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AUG 10 2023

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Commanding General (CG) Policy Letter #9: Sexual Harassment and Sexual Assault Response and Prevention

1. References.

- a. Title 10 United States Code Section 806b, Rights of the victim of an offense under this chapter.
- b. Title 10, United States Code Section 1561, Complaints of Sexual Harassment: Investigation by Commanding Officers.
- c. Department of Defense Directive (DoDD) 6495.01, Sexual Assault Prevention and Response (SAPR) Program, Incorporating Change 5, 10 November 2021
- d. Department of Defense Instruction (DODI) 6495.02, Volume 1, Sexual Assault Prevention and Response (SAPR) Program, Incorporating Change 6, 10 November 2021.
- e. Army Regulation (AR) 600-20 (Army Command Policy), 24 July 2020.
- f. Army Directive 2018-16 (Suitability Criteria for Military Personnel in Specified Positions), 08 November 2018.
- g. Army Directive 2022-13 (Reforms to Counter Sexual Harassment/Assault in the Army), 20 September 2022.

2. This memorandum conveys the Commander's Intent for Sexual Harassment and Assault Response and Prevention (SHARP). This policy applies to all personnel present on Fort Stewart or Hunter Army Airfield. It also applies both on and off-post, as well as on and off duty, to all Service Members assigned, attached, or with duty at Fort Stewart or Hunter Army Airfield.

3. This policy supersedes and replaces previous 3ID SHARP Program Policies.

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4. Sexual Harassment and Sexual Assault will not be tolerated in the United States Army. Failure to report these incidents degrade our ability to maintain accountability and readiness of our Army. If tolerated, they destroy the discipline and breach the trust our Soldiers have in their leaders.

5. Eliminating sexual harassment and sexual assault is a Leader's responsibility. Leaders and Commanders at all levels are responsible for establishing the SHARP program, as well as a climate of trust, teamwork, and cohesion. A culture of "harmless pranks and sexual innuendo" is unacceptable, as it degrades mission readiness by devastating the unit's ability to work effectively as a team.

6. Sexual Harassment and Sexual Assault.

a. Sexual Assault: Sexual assault is intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful including unwanted and inappropriate sexual contact) or attempts to commit these acts. Sexual assault can occur without regard to gender, relationship, or age of victim. "Consent" will not be deemed or construed when the victim fails to resist through words or actions. Consent is not given when a victim is subject to force, threat of force, or coercion or when the victim is asleep, incapacitated, or unconscious.

b. Sexual Harassment:

(1) 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 (i) submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; (ii) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; (iii) 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; or (iv) such conduct is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

(2) Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a Soldier or civilian employee is engaging in sexual harassment

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(3) Any Soldier or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is engaging in sexual harassment.

7. Victim's Rights.

a. Victims of sexual harassment/sexual assault who believe a leader is aware of misconduct and has failed to take appropriate action may contact me through the 3ID Commanding General's Hotline to ensure allegations are investigated. Victims should work with their leadership but are not required to endure leaders who refuse to appropriately respond to the allegations.

b. Victims have the right to be treated with fairness and respect for their dignity and privacy; to be reasonably protected from the accused offender; to have reasonable, accurate, and timely notice of public preliminary hearings, pretrial confinement hearings, court proceedings, and clemency and parole hearings related to the offense; to be present at all public proceedings relating to the offense unless the hearing officer or military judge determines that their testimony would be materially altered if the victim heard other testimony; the right to submit a written statement for the consideration of the Convening Authority prior to taking action on findings and sentence; and most importantly, the right to be heard and provided information, if applicable, about the conviction, sentencing, imprisonment, Convening Authority's action, appellate review, and release of the offender.

8. Commanders will work to eliminate sexual harassment and sexual assault by:

a. Utilizing training/education to eliminate sexual assault, to offer victim support, assistance/counseling, to hold offenders accountable, to provide confidential avenues for reporting, and to reinforce a commitment to Army Values.

b. Attending Sexual Assault Review Boards (SARBs)/ Case Management Group (CMG) and engaging in case reviews of assigned victims of sexual assault and/or offenders.

c. Immediately establishing a SHARP Program and treat reported sexual assault incidents seriously. Commanders at all levels will ensure that all victims of sexual assault are treated with dignity, fairness, and respect. Unit commanders will publish SHARP and Equal Opportunity policy letters that separate the two programs.

d. Supporting the rights of victims of sexual assault, including the right to choose to file a restricted or unrestricted report. Commanders will not discourage victims from making confidential communications.

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e. Set the example and create an environment conducive to good order and discipline by taking responsibility for prevention and appropriate, prompt corrective action in eliminating sexual harassment.

9. Leadership Responsibilities. Chain of Command members are required to report incidents of sexual harassment and sexual assault. Every reported sexual harassment and assault allegation will be treated seriously in accordance with Army Policy and the following requirements.

a. Sexual Assault.

(1) Restricted Reports. Chain of Command members who become aware of a sexual assault against a Soldier not under their command or supervisory control as a result of a communication made by the victim in confidence will preserve the restricted nature of the report and the victim's expectation of privacy. Chain of Command members who become aware of a sexual assault against one of their Soldiers from a source independent of the restricted reporting avenues will report the facts to law enforcement and their commander.

(2) Unrestricted Reports. Leaders at all levels have an obligation to ensure the protection and welfare of Soldiers under their charge. Any leader who becomes aware of a sexual assault against a Soldier under his or her command or supervisory control will report the facts to the first O5 or equivalent commander in the chain of command within 24 hours. That commander will notify the unit Sexual Assault Response Coordinator (SARC) and the U.S. Army Criminal Investigation Command (CID).

(3) Retaliation. The Chain of Command will protect victims of sexual assault from retaliation, ostracism, maltreatment, and reprisal IAW Army Policy. All supervisors within the victim's direct chain of command, officer and enlisted, are required to take appropriate measures to protect the victim from retaliation, reprisal, coercion, ostracism, and maltreatment due to an unrestricted report.

(a) Commanders will establish procedures to protect witnesses and bystanders who intervene to prevent sexual assaults or who report sexual assaults from retaliation, reprisal, ostracism, or maltreatment.

(b) Any threat to life or safety of a Service Member will be immediately reported to command and DoD law enforcement authorities. A request to transfer the victim under these circumstances will be handled in accordance with established regulations. Commanders should consider expedited transfers in situations where it is in the best interest of the victim.

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(c) Commanders will provide victims of sexual assault who filed an unrestricted report monthly updates regarding the status of any ongoing investigative, medical, legal, or transfer request. Commanders will provide victims updates on proceedings regarding the sexual assault until the final disposition.

(d) Upon receipt of an unrestricted report, Commanders will issue Military Protective Orders (MPOs) when warranted to preserve the victim's safety and wellbeing.

(4) Investigation of sexual assault falls under the purview of the Army Criminal Investigation Division (CID). Commanders will not initiate or conduct parallel investigations on reports of sexual assault or collateral misconduct without prior approval from CID.

b. Sexual Harassment.

(1) Leaders at all levels who become aware of an incident or report of sexual harassment have a responsibility to stop the act and help resolve the situation. Any Leader aware of a sexual harassment allegation against a Soldier under his/her command or supervisory control will, within 24 hours, report the facts to the first O-5 Commander in the Chain of Command, who will notify the unit SARC. Leaders should be mindful that the speedy and appropriate resolution of sexual harassment complaints improves trust within the ranks.

(2) Informal Complaints of Sexual Harassment. Any complaint that a Soldier or Family member does not wish to file in writing on a DA Form 7746. Informal complaints are encouraged to be resolved at the lowest level and may or may not involve a SARC or Victim Advocate (VA). Typically, these can be resolved through discussion, problem identification, and clarification of the issues. The SARC will ensure the complainant understands support services that are available to help resolve the complaint.

(3) Command Investigations. While informal complaints are intended to be handled at the lowest level, commanders have the authority and discretion to initiate a preliminary inquiry, pursuant to Rule for Courts-Martial 303, or an administrative investigation in accordance with AR 15-6. If the commander investigates an informal complaint, the SARC will inform the complainant. If the complainant is not satisfied by the resolution provided by an informal complaint the complainant may file a formal complaint.

(4) Formal Complaints of Sexual Harassment. The Brigade SARC or higher will document formal complaints of sexual harassment with a DA Form 7746 and will

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complete the Sexual Harassment In-take form. The Brigade SARC will forward the DA Form 7746 and Sexual Harassment in-take form through the chain of command to the Division SHARP office for tracking. Commanders will initiate and forward completed copies of Army Regulation 15-6 investigations to the Division SHARP office for record keeping. Commanders are required to appoint investigating officers who meet qualifications in Chapter 2 of AR 15-6 to investigate formal complaints of sexual harassment. IAW with FORSCOM policy, signed 11 March 2021, commanders will select investigating officers from outside the subjects assigned brigade-seized element to conduct formal sexual harassment complaints under AR 600-20, chapter 7.

(5) Formal Complaints of sexual harassment are subject to regulatory timelines. The Formal Complaint will only be received by a full-time Brigade SARC. Upon receipt of a Formal Complaint, the Brigade Commander will notify the GCMCA of the complaint within 72 hours and appoint an Investigating Officer. To every extent possible the investigation will be complete within 14 days. Within 20-calendar days of initiation of an investigation or inquiry, the Commander will forward a final report or progress report to the GCMCA. A subsequent report will be sent every 14 days until the case is complete. The Complaint or Subject may file a written appeal through the Brigade SARC within 7 days of being notified of the results of the investigation. After completion of the investigation or appeal, the full-time Brigade SARC will conduct a 30–45-day follow-up with the Complainant.

(6) Anonymous Complaints of Sexual Harassment. An anonymous complaint is defined as a report of sexual harassment, regardless of means of transmission from an unknown or unidentified source. The individual reporting the information is not required to divulge any PII. All anonymous complaints, even those that cannot be investigated, will be referred to the subject's BDE commander for evaluation. Actions taken regarding anonymous complaints will depend on the extent of information provided in the anonymous complaint. If sufficient information to permit the initiation of an investigation is present, the commander will initiate an inquiry or investigation. If the anonymous complaint does not contain sufficient information to permit an investigation, the complaint will be documented in a Memorandum for Record, containing all information required under AR 600-20 chapter 7-8 and maintained by the BDE SARC under double lock and key.

10. Disposition.

a. Independent Judgement. After suitable inquiry or investigation, commanders will dispose of the case in a timely manner. Commanders at all levels will discharge their duty to administer justice fairly according to independent judgment and conscience. Congress has placed faith in commanders to make independent,

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informed, and fair decisions in justice administration. Privileges inherent in command authority flow from our individual/institutional resolve to demonstrate sound judgment. Consistent with longstanding military justice principles, every report of misconduct will be disposed of individually in a manner that is fair and warranted under the circumstances.

b. Involuntary Separation Policy. Commanders will initiate involuntary administrative separation proceedings for all Soldiers against whom there is a substantiated complaint of sexual harassment unless the Soldier is otherwise punitively discharged or dismissed from the Army as part of a court-martial sentence. Separation proceedings will be processed through the chain of command to the separation authority for appropriate action. A commander may rehabilitate a Soldier against who there is a minor substantiated complaint of sexual harassment, as determined by the commander in consultation with the servicing judge advocate.

c. Withholding Authority. In cases subject to my or other withholding authority, subordinate Commanders will forward cases, with disposition recommendations, to the commander authorized to dispose of the allegation. In cases of sexual assault, disposition authority is the first O-6 Commander in the Chain of Command.

11. The point of contact for this policy memorandum is the Division Sexual Harassment/Assault Response and Prevention Office at (912) 767-2057.



CHRISTOPHER R. NORRIE
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