intimidation, harassment, retaliation or reprisal. Soldiers and civilian employees are encouraged to use their Chain of Command for any issues, allegations, or requests for assistance. Allowing the Chain of Command to handle the matter emphasizes their importance and credibility. A Soldier or civilian employee has the option to report acts or threats of retaliation to SARCs, 8A SHARP Program Manager at (315) 755-2751, and 8A Inspector General (IG) at DSN: (315) 755-2000 or the Department of Defense IG Hotline at DSN 312-664-8779, commercial 1-800-424-9098.

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h. Soldiers are held to the standards of the UCMJ and Army Values when using social media, both on and off duty. Commenting, posting and linking to material that violates the UCMJ or basic rules of Soldier conduct are prohibited. Wrongful broadcast or distribution of intimate visual images is punishable under the UCMJ Art. 117a. The Criminal Investigation Division (CID) will investigate all reported violations of UCMJ Art. 117a.

i. Expedited Transfer request for a change of station or unit transfer must be approved or disapproved by the BDE Commander within 5 CALENDAR DAYS of the submission of the request.

j. When an Expedited Transfer is approved by HRC, the losing Commander (O-6) will conduct a warm hand-off to the gaining Commander (O-6) prior to the Survivor's departure. This procedure applies to any sexual assault survivor reassignment (e.g., permanent change of station either on or before the member's normal rotation date, temporary duty inside or outside of the local area).

(1) The losing commander (O-6) will inform the gaining commander (O-6) of the sexual assault incident involving any reassigned person if any one of the following applies:

(a) Active criminal investigation.

(b) Active legal proceeding.

(c) Ongoing survivor healthcare (medical or mental health) needs that are directly related to the sexual assault.

(d) Ongoing monthly Sexual Assault Review Board (SARB) oversight involving the survivor or

(e) Active SHARP survivor support services.

(2) The losing Command will continue following up with the survivor during the Expedited Transfer transition until the intake with the gaining SARC is completed.

(3) The key is ensuring consistency of care for the transferred individual. To prevent secondary victimization or inconsistent care, it is essential to limit the shared information to the objective facts about survivor care provided, status of open investigations, and the status of ongoing legal proceedings. This will provide the gaining

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commander with some context for survivor behavior and to facilitate the survivor's access to advocacy, healthcare, MCIOs, and legal counsel.

k. Commanders will ensure they interview and select the best qualified personnel to be trained, certified and appointed in writing as the full-time and collateral duty SARC and VAs, IAW NDAA FY12 and AR 600-20 requirement.

(1) All SARCs and VAs must have cleared background checks, SHARP training, and the Defense Sexual Assault Advocate Certification Program (D-SAACP) before their SHARP position appointment.

(2) BDE Commanders must interview all SARCs and VAs, both full-time and collateral duty, and address ethic topics such as dual relationship, boundary setting, conflict of interests and ethical decision-making etc.

l. All Commands will plan, develop, coordinate, collaborate and execute training, education, special events, and outreach campaigns for sexual harassment and sexual assault prevention public awareness, including planning local events for Sexual Assault Awareness and Prevention Month (SAAPM) in April. Soldiers, DA Civilians, and Families are encouraged to get involved and be part of the prevention force of sexual harassment and sexual assault.

m. Sexual Assault survivors are afforded Victim's Rights, such as, but not limited to, reasonable protection from the accused, being treated with fairness and respect for their dignity and privacy, proceedings free from unreasonable delay etc. More information can be found in DD Form 2701 (Initial Information for Victims and Witnesses of Crime).

n. This command will not tolerate retaliation or reprisal (any act of retaliation) against an individual who makes a protected SHARP-related communication. The definition of retaliation is as follows:

(1) When any person subject to the UCMJ or Federal law wrongfully takes or threatens to take an adverse personnel action; or

(2) Wrongfully withholds or threatens to withhold a favorable personnel action with the intent to discourage; or

(3) Retaliate against any person for reporting or planning to report a criminal offense; or

(4) Making or planning to make a protected communication

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Every DoD employee and military member has the right to report criminal offenses with a protected communication. The Inspector General will investigate all reports of retaliation.

5. Display this policy on all official bulletin boards and circulate among all Eighth Army personnel.

6. Proponent. The proponent for this policy is the 8A G1 SHARP Program Manager at DSN 315-755-2751 or commercial 0503-355-2751.

A handwritten signature in black ink, appearing to read 'W. M. Burleson, III', with a stylized flourish at the end.

WILLARD M. BURLESON, III
Lieutenant General, USA
Commanding