



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE DEAN
UNITED STATES MILITARY ACADEMY
WEST POINT, NEW YORK 10996

MADN

20 August 2020

DEAN POLICY MEMORANDUM (DPOM) No. 01-21

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum

1. References.

- a. USMA Command Policy Memo, dated 20 February 2020, subject: Command Policy Memorandum – Sexual Harassment/Assault Response and Prevention (SHARP) Policy.
- b. USMA Command Policy Letter, dated 17 April 2019, Collateral Misconduct by USCC Cadet and USMAPS Cadet Candidate Victims of Sexual Assault.
- c. USMA Policy Memorandum 18-39, dated 2 July 2018, subject: Prohibition of Retaliation Against Personnel for Reporting an Allegation of Sexual Assault.
- d. Department of Defense (DoDI) 1020.03, dated 8 February 2018, Harassment Prevention and Response in the Armed Forces (U).
- e. Department of Defense Instruction (DoDI) 6495.02, Incorporating Change 3, 24 May 2017, Sexual Assault Prevention and Response (SAPR) Program Procedures (U).
- f. Army Regulation (AR) 600-20, Chapters 7 and 8, dated 24 July 2020.
- g. Department of Defense Instruction (DoDI) 6495.01, dated 30 April 2013, Sexual Harassment/Assault Response and Prevention (SHARP) Program Implementation.
- h. Army Regulation (AR) 614-100, Chapter 5, dated 3 January 2020.
- i. Army Regulation (AR) 614-200, Chapter 5, dated 25 January 2019.

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

2. **Purpose:** To establish the Dean's Directorate policy for SHARP.

3. **Applicability:** This policy applies to all personnel assigned or attached to the Dean's Directorate.

4. **Policy:** The Office of the Dean is committed to providing a safe and secure learning, teaching, and working environment for Cadets, staff, and faculty by maintaining a professional command climate that promotes dignity and respect, and a safe and secure environment. The policy of the Army and USMA is that sexual harassment and sexual assault are unacceptable conduct and will not be tolerated. Sexist behavior, sexual harassment, and sexual assault will not be tolerated. These acts undermine good order and discipline, are antithetical to the vision of the Directorate, and impede the achievement of the Directorate's mission.

5. **Sexism / Sexist Behavior:** Sexism is defined as attitudes and beliefs that one gender is superior to another (AR 600-20). Sexist behaviors, conditions, and attitudes perpetuate stereotypes of social (gender) roles based on one's biological sex. A common form of socialization that is based in sexist concepts teaches particular narratives about traditional gender roles for males and females. If military personnel experience such behavior, they will contact the Equal Opportunity Office at 845-938-7082. Civilian employees will contact the Equal Employment Opportunity Office at 845-938-3052 to file a complaint.

6. **Sexual Harassment.**

a. Definition. AR 600-20 and DoDI 1023.03 define sexual harassment as a form of gender discrimination which includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature between the same or opposite genders when any of the following are present.

(1) Submission to, or rejection of 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.

(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

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

environment that is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile and offensive.

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

b. Complaint Processing. Personnel have the right to present a complaint to the command without fear of intimidation, reprisal, or harassment. In accordance with AR 600-20, Appendix C, sexual harassment complaints are categorized as either informal, formal, or anonymous. If possible, attempts should be made to solve the problem at the lowest possible level within the organization.

(1) An informal complaint is one that is not made in writing and may be voiced to the offending person, to a supervisor, 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 Cadets, other staff and faculty members, a coach or a team/club Officer Representative, or an instructor. Another informal complaint resolution option is informing the Department or activity Chain of command, beginning with the first line supervisor. The intent is that the offending behavior will stop with no further action required. A memorandum of record on resolution is highly recommended by whoever resolves the complaint.

(2) A formal complaint is a written statement of the behavior and/or a situation submitted to the proper authority and/or a certified Sexual Assault Response Coordinator (SARC) for processing through official complaint channels on a DA form 7279. 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. The Superintendent is the GCMCA for the Dean's Directorate.

(3) Anonymous complaint actions will depend upon the extent of information provided by complainants. If an anonymous complaint contains sufficient information to permit the initiation of an investigation, the investigation will be initiated by the

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

commanding officer or supervisor. If an anonymous complaint does not contain sufficient information to permit the initiation of an investigation, the information will be documented in a Memorandum for Record and maintained on file with the USMA SHARP Office. If a member of the Dean's Directorate receives an anonymous sexual harassment complaint, contact the USMA SARC and/or Victim Advocate immediately at 845-938-7479 or 845-938-3532.

(4) The Equal Employment Opportunity Office is the responsible agency to support and process formal or informal sexual harassment complaints for Department of the Army Civilian personnel. Sexual harassment complaints must be filed with the EEO office within 45 days of the incident.

7. Sexual Assault: Sexual assault is a crime. It destroys teamwork and trust and often leads to mission failure. Anyone who is aware of sexual assault(s) should immediately contact the SARC. Sexual assault is incompatible with Army Values and is punishable under the Uniform Code of Military Justice (UCMJ) and other Federal and state laws.

a. Definition. Sexual assault is a crime defined as intentional sexual contact, characterized by use of force, physical threat, or abuse of authority, or when the victim does not or cannot consent. Sexual assault includes a broad category of sexual offenses consisting of the following specific UCMJ offenses: rape, sexual assault, aggravated sexual assault, abusive sexual contact, forcible sodomy (forced oral and anal sex), or attempts to commit these acts. Sexual assault can occur without regard to gender, spousal relationship, or age of the 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 uses force, threat of force, or coercion or when the victim is asleep, incapacitated, or unconscious.

b. Reporting. A sexual assault incident is categorized as "reported" either when the victim completes and signs the DD Form 2910, indicating their election of either a restricted or an unrestricted report, or when law enforcement/CID or a member of the Chain of Command becomes aware of an assault. Victims who consult with healthcare personnel, chaplains, and/or Special Victim's Counsel (SVC) regarding an assault, will be encouraged to report the incident to the SARC or VA. Victims are encouraged to seek medical care.

(1) Eligibility. Service members, Cadets, and military dependents 18 years and older who have been sexually assaulted have two reporting options: Unrestricted or

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

Restricted Reporting. DoD civilian employees and their dependents and DoD contractors are only eligible for Unrestricted Reporting and for limited emergency care medical services at a military treatment facility (MTF).

(2) Non-Mandatory Reporters. Victims of a sexual assault may confide in someone (roommate, friend, or family member) about the assault before considering whether to file a restricted or an unrestricted report. Dean's Directorate personnel who interact with Cadets in non-Brigade Tactical Department chain of command channels (staff, faculty, coaches, sponsors, mentors, ORs and all Cadets) and who become aware of an assault, are not required to report the incident. Instead, these personnel should encourage the victim to immediately contact the SARC or VA who is the best resource for the victim to fully understand all their reporting options and the resources available to a victim (reference DoDI 6495.02, Enclosure 4, 1.e).

(3) Mandatory Reporters. Victims should be aware that if a member of the Brigade Tactical Department Chain of Command (for Cadets), law enforcement, or CID becomes aware of the assault, an unrestricted report will be initiated. Victims will be afforded the opportunity to consult with the SARC to complete the DD Form 2910. Victims who are hesitant to participate in an investigation have the option to decline to participate.

(4) Restricted Report. Restricted reporting allows a military member who is a sexual assault victim, on a confidential basis, to disclose the details of their assault to specifically identified individuals and receive support resources (medical treatment/Sexual Assault Forensic Examination (SAFE) and counseling), without triggering the official investigative process. Soldiers, or Cadets, who are sexually assaulted and desire restricted reporting under this policy should report the assault to the SARC, VA, or healthcare personnel.

(5) Unrestricted Report. Unrestricted reporting allows a military member who is sexually assaulted to use the Brigade Tactical Department Chain of Command (for Cadets), their Chain of Command, law enforcement/CID, or the SARC/VA to report the incident. Victims will have access to support resources (medical treatment / SAFE and counseling). Details regarding the incident will be limited to only those personnel who have a legitimate need to know. Victims who confide in anyone other than the SARC, VA, or healthcare personnel about an assault, are reminded that if they decide to make an unrestricted report, the conversations with non-confidential individuals are subject to investigative discovery.

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

(6) USMA maintains a 24/7 on-call SARC/VA responder to provide victims of sexual assault with advocacy, information, emotional support, and direction during the various medical, legal, and investigative processes with the goal of minimizing re-victimization. Victims will be informed of all available sexual assault reporting options. The cell phone number is 845-659-7467 (texting is available).

8. Additional Information:

a. All unrestricted reports of sexual assault will be immediately referred to CID investigation.

b. Leaders must be familiar with the expedited transfer policy established in Army Regulations 614-100 (Officers) and AR 614-200 (Enlisted).

c. All personnel are reminded that any information regarding sexual harassment complaints and sexual assault reports should only be discussed on a need-to-know basis and should never include the Cadet chain of command.

d. Collateral Misconduct. Collateral misconduct by a victim of sexual assault is one of the most significant barriers to reporting because of fear of punishment. In accordance with Rules for Courts Martial 306 and 401, the USMA Superintendent withholds from all subordinate commander's initial disposition authority over victim misconduct discovered during a report or investigation of sexual assault. This withholding applies to all UCMJ and adverse administrative actions. Recognizing that victims and others may hesitate to implicate peers or friends, this withholding applies to all offenses arising from or relating to the same incident, whether committed by the victim or another person. All victim/witness misconduct will be disposed of on a case-by-case basis, considering the severity of the misconduct.

e. Any report of rape, sexual assault, forcible sodomy, or any attempt to commit such an offense if withheld by the special court-martial convening authority (SPCMCA). The Commandant serves as the SPCMCA for USCC. The Superintendent is the general court martial convening authority.

f. All eligible legal assistance clients will be informed of the availability of legal assistance and the right to consult with a Special Victims' Counsel (SVC)/Victim's Legal Counsel (VLC) in accordance with DoDD 6495.01, paragraph 4,k,2,i. If a victim wishes to have an assigned SVC, the SARC will coordinate that request.

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

9. Resources:

a. The West Point SHARP Hotline (24/7): 845-659-7467 (texting is available – privileged/confidential/communication / restricted and unrestricted reporting source).

b. Keller Army Community Hospital Emergency Room: 845-938-4004 (privileged/confidential communication / cannot take official restricted or unrestricted reports).

c. Center for Personal Development (CPD – for Cadets): 845-938-2360 or 845-938-3022, 845-591-7215 (after hours). Offers privileged/confidential communication and cannot take official restricted or unrestricted reports.

d. On-Duty Chaplain: 845-401-8171. Chaplains cannot take official restricted or unrestricted reports. Conversations with Chaplains are considered a privileged/confidential communication and it will not leave their office without the victim's consent.

e. Legal Assistance/Special Victims' Counsel (SVC): 845-938-9824. Legal assistance and the SVC cannot take official restricted or unrestricted reports. Conversations are considered a privileged/confidential communication and it will not leave their office without the victim's consent.

f. USCC SHARP Resource Center (SRC – for Cadets). The SRC is located on the 2nd floor of Washington Hall/Eisenhower Barracks above the Chaplain's office and is accessible from the front left/stairwell of the Mess Hall or through the Eisenhower Barracks sally port stairwell, which enters into Washington Hall. The USCC Sexual Assault Response Coordinator's extension is 7479 and the USCC Victim Advocate's extension is x3532. Conversations with both the SARC and VA are considered a privileged/confidential communication and it will not leave their office without the victim's consent. The SARC and the VA are the only official reporting (Unrestricted and Restricted) source.

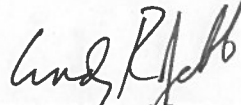
g. USMA SHARP Office. The 24/7 Hotline for all USMA is 845-659-7467. The USMA Victim Advocate can be reached at x3532. The USMA SHARP program manager can be reached at x0508, the USMA SARC at x7479 and the SHARP prevention specialist at 0626.

MADN

SUBJECT: Dean's Directorate Sexual Harassment/Assault Response and Prevention (SHARP) Policy Memorandum.

10. **Expiration:** This policy memorandum remains in effect until superseded or rescinded.

11. The POC for the memorandum is COL Michael Yankovich at 845-938-2807 or michael.yankovich@westpoint.edu.



CINDY R. JEBB, Ph.D.
BG, U.S. Army
Dean of the Academic Board