



DEPARTMENT OF THE ARMY
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05 SEP 2023

APVG-CG

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: United States Army Hawaii (USARHAW) Policy Letter # 2 – Sexual Harassment and Assault Response and Prevention Program

1. References:

- a. DoD Instruction 6495.02, Sexual Assault Prevention and Response Program Procedures, dated 28 March 2013. Change 7, effective 06 September 2022.
- b. DoD Instruction 1020.03, Harassment Prevention and Response in the Armed Forces, dated 8 February 2018. Change 2, effective 20 December 2022.
- c. DoD Instruction 6495.03, Defense Sexual Assault Advocate Certification program (D-SAACP), Effective 28 February 2020.
- d. Army Regulation (AR) 600-20, Army Command Policy, Effective 24 July 2020.
- e. Exec. Order No. 14,062, 87 Fed. Reg. 20 (Jan. 31, 2022)

2. Applicability. This policy applies to all units based or assigned within USARHAW.

3. We are an organization committed to the Army's Sexual Harassment and Assault Response and Prevention (SHARP) Program. Sexual harassment and sexual assaults are contrary to our Army values and the Warrior Ethos. These acts erode trust within our ranks and negatively impact the lethality and readiness of our force. There is simply no room in our Army for this type of behavior – it is wrong and the costs are too high. Therefore, prevention of sexual harassment and assault is my top priority.

4. How we respond to allegations of sexual harassment and assault is also critically important for maintaining a cohesive team built on trust. I expect leaders at all levels to respond promptly, professionally, and comprehensively to every allegation of sexual harassment and sexual assault. In what follows, I outline what constitutes sexual harassment and sexual assault, and I describe the complaint processes that we will follow.

5. Sexual harassment is defined as:

- a. 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; or (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.

b. Any use or consent 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 Department of Defense Civilian employee.

c. Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any member of the Armed Forces or Department of Defense Civilian employee.

6. Sexual harassment complaints by service members or their family members may be filed through the chain of command, next higher echelon command, or a SHARP representative. Sexual harassment complaints by Civilian employees must be filled with their management officials or the Equal Employment Office. There are three types of complaints:

a. An anonymous complaint is defined as a report of sexual harassment, regardless of the means of transmission, from an unknown or unidentified source. The individual reporting the information is not required to divulge any personally identifiable information. Actions taken regarding anonymous complaints will depend upon the extent of information provided in the anonymous complaint. All anonymous complaints, even those that cannot be investigated, will be referred to the subject's brigade commander for evaluation, and entered into the Integrated Case Reporting System (ICRS).

b. An informal complaint is one that a complainant does not wish to file in writing. It is not subject to a timeline and the immediate command officials handle the resolution process.

c. A formal complaint is one that a complainant files in writing and swears to the accuracy of the information. Active duty Soldiers have 60 calendar days and Civilian employees have 45 calendar days from the date of the incident to file a complaint of sexual harassment. To ensure strict impartiality, all formal sexual harassment complaints will be delivered to the brigade-level commander, who may delegate no further than the battalion-level commander to process, investigate, and adjudicate.

7. Sexual assault is defined as:

a. Sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent.

b. Sexual assault 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.

8. There are two reporting options for sexual assault victims:

SUBJECT: United States Army Hawaii (USARHAW) Policy Letter # 2 – Sexual Harassment and Assault Response and Prevention Program

a. A restricted report is for victims of sexual assault who wish to confidentially disclose the crime to specifically identified individuals and receive medical treatment and counseling

without triggering the official investigation process. Victims who desire restricted reporting under this policy must report the assault to a Sexual Assault Response Coordinator (SARC), Victim Advocate (VA), or a healthcare provider.

b. An unrestricted report is for victims of sexual assault who desire medical treatment, counseling, and an official investigation of their allegations. Unrestricted reports should be made to a SARC, VA, or the chain of command. All unrestricted reports will be referred to the Criminal Investigation Division (CID). Details regarding the incident will be limited to those personnel who have a legitimate need to know.

9. Reports of sexual harassment and assault will be addressed swiftly and fairly by military and civilian leaders. As soon as Commanders/Directors are notified of an allegation of sexual assault, they will immediately contact CID and then call their brigade/organization's SARC. Leaders will account for the rights of both the victim and the accused. All reports of sexual assaults will be reported within 24 hours as a Serious Incident Report using the CCIR format. Commanders will also submit Sexual Assault Incident Response Oversight reports (SAIRO) for unrestricted reports of sexual assault within eight calendar days of the incident report.

a. Retaliation against a victim, an alleged victim, or another member of the Armed Forces based on that individual's report of a criminal offense will not be tolerated. SARCs and SHARP VAs will inform victims of the resources available to report instances of retaliation, reprisal, ostracism, maltreatment, to request a transfer, or seek an MPO. If the retaliatory behavior is criminal in nature and the victim filed an unrestricted report, the crime should be immediately reported to USACIDC.

- 1) Reprisal is defined as 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
- 2) 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.

b. Soldiers or Civilian employees who participate in or condone misconduct, whether in person or online, may be subject to criminal, disciplinary, and/or administrative action under the Uniform Code of Military Justice and other state and federal laws.

APVG-CG

SUBJECT: United States Army Hawaii (USARHAW) Policy Letter # 2 – Sexual Harassment and Assault Response and Prevention Program

c. Commanders will ensure sexual assault victims are properly advised of the role and availability of a victim advocate and victims' rights.

d. Commanders/Leaders will encourage sexual assault victims, witnesses, intervening bystanders, SARCs, VAs, first responders, or other parties to an incident who experience retaliation or reprisal stemming from an incident to report the matter to their SARC, VA, Inspector General, Special Victims Counsel, or law enforcement. O-5 and higher commanders or Department of the Army Civilian equivalents will develop a plan to immediately address the allegations of reprisal or retaliation and forward the plan to the Commander, 25th ID and USARHAW, and the USARHAW SHARP program manager.

10. The long term viability of our SHARP program depends selecting the right personnel to fill key leadership roles. Commanders will personally interview and select SHARP candidates. Selected personnel will be of the highest moral, ethical, and professional character.

11. Proponent. The USARHAW SHARP Office is the proponent for this policy. Questions should be directed to the USARHAW SHARP Office at 808-787-0388.



MARCUS S. EVANS
Major General, USA
Commanding

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SUBJECT: United States Army Hawaii (USARHAW) Policy Letter # 2 – Sexual Harassment and Assault Response and Prevention Program

United States Army Corps of Engineers Pacific Ocean Division
United States Army Garrison – Hawaii