



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY MEDICAL COMMAND
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OTSG/MEDCOM Policy Memo 21-040

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7 OCT 2021

Expires 7 October 2023

MEMORANDUM FOR U.S. Army Medical Command Personnel

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

1. References:

- a. Army Regulation (AR) 600-20, Army Command Policy, Chapter 7, 24 July 2020.
- b. Army Regulation 623-3, Evaluation Reporting System, 14 June 2019.
- c. Department of the Army Pamphlet 623-3, Evaluation Reporting System, 27 September 2019.
- d. Department of Defense Instruction 1020.03, Harassment Prevention and Response in the Armed Forces, 29 December 2020.
- e. Department of Defense Instruction 6495.02, Volumes 1 & 2, Sexual Assault Prevention and Response (SAPR) Program Procedures (28 March 2013), Incorporating Change 5, 9 April 2021.
- f. Manual for Courts-Martial United States, 15 February 2019.
- g. MEDCOM Regulation 40-36, Medical Facility Management of Sexual Assault, 21 January 2009 and Supplement 1, 12 November 2015.
- h. National Defense Authorization Act for Fiscal Year 2021, 1 January 2021.

2. Applicability: This policy applies to all military personnel and Department of the Army (DA) Civilians assigned or attached to the Office of the Surgeon General or the Army Medical Command.

3. Policy:

*This policy memo supersedes OTSG/MEDCOM Policy Memo 20-047, 28 August 2020, subject: Sexual Harassment/Assault Response and Prevention (SHARP) Program.

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a. The Army and U.S. Army Medical Command (MEDCOM) are committed to ensuring that Service Members and Civilian employees live and work in an environment free of sexual harassment and sexual assault. Leaders at every level must be committed to creating and maintaining an environment that promotes productivity and respect for human dignity. Sexual harassment and sexual assault are offenses contrary to Army Values and are punishable under the Uniform Code of Military Justice (UCMJ) and other federal and local laws.

b. Commanders and leaders will maintain an environment that prevents sexual assault/harassment while supporting diversity. All Soldiers will support the Army "I.A.M. (Intervene, Act, Motivate) Strong" campaign which combats sexual violence by engaging all Soldiers in preventing sexual assaults before they occur. All personnel should speak up and immediately intervene to stop sexual harassment or any act that is perceived to be sexual in nature and unprofessional.

c. Commanders will protect witnesses, bystanders and victims of sexual violence from retaliation, reprisal, ostracism, maltreatment or threats of these actions. Likewise, unit commanders and/or supervisors will not interfere with or otherwise attempt to negatively influence SHARP professionals in the performance of their duties.

d. Commanders will ensure that rated Soldiers are assessed on fostering climates of dignity and respect and adhering to the SHARP Program as a part of each Officer/Noncommissioned Officer Evaluation Report.

e. We must urgently address allegations of sexual harassment and sexual assault. All allegations of sexual harassment must be taken seriously and investigated promptly. SHARP personnel will assist individuals who experience sexual harassment to resolve the issue at the lowest level possible with an informal complaint or through the formal complaint process. Department of Defense and Department of the Army (DOD/DA) Civilian complaints of sexual harassment will be investigated and processed in accordance with the Equal Employment Office (EEO) Program and AR 690-600. Contract personnel with knowledge of an incident of sexual harassment or sexual assault will immediately report the incident to their employer and their employer will immediately report the incident to the government's contracting officer's representative. Every member of this command who becomes aware of a sexual assault should immediately report it (within 24 hours).

f. Victims of sexual assault perpetrated by a spouse or intimate partner, or Family member under the age of 18 who are victims of sexual assault, are covered under the Family Advocacy Program (FAP), as described in DOD 6400.1-M-1. FAP provides the full range of services to those individuals. When a sexual assault occurs as a result of domestic abuse or involves child abuse, the installation Sexual Assault Response Coordinator (SARC) will direct the victim to the installation FAP.

4. Definitions:

a. Sexual harassment is conduct that 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 working environment and; (4) is so severe or pervasive that a reasonable person would perceive and the victim does perceive the environment as hostile or offensive. Sexual harassment can be verbal, non-verbal, and physical. It can occur through electronic communications, including social media, other forms of communication, and in person.

b. Sexual assault is a crime defined as intentional sexual contact characterized by the 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 specific UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex) or attempts to commit these offenses. Sexual assault can occur without regard to gender or spousal relationship or age of victim. "Consent" will not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person used force, threat of force or coercion when the victim is asleep, incapacitated or unconscious.

c. Reprisal is taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, or any other act of retaliation, against a Soldier or Family member, for making or preparing a formal Military Equal Opportunity (MEO) complaint, a DA Civilian for engaging in activity in opposition to perceived discrimination; or against an alleged subject under investigation.

d. 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)).

5. Reporting Options:

a. Sexual Harassment:

(1) An informal complaint is an allegation of unlawful sexual harassment that does not require written documentation. These complaints may be voiced to the offending party, to someone in a position of authority, or both. Informal complaints can be resolved by the individual experiencing the harassing behavior, through a direct, indirect (text or email), or "third party" approach. Examples of "third parties" include other people, a Soldier or Civilian, or a supervisor. The intention is that the offending

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behavior will stop with no further action required. All informal complaints will be reported to the Brigade SARC. The SARC will provide advocacy services and document the complaint in the Integrated Case Reporting System (ICRS). The actions taken and the resolution of the complaint will be documented with a memorandum for record and stored with the SARC for 15 years.

(2) A formal complaint is an allegation of unlawful discrimination and/or harassment that is submitted in writing to proper authority and processed through official complaint channels. The complainant has 60 calendar days from the date of the alleged incident in which to file a formal complaint. If a complaint is received after 60 calendar days, the commander has the discretion to still conduct an investigation. All formal complaints will be reported within three calendar days to the first General Courts-Martial Convening Authority (GCMCA) in the chain of command.

(3) Anonymous reporting is defined as a report of sexual harassment, regardless of the means of transmission, from an unknown/unidentified source. The individual reporting the information is not required to divulge any Personally Identifiable Information (PII). All anonymous complaints will be documented on DA Form 7746, entered into ICRS, and referred to the subject's BDE commander for investigation.

b. Sexual Assault:

(1) Restricted reporting allows a Service Member or Family Member age 18 or older to confidentially report a sexual assault to a SARC, Victim Advocate (VA) or healthcare provider and receive medical care without notifying the chain of command or triggering an official investigation.

(2) Unrestricted reporting allows a victim of a sexual assault to report the assault to the chain of command and/or other official channels, to include the Criminal Investigation Division (CID), Inspector General and Provost Marshal. Victim Advocate's will refer DA/DOD Civilian victims to CID and/or local advocacy agencies. Details regarding the incident will be limited to those personnel who have a legitimate need to know the information, as well as those agencies, which the UCMJ, policies or applicable laws dictate be notified of such charge.

6. Victims' Rights:

a. Crime victims have the following rights:

(1) The right to be treated with fairness and respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

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(3) The right to reasonable, accurate, and timely notice of public preliminary hearings, pretrial confinement hearings, court proceedings, and clemency and parole hearings related to the offense.

(4) The right to be present at all public proceedings related to the offense unless the hearing officer or military judge determines that the victim's testimony would be materially altered if the victim heard other testimony.

(5) The right to reasonably confer with the prosecutor/Trial Counsel in the case.

(6) The right to receive available restitution.

(7) The right to be reasonably heard at: (1) a public hearing concerning the continuation of any pretrial 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.

(8) The right to submit a written statement for the consideration of the Convening Authority prior to acting on finding and sentence.

(9) The right to proceedings free from unreasonable delay.

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

b. For further information on crimes issues, see the DOD Victim and Witness Assistance Council web page at <https://vwac.defense.gov/>.

7. Resources: The MEDCOM SHARP program has a dual mission that includes the command wide prevention and victim advocacy services and the medical management of sexual assault patients.

a. SHARP personnel are available to train and assist commanders and leaders at every level. SARCs and VAs provide assistance with sexual harassment and sexual assault reports, SHARP training, prevention and response efforts and victim advocacy.

b. Commanders will ensure that all patients who present to the military treatment facility with an allegation of sexual assault receive a uniform standard of care that is monitored and tracked until the provision of healthcare related to the sexual assault is completed.

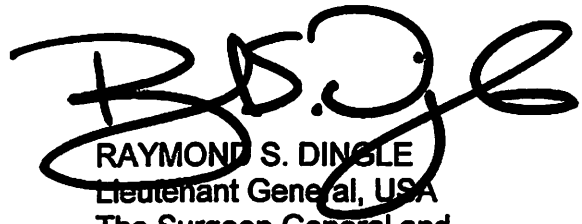
8. Withholding Initial Disposition Authority: Pursuant to Secretary of Defense Memorandum, Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases, 20 April 2012, initial disposition authority is withheld to the first special court-martial convening authority in the grade of O-6 or higher for the following alleged offenses:

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- a. Rape, in violation of Article 120, UCMJ.
- b. Sexual assault, in violation of Article 120, UCMJ.
- c. Forcible sodomy, in violation of Article 125, UCMJ.
- d. Attempts to commit the above offenses, in violation of Article 80, UCMJ.
- e. Additionally, this withholding applies to all other alleged offenses arising from or relating to the same incident(s), whether committed by the alleged perpetrator or the alleged victim of the rape, sexual assault, forcible sodomy or the attempts thereof.

9. POC for this policy memorandum is the MEDCOM SHARP Program Manager at 210-295-7396.



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Commanding General, USAMEDCOM