



DEPARTMENT OF THE ARMY
10TH ARMY AIR AND MISSILE DEFENSE COMMAND
UNIT 25357
APO AE 09136-5357

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NOV 20 2022

MEMORANDUM FOR All Personnel Assigned, Attached, or OPCON to 10th Army Air and Missile Defense Command (AAMDC), Sembach, Germany, 09136

SUBJECT: Policy Letter #3, Sexual Harassment/Assault Response and Prevention (SHARP)

1. References:

a. National Defense Authorization Act (NDAA) for Fiscal Year 2022, 27 December 2021

b. DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program, 23 January 2012, (Incorporates change 5, effective 11 October 2021)

c. DoD Directive 7050.06, Military Whistleblower Protection, 17 April 2015

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 6495.03, Defense Sexual Assault Advocate Certification Program (D-SAACP) 28 February 2020

g. Army Regulation 600-20, Army Command Policy, 24 July 2020

h. Army Regulation 27-10, Military Justice, 20 November 2020

i. Army Directive 2021-16, Immediate Actions to Improve the Sexual Harassment/Assault Response and Prevention Program, 5 May 2021

2. Purpose. The 10th AAMDC's Leadership's commitment to creating and maintaining an environment that maximizes productivity and respect for human dignity. Sexual harassment and sexual assault are contrary to the Army Values and Warrior Ethos. They destroy teamwork and negatively affect combat readiness. Sexual harassment

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and sexual assault are also punishable under the Uniform Code of Military Justice (UCMJ) and other federal and local laws. This letter also reinforces our commitment to ensuring Soldiers, adult military family members, and Department of the Army Civilian (DAC) employees live and work in an environment free of sexual harassment and sexual assault. Commanders, leaders, and supervisors will create and maintain an environment conducive to dignity, respect, and productivity. Leadership aims to permanently shift our culture away from sexual assault through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and wellbeing of all persons. Sexual harassment and sexual assault destroy teamwork and mission performance and will not be tolerated. Victims must feel empowered to report their incidents and will receive support from their chain of command.

3. Sexual Harassment. DoDI 1020.03 defines sexual harassment as conduct that:

a. Involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when:

(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; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive environment; and

b. Is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

(1) Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the Armed Forces.

(2) Any deliberate or repeated unwelcome verbal comments or gestures of a sexual nature by any member of the Armed Forces or civilian employee of the Department of Defense.

(3) There is no requirement for concrete psychological harm to the complainant for behavior to constitute sexual harassment. Behavior is sufficient to constitute sexual harassment if it is so severe or pervasive that a reasonable person would perceive, and the complainant does perceive, the environment as hostile or offensive.

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(4) Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person.

c. Complainants of sexual harassment are encouraged to seek assistance immediately from their full time Sexual Assault Response Coordinator (SARC) to ensure they are provided all of their reporting options and rights. However other reporting resources may include: chain of command, NCO support channel, Inspector General, Staff Judge Advocate's office, Provost Marshal, Medical Agency Personnel, or chaplain. When made aware, commanders will initiate an inquiry or investigation of all alleged sexual harassment promptly. Sexual harassment is incompatible with the Army Values.

d. Complainants may choose to file an anonymous, informal or formal complaint.

(1) An anonymous complaint is defined as a report of sexual harassment, regardless of the means of transmission from an unknown or unidentified source. Commanders will publicize and enable anonymous reporting through a Full-time SARC or DoD SAFE HELPLINE (877) 995-5247, DE: 0611-143-537-7233, Also DSN: 53-SHARP (74277) other means to report sexual harassment is to the commander by means of (anonymous letter, unit drop box, DEOCS survey, ICE comment, unidentified personal email or other means to remain anonymous). All anonymous complaints, even those that cannot be investigated due to not enough information, will be referred to the subject's brigade commander for evaluation and entered into the Integrated Case Reporting System (ICRS). If credible, the report will be processed similar to a formal complaint.

(2) An informal complaint is not filed in writing. Typically, issues warranting informal filing can be resolved through discussion, problem identification, and clarification. If a commander is informed of a complaint of sexual harassment, the commander will inquire into the matter. If the commander investigates an informal complaint, the SARC will inform the complainant. The complainant may then decide to elevate to a formal complaint by completing DA Form 7746. If the complainant does not fill out a DA Form 7746, the SARC will locally maintain a memorandum for record (MFR), without PII, detailing the complaint and the command's response. The SARC will also enter the relevant information into ICRS. An informal complaint is not subject to regulatory time line standards, but should be resolved within 14 calendar days of the complaint receipt.

(3) A formal complaint is filed in writing on a DA Form 7746. The full-time SARC will refer all formal complaints to the brigade commander immediately. The brigade commander will have the complainant swear to the contents of the statement(s) contained in the formal complaint by administering an oath to the complainant, in accordance with AR 600-20. Upon receipt of a formal complaint, commanders will initiate an investigation or inquiry within 72 hours. Commanders will forward the

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complaint to the first commander in the chain of command with general court martial convening authority (GCMCA) within 72 hours of receipt. The investigation will be conducted at the level where a thorough examination of the facts can be achieved. Investigative Officers must outrank the subject of the investigation. To the extent practicable, investigations should be completed no later than 14 calendar days from the complaint's receipt. If additional time is needed, the BDE commander must update the complainant, subject, and GCMCA every 14 days. Complaints will be reviewed by a judge advocate prior to closing them. The brigade commander will close the sexual harassment complaint with the complainant and subject using the DA Form 7746. If the victim/ subject does not appeal to the GCMCA. The matter is considered closed and the final determination/ resolution will be shared with the full-time SARC and closed out in ICRS after completing the DA Form 7746-1.

e. In all sexual harassment complaint investigations (anonymous, informal, or formal) Commanders will appoint an investigating officer (IO) from outside the subject's assigned brigade-sized element. Exceptions requiring appointment of an IO from the same brigade-size element as the subject will be approved in writing by the first general officer in command and included as an enclosure to the investigation. (This authority may not be delegated).

f. Civilian employees who experience sexual harassment should contact the Equal Employment Opportunity (EEO) Office within 45 calendar days from the date of the incident. Sexual harassment complaints will be handled in accordance with AR 690-600.

g. Soldiers, DOD Civilians and Family members and witnesses that make a complaint or inform the command of sexual harassment and are victims of sexual assault will be provided a retaliation/reprisal plan by the O-5/ Battalion Commander.

h. Retaliation encompasses illegal, impermissible, or hostile actions taken by a Service member's chain of command, peers, or coworkers as a result of making or being suspected of making a protected communication in accordance with DoDD 7050.06. Retaliation for reporting a criminal offense can occur in several ways, including reprisal. Investigation of complaints of non-criminal retaliatory actions other than reprisal will be processed consistent with service-specific regulations. In addition to reprisal, defined in Paragraph 3.4, additional retaliatory behaviors include ostracism, maltreatment, and criminal acts for a retaliatory purpose in connection with an alleged sex-related offense or sexual harassment; or for performance of duties concerning an alleged sex-related offense or sexual harassment. For detailed definitions of the full range of retaliatory behaviors, see the RPRS Implementation Plan.

i. Reprisal means taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making,

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preparing to make, or being perceived as making or preparing to make a protected communication.

4. Sexual Assault.

a. AR 600-20, para 7-9 explains that sexual assault is a crime punishable under the UCMJ, other federal and local civilian laws and is incompatible with the Army Values. Sexual Assault is intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, or attempts to commit these acts.

b. Any Soldier aware of sexual assault should immediately report the incident to the chain of command. If a Soldier, family member, or DA Civilian believes that he or she has been sexually assaulted, there are two reporting options:

c. Restricted Report. Allows the victim to confidentially disclose sexual assault details to the 10th AAMDC SARC, victim advocate (VA), a legal-assistance attorney, chaplain, or military healthcare provider without chain-of-command or law-enforcement involvement. The victim can disclose the sexual Assault without causing an official investigation and will be able to obtain medical treatment, advocacy services, CATCH, and support. However, will not be able to obtain a protective order, command support, or subject being held accountable. It is important to note, that discussing a sexual assault with a chaplain or attorney is not the same as filing a restricted report. Nevertheless, communications with a chaplain or legal-assistance attorney are privileged communication. NOTE: Communications with legal personnel such as brigade or command judge advocates and paralegals are not protected by privilege. If the commander is made aware of a sexual assault he/she is obligated to initiate an investigation through CID/OSI immediately, however the victim may choose not to participate.

d. Unrestricted Report. Can be submitted through the chain of command, supervisory personnel, military police, Criminal Investigation Division (CID), 10th AAMDC SARC, VA, chaplain, or military healthcare personnel. The victim will receive medical treatment, advocacy services, and support. An official CID investigation into the crime will be initiated and the perpetrator may be held accountable.

5. Sexual harassment and sexual assault undermine the 10th AAMDC's ability to work effectively as a team. Leaders at every echelon are responsible for exercising active and positive leadership in the prevention of sexual harassment and sexual assault. This includes conducting, at a minimum, 3.5 hours of annual SHARP training and enforcing accountability for those who commit these violations. All leaders will create conditions for awareness, prevention, training, victim advocacy, response, reporting and accountability. Reprisal against individuals exercising their right to report sexual harassment or sexual assault will be taken seriously by this command. At no time will any leader within this command initiate their own investigation into an allegation of sexual assault.

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6. Training. Commanders will provide an assessment of their unit's SHARP training program for each unit BDE and below. Unit commanders are responsible for assessing the need and frequency of any additional training for their units that are in addition to the annual training requirements. Units assigned to 10th AAMDC will conduct training IAW

AR 600-20 and provide training MFRs that will be filled locally and a copy sent to the 10th SHARP office within seven days of annual training being conducted and no later than the new FY. The training will be conducted (preferably) in person by unit command/ leaders and facilitated by a credentialed SHARP professionals (not as the primary instructor), per AR 600-20. Training must be annotated on the unit training calendar and the 10th AAMDC SHARP office must be provided the trainer, facilitator, topic, time and location of training at least a week in advance to the training occurring. The 10th AAMDC SARC is responsible for ensuring all unit Collateral victim advocates receive at a minimum quarterly training on policy changes and the 10th AAMDC SARC will review case files, SHARP boards, records and quality control procedures for victim advocacy.

7. SHARP professionals are authorized to wear civilian SHARP/unit apparel for the purpose of advocating for the SHARP program and providing an approachable atmosphere for junior enlisted Soldiers. SHARP professionals are encouraged to maximize training events throughout the year with a focus on prevention and changing the culture.

8. Leaders will make every effort to promptly separate victims from alleged offenders through use of military/civilian protective orders and/or physical relocation during the course of an investigation. Along with preserving the victim's rights to essential services and support, leaders will also ensure an alleged offender's rights are maintained, including the presumption of innocence, throughout the course of the investigation and any other action in response to the report.

a. Victims of sexual assault have the following rights:

1. Right to be reasonably protected from the accused;
2. Right to reasonable, accurate, and timely notice
3. Right not to be excluded from any public proceedings;
4. Right to be reasonably heard;
5. Reasonable right to confer with government's attorney;
6. Right to full and timely restitution as provided in law;
7. Right to proceedings free from unreasonable delay; and
8. Right to be treated with fairness and with respect for the victim's dignity and privacy.

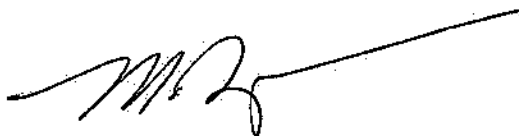
9. The full-time SARC/VAs are exempt from additional duties and duty rosters in order to respond or coordinate a responding VA within four hours of the reported sexual assault or within 24 hours and harassment cases being reported to DoD. The collateral duty SARCs/VAs on appointment orders for the Battalions (BN) or Missile Defense Batteries (MDB) should be exempt for the same purpose. All SARC and VAs will have 24/7 access to commanders and access to TMPs for the transport and care of victims.

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10. All commanders will ensure that a copy of this memorandum is posted in well-travelled, public areas down to the battery/company level.

11. The point of contact for this memorandum is the 10th AAMDC SARC, at DSN: 314-528-7272 (SARC), 7277 (SAPR) or Gov: (+49) (0) 162-297-2718

A handwritten signature in black ink, appearing to read 'M. Barnett', with a long horizontal stroke extending to the right.

MAURICE O. BARNETT
Brigadier General, USA
Commanding