



DEPARTMENT OF THE ARMY
UNITED STATES ARMY JAPAN
UNIT 45005
APO AP 96343-5005

APAJ-GA

20 OCT 2021

COMMAND POLICY MEMORANDUM 21-16

FOR SEE DISTRIBUTION

SUBJECT: Sexual Harassment/Assault Response and Prevention (SHARP)

1. References. See Enclosure 1.
2. This policy applies to personnel assigned or attached to United States Army Japan (USARJ), on or off duty, and on or off post.
3. One Team Strength is built on a foundation of trust. Trust is hard to earn, easy to lose, and crucial for effective mission command. Sexual harassment and sexual assault destroy the climate of trust necessary to build and maintain effective units and organizations. Sexual harassment and sexual assault are serious offenses and erode our combat readiness. We must treat sexual harassment and sexual assault like the serious threats they are. I am committed to our SHARP Program. A culture of "harmless pranks and sexual innuendo" is unacceptable. In USARJ, there are no bystanders. I expect all members of One Team to take an active role in the prevention of sexual harassment and assault.
4. Commanders at all levels are responsible for establishing a climate of trust and setting a standard to lead their SHARP program. This begins with Commanders selecting the right personnel for their unit's program. I want to emphasize the importance of personally interviewing and selecting the best qualified personnel. Your SHARP teams are hand selected for these critical positions based on their moral, ethical, and professional character. Prior to appointment, all appointees to the SHARP program will meet the qualifications in Reference 1. Commanders, if you identify a resource shortfall and are unable to support the SHARP program fully, then I charge you to bring this to my attention so that I may address it. Do not let the perceived lack of resourcing undermine your SHARP program.
5. The chain of command will take all allegations of sexual harassment and sexual assault seriously. Commanders will immediately notify the Sexual Assault Response Coordinator (SARC) and U.S. Army Criminal Investigation Command (CID) upon receipt of information of a sexual assault from any source,

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including a third party. Commanders will send a Serious Incident Report (SIR) within 24 hours of receipt of information of a sexual assault. Our formation must be confident that reports will be handled quickly, decisively, and that our system will provide protection throughout the reporting, investigation, and adjudication process, without fear of retaliation.

6. If an administrative investigation or inquiry reveals that an act reported as sexual harassment is a sex-related offense punishable under the UCMJ, that Commander must halt the investigation and immediately refer the case to CID. SHARP services, to include protected communications with SHARP professionals, are available to victims.

7. Sexual assault is a criminal offense punishable under the UCMJ, as well as other federal state laws. Sexual harassment, sexual assault, wrongful broadcast or distribution of intimate visual images, and retaliatory behavior is unacceptable, may be punishable under the UCMJ, and are incompatible with the Army Values. These behaviors will not be tolerated in the Army or at One Team. Sexual assault, sexual harassment, and wrongful broadcast are fully defined in Enclosure 2.

8. *Victims and Complainants.*

a. Personnel have the right to present their complaints to the command without fear of intimidation, reprisal or harassment. Every member of the chain of command will ensure Complainants are protected from reprisal and retaliation. See Enclosure 3 for a detailed list of Victim's Rights.

b. Resources available to Victims and Complainants of sexual harassment and/or sexual assault include: SHARP personnel, Sexual Assault Response Coordinator (SARC), chaplain services, health care, counseling, child protective services, military and civilian protective orders, legal assistance, and the 24-Hour USARJ SHARP Hotline for (Honshu) 090-9395-8909, (Okinawa) 090-6861-8447 or DoD Safe Helpline 877-995-5247.

c. The chain of command is always available.

9. Everyone shares the responsibility in the prevention and reporting of sexual harassment and assault and must remain committed to the Army's "I. A.M. Strong" campaign. It is our duty to change the perception that leaders "don't care, and no action will be taken." One assault is one too many. My challenge to you in seeking to combat sexual harassment and assault is to have a culture where these kinds of behaviors are not able to occur. Start with yourself and then mentor and develop all in your formation to create a culture where no one tolerates this harmful behavior. Leaders should use all

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tools available to them to address this problem. Conduct battlefield circulation, command climate surveys, sensing sessions, and workplace inspections. My standard in this area is 100% reporting. It is about building and maintaining One Team Strength. Everyone plays a part.

10. The point of contact for this policy is the USARJ SHARP Program Manager, DSN (315) 262-5506, or via email at usarmy.zama.usarj.mbx.g1-sharp@mail.mil.



JB VOWELL
MG, USA
Commanding

3 Encls

1. References
2. Definitions
3. Victim's Rights

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References

1. Army Regulation 600-20 (Army Command Policy), 24 July 2020.
2. EXORD 204-16 (Sexual Harassment and Assault Readiness Effort), 14 June 2016.
3. Manual for Courts Martial, Uniform Code of Military Justice (UCMJ), 2019 edition.
4. USARPAC Operation Order (OPORD) 14-08-043 (Screening of SHARP Personnel and Others in Identified Positions of Significant Trust), 15 August 2014.
5. Department of Defense Instruction (DoDI) 6400.07 (Standards for Victim Assistance Services in the Military Community), 25 November 2013, Incorporating Change 2, 6 July 2018.
6. DoDI 1030.02 (Victim and Witness Assistance), 2 September 2020.

Definitions

Complainant

A Soldier, military Family member, or DA civilian employee who submits a complaint.

Sexual assault

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 range of sexual offenses including the following specific UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), and attempts to commit these acts.

Sexual harassment

Conduct that involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments of a general nature when: Submission to such conduct is either explicitly or implicitly a term or condition of a person's job, pay or career; or submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or 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. 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 or a DA Civilian employee. Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature related to the work environment by any member of the Armed Forces or DA Civilian employee.

Victim

In the SHARP context, a person who asserts direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault or an act of sexual harassment. The term encompasses all persons 18 and over eligible to receive treatment in military medical treatment facilities.

Wrongful broadcast or distribution (UCMJ, Article 117a)

It is a crime to knowingly and wrongfully broadcast or distribute intimate visual images of another person or a visual image of sexually explicit conduct involving another person. Such conduct must be investigated by CID, and a Sexual Assault Response Coordinator (SARC) and Victim Advocate will be appointed.

Victim's Rights

1. References.

a. 10 United States Code § 806b (Rights of Victims of Offense Under this Chapter) 2018.¹

b. DoDI 1030.02 (Victim and Witness Assistance), 2 September 2020.

2. Victims of sexual assault or sexual harassment have the following rights:

a. Be reasonably protected from the accused.

b. Be provided with reasonable, accurate, and timely notice of:

1. A public hearing concerning the continuation of confinement before the trial the accused.

2. A preliminary hearing pursuant to Article 32 of the UCMJ relating to the offense.

3. A court-martial relating to the offense.

4. A public proceeding of the Military Department Clemency and Parole Board relating to the offense.

5. The release or escape of the accused, unless such notice may endanger the safety of any person.

c. Be present at, and not be excluded from, any public hearing or proceeding described in this section, unless the military judge or preliminary hearing officer of a hearing conducted pursuant to Article 32 of the UCMJ determines, after receiving clear and convincing evidence, that testimony by the victim would be materially altered if the victim observed that hearing or proceeding.

d. Be reasonably heard, personally or through counsel, at:

1. A public hearing concerning the continuation of confinement before the court martial of the accused.

2. Preliminary hearings conducted pursuant to Article 32 of the UCMJ and court martial proceedings relating to Rules 412, 513, and 514 of the Military Rules of Evidence or regarding other rights provided by statute, regulation, or case law.

3. A public sentencing hearing relating to the offense.

1. Also referred to as Article 6b, UCMJ.

Victim's Rights Continued

4. A public Military Department Clemency and Parole Board hearing relating to the offense. A victim may make a personal appearance before the Military Department Clemency and Parole Board or submit an audio, video, or written statement.

e. Confer with the attorney for the U.S. Government in the case. This will include the reasonable right to confer with the attorney for the U.S. Government at any proceeding described in Paragraph 3.2.a.(2) of DOD Instruction 1030.02.

1. Crime victims who are eligible for legal assistance may consult with a military legal assistance attorney in accordance with Paragraph 3.4 of DOD Instruction 1030.02.

2. Victims of an alleged offense under Articles 120, 120a, 120b, or 120c or forcible sodomy under the UCMJ or attempts to commit such offenses under Article 80 of the UCMJ, who are eligible for legal assistance per Military Department or National Guard Bureau policies or in accordance with Sections 1044 or 1044e of Title 10, U.S.C., may consult with a Special Victim's Counsel/Victim's Legal Counsel (SVC/MLC) in accordance with Paragraph 3.5 of DOD Instruction 1030.02. Victims of these covered alleged offenses will be informed by a sexual assault response coordinator (SARC), victim advocate, victim witness liaison, military criminal investigator, trial counsel, or other local responsible official that they have the right to consult with a SVCNLC as soon as they seek assistance from the individual in accordance with Section 1565b of Title 10, U.S.C., and as otherwise authorized by Military Department and National Guard Bureau policy.

3. All victims may also elect to seek the advice of a private attorney, at their own expense.

- f. Receive restitution as provided in accordance with State and federal law.
- g. Proceedings free from unreasonable delay.
- h. Be treated with fairness and respect for his or her dignity and privacy.
- i. Express his or her views to the commander or convening authority as to disposition of the case.
- j. Not be prevented from, or charged for, receiving a medical forensic examination.
- k. Have a sexual assault evidence collection kit or its probative contents preserved, without charge.
- l. Be informed of any result of a sexual assault evidence collection kit, including a deoxyribonucleic acid (DNA) profile match, toxicology report, or other information collected as part of a medical forensic examination, if such disclosure would not impede or compromise an ongoing investigation.

Victim's Rights Continued

m. Be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit.

n. Upon written request, receive written notification from the appropriate official with custody not later than 60 days before the date of the intended destruction or disposal of a sexual assault evidence collection kit.

o. Upon written request, be granted further preservation of the kit or its probative contents.

p. Express a preference regarding whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense (for a victim of an alleged sex related offense that occurs in the United States).

1. Victims expressing a preference for prosecution of the offense in a civilian court shall have the civilian authority with jurisdiction over the offense notified of the victim's preference for civilian prosecution by the convening authority.

2. The convening authority shall notify the victim of any decision by the civilian authority to prosecute or not prosecute the offense in a civilian court, if the convening authority learns of any decision.