



DEPARTMENT OF THE ARMY
HEADQUARTERS, 10TH MOUNTAIN DIVISION (LIGHT INFANTRY) AND FORT DRUM
FORT DRUM, NEW YORK 13602-5000

AFDR-CG

9 September 2021

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy Memorandum #5; Sexual Harassment/Assault Response and Prevention

1. References.

a. Department of Defense Instruction 1020.03 Harassment Prevention and Response in the Armed Forces, 29 December 2020

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

c. AR 690-600, Equal Employment Opportunity Discrimination Complaints, 9 February 2004

d. AR 27-10, Military Justice, 20 November 2020

2. The 10th Mountain Division (Light Infantry) and Fort Drum are committed to fostering an environment free of sexual harassment and sexual assault for Soldiers, Family members, and Civilians. Sexual harassment and assault are direct contradictions to the Army Values and Army Civilian Corps Creed. Acts such as these are punishable under the Uniform Code of Military Justice (UCMJ) and other federal and local civilian laws. Sexual harassment nor sexual assault will be tolerated in the Army. We have the responsibility intervene and speak up when injustice or wrongdoings occur. Furthermore, personnel have the right to present their complaints to the command without fear of intimidation, reprisal, or retaliation. Victims of crimes are afforded various rights and we uphold a commitment to honor them. It is incumbent upon Commanders to create an environment that is conducive to good order and discipline

2. When sexual harassment is not properly addressed, it creates an environment for sexual assault to progress. Just as sexual harassment destroys trust within organizations, sexual assault deteriorates cohesion and further degrades mission readiness. We must take care of our people in every aspect, which includes combating these indisciplines. Keeping the priorities of people and readiness as our guiding compass in all actions will lead us in the right direction.

3. Creating a cultural change is a responsibility that lies with us and we must address the issue of sexual harassment and sexual assault with fervent efforts. I am committed to cultivating this change through trust, teamwork, and cohesion.

Encl

MILFORD H. BEAGLE, JR.
Major General, USA
Commanding

DISTRIBUTION

Enclosure 1

Sexual Harassment and Sexual Assault Responsibilities & Definitions

1. The following information provides definitions of key terms and responsibilities directed for all commanders across 10th Mountain Division (LI) to implement within their sexual harassment and sexual assault programs. This policy serves as my intent for the Soldiers, Families, Civilians, and the Fort Drum community in regards to sexual harassment and sexual assault. It applies to all personnel assigned or attached to the 10th Mountain Division LI and Fort Drum, regardless of duty status and while on or off the installation.

2. Responsibilities:

a. 10th Mountain Division and Fort Drum Commanders will commit to creating a positive command climate, actively prevent and end sexual violence. Sexual harassment and sexual assault will not be tolerated in the 10th Mountain Division (LI) and Fort Drum. Combating sexual harassment and sexual assault is a responsibility of each member of the chain of command. Good units have positive cultures and their leaders possess the competence to know right from wrong, and the commitment to abide by these standards. All commanders will implement the following guidelines:

(1) Establish a SHARP program to educate, discipline, and enforcement Army policies and standards.

(2) Create an environment that is conducive to good order and discipline; acts of reprisal or retaliation will not be tolerated.

(3) Accept all sexual harassment complaints and ensure they are processed within a timely manner in accordance with AR 600-20.

(4) Encourage Soldiers, Family Members, and Civilians to report any sexual harassment or report a sexual assault incident by utilizing their chain of command or SHARP program.

(5) Not impede Civilian employees who exercise their rights to pursue administrative remedies through the Equal Employment Opportunity (EEO) program.

(6) Uphold a commitment to honor the rights afforded to victims and witnesses of crimes.

b. Fort Drum Commanders will implement the following guidelines within their applicable SHARP programs:

(1) Appoint one full-time credentialed Sexual Assault Response Coordinator (SARC), and one full-time credentialed Victim Advocate (VA) at the brigade and brigade equivalent level. Personnel assigned to SARC/VA fulltime duties will not hold other positions or be assigned additional tasks that may detract from their primary role.

(2) Document mandatory unit SHARP training in the Digital Training Management System (DTMS).

(3) Ensure Brigade SHARP personnel participate in Division/Installation SHARP program activities, to include SARC training, planning, committee, and sub-committee membership.

3. Definitions

a. sexual harassment – Conduct that: Involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when: Submission to such conduct is, either explicitly or implicitly, made a term or condition of a person's job, pay, or career 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. 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 civilian employee of the Department of Defense. Any deliberate or repeated unwelcome verbal comments or gesture of a sexual nature by any member of the Armed Forces or a civilian employee of the Department of Defense. 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. Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person

b. 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.

c. Special Victims' Counsel (SVC) – legal assistance attorneys who have received specialized training and are designated by the Staff Judge Advocate (SJA). The mission of the SVC is to provide victims with confidential legal representation related to issues that may arise as a result of being sexually assaulted or subjected to domestic violence. A SVC's primary duty and loyalty is to the victim and no other person, organization, or entity. These personnel help to foster an understanding of the military justice process and ensure the rights afforded to victims are protected.

d. retaliation – 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.

e. reprisal – 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 MEO complaint, a DA Civilian for engaging in activity in opposition to perceived discrimination; or against an alleged subject under investigation.

f. Department of Defense Victims' Bill of Rights

(1) The right to be treated with fairness and respect for your dignity and privacy.

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

(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 your testimony would be materially altered if you as 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 taking action on findings 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.

4. For additional information about the sexual harassment/ assault response and prevention program please contact (315) 774-2196 or the Fort Drum Sexual Harassment/Assault Response and Prevention crisis hotline (315) 767-6128. Victims of sexual crimes may also contact the Fort Drum Special Victims' Counsel Office, (315) 772-6583.