



DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D INFANTRY DIVISION
ROK/US COMBINED DIVISION
BLDG 6500, UNIT #15236
APO AP 96271-5041

EAID-CG

03 June 2021

MEMORANDUM FOR SEE DISTRUBUTION

SUBJECT: Command Policy Letter #2: Sexual Harassment/Assault Response and Prevention (SHARP) Program

1. This policy letter supersedes all previous versions of SHARP policy letters. It remains in effect until rescinded or superseded.

2. References:

a. National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012, PL 112-81, dated 31 December 2011.

b. Department of Defense Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program, 23 January 2012 (incorporating Change 3, effective 11 April 2017).

c. Department of Defense Instruction (DoDI) 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures, 28 March 2013 (incorporating Change 4, effective 11 September 2020).

d. Department of Defense Instruction (DoDI) 6495.03, Defense Sexual Assault Advocate Certification Program (D-SAACP), dated 28 February 2020.

e. DoD Office of the Under Secretary of Defense Memorandum, Subj: Revisions to the Sexual Assault Prevention and Response Program's Expedited Transfer Policy, dated 10 February 2020.

f. AR 600-20, Army Command Policy, dated 24 July 2020.

g. AR 690-600, Equal Employment Opportunity Discrimination Complaints, dated 09 February 2004.

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

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

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j. 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 Victim/survivor Advocate (SHARP/VA), dated 31 December 2013.

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

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

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

n. USFK Reg 690-1, Regulations and Procedures - Korean Nationals, dated 01 July 2017.

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

p. Eighth Army Command Policy Letter #8, Sexual Harassment/Assault Response and Prevention (SHARP) Program, dated 03 October 2020.

q. AR 27-10, Military Justice, dated 30 December 2020.

r. DoD Under Secretary of Defense Memo Update to SAPR Expedited Transfer Policy including dependents, dated 10 February 2020.

s. ALARACT 013/2021, , SUBJ: Additional SHARP Program Guidance: Expedited Transfers, 24 Month Stabilization, And Incentives, dated 22 February 2021.

t. HQDA EXORD 105-21, SUBJ: Sexual Harassment/Assault Response and Prevention (SHARP) Expedited Transfer Training for Senior Commanders and SHARP Professionals, dated 23 February 2021 Office of the Under Secretary of Defense Memorandum, Subj: Revisions to the Sexual Assault Prevention and Response Program's Expedited Transfer Policy, dated 10 February 2020.

3. Purpose. The 2^D ROK/US Combined Division (2^D RUCD) SHARP Program implements DoD and Army policy regarding sexual harassment and sexual assault. The Army/the Warrior Division does not tolerate or condone sexual harassment, sexual assault, or associated retaliatory behaviors. The SHARP Program enhances Army readiness by fostering a culture free of sexual harassment and sexual assault through prevention, education and training, response capability, victim/survivor support, reporting procedures, and appropriate accountability that enhances the safety, well-being, and readiness of all assigned personnel (Soldier, civilian employees, and family

members). 2^D RUCD is committed to providing a safe environment for all personnel assigned who support this command. This policy promotes a command climate that encourages victims/survivors to report incidents of sexual harassment and sexual assault without fear of retribution, retaliation, or intimidation. Sexual harassment and sexual assault are against the Army Values. The SHARP Program enhances 2^D RUCD readiness by fostering a culture free of sexual harassment and sexual assault through prevention, education and training, response capability, victim/survivor support, reporting procedures, and appropriate accountability that enhances the safety, well-being, and readiness.

4. Background. Behavior associated with sexual harassment and sexual assault erodes the trust between Soldiers, Department of the Army Civilians, and Family members; between the leaders 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 foundation of a highly functioning organization and jeopardizes our readiness for the "Fight Tonight" mission in Korea. 2^D RUCD does not tolerate or 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.

5. Discussion.

a. Sexual harassment and sexual assault are incompatible with our Army Values and the Warrior Ethos. Sexual harassment and sexual assault directly and negatively impacts the morale, safety, motivation, performance, and cohesion of our Soldiers and Department of Army Civilian (DAC) employees, as well as unit readiness. It results in increased absenteeism, inefficiency, and destroys trust among Soldiers. Sexual harassment and sexual assault are inappropriate, offensive, and illegal. Sexual harassment and sexual assault will not be tolerated in this Division. Victims/survivors of sexual harassment and sexual assault will at all times be treated with fairness, dignity and respect.

b. 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.

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

(a) An *anonymous* complaint is a report of sexual harassment, regardless of the means of transmission, from an unknown or unidentified source or call the USAG Humphreys Sexual Assault **Hotline** at 0503-363-5700 or 0503-357-8912 (3). Calling from the US: 011-82-503-363-5700 or 011-82-503-357-8912 24/7 or worldwide, anonymous and confidential support at Safe Helpline – a specialized, secure online service that provides help and information anytime, anywhere. Find more information at **safehelpline.org**. The individual reporting the information is not required to divulge any personal identifying information. Commanders will publicize and enable anonymous reporting through the 24/7 USFK 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. Military members, DACs and family members 18 and above can file a report through the DIV/BDE's SHARP office by calling DSN: (315) 756-7134, the DIV SHARP hotline 010- 8685-7285 or the USFK SHARP hotline from any DSN line in Korea by dialing 158 or to call from a commercial line dial 0503-363-5700. Soldiers and DA Civilians have the right to report acts or threats of retaliation and reprisal to the DIV SHARP office at DSN 756-7133/7134/7135 and DIV Inspector General (IG) at DSN: (315) 756-7351 or the Department of Defense IG Hotline at DSN 312-664-8779, commercial 1-800-424- 9098.

(b) An *informal* complaint is any complaint that a Soldier or Family member does not wish to file the complaint 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 for 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) *Formal* complaint is where 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. Soldiers are encouraged to file formal complaints within 60 calendar days from the date of the aggrieving behavior. This will facilitate the investigation and resolution of these complaints. 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) DAC employees should report any instance of sexual harassment to the Equal Employment Opportunity (EEO) Office, IAW AR 690-600. DA Civilian employees may contact their respective USAG EEO Offices: Area I DSN: (315) 722-1027 or commercial 0503-322-1027, Area II DSN: (315) 722-5010 or commercial 0503-322-5010, and Area III DSN: (315) 755-9155 or commercial 0503-355-9155.

(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.

c. Sexual assault is a crime. Sexual assault is intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim/survivor 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. There are two reporting options for sexual assault: restricted reporting and unrestricted reporting. Sexual assault is incompatible with the Army Values and is punishable under the UCMJ and other federal and local civilian laws.

(1) In coordination with DHA, provide guidance to MTF commanders on what procedures to have in place whereby Soldiers, Family members age 18 or older, and DA Civilians eligible for treatment in an MTF who report they were sexually assaulted are able to receive confidential care and treatment. Victims/survivors of sexual assault have two reporting options: Restricted and Unrestricted reporting.

(a) *Restricted* reporting option does not trigger an investigation. The SC is notified a sexual assault has been reported, but is not given the victim's name or other PII. Restricted reporting allows Soldiers and Family members age 18 and older who are sexual assault victims/survivors to confidentially disclose the assault to specified individuals (SARC, SHARP VA, Victim Representative (VR) or Healthcare Providers) and receive healthcare treatment and the assignment of a SARC and SHARP VA. A sexual assault victim/survivor can report directly to a SARC, who will respond or direct a SHARP VA to respond, offer the victim/survivor healthcare treatment and a sexual assault forensic examination (SAFE), and explain to the victim/survivor the resources available through the DD Form 2910, where the reporting option is elected. The restricted reporting option is only available to Soldiers and Family members aged 18 and older. DA Civilians wishing to file a restricted report should consult with a SARC, SHARP VA, or Healthcare Provider. If a victim/survivor elects this reporting option, a victim/survivor 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/survivor and the signature of the SARC or SHARP VA in the appropriate block on the DD Form 2910.

(b) *Unrestricted* reporting option triggers an investigation, command

notification, and allows a person who reports sexual assault to access healthcare treatment and the assignment of a SARC and a SHARP VA. When a sexual assault is reported through unrestricted reporting, a SARC will be notified and respond or direct a SHARP VA to respond, offer the victim/survivor emergency healthcare and an optional forensic exam, explain the contents of the DD Form 2910, and request that the victim/survivor elect a reporting option on the form. If the victim/survivor elects the unrestricted reporting option, a victim/survivor may not change from an unrestricted to a restricted report once it is reported to USACIDC. If the unrestricted option is elected, the completed DD Form 2701 (Initial Information for Victims and Witnesses of Crime), which sets out victims' rights and points of contact, will be distributed to the victim/survivor in unrestricted reporting cases by DoD law-enforcement agents.

(c) *Non-Participating victim/survivors*: Non-participating victim. For victims who make either a restricted or unrestricted report, the following guidelines apply: (1) Details regarding the sexual assault will be limited to only those personnel who have an official need-to-know. The victim's decision to decline to participate in an investigation or prosecution will be honored by all personnel charged with the investigation and prosecution of sexual assault cases, including, but not limited to, commanders, USACIDC agents, and personnel in the victim's chain of command. If at any time a victim who originally chose unrestricted reporting declines to participate in an investigation or prosecution, that decision should be honored in accordance with this subparagraph. However, the victim cannot change from an unrestricted to a restricted report. The victim will be informed by the SARC, SHARP VA, or VR that the investigation may continue regardless of whether the victim participates. The victim's decision not to participate in an investigation or prosecution does not affect access to SARC, SHARP VA, and VR services, medical and psychological care, or services from an SVC. These services will be made available to all eligible sexual assault victims. If a victim approaches a SARC, SHARP VA, VR, or healthcare provider and begins to make a report, but then changes their mind and leaves without signing the DD Form 2910, the SHARP professional or healthcare provider is not under any obligation or duty to inform investigators or commanders about this report and will not produce the report or disclose the communications surrounding the report. If commanders or law enforcement ask about the report, disclosures can only be made in accordance with exceptions to the MRE 514 privilege, as applicable.

(d) *Independent Investigation*: Independent investigations are not initiated by the victim. If information about a sexual assault comes to a commander's attention from a source other than a victim (victim may have elected restricted reporting or where no report has been made by the victim), that commander will immediately report the matter to an Military Criminal Investigation Organization (MCIO) and an official (independent) investigation will be initiated based on that independently acquired information. a. If there is an ongoing independent investigation, the sexual assault victim will no longer have the option of restricted reporting when— DoD law enforcement informs the SARC of the investigation, and The victim has not already elected restricted reporting. The timing of filing a restricted report is crucial. In order to take advantage of the restricted

reporting option, the victim will file a restricted report by signing a DD Form 2910 before the SARC is informed of an ongoing independent investigation of the sexual assault.) If a SARC is notified of an ongoing independent investigation and the victim has not signed a DD Form 2910 electing restricted report, the SARC will inform the victim that the option to file a restricted report is no longer available. However, all communications between the victim and SHARP professionals will remain privileged. If an independent investigation begins after the victim has formally elected restricted reporting (by signing the DD Form 2910), the independent investigation has no impact on the victim's restricted. If information about a restricted report of sexual assault comes to the commander's attention as a result of a disclosure that is required for fitness of duty or disability determination, the commander will not report the matter to USACIDC and the restricted nature of the report will remain.

(2) When a sexual assault victim/survivor seeks assistance first with the 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, Victim/survivor Reporting Preference Statement, with the victim/survivor's consent. Chaplains and special victim counsel cannot take official reports. A report to a Chaplain or special victim counsel 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 victim/survivors have the right to speak to a Special Victim Counsel (SVC) and SHARP Professional (SARCs and VAs). Communication between the victim/survivor and SHARP Professional is confidential and protected under Military Rule of Evidence (MRE) 514.

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

(5) Victim/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.

d. 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. All commanders will— AR 600–20 immediately notify the SARC and USACIDC upon receipt of information of a sexual assault from any source, including a third party. A commander will not conduct any internal, inquiries or investigations of sexual assaults or delay immediately contacting USACIDC while attempting to assess the credibility of the report. Meet with the SARC within 30 days of taking command for one-on-one SHARP briefing. The training will include a trends brief for the unit and area of responsibility, the

confidentiality and "official need-to-know" requirements for both unrestricted and restricted reporting, and the requirements of the SAIRO report.

e. 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. The Warrior Division 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 pre-cursor behavior such as inappropriate remarks or jokes, inappropriate material that displays people as objects or other behaviors or relationships that appear inappropriate. Deal with these early and demonstrate that the command values all individual members and that objectifying people of the same or opposite sex will not be tolerated.

f. 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 victim/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).

g. The USFK SHARP Hotline (DSN: 158 or 763-5700 or cell/land line: 0503-5700) is available 24 hours a day and 7 days a week. It is the immediate way to seek assistance for a sexual assault victim/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.

h. *Military Whistleblower Protection Act* Department of Army personnel are prohibited from restricting a Soldier's lawful communication with a Member of Congress or an IG, and from taking acts of reprisal against a Soldier for making, preparing to make, or being perceived as making a protected communication (see 10 USC 1034 and DoDD 7050.06). The provisions of paragraph 5-12 are punitive, and violations may be punished under UCMJ, Art. 92. a. No person will restrict a member of the Armed Services from lawfully communicating with a Member of Congress or an IG. No person will take an unfavorable personnel action, or withhold or threaten to withhold a favorable personnel action, as a reprisal against a member of the Armed Forces for making or preparing or being perceived as making or preparing to make a protected communication. A protected communication includes: Any lawful communication with a Member of Congress or an IG. A communication described in paragraph 5-12b(4) that is made (prepared or perceived to be made) to a Member of Congress; an IG; a member of a DoD audit, inspection, investigation, or law-enforcement organization; any person or organization in the chain of command; a court-martial proceeding; or any other person or organization designated pursuant to regulations or other established

administrative procedures for such communications or: Testimony, or otherwise participating in or assisting in an investigation or proceeding related to a protected communication, or filing, causing to be filed, participating in, or otherwise assisting in an action brought

under the Military Whistleblower Reprisal Act. A Soldier or civilian employee has the option to report acts or threats of retaliation to SARCs, 2D/RUCD SHARP Program Manager at (315) 756-7135, and 2D/RUCD Inspector General (IG) at DSN: (315) 756-7351 or the Department of Defense IG Hotline at DSN 312-664-8779, commercial 1-800-424-9098.

i. *Retaliation.* No Soldier may retaliate against a victim, an alleged victim, or another member of the Armed Forces based on that individual's reporting or planning to report a criminal offense or discourage the individual from reporting a criminal offense. The provisions of paragraph 5–13 are punitive, and violations may be punished under the UCMJ. Definitions: Subject to more specific guidance from the DoD, for the purposes of this paragraph 5–13, "retaliation" is defined as: Any person subject to the UCMJ who wrongfully takes or threatens to take an adverse personnel action, or wrongfully withholds or threatens to withhold a favorable personnel action with the intent to discourage or retaliate against any person for reporting or planning to report a criminal offense, or making, or planning to make a protected communication. (See Article 132, UCMJ (2019).

j. Soldiers are held to the standards of the Uniform Code of Military Justice (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 Article 117a. The Criminal Investigation Division (CID) will investigate all reported violations of UCMJ Article 117a.

k. When an Expedited Transfer is approved, the losing Commander (O-6) will conduct a warm hand-off to the gaining Commander (O-6) prior to the victim/survivor's departure. This procedure applies to any sexual assault victim/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 victim/survivor healthcare (medical or mental health) needs that are directly related to the sexual assault.

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

(e) Active SHARP victim/survivor support services.

(2) 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 victim/survivor care provided, status of open investigations, and the status of ongoing legal proceedings. This will provide the gaining commander with some context for victim/survivor behavior and to facilitate the victim/survivor's access to advocacy, healthcare, Military Criminal Investigation Organizations (MCIOs), and legal counsel.

(a) Commanders will ensure they will 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 requirements. All SHARP SARC and VAs must have required cleared background checks, training, and the Defense Sexual Assault Advocate Certification Program (D-SAACP) before their SHARP position appointment.

(b) 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, DACs, and Families are encouraged to get involved and be part of the prevention force of sexual harassment and sexual assault.

6. Display this policy on all official bulletin boards and circulate among all 2^D RUCD personnel.

7. Proponent. The proponent for this policy is 2^D RUCD SHARP Program Manager at DSN 315-756-7135 or commercial 0503-356-7135.



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DISTRIBUTION:

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