



DEPARTMENT OF THE ARMY
HEADQUARTERS, 25TH INFANTRY DIVISION AND U.S. ARMY HAWAII
BUILDING 580 KOLEKOLE AVENUE
BARRACKS, HAWAII 96857-6000

APVG-CG

02 NOV 2021

MEMORANDUM FOR RECORD

SUBJECT: United States Army Hawaii (USARHAW) Policy Letter #6 – Prevention of Sexual Harassment and Sexual Assault

1. References:

- a. DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program, dated 23 January 2012, Incorporating Change 4, effective 11 September 2020.
- b. DoD Instruction 6495.02, Sexual Assault Prevention and Response Program Procedures, dated 28 March 2013, incorporating change 5, effective 09 April 2021.
- c. DoD Instruction 1020.03, Harassment Prevention and Response in the Armed Forces, effective 8 February 2018.
- d. DoD Instruction 6495.03, Defense Sexual Assault Advocate Certification program (D-SAACP), effective 28 February 2020.
- e. Army Regulation (AR) 600-20, Army Command Policy, dated 24 July 2020.
- f. HQDA EXORD 221-12 Sexual Harassment/Assault Response and Prevention (SHARP) Program Synchronization Order, dated 23 June 2012.
- g. ALARACT 299-2013 Army Responsibilities, Roles, Procedures, and Authorities for Responding to Sexual Assault Allegations, dated 16 January 2012.
- h. Army Directive 2015-16, Command Engagement to Prevent Retaliation, dated 4 March 2015.
- i. Department of the Army Memorandum, Guidelines and Process for Commander's Critical Information Requirements (CCIR) Regarding Sexual Assault and Sexual Harassment Incidents, dated 11 April 2018..

2. Purpose. To establish the Command Policy on the Sexual Harassment and Assault Response and Prevention (SHARP) Program within USARHAW. This policy applies to all units based or assigned within USARHAW, to include tenant units and the Reserve Component.

3. Commander's Intent.

a. One of the most critical elements of readiness is Teamwork. We cannot foster teamwork without the trust and respect of all our teammates. More than any other actions, incidents of sexual harassment and sexual assault erode this trust, degrade unit integrity, and have an adverse impact on our readiness.

b. Sexual Harassment, Sexual Assault, and retaliation for reporting these incidents are incompatible with the Army Values. They will not be tolerated and are punishable under both UCMJ and civilian law. It is vital that all commanders, directors, managers, and supervisors actively work to prevent and eliminate these corrosive actions from occurring in their areas of responsibility.

4. Sexual Harassment is 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 of 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.

5. Sexual Assault is a crime defined as 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 including, but not limited to, the following specific UCMJ offenses: rape, sexual assault, aggravated sexual contact, or attempts to commit these offenses.

6. Soldiers are prohibited from retaliating against someone based on that individual's report of Sexual Harassment or Assault. All members of the person's chain of command, officer, and enlisted, must take appropriate measures to protect a targeted individual if they become aware of allegations of retaliation, reprisal, ostracism, or maltreatment. Retaliation is defined as wrongfully taking or threatening to take an adverse personnel action, or wrongfully withholding or threatening 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. Retaliation is further defined as acts of cruelty, oppression or maltreatment committed against a victim, an alleged victim or another member of the Armed Forces by peers or other persons, because the individual reported a criminal offense or was believed to have reported a criminal offense.

SUBJECT: United States Army Hawaii (USARHAW) Policy Letter #6 – Prevention of Sexual Harassment and Sexual Assault

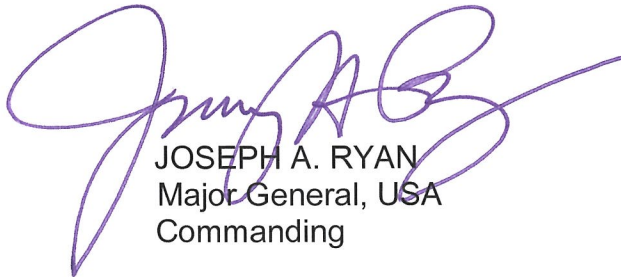
7. Commanders will establish an environment free of sexual harassment and sexual assault through education, discipline, and enforcement of standards. Training is an integral part in preventing Sexual Harassment and Assault. Training develops skills, knowledge, and promotes awareness. Annual training will be conducted by leaders in the grade of E-5 and above, with an appointed, D-SAACP certified SARC, VA, or VR (Victim Representative).

8. Commanders will ensure that all appointed collateral-duty victim advocates within their organizations prioritize their collateral duties as victim advocates over their primary duties when working with victims of sexual assault.

9. I am committed to the Army's policy against sexual harassment and assault. My standard in this area is 100% reporting. It is about Trust. It is the responsibility of every leader, military and civilian to examine allegations and take necessary actions to ensure these matters are addressed swiftly, fairly, and effectively in accordance with all published regulations. Prevention of sexual harassment and sexual assault is everyone's responsibility.

10. Proponent: The USARHAW SHARP Office is the staff agency for this policy. Questions concerning this policy can be addressed to the SHARP program manager at 808-655-1603.

11. This policy will remain in effect until superseded or rescinded.



JOSEPH A. RYAN
Major General, USA
Commanding

Encls

1. Victim's Rights
2. Information Paper

Victim's Rights

1. References.

a. 10 United States Code § 806b (Rights of Victims of Offense Under this Chapter) 2018.

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 offender.

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

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

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.

Victim's Right's Continued

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).

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

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 SVCNLC in accordance with Paragraph 3.5. 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.

Enclosure 2 (Information Paper) to United States Army Hawaii (USARHAW) Policy
Letter #6 – Prevention of Sexual Harassment Assault Response

(UNCLASSIFIED)

INFORMATION PAPER

DAPE-ARS
27 September 2021

SUBJECT: Protection of Sensitive Information Concerning Sexual Harassment and Sexual Assault

1. Purpose: This information paper is to serve as a guide to the proper safeguarding of sensitive information related to Sexual Harassment and Sexual Assault.

2. Facts:

a. Due to the high prevalence of emails that are sensitive in nature, the recipient must first consider, who has a “need to know.”

b. When sharing information regarding an act of sexual harassment or sexual assault to those that have a “need to know,” consider what information is necessary to answer the questions and share only that information, nothing further. Remember safeguarding a victim’s privacy remains a priority; be cognizant in your communications.

c. If the email states “THIS EMAIL MAY CONTAIN PRIVACY ACT PROTECTED/CONFIDENTIAL INFORMATION AND SHOULD ONLY BE PROVIDED TO RECIPIENTS WITH A “NEED TO KNOW,” any further communication must be RESTRICTED to recipients with a valid “need to know.”

3. Way Ahead:

a. Considering the unique nature and scope of the work within the Army’s Sexual Harassment and Assault Response and Prevention (SHARP) program, it is important that we safeguard the information we have been trusted with.

b. We have an ethical duty to ensure victim information is protected and distribution is limited to those with an official need to know. We all have a duty in ensuring the preservation of sensitive and confidential information and that all victims are treated with care and compassion.

c. By placing value on a victim’s right to privacy, we ensure our Soldiers, Family Members, and Civilians are treated with dignity and respect.

Prepared by: Tammy D. Coon/703-571-7267
Approved by: Jill Londagin/Army SHARP Director

(UNCLASSIFIED)