

5. (ALL) Please provide policies, training and procedures in place to protect service members who report sexual assault from being subjected to professional retaliation, retaliatory administrative action, or social retaliation.

DOD	<p>The Department of Defense Instruction (DoDI) 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures, addresses the issue of retaliation in the following sections:</p> <ul style="list-style-type: none"> • In the “Policy” section: “Service members who file Unrestricted and Restricted Reports of sexual assault shall be protected from reprisal, or threat of reprisal, for filing a report.” (p5) • In the “Responsibilities of the Secretaries of the Military Departments” (p18, Enc. 2): <ul style="list-style-type: none"> ○ “Establish procedures to protect victims of sexual assault from coercion, retaliation, and reprisal in accordance with DoD Directive 7050.06, Military Whistleblower Protection, July 23, 2007.” ○ “Establish Military Service-specific guidance to ensure collateral misconduct is addressed in a manner that is consistent and appropriate to the circumstances, and at a time that encourages continued victim cooperation.” ○ “Establish procedures to require commanders to protect the Sexual Assault Response Coordinator (SARC) and Sexual Assault Prevention and Response (SAPR) Victim Advocate (VA) from coercion, retaliation, and reprisals, related to the execution of their duties and responsibilities.” • “Commander SAPR Response Procedures”: Each Commander shall: “Protect sexual assault victims from coercion, discrimination, or reprisals. Commanders shall protect SARCs and SAPR VAs from coercion, discrimination, or reprisals related to the execution of their SAPR duties and responsibilities.” (p35, Enc. 5) • In the Glossary, definition of “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 Service member for making, preparing, or receiving a communication.” (p90) • The enclosure “Training Requirements for DoD Personnel,” contains multiple areas where retaliation and reprisal are addressed in the “SAPR Training Requirements.” (Enc. 10). The sections are as follows: <ul style="list-style-type: none"> ○ General Training Requirements: “The required subject matter for the training shall be appropriate to the Service member’s grade and commensurate with their level of responsibility, to include: ... Providing information to victims when the alleged perpetrator is the commander or in the victim’s chain of command, to go outside the chain of command to report the offense to other commanding officers or an Inspector General. Victims shall be informed that they can also seek assistance from a legal assistance attorney or the DoD Safe Helpline.” (p63) ○ Professional military education (PME) and leadership development training (LDT): “For senior noncommissioned officers and commissioned officers, PME and LDT shall occur during developmental courses throughout the military career and include: ... Explanation of what constitutes ‘reprisal’ [Taking or threatening to take an unfavorable personnel action, or
-----	---

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

	<p>withholding or threatening to withhold a favorable personnel action, or any other act of retaliation, against a Service member for making, preparing, or receiving a communication] and procedures for reporting allegations of reprisal [in accordance with DoDD 7050.06, Military Whistleblower Protection, July 23, 2007].” (p65)</p> <ul style="list-style-type: none"> ○ Pre-command training, which occurs prior to filling a command position: “Explain what constitutes reprisal and procedures for addressing reprisal allegations.” (p66) ○ SAPR VA training: “Identification of reprisal and retaliation actions against the victim; procedures for responding to reprisal actions and their immediate reporting to the SARC and the VWAP; safety planning to include how to prevent retaliation or reprisal actions against the victim.” (p70)
USA	<p>The U.S. Army adheres to the following policies with regard to protecting those who report sexual assault from being subjected to professional retaliation, retaliatory administrative action, or social retaliation:</p> <ul style="list-style-type: none"> • DODD 7050.06, “Whistleblower Protection” • DODD 6495.01, “Sexual Assault Prevention and Response (SAPR) Program”: • DODI 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures” • DODD 1350.2 “Department of Defense Military Equal Opportunity (MEO) Program” • DODD 1020.02 “Diversity Management and Equal Opportunity (EO) in the Department of Defense” • DODD 1440.1 “The DOD Civilian Equal Employment Opportunity (EEO) Program” • DODI 1350.3 “Affirmative Action Planning and Assessment Process” • AR 600-20, “Army Command Policy” • AR 614-100, “Officer Assignment Policies, Details, and Transfers” • AR 614-200, “Enlisted Assignments and Utilization Management” • Army Directive 2011-19, “Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault” • AR 27-10 “Legal Services - Military Justice” • AR 20-1 “Inspections, Assistance, and Investigations – Inspector General Activities and Procedures” AR 190-45 “Military Police – Law Enforcement Reporting” • AR 195-2 “Criminal Investigation – Criminal Investigation Activities” • Army Directive 2013-20 (Assessing Officers and Noncommissioned Officers on Fostering Climates of Dignity and Respect and on Adhering to the Sexual Harassment/Assault Response and Prevention Program) • Army Anti-Harassment Policy For The Workplace <p>Army professional military education and pre-command training—all include training on the fact that Soldiers who file unrestricted and restricted reports of sexual assault are to be protected from reprisal, or threat of reprisal for filing a report. The training</p>

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

	<p>also teaches them that victims are to be protected from coercion, discrimination, or reprisals. Pre-command training discusses this in the context of the role of the commander. Annual training and SARC/VA certification also discuss these policies. The pre-command and SARC/VA certification training also cover protections from coercion, retaliation, and retribution to be afforded to SARCs and VAs, and both teach attendees about protective measures, like Military Protective Orders, reprisal plans, and how the Sexual Assault Review Board can help commanders in their efforts to protect victims. Professional Military Education (PME), pre-command training, SARC/VA certification training, and sometimes annual training cover the Army's expedited transfer or reassignment policy, which lays out policy and procedures for commanders to consider an expedited transfer/ reassignment request.</p> <p>DODD 7050.06 and DODI 6495.02 provide higher level guidance on procedures involved in protecting those who report sexual assaults.</p> <p>In AR 600-20, paragraph 5-12, spells out Army policy prohibiting acts of reprisal against those who file sexual harassment complaints.</p> <p>AR 600-20, paragraph 8-5, o., provides Army-specific guidance to commanders on procedures to follow in handling sexual assault cases, including protective measures. This section of the regulation also informs commanders about safeguards for restricted reports and makes it clear to them that, even with unrestricted reports, information about the identity of the victim should be kept on a need-to-know basis. The policy that SARCs and VAs are supposed to provide only non-identifying information in restricted cases and the policy on the need-to-know restrictions on sharing information about unrestricted cases are intended to help protect the victim from retaliation and retribution.</p> <p>Appendix D of AR 600-20 addresses procedures for sexual harassment complaints and the requirement and steps to be taken to protect complainants from reprisal.</p> <p>Army Directive 2011-19 provides guidance on how sexual assault victims' requests for expedited transfer or reassignment are to be processed. The directive lays out what a credible request is, how it is to be submitted, to whom it is submitted, what commanders may consider, precautions commanders should make to avoid adversely impacting the victim's career, procedures to follow if a commander cannot approve a request, and the review process. It informs commanders that those who seek expedited transfer or reassignment after threats of bodily harm are to follow procedures in AR 614-100 and AR 614-200.</p>
USAF	<p>(AF) We endeavor to treat all victims of sexual assault with dignity and respect. There are a number of policies and procedures in place to ensure that sexual assault victims are not subjected to retaliatory behavior, whether it is systemic, administrative or social. We will standardize and deliver effective victim support, response and reporting options, so that we will instill confidence and trust, strengthen resilience, and inspire victims to report sexual assault, either restricted or unrestricted. From the initiation of a report through case disposition in the justice system to victim recovery, we care for our victims. When victims report, they are provided a safe environment and offered medical care, counseling, legal assistance, and victim witness assistance.</p>

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

	<p>Because sexual assault is such an underreported crime, it is imperative that our program inspires victim confidence and motivates victim reporting. Our SARC Coordinators and Victim Advocates are the critical capability we employ to achieve these objectives. In addition to the procedures addressed in Q6, SARCs/VAs have direct lines to installation leadership and can seek action through those channels upon report of any possible retaliation by a victim. Also, in a case involving a SVC, the SVCs are not in the installation chain of command, but they still have direct access to that chain allowing them, arguably, greater freedom to demand from relevant agencies that any retaliation be immediately stopped.</p> <p>Further, a new policy allows any person discharged within a year of making a report of sexual assault to have their case reviewed if he or she alleges the discharge is due to retaliation (See para. 4.18.5 in AFI 36-3206, and 1.31.2 in AFI 36-3208). Another available avenue to protect a victim is a military justice action for maltreatment under Article 93, UCMJ, if the facts support such charges.</p> <p>Also, each base has a VWAP coordinator and at least one victim witness liaison. In September 2013, the Air Force Judge Advocate General (AFJAG) School launched a five-week VWAP distance education course for JAGs and paralegals who serve as victim liaisons. Victim liaisons will be assigned to each victim and provide service throughout the process until the accused is released from confinement. Duties include: informing victim of rights, available services, status of case, schedule of proceedings, verdict, sentence, the accused's eligibility for parole, and change in confinement status (e.g., release from jail). Liaisons also arrange for protection of the victim from the accused. They work with SAPR and Family Advocacy personnel and Special Victims' Counsel (SVC) to ensure victims have access to the support and resources they need to get through the process and work towards recovery.</p> <p>These policies, training and procedures have been put in place in a concerted effort to protect Airmen who report sexual assault from being subjected to professional retaliation, retaliatory administrative action, or social retaliation.</p>
USN	<p>The Navy uses a variety of measures to ensure victims are safe from reprisal. The primary way is through the unit-level Commanding Officer who is directly responsible ensuring all Navy service members are treated with dignity and respect and can work in a safe, professional environment. Commanding Officers receive detailed training on Sexual Assault Prevent and Response and their personal accountability for the security, safety, and wellbeing of the personnel in their unit. Their command climate is measured within the first 90 days of their command and annual thereafter through a command climate survey. Survey results are then reviewed in detail by their Immediate Superior in Command to identify areas of improvement. This then allows both the Commanding Officer and his/her superior to be fully aware of any command climate issues that could allow reprisal directly or indirectly and take appropriate action. Further, Commanding Officers with sexual assault victims meet regularly with their base Sexual Assault Case Management Group. This venue and individual consultation with victim care representatives such as the Sexual Assault Response Coordinators, SAPR Victim Advocates, and regional Victim's Legal Counsel provide</p>

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

feedback to the Commanding Officer on key victim support issues.

Specific guidance to Commanding Officers is provided by the Secretary of the Navy in SECNAVINST 1752.4B. Specifically, commanders must take every report of sexual assault seriously, immediately refer unrestricted reports to the Naval Criminal Investigative Service (NCIS) for investigation, support investigative and criminal justice procedures that enable persons to be held appropriately accountable, and actively protect sexual assault victims from retaliation or revictimization. Some reported sexual assaults involve circumstances where the victim may have engaged in some form of misconduct (e.g., underage drinking or other related alcohol offenses, adultery, fraternization, or other violations of certain regulations or orders).

Commanders have discretion to defer action on alleged collateral misconduct by the sexual assault victims until final disposition of the sexual assault case, taking into account the trauma to the victim and responding appropriately so as to encourage reporting of sexual assault and continued victim cooperation, while also bearing in mind any potential speedy trial and statute of limitations concerns.

When the alleged perpetrator is the commander or in the victim's chain of command, such victims shall be informed of the opportunity to go outside the chain of command to report the offense, including to NCIS, another command, other commanding officers or an Inspector General, or other law enforcement officials. Victims can also seek assistance from the DoD SAFE Helpline and consult with legal assistance counsel. They are referred to the Victim Witness Assistance Program (VWAP) to ensure they are provided information concerning the prosecution in accordance with VWAP procedures.

SAPR Victim Advocates (SAPR VAs) are trained to recognize reprisal and retaliation actions against the victim; on procedures for responding to reprisal actions and their immediate reporting to the SARC and the VWAP; and on safety planning to include how to prevent retaliation or reprisal actions against the victim.

Any threat to life or safety of a Service member shall be immediately reported to the command and DoD law enforcement authorities. A request to transfer the victim under these circumstances will be handled in accordance with established Navy regulations (e.g., safety transfer, expedited transfer).

Service members who file an unrestricted report of sexual assault may initiate a request for transfer from their assigned command or installation, or to a different location within their assigned command or installation and submit the request to their COs. The CO must approve or disapprove the service member's request within 72 hours of its receipt based on a determination that the report of sexual assault is credible. If the Service member's transfer request is disapproved by the CO, the request is reviewed by the first Flag Officer in the chain of command of the member, or an SES equivalent (if applicable) who must make a final decision to approve or disapprove the request for transfer within 72 hours. If approved, every reasonable effort to minimize disruption to the normal career progression of a Service member who reports that he or she is a victim of a sexual assault will be made. Potential transfer of the alleged offender instead of the Service member is also considered.

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

	<p>Administrative separation actions involving service members who filed unrestricted reports of sexual assault are reviewed by a Flag Officer to ensure they receive full and fair consideration for their military service and determinations are consistent and appropriate, per SECNAVINST 1752.4B.</p> <p>Service members who experience any retaliatory personnel action for making a report of sexual assault may submit an application for correction of military records in accordance with SECNAVINST 5420.193 and the Military Personnel Manual (MILPERSMAN).</p>
USMC	<p>Per Marine Corps Order (MCO) 1752.5B, all Commanding Generals and Commanding Officers shall, in accordance with DoDD 6495.01, protect victims of sexual assault from coercion, retaliation, and reprisal. MCO 1752.5B also dictates that re-victimization of victims be minimized by protecting the privacy of victims to the maximum extent possible and fostering a command environment that encourages reporting of sexual assaults without fear of reprisal. The Sexual Assault 8-Day Brief, discussed in Question 13, ensures the transparency of a command's response to an unrestricted report of sexual assault, with visibility by the Assistant Commandant of the Marine Corps (ACMC). Additionally, training for service members and SAPR personnel includes information on contributing to a positive command climate that supports victims of sexual assault.</p> <p>Victims of sexual assault who file an unrestricted report are also afforded the right to request an expedited transfer. The process is outlined in MCO 1752.5B and MARADMIN 227/12. Marines are informed of their right when they sign DD Form 2910 electing an unrestricted report. If they choose not to request a transfer at that time, they can request it at any time during the process. The victim's commander has 72 hours to decide to approve or disapprove the request. If it is disapproved, the victim has the right to request the first general officer in the chain of command review the request.</p> <p>The Marine Corps published Navy and Marine Corps Form 2921 (NAVMC 2921), which is a one-page document that details a Marine's options for filing complaints related to retaliation or reprisal (those options are covered in the following question). These forms are posted on message boards throughout the Marine Corps. Additionally, the Marine Corps Victims' Legal Counsel Organization (VLCO) reached initial operational capability on 1 November 2013. Victims Legal Counsel, judge advocates who may form an attorney-client relationship with victims of crime, are now available to assist a victim in filing such a complaint. NAVMC 2921 is an attachment to this submission.</p>
USCG	<p>Coast Guard Regulations http://www.uscg.mil/directives/cim/5000-5999/CIM_5000_3B.pdf</p> <p>Sexual Assault Prevention and Response Manual (COMDTINST 1754.10(series)) http://www.uscg.mil/directives/cim/1000-1999/CIM_1754_10D.pdf</p>

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

Coast Guard Civil Rights Manual (COMDTINST M5350.4 (Series))
<http://www.uscg.mil/directives/cim/S000-5999/CIM 5350 4c.pdf>

The Military Whistleblower Protection Act, Title 10 U.S.C. § 1034, prohibits any person from taking, withholding, or threatening any personnel action against a member of the Armed Forces as reprisal for making or preparing any protected communications.

The Coast Guard Whistleblower Protection Regulation, 33 C.F.R. Part 53, establishes policy and implements Title 10 U.S.C. § 1034 to provide protections against reprisal to members of the Coast Guard.

Coast Guard professional military education, accession training, and pre-command training - all include training on the fact that military members who file unrestricted and restricted reports of sexual assault are to be protected from reprisal, or threat of reprisal for filing a report. The training also teaches them that victims are to be protected from discrimination or reprisals. Pre-command training discusses this in the context of the role of the commander. SARC and VA certification also discuss these policies. The pre-command and SARC certification training also cover protections from coercion, retaliation, and retribution to be afforded to SARCs and VAs. Professional military education, pre-command training, SARC/VA certification training cover the expedited transfer or reassignment policy, which lays out policy and procedures for commanders to consider an expedited transfer/ reassignment request.

A victim may seek administrative relief by petitioning his or her commanding officer for relief under Article 138, UCMJ. Article 138 provides service members with the opportunity to challenge the wrongs of commanding officers, whereby an officer exercising general court-martial over the offending commander hears the complaint and takes measures to remedy the wrong. Under Coast Guard policy, a "wrong" is "A discretionary action by a commanding officer under the color of federal military authority, which was unauthorized, unfair, or discriminatory, resulting in personal detriment, harm, or injury to the complainant, and is capable of redress in command channel without resort to trial by court-martial. The wrong may consist of either an affirmative action or a passive action."

If a command learns that a member of the command took reprisal or retaliation action against a victim who came forward to report a sexual assault, the commander may fully investigate the issue and take appropriate administrative or punitive action. The party taking the wrongful action can be charged with violating Article 92 (dereliction of duty, specifically for not complying with The Military Whistleblower Protection Act (10 U.S.C. § 1034); Article 134 (obstructing justice); and Article 134 (wrongful interference with an adverse administrative proceeding).

Narrative responses have been consolidated by the Response Systems Panel (RSP). Please forgive formatting errors in text and data. Source documents for narrative responses can be obtained by contacting the RSP.

Army Regulation 600-20

Personnel-General

Army Command Policy

Rapid Action Revision (RAR) Issue Date: 20 September 2012

Headquarters
Department of the Army
Washington, DC
18 March 2008

UNCLASSIFIED

200209

SUMMARY of CHANGE

AR 600-20
Army Command Policy

This rapid action revision, dated 20 September 2012--

- o Updates policy for the administration of unit command climate surveys: adds requirement for personnel equivalent to company level commanders; updates timelines to within 30 days (120 days for Army National Guard and U.S. Army Reserve) of assuming command; again at 6 months, and annually thereafter (paras 6-3i(13) and E-1a).
- o Updates confidentiality procedures: adds exceptions to the confidentiality of survey responses; adds requirement to provide inconspicuous location to submit paper and pencil format; provides guidance on group versus individual reporting (para E-2).
- o Deletes the tools used for obtaining the command climate surveys (para E-5).
- o Adds requirement for survey administrator and data collector to protect respondent anonymity and results confidentiality; adds exceptions to the confidentiality of survey responses; prohibits collection of personally identifiable information (para E-7).
- o Makes administrative changes and updates paragraph titles (app E).
- o Note. Army Directive 2012-06, Centralized Selection List - Tour Length Policy for Command and Key Billets; Army Directive 2012-13, Policy and Implementing Guidance for Deployment Cycle Support; and ALARACT 007-2012, Sexual Harassment/Assault Response and Prevention (SHARP) Implementation Guidance will be incorporated in the next major revision.

200210

Effective 18 April 2008

Personnel-General

Army Command Policy

By Order of the Secretary of the Army:

RAYMOND T. ODIERNO
General, United States Army
Chief of Staff

Official:


JOYCE E. MORROW
Administrative Assistant to the
Secretary of the Army

History. This publication is a rapid action revision (RAR). This RAR is effective 20 September 2012. The portions affected by this RAR are listed in the summary of change.

Summary. This regulation implements DODI 1332.14 and DODI 1332.30. It prescribes the policy and responsibility of command, which includes well-being of the force, military and personal discipline and conduct, the Army Equal Opportunity Program, Prevention of Sexual Harassment, and the Army Sexual Assault Prevention and Response Program.

Applicability. This regulation applies to the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated. During mobilization, the

proponent may modify chapters and policies contained in this regulation. Chapters 6 and 7 and appendixes E and F apply to Army National Guard Soldiers when on AD Title 10, for 30 days or more, and in all other cases, Army National Guard Soldiers are governed by NGR 600-21 and NGR 600-22. Portions of this regulation that prescribe specific conduct are punitive, and violations of these provisions may subject offenders to nonjudicial or judicial action under the Uniform Code of Military Justice. The equal opportunity terms found in the glossary are applicable only to uniformed personnel. AR 690-600 contains similar terms that are applicable to Department of Defense civilians.

Proponent and exception authority. The proponent of this regulation is the Deputy Chief of Staff, G-1. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters

to the policy proponent. Refer to AR 25-30 for specific guidance.

Army management control process. This regulation does not contain management control provisions.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Deputy Chief of Staff, G-1 (DAPE-HR-L), 300 Army Pentagon, Washington, DC 20310-0300.

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Deputy Chief of Staff, G-1 (DAPE-HR-L), 300 Army Pentagon, Washington, DC 20310-0300.

Distribution. Distribution of this publication is available in electronic media only and is intended for command levels A, B, C, D, and E for the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

Contents (Listed by paragraph and page number)

Chapter 1

Introduction, page 1

Purpose • 1-1, page 1

References • 1-2, page 1

Explanation of abbreviations and terms • 1-3, page 1

Responsibilities • 1-4, page 1

Command • 1-5, page 1

*This regulation supersedes AR 600-20, dated 7 June 2006. This edition publishes a rapid action revision of AR 600-20.

Contents—Continued

Military grade and rank • 1–6, *page 2*

Precedence between Soldiers and other Service members serving with the Army • 1–7, *page 4*

Precedence between members of the Army and members of foreign military services serving with the Army • 1–8, *page 5*

Chapter 2

Command Policies, *page 6*

Chain of command • 2–1, *page 6*

Open door policies • 2–2, *page 6*

Performance counseling • 2–3, *page 6*

Staff or technical channels • 2–4, *page 6*

Command of installations, activities, and units • 2–5, *page 6*

Specialty immaterial commands • 2–6, *page 13*

Designation of junior in the same grade to command • 2–7, *page 13*

Death, disability, retirement, reassignment, or absence of the commander • 2–8, *page 14*

Absence or disability of all officers of a unit • 2–9, *page 14*

Emergency command • 2–10, *page 14*

Functions of an individual in temporary command • 2–11, *page 14*

Responsibility of successor • 2–12, *page 15*

Separate commands of the U.S. Army serving together • 2–13, *page 15*

Separate commands of the several military Services of the United States serving together • 2–14, *page 15*

Ineligibility for command of post or activity • 2–15, *page 15*

Restrictions • 2–16, *page 15*

Relief for cause • 2–17, *page 16*

Noncommissioned officer support channel • 2–18, *page 16*

Precedence of relative grade, enlisted Soldiers • 2–19, *page 17*

Date of rank, enlisted Soldiers • 2–20, *page 18*

Chapter 3

Army Well-Being, *page 19*

General • 3–1, *page 19*

Definition • 3–2, *page 20*

Concept • 3–3, *page 20*

The Well-being framework • 3–4, *page 20*

Well-being strategic goals • 3–5, *page 21*

Well-being end state • 3–6, *page 21*

The Army Well-being strategic process • 3–7, *page 21*

Responsibilities • 3–8, *page 22*

Chapter 4

Military Discipline and Conduct, *page 22*

Military discipline • 4–1, *page 22*

Obedience to orders • 4–2, *page 22*

Military courtesy • 4–3, *page 22*

Soldier conduct • 4–4, *page 23*

Maintenance of order • 4–5, *page 23*

Exercising military authority • 4–6, *page 23*

Disciplinary powers of the commanding officer • 4–7, *page 23*

Settlement of local accounts on change of station • 4–8, *page 24*

Civil status of members of the Reserve component • 4–9, *page 24*

Participation in support of civilian law enforcement agencies • 4–10, *page 24*

Membership campaigns • 4–11, *page 24*

Extremist organizations and activities • 4–12, *page 25*

Army language policy • 4–13, *page 26*

Relationships between Soldiers of different rank • 4–14, *page 26*

Contents—Continued

Other prohibited relationships • 4-15, *page 27*
Fraternization • 4-16, *page 27*
Standards of conduct • 4-17, *page 27*
Employment and volunteer work of spouse • 4-18, *page 27*
Hazing • 4-19-20, *page 28*
Informal funds • 4-21, *page 29*
Misuse of Government travel charge cards • 4-22, *page 29*
Domestic Violence Amendment to the Gun Control Act of 1968 • 4-23, *page 30*

Chapter 5

Other Responsibilities of Command, *page 32*

General • 5-1, *page 32*
Appearance before congressional committees • 5-2, *page 32*
Political activities • 5-3, *page 32*
Command aspects of medical care • 5-4, *page 34*
Family care plans • 5-5, *page 36*
Accommodating religious practices • 5-6, *page 40*
Prohibition of military labor unions • 5-7, *page 44*
Complaints or accusations against military personnel • 5-8, *page 45*
On-post distribution of non-Government printed materials • 5-9, *page 46*
The Total Army Family Program • 5-10, *page 47*
Federal Parent Locator Service • 5-11, *page 48*
Military Whistleblower Protection Act • 5-12, *page 48*
Human relations readiness training • 5-13, *page 49*
Unit memorial policy • 5-14, *page 49*

Chapter 6

The Equal Opportunity Program in the Army, *page 50*

Purpose • 6-1, *page 50*
Equal opportunity policy • 6-2, *page 50*
Responsibilities • 6-3, *page 51*
The Army's Equal Opportunity Advisor of the Year Award • 6-4, *page 56*
Staffing • 6-5, *page 56*
Program manager/equal opportunity advisor selection and assignment policy • 6-6, *page 57*
Attendance at the Defense Equal Opportunity Management Institute • 6-7, *page 58*
Off-post activities, on-post activities, and off-limit actions • 6-8, *page 59*
Procedures for processing equal opportunity complaints • 6-9, *page 60*
Housing complaints • 6-10, *page 60*
Evaluation reports • 6-11, *page 60*
Civilian schooling • 6-12, *page 60*
Legal assistance • 6-13, *page 60*
Equal Opportunity Action Plans • 6-14, *page 60*
Training • 6-15, *page 61*
Authority to collect and maintain data • 6-16, *page 62*
Narrative and statistical reports on EO progress • 6-17, *page 62*
Training for civilian duty positions in the military Equal Opportunity Program at Defense Equal Opportunity Management Institute • 6-18, *page 62*
Equal opportunity special/ethnic observances • 6-19, *page 63*

Chapter 7

Prevention of Sexual Harassment, *page 63*

Overview • 7-1, *page 63*
Chain of command responsibilities • 7-2, *page 64*
Policy • 7-3, *page 64*
Definition • 7-4, *page 64*

Contents—Continued

- Categories of sexual harassment • 7-5, *page 64*
- Types of sexual harassment • 7-6, *page 65*
- Techniques of dealing with sexual harassment • 7-7, *page 65*
- Training • 7-8, *page 65*
- Complaints • 7-9, *page 66*

Chapter 8

Sexual Assault Prevention and Response Program, *page 66*

- Purpose and goals of the program • 8-1, *page 66*
- Sexual assault policy • 8-2, *page 66*
- Victim Advocacy Program • 8-3, *page 66*
- Definitions • 8-4, *page 67*
- Responsibilities • 8-5, *page 67*
- Deployable sexual assault response coordinator and unit victim advocate selection criteria • 8-6, *page 77*
- Training • 8-7, *page 77*

Appendixes

- A. References, *page 79*
- B. Political Activities, *page 88*
- C. Deleted, *page 89*
- D. Equal opportunity/Sexual Harassment Complaint Processing System, *page 90*
- E. Command Climate Survey, *page 97*
- F. The Sexual Assault Review Board, *page 98*
- G. Army Sexual Assault Prevention and Response Program Sexual Assault Victim Assistance Actions, *page 99*
- H. Confidentiality/Restricted Reporting, *page 100*
- I. Essential Training Tasks for a Sexual Assault Response Capability, *page 102*
- J. Sexual Assault Forensic Exam, Collection, and Preservation of Evidence under Restricted Reporting, *page 106*
- K. Sexual Assault Prevention and Response Program Assessment, *page 108*

Table List

- Table 1-1: Grades of rank, U.S. Army, *page 3*
- Table 1-2: Comparable rank among the Services, *page 5*
- Table 6-1: Special commemorations/ethnic observances timetable, *page 55*

Figure List

- Figure 2-1: Command relationships at CONUS IMCOM managed installations, *page 9*
- Figure 2-1: Command relationships at OCONUS IMCOM managed installations – continued, *page 10*
- Figure 2-2: Assumption of command, *page 11*
- Figure 2-3: Appointment of commander, *page 12*

Glossary

Index

Chapter 1 Introduction

1-1. Purpose

This regulation prescribes the policies and responsibilities of command, which include the Well-being of the force, military discipline, and conduct, the Army Equal Opportunity (EO) Program, and the Army Sexual Assault Victim Program.

1-2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are listed in the glossary.

1-4. Responsibilities

The detailed responsibilities are listed and described in separate chapters under specific programs and command functions. This paragraph outlines general responsibilities.

a. The Deputy Chief of Staff, G-1 (DCS, G-1) will formulate, manage, and evaluate command policies, plans, and programs that relate to:

(1) Chain of command (para 2-1), designation of junior in the same grade to command (para 2-7), and assumption of command by the senior when the commander dies, is disabled, resigns, retires, or is absent (para 2-8).

(2) The Army Well-being concept (para 3-3), architecture (para 3-4), process (para 3-7), and integration of all Army Well-being related programs (para 3-8).

(3) Extremist organizations and activities (para 4-12), relationships between Soldiers of different rank (para 4-14), and other prohibited relationships (para 4-15).

(4) Political activities (para 5-3), Family care plans (para 5-5), accommodation of religious practices (para 5-6), and Human Relations Readiness Training (HRRT) (para 5-13).

(5) The Army EO Program (para 6-2).

(6) Sexual Assault Prevention and Response (SAPR) Program (para 8-3).

b. The officials listed below have responsibilities for specific groups of personnel concerning awareness of the Army's accommodation of religious practices policies. Every enlisted Soldier (including reenlistment), cadet, warrant officer (WO), and commissioned officer applicant needs to be informed of the Army's accommodation of religious practices policies under this regulation (para 5-6).

(1) *The Judge Advocate General.* All judge advocate officer accessions.

(2) *The Chief of Chaplains.* All chaplain officer accessions. This principal Headquarters, Department of the Army (HQDA) official will also formulate and disseminate education and training programs regarding religious traditions and practices within the U.S. Army.

(3) *The Superintendent, U. S. Military Academy.* All U.S. Military Academy cadet applicants.

(4) *The Commanding General, U.S. Army Training and Doctrine Command (CG, TRADOC).* All Reserve Officer Training Corps cadets and all officer and WO candidates.

(5) *The Commanding General, U.S. Army Recruiting Command (CG, USAREC).* All enlisted and Army Medical Department (AMEDD) officer accessions.

c. Commanders at all levels will implement and enforce the chain of command and Army command (ACOM) policies.

1-5. Command

a. *Privilege to command.* Command is exercised by virtue of office and the special assignment of members of the United States Armed Forces holding military grade who are eligible to exercise command. A commander is, therefore, a commissioned or WO who, by virtue of grade and assignment, exercises primary command authority over a military organization or prescribed territorial area that under pertinent official directives is recognized as a "command." The privilege to command is not limited solely by branch of Service except as indicated in chapter 2. A civilian, other than the President as Commander-in-Chief (or National Command Authority), may not exercise command. However, a civilian may be designated to exercise general supervision over an Army installation or activity (for example, Dugway Proving Ground).

b. *Elements of command.* The key elements of command are authority and responsibility. Formal authority for command is derived from the policies, procedures, and precedents presented in chapters 1 through 3.

c. *Characteristics of command leadership.* The commander is responsible for establishing leadership climate of the unit and developing disciplined and cohesive units. This sets the parameters within which command will be exercised and, therefore, sets the tone for social and duty relationships within the command. Commanders are also responsible for

the professional development of their Soldiers. To this end, they encourage self-study, professional development, and continued growth of their subordinates' military careers.

(1) Commanders and other leaders committed to the professional Army ethic promote a positive environment. If leaders show loyalty to their Soldiers, the Army, and the nation, they earn the loyalty of their Soldiers. If leaders consider their Soldiers' needs and care for their Well-being, and if they demonstrate genuine concern, these leaders build a positive command climate.

(2) Duty is obedient and disciplined performance. Soldiers with a sense of duty accomplish tasks given them, seize opportunities for self-improvement, and accept responsibility from their superiors. Soldiers, leader and led alike, work together to accomplish the mission rather than feed their self-interest.

(3) Integrity is a way of life. Demonstrated integrity is the basis for dependable, consistent information, decision-making, and delegation of authority.

(4) Professionally competent leaders will develop respect for their authority by—

(a) Striving to develop, maintain, and use the full range of human potential in their organization. This potential is a critical factor in ensuring that the organization is capable of accomplishing its mission.

(b) Giving troops constructive information on the need for and purpose of military discipline. Articles in the Uniform Code of Military Justice (UCMJ) that require explanation will be presented in such a way to ensure that Soldiers are fully aware of the controls and obligations imposed on them by virtue of their military Service (see UCMJ, ART. 137).

(c) Properly training their Soldiers and ensuring that both Soldiers and equipment are in the proper state of readiness at all times. Commanders should assess the command climate periodically to analyze the human dimension of combat readiness. Soldiers must be committed to accomplishing the mission through the unit cohesion developed as a result of a healthy leadership climate established by the command. Leaders at all levels promote the individual readiness of their Soldiers by developing competence and confidence in their subordinates. In addition to being mentally, physically, tactically, and technically competent, Soldiers must have confidence in themselves, their equipment, their peers, and their leaders. A leadership climate in which all Soldiers are treated with fairness, justice, and equity will be crucial to development of this confidence within Soldiers. Commanders are responsible for developing disciplined and cohesive units sustained at the highest readiness level possible.

(d) Requirement of Exemplary Conduct (Section 3583, Title 10, United States Code (10 USC 3583)). All commanding officers and others in authority in the Army are required—

1. To show in themselves a good example of virtue, honor, patriotism, and subordination.

2. To be vigilant in inspecting the conduct of all persons who are placed under their command.

3. To guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them.

4. To take all necessary and proper measures, under the laws, regulations, and customs of the Army.

5. To promote and safeguard the morale, the physical Well-being, and the general welfare of the officers and enlisted persons under their command or charge.

d. Assignment and command. Soldiers are assigned to stations or units where their services are required. The commanding officer then assigns appropriate duties. Without orders from proper authority, a Soldier may only assume command when eligible according to chapter 2.

1-6. Military grade and rank

a. Military rank among officers of the same grade or of equivalent grade is determined by comparing dates of rank. An officer whose date of rank (DOR) is earlier than the DOR of another officer of the same or equivalent grade is senior to that officer. Grade and precedence of rank confers eligibility to exercise command or authority in the U.S. military within limits prescribed by law (Section 741, Title 10, United States Code (10 USC 741)).

b. Grade is generally held by virtue of office or position in the Army. For example, second lieutenant (2LT), captain (CPT), sergeant first class (SFC), chief warrant officer two (CW2) are grades. Table 1-1 shows the grades in the Army in order of their precedence. It indicates the grouping of grades into classes, pay grades, titles of address, and abbreviations.

c. The pay grade is also an abbreviated numerical device with useful applications in pay management, personnel accounting, automated data organization, and other administrative fields. However, the numerical pay grade will not be used as a form of address or title in place of the proper title of address of grade. A Soldier holding the numerical pay grade of E-5 will be addressed as "Sergeant," not as "E-5" (see table 1-1).

d. All chaplains are addressed as "Chaplain," regardless of military grade or professional title. When a chaplain is addressed in writing, grade is indicated in parentheses; for example, Chaplain (Major) John F. Doe.

e. Conferring honorary titles of military grade upon civilians is prohibited. However, honorary titles already conferred will not be withdrawn.

**Table 1-1
Grades of rank, U.S. Army**

General officers	
Grade of rank: General of the Army Pay grade: Special Title of address: General Abbreviation: GA (See table note 1)	Grade of rank: Major General Pay grade: O-8 Title of address: General Abbreviation: MG
Grade of rank: General Pay grade: O-10 Title of address: General Abbreviation: GEN	Grade of rank: Brigadier General Pay grade: O-7 Title of address: General Abbreviation: BG
Grade of rank: Lieutenant General Pay grade: O-9 Title of address: General Abbreviation: LTG	
Field grade officers	
Grade of rank: Colonel Pay grade: O-6 Title of address: Colonel Abbreviation: COL	Grade of rank: Major Pay grade: O-4 Title of address: Major Abbreviation: MAJ
Grade of rank: Lieutenant Colonel Pay grade: O-5 Title of address: Colonel Abbreviation: LTC	
Company grade officers	
Grade of rank: Captain Pay grade: O-3 Title of address: Captain Abbreviation: CPT	Grade of rank: Second Lieutenant Pay grade: O-1 Title of address: Lieutenant Abbreviation: 2LT
Grade of rank: First Lieutenant Pay grade: O-2 Title of address: Lieutenant Abbreviation: 1LT	
Warrant officers	
Grade of rank: Chief Warrant Officer, Five Pay grade: W-5 Title of address: Mister (Mrs./Miss/Ms.) Abbreviation: CW5	Grade of rank: Chief Warrant Officer, Three Pay grade: W-3 Title of address: Mister (Mrs./Miss/Ms.) Abbreviation: CW3
Grade of rank: Chief Warrant Officer, Four Pay grade: W-4 Title of address: Mister (Mrs./Miss/Ms.) Abbreviation: CW4	Grade of rank: Chief Warrant Officer, Two Pay grade: W-2 Title of address: Mister (Mrs./Miss/Ms.) Abbreviation: CW2
Grade of rank: Warrant Officer, One Pay grade: W-1 Title of address: Mister (Mrs./Miss/Ms.) Abbreviation: WO1	
Cadets	
Grade of rank: Cadet, U.S. Military Academy Pay grade: Special Title of address: Mister/Miss/Ms./Cadet Abbreviation: CDT	Grade of rank: Cadet, Senior Advanced Reserve Officer's Training Corps (ROTC) Pay grade: Special Title of address: Mister/Miss/Ms./Cadet Abbreviation: CDT

**Table 1-1
Grades of rank, U.S. Army—Continued**

Candidates	
Grade of rank: Officer Candidate Pay grade: Special Title of address: Candidate Abbreviation: OC	Grade of rank: Warrant Officer Candidate Pay grade: Special Title of address: Candidate Abbreviation: WOC
Enlisted	
Grade or rank: Sergeant Major of the Army Pay grade: E-9 Title of address: Sergeant Major Abbreviation: SMA	Grade of rank: Staff Sergeant Pay grade: E-6 Title of address: Sergeant Abbreviation: SSG
Grade of rank: Command Sergeant Major (See table note 2) Pay grade: E-9 Title of address: Sergeant Major Abbreviation: CSM	Grade of rank: Sergeant Pay grade: E-5 Title of address: Sergeant Abbreviation: SGT
Grade of rank: Sergeant Major (See table note 3) Pay grade: E-9 Title of address: Sergeant Major Abbreviation: SGM	Grade of rank: Specialist (See table note 4) Pay grade: E-4 Title of address: Specialist Abbreviation: SP4 (See table note 5)
Grade of rank: First Sergeant Pay grade: E-8 Title of address: First Sergeant Abbreviation: 1SG	Grade of rank: Private First Class Pay grade: E-3 Title of address: Private Abbreviation: PFC
Grade of rank: Master Sergeant Pay grade: E-8 Title of address: Sergeant Abbreviation: MSG	Grade of rank: Private Pay grade: E-2 Title of address: Private Abbreviation: PV2
Grade of rank: Sergeant First Class Pay grade: E-7 Title of address: Sergeant Abbreviation: SFC	Grade of rank: Private Pay grade: E-1 Title of address: Private Abbreviation: PV1
Grade of rank: Corporal Pay grade: E-4 Title of address: Corporal Abbreviation: CPL	

Notes:

- ¹ Other abbreviations authorized for use in correspondence with the general public and agencies outside DOD, on identification (ID) cards, and in personal correspondence are listed in AR 25-50 and AR 25-52.
- ² Personnel formally selected by DA for participation in the Command Sergeants Major Program.
- ³ All E-9s not formally selected for the Command Sergeants Major Program.
- ⁴ Specialist will rank immediately below corporal. This does not require or justify change to table of organization and equipment (TOE) or table of distribution and allowances (TDA).
- ⁵ Specialist and its abbreviation (SPC) will be used in written correspondence. All Standard Installation/Division Personnel System (SIDPERS) transactions must be coded and entered using the preset code (SP4) until SIDPERS III is fielded.

1-7. Precedence between Soldiers and other Service members serving with the Army
Members of other Services serving with the Army have equal status with Army Soldiers of equivalent grade. (Comparable grades among the Services are shown in table 1-2.)

**Table 1-2
Comparable rank among the Services**

Army	Air Force	Marine Corps	Navy
Officers			
General of the Army	General of the Air Force		Fleet Admiral
General	General	General	Admiral
Lieutenant General	Lieutenant General	Lieutenant General	Vice Admiral
Major General	Major General	Major General	Rear Admiral (U)
Brigadier General	Brigadier General	Brigadier General	Rear Admiral (L)
Colonel	Colonel	Colonel	Captain
Lieutenant Colonel	Lieutenant Colonel	Lieutenant Colonel	Commander
Major	Major	Major	Lieutenant Commander
Captain	Captain	Captain	Lieutenant
First Lieutenant	First Lieutenant	First Lieutenant	Lieutenant (Junior Grade)
Second Lieutenant	Second Lieutenant	Second Lieutenant	Ensign
Chief Warrant Officer Five		Chief Warrant Officer Five	Chief Warrant Officer
Chief Warrant Officer Four		Chief Warrant Officer Four	Chief Warrant Officer
Chief Warrant Officer Three		Chief Warrant Officer Three	Chief Warrant Officer
Chief Warrant Officer Two		Chief Warrant Officer Two	Chief Warrant Officer
Chief Warrant Officer One		Chief Warrant Officer One	Chief Warrant Officer
Cadets			
Cadet	Cadet	—	Midshipman
Enlisted			
Sergeant Major of the Army	Chief Master Sergeant of the Air Force	Sergeant Major of the Marine Corps	Master Chief Petty Officer of the Navy
Command Sergeant Major	Command Chief Master Sergeant	Sergeant Major	Command Master Chief Petty Officer
Sergeant Major	Chief Master Sergeant	Master Gunnery Sergeant	Master Chief Petty Officer
First Sergeant	Senior Master Sergeant	First Sergeant Officer	Senior Chief Petty Officer
Master Sergeant	—	Master Sergeant	—
Sergeant First Class	Master Sergeant	Gunnery Sergeant	Chief Petty Officer
Staff Sergeant	Technical Sergeant	Staff Sergeant	Petty Officer First Class
Sergeant	Staff Sergeant	Sergeant	Petty Officer Second Class
Corporal	Sergeant	Corporal	Petty Officer Third Class
Specialist	—	—	—
Private First Class	Airman First Class	Lance Corporal	Seaman
Private	Airman	Private First Class	Seaman Apprentice
Private	Airman Basic	Private	Seaman Recruit

1-8. Precedence between members of the Army and members of foreign military services serving with the Army

Members of foreign military services serving with the U.S. Army have equal status with Army members of equivalent grade. When authorized by the President or the Secretary of Defense, members of foreign military service serving with the U.S. Army may exercise operational or tactical control, but they may not exercise command over Soldiers of the U.S. Army.

200219

Chapter 2 Command Policies

2-1. Chain of command

a. The chain of command assists commanders at all levels to achieve their primary function of accomplishing the unit's assigned mission while caring for personnel and property in their charge. A simple and direct chain of command facilitates the transmittal of orders from the highest to the lowest levels in a minimum of time and with the least chance of misinterpretation. The command channel extends upward in the same manner for matters requiring official communication from subordinate to senior.

b. Commanders are responsible for everything their command does or fails to do. However, commanders subdivide responsibility and authority and assign portions of both to various subordinate commanders and staff members. In this way, a proper degree of responsibility becomes inherent in each command echelon. Commanders delegate sufficient authority to Soldiers in the chain of command to accomplish their assigned duties, and commanders may hold these Soldiers responsible for their actions. Commanders who assign responsibility and authority to their subordinates still retain the overall responsibility for the actions of their commands.

c. Proper use of the chain of command is vital to the overall effectiveness of the Army. Commanders must acquaint all their Soldiers with its existence and proper function. Effective communication between senior and subordinate Soldiers within the chain of command is crucial to the proper functioning of all units. Therefore, Soldiers will use the chain of command when communicating issues and problems to their leaders and commanders.

2-2. Open door policies

Commanders will establish an open door policy within their commands. Soldiers are responsible to ensure that the commander is made aware of problems that affect discipline, morale, and mission effectiveness; and an open door policy allows members of the command to present facts, concerns, and problems of a personal or professional nature or other issues that the Soldier has been unable to resolve. The timing, conduct, and specific procedures of the open door policy are determined by the commander. He or she is responsible for ensuring that Soldiers are aware of the command's open door policy.

2-3. Performance counseling

Commanders will ensure that all members of their command receive timely performance counseling. Effective performance counseling of officers, noncommissioned officers (NCO), enlisted Soldiers, and DA civilian employees helps to ensure that they are prepared to carry out their duties efficiently and accomplish the mission. AR 623-3 and AR 690-400 contain counseling requirements in conjunction with the evaluation reporting systems. Unit commanders will determine the timing and specific methods used to provide guidance and direction through counseling. FM 6-22 provides advice and makes suggestions concerning effective counseling. Providing regular and effective performance counseling to all Soldiers, not just those whose performance fails to meet unit standards, is a command function. All commanders will ensure that their subordinate commanders have implemented and are maintaining an effective performance counseling program.

2-4. Staff or technical channels

Staff or technical channels may be used for sending reports, information, or instructions not involving variations from command policy and directives.

2-5. Command of installations, activities, and units

a. *Responsibility.* The senior regularly assigned United States Army officer present for duty normally has responsibility for the command of units, platoon level and above, except as shown in paragraphs 2-8a, 2-15, and 2-16.

b. *Command of installations.* Command of Army installations is subject to policies, procedures, and regulations promulgated by HQDA.

(1) Command of Army installations is exercised by a senior commander (SC). The SC is designated by senior Army leadership. The SC's command authority over the installation derives from the Chief of Staff, Army (CSA) and Secretary of the Army's (SA) authority over installations. This is a direct delegation of command authority for the installation to the SC. The SC's command authority includes all authorities inherent in command including the authority to ensure the maintenance of good order and discipline for the installation.

(2) Army installations are identified in one of two categories as follows:

(a) Installations managed by Installation Management Command (IMCOM). Installations that are managed by IMCOM are discussed in paragraph b(4)(e), below.

(b) Installations not managed by IMCOM. Installations that are not managed by IMCOM are discussed in paragraph 2-5b(4)(f), below.

(3) *Joint bases.* Army installations designated for management under Department of Defense (DOD) Joint Basing

Guidance shall be operated in full compliance with DOD requirements. In the event of a discrepancy between this regulation and the DOD policies or procedures for Joint basing, the DOD policies or procedures take precedence.

(4) Roles and responsibilities.

(a) Senior commander. The SC is normally the senior general officer at the installation. The SC's mission is the care of Soldiers, Families, and Civilians, and to enable unit readiness. While the delegation of senior command authority is direct from HQDA, the SC will routinely resolve installation issues with IMCOM and, as needed, the associated ACOM, Army service component command (ASCC), or direct reporting unit (DRU). The SC uses the garrison as the primary organization to provide services and resources to customers in support of accomplishing this mission. All applicable commands support the SC in the execution of SC responsibilities; therefore, the SC is the supported commander by the IMCOM region director (RD), the garrison and tenants. The SC—

1. Normally is a dual-hatted position. When this occurs the commander exercises discrete authorities as the SC and as a mission commander. The SC responsibilities and authorities are installation focused; the responsibilities and authorities as the mission commander are mission focused.

2. Can, in rare cases, be an HQDA-appointed civilian versus a uniformed SC, who will assume the SC roles and responsibilities with the exception of UCMJ and command authority. In these instances, the individual will be referred to as the senior manager. Prior to the appointment of the senior manager, command and UCMJ authorities for the installation will be specified.

3. Is responsible for synchronizing and integrating Army priorities and initiatives at the installation. On IMCOM managed installations there is a requirement for a strong collaborative relationship between the SC and the IMCOM RD. The SC commands the installation but funding of almost all installation activities flows through the RD.

4. Assumes the duties and responsibilities of the installation commander where that title is mentioned in U.S. Code or DOD or Army policies and regulations.

5. Assumes the duties and responsibilities of the senior mission commander where that title is mentioned in Army regulations except for regulations involving operational duties and responsibilities. Mission commanders will retain operational duties and responsibilities.

6. Unless prohibited by law or regulation, the SC may delegate, as necessary, assigned duties and responsibilities to the garrison commander (GC). Such delegation shall be made in writing and specifically state the duties and responsibilities so delegated and the termination date of the delegation.

7. Establishes installation priorities among all resident and supported units.

8. Prioritizes base operations support consistent with HQDA priorities and approved common levels of support (CLS) bands.

9. Oversees the CLS services and capabilities provided to customers. Ensuring that those services are provided within the HQDA guidance, designated priorities, and approved CLS bands and coordinates with the IMCOM RD to change HQDA approved CLS from green, amber, or red.

10. Approves and submits the installation master plan consistent with HQDA long-range plans and goals through the ACOMS, ASCCs or DRUs, and IMCOM. For IMCOM installations the SC collaborates with the IMCOM RD before the SC submits the installation master plan.

11. Approves the military construction, Army (MCA) and military construction, Army Reserve (MCAR) project priority list at the installation level. For IMCOM installations the SC collaborates with the IMCOM RD before the SC approves the MCA and MCAR project priority list for the installation. The U.S. Army Corps of Engineers executes MCA/MCAR projects for the Army.

12. Reviews and approves the prioritization of Family and installation programs. For IMCOM installations the SC collaborates with the IMCOM RD before the SC approves Family and installation programs for the installation.

13. Installation force protection (FP) is as follows: *(a)* continental United States (CONUS) SC: as directed by U.S. Army North (USARNORTH) and in coordination with the installation management headquarters (IMCOM and Non-IMCOM), oversees FP on the installation; *(b)* outside continental United States (OCONUS) SC: in coordination with the ASCC and IMCOM is responsible for FP oversight on the installation.

14. Is normally designated as a General Court-Martial Convening Authority (GCMCA). The GCMCA orders will specify the appellate and review channels for SC GCMCA actions.

15. The appellate and review authority for administrative actions taken by the SC pertaining to individual Soldiers and DA Civilians will flow through ACOM, ASCC, or DRU channels unless otherwise specified in Army regulations. The terms "next superior authority," "next higher authority," "next higher commander," and "next higher headquarters" as used in other Army regulations, mean ACOM, ASCC, or DRU commander or headquarters.

16. Serves as the senior Army representative to the surrounding community.

17. Senior rates the GC.

(b) Garrison commander. The GC is a military officer, lieutenant colonel or colonel, selected by HQDA. The GC commands the garrison, is the SC's senior executive for installation activities, is rated by the IMCOM RD, and is senior rated by the SC. The GC is responsible for day-to-day operation and management of installations and base support services. The GC ensures that installation services and capabilities are provided in accordance with HQDA

directed programs, SC guidance, CLS, and IMCOM guidance. The GC provides additional service support in accordance with HQDA directives and provides reimbursable services in accordance with memorandum of understanding or agreement (MOU/MOA). The GC is responsible to deliver Family and installation programs, coordinates and integrates the delivery of support from other service providers, and obtains SC approval of the installation master plan. The GC may be appointed as a Summary Courts-Martial Convening Authority or the Special Courts-Martial convening authority for the installation and its support area; in rare cases the GC may be appointed as GCMCA. In some cases, the senior official on an installation may be the garrison manager. A garrison manager (the civilian equivalent of a GC has the same responsibility and authority as the military counterpart with the exception of UCMJ and command authority. Prior to the appointment of the garrison manager, command and UCMJ authorities for the garrison will be specified. The GC responsibilities are—

1. Represents the Army and the installation in the surrounding community as directed by the SC.
2. Approves and issues garrison policies in accordance with respective Army regulations, or installation level policies involving tenant units as directed by the SC.
3. Approves and issues policies for IMCOM civilian workforce.
4. Develops and implements the Force Protection Program.
5. Supports mobilization station requirements.

(c) The ACOM, ASCC, or DRU on IMCOM managed installations.

1. Provide to IMCOM a prioritized list of MCA/MCAR projects and requirements that impact subordinate units to support the development of the military construction (MILCON) program and the program objective memorandum.
2. Provide IMCOM with subordinate mission priority requirements for MILCON and base operations.
3. Identify to IMCOM, through the CLS process and other requirements development processes, the required levels of garrison support needed to meet mission requirements. Also, identify to IMCOM any support requirements not included in CLS services. Collaborate with IMCOM in developing garrison support requirements that are applicable to all garrisons.

4. Evaluate the effectiveness of installation services and support and participate in the prioritization of these services and support.

5. Responsible for mobilization of subordinates as specified in AR 10-87.

6. Provide prioritization requirements for information technology and training enabler support to IMCOM.

7. Responsibilities for FP are: (a) OCONUS: The Geographic Combatant commander exercises Combatant Command (Command Authority) (COCOM) authority over all aspects of FP in the AOR and delegates authority for FP as deemed appropriate and necessary. This includes all aspects of FP on Army installations without exception; (b) CONUS: Commander, USNORTHCOM has tactical control (for FP) over all DOD personnel and assets in the AOR. USARNORTH is designated as USNORTHCOM's ASCC; the authority to execute the FP mission in CONUS is delegated from Commander, USNORTHCOM; (1) USARNORTH has direct command and control authority over commands when executing FP responsibilities for installations/facilities (FP reporting commands/SCs when executing FP responsibilities for installations/facilities); (2) USARNORTH has a supported/supporting relationship with commands not executing responsibilities for installations/facilities (FP supporting commands).

(d) Assistant Chief of Staff for Installation Management. The ACSIM is the proponent for all Army installations and in this capacity is responsible for installation policy development and implementation Armywide. The ACSIM does not exercise command authority over Army installations.

1. The ACSIM ensures that real property accountability and reporting is implemented at all installations (see AR 405-45).

2. The ACSIM manages HQDA level MILCON in accordance with HQDA priorities and guidance.

3. The ACSIM is the proponent for environmental policy Armywide.

(e) Installation Management Command. The ACSIM is dual-hatted as the Commander of IMCOM. IMCOM is a DRU reporting to the ACSIM as described in AR 10-87. IMCOM manages Army installations assigned to it. IMCOM executes installation readiness missions, provides equitable services and facilities, optimizes resources, sustains the environment, and enhances the well-being of the military community. IMCOM is accountable for the efficient delivery of installation services and support. The IMCOM is responsive to ACOMs, ASCCs, and DRUs through a supporting to supported relationship.

1. IMCOM commands the garrisons assigned to it.

2. IMCOM and its subordinate organizations are supporting commands to the SC on IMCOM installations. There is a requirement for a strong collaborative relationship between the SC and the IMCOM RD. The SC commands the installation but funding of almost all installation activities flows through the RD.

3. The relationship between IMCOM and the commands of tenant organizations is analogous to the "supporting to supported" command relationship described in Joint Doctrine.

4. The IMCOM RD rates the GC.

5. IMCOM ensures compliance with HQDA directed programs and CLS bands. IMCOM staffs and coordinates with

HQDA funding requests for garrison support requirements identified by ACOM, ASCC, or DRUs that are not included in CLS services.

6. There is a difference between command relationship in CONUS and OCONUS for IMCOM installations. These relationships are depicted in figure 2-1.

Command Relationships at CONUS IMCOM Managed Installations

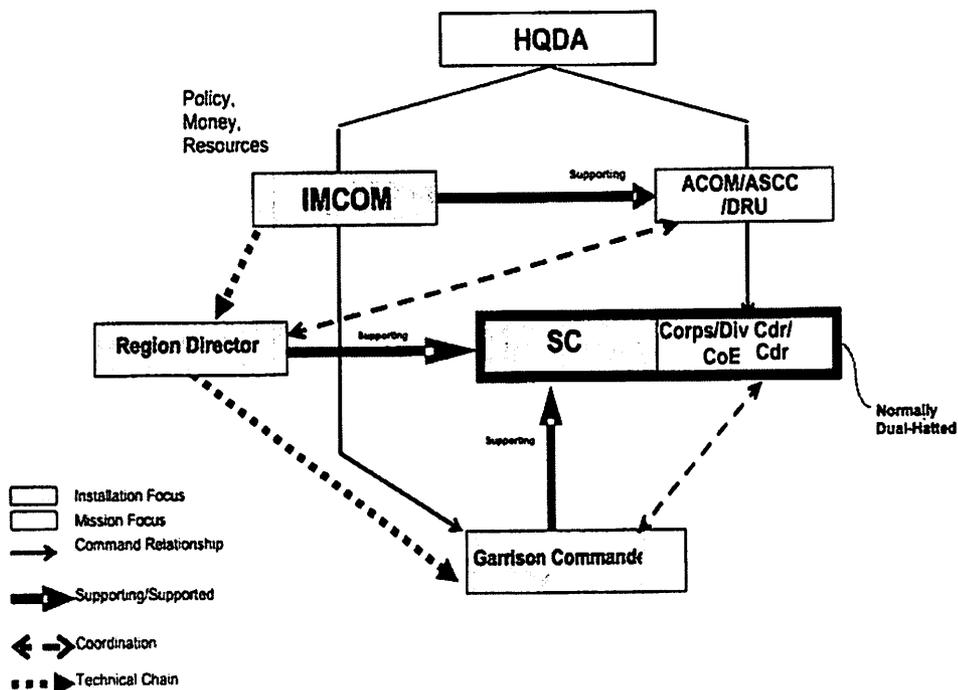


Figure 2-1. Command relationships at CONUS IMCOM managed installations

Command Relationships at OCONUS IMCOM Managed Installations

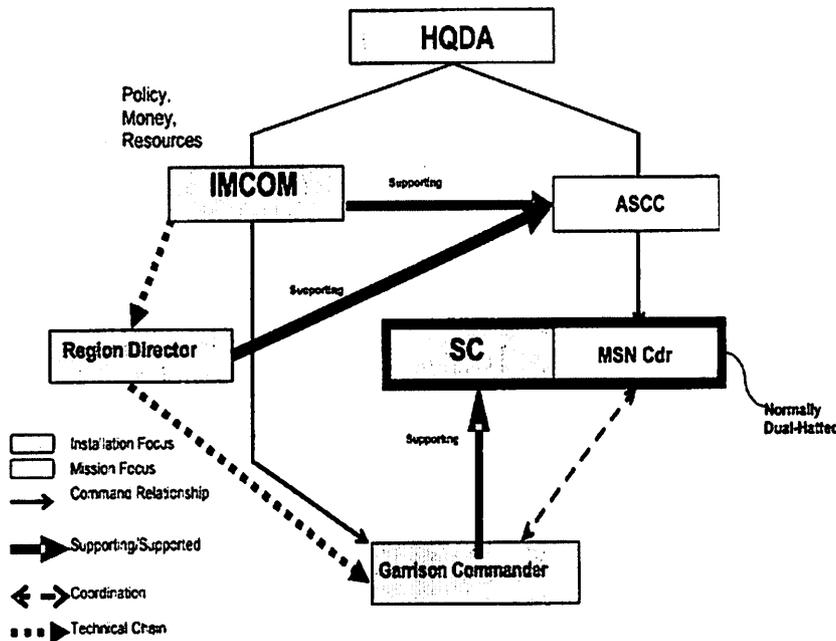


Figure 2-1. Command relationships at OCONUS IMCOM managed installations – continued

(f) Non-IMCOM Installations. The SC is designated in accordance with paragraph b(4)(g), below. The SC roles and responsibilities are the same as for all other Army installations.

1. Army National Guard (ARNG) installations are managed in compliance with National Guard Bureau (NGB) requirements by individual U.S. Property and Fiscal Officers.

2. U.S. Army Materiel Command (AMC) installations are managed in compliance with AR 700-90 and other appropriate industrial base authorities.

3. U.S. Army Medical Command (MEDCOM) installations are managed in compliance with AR 40-4.

4. Military Surface Deployment and Distribution Command performs terminal management services as a subordinate of USTRANSCOM under the authority of DODD 5158.04 and other appropriate authorities.

5. U.S. Army Space and Missile Defense Command/Army Strategic Command installations are managed in compliance with AR 700-90 and other appropriate industrial base documents.

6. The TRADOC ROTC detachments and recruiting sites do not provide garrison support functions and do not have garrison activities.

7. U.S. Army Corps of Engineers' funded installations and separate facilities not on IMCOM installations are managed in accordance with Federal law, AR 420-1, and other appropriate regulations.

(g) Change of senior commander.

1. *Permanent change.* (a) *CONUS.* Commanders of ACOMs, ASCCs, or DRUs may request a permanent change of SC designation through the HQDA (DACS-GOM); (b) *OCONUS.* The ASCC may request a permanent change of SC designation through the HQDA (DACS-GOM).

2. *Temporary change.* When temporarily absent from the installation, to include deployment, SCs may remain in command of installations or may relinquish command and designate an acting commander after coordination with applicable ACOM, ASCC, or DRU commanders. When designating an acting commander the SC will notify senior Army leadership, HQ IMCOM, and affected mission commands. Designation of an acting commander shall be in accordance with the procedures established in this regulation for appointing acting commanders.

c. Uniform Code of Military Justice authority. UCMJ authority will be governed by AR 27-10, paragraph 5-2.

(1) Army commanders in the grade of lieutenant general or above may not assume command of Army installations, except where the installation serves as the location for an Army Corps, CONUS Army, or higher headquarters. An

200224

exception to this policy must be approved by General Officer Management Office, Chief of Staff (DACS-GOM), 200 Army Pentagon, Washington, DC 20310-0200.

(2) ACOM, ASCC, or DRU commanders may relieve tactical commanders of installation responsibilities by designating a junior officer, equal or higher in grade to the GC of the permanent station, as installation commander.

(3) Command of installations and units under the AMEDD will be as prescribed in AR 40-1.

d. Announcement of assumption of command. Assumption of command will be announced in a memorandum and will contain the information shown in figure 2-2. To preclude two separate documents, appointment (applies only to three- and four-star general officers) and assumption announcements may be included in a single memorandum, as shown in figure 2-3. Senior mission commander delegation will be indicated, as required, by GOMO on the individual's permanent change of station (PCS) orders.

DEPARTMENT OF THE ARMY
Organizational Name/Title
City, Site, ZIP+4

Office Symbol (MARKS NUMBER)

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assumption of Command By Authority of (appropriate subparagraph).

The undersigned assumes command of (complete unit designation and unit identification code (UIC)), effective (time/date).

(Signature block)

NAME

GRADE, BRANCH

Commanding

(or the words "Acting Commander" as appropriate [see para 2-8a(3)])

Figure 2-2. Assumption of command

200225

DEPARTMENT OF THE ARMY
Organizational Name/Title
City, State Zip+4

Office Symbol (MARKS NUMBER)

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Appointment of Commander.

By direction of the President, (grade, name, SSAN, and branch) is appointed commanding officer or commanding general of (complete unit designation and UIC), effective (date).

Figure 2-3. Appointment of commander

(1) *Oral assumption of command.* Oral assumption of command may be used by units not using orders or other documentation to announce assumption of command or when other circumstances necessitate. Oral assumption of command should be followed by a written assumption of command memorandum as expeditiously as possible.

(2) *Distribution.* Distribution will be limited to one copy to each person concerned, subordinate commands or elements, interested commands, or agencies, and the next higher headquarters. A copy will be placed in the files of the issuing command and/or the affected command. When a general officer, or general officer designee, assumes permanent command, one copy will be furnished to General Officer Management Office, Chief of Staff (DACS-GOM), 200 Army Pentagon, Washington, DC 20310-0200.

(3) *Filing.* Organizations and units governed by AR 25-400-2 will file one copy of the assumption document under Organizational History files. Disposition is shown in those documents.

(4) *Correction and amendments.* Assumption of command documents will be amended, rescinded, or revoked by publishing the correct information in another assumption of command document. The document containing the correction will properly identify (by date) the document being corrected, and state to whom it pertains. The amended document will be distributed and filed, as appropriate.

e. Optimum length of command tours. The optimum length of command tours will be based on the needs of the Army, stability within units, the need for officers with command experience, and availability of personnel. Normal optimum command tours are as follows:

(1) For company grade, 18 months with a minimum of 12 months.

(2) For field grade, normal command tour length for battalion/brigade commanders is 24 months or coincides with tour length for short tour and may be as long as 36 months or more for life-cycle manned units. Curtailments must be requested in writing by the affected officer. Commanding general (MG or above), in coordination with the CG, U.S. Army Human Resources Command (AHRC) may curtail or extend field grade command tours up to 30 days. The ACOM, ASCC, or DRU commanders in coordination with the CG, AHRC may curtail or extend field grade command tours for 31 to 60 days. The CSA approval is required for curtailment and extensions of field grade command tours for more than 61 days or for any extensions of field grade command beyond the normal 36 months.

(3) In overseas areas where the tour length precludes such tenure of command, the command tour will coincide with the overseas tour.

(4) A battalion level command normally will not be held by a colonel. Accordingly, if a promotable lieutenant colonel serving as a battalion commander has a projected promotion date during the command tour, ACOM, ASCC, or DRU commanders will coordinate with AHRC to schedule a change of command date as close as possible to the projected promotion date of the officer. In cases where the change of command would adversely affect significant operational requirement, the ACOM, ASCC, or DRU commander will submit a request through the CG, AHRC to HQDA for exception to policy.

f. Command by general officers. Except as indicated in paragraph 2-8, a general officer will not be assigned without the prior approval of General Officer Management Office, Chief of Staff (DACS-GOM), 200 Army Pentagon, Washington, DC 20310-0200.

200226

g. Command of dental units. The senior Dental Corps officer, assigned or attached to a dental TOE unit deployed to receive and treat patients, will assume command of that unit until properly relieved.

h. Command of veterinary units. The senior veterinary officer assigned or attached to a veterinary unit deployed to care for Government-owned animals, for food inspection responsibilities, and/or for civic action programs, will assume command of that unit until properly relieved.

i. Command of Active Army training units. Army National Guard of the United States (ARNGUS) officers (when activated under Title 10, USC) and U.S. Army Reserve (USAR) officers, serving on active duty (AD) or active duty for training (ADT) under Title 10, USC, may be assigned as acting commanders of AA training units during annual training (AT). This includes authority under the UCMJ, unless withheld by competent authority. Installation commanders implementing the authority granted by this paragraph will ensure that—

(1) Paragraphs 3–3 and 3–4 are followed.

(2) Reserve components (RC) organizations have adequately trained their commanders according to the Manual for Courts-Martial (MCM) and AR 27–10.

(3) RC commanders receive orientation regarding the administration of military justice at the installation and the unit level.

(4) Necessary attachment orders, direction of the President authority, assumption of acting command letter, administrative measures, and appeal channels are accomplished.

(5) Staff or command judge advocates monitor the fair and just administration of military justice.

j. Active guard reserve personnel. The AGR personnel may be assigned duties (for example, serve as company commanders of AA units in USAREC) that:

(1) Support operations or missions assigned in whole or in part to RCs.

(2) Support operations or missions performed or to be performed by a unit composed of elements from more than one component of the same armed force; or a joint forces unit that includes one or more RC units; or a member of a RC whose RC assignment is in a position in an element of the joint forces unit.

(3) Advise the Secretary of Defense, the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of the unified combatant command regarding RC matters.

2–6. Specialty immaterial commands

The senior officer regularly assigned and present for duty with logistical commands (or communication zone headquarters, sections, and areas) and similar specialty immaterial commands will assume command of the organization. (This provision applies unless the senior officer is ineligible under paras 2–15 or 2–16.)

2–7. Designation of junior in the same grade to command

The DCS, G–1 is responsible for policy on the designation of junior in the same grade to command.

a. When two or more commissioned officers of the same grade, both of whom are eligible to command, are assigned to duty in the same command or organization, the President may assign the command of forces without regard to seniority by DOR.

b. General officers are authorized to announce by direction of the President, the designation of one of several officers of the same grade within a command under their jurisdiction as a commander thereof.

(1) This refers to general officers commanding ACOMs, ASCCs, or DRUs, armies, corps, installations, divisions, separate brigades, regional support commands (RSCs), General Officer Commands (GOCOMs), and heads of DA staff agencies. This may be done without regard to relative seniority. (See paras 2–5 and 2–8 for policy on general officers.) When an officer who is junior by DOR is designated to command, a memorandum will be used to announce the appointment and will contain the information shown in figure 2–2.

(2) This appointment is used only if the duties of the position require exercising command. It is not used to assign a junior officer to a staff position that requires supervising and controlling activities of an officer senior by DOR. In staff supervisory positions, commanders make such appointments merely by designation in a memorandum.

c. Commanders will not use the Presidential authority cited in this paragraph to appoint a junior member as their own successor, either temporarily or permanently. In some cases, a commander having authority under this paragraph may find it necessary to place a junior member in his or her position temporarily as acting commander. If so, a request stating the circumstances and asking for the appointment to be made will be sent to the next higher commander having authority under this paragraph. The next higher commander will review the request and make the appointment deemed necessary. Commanders will not issue a blanket designation without prior approval from the ACOM, ASCC, or DRU commander, and, in cases involving general officers, General Officer Management Office, Chief of Staff (DACS–GOM), 200 Army Pentagon, Washington, DC 20310–0200. Each designation of a junior to a command position requires a separate action by the appropriate authority except when prior approval of a blanket designation has been authorized.

d. The authority in this paragraph will not be used to assign command functions to chaplains or, unless authorized by the SA or his or her appointee, to officers of the AMEDD except as in paragraph 2–16.

e. Commanders and their staffs, at all levels of command, are responsible for ensuring proper delegation of authority to NCOs by their seniors. This policy applies whether the senior is an officer, WO, or another NCO.

2-8. Death, disability, retirement, reassignment, or absence of the commander

a. Commander of Army element.

(1) If a commander of an Army element, other than a commander of a headquarters and headquarters element, dies, becomes disabled, retires, is reassigned, or is temporarily absent, the senior regularly assigned United States Army Soldier will assume command.

(2) If the commander of a headquarters and headquarters element dies, becomes disabled, retires, is reassigned, or is temporarily absent, the senior regularly assigned United States Army Soldier of the particular headquarters and headquarters element who performs duties within the element will assume command. For example, if a division headquarters and headquarters company commander is temporarily absent, the executive officer as the senior regularly assigned Army Soldier who performs duties within the headquarters company would assume command and not the division commander.

(3) Senior regularly assigned United States Army Soldier refers (in order of priority) to officers, WOs, cadets, NCOs, specialists, or privates present for duty unless they are ineligible under paragraphs 2-15 or 2-16. He or she assumes command until relieved by proper authority except as provided in c, below. Assumption of command under these conditions is announced per paragraph 2-5. However, the announcement will indicate assumption as acting commander unless designated as permanent by the proper authority. It is not necessary to rescind the announcement designating an acting commander to assume duties of the commander "during the temporary absence of the regularly assigned commander" if the announcement gives the time element involved. A rescinding announcement is required if the temporary assumption of command is for an indefinite period.

b. Head of DA Staff agency. On the death, disability, or temporary absence of a head of a DA Staff agency, the next senior United States Army officer on duty in the office will become head until relieved by proper authority. (Exceptions may be ordered or required.) This does not apply to The Surgeon General (TSG) and the Chief, National Guard Bureau (CNGB). Functions of TSG are assumed by the next senior AMEDD officer. Functions of the NGB are assumed by the senior officer of the ARNGUS or the Air National Guard of the United States on duty in the Bureau. (See Section 10505(d), Title 10, United States Code (10 USC 10505(d))).

c. Commanders of ACOMs, ASCCs, or DRUs. A commander of a ACOM, ASCC, or DRU may continue to discharge the functions of command while absent from the limits thereof, if—

(1) Such absence is for a short period only.

(2) The commander has reasonable communication with the ACOM, ASCC, or DRU headquarters.

(3) The absence is not caused by physical disability.

d. General officers.

(1) During the temporary absence of the regularly assigned commander, ACOMs, ASCCs, or DRUs are authorized to assign general officers under their command to positions of command.

(2) Where more than one ACOM, ASCC, or DRU is represented on an installation, the line of succession of command may pass from one ACOM, ASCC, or DRU to another. The major Army commanders concerned should agree to the terms of such an arrangement by a MOU and should publish necessary documentation. General Officer Management Office, Chief of Staff (DACS-GOM), 200 Army Pentagon, Washington, DC 20310-0200 will be notified of the action taken.

2-9. Absence or disability of all officers of a unit

On death, disability, or absence of all officers of a unit normally commanded by an officer, the appropriate commander of the next higher command permanently assigns an officer to command, preferably of the branch to which the unit belongs. Pending assignment and arrival of the new commander, the senior WO, cadet, NCO, specialist, or private regularly assigned to the unit will exercise temporary command. Restrictions on assuming command in paragraphs 2-15 and 2-16 apply. Assumption of command will be as noted in paragraph 2-8.

2-10. Emergency command

The senior officer, WO, cadet, NCO, specialist, or private among troops at the scene of an emergency will assume temporary command and control of the Soldiers present. These provisions also apply to troops separated from their parent units under battlefield conditions. The senior person eligible for command, whether officer or enlisted, within a prisoner of war camp or among a group of prisoners of war, or a group of personnel detained by hostile forces or elements will assume command according to grade and DOR seniority without regard to Service.

2-11. Functions of an individual in temporary command

A commander in temporary command will not, except in urgent cases, alter or annul the standing orders of the permanent commander without authority from the next higher command. Temporary command is defined to include

200228

command assumed under conditions outlined in paragraphs 2-8, 2-9, and 2-10. Such commanders will be considered temporary until designated as permanent, or until replaced by the proper SC.

2-12. Responsibility of successor

A commander who succeeds to any command or duty assumes the duties of his or her predecessor. The successor will assume responsibility for all orders in force and all the public property and funds pertaining to the command.

2-13. Separate commands of the U.S. Army serving together

a. When separate commands of the U.S. Army join (or perform duty) together, the senior regularly assigned U.S. Army officer present for duty with the commands concerned will command the forces unless otherwise directed by the President. He or she must not be ineligible under paragraph 2-15 or 2-16.

b. Section 317, Title 32, United States Code (32 USC 317) states: "When any part of the National Guard that is not in Federal Service participates in an encampment, maneuver, or other exercise for instruction, together with troops in Federal Service, the command of the post, air base, or other place where it is held, and of the troops in Federal Service on duty there, remains with the officers in Federal Service who command that place and the Federal troops on duty there, without regard to the grade or DOR of the officers of the National Guard not in Federal Service who are temporarily participating in the exercise."

c. When USAR units take part in ADT or AT at a post, the command of that post remains with the officers normally in command. This provision applies regardless of the grade or DOR of the officers of the USAR unit who are temporarily taking part in training there.

2-14. Separate commands of the several military Services of the United States serving together

a. When separate commands of the several military Services join (or perform duty) together, or personnel of another Service serve with the Army, operational control by an officer of one Service over the units or members of the other Services may be given by agreement between the Services concerned, or as directed by the National Command Authority, by the commander of a unified command to which the separate commands are assigned, or by agreement between two or more commanders of unified commands to which the separate commands are assigned. When the different commands of the Army, Navy, Air Force, Marine Corps, and Coast Guard join or serve together, the officer highest in grade in the Army, Navy, Air Force, Marine Corps, or Coast Guard, who is otherwise eligible to command, will command all those forces unless otherwise directed by the President (see Section 747, Title 10, United States Code (10 USC 747)).

b. Unless otherwise directed by property authority in the operational chain of command, the commander of the joint forces exercises operational control of the forces of each Service. This will be done through the commander of each component who will retain responsibility for such intra-service matters as administration, discipline, internal organization, and unit training. Ordinarily, an accused will not be tried by a court-martial convened by a member of a different Armed Force unless the accused can not be delivered to his or her own Service without manifest injury to the Armed Forces. However, commanders of unified combatant commands may convene courts-martial over members of any of the Armed Forces, and commanders of joint commands or joint task forces who have authority to convene a general court-martial may convene a court-martial for the trial of members of another Armed Force when specifically empowered by the President or Secretary of Defense as a GCMCA (see MCM, Rule for Courts-Martial 201(e)).

2-15. Ineligibility for command of post or activity

A person will be considered ineligible for command of a post or activity when—

- a. Quartered there, but has a headquarters or office elsewhere.
- b. A student at a Service school or civilian institution or undergoing individual training, instruction, or temporary duty (TDY) enroute at a post where he or she is not a part of the command.
- c. Not permanently assigned, and/or the unit involved is not permanently assigned to the post.
- d. Assigned primarily as a permanent member of a board.
- e. Prohibited from assuming command by statute or by paragraph 2-16.
- f. Assigned specific duty aboard a military vessel or aircraft where the officer's particular duty, specialty, or military occupational specialty (MOS) does not technically qualify him or her to assume the duty of ship's master or aircraft commander.
- g. In arrest. (A person under arrest is ineligible to exercise command of any kind.)

2-16. Restrictions

a. *Officers on duty in Department of the Army staff agencies.* Officers on duty or detailed to any of the Services or staff agencies and bureaus of DA (including heads thereof) will not normally assume command of troops other than those of the Service, staff, or bureaus where they are on duty. Exceptions must be directed by proper authority.

b. *Officers of the Army Medical Department.*

- (1) Officers of the AMEDD may exercise command within the AMEDD according to AR 40-1.

(2) As an exception, officers of the Medical Service Corps may command troops not part of the AMEDD when authorized by the SA; commanders of ACOMs, ASCCs, DRUs, Army groups, armies, corps, divisions, or comparable units; chiefs of the military Services; or heads of other DA Staff agencies.

c. Chaplains. A chaplain has rank without command (see 10 USC 3581). Although chaplains may not exercise command, they have authority to exercise functions of operational supervision and control.

d. Commanding officer of troops on transports. Military personnel embarking on Military Sealift Command vessels are available for command duty unless otherwise indicated in their travel orders, or by reason of their branch of Service. General officers will be excluded from this requirement. Designation of colonels will be at the discretion of the terminal commander.

e. U.S. Army Reserve unit commanders. The authority delegated under paragraph 2-7 will apply in the following cases when it is not practical to assign the senior officer to command:

(1) When the USAR officer selected to command a USAR unit, while in Reserve duty training status, is junior in DOR (AR 600-8-29) to other officers of the same grade assigned to that unit.

(2) When a USAR unit is ordered to AD, and the assigned unit commander is junior in DOR (AR 600-8-29) to other assigned officers of the same grade.

f. Warrant officers. When assigned duties as station, unit, or detachment commander, WOs are vested with all power usually exercised by other commissioned officers (see Pam 611-21 for exceptions).

g. Partially disabled officers. Partially disabled officers continued on AD under AR 635-40, chapter 6, will be assigned to positions in which their special qualifications make them of particular value to the Service. Such officers will not be assigned to command positions unless the assigning authority determines that the person—

(1) Has the medical (physical) career potential to serve in combat situations.

(2) Is able to serve until the age for mandatory retirement.

h. Inspectors general. An officer detailed to duty as an Inspector General will not assume command of troops while so detailed. However, an Inspector General is not precluded from assuming temporary command of an organization if he or she—

(1) Is the next senior regularly assigned Army officer of the organization.

(2) Is not otherwise ineligible.

(3) Has been relieved from detail as an Inspector General during the period of temporary command.

i. Program executive officers. With the exception of the CG, U.S. Army Corps of Engineers and the CG, U.S. Army Space and Missile Defense Command, an officer assigned as a program executive officer will not assume command of troops, installations, or activities while so assigned. Requests for exceptions for general officers, other than those specified above, will be submitted to General Officer Management Office, Chief of Staff (DACS-GOM), 200 Army Pentagon, Washington, DC 20310-0200.

j. Professors at the United States Military Academy. Officers appointed as permanent professors at the United States Military Academy (USMA) exercise command only in the academic departments of USMA (Section 4334, Title 10, United States Code (10 USC 4334)).

2-17. Relief for cause

a. When a SC loses confidence in a subordinate commander's ability to command due to misconduct, poor judgment, the subordinate's inability to complete assigned duties, or for other similar reasons, the SC has the authority to relieve the subordinate commander. Relief is preceded with formal counseling by the commander or supervisor unless such action is not deemed appropriate or practical under the circumstances. Although any commander may temporarily suspend a subordinate from command, final action to relieve an officer from any command position will not be taken until after written approval by the first general officer (to include one frocked to the grade of brigadier general) in the chain of command of the officer being relieved is obtained. Any action purporting to finally relieve an officer from any command position prior to the required written approval will be considered for all purposes as a temporary suspension from assigned duties rather than a final relief from command for cause. If a general officer (to include one frocked to the grade of brigadier general) is the relieving official, no further approval of the relief action is required; however, AR 623-3 concerning administrative review of relief reports remain applicable.

b. If a relief for cause is contemplated on the basis of an informal investigation under AR 15-6, the referral and comment procedures of that regulation must be followed before initiating or directing the relief. This does not preclude a temporary suspension from assigned duties pending completion of the procedural safeguards contained in AR 15-6. Any action purporting to initiate or direct a relief for cause on the basis of an informal investigation under AR 15-6 taken prior to completion of the procedural safeguards of AR 15-6 will be considered for all purposes as a temporary suspension from assigned duties.

2-18. Noncommissioned officer support channel

a. The NCO support channel (leadership chain) parallels and complements the chain of command. It is a channel of communication and supervision from the command sergeant major (CSM) to first sergeant (1SG) and then to other

NCOs and enlisted personnel of the units. Commanders will define responsibilities and authority of their NCOs to their staffs and subordinates. This NCO support channel will assist the chain of command in accomplishing the following:

- (1) Transmitting, instilling, and ensuring the efficacy of the professional Army ethic.
- (2) Planning and conducting the day-to-day unit operations within prescribed policies and directives.
- (3) Training of enlisted Soldiers in their MOS as well as in the basic skills and attributes of a Soldier.
- (4) Supervising unit physical fitness training and ensuring that unit Soldiers comply with the weight and appearance standards of AR 600-9 and AR 670-1.
- (5) Teaching Soldiers the history of the Army, to include military customs, courtesies, and traditions.
- (6) Caring for individual Soldiers and their Families both on and off duty.
- (7) Teaching Soldiers the mission of the unit and developing individual training programs to support the mission.
- (8) Accounting for and maintaining individual arms and equipment of enlisted Soldiers and unit equipment under their control.
- (9) Administering and monitoring the Noncommissioned Officer's Development Program, and other unit training programs.
- (10) Achieving and maintaining courage, candor, competence, commitment, and compassion.

b. The DA Pam 611-21 and FM 7-22.7 contain specific information concerning the responsibilities, command functions, and scope of NCO duties.

(1) *Sergeant Major of the Army*. This is the senior sergeant major grade and designates the senior enlisted position of the Army. The sergeant major in this position serves as the senior enlisted adviser and consultant to the CSA.

(2) *Command sergeant major*. This position title designates the senior NCO of the command at battalion or higher levels. He or she carries out policies and standards, and advises the commander on the performance, training, appearance, and conduct of enlisted Soldiers. The CSM administers the unit Noncommissioned Officer's Development Program.

(3) *First sergeant*. The position of ISG designates the senior NCO at company level. The ISG of a separate company or equivalent level organization administers the unit Noncommissioned Officer's Professional Development Program.

(4) *Platoon sergeant*. The platoon sergeant is the key assistant and adviser to the platoon leader. In the absence of the platoon leader, the platoon sergeant leads the platoon.

(5) *Section, squad, and team leaders*. These direct leaders are the NCOs responsible at this level.

c. NCO disciplinary policies are shown below:

(1) NCOs are important to maintaining discipline in the Army. The policies prescribed in this subparagraph should be considered together with the provisions of chapter 4 of this regulation, AR 27-10, and the MCM.

(a) NCOs have the authority to apprehend any person subject to trial by court-martial under the MCM (UCMJ, ART. 7 and para 302(b), rules for courts-martial) and chapter 4, of this regulation.

(b) NCOs may be authorized by their commanders to order enlisted Soldiers of the commanding officer's command or enlisted Soldiers subject to the authority of that commanding officer into arrest or confinement per the MCM (para 304(b), rules for courts-martial).

(2) NCOs do not have authority to impose nonjudicial punishment on other enlisted Soldiers under the MCM (UCMJ, ART. 15). However, the commander may authorize an NCO in the grade of sergeant first class or above, provided such person is senior to the Soldier being notified, to deliver the DA Form 2627 (Record of Proceedings under UCMJ, ART. 15) and inform the Soldier of his or her rights. In cases of nonjudicial punishment, the recommendations of NCOs should be sought and considered by the unit commanders.

(3) As enlisted leaders of Soldiers, NCOs are essential to furthering the efficiency of the company, battery, or troop. This function includes preventing incidents that make it necessary to resort to trial by courts-martial or to impose nonjudicial punishment. Thus, NCOs are assistants to commanders in administering minor nonpunitive corrective actions as found in AR 27-10 and Part V, paragraph 1g, of the MCM. "Nonpunitive measures" are not "nonjudicial punishment."

(4) In taking corrective action with regard to subordinates, NCOs will be guided by and observe the principles listed in chapter 4.

d. NCO prerogatives and privileges are shown below. NCOs will—

(1) Function only in supervisory roles on work details and only as NCOs of the guard on guard duty, except when temporary personnel shortages require the NCO to actively participate in the work detail.

(2) Be granted such privileges as organization and installation commanders are capable of granting and consider proper to enhance the prestige of their enlisted troop leaders.

2-19. Precedence of relative grade, enlisted Soldiers

Among enlisted Soldiers of the same grade in active military Service, to include retired enlisted Soldiers on AD, precedence or relative grade will be determined as follows:

a. According to DOR.

- b. By length of active Federal Service in the Army when dates of rank are the same.
- c. By length of total active Federal Service when *a* and *b*, above are the same.
- d. By date of birth when *a*, *b*, and *c*, above are the same—older is more senior.

2-20. Date of rank, enlisted Soldiers

a. On enlistment in the—

(1) U.S. Army (any component) with no previous military Service, (DOR) of the enlistment grade is the same as the date of enlistment.

(2) Regular Army (RA) following discharge from the USAR (Delayed Entry Program (DEP)), the DOR of the enlistment grade is the same as the date of enlistment in the RA.

(3) U.S. Army (any component) of a former commissioned officer or WO with no previous enlisted military Service, the DOR of the enlistment grade is the same as the date of enlistment.

(4) U.S. Army (any component) of a former enlisted member of the Armed Forces, other than the Army, if enlisted in the—

(a) RA, the DOR of the enlistment grade is the date of enlistment in the RA.

(b) Army National Guard and enlists—

1. More than 24 months after discharge, the DOR of enlistment grade is the date of enlistment.

2. Within 24 months of the last discharge in the same grade held at the discharge, the DOR will be adjusted to reflect the original DOR plus elapsed time since discharge.

3. Within 24 months of last discharge in a grade lower than held at discharge, the DOR will be adjusted to reflect the original DOR (of the grade in which enlisting) plus elapsed time since discharge.

(c) USAR and enlists—

1. More than 12 months after discharge, the DOR of enlistment grade is the date of enlistment.

2. Within 12 months following discharge, the DOR will be adjusted to reflect the original DOR (of the grade in which enlisting) plus elapsed time since discharge.

b. On subsequent enlistment/reenlistment—

(1) Without a break in military Service of more than 90 days, the Soldier retains the DOR of the grade held prior to reenlistment.

(2) With a break in military Service of more than 90 days and reenlists in the—

(a) RA—the DOR of the enlistment grade is the date preceding the reenlistment date by a period equal to the length of time previously served in the RA in the same or higher grade than that in which reenlisted. Service performed prior to reduction to a pay grade lower than that in which a Soldier reenlists is not creditable.

(b) Army National Guard or USAR—

1. More than 24 months following discharge from the RA, ARNG, or USAR, the DOR of the enlistment grade is the date of reenlistment.

2. Within 24 months of last discharge from the RA, ARNG, or USAR. The DOR of the enlistment grade will be adjusted to reflect the original DOR plus elapsed time since discharge.

(3) Reserve officer and enlisted—

(a) A Reserve of the Army enlisted Soldier serving on extended active duty (EAD) in the AA enlists in the RA. The DOR of the enlisted grade is the date of the RA enlistment. An earlier DOR may be awarded on previous RA enlisted Service.

(b) A Reserve of the Army officer with prior RA enlisted Service entitled to reenlist in the RA per Section 3258, Title 10, U.S. Code (10 USC 3258). The DOR is the date preceding the reenlistment date by a period equal to the length of time previously served on AD in the same or higher grade than that in which enlisted. For example, a USAR captain leaves the Army as a result of a reduction in force. He or she previously served as a sergeant. He or she reenlists and is promoted immediately to staff sergeant. His or her DOR as a staff sergeant is the date that he or she was commissioned as a second lieutenant.

(4) A former officer or WO with prior enlisted Service in the Army, without reenlistment entitlement under 10 USC 3258, enlists in the U.S. Army (any component). The DOR of the enlisted grade is the date of reenlistment back dated to include the time spent in the highest enlisted grade held before being commissioned or appointed. Service performed prior to reduction to a pay grade lower than that in which a Soldier reenlists is not creditable.

(5) Temporary disability retired list (TDRL)—

(a) On removal from the temporary disability retired list—

1. Immediately reenlists in the component of the Army from which he or she had been placed on the TDRL. The DOR is the original DOR held prior to placement on the TDRL.

2. Subsequently enlists in a component of the Army other than that from which he or she had been placed on TDRL. The DOR of the enlistment grade will be determined under *b*, above.

(b) Soldiers promoted to a higher enlisted grade returning from TDRL—

200232

1. Sergeants and below will be considered for promotion if eligible; and, if promoted, their DOR will be the date of current entry on AD.

2. Staff sergeant and above, if they are in the zone for consideration while in TDRL, Soldiers will be considered for promotion. If selected, their DOR will be the date they would have been promoted had they not been on TDRL. DOR with peers will be granted if a Soldier was previously selected for promotion by a DA Centralized Promotion Selection Board and placed on TDRL before promotions were made through their sequence number.

c. On call or ordered to AD or ADT.

(1) An ARNG or USAR Soldier is ordered to EAD in the AA, to include mobilization, but not including orders to AD under 10 USC 12304 or 12302, a call of the National Guard into Federal Service under Chapter 1211 of Title 10, United States Code (10 USC chapter 1211), or a call of members of the militia into Federal Service under Chapter 15 of Title 10, United States Code (10 USC chapter 15). The DOR is a date preceding the date of entry on EAD by a period spent on active status in the grade in which ordered to EAD subject to the following conditions:

(a) Only service performed after the most recent break in Service is creditable. For the purpose of this paragraph, a period during which the Soldier was not a member of the Armed Forces is a break in Service if such a period is in excess of 90 days (enlisted Soldier) or 180 days (former officers).

(b) Service performed prior to reduction to a pay grade lower than that in which a person enters on EAD is not credited.

(2) An ARNG or USAR Soldier is ordered to (AGR status, full-time national guard duty (FTNGD), AD for special work, temporary tour of active duty (TTAD), AD under Sections 12302 or 12304, Title 10 United States Code (10 USC 12302 or 12304), ADT, a call of the National Guard into Federal Service under 10 USC 12301, 12302, 12303, and 12304, or a call of the militia into Federal Service under 10 USC chapter 15. The DOR of the grade in which ordered to AD or ADT is the date on which the Soldier was advanced or promoted in that grade. If voluntarily reduced to enter on AD or ADT, the DOR will be the date of the rank to which reduced as if the Soldier had never attained a higher grade.

(3) A retired Soldier is called or ordered to AD (includes EAD, TTAD, and mobilization). The DOR of the grade in which ordered to AD will be stated on the AD orders. It is computed by adding, at the time of retirement, the period of time between the date of the retirement and the date of return to AD. In case of additional periods of inactive Service, the DOR is adjusted further.

d. On advancement, promotion, reduction, and grade restoration.

(1) The DOR for advancement and promotion to a higher grade is the date specified in the instrument of promotion or, when no date is specified, is the date of the instrument of promotion.

(2) The DOR for the lateral appointment to a different grade within the same pay grade is date held in the grade from which the appointment was made.

(3) The DOR for the grade held during a period in which lost time occurs will be adjusted to reflect lost time accumulated for any reason. This paragraph is retroactive to include adjustment of DOR held during previous periods of lost time.

(4) The DOR of a grade to which reduced for inefficiency or failure to complete a school course is the same as that previously held in that grade. If reduction is to a higher grade than that previously held, it is the date the Soldier was eligible for promotion under the promotion criteria set forth for that grade.

(5) The DOR on reduction for all other reasons is the effective date of reduction. (See AR 27-10, chap 3, when a Soldier is reduced under UCMJ, ART. 15.)

(6) The DOR on restoration to a grade from which reduced following a successful appeal of the reduction or action by a superior authority to mitigate the punishment, is the date held before the reduction. (See AR 27-10, chap 3, when a Soldier is reduced under the MCM (UCMJ, ART. 15).)

(7) The DOR on restoration to a higher grade held before reduction to comply with requirements to enter initial ADT, or to attend school under an Army program will be the DOR held prior to reduction.

(8) The DOR of an ARNG/USAR Soldier promoted to a higher grade held before acceptance of the reduction of one or more grades, without prejudice, due to lack of position vacancy, unit reorganization, unit inactivation/deactivation, or for entry on FTNGD, AD, or ADT will be a date preceding the promotion by a period equal to the length of time previously served in the grade to which promoted.

Chapter 3

Army Well-Being .

3-1. General

This chapter discusses the overarching command responsibility for "taking care of people." Applied at all levels of command, the principles of Army Well-being form the basis upon which commanders and other leaders understand and

support the individual aspirations of their people while focusing on mission accomplishment. Such leadership creates the environment necessary to maximize the human dimension of Army readiness.

3–2. Definition

Army Well-being is the personal—physical, material, mental, and spiritual—state of the Army Family, including Soldiers (active, reserve, and guard), retirees, veterans, DA civilians, and all their Families, that contributes to their preparedness to perform and support the Army’s mission. The focus of Army Well-being is to take care of our Army Family before, during, and after deployments.

3–3. Concept

a. An institutional perspective. Well-being is actually a “condition” resulting from the effects of a system of individual programs, policies, and initiatives. The term “Army Well-being” is not synonymous with “quality of life”, but rather expands the concept. Army Well-being—

(1) Incorporates an integrated, holistic view of Well-being programs, policies, and initiatives across the Army community.

(2) Establishes strategic oversight of those diverse programs, policies, and initiatives that contribute to Well-being through a Well-being framework.

(3) Provides a mechanism to measure performance against established standards.

(4) Links Well-being programs and initiatives to the four institutional outcomes of attracting, developing, retaining, and supporting.

b. An individual perspective. Well-being is a personal state, experienced by the individual. While there is no formula for prescribing this personal state, individuals must be self-reliant in order for this experience to be positive. Individuals are ultimately responsible for their own Well-being, but commanders are responsible for creating and sustaining a climate that contributes positively to the lives of the Army Family, including Soldiers (active, reserve and guard) retirees, veterans and DA civilians, and all their Families. The state of Well-being includes four basic dimensions of individual life experience:

(1) The physical state centers on one’s health and sense of wellness, satisfying physical needs through a healthy lifestyle.

(2) The material state centers on essential needs such as shelter, food, and financial resources.

(3) The mental state centers on basic needs to learn, grow, achieve recognition, and be accepted.

(4) The spiritual state centers on a person’s religious/philosophical needs, providing powerful support for values, morals, strength of character, and endurance in difficult and dangerous circumstances.

3–4. The Well-being framework

The four institutional outcomes of attracting, developing, retaining, and supporting are a function of the actions people take in response to their views of the actions of the institution. Therefore, the concept of Well-being principally focuses on the perceptions of the people who make up the Army. A framework or critical tool for organizing the thought process and structure associated with Well-being results from relating individual needs and aspirations with Army functions designed to meet those needs and aspirations. Within this framework not all individual needs or aspirations should, or can, be met by the Army. While oriented on the personal needs of individuals, Well-being acknowledges a basic rule of soldiering in the Army—that personal responsibilities and needs may be subordinated when duty calls. Soldiers and civilians must ensure that personal issues do not influence or impair the ability to deploy and perform the mission. The Army must provide an environment that makes mission accomplishment possible. The Well-being framework is described in terms of four individual aspirations:

a. To serve. The Army exists to fight and win the nation’s wars. Individuals choose to join the Army to fulfill the aspiration “to serve” the nation, its people, and the cause of freedom. This sense of service is considered “fundamental” to Army Well-being.

b. To live. This aspiration addresses the basic physical and material needs of shelter, food, and health. Individuals seek to satisfy this need by earning a living, achieving financial security, and providing for their Families. This role as provider is considered “essential” to Army Well-being.

c. To connect. The need “to connect” centers on acceptance, contribution, and social interaction. Individuals want to be accepted and valued, to contribute to a winning team, to perform meaningful work, and to unite around a common purpose and shared beliefs. The unique Army esprit de corps that connects individuals to the Army team serves a “defining” role in Army Well-being.

d. To grow. Personal growth involves mental and spiritual needs, and encompasses the individual’s desire to be creative, productive, and to use and expand one’s capabilities. Individuals’ ability to fulfill their personal aspirations “enhances” both their own lives and their relationship to the Army.

200234

3-5. Well-being strategic goals

Army Well-being is achieved by providing for four strategic goals linked to the Well-being framework of the Army Family, including Soldiers (active, reserve, and guard), retirees, veterans, and DA civilians, and all their Families:

a. Opportunity for service. Whether in a combat zone or a garrison environment, we all must embrace the concept that we have an opportunity to serve in support of something larger than ourselves.

b. Standard of living. To be able to live at a standard of living that we as an Army can be proud of.

c. Pride and sense of belonging. To develop and maintain a sense of pride and belonging with the Army team—Soldiers, DA civilians, retirees, veterans, and their Families.

d. Personal enrichment. To take advantage of the numerous opportunities the Army provides for personal and professional growth.

3-6. Well-being end state

a. A system perspective. An integrated system of Well-being functions and programs that—

(1) Recognizes that the institutional needs of the Army cannot be adequately addressed without fostering self-reliance and meeting the personal needs and aspirations of its people.

(2) Is designed and resourced to successfully account for the dynamic nature of the Army's operational challenges and America's societal changes.

(3) Maximizes readiness; retention, and recruiting.

(4) Contributes to an institutional strength that enables the Army to accomplish its "full spectrum mission."

b. A cultural perspective. An Army culture that balances the commitment expected of our people and the Army's commitment to those people.

3-7. The Army Well-being strategic process

At the Department of Army level, the Well-being process improves and sustains the institutional strength of the Army through a comprehensive strategy that integrates Well-being initiatives, programs, and resources to meet the Well-being needs of the Army. The process integrates all Army Well-being issues, initiatives, and programs to provide senior decision makers with a holistic perspective of Army Well-being. It uses the Army Well-being framework to synchronize the effects of all associated programs to achieve an integrated result. The process can be viewed as "a strategic umbrella" over individual programs and processes that have previously operated independently of one another. The significant components of the Well-being process include:

a. Deputy Chief of Staff, G-1. As the executive agent for Army Well-Being, the DCS, G-1 coordinates and integrates the efforts of the DA staff, through the Well-Being Division, in the execution of the Well-being process.

b. Well-being general officer steering committee. The Well-being general officer steering committee (GOSC) is responsible to the SA, through the CSA, for providing strategic oversight of the Well-being process from a holistic perspective and identifying required policy changes for Army Staff development and SA approval necessary to achieve the Army's Well-being end state.

c. Well-being council of colonels. The Well-being council of colonels is responsible for reviewing Well-being initiatives, issues, and recommendations for submission to the Well-being GOSC.

d. Well-being management tools.

(1) The Well-being architecture translates the Well-being philosophy into manageable functional areas. In so doing, the architecture defines the scope of Well-being and ensures that all Well-being tools are properly integrated into the overall process.

(2) The Well-being action plan describes the functional architecture and represents the strategic plan for each of the individual Well-being functions. The Well-being action plan is linked directly to the Well-being status report and the Army campaign plan.

(3) The Well-being status report uses results-oriented performance measures to quantify the current status, progress, perspective and impact of each of the Well-being functions. In so doing, the Well-being status report delineates the standards for measuring components of the individual Well-being functions. The ultimate output of the Well-being status report is a representation of the function's impact on the human dimension of readiness. This critical information is a major component of the Strategic Readiness System.

(4) The Well-Being resource crosswalk captures programming and budgeting information for all forms of Army funding that contribute to Well-being (for example, appropriated, nonappropriated, or DOD). This data, formatted in accordance with the Well-being architecture, provides senior army leaders funding profiles for each Well-being function and a holistic perspective.

(5) The Well-Being strategic communications plan provides a disciplined mechanism to communicate the Army's Well-being message to complex audiences both inside and outside the Army.

(6) The Army Campaign Plan provides the vehicle by which Well-being planning is integrated and synchronized with the overall Army Transformation.

3–8. Responsibilities

a. The SA and CSA together form the senior Army leadership responsible for the readiness of the force. Accordingly, they ensure the effective and timely implementation of policy, program, and budget decisions necessary to enable Army Well-being.

b. The Vice Chief of Staff, Army—

(1) Supervises the Army Staff in their coordinated efforts to develop an integrated and holistic approach to enabling the Well-being of the force.

(2) Chairs the Army Well-Being GOSC.

(3) Advises the SA and CSA on recommendations from the Well-Being GOSC.

c. The DCS, G–1 is the responsible official for Army Well-being and provides strategic oversight of Army Well-being by integrating all Well-being programs, identifying policy changes necessary to achieve the Army's Well-being end-state, and developing a holistic perspective of the human dimension's impact on readiness. Responsibilities include:

(1) Serving as executive agent for the Well-being GOSC.

(2) Ensuring disciplined adherence to the Well-being process.

(3) Coordinating the agenda for and conducting meetings of the Well-being GOSC.

(4) Providing staff and administrative support to the Well-being GOSC.

(5) Maintaining and updating the tools necessary to ensure a holistic approach to integrated strategic planning for Well-being programs.

(6) Representing the holistic perspective of Army Well-being programs in the planning, programming, budgeting, and execution.

d. Heads of other HQDA staff agencies (and field operating agencies as appropriate) are responsible for Armywide policies, plans, and initiatives within their areas of proponency. The DCS, G–1 and the Well-being GOSC using the Well-being process will integrate their policies, plans, and initiatives pertaining to Army Well-being into the Army's overall plan to achieve the Army Well-being end-state.

e. Commanders and other leaders at all levels will provide an environment that contributes positively to the physical, material, mental, and spiritual dimensions of the lives of their subordinates and their Families as well as members of the greater, extended Army Family, including veterans, retirees, and DA civilian employees as appropriate. The Well-being definition, concept, framework, strategic goals, and end-state described in paragraphs 3–2 through 3–6 apply Armywide. The Well-being architecture provides commanders at all levels an integrated approach for focusing on and assessing functional outcomes. Commanders should adapt the architecture and other Well-being tools listed in paragraph 3–7 in meeting their responsibilities to manage implementation of Army Well-being within their organizations.

Chapter 4 Military Discipline and Conduct

4–1. Military discipline

a. Military discipline is founded upon self-discipline, respect for properly constituted authority, and the embracing of the professional Army ethic with its supporting individual values. Military discipline will be developed by individual and group training to create a mental attitude resulting in proper conduct and prompt obedience to lawful military authority.

b. While military discipline is the result of effective training, it is affected by every feature of military life. It is manifested in individuals and units by cohesion, bonding, and a spirit of teamwork; by smartness of appearance and action; by cleanliness and maintenance of dress, equipment, and quarters; by deference to seniors and mutual respect between senior and subordinate personnel; by the prompt and willing execution of both the letter and the spirit of the legal orders of their lawful commanders; and by fairness, justice, and equity for all Soldiers, regardless of race, religion, color, gender, and national origin.

c. Commanders and other leaders will maintain discipline according to the policies of this chapter, applicable laws and regulations, and the orders of seniors.

4–2. Obedience to orders

All persons in the military Service are required to strictly obey and promptly execute the legal orders of their lawful seniors.

4–3. Military courtesy

a. Courtesy among members of the Armed Forces is vital to maintain military discipline. Respect to seniors will be extended at all times (see AR 600–25, chap 4).

b. The actions of military personnel will reflect respect to both the national anthem and the national colors. The

200236

courtesies listed in AR 600-25, appendix A, should be rendered the national colors and national anthem at public events whether the Soldier is off or on duty, whether he or she is in or out of uniform. Intentional disrespect to the national colors or national anthem is conduct prejudicial to good order and discipline and discredits the military Service.

4-4. Soldier conduct

a. Ensuring the proper conduct of Soldiers is a function of command. Commanders and leaders in the Army, whether on or off duty or in a leave status, will—

(1) Ensure all military personnel present a neat, soldierly appearance.

(2) Take action consistent with Army regulation in any case where a Soldier's conduct violates good order and military discipline.

b. On public conveyances in the absence of military police, the person in charge of the conveyance will be asked to notify the nearest military police and arrange to have them, if necessary, take custody of military personnel. In serious situations, such as physical assault, the person in charge of the conveyance will be asked to stop at the first opportunity and request local police assistance. In all such cases, the local police will be advised to telephone (collect) the nearest Army post or Army headquarters.

c. When an offense endangering the reputation of the Army is committed elsewhere (not on a public conveyance) and military police are not available, civilian police will be requested to take appropriate action.

d. When military police are not present, the senior officer, WO, or NCO present will obtain the Soldier's name, grade, social security number, organization, and station. The information and a statement of the circumstances will be sent to the Soldier's commanding officer without delay. If the Soldier is turned over to the civilian police, the above information will be sent to the civilian police for transmittal to the proper military authorities.

4-5. Maintenance of order

Army and Marine Corps military police, Air Force security police, and members of the Navy and Coast Guard shore patrols are authorized and directed to apprehend Armed Forces members who commit offenses punishable under the UCMJ. Officers, WOs, NCOs, and petty officers of the Armed Forces are authorized and directed to quell all quarrels, frays, and disorders among persons subject to military law and to apprehend participants. Those exercising this authority should do so with judgment and tact. Personnel so apprehended will be returned to the jurisdiction of their respective Service as soon as practical. Confinement of females will be according to AR 190-47.

4-6. Exercising military authority

a. Military authority is exercised promptly, firmly, courteously and fairly. Commanders should consider administrative corrective measures before deciding to impose nonjudicial punishment. Trial by court-martial is ordinarily inappropriate for minor offenses unless lesser forms of administering discipline would be ineffective (see MCM, Part V, and chap 3, AR 27-10).

b. One of the most effective administrative corrective measures is extra training or instruction (including on-the-spot correction). For example, if Soldiers appear in an improper uniform, they are required to correct it immediately; if they do not maintain their housing area properly, they must correct the deficiency in a timely manner. If Soldiers have training deficiencies, they will be required to take extra training or instruction in subjects directly related to the shortcoming.

(1) The training, instruction, or correction given to a Soldier to correct deficiencies must be directly related to the deficiency. It must be oriented to improving the Soldier's performance in his or her problem area. Corrective measures may be taken after normal duty hours. Such measures assume the nature of training or instruction, not punishment. Corrective training should continue only until the training deficiency is overcome. Authority to use it is part of the inherent powers of command.

(2) Care should be taken at all levels of command to ensure that training and instruction are not used in an oppressive manner to evade the procedural safeguards applying to imposing nonjudicial punishment. Deficiencies satisfactorily corrected by means of training and instruction will not be noted in the official records of the Soldiers concerned.

4-7. Disciplinary powers of the commanding officer

a. Commanding officers exercise broad disciplinary powers in furtherance of their command responsibilities. Discretion, fairness, and sound judgment are essential ingredients of military justice.

b. Commanders will familiarize themselves with their powers and responsibilities as outlined in MCM, AR 27-10, AR 600-37, AR 635-200, and other authorities. Legal advice is available from supporting judge advocates.

c. Disciplinary measures are tailored to specific offenses and individual offenders. Commanders will neither direct subordinates to take particular disciplinary actions, nor unnecessarily restrict disciplinary authority of subordinates (see UCMJ, ART. 37, and ART. 98, and AR 27-10 regarding the proper exercise of authority by commanders).

200237

4-8. Settlement of local accounts on change of station

To ensure organizations and individuals have properly settled their accounts, commanders will—

- a. Make every effort to settle local accounts of their organizations before movement.
- b. Take action to promptly settle organizational accounts with local firms when unable to settle before movement.
- c. Take action as needed when Soldiers under their command issue checks against an account with insufficient funds or fail to clear their personal accounts before departure from their stations. This includes consideration under UCMJ, ARTs. 15, 121, 123a, 133, or 134. When indebtedness information is received after a Soldier departs from the station, the commanding officer of the station at which personal accounts remain unsettled will take action outlined in AR 600-15.

4-9. Civil status of members of the Reserve component

a. The RC members, not serving on AD, are not for most purposes considered officers or employees of the United States solely by reason of their Reserve status. They may accept and receive pay for employment in any civil branch of the public service, in addition to any pay and allowances they may be entitled to under the laws governing members of RCs.

b. A member of the RC, not serving on AD, may practice his or her civilian profession or occupation before or in connection with any department of the Federal Government unless prohibited by law.

c. Conflict of interest laws impose limitations on activities in which persons may engage after terminating AD or employment by the United States. A reservist who has handled a Government matter will not, while in a civilian status, represent any party, other than the Government, in connection with the same particular matter (see 18 USC 207). While handling Government matters, reservists will not take any direct or indirect action in a particular matter in which they have an outside financial interest (see 18 USC 208; DOD 5500.7-R, para 5-408).

d. Army National Guard and USAR Soldiers who are officers and employees of the United States or the District of Columbia are entitled to a leave of absence from their civilian employment when ordered under Title 39, District of Columbia Code, to ADT or AT. This leave of absence will be granted without loss of pay, time, or efficiency rating on all days during which they are ordered to duty with troops or field exercises, or for instruction, for periods not over 15 days in any calendar year. As an exception, officers and employees of the United States or of the District of Columbia who are members of the ARNG of the District of Columbia are authorized leave for all days (no limit) on which they are ordered under Title 39, District of Columbia Code, to duty for parades or encampment under Section 6323, Title 5, United States Code (5 USC 6323).

e. Army National Guard and USAR Soldiers may accept and be paid for civil employment with any foreign government, when approved by the SA and the Secretary of State. This includes any concern controlled in whole or in part by a foreign government. AR 600-291 is used for processing applications.

4-10. Participation in support of civilian law enforcement agencies

a. Military support of civilian law enforcement is governed by the Posse Comitatus Act (Section 1385, Title 18, United States Code (18 USC 1385), DODD 5525.5, and DA Pam 25-30. Commanders will not sanction use of military personnel in support of civilian law enforcement agencies in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, or United States Territories, except when authorized by law. Because this is a complex area of the law, commanders and law enforcement personnel should consult with their servicing judge advocate or legal advisor.

b. Military personnel may report crimes or other suspicious activities to civilian police agencies or cooperate with civilian authorities in their capacities as private citizens. Military law enforcement personnel may exchange information with civilian authorities according to DA Pam 25-30.

4-11. Membership campaigns

The DA recognizes and benefits from the activities of many worthy organizations, associations, and clubs. Many of these organizations enjoy close, historical ties with the military community and are composed largely of active or retired military personnel. The DA support of private organizations is strictly regulated by DODI 1000.15 and DOD 5500.7-R.

a. In supporting such organizations and associations, post commanders and heads of DA Staff agencies will—

- (1) Ensure membership among personnel under their jurisdiction is truly voluntary.
- (2) Prohibit any practice that involves or implies compulsion, coercion, influence, or reprisal in the conduct of membership campaigns. This prohibition includes repeated orientations, meetings, or similar counseling of persons who have chosen not to join after given a chance to do so. It also includes using membership statistics in support of supervisory influence.
- (3) Prohibit any practice that involves or implies DA sponsorship or endorsement of the organization and its activities.
- (4) Prohibit the use of Government property, facilities, or services, for example, golf course membership, as an inducement to join a private organization.

b. This policy does not prohibit commanders from informing personnel without coercion about membership in such organizations. When doing so, commanders will ensure they do not favor one organization over others.

4-12. Extremist organizations and activities

Participation in extremist organizations and activities by Army personnel is inconsistent with the responsibilities of military Service. It is the policy of the United States Army to provide EO and treatment for all Soldiers without regard to race, color, religion, gender, or national origin. Enforcement of this policy is a responsibility of command, is vitally important to unit cohesion and morale, and is essential to the Army's ability to accomplish its mission. It is the commander's responsibility to maintain good order and discipline in the unit. Every commander has the inherent authority to take appropriate actions to accomplish this goal. This paragraph identifies prohibited actions by Soldiers involving extremist organizations, discusses the authority of the commander to establish other prohibitions, and establishes that violations of prohibitions contained in this paragraph or those established by a commander may result in prosecution under various provisions of the UCMJ. This paragraph must be used in conjunction with DODD 1325.6, Subject: Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces. DA Pam 600-15 provides guidance in implementing Army policy on extremist activities and organizations.

a. *Participation.* Military personnel must reject participation in extremist organizations and activities. Extremist organizations and activities are ones that advocate racial, gender, or ethnic hatred or intolerance; advocate, create, or engage in illegal discrimination based on race, color, gender, religion, or national origin, or advocate the use of or use force or violence or unlawful means to deprive individuals of their rights under the United States Constitution or the laws of the United States, or any State, by unlawful means.

b. *Prohibitions.* Soldiers are prohibited from the following actions in support of extremist organizations or activities. Penalties for violations of these prohibitions include the full range of statutory and regulatory sanctions, both criminal (UCMJ), and administrative.

(1) Participating in public demonstrations or rallies.

(2) Attending a meeting or activity with the knowledge that the meeting or activity involves an extremist cause when on duty, when in uniform, when in a foreign country (whether on or off duty or in or out of uniform), when it constitutes a breach of law and order, or when it is likely to result in violence or when in violation of off limits sanctions or commander's order.

(3) Fund raising activities.

(4) Recruiting or training members (including encouraging other Soldiers to join).

(5) Creating, organizing, or taking a visible leadership role in such an organization or activity.

(6) Distributing literature on or off a military installation, the primary purpose and content of which concerns advocacy or support of extremist causes, organizations, or activities; and it appears that the literature presents a clear danger to the loyalty, discipline, or morale of military personnel, or the distribution would materially interfere with the accomplishment of a military mission.

c. *Command authority.* Commanders have the authority to prohibit military personnel from engaging in or participating in any other activities that the commander determines will adversely affect good order and discipline or morale within the command. This includes, but is not limited to, the authority to order the removal of symbols, flags, posters, or other displays from barracks, to place areas or activities off-limits (see AR 190-24), or to order Soldiers not to participate in those activities that are contrary to good order and discipline or morale of the unit or pose a threat to health, safety, and security of military personnel or a military installation.

d. *Command options.* Commander's options for dealing with a Soldier's violation of the prohibitions include—

(1) UCMJ action—Possible violations include the following:

(a) Article 92—Violation or failure to obey a lawful general order or regulation.

(b) Article 116—Riot or breach of peace.

(c) Article 117—Provoking speeches or gestures.

(d) Article 134—General article, specifically, conduct which is prejudicial to good order and discipline or service discrediting.

(2) Involuntary separation for unsatisfactory performance or misconduct, or for conduct deemed prejudicial to good order and discipline or morale.

(3) Reclassification actions or bar to reenlistment actions, as appropriate.

(4) Other administrative or disciplinary action deemed appropriate by the commander, based on the specific facts and circumstances of the particular case.

e. *Command responsibility.* Any Soldier involvement with or in an extremist organization or activity (such as membership, receipt of literature, or presence at an event) could threaten the good order and discipline of a unit. In any case of apparent Soldier involvement with or in extremist organizations or activities, whether or not violative of the prohibitions in paragraph b, above, commanders must take positive actions to educate Soldiers, putting them on notice of the potential adverse effects that participation in violation of Army policy may have upon good order and discipline in the unit and upon their military Service. These positive actions include—

(1) Educating Soldiers regarding the Army's EO policy. Commanders will advise Soldiers that extremist organizations' goals are inconsistent with Army goals, beliefs, and values concerning EO.

(2) Advising Soldiers that any participation in extremist organizations or activities—

(a) Will be taken into consideration when evaluating their overall duty performance, to include appropriate remarks on evaluation reports.

(b) Will be taken into consideration when selections for positions of leadership and responsibility are made.

(c) Will result in removal of security clearances, where appropriate.

(d) Will result in reclassification actions or bar to reenlistment actions as appropriate.

(3) The commander of a military installation or other military controlled facility under the jurisdiction of the United States will prohibit any demonstration or activity on the installation or facility that could result in interference with or prevention of orderly accomplishment of the mission of the installation or facility, or present a clear danger to loyalty, discipline, or morale of the troops. Further, such commanders will deny requests for the use of military controlled facilities by individuals or groups that engage in discriminatory practices or for activities involving such practices.

f. Legal advice and counsel. Commanders should seek the advice and counsel of their legal advisor when taking actions pursuant to this policy.

4-13. Army language policy

English is the operational language of the Army. Soldiers must maintain sufficient proficiency in English to perform their military duties. Their operational communications must be understood by everyone who has an official need to know their content, and, therefore, must normally be in English. However, commanders may not require Soldiers to use English unless such use is clearly necessary and proper for the performance of military functions. Accordingly, commanders may not require the use of English for personal communications that are unrelated to military functions.

4-14. Relationships between Soldiers of different rank

a. The term "officer," as used in this paragraph, includes both commissioned and WOs unless otherwise stated. The provisions of this paragraph apply to both relationships between Army personnel (to include dual-status military technicians in the Army Reserve and the ARNG) and between Army personnel and personnel of other military Services. This policy is effective immediately, except where noted below, and applies to different-gender relationships and same-gender relationships.

b. Relationships between Soldiers of different rank are prohibited if they—

(1) Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.

(2) Cause actual or perceived partiality or unfairness.

(3) Involve, or appear to involve, the improper use of rank or position for personal gain.

(4) Are, or are perceived to be, exploitative or coercive in nature.

(5) Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

c. Certain types of personal relationships between officers and enlisted personnel are prohibited. Prohibited relationships include—

(1) Ongoing business relationships between officers and enlisted personnel. This prohibition does not apply to landlord/tenant relationships or to one-time transactions such as the sale of an automobile or house, but does apply to borrowing or lending money, commercial solicitation, and any other type of on-going financial or business relationship. Business relationships which exist at the time this policy becomes effective, and that were authorized under previously existing rules and regulations, are exempt until March 1, 2000. In the case of ARNG or United States Army Reserve personnel, this prohibition does not apply to relationships that exist due to their civilian occupation or employment.

(2) Dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel. This prohibition does not apply to—

(a) Marriages. When evidence of fraternization between an officer and enlisted member prior to their marriage exists, their marriage does not preclude appropriate command action based on the prior fraternization. Commanders have a wide range of responses available including counseling, reprimand, order to cease, reassignment, administrative action or adverse action. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is appropriate. Generally, the commander should take the minimum action necessary to ensure that the needs of good order and discipline are satisfied.

(b) Situations in which a relationship that complies with this policy would move into non-compliance due to a change in status of one of the members (for instance, a case where two enlisted members are dating and one is subsequently commissioned or selected as a WO). In relationships where one of the enlisted members has entered into a program intended to result in a change in their status from enlisted to officer, the couple must terminate the relationship permanently or marry within either one year of the actual start date of the program, before the change in status occurs, or within one year of the publication date of this regulation, whichever occurs later.

(c) Personal relationships between members of the National Guard or Army Reserve, when the relationship primarily exists due to civilian acquaintanceships, unless the individuals are on AD (other than AT), on FTNGD (other than AT), or serving as a dual status military technician.

(d) Personal relationships between members of the RA and members of the National Guard or Army Reserve when the relationship primarily exists due to civilian association and the RC member is not on AD (other than AT), on FTNGD (other than AT), or serving as a dual status military technician.

(e) Prohibited relationships involving dual status military technicians, which were not prohibited under previously existing rules and regulations, are exempt until 1 year of publication date of this regulation.

(f) Soldiers and leaders share responsibility, however, for ensuring that these relationships do not interfere with good order and discipline. Commanders will ensure that personal relationships that exist between Soldiers of different ranks emanating from their civilian careers will not influence training, readiness, or personnel actions.

(3) Gambling between officers and enlisted personnel.

d. These prohibitions are not intended to preclude normal team building associations that occur in the context of activities such as community organizations, religious activities, Family gatherings, unit-based social functions, or athletic teams or events.

e. All military personnel share the responsibility for maintaining professional relationships. However, in any relationship between Soldiers of different grade or rank, the senior member is generally in the best position to terminate or limit the extent of the relationship. Nevertheless, all members may be held accountable for relationships that violate this policy.

f. Commanders should seek to prevent inappropriate or unprofessional relationships through proper training and leadership by example. Should inappropriate relationships occur, commanders have available a wide range of responses. These responses may include counseling, reprimand, order to cease, reassignment, or adverse action. Potential adverse action may include official reprimand, adverse evaluation report(s), nonjudicial punishment, separation, bar to reenlistment, promotion denial, demotion, and courts martial. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted, appropriate, and fair.

4-15. Other prohibited relationships

a. *Trainee and Soldier relationships.* Any relationship between permanent party personnel and initial entry training trainees not required by the training mission is prohibited. This prohibition applies to permanent party personnel without regard to the installation of assignment of the permanent party member or the trainee.

b. *Recruiter and recruit relationships.* Any relationship between permanent party personnel assigned or attached to the United States Army Recruiting Command and potential prospects, applicants, members of the DEP, or members of the Delayed Training Program not required by the recruiting mission is prohibited. This prohibition applies to United States Army Recruiting Command personnel without regard to the unit of assignment of the permanent party member and the potential prospects, applicants, DEP members, or Delayed Training Program members.

c. *Training commands.* Training commands (for example, TRADOC and AMEDDC) and the United States Army Recruiting Command are authorized to publish supplemental regulations to paragraph 4-15, which further detail proscribed conduct within their respective commands.

4-16. Fraternalization

Violations of paragraphs 4-14b, 4-14c, and 4-15 may be punished under UCMJ, ART. 92 as a violation of a lawful general regulation.

4-17. Standards of conduct

Department of the Army personnel must place loyalty to country, ethical principles, and law above private gain and other personal interests. The performance of their duties should be in keeping with the highest tradition of military and civilian service to the U.S. Government.

a. *Guidance.* Minimum standards of conduct required of all Soldiers and Army civilians are prescribed by the Joint Ethics Regulation, DOD 5500.7-R, which provides Army personnel with guidance on a multitude of ethical issues, including the avoidance of conflicts of interests between their commercial/financial interest and their official duties.

b. *Annual training.* Commanders at all levels will ensure that all Army personnel required to file either a public or confidential financial disclosure report, contracting officers, procurement officials, and others identified by an Army ethics counselor, receive face-to-face annual ethics training as prescribed by DOD 5500.7-R.

4-18. Employment and volunteer work of spouse

a. The Army affirms the rights of a spouse of a Soldier to pursue and hold a job, attend school, or perform volunteer services on or off a military installation. No DA official will, directly or indirectly, impede or otherwise interfere with these rights. Moreover, no DA official will use the preferences and requirements of the Army or any other DOD component to influence the employment, educational, or volunteer service decisions of a spouse. Neither will such

decision of a spouse, nor the marital status of the Soldier, affect, favorably or adversely, the performance evaluations, assignments, or promotion opportunities of the Soldier.

(1) In discharging their responsibilities, members of military promotion, continuation, and similar personnel selection boards are prohibited from considering the marital status of a Soldier, or the employment, educational, or volunteer service activities of a Soldier's spouse. AR 135-155, AR 135-205, and AR 600-8-29 provide specific policies governing board conduct.

(2) Personnel decisions, including those related to the assignments of Soldiers, will not be affected favorably or adversely, by the employment, educational, or volunteer services activities of a Soldier's spouse, or solely by reason of a Soldier's marital status. AR 140-10, AR 614-30, AR 614-100, AR 614-200, and AR 690-700 provide specific policies. Exceptions may be—

(a) Necessary to alleviate the personal hardship of a Soldier or spouse upon the request of the Soldier concerned, such as when a Family member requires specialized medical treatment or educational provisions or similar personal preference accommodations.

(b) Needed to facilitate the assignment of dual-military couples to the same geographic area.

(c) Required by law, such as instances in which a prohibited conflict of interest may exist between the official duties of a Soldier and the employment of the Soldier's spouse. DOD 5500.7-R provides specific policies.

(d) Made by the Assistant Secretary of Defense (Personnel and Readiness), with the concurrence of the general counsel, on a case-by-case basis, for reasons of national security, that marital status is an essential assignment qualification for particular military billets or positions.

(3) Performance appraisals on Soldiers, including officer and enlisted evaluations reports, will not contain any information regarding the employment, educational, or volunteer service activities of the Soldier's spouse, or reflect favorably or adversely on the member based solely on the Soldier's marital status. AR 623-3 provides specific policies.

b. Violations of this policy provide a basis for disciplinary action under the UCMJ in addition to appropriate administrative sanctions.

4-19.

(Rescinded.)

4-20. Hazing

The Army has been and continues to be a values-based organization where everyone is encouraged to do what is right by treating others as they should be treated—with dignity and respect. Hazing is fundamentally in opposition to our values and is prohibited.

a. *Definition.* Hazing is defined as any conduct whereby one military member or employee, regardless of Service or rank, unnecessarily causes another military member or employee, regardless of Service or rank, to suffer or be exposed to an activity that is cruel, abusive, oppressive, or harmful.

(1) Hazing includes, but is not limited, to any form of initiation "rite of passage" or congratulatory act that involves: physically striking another in order to inflict pain; piercing another's skin in any manner; forcing or requiring the consumption of excessive amounts of food, alcohol, drugs, or other substances; or encouraging another to engage in illegal, harmful, demeaning or dangerous acts. Soliciting or coercing another to participate in any such activity is also considered hazing. Hazing need not involve physical contact among or between military members or employees; it can be verbal or psychological in nature.

(2) When authorized by the chain of command and not unnecessarily cruel, abusive, oppressive, or harmful, the following activities do not constitute hazing:

(a) The physical and mental hardships associated with operations or operational training.

(b) Administrative corrective measures, including verbal reprimands and a reasonable number of repetitions of authorized physical exercises.

(c) Extra military instruction or training.

(d) Physical training (PT) or remedial PT.

(e) Other similar activities.

(3) Whether or not such actions constitute hazing, they may be inappropriate or violate relevant civilian personnel guidance, depending on the type of activities and the assigned duties of the employee involved.

b. *Scope.* Hazing is not limited to superior-subordinate relationships. It may occur between peers or even, under certain circumstances, may involve actions directed towards senior military personnel by those junior in rank or grade to them (for example, a training instructor hazing a student who is superior in rank). Hazing has at times occurred during graduation ceremonies or similar military "rites of passage." However, it may also happen in day-to-day military settings. It is prohibited in all cases, to include off-duty or "unofficial" celebrations or unit functions. Express or implied consent to hazing is not a defense to violation of this regulation.

c. *Command responsibilities.* Enforcement of this policy is a responsibility of commanders at all levels. Commanders will devote particular attention to graduation or advancement ceremonies as well as other occasions or settings that might put Soldiers at risk for voluntary or involuntary hazing. These situations will be supervised properly, respectful

of all participants, perpetuate the best of the traditions that the Army embraces, and leave all participants and spectators feeling proud to be a member of or associated with the U.S. Army.

d. Command options. This paragraph is punitive with regards to Soldiers. Violators of this policy may be subject to UCMJ, ART. 92 (Failure to obey a lawful general order or regulation). Other applicable UCMJ articles include UCMJ, ART. 80 (Attempts), UCMJ, ART. 81 (Conspiracy), UCMJ, ART. 93 (Cruelty and maltreatment), UCMJ, ART. 124 (Maiming), UCMJ, ART. 128 (Assault), UCMJ, ART. 133 (Conduct unbecoming an officer and a gentleman), and UCMJ, ART. 134 (Drunk and disorderly conduct, and/or Soliciting another to commit an offense). Civilian employees who violate this policy may also be subject to adverse action or discipline in accordance with applicable laws and regulations. Commanders should seek the advice and counsel of their legal advisor when taking actions pursuant to this paragraph.

4-21. Informal funds

Commanders may authorize informal funds. Examples of informal funds are office coffee, cup and flower, and annual picnic funds. These funds are subject to the following guidelines:

a. Use is limited to expenses consistent with the purpose and function of the fund.

b. Only one individual is to be responsible for fund custody, accounting, and documentation. Annually, this individual's supervisor is advised of the fund's financial status.

c. Operation of the fund will be consistent with Army values and DOD 5500.7-R.

d. Fund-raising solicitations conducted by organizations composed of civilian employees or members of the Uniformed Services among their own members for organizational support or for the benefit of specific member welfare funds are permitted, but they should be limited in number and scope during the official Combined Federal Campaign/Army Emergency Relief periods in order to minimize competition with Combined Federal Campaign/Army Emergency Relief.

4-22. Misuse of Government travel charge cards

Members of the Army are provided Government travel charge cards to facilitate official travel and official travel-related expenses away from the Soldier's official duty station. Individual accountability for the management of the Government travel charge card is vital for the continued success of the Government charge card program. The Government travel card will not be used for personal, family, or household purposes. Misuse of the Government charge card is prohibited.

a. Definition. Misuse of a Government charge card includes any improper or fraudulent use of a Government travel charge card, including any use at establishments or for purposes that are inconsistent with the official business of the Army or with applicable standards of conduct. Improper use of the Government charge card is defined as using the charge card for items or expenses that are not reimbursable as part of official travel or other official duties.

b. Scope. Government charge cards are to be used in accordance with the terms of the application agreement for the Government travel charge card.

c. Command responsibilities. Enforcement of this policy is a responsibility of commanders at all levels. Commanders will ensure that all Soldiers issued Government travel charge cards are properly counseled on the appropriate use of the charge card. The best way to curtail charge card misuse is to prevent it through proper selection of cardholders, training, and leadership by example. Commanders will further monitor use of the Government travel charge card to detect abuse and take appropriate corrective or disciplinary action.

d. Command options. This paragraph is punitive with regards to Soldiers. Violators of this policy may be subject to UCMJ, ART. 92 (Failure to obey a lawful general order or regulation), UCMJ, ART. 133 (Conduct unbecoming an officer and a gentleman), and UCMJ, ART. 134 (Debt, dishonorably failing to pay). Commanders should seek the advice and counsel of their legal advisor when taking actions pursuant to this paragraph.

e. Official travel related expenses. While these cards will be used only for reimbursable expenses associated with official travel, the following (while not reimbursable) are considered to be related to official travel. Therefore, the travel card may be used for the following purposes:

(1) *Incidental expenses.* The cardholder, while in a travel status, may use the card for non-reimbursable incidental travel expenses, such as rental movies, personal telephone calls, exercise fees, and beverages, when these charges are part of a room billing or meal and are reasonable.

(2) *Expenses incurred during leave in conjunction with temporary duty.* The travel card also may be used for personal lodging or car rental charges, incurred in conjunction with otherwise authorized official travel expenses, when such charges are an integral part of the billing for the period spent at the TDY location while on official travel (for example, when a traveler spends a weekend or authorized leave at a TDY location before or after TDY, and a room or car rental is continued into TDY, a weekend, or a period of authorized leave).

(3) *Payments.* The traveler will pay for incidental non-reimbursable personal expenses as part of the normal billing process.

4-23. Domestic Violence Amendment to the Gun Control Act of 1968

a. General. The Domestic Violence Amendment to the Gun Control Act of 1968 (Section 922, Title 18, United States Code (18 USC 922)), the Lautenberg Amendment, makes it unlawful for any person to transfer, issue, sell or otherwise dispose of firearms or ammunition to any person whom he or she knows or has reasonable cause to believe has been convicted of a misdemeanor crime of domestic violence. It is also unlawful for any person who has been convicted of a misdemeanor crime of domestic violence to receive any firearm or ammunition that has been shipped or transported in interstate or foreign commerce. This chapter applies to all Soldiers throughout the world, including those in hostile fire areas.

b. Definitions. For the purpose of this paragraph only, the following definitions apply:

(1) *Crime of domestic violence.* An offense that involves the use or attempted use of physical force, or threatened use of a deadly weapon committed by a current or former spouse, parent, or guardian of the victim; by a person with whom the victim shares a child in common; by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or by a person who was similarly situated to a spouse, parent, or guardian of the victim. Persons who are similarly situated to a spouse include two persons who are residing at the same location in an intimate relationship with the intent to make that place their home.

(2) *Qualifying conviction.* A state or Federal conviction for a misdemeanor crime of domestic violence and any general or special court-martial for an offense that otherwise meets the elements of a crime of domestic violence, even though not classified as a misdemeanor or felony. A qualifying conviction does not include a summary court-martial conviction or the imposition of nonjudicial punishment under UCMJ, ART. 15. By DOD policy, a state or Federal conviction for a felony crime of domestic violence adjudged on or after 27 November 2002, will be considered a qualifying conviction for purposes of this regulation and will be subject to all the restrictions and prohibitions of this regulation. A person will not be considered to have a qualifying conviction unless the convicted offender was represented by counsel or knowingly and intelligently waived the right to counsel, and, if entitled to have the case tried by a jury, the case was actually tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury; and, the conviction has not been expunged or set aside, or the convicted offender has not been pardoned for the offense, or had civil rights restored; unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess, or receive firearms.

(3) *Security clearance.* If a completed security clearance investigation reveals that a Soldier has a qualifying conviction, then the investigation will be referred to the Soldier's chain of command for appropriate action consistent with this regulation.

(4) *Commander.*

(a) Unless otherwise stated, the senior mission commander is as delineated in General Order No. 4 (2002), ACSIM. Delegation of authority is authorized.

(b) For the USAR, unless otherwise stated, the commander is the commander of the appropriate Army Reserve command (USAR command, 7th ARCOM, 9th RRC, USACAPOC, AHRC). Delegation of authority is authorized.

c. Commander's responsibilities.

(1) The commander will ensure that all Soldiers who have a qualifying conviction are notified that it is unlawful to possess, ship, transport, or receive firearms and ammunition as prohibited in this regulation.

(2) In coordination with HQDA, the commander will implement a program of instruction to educate all Soldiers on the domestic violence amendment to the Gun Control Act and the policy as stated in this regulation. Instruction will normally be provided on an annual basis. In addition to formal instruction, an extract of this chapter will be prominently displayed outside unit arms rooms and all facilities in which Government firearms or ammunition are stored, issued, disposed, or transported.

(3) The commander will notify Soldiers that they have an affirmative, continuing obligation to inform commanders or supervisors if they have, or later obtain, a qualifying conviction and that the revised DD Form 2760 (Qualification to Possess Firearms or Ammunition) will be made available to those Soldiers who come forward to report a qualifying conviction in compliance with their obligation to do so. Soldiers will also be notified that neither the information nor evidence gained by filling out the DD Form 2760 may be used against them in any criminal prosecutions for a violation of 18 USC 922, including prosecutions under the UCMJ, based on a violation of 18 USC 922 for conduct that occurred prior to the completion of the DD Form 2760. Company and battery-level commanders will collect completed DD Form 2760 and file it in the Soldier's local military personnel file in accordance with AR 600-8-104 and AR 25-400-2.

(4) The commander will ensure that policy and procedures are in place to enforce the provisions of this chapter if privately owned firearms or ammunition are permitted in Government quarters. The commander will also ensure that policy and procedures are in place in morale, welfare, and recreation activities and other Government sponsored or sanctioned activities on their installation that engage in the transfer or sale of firearms or ammunition.

(5) The commander will ensure that procedures are implemented to track domestic violence arrests and convictions in the civilian community. This procedure should include regular coordination with local law enforcement and judicial agencies.

(6) If a commander knows or has reasonable cause to believe that a Soldier has a qualifying conviction, then the

commander should take all reasonable action to investigate. Soldiers with qualifying convictions must be identified and reported to HQDA to ensure compliance with the law. A commander at any level may initiate the investigation by ordering the Soldier to complete DD Form 2760. Soldiers who have or may have a qualifying conviction should be referred to a legal assistance attorney. A legal assistance attorney will also be available to assist the Soldier in seeking expungement of a qualifying conviction or a pardon.

(7) If a commander knows or has reasonable cause to believe that a Soldier has a qualifying conviction, then he or she will immediately retrieve all Government-issued firearms and ammunition and advise the Soldier to consult with a legal assistance attorney for guidance on lawful disposal or sale of any privately owned firearms and ammunition. Individuals with qualifying convictions are exempt from weapons qualification in accordance with AR 350-1 and will not be assigned individual weapons or ammunition.

(8) Accommodation: Domestic violence is incompatible with Army values and will not be tolerated or condoned. However, Soldiers will be given a reasonable time to seek expungement of or to obtain a pardon for a qualifying conviction and may extend up to one year for that purpose. The following factors will be considered in the commander's determination:

(a) Whether the Soldier attempted to conceal his conviction. In no event will Soldiers be accommodated who have made false statements on the DD Form 2760.

(b) Whether firearms or deadly weapons were used in the offense that formed the basis for the Soldier's domestic violence conviction.

(c) Whether the conviction is recent or remote in time.

(d) Whether there were incidents of domestic violence before or after the qualifying conviction. In no event will Soldiers be accommodated who have more than one qualifying conviction.

(e) Whether serious injury was caused during the crime of domestic violence.

(f) Whether the Soldier cooperated with law enforcement or investigating authorities.

(g) Whether circumstances suggest the probability of future incidents of domestic violence.

(h) Whether the Soldier has expressed remorse or regret or has entered counseling.

(i) Whether the Soldier has satisfied the judgment of the court.

(j) The length and character of service of the Soldier, the ability and potential of the Soldier, and the needs of the Army for the skills of the Soldier.

(k) Whether accommodation of the Soldier is consistent with actions taken in similar cases.

(l) Whether accommodation of the Soldier would be consistent with good order and discipline and public safety.

(9) Commanders must detail Soldiers whom they have reason to believe have a qualifying conviction to meaningful duties that do not require bearing weapons or ammunition. Commanders may reassign Soldiers to local TDA unit positions that deny them access to weapons and ammunition. Commanders will not appoint or assign Soldiers with qualifying convictions to leadership, supervisory, or property accountability positions that would require access to firearms or ammunition.

d. Personnel policies.

(1) *Enlistment/reenlistment.* Enlistment of applicants with a qualifying conviction is prohibited and no waivers will be approved. Soldiers with a qualifying conviction will be barred from reenlistment and are not eligible for the indefinite reenlistment program. Soldiers in the indefinite reenlistment program will be given an expiration of term of service (ETS) not to exceed 12 months from the date HQDA is notified of the qualifying conviction. Enlistment and reenlistment policy and procedures for AA are provided in AR 601-210. Reenlistment policy and procedures for Army Reserve are provided in AR 140-111. Applicants who have enlisted in the DEP who are found to have a qualifying conviction will be separated from the Delayed Entry Program.

(2) *Commissioning/appointment.* Applicants with a qualifying conviction will not be approved for commissioning in accordance with AR 135-100 and are ineligible for voluntary indefinite status. Officers with a qualifying conviction will be separated not later than 12 months from the date HQDA is notified of the qualifying conviction.

(3) *Flags.* Soldiers with a qualifying conviction will be denied favorable personnel action in accordance with AR 600-8-2. The flag may be removed if the qualifying conviction is expunged or set aside by competent authority.

(4) *Attendance at service schools.* Soldiers with a qualifying conviction are not authorized to attend any service school where instruction with firearms or ammunition is part of the curriculum. Commanders will counsel Soldiers that inability to complete service schools may affect future promotion or retention. Soldiers with a qualifying conviction may not attend any school that requires an AD service obligation; AR 350-100 and AR 621-1 apply.

(5) *DA selection board guidance.* Selection boards for school, command, and promotion will be instructed that appropriate consideration should be given to qualifying convictions in evaluating the Soldier's potential for future service.

(6) *Promotion.* Enlisted Soldiers with a qualifying conviction may not be promoted to the next higher grade in accordance with AR 140-158 and AR 600-8-19. Officers with a qualifying conviction may not be promoted to the next higher grade in accordance with AR 135-155 and AR 600-8-29.

(7) *Separation/retention policy.* Officers on AD may request release from AD, submit requests for unqualified

resignation, or be processed for elimination under the provisions of AR 600–8–24. The RC officers not on AD may submit requests for unqualified resignation or be processed for involuntary separation in accordance with AR 135–175. Enlisted Soldiers on AD may request voluntary separation for the convenience of the Government under Secretarial plenary authority as specified in AR 635–200. They also may be processed for involuntary discharge under the misconduct provisions of AR 635–200 on the basis of the misconduct that resulted in the qualifying conviction, or for involuntary separation under Secretarial plenary authority if the commander does not believe that discharge for misconduct is warranted. The misconduct and Secretarial plenary authority provisions of AR 135–178 also apply to voluntary or involuntary separation of RC enlisted Soldiers not on AD. The foregoing separation provisions do not apply to Soldiers with statutory military retirement sanctuaries.

(8) *Mobilization/deployment.* All Soldiers known to have, or whom commanders have reasonable cause to believe have, a qualifying conviction are not mobilization assets and are nondeployable for missions that require possession of firearms or ammunition.

(9) *Utilization.* Commanders must detail Soldiers whom they have a reason to believe have a qualifying conviction to meaningful duties that do not require bearing weapons or ammunition. Commanders may reassign Soldiers to local TDA unit positions that deny them access to weapons and ammunition. Commanders will not appoint or assign Soldiers with qualifying convictions to any supervisory or to any property accountability positions that require access to firearms or ammunition.

(10) *Assignment.* All Soldiers will complete a DD Form 2760 prior to receipt of PCS orders. Soldiers with a qualifying conviction are not eligible for overseas service in accordance with AR 614–30. Assignment of Soldiers with a qualifying conviction will be restricted in accordance with AR 600–8–11 and AR 140–10. Soldiers with a qualifying conviction will not be approved for entry into the Active Guard Reserve Program in accordance with AR 135–18.

(11) *Evaluation reports.* A qualifying conviction is an appropriate subject for comment in an evaluation report in accordance with AR 623–3.

(12) *"Sanctuary" statutes.* This regulation and its policies are subject to the "sanctuary" provisions of Section 1176, Title 10, United States Code (10 USC 1176), Section 12686, Title 10, United States Code (10 USC 12686), Sections 637 and 580(a)(4)(C), Title 10, United States Code (10 USC 637(a) and 580(a)(4)(C)).

e. Reporting requirements.

(1) Commanders will add Soldiers identified as nondeployable under this chapter to unit status reports. Personnel identified will be added to the nondeployable total under the code LA in accordance with AR 220–1, chapter 4, paragraph 10, subparagraph E (PSPER nonavailable report).

(2) Active Army will report qualifying convictions using assignment consideration code L9 (Lautenberg Amendment). Army Reserve will enter Lautenberg data as ASG–CONS "L9" in T APDB–R, database table IAF–T. Refer to current MILPER messages for further guidance.

(3) The ARNG Directorate (NG–ARH–S) will report for ARNG. The Army Reserve command will report for the USAR. Biannual reports will be made (15 January) and (15 July) to HQDA (DAPE–MPE). The individual ready reserve (IRR), Standby Reserve, and Retired Reserve are not subject to reporting requirements.

Chapter 5

Other Responsibilities of Command

5–1. General

This chapter discusses additional responsibilities concerning certain Soldier activities and practices whose regulation are inherent aspects of command. Violation of this chapter will provide a basis for disciplinary action under the UCMJ for those subject to its provisions.

5–2. Appearance before congressional committees

The Department of the Army will provide maximum information about its operation and activities to congressional committees. This information is subject to AR 380–5, paragraph 7–1. When asked to appear before a congressional committee, Army military personnel will coordinate with the Chief of Legislative Liaison, Office of the SA for guidance or assistance. Coordination will be accomplished with the Assistant Secretary of the Army (Financial Management and Comptroller) on matters pertaining to the budget. See AR 1–20 for additional guidance.

5–3. Political activities

The DCS, G–1 is responsible for policy on Soldier participation in political activities, as contained in Section 973, Title 10, United States Code (10 USC 973) and DODD 1344.10, Political Activities by Members of the Armed Forces on Active Duty, 2 August 2004, as follows:

a. Obligations as a citizen. Soldiers are expected to carry out their obligations as citizens. However, while on AD,

Soldiers (including full-time National Guard) are prohibited in certain cases from engaging in certain political activities. The following principles apply:

(1) A Soldier on AD may—

(a) Register, vote, and express his or her personal opinion on political candidates and issues, but not as a representative of the Army.

(b) Make monetary contributions to a political organization.

(c) Attend partisan and nonpartisan political meetings or rallies as a spectator when not in uniform.

(2) A Soldier on AD will not—

(a) Use his or her official authority or influence for interfering with an election; affecting the course or outcome of an election; soliciting votes for a particular candidate or issue; or requiring or soliciting political contributions from others.

(b) Be a candidate for, or hold, civil office except under the conditions set forth in this chapter.

(c) Participate in partisan political management, campaigns, or conventions.

(d) Make campaign contributions to another member of the Armed Forces serving on AD or an employee of the Federal Government.

(3) Appendix B provides guidelines and examples of permissible and prohibited political activities.

(4) Selected Federal statutes restricting certain types of political activities by members of the Armed Forces can be found at <http://www.armygl.army.mil/hr/command.asp>.

b. Participation in local nonpartisan political activities. This regulation does not preclude participation in local nonpartisan political campaigns, initiatives, or referendums. A Soldier taking part in local nonpartisan political activity, however, will not—

(1) Wear a uniform or use any Government property or facilities while participating.

(2) Allow such participation to interfere with, or prejudice, the performance of the Soldier's military duties.

(3) Engage in conduct that in any way may imply that the Army has taken an official position on, or is otherwise involved in, the local political campaign or issue.

c. Candidate for elective office. A member on AD may not—

(1) Campaign as a nominee, or as a candidate for nomination for civil office, except as authorized in this chapter. When circumstances warrant, the installation commander (or GCMCA) may permit the Soldier to file such evidence of nomination or candidacy for nomination, as may be required by law. Such permission will not authorize activity while on AD that is otherwise prohibited by this regulation, DOD Directive, or Federal statutes.

(2) Become a candidate for any civil office while serving an initial tour of EAD or a tour of EAD that the member agreed to perform as a condition of receiving schooling or other training wholly or partly at U.S. Government expense.

d. Election or appointment to civil office.

(1) Except as authorized by this chapter, or otherwise provided for by law, no member on AD may hold or exercise the function of civil offices—

(a) In the U.S. Government that is an elective office, requires an appointment by the President with the advice and consent of the Senate, or is a position on the executive schedule under Sections 5312–5317, Title 5, United States Code (5 USC 5312–5317).

(b) In the Government of a state; the District of Columbia; a territory, possession, or commonwealth of the United States; or in any political subdivision thereof.

(2) A member may hold or exercise the function of a civil office in the U.S. Government that is not described in this chapter when assigned or detailed to such office or to perform such functions.

(3) As long as they are not serving on EAD, enlisted members and Reserve officers may hold partisan and nonpartisan civil office if such office is held in a private capacity and does not interfere with the performance of military duties. Additionally, enlisted members on EAD may seek and hold nonpartisan civil office as a notary public or member of a school board, neighborhood planning commission, or similar local agent, as long as such office is held in a private capacity and does not interfere with the performance of military duties.

(4) A Soldier on AD may serve as a regular or reserve civilian law enforcement officer or as a member of a civilian fire or rescue squad. Such service will be in a private capacity, will not involve the exercise of military authority, and will not interfere with the performance of military duties.

(5) A Soldier elected or appointed to a prohibited civil office may request retirement and will be retired if eligible for retirement. If the Soldier does not request or is not eligible for retirement, the Soldier will be discharged or released from AD, as determined by the SA.

(6) The separation and retirement requirements above, do not apply if the member declines to serve in the prohibited office; if the SA determines that the member should not be released from AD based on the needs of the Army; or if the member is—

(a) Obligated to fulfill an AD service commitment.

(b) Serving or has been issued orders to serve in an area that is overseas, remote, a combat zone, or a hostile-fire pay area.

- (c) Ordered to remain on AD while the subject of an investigation or inquiry.
 - (d) Accused of an offense under UCMJ, Chapter 47, Title 10, United States Code (10 USC, Chapter 47), or serving a sentence or punishment for such offense.
 - (e) Pending an administrative separation action or proceedings.
 - (f) Indebted to the United States.
 - (g) On AD during a period of declared war, a national emergency, or other period when a unit of the Reserve or National Guard has been called to AD.
 - (h) In violation of an order or regulation prohibiting the Soldier from assuming or exercising the function of civil office.
- (7) A Soldier who refuses to decline to serve in a prohibited civil office after being denied separation or retirement under this chapter, may be subject to disciplinary or adverse administrative action.
- (8) No actions undertaken by a Soldier in carrying out assigned military duties will be invalidated solely by virtue of the Soldier having violated the provisions of this chapter.

5-4. Command aspects of medical care

a. Necessary medical care. A Soldier on AD or ADT will usually be required to submit to medical care considered necessary to preserve his or her life, alleviate undue suffering, or protect or maintain the health of others. Commanders may order the examination of any Soldier in their command when warranted. The medical treatment facility (MTF) commander will determine if hospitalization of the Soldier is appropriate.

b. Mental health evaluation requirements. When a commander determines it is necessary to refer a Soldier for a mental health evaluation, the commander will ensure compliance with the provisions of DODD 6490.1, which limits the use of mental health evaluations in situations where adversarial actions are involved.

c. Medical care with or without the Soldier's permission.

(1) *Emergency medical care.* Emergency medical care required to save the life, health, or fitness for duty of the Soldier may be performed. This is determined by the attending physician. If the Soldier should refuse treatment required, and the unit commander is not available, the hospital commander may order the treatment given.

(2) *Immunizations.* Commanders will ensure that Soldiers are continually educated concerning the intent and rationale behind both routine and theater-specific or threat-specific military immunization standards. Immunizations required by AR 40-562 or other legal directive may be given involuntarily (except as prescribed in para 5-6 of this regulation). The intent of this authorization is to protect the health and overall effectiveness of the command, as well as the health of the individual Soldier. In cases where involuntary immunization is being considered, the following procedures and limitations apply:

(a) Under normal circumstances, actions will not be taken to involuntarily immunize Soldiers. If a Soldier declines to be immunized the commander will—

1. Ensure that the Soldier understands the purpose of the vaccine.
2. Ensure that the Soldier has been advised of the possibility that the disease may be naturally present in a possible area of operation or may be used as a biological weapon against the United States and its allies.
3. Ensure that the Service member is educated about the vaccine and has been able to discuss any objections with medical authorities.
4. Counsel the soldier, in writing, that he or she is legally required to be immunized; that if the Soldier continues to refuse to be immunized that he or she will be legally ordered to do so, and that failure to obey the order may result in UCMJ and/or administrative action for failure to obey a lawful order (UCMJ, ART. 92) as deemed appropriate by the commander.

5. Order the Soldier to receive the immunization.

(b) If, after any of the steps listed in paragraph 5-4c(2)(a), a Soldier elects to be immunized, adverse action will not normally be taken based solely on the initial declination.

(c) When a General Court Martial Convening Authority (GCMCA) or his delegated representative determines that conditions of imminent threat exist (where the threat of naturally occurring disease or use of biological weapons is reasonably possible), Soldiers may be involuntarily immunized. Involuntary immunization(s) will not be ordered by a commander below the GCMCA unless authority to do so has been properly delegated by the GCMCA. Prior to ordering involuntary immunizations, all of the steps outlined in subparagraph (a), above, should be followed, situation permitting. In performing this duty, unit personnel will only use the amount of force necessary to assist medical personnel in administering the immunization.

(3) *Isolation and quarantine.* Isolation and quarantine for cases of suspected or proven communicable disease may be appropriate.

(4) *Detention.* Detention on closed wards may be required when needed to ensure proper medical supervision or to protect the Soldier or others from harmful acts.

(5) *Medical care for mental disorders.* Medical care related to the mental disorders of Soldiers who are found incompetent by a medical board may be given, provided life or health is not likely to be endangered by such

procedures or care. (This provision also applies if the Soldier is believed incompetent and medical board action is pending.) These Soldiers may also be given routine medical care needed to treat minor ailments.

(6) *Diagnostic medical care.* Medical care of a diagnostic nature may be undertaken in order to determine whether a situation exists that would authorize other medical care to be performed.

(7) *Physical and other examinations.* Physical examinations and associated procedures, and dental or radiological examinations may be required when one or more of the following apply:

(a) Required by law or regulation.

(b) Authorized to be performed without consent by law or other regulations.

(c) Directed by an individual's commander or other appropriate official in order to determine the individual's fitness for duty.

(8) *Obtaining evidence.* Nothing in this paragraph limits the authority of appropriate officials to order the performance of medical procedures for the purpose of obtaining evidence without the consent of the individual concerned, and without board action in cases where such procedures are authorized under other regulations or the Military Rules of Evidence (MRE), MCM.

d. Refusal to submit to medical care other than care described in paragraph c, above.

(1) Soldiers who refuse to submit (or whose court-appointed guardian or other legal representative objects) to recommended medical care will be referred to a medical board (see AR 40-3, para 7-5).

(2) Soldiers will be referred to a medical board if they refuse to submit to dental care and/or radiographic (X-ray) procedures deemed necessary by the installation dental surgeon to create dental record and panoramic records of the oral dentition to—

(a) Aid in remains identification.

(b) Treat dental conditions judged to be prejudicial to military operations or deployment that may result in evacuation or treatment within the first 12 months (see AR 40-400).

(3) When a Soldier refuses to submit to recommended care because of religious practices, the provisions of paragraph 5-6 apply.

e. Medical board proceedings when medical care is refused.

(1) The examining medical boards report should contain the following information:

(a) Statement that the proposed treatment will relieve the incapacity and aid the Soldier's return to a duty status.

(b) Statement that the proposed treatment is an established procedure that qualified and experienced physicians ordinarily would recommend and undertake.

(c) Statement that the Soldier's refusal to undergo treatment is reasonable or unreasonable, or, in the case of a mentally incompetent Soldier, a statement that compulsory treatment is warranted. Consideration should be made of the risks ordinarily associated with the proposed treatment, the Soldier's age, general physical condition, and his or her reasons for refusing treatment.

(2) Generally, refusal of medical care is considered unreasonable without substantial evidence that the treatment is inadvisable. However, in deciding whether refusal of medical treatment, including surgery, is reasonable or unreasonable, the board should consider among other things—

(a) Existing evidence that the physical or mental treatment is inadvisable.

(b) Previous unsuccessful operations and procedures.

(c) Any special risks involved in the proposed medical treatment.

(3) The report of the medical board proceedings will show the need and risk of the proposed medical care refused by the Soldier. Moreover, it will show that the Soldier was given the chance to appear in person and will indicate if the Soldier's condition permitted appearing. The report will further show that the Soldier was given the chance to submit a written statement explaining the grounds for refusal. Any statement submitted will be sent with the report.

(4) Soldiers believed to be incompetent will be aided by a representative who may appear in their behalf. The representative need not be legally qualified.

(5) The Soldier will be informed of the approved findings and advised whether the board has determined that the proposed medical care is needed to—

(a) Protect the Soldier's health.

(b) Protect the health of others.

(c) Enable the Soldier to perform his or her duties properly.

(6) The board findings must also state that the proposed care will have a positive effect.

f. Results of medical board proceedings. Soldiers must be given the results of the board proceedings and offered the opportunity to accept the prescribed medical care. If the Soldier still refuses, the MTF commander will send the medical board proceedings to HQDA (DASG-HS-AS), 5109 Leesburg Pike, Falls Church, VA 22041-3258 for review. When refusal to submit to the prescribed medical care is based on religion, TSG will refer the medical board proceedings to the DCS, G-1 for review and an advisory opinion before action.

(1) TSG will either approve or disapprove the medical board proceedings and return them to the MTF commander.

(2) If TSG approves the medical board proceedings, the Soldier is again given the chance to accept treatment. If the

Soldier persists in refusing the medical care, the MTF commander refers the matter to the proper Special Court-Martial Convening Authority. Copies of the medical board proceedings are provided. If the Special Court-Martial Convening Authority orders the Soldier to submit to treatment and the Soldier refuses to obey, the commander may take—

- (a) Disciplinary action according to MCM.
- (b) Administrative action to separate the Soldier from service through retirement, discharge, or other legal means.

5-5. Family care plans

a. The DCS, G-1 is responsible for policy on Family care plans as follows:

(1) The Army assists the Soldier in providing for the care of his or her Family members. Mission, readiness, and deployability needs especially as it affects AA, ARNG, and RC single parents, parents with custody pursuant to a court order or separation agreement, and dual military couples with Family members. Plans must be made to ensure Family members are properly and adequately cared for when the Soldier is deployed, on TDY, or otherwise not available due to military requirements. ARNG and RC Soldiers are subject to those policies and regulations, and will implement plans during any period of absence for AT, regularly scheduled unit training assemblies, emergency mobilization and deployment, or other type of AD. Emergency-essential civilians who meet the criteria set forth in paragraph a, above, are encouraged to have a Family care plan that follows the guidelines set forth in this regulation.

(2) DA Form 5305 (Family Care Plan) is not a legal document that can change a court-mandated custodial arrangement, nor can it interfere with a natural parent's right to custody of his/her child. Its sole purpose is to document for Army purposes the plan by which Soldiers provide for the care of their Family members when military duties prevent the Soldier from doing so. It will include proof that guardians and escorts have been thoroughly briefed on the responsibilities they will assume for the sponsor/Soldier and the procedures for accessing military and civilian facilities and services on behalf of the Family members of the sponsor/Soldier. It will attest that the guardian and escort agreed to provide care and have been provided all necessary legal authority and means to do so. It will include proof that the Soldier has obtained consent to the planned designation of guardianship from all parties with a legal interest in the custody and care of the minor child, or proof that reasonable efforts have been made to obtain consent to such designation.

(3) As a minimum, proof will consist of the following attachments to DA Form 5305:

- (a) DA Form 5841 (Power of Attorney) or equivalent delegation of legal control (unsigned until deployment).
- (b) DA Form 5840 (Certificate of Acceptance as Guardian or Escort).
- (c) DD Form 1172 (Application for Uniformed Services Identification Card—DEERS Enrollment) for each Family member (Note: AR 600-8-14 directs that ID cards will be issued for children under age 10 who reside with a single parent or dual military couple).
- (d) DD Form 2558 (Authorization to Start, Stop, or Change an Allotment) for AD or retired personnel, unsigned until deployment, or other proof of financial support arrangements.
- (e) A letter of instruction to the guardian/escort (see DA Form 5304 (Family Care Plan Counseling Checklist)).
- (f) If appropriate, DA Form 7666 (Parental Consent) as evidence of consent to the Family care plan from all parties with a legal interest in the custody of the minor child.

(4) Soldiers are responsible for implementing the Family care plan and thus ensuring the care of their Family members. When operational or security considerations prevent the Soldier from implementing the plan, it will be used by appropriate military or civilian authorities to obtain care for such Family members. DA Form 5305 may be executed at any time when conditions warrant and Family care is necessary due to the required military absence of the Soldier. DA Form 5304, DA Form 5305, DA Form 5840, and DA Form 5841 are available on the Army Publishing Directorate (APD) Web site.

b. Commanders of AA and RC Soldiers, regardless of the Soldier's grade, will conduct or arrange for Family care plan counseling and require a Family care plan be completed when any of the following apply:

- (1) A pregnant Soldier who—
 - (a) Has no spouse; is divorced, widowed, or separated; or is residing without her spouse.
 - (b) Is married to another Service member of an AA or RC of any Service (Army, Air Force, Navy, Marines, or Coast Guard).
- (2) A Soldier who has no spouse; is divorced, widowed, or separated, or is residing apart from his or her spouse; who has joint or full legal and physical custody of one or more Family members under the age of 19; or who has adult Family members incapable of self-care regardless of age.
- (3) A Soldier who is divorced and not remarried, and who has liberal or extended visitation rights by court decree that allows Family members to be solely in the Soldier's care in excess of 30 consecutive days.
- (4) A Soldier whose spouse is incapable of self-care or is otherwise physically, mentally, or emotionally disabled so as to require special care or assistance.
- (5) A Soldier categorized as half of a dual-military couple of the AA or RC of any Service (Army, Air Force, Navy, Marines, or Coast Guard) who has joint or full legal custody of one or more Family members under age 19 or who has adult Family members incapable of self-care regardless of age.

- c. Soldiers must arrange for the care of their Family members in order to be—
 - (1) Available for duty when and where the needs of the Army dictate.
 - (2) Able to perform assigned military duties without interference of Family responsibilities.
- d. Enlisted Soldiers will be counseled on voluntary and involuntary separation whenever parenthood interferes with military responsibilities (see DA Form 5305) under provision of—
 - (1) AR 635–200 for AA Soldiers.
 - (2) AR 135–178 for RC and ARNG Soldiers.
 - (3) AR 135–91 for ARNG Soldiers.
- e. Officers will be counseled on voluntary and involuntary separations whenever parenthood interferes with military responsibilities (see DA Form 5305) under provision of—
 - (1) AR 600–8–24 for AA Soldiers and RC and officers serving on AD or on ADT for a period in excess of 90 days.
 - (2) AR 135–175 for ARNG and RC Soldiers, except for officers serving on AD or on ADT for a period in excess of 90 days.
 - (3) NGR 635–101 for ARNG Soldiers.
- f. Pregnant Soldiers (who meet the criteria established in paragraph 5–5b(1)) will be counseled—
 - (1) In the AA, according to AR 600–8–24 for officers and AR 635–200 for enlisted Soldiers.
 - (2) In the ARNG and RC, according to AR 135–91.
 - (3) On costs of maternity care obtained from civilian sources and the limitations concerning maternity care in military medical facilities.
 - (4) Using DA Form 5304 as soon as pregnancy is identified but not later than 90 days prior to the expected date of birth of the child. Pregnant Soldiers should receive Family care plan counseling at the time of pregnancy counseling to ensure the Soldier is informed of the responsibilities if she chooses to remain on AD.
 - (5) That they must complete and have an approved DA Form 5305 showing their intentions for Family care not later than 60 days prior to the date of the birth of the child. DA Form 5840 and DA Form 5841 or other guardianship documents, DD Form 1172, and DD Form 2558, will be completed, and DA Form 5305 recertified not later than 45 days following the date of birth of the child.
- g. The unit commander—
 - (1) May designate an authorized representative to conduct Family care plan counseling using DA Form 5304 and to initial and sign the counseling form in the commander's behalf. The commander or authorized representative will use DA Form 7667 (Family Care Plan Preliminary Screening) to identify those Soldiers whose Family care plan may be at risk and who should consult with an attorney.
 - (2) Is the sole approving authority for DA Form 5305. This responsibility will not be delegated.
 - (3) May authorize an additional 30 days (60 days total from date of counseling) to all AA Soldiers and 60 days (90 days total from the date of counseling) to all RC Soldiers for completion, including submission and final approval of DA Form 5305 with attendant documents.
 - (4) Must ensure that all required documents are in order, and must be satisfied that the Family care plan meets the requirements and appears to be workable and durable.
 - (5) Should disapprove DA Form 5305 if the required attachments are not present unless extenuating circumstances exist.
 - (6) May consider extenuating circumstances in approving DA Form 5305, but must understand that the Soldier is considered non-deployable until a Family care plan is validated and approved.
 - (7) Must adequately test the validity and durability of the Family care plan, to include contacting the designated guardian(s) prior to final approval or recertification.
 - (8) Will provide the Soldier 30 days from date of the first disapproval to submit additional documentation or evidence to support the Family care plan.
 - (9) Will provide the Soldier a reasonable period of time to attempt to rework a Family care plan found to be deficient at time of mobilization, processing for overseas movement, or deployment. Ordinarily, a Soldier will be afforded at least 30 days to correct deficiencies in a plan unless a shorter period is specified by the unit commander due to the urgency and/or nature of the deployment, or due to the nature of the deficiencies.
 - (10) May authorize leave per AR 600–8–10 for a deployed Soldier to return home when circumstances beyond the Soldier's control preclude the designated guardian from exercising those responsibilities.
 - (11) Should consider initiating a bar to reenlistment against Soldiers who fail to properly manage personal, marital, or Family affairs, or who fail to provide or maintain adequate Family care plans.
 - (12) Should consider initiating involuntary separation proceedings against Soldiers who fail to provide and maintain adequate Family care plans.
 - (13) Should take action to ensure he or she is aware of other situations that may create changes in the status of his or her Soldiers with regard to the Soldier's responsibility to support Family members. These include but are not limited to the following:

- (a) Death or disability of spouse.
- (b) Legal separation when initial agreements have identified the Soldier as custodial parent or guardian of one or more Family members.
- (c) Divorce proceedings awarding joint or full custody of Family members to the Soldier.
- (d) Court decrees awarding visitation rights to the Soldier for more than 30 days.
- (e) Adoption.
- (f) Assumption of foster care responsibilities.
- (g) Guardianship agreement for children or adults incapable of self-care to temporarily or permanently reside with the Soldier.
- (h) Extended periods of absence by the spouse for schooling, hospitalization, employment, and so forth.
- (i) Expiration of current power of attorney, change in guardianship due to PCS, change of temporary care provider, and so forth.

(14) Will review copies of all child custody orders or marital separation agreements currently in effect to ensure the Family care plan is not inconsistent with any such legal documents. If Family care plan is inconsistent with any existing court orders, decrees, or marital separation agreements, the commander will seek advice from the servicing Office of the Staff Judge Advocate and may advise the Soldier to contact a legal assistance attorney or an attorney he or she has retained at no expense to the government.

(15) Will ensure consent has been obtained pursuant to DA Form 7666 under appropriate circumstances, or proof of notice and/or reasonable efforts having been made to obtain consent to the Family care plan from all parties having a legal interest in the custody and care of the minor child. If consent has been denied, the commander will seek advice from the servicing Office of the Staff Judge Advocate office and will advise the Soldier to contact a legal assistance attorney or an attorney he or she has retained at no expense to the government.

h. The IRR, Individual Mobilization Augmentee, Standby Reserve, Category I and II retirees, and inactive national guard personnel who meet the criteria outlined in paragraph *b*(1) through (5), above, are required to maintain valid Family care plans to ensure their availability for AD during a mobilization. Therefore—

(1) The CG, AHRC will establish specific procedures for counseling, submission, validation, and recertification of Family care plans for RC personnel and category I/II retirees.

(2) The Director, ARNG will establish specific procedures for the counseling, submission, validation, and recertification of Family care plans for inactive national guard personnel.

i. All married Soldiers who have Family members are encouraged to complete and maintain a Family care plan even if not specifically required to do so by this regulation. To do so assists the spouse, commander, rear detachment commander, Family Assistance Center, or next of kin providing care for dependent Family members in the event the spouse is injured, ill, incapacitated, or otherwise unable to provide care for the dependent Family member. Counseling of such is also encouraged

j. Soldiers must use the utmost care and consideration in the designation of guardians to care for Family members.

(1) The parent of any minor children normally has a superior right to the custody of the minor children. If the Soldier designates an individual other than a parent for guardianship in the Family care plan, the Soldier must obtain consent from the parent to such designation using the DA Form 7666. While such consent is not binding upon a court of law, it demonstrates the other parent is aware of the custodial arrangements set forth in the Family care plan and agrees with those arrangements. Should a Soldier designate a person contrary to the provisions of an existing family law legal document (such as a divorce decree, court order, or marital separation agreement) the Soldier must seek legal assistance to modify the legal document.

(2) Guardians should be persons to whom the Soldier would have no reservations entrusting the total welfare of his/her child or other Family member. Guardians should be persons who are able to exercise that responsibility over extended periods of time, if necessary.

(3) Soldiers have the responsibility to thoroughly brief guardians on arrangements made by the Soldier, location of all pertinent documents, and procedures for accessing military and civilian facilities, services, entitlements, and benefits on behalf of the dependent Family members. Guardians should be made aware that such designation does not authorize them access to any of the military facilities, services, entitlement, or benefits for personal use, but only as the agent for the dependent Family members for whom they have been designated guardian. Installation commanders are authorized to issue agents' letters to designated guardians upon request and presentation of proper documentation (such as DA Form 5841, DA Form 5840, children's ID cards, or application for same).

(4) If the guardian is located in an overseas area other than where the Soldier is stationed, the Family member's attendance at Department of Defense Dependent Schools and other schools may require an exception to policy because of the lack of command sponsorship. The Soldier and/or guardian must request the exception; it is not automatic.

k. The following procedures will be used for completing DA Form 5304 and DA Form 5305. For all assignments, CONUS and OCONUS:

(1) The DA Form 5304 will be used for counseling Soldiers who fall into categories outlined in paragraph *b*, above, as soon as possible upon arrival at the unit of assignment, and it will be initialed and signed—

- (a) During unit in-processing, after any event requiring completion of a Family care plan, or at Pre-Deployment processing.
- (b) By pregnant Soldiers not later than 90 days prior to the expected date of birth of the child.
- (c) By single parents, parents exercising custody pursuant to a court order or marital separation agreement, parents residing apart from his or her spouse and dual-military couples with Family members.
- (d) By both members of the dual-military couple and the respective commanders or designated representative. (This assures both unit commanders that Soldiers and their military spouses have made necessary arrangements for the escort, temporary, and primary guardianship responsibilities for Family member. Dual-military couple Soldiers with Family members will be counseled together when practicable.)
- (e) By the unit commander or a designated representative and held in the unit suspense files pending completion of DA Form 5305. (It will be returned to the Soldier when no longer needed for suspense action.)
- (2) The DA Form 5305 will be—
- (a) Completed and approved within 30 days for AA Soldiers and 60 days for ARNG and USAR Soldiers from the date of counseling.
- (b) Signed by both members of a dual-military couple and, if possible, by both commanders. The same plan should be submitted by both members of the dual-military couple, and neither member should be identified in the plan as the temporary or long-term guardian. Once both commanders have approved and signed the plan, the commander whose Soldier is least likely to deploy should retain the original plan and forward a copy of the complete plan to the other commander. If both members are equally likely to deploy, but one is a Soldier and the spouse is a member of another Service, the original plan should be kept on file in the Soldier's unit and a copy forwarded to the spouse's unit. If both are Soldiers and equally likely to deploy, it is inconsequential which commander has the original copy of the plan.
- (c) Recertified at least annually by initialing and dating the DA Form 5305. This must be done during the anniversary of the Soldier's birth month, after any change of circumstance requiring a change in the Family care plan, or whenever the Soldier is mobilized, deployed, or processed for pre-deployment. Commanders should ensure that all information is current and all documents are still up-to-date and legally valid.
- (3) OCONUS assignment and deployment procedures are as follows:
- (a) All Soldiers in categories outlined in paragraph *b*, above, who receive assignment instructions for an OCONUS assignment must be counseled again and must have their DA Form 5305 recertified not later than 30 days before the final out-processing date at the losing installation. If an adequate Family care plan is not submitted within 30 days, the Soldier is not considered deployable, will not depart the command, and the commander will consider initiating involuntary separation proceeding. A copy of the approved DA Form 5305 will be filed in the Soldier's out-processing file. A copy of the DA Form 5305 will be placed in the military personnel records jacket as a transfer document. The losing unit commander will retain a copy for 90 days after the Soldier departs.
- (b) Soldiers must arrange for an escort and transportation for Family members and a guardian in CONUS or United States territory to care for their Family members in the event their Family members are evacuated from OCONUS. If noncombatant evacuation operation procedures are not initiated and Soldiers are alerted for deployment, Soldiers residing in government quarters may request approval for guardians to reside in those quarters in their absence. Noncombatant evacuation operation standing operations should make maximum use of Family care plans to ensure successful operations. Soldiers may also request that they, as a single parent or one member of a dual-military couple, be authorized to personally escort Family members back to CONUS-located guardian. They will be given the opportunity provided time allows and advanced return or early return of Family member paperwork is initiated per local command policies, the Joint Federal Travel Regulation, and Defense Foreign Clearance Guide guidance.
- (c) Soldiers unable to provide the unit commander with the required DA Form 5305 and attendant documents will be ineligible for overseas assignment. They should be considered for processing for separation from military Service. Policies regarding eligibility for overseas assignment are contained in AR 614-30.
- (d) Enlisted Soldiers without adequate Family care plans should be considered for separation processing by their unit commanders under the following regulations:
1. AR 635-200 for AA Soldiers.
 2. AR 135-178 for ARNG and RC Soldiers.
 3. AR 135-91 for ARNG and RC Soldiers.
- (e) Officers without adequate Family care plans should be considered for separation processing by their unit commanders under the following:
1. AR 600-8-24 for AA Soldiers.
 2. AR 135-175 for ARNG and RC Soldiers.
 3. NGR 635-101 for ARNG Soldiers.
- (f) The ARNG and RC Soldiers performing duty on an AD status (AT, ADT, AD for special work, TTAD, AGR, and so forth) OCONUS must re-certify DA Form 5305 with attendant documents before embarkation to show that adequate care for their Family members has been provided for during their absence and in the event that their return to CONUS is delayed. Soldiers unable to provide the required documentation will not deploy to perform AT OCONUS.

l. DA Form 5305 with attachments will be filed in the unit files and destroyed 90 days after the Soldier departs on PCS orders. In CONUS and OCONUS if the PCS move is a "same-installation" move and the Soldier can maintain the same Family care plan, the Soldier will be allowed to take the original DA Form 5305 to the gaining unit and need not generate a new DA Form 5305. The gaining commander should certify the existing DA Form 5305 when the Soldier arrives in the new unit.

(1) Provide a copy of the DA Form 5305 to the Soldier, dual-military couple spouse, and dual-military spouse's commander.

(2) Place a copy of the DA Form 5305 in the military Personnel Records Jacket that accompanies the departing Soldier to the gaining unit.

(3) Ensure that in the event of deployment, the Family care plan files remain with the rear detachment, or if no rear detachment remains, with the Family Assistance Center servicing the departing unit. Army National Guard and RC commanders must ensure Family care plan files are transferred to Joint Forces Headquarters (JFHQ)/RSC/GOCOM before departing home station.

m. A copy of DA Form 5305 with copies of DA Form 5840 and DA Form 5841, and/or other appropriate documents will be provided to the Child and Youth Services (CYS) Program if the CYS certified Family Child Care Provider is designated as temporary guardian. AR 608-10, paragraph 2-13a requires that a copy of DA Form 5305 be on file at the military Child Development Center if the Soldier's Family members are enrolled in the day care or extended care program.

n. Commanders must stress the Soldier's obligation to both the military and to his/her Family members. Moreover, they must ensure Soldiers understand they will not receive special consideration in duty assignments or duty stations based on their responsibilities for Family members unless enrolled in the Exceptional Family Member Program (see AR 608-75 for more information). They must also ensure that Soldiers are aware that the Family care plan is not a legal document that can change a court mandated custodial arrangement, nor can it interfere with a natural parent's right to custody of his/her children. The main evidence that Soldiers have made adequate arrangements for the care of their dependent Family members will be the execution of DA Form 5305 with its attendant documents listed below—

(1) DA Form 5841, special power of attorney or other legal documents designating escort, temporary, and primary guardian(s) (unsigned until the Soldier is deployed).

(2) Notarized DA Form 5840 from person(s) named in power of attorney.

(3) Completed DD Form 1172 for each Family member.

(4) Completed DD Form 2558 (unsigned until deployment) or proof of other adequate financial arrangements for care of Family members.

(5) Letters of instructions containing additional pertinent information for escorts, temporary or long-term guardians (see DA Form 5840).

(6) Completed DA Form 7667.

(7) Copies of any child custody orders or marital separation agreements currently in effect that impact upon the custody of a Soldier's minor children.

(8) Completed DA Form 7666 under appropriate circumstances, or proof of notice and/or reasonable efforts having been made to obtain consent to the Family care plan from all parties having a legal interest in the custody and care of the minor children.

o. Commanders will encourage Soldiers to consult with a legal assistance attorney about having a will prepared. The Family care plan does not require a will, and Soldiers will not be ordered to obtain a will. When a will is prepared, it will not be retained in the unit files. Soldiers will be encouraged but not required to ensure that information regarding the location of a Soldier's will is contained in the Family care plan.

p. The AA commanders will continue to use the Family Care Counseling Report (SIDPERS AAA-338) until such time as the Defense Integrated Military Human Resources System comes on line.

q. Maximum feasible testing of the validity and durability of Family care plans will be accomplished (for example, during exercises, alerts, Pre-Deployment processing, mobilization, deployment, AT, and other unit activities) to ensure information in a Soldier's DA Form 5305 is accurate, current, and executable. Family care plans found to be invalid during the above testing will be revised/recertified within 30 days of the finding. For ARNG and RC Soldiers, it will be revised/recertified within 60 days unless mobilization mission requirements preclude authorizing that amount of time.

5-6. Accommodating religious practices

a. The Army places a high value on the rights of its Soldiers to observe tenets of their respective religious faiths. The Army will approve requests for accommodation of religious practices unless accommodation will have an adverse impact on unit readiness, individual readiness, unit cohesion, morale, discipline, safety, and/or health. As used in this regulation, these factors will be referred to individually and collectively as "military necessity" unless otherwise stated. Accommodation of a Soldier's religious practices must be examined against military necessity and cannot be guaranteed at all times.

b. The DCS, G-1 will establish policy on the accommodation of religious practices within the U.S. Army.

c. The following will ensure that every enlisted (to include reenlistment), warrant, cadet, and commissioned officer applicant is informed of the Army's religious accommodation policy as set forth in this regulation and, furthermore, that applicants acknowledge in writing that they have been so informed:

- (1) The CG, U.S. Army Recruiting Command (for initial enlisted and AMEDD officer accessions).
- (2) The CG, TRADOC (for all ROTC cadets, WO candidates, and officer candidates).
- (3) The Judge Advocate General (for all judge advocate officer accessions).
- (4) The Chief of Chaplains (for all chaplain officer accessions).
- (5) Superintendent, USMA (for all USMA cadet applicants).

d. The Chief of Chaplains will serve as advisor to the DCS, G-1 on matters pertaining to religious accommodation and formulate and disseminate education and training programs regarding religious traditions and practices within the U.S. Army.

e. The CG, TRADOC, will ensure that training on the provisions of this chapter is provided for commanders, chaplains, and judge advocates.

f. Unit commanders will approve/disapprove requests for accommodation of religious practices. If a commander determines partial or complete denial is appropriate, he/she will prepare a memorandum specifying the basis for denial and provide a copy of the memorandum to the Soldier. Commanders who rescind a previously approved religious accommodation will prepare a memorandum specifying the basis for rescission and provide a copy of the memorandum to the Soldier. Denial or rescission must be based upon one or more of the criteria discussed in paragraph a, above.

g. Requests for religious accommodation generally fall into five major areas:

(1) *Worship practices.* Some religious groups have worship requirements that conflict with the Soldier's normal availability for duty; for example worship on days other than Saturday or Sunday, a 25-hour Sabbath, or special holy days or periods. These will be accommodated except when precluded by military necessity. If the time required for religious worship falls within normal duty hours or duty rosters, the Soldier may request exception from those hours and rosters. The Soldier, however, must be prepared to perform alternative duty or duty hours. Commanders may grant ordinary leave as an option to Soldiers who desire to observe lengthy holy periods or days.

(2) *Dietary practices.* Some faith groups have religious tenets that prohibit the eating of specific foods, or prescribe a certain manner in which food must be prepared. A Soldier with a conflict between the diet provided by the Army and that required by religious practice may request an exception to policy to ration separately. Religious belief is grounds for granting such an exception. The Soldier may also request permission to take personal supplemental rations when in a field or combat environment.

(3) *Medical practices.*

(a) Some religious practices conflict with normal Army medical procedures. These practices include beliefs in self-care, and prohibitions against immunizations, blood transfusions, or surgery.

(b) A Soldier whose religious tenets involve self-care may request accommodation for non-emergency or non-life-threatening illness or injury. However, the unit and MTF commanders will consider the time constraints for the Soldier to recuperate without military medical care when determining whether or not to grant the request for accommodation.

(c) Soldiers who refuse to submit (or whose court-appointed guardian or other legal representative objects) to recommended medical treatment because of religious objections will be referred to an ad hoc committee established by the medical commander. The composition of and procedures followed by this committee are at the discretion of that commander, except that the committee must include a chaplain and be chaired by a medical corps officer. In addition, all committee members must be composed wholly of officers or full-time employees of the Federal Government.

(d) The medical board's report will include the following information:

1. Proposed treatment required to relieve the incapacity and aid the Soldier's return to duty status, and expectation to perform such treatment.

2. The need for the medical care refused by the Soldier.

3. Reasonableness of the Soldier's refusal to undergo treatment. (The risks ordinarily associated with the proposed treatment, the Soldier's age, general physical condition, and the reasons for refusing treatment will be considered and articulated in this report.)

4. Evidence that the Soldier was given the opportunity to appear before the board in person; submit a written statement; or submit written statements from a member of his or her faith group. If circumstances do not permit the Soldier to appear in person or submit a written statement (or both), or the Soldier declines to appear in person or submit a written statement; then the board will include this information in the report.

5. Soldiers believed incompetent will be aided by an appointed representative who may appear on their behalf. The representative need not be legally qualified. Rationale for the determination of incompetency will be included in the report. All Soldiers referred to committee will have the right to a representative.

6. The Army's concern is with the possible effects of accommodation on the Soldier's health and ability to carry out assigned tasks, the health of others, and the military medical system. If the examining board finds that the proposed medical care is needed based on any of these concerns, then the Soldier must be informed and given the opportunity to accept the prescribed medical care. If the Soldier still refuses the medical treatment commander will forward the

medical board proceedings to TSG, who will approve or disapprove the medical board proceedings and return them to the MTF commander.

7. TSG will provide a copy of this determination to HQDA, Office Deputy Chief of Staff, G-1, ATTN: DAPE-HR-L, Washington, DC 20310-0300.

8. If TSG approves the medical board proceedings, the Soldier is again given the opportunity to accept the treatment. If the Soldier refuses, the MTF refers the matter to the Soldier's special court-martial convening authority for action as that authority deems appropriate.

9. In emergency situations the MTF may order, or the attending physician may take, immediate steps in accordance with local MTF policy to save a Soldier's life regardless of religious practices or objections.

10. Immunization requirements for Soldiers are described in AR 40-562. Soldiers whose religious practices conflict with the requirements of AR 40-562 may request temporary waivers of immunization requirements through command channels. AR 40-562 grants surgeons general authority to waive immunization requirements in cases of religious objections to immunizations under certain circumstances. Waiver approval authority is retained by appropriate ACOM, A5CC, or DRU medical authority and waivers from private physicians are not authorized (see AR 40-562).

(4) *Wear and appearance of the uniform.* Religious jewelry, apparel, or articles (hereafter referred to as religious items) may be worn while in uniform if they are neat, conservative, and discreet. Religious items that are neat, conservative, and discreet are those that meet the wear and appearance of the uniform standards delineated in AR 670-1. Except as noted in the following paragraphs, wear of religious items that do not meet the standards of AR 670-1 is not authorized and will not be accommodated.

(a) Wear of religious items that are not visible or apparent when in duty uniform is authorized, unless precluded by specific mission-related reasons (which will normally be of a temporary nature). Examples of such items include (but are not limited to) religious jewelry worn under the duty uniform or copies of religious symbols or writing carried by the individual in wallets or pockets. Wear of religious items that are visible or apparent are governed by the standards of AR 670-1.

(b) Religious jewelry (for example, that is visible or apparent) when in duty uniform is authorized if it meets the standards of AR 670-1. Jewelry bearing religious symbols or worn for religious reasons will not be singled out for special accommodation, restriction, or prohibition; all wear and appearance standards will apply equally to religious and non-religious jewelry.

(c) Religious items that do not meet the standards of AR 670-1 may be worn by Soldiers in uniform while they are present at a worship service, rite, or other ritual distinct to a faith or denominational group. Commanders may, for operational or safety reasons, limit the wear of non-subdued items of religious apparel during services conducted in the field based on military necessity.

(d) Religious headgear may be worn while in uniform if the headgear meets the following criteria:

1. The religious headgear is subdued in color (generally black, brown, green, dark or Navy blue, or a combination of these colors).

2. The religious headgear is of a style and size that can be completely covered by standard military headgear.

3. The religious headgear bears no writing, symbols, or pictures.

4. Wear of the religious headgear does not interfere with the wear or proper functioning of protective clothing or equipment.

5. Religious headgear that meets these criteria is authorized irrespective of the faith group from which it originates.

6. Religious headgear will not be worn in place of military headgear under circumstances when the wear of military headgear is required (for example, when the Soldier is outside or required to wear headgear indoors for a special purpose).

(e) Chaplains may wear religious attire as described in AR 670-1, CTA 50-909, and AR 165-1 in the performance of religious services and other official duties as required. Commanders may not prohibit chaplains from wearing those religious symbols that are part of the chaplain's duty uniform.

(f) Physical training uniforms present a particular problem for Soldiers of both genders and many religious faiths, due to concerns about modesty. Such concerns are not only religious, but at times are based in social or regional perspectives. Differences in physiology and physical comfort levels between individual Soldiers also affect wear of the PT uniform. Commanders have the authority to prescribe uniformity in PT formations. They will, however, consider the factors noted above if doing so.

(g) The Army does not accommodate exceptions to personal grooming standards for religious reasons except as noted below:

1. Grooming practices based in religious reasons will not be singled out for special accommodation, restriction, or prohibition. The grooming standards contained in AR 670-1 will apply equally to religious and non-religious grooming practices.

2. As an exception to this policy, religious-based exceptions to policy previously given Soldiers under the provisions of this regulation prior to 1 January 1986 continue in effect as long as the affected Soldiers remain otherwise qualified

for retention. However, Soldiers previously granted authority to wear unshorn hair, unshorn beard, or permanent religious jewelry will not be assigned PCS or TDY out of CONUS due to health and safety considerations.

(h) Requests for accommodation.

1. Requests for religious accommodation of wear and appearance of the uniform and personal grooming practices will not be entertained, subject to exceptions provided in paragraph *g(4)(d)* and *(e)*, above. The provisions of AR 670-1 apply.

2. Soldiers will submit requests for religious accommodation on other matters to their immediate commander. The commander may approve the request either informally or formally (in writing), or disapprove it. Commanders will respond to requests for religious accommodation within 10 working days of receipt.

3. If a commander approves a request informally the issue is closed, except that the commander will assist the Soldier in completing those actions necessary to the accommodation (for example, obtaining permission to ration separately or adjusting the unit duty roster).

4. If the commander approves a request formally, the commander will provide the Soldier with written notice of the accommodation. The accommodation will then remain in effect unless revoked, in writing by the commander who originally granted it (due to changed conditions), by a subsequent commander of that unit; by a commander of a gaining unit if the Soldier is transferred; or by a higher commander. If the accommodation is revoked, the written notice of revocation, accompanied by a copy of the original accommodation, will constitute an appeal and will be forwarded through command channels, without further attachments, in accordance with the routing described in paragraph 5, below.

5. If the commander disapproves the request, he or she will afford the Soldier the opportunity to appeal the disapproval. This appeal will be done by means of a memorandum from the Soldier, through each level of command (to specifically include ACOM, ASCC, or DRU) to the Deputy Chief of Staff, G-1, ATTN: DAPE-HR-L, Washington, DC 20310-0300. The memorandum will include, at a minimum the name, rank, social security number, unit, and MOS of the Soldier; the nature of the accommodation requested, the religious basis for the request, and endorsements by commander(s). Enclosures will accompany the memorandum. Mandatory enclosures are a memorandum from a chaplain, and a copy of legal review. Optional enclosures include statements by peers or officials of the Soldier's faith group, copies of religious writings, statements, or doctrinal declarations bearing on the Soldier's request, documents pertaining to the character of the Soldier's service, and (if appropriate) a statement from the Soldier explaining in more detail the nature of the request.

6. The assigned unit chaplain, or other chaplain determined by the senior chaplain present, will interview the Soldier concerning the request for accommodation. A memorandum stating that this interview has occurred will accompany the request for appeal. This memorandum will address the religious basis and sincerity of the Soldier's request. The chaplain is not required to recommend approval or disapproval, but may do so if desired. Memoranda from other chaplains may accompany the appeal as optional attachments, but do not meet the requirement for interview by the assigned unit chaplain or one determined by the senior chaplain present.

7. Evidence of legal review will be in accordance with local staff judge advocate (SJA) procedures. A legal advisor will review the appeal packet for legal sufficiency and may make a recommendation for disposition of the appeal. The review will also state whether the appeal memorandum and enclosures are complete within the provisions of this regulation.

8. If a commander at any level approves the request for accommodation, written approval will be returned to the Soldier through channels. If the commander disapproves it, the packet will be so endorsed and forwarded to the next level of command.

9. If all levels of command disapprove the request for accommodation, the packet will be forwarded to the DCS, G-1, ATTN: DAPE-HR-L, for final decision.

10. The decision of DCS, G-1 will be transmitted through channels to the Soldier requesting accommodation within 30 days after receipt of the request. Appeals to decisions by the DCS, G-1 will not be entertained. Religious accommodations granted by the DCS, G-1 may only be revoked by the DCS, G-1.

11. Appeals to denials of accommodation will reach the DCS, G-1 within 30 days after the Soldier submits the appeal (60 days OCONUS).

12. Soldiers whose appeals are denied may request separation from the Army under the provisions of AR 635-200, paragraph 5-3. Commissioned or WOs who request separation for reasons of religious accommodation will follow the application for release from AD as prescribed in AR 600-8-24 (for other than Regular Army), or apply for an unqualified resignation as outlined in AR 600-8-24 (for RA). All personnel separated or discharged from the U.S. Army because of conflict between their religious practices and military requirements will be subject to recoupment of Federal funds as outlined in referenced regulations.

h. Nothing in this regulation will be construed to limit the authority of commanders to enforce standards by means of all applicable provisions of the UCMJ while requests and appeals are being processed. Soldiers are obligated to adhere to orders and standards set by their immediate commanders.

200257

i. The Committee for the Review of Accommodation of Religious Practices within the U.S. Army is dissolved effective on the publication date of this regulation.

5-7. Prohibition of military labor unions

a. Incompatibility with military Service.

(1) Soldiers must be prepared to fight and if necessary, place their own personal safety in jeopardy in order to defend the Constitution of the United States and their fellow citizens. Therefore, discipline and prompt obedience to the lawful orders of seniors are essential and time-honored elements of the American military tradition. From the earliest Articles of War, laws and regulations have prohibited conduct detrimental to the military chain of command and lawful military authority.

(2) Unionization of the Army is incompatible with the military chain of command. It would undermine the role, authority, and position of the commander. It would impair the morale and readiness of the Army. Therefore, Soldiers will not take part in conventional labor-management negotiation or collective bargaining with their military and civilian seniors. Nor will they take part in strikes, slowdown, picketing, or other traditional forms of job actions.

(3) Circumstances that could constitute a threat to the ability of the Army to perform its mission are not comparable to circumstances that could constitute a threat to the ability of Federal civilian agencies to perform their functions.

b. Responsibilities. Installation commanders will report activities prohibited by this regulation immediately to HQDA (DAPE-HR-S), Washington, DC 20310-0300. Reports will be made by priority message and information copies will be sent to intermediate commanders.

c. Prohibited activities.

(1) Enrollment and membership.

(a) A member of the Army, knowing of the activities of a particular military labor organization may not—

1. Join or maintain membership in such an organization.
2. Attempt to enroll another member of the Armed Forces as a member of such an organization.

(b) No person on a military installation, and no member of the Armed Forces, may enroll in a military labor organization or solicit or accept dues or fees for such an organization from any member of the Armed Forces.

(2) Negotiation or bargaining.

(a) No person on a military installation, and no member of the Armed Forces, may negotiate or bargain, or attempt through any coercive act to negotiate or bargain with any civilian officer, or employee, or any member of the Armed Forces on behalf of members of the Armed Forces concerning the terms or conditions of service of such members.

(b) No member of the Armed Forces and no civilian officer, or employee, may negotiate or bargain on behalf of the U.S. Government concerning the terms or conditions of military Service of members of the Armed Forces with any persons who represents or purports to represent members of the Armed Forces.

(3) Strikes or other concerted labor actions.

(a) No person on a military installation, and no member of the Armed Forces may organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the Armed Forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the Armed Forces to—

1. Negotiate or bargain with any person about the terms or conditions of service of any member of the Armed Forces.

2. Recognize any military labor organization as a representative of individual members of the Armed Forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the Armed Forces.

3. Make changes in the terms or conditions of military Service in the Armed Forces of individual members of the Armed Forces.

(b) No person may use any military installation for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this regulation.

(c) No member of the Armed Forces, and no civilian officer or employee, may permit or authorize the use of any military installation for any meeting, march, picketing, demonstration, or other similar activity that is for the purpose of engaging in any activity prohibited by this regulation.

(4) *Representation.* A military labor organization may not represent, or attempt to represent any member of the Armed Forces before any civilian officer or employee, or any member of the Army, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member of the Army.

(5) *Violations of policy.* Violations of this policy provide a basis for disciplinary action under UCMJ in addition to appropriate administrative sanctions.

d. Permitted activities.

(1) This regulation will not limit the rights of Soldiers to—

- (a) Belong to lawful organizations other than military labor organizations.
- (b) Present complaints through established military channels.

- (c) Seek or receive information or counseling from authorized sources.
- (d) Be represented by authorized counsel in any legal or quasi-legal proceeding, according to applicable laws and regulations.
- (e) Petition the Congress for redress of grievances.
- (f) Take other administrative action for administrative or judicial relief as is authorized by applicable laws and regulations.

(2) This regulation does not prevent eligible DA civilian employees from belonging to labor unions.

e. Making determinations.

(1) To determine if an organization is a military labor organization and if it is in violation of this regulation, the following will be evaluated:

- (a) Its history and operation.
- (b) Its constitution and bylaws.
- (c) The evidence gathered for any suspected prohibited act.

(2) To determine if a person belongs to a military labor organization and if he or she is in violation of this regulation, the following will be evaluated:

- (a) His or her history and conduct.
- (b) The evidence gathered for any suspected prohibited act.

(3) To determine if a person acted for a military labor organization when he or she committed a prohibited act, the following will be considered:

- (a) The frequency of such acts.
- (b) The position of the person in the organization.
- (c) If the acts were known and condemned or disavowed by the organization's leadership.

f. Gathering information. Personnel gathering information about persons and organizations to make the determinations required by this chapter must strictly comply with AR 380-13. Counterintelligence or security investigation personnel may not gather such information. The organization itself should be considered the primary source of information.

5-8. Complaints or accusations against military personnel

a. Guidelines for implementation. The policies outlined in this paragraph are intended to provide broad and general guidance. The Inspector General Action Request System (that differs in procedure from that found in this para) is governed by AR 20-1. Accusations of a criminal nature are reported and investigated according to AR 195-1. Complaints by Soldiers and Family members of discrimination based upon race, color, religion, national origin, and gender (including sexual harassment) follow the procedures set forth in chapters 6 and 7 of this regulation. Complaints of wrongdoing made by Soldiers against their commander pursuant to UCMJ, ART. 138 should be prepared, submitted, and resolved following the guidance in AR 27-10, chapter 20. Complaints or accusations that fall within the Military Whistleblower Protection Act (Section 1034, Title 10, United States Code (10 USC 1034)) are addressed in DODD 7050.6 and AR 20-1.

b. Command responsibilities. When commanders are apprised of complaints or accusations against military personnel, they will be expected to inquire into the matter and attempt a resolution. When a written complaint or accusation is received against military personnel, commanding officers of units or installations will take action as noted below. All complaints will be acknowledged and/or documented, in writing.

(1) *Complaints forwarded from higher headquarters.*

(a) When final action on a complaint received from higher headquarters for investigation and a report of findings is completed, the complaint will be returned to that headquarters. It will be accompanied by the report of investigation. Unless a higher headquarters reserved decision on the disposition of the complaint or accusation pending receipt of investigation, the case will be disposed of at the lowest level having authority consistent with the gravity of the case. When higher headquarters has reserved the right to approve disposition of the case, the report of investigation will be returned and final action withheld pending disposition instructions. Higher headquarters normally will reserve the right of final disposition only in cases involving complex issues or cases the commander desires in the interest of justice to ensure uniform handling throughout the command.

(b) Complaints received after a Soldier is transferred will be forwarded to the Soldier's gaining organization. The headquarters sending the complaint will be advised of the results of the commander's investigation.

(2) *Complaints received by units or installations.*

(a) When warranted, the complaint will be investigated. Proper action will be taken as noted in paragraph b(1), above.

(b) If the commander believes the complaint does not warrant an investigation, the statement "does not warrant investigation" will be recorded on the complaint, followed by the initials of the commander or an officer designated by the commander. The complainant will be advised a decision was made that further action on the complaint is not warranted. Such complaints will be maintained and disposed of per AR 25-400-2.

(3) *Complaints concerning retired personnel.* Complaints or accusations against retired personnel not on AD should be referred to the servicing SJA for appropriate action.

c. Disciplinary or adverse action. Commanders and supervisors are prohibited from initiating any type of disciplinary or adverse action against any Soldier or civilian employee because the individual registered a complaint—

- (1) With an Inspector General (including inspectors general of DOD, the other Services, or other Federal agencies).
- (2) With a member of the person's chain of command or supervisor.
- (3) With an EO office.
- (4) And/or cooperated with an official Government investigation of a complaint.

d. False statements. Knowingly false statements made by a complainant or a witness are excepted from the prohibition in paragraph *c*, above. Persons who make such knowingly false statements are potentially subject to court-martial or other disciplinary measures (Soldiers), to prosecution by civil authorities (civilians and civilian employees) or to disciplinary action under the Federal Personnel Manual (civilian employees).

e. Unfavorable information. Unfavorable information concerning a Soldier will not be filed in his or her record except as provided in AR 600-37, chapter 3.

5-9. On-post distribution of non-Government printed materials

a. Access to news and publications. The maintenance of loyalty, discipline, and morale among Soldiers is essential if the Army is to provide a reliable and effective military force responsive to the national security missions assigned pursuant to lawful authority. At the same time, Soldiers are generally entitled to free access to news and publications.

b. Policy. Installation commanders will encourage and promote the availability of books, periodicals, and other printed media that present a wide range of viewpoints on public issues to Soldiers. Such media should include those emphasizing the standards of loyalty, patriotism, and discipline that are common to the Armed Forces. However, installation commanders will not, except as provided in this paragraph and in AR 360-1, take action to control or restrict dissemination, even if these publications are believed to be in poor taste or unfairly critical of Government policies or officials. The installation commander will be guided by the principle that, except in cases in which a publication constitutes a clear danger to military loyalty, discipline, or morale, or specifically violates the law or regulatory authority, military personnel are entitled to the same free access to publications as are other citizens.

c. Distribution outlets. An installation commander may impose a requirement that distribution of printed media may not be made except through regularly established and approved distribution outlets, unless prior approval is obtained from the commander or authorized representative. AR 210-7 and AR 360-1 provide further explanation and guidance. The installation commander may, without informing higher headquarters, or Department of the Army in advance, take appropriate action to prevent the distribution of non-DOD commercial publications by persons who have not obtained the required approval or have not complied with this regulation, AR 210-7, and AR 360-1. Except when the publication in question is published primarily for advertising or promotional purposes, a denial of a request for distribution will be reported as required in paragraph *d*, below.

d. Restrictions on dissemination. If it appears that a publication presents a clear danger to the loyalty, discipline, or morale of Soldiers, the installation commander may, without prior approval of higher headquarters, delay distribution on property subject to his/her control. The commander will consider whether the act of restriction will in itself result in the publication in question achieving notoriety and increased circulation to military personnel through off-post sources.

- (1) The commander's directive to delay distribution will be in writing.
- (2) Concurrently with imposing a delay authorized above, the installation commander will inform, by telephone, the next major commander and HQDA (SAPA), Washington, DC 20310.
- (3) When a delay in dissemination of a publication through either official or unofficial outlets is imposed by the commander, he or she will, within 5 working days thereafter—
 - (a) Review the publication in question.
 - (b) Prepare a written recommendation to HQDA that provides the basic facts for the determination that distribution of the subject publication would present a clear danger to the loyalty, discipline, or morale of the Soldiers on his or her installation.
 - (c) Send recommendation, together with a copy of the subject publication, to HQDA (SAPA) Washington, DC 20310. Appropriate information copies should also be provided to intermediate headquarters.
 - (4) Reports required in paragraph (2) and (3), above, are "exempt reports" under AR 335-15.
 - (5) The delay in distribution will remain in force until a determination to approve or disapprove the request is made by HQDA.

e. Distribution of commercial publications. On-post distribution of commercial publications will be restricted as defined in AR 360-1. All commercial publications distributed free of charge will not carry any advertisement that implies discrimination with regard to the race, religion, color, gender, or national origin of the purchaser, user or patron. The publication will place its readers and advertisers on notice of this requirement by including in a prominent location the following: "Everything advertised in this publication must be made available for purchase, use, or patronage without regard to the race, religion, color, gender, or national origin of the purchaser, user, or patron."

f. Distribution of command information newspapers. The distribution of command information newspapers (either

Army funded or civilian enterprise) will be governed by AR 360-1. Distribution through official channels will be authorized.

5-10. The Total Army Family Program

The Army places a high value on both military and personal preparedness. Commanders have an obligation to provide assistance to establish and maintain personal and Family affairs readiness.

a. Concept.

(1) The Total Army Family consists of Soldiers (AA, ARNG, and USAR), civilian employees, and retirees, (regardless of marital status), and their legal Family members (if any).

(2) The Total Army Family Program (TAFP) includes those Family assistance services and related programs that support quality of life, readiness, and retention and meet the Army's obligation to Soldiers, civilian employees, and their Families by ensuring the effective interface between Family assistance and Family support.

(a) Family Assistance and Readiness is the contractual or statutory obligation the Army has to provide assistance (for example, ID cards, Defense Enrollment Eligibility Reporting System (DEERS), Civilian Health and Medical Program of the Uniformed Services, tri-service medical care) to its Soldiers, civilian employees, and retirees (regardless of marital status) and with or without any legal Family members. This obligation also extends to the programs and services commanders use to fulfill their morale, welfare, and quality of life responsibilities, such as Army Community Service (ACS), CYS, and Morale, Welfare, and Recreation Programs.

(b) Family Readiness is the mutual reinforcement provided to Soldiers, civilian employees, retirees (regardless of marital status), and their Family members-both immediate and extended. Examples include Family Readiness Groups (FRG), newsletters, telephone trees, and other volunteer programs and activities.

b. Responsibilities.

(1) The ACSIM will establish policy and ensure coordination and integration of the TAFP through the U.S. Army Community and Family Support Center (USACFSC). The USACFSC will—

(a) Provide guidance, technical assistance, and consultation to support the development and implementation of Family initiative programs, and services.

(b) Identify needs and design and conduct Armywide Soldier and Family member training and awareness events.

(c) Determine requirements and develop training packages for individuals accountable for Army Family program execution.

(d) Provide consultation and liaison with the ARNG and USAR to ensure interaction and synchronization among AA and RCs concerning Family assistance and readiness issues.

(2) Heads of other HQDA Staff agencies (and field operating agency, if appropriate) will be responsible for Armywide policies, plans and initiatives within their areas of proponenty pertaining to the TAFP.

(3) Army National Guard.

(a) The NGB is the Army's lead agency for the establishment and execution of Family assistance for Total Army Families at all levels of contingency and mobilization.

(b) The NGB, through the NGB Family PM will—

1. Provide policy, guidance, technical assistance, and consultation to support the development and implementation of the TAFP within the ARNG.

2. Identify, design, and provide ARNG Soldiers and Family members training and awareness support.

3. Develop training for individuals responsible for Family program execution.

(4) Chief, Army Reserve (CAR), through the Office of the Chief, Army Reserve (OCAR) Family PM will—

(a) Provide policy, guidance, technical assistance, and consultation to support the development and implementation of the TAFP within the USAR.

(b) Identify, design, and provide USAR Soldier and Family member training and awareness support.

(c) Develop training for individuals responsible for Family program execution.

(d) Ensure that regional readiness commands have staffed the centralized Family readiness officer to meet assigned duties and responsibilities.

(5) The ACOM, ASCC, or DRU commanders will provide an environment that encourages an effective Family program. At a minimum, ACOM, ASCC, or DRU commanders will—

(a) Ensure command emphasis at the unit level.

(b) Identify and input fiscal and personnel resource requirements for the TAFP as part of the command operating budget process.

(c) Provide for Soldier, civilian, retiree and Family member participation in quality of life matters. Ensure inclusion of single Soldiers in quality of life programs/initiatives.

(6) U.S. Army Reserve command/CONUS Army/installation/JFHQ/RSC/GOCOM commanders at all levels will provide an environment that encourages an effective Family program and will at a minimum:

(a) Ensure command emphasis to the unit level.

(b) Ensure the designation of a TAFP point of contact as an additional duty in each unit below installation/JFHQ/RSC/GOCOM level.

(c) Identify and input fiscal and personnel resource requirements for the TAFP as part of the command operating budget process.

(d) Ensure Soldier, civilian, retiree, and Family member awareness of the TAFP.

(e) Ensure Soldier, civilian, retiree, and Family member access to entitlements, Family programs, and Family services.

(f) Provide for Soldier, civilian, retiree and Family member participation in quality of life programs. Ensure inclusion of single Soldiers in quality of life programs and initiatives.

(g) Installations/JFHQs will ensure/facilitate appropriate coordination of TAFP elements for all components within their geographical area of responsibility during peacetime or any levels of contingency or mobilization.

(7) Unit commanders at all levels will provide an environment that encourages an effective Family program and at a minimum will—

(a) Appoint a TAFP point of contact as an additional duty.

(b) Provide pre-deployment and reunion briefings as required.

(c) Ensure Soldier and Family member awareness of the TAFP.

(d) Ensure Soldier and Family member access to entitlements, Family programs, and Family service.

(e) Ensure the proper documenting and monitoring of personal affairs readiness of Soldiers, to include Family care plans (see para 5-5).

(f) Ensure inclusion of single personnel in quality of life programs and initiatives.

(g) Maintain, as appropriate to the needs of their units, a unit FRG to encourage self-sufficiency among its members by providing information, referral assistance and mutual support.

(8) Family Program coordinators will—

(a) Advise the commander concerning the impact of the TAFP on retention, readiness, training, and mobilization/deployment.

(b) Coordinate the development of the TAFP.

(c) Coordinate the development of resource requirements to support the TAFP.

(d) Coordinate public/community/employer awareness and support of the TAFP.

(e) Serve as command liaison with military and civilian agencies involved in resourcing and supporting the TAFP.

(9) Soldiers bear primary responsibility for their Family and personal affairs readiness. They should support and participate in the TAFP. At a minimum Soldiers will—

(a) Keep themselves and their Families informed concerning key (unit) personnel information, benefits, programs, and so forth, and ensure that information regarding the TAFP is provided to Family members.

(b) Support, and where appropriate, encourage their Family members to support programs, services and activities designed to maintain and/or enhance the quality of life and well being of all members of the Total Army Family, for example, FRG, Deployment Cycle Support training, Army Family Team Building, and so forth. Many of those programs, services, and activities are primarily dependent upon volunteers to ensure their success and continued effectiveness.

5-11. Federal Parent Locator Service

Section 113, Title 10, United States Code (10 USC 113) requires that current addresses of Soldiers be available to the Federal Parent Locator Service. The DEERS serves as DOD's centralized personal locator service. Commanders will ensure that all Soldiers update new residential addresses on the DEERS within 30 days after the new address is established. Soldiers assigned overseas, or whose residential address should not be disclosed in the commander's judgment because of security or safety concerns, will provide a duty address to DEERS.

5-12. Military Whistleblower Protection Act

Department of the Army personnel are prohibited from taking acts of reprisal against any Soldier for filing a complaint of unlawful discrimination or sexual harassment (see DODD 7050.6).

a. No person will restrict a member of the Armed Services from making a protected communication with a member of Congress; an Inspector General; a member of a DOD audit, inspection, investigation or law enforcement organization; or any other person or organization (including any person in the chain of command) designated under this regulation or other administrative procedures to receive such communication.

b. Soldiers will be free from reprisal for making or preparing a protected communication.

c. No employee or Soldier may take or threaten to take an unfavorable personnel action, or to withhold or threaten to withhold a favorable personnel action, in reprisal against any Soldier for making or preparing a protected communication.

d. The chain of command will ensure complainants are protected from reprisal or retaliation for filing EO complaints. Should Soldiers be threatened with such an act, or should an act of reprisal occur, they must report these

200262

circumstances to the DOD Inspector General. If the allegation of reprisal is made known to any agency authorized in this regulation to receive complaints, the agency should refer the complaint to the DOD Inspector General. It is strongly encouraged to simultaneously report such threats or acts of reprisal to the appropriate chain of command. The DOD Inspector General Hotline phone number is 1(800) 424-9098 or DSN 664-8799; the DOD Inspector General Hotline email address is hotline@dodig.osd.mil-either may be used to report threats or acts of reprisal. Personnel calling from OCONUS may dial (703) 604-8569; or, mail a letter to Department of Defense Inspector General, ATTN: Defense Hotline, 1900 Defense Pentagon, Washington, DC 20301-1900.

5-13. Human relations readiness training

a. There is an indisputable link between how Soldiers are treated and how they perform their duties. Human relations training directly affects individual and unit readiness. Training commanders and Soldiers to treat one another with dignity and respect achieves better morale, greater commitment, increased trust and cohesion and better performance. The DCS, G-1, is the sole proponent for HRRT.

b. The five key training elements of HRRT are—

(1) *Army policy/commander's intent.* This is the most obvious aspect of HRRT in that Soldiers must know and understand Army human relations policy (for example, what fraternization is and is not).

(2) *Prevention and intervention.* The HRRT is proactive, targeting high-risk Army populations that some research suggests are more likely to exhibit extremism in the form of racial and ethnic hatred, intolerance and discrimination. Soldiers living in barracks and serving on peacekeeping deployments are among these high-risk Army populations. HRRT is also interventional, responding to emergent Armywide or unit-specific human relations problems.

(3) *Command climate awareness.* Commanders periodically must assess their specific unit's human relations readiness climate in order to contextualize HRRT to the unit's mission and personal dimensions of living and working together.

(4) *Building Soldier skills.* HRRT empowers Soldiers to do the right thing. To best accomplish this, HRRT incorporates successful and proven adult learning models (for example, group discussion of scenarios).

(5) *Values.* HRRT incorporates values essential to Army readiness, with "Dignity and Respect for All" as the foundational human relations value. Other values include (but are not limited to) Army values (leadership, for example), doing the right thing, safe environment, trust and confidence, good order and discipline, chain of command support, fairness, and valuing differences.

5-14. Unit memorial policy

Unit memorial ceremonies and services show respect to the service of Soldiers who have died, and offer support to unit survivors. These memorial events assist surviving Soldiers in dealing with the realities of death and honor the military Service and the contribution the Soldier made while in uniform. The unit memorial event allows surviving Soldiers a means for expressing their grief and assists in the healing process.

a. Command responsibilities. Commanders will conduct a memorial event (Memorial Ceremony or Memorial Service) for every Soldier who dies while assigned to their unit, regardless of the manner of death to include suicides. The manner of death does not negate the service and the contribution a Soldier has made while in uniform, except as prescribed in subparagraph *b*, below. Commanders will also notify their supporting Casualty Assistance Center of the time and place of unit memorial events.

b. Command exceptions. Unit commanders may request an exception to policy not to conduct a memorial event through their command channels. The first general officer in the chain of command may approve the exception only when the deceased Soldier—

(1) Has been convicted of a capital offense under Federal or State law for which the person was sentenced to death or life imprisonment without parole; or

(2) Has been convicted of a serious offense, which is defined as a military or civilian offense, which if prosecuted under the UCMJ, could be punished by confinement of 6 months or more and/or a punitive discharge; or

(3) Is found by the first general officer in the chain of command to have committed a capital offense or serious offense, as used herein, but the deceased Soldier has not been convicted of such crime because the Soldier was not available for trial due to his/her death.

c. Elements of the memorial events. Recognizing the military Service of the Soldier provides healing and renewal for the living. The opportunity to provide closure for members of the unit is offered during a memorial event. The Commander's decision whether to conduct a Memorial Ceremony or a Memorial Service is dependent upon many factors to include the unit mission, tactical situation, and the wishes of Family members in the local area.

(1) *Memorial Ceremony.* A Memorial Ceremony is a command program with a ceremonial orientation. As a command program, attendance of Soldiers at a Memorial Ceremony may be made mandatory. Although there are religious aspects to the memorial ceremony, such as an invocation and benediction, the major focus will be on military tributes and honors. A Memorial Ceremony may include the following: Prelude, Posting of the Colors, National Anthem, Invocation, Memorial Tribute, Readings, Address, Memorial Prayers, Silent Tribute or Roll Call, Music, Benediction, Firing of Volleys, and Sounding of Taps. The Soldier's remains are not present for this ceremony.

(2) *Memorial Service.* A Memorial Service is a command program with a religious orientation. A Memorial Service should be sensitive to the deceased Soldier's faith group and to the needs of the Soldiers who voluntarily attend. Attendance of units and Soldiers may be encouraged and supported by command, but will not be made mandatory. A Memorial Service may include the following: Prelude, Invocation, Scripture Reading, Meditation, Prayer, Silent Tribute or Roll Call, and Benediction. The Soldier's remains are not present for this service.

(3) *Ramp Ceremony.* A Ramp Ceremony is a command-directed activity normally only occurring in a deployed environment that may be conducted in addition to a unit memorial event. It does not replace the requirement to conduct a memorial event. The combatant commander normally establishes policies within a theater of operations that may restrict or preclude the conduct of this ceremony in order to ensure the expeditious movement of remains. In locations where this ceremony is permitted and is normally conducted, the requirements outlined in paragraphs *a* and *b*, above, apply.

d. Combatant theater memorial events. Commanders of units deployed to combatant theaters or other contingency operations may conduct a memorial event in the theater as the tactical situation permits and another event upon return to home station.

e. Family member attendance. As part of the Army Family Covenant, unit commanders are charged with ensuring the Families of their fallen Soldiers are made to feel a part of the Army for as long as they desire. To that end, unit commanders will inform Family members of the deceased Soldier about any unit memorial event that is conducted in a deployed environment and will invite the Soldier's Family to attend unit memorial events at the home station.

f. Non-military memorial events. Commanders may also conduct non-military memorial events for deceased immediate Family members of Soldiers assigned to their units to recognize the Family member's contribution to the unit and military community when appropriate. "Immediate Family members" are defined as the Soldier's spouse, children (to include stepchildren), and parents (to include stepparents).

g. Memorial event support. Commanders at all levels must ensure unit memorial events are conducted in recognition of the deceased Soldier's military Service and on behalf of a grateful Nation.

Chapter 6 The Equal Opportunity Program in the Army

6-1. Purpose

The EO Program formulates, directs, and sustains a comprehensive effort to maximize human potential and to ensure fair treatment for all persons based solely on merit, fitness, and capability in support of readiness. EO philosophy is based on fairness, justice, and equity. Commanders are responsible for sustaining a positive EO climate within their units. Specifically, the goals of the EO program are to—

a. Provide EO for military personnel and Family members, both on and off post and within the limits of the laws of localities, states, and host nations.

b. Create and sustain effective units by eliminating discriminatory behaviors or practices that undermine teamwork, mutual respect, loyalty, and shared sacrifice of the men and women of America's Army.

6-2. Equal opportunity policy

a. The U.S. Army will provide EO and fair treatment for military personnel and Family members without regard to race, color, gender, religion, national origin, and provide an environment free of unlawful discrimination and offensive behavior. This policy—

(1) Applies both on and off post, during duty and non-duty hours.

(2) Applies to working, living, and recreational environments (including both on and off-post housing).

(3) Additionally, in some circumstances, the Equal Employment Opportunity Complaint system in AR 690-600 may provide guidance.

b. Soldiers will not be accessed, classified, trained, assigned, promoted, or otherwise managed on the basis of race, color, religion, gender, or national origin. The assignment and utilization of female Soldiers is governed by Federal law. AR 600-13 prescribes policies, procedures, responsibilities, and the position coding system for female Soldiers.

c. Definitions

(1) *Discrimination.* Any action that unlawfully or unjustly results in unequal treatment of persons or groups based on race, color, gender, national origin, or religion.

(2) *Disparaging terms.* Terms used to degrade or connote negative statements pertaining to race, color, gender, national origin, or religion. Such terms may be expressed as verbal statements, printed material, visual material, signs, symbols, posters, or insignia. The use of these terms constitutes unlawful discrimination.

(3) *Equal opportunity.* The right of all persons to participate in, and benefit from, programs and activities (for example, career, employment, educational, social) for which they are qualified. These programs and activities will be free from social, personal, or institutional barriers that prevent people from rising to the highest level of responsibility

possible. Persons will be evaluated on individual merit, fitness, and capability, regardless of race, color, sex, national origin, or religion.

(4) *Gender discrimination.* The action taken by an individual to deprive a person of a right because of their gender. Such discrimination can occur overtly, covertly, intentionally, or unintentionally.

(5) *National origin.* An individual's place of origin or that of an individual's ancestors. The term also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

(6) *Prejudice.* A negative feeling or dislike based upon a faulty or inflexible generalization (that is, prejudging a person or group without knowledge or facts).

(7) *Race.* A division of human beings identified by the possession of traits transmissible by descent and that is sufficient to characterize persons possessing these traits as a distinctive human genotype.

(8) *Race and ethnic code definitions.* The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined as follows:

(a) *American Indian or Alaska Native.* A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

(b) *Asian.* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinents including, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

(c) *Black or African American.* A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black" or "African American".

(d) *Native Hawaiian or other Pacific Islander.* A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(e) *White.* A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

(f) *Hispanic or Latino.* A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture of origin, regardless of race. The term "Spanish origin," can be used in addition to "Hispanic or Latino."

(9) *Racism.* Any attitude or action of a person or institutional structure that subordinates a person or group because of skin color or race.

(10) *Religion.* A personal set or institutionalized system of attitudes, moral or ethical beliefs and practices held with the strength of traditional views, characterized by ardor and faith, and generally evidenced through specific observances.

(11) *Sexism.* Attitudes and beliefs that one gender is superior to another.

6-3. Responsibilities

a. The DCS, G-1 will—

(1) Be responsible for Armywide policies, doctrine, plans, and initiatives pertaining to the Army EO Program.

(2) Be responsible for overall evaluation and assessment of the Army's EO Program.

(3) Write, coordinate, maintain, and implement the HQDA Equal Opportunity Action Plan (EOAP).

(4) Establish selection criteria, in coordination with the CG, AHRC for Army personnel to attend the Defense Equal Opportunity Management Institute (DEOMI).

(5) Coordinate, in conjunction with the CG, AHRC, EO training seat allocations at DEOMI.

(6) Coordinate the distribution of training seats at DEOMI between the AA and the USAR.

(7) Include equal opportunity advisor (EOA) staffing requirements in authorization documents.

(8) Establish and maintain a sexual harassment assistance line to assist victims of harassment with information that will allow them to report the harassment or abuse to their local authorities and/or seek emotional counseling from local resources. The Army's EO/Sexual Harassment Assistance Line number is 1-800-267-9964.

(9) Assist the DEOMI with the conduct of the Senior Executive Diversity Awareness Training Seminar.

b. The CNGB and CAR will—

(1) Develop, monitor, and evaluate the implementation of EO policies and programs in their components.

(2) Establish requisite staff positions in their offices and make resources available to adequately carry out EO program requirements.

(3) Select ARNG and Reserve personnel to attend the DEOMI.

(4) Develop information management and reporting requirements to determine the progress made toward EOAP goals.

(5) Establish EO training for units and professional military education (PME) courses consistent with HQDA policy and command needs.

c. The CG, U.S. Army Forces Command (FORSCOM) will—

(1) Supervise and evaluate the unit EO training program conducted by the numbered armies in the CONUS.

(2) Coordinate, on a continuing basis with the OCAR, to conduct EO seminars for USAR general officers assigned to Army Reserve commands/(ARCs/GOCOMs) and for key military and civilian staff assigned to those commands.

- (3) Assess and evaluate USAR EO programs.
- d.* The CG, TRADOC will—
- (1) Develop EO training doctrine and training materials and coordinate development with HQDA.
 - (2) Develop EO instruction and associated training materials for use in the accession/initial-entry-training base, in PME courses throughout the Army and in units. Training will be interactive, small-group oriented and testable.
 - (3) Conduct required EO education and training in TRADOC Service schools and training centers.
 - (4) Evaluate the effectiveness of training conducted in TRADOC Service schools and training centers.
 - (5) Provide assistance and instructional materials to schools not under the jurisdiction of TRADOC. These schools include, but are not limited to, The Judge Advocate General's School, Army Medical Department Center and School, Inspector General Course, and U.S. Army War College.
 - (6) Develop the program of instruction and evaluate the conduct of the Army Service Specific Training for Army personnel attending the resident and reserve training courses at DEOMI.
 - (7) Develop EO correspondence courses via distance learning for all Army personnel.
 - (8) Establish the Soldier Support Institute as the proponent for EO training.
- e.* Commanders of Army commands will—
- (1) Monitor the execution of the EO Program in all commands, installations, agencies, and activities (to include Army Reserve and ARNG units when activated) under their jurisdiction.
 - (2) Schedule EO training for units in accordance with procedures outlined in paragraph 6–14 and command needs (to include all RC units when activated under their jurisdiction during pre-mobilization and demobilization).
 - (3) Provide support, as appropriate, for EO matters in all host and tenant support agreements.
 - (4) Ensure EOAs deploy with assigned units in accordance with procedures outlined in paragraph 6–5.
 - (5) Ensure Equal Opportunity Representatives (EORs) are trained and deployable for units smaller than brigade.
 - (6) Ensure military and civilian EO/EEO programs complement each other.
 - (7) Provide personnel, funding, and other resources to carry out the EO Program (to include all RC units when activated). Funding may be used for the continuous education of command EOAs, local training for EORs and staff assistance visits (SAVs) by headquarters personnel.
 - (8) Compile unit data and receive periodic briefings on the analysis of that data to assist in development of EOAPs. (Use the EO database to collect unit program information.)
 - (9) Submit the Quarterly Narrative and Statistical Report (QNSR) in accordance with procedures outlined in paragraph 6–16.
- f.* Installation commanders will—
- (1) Serve as the installation EO officer and monitor the installation's EO climate.
 - (2) Maintain EO assistance lines to provide advice and information on unlawful discrimination and sexual harassment. These assistance lines will provide procedural information on the filing of EO complaints and clarify what constitutes an act of sexual harassment. All EO complaints should be filed in person when possible. The assistance line may also be used to provide information to leaders on the procedures to follow in handling sexual harassment complaints.
 - (3) Schedule and conduct EOR courses and facilitation courses as needed to ensure each company and battalion commander has trained EOR to assist them in executing their EO responsibilities and to facilitate small group discussions (to include RC units when activated).
- g.* The CG, AHRC will—
- (1) Maintain statistical data concerning racial and ethnic designation category and gender for the management of personnel systems and EOAP initiatives.
 - (2) Determine the need for training seats at DEOMI for the annual Structure Manning and Decision Review for the program objective memorandum years.
 - (3) Designate program personnel, in coordination with HQDA, to attend DEOMI.
 - (4) Control DEOMI military student training allocations for the Army.
 - (5) Assign AD military personnel to meet Army EOA requirements.
 - (6) Align EOAs demographically with population of the U.S. Army as a whole.
- h.* Director, Installation Management Agency will provide funding to the garrisons for ethnic/special observances and facilities/materials for the Equal Opportunity Representative Course (EORC) at the installation level.
- i.* Commanders at all levels are the EO officers for their commands. All commanders will—
- (1) Be personally responsible and accountable for the EO climate within their units.
 - (2) Develop and implement EO programs for their organizations that enhance unit cohesion, esprit, and morale.
 - (3) Upon receipt of an EO complaint, process the complaint in accordance with appendix D.
 - (4) Identify unlawful discriminatory practices affecting military personnel and Family members, initiate corrective actions, and provide follow-up and feedback throughout problem resolution.
 - (5) Promote EO and interpersonal harmony for all military personnel and Family members.

(6) Assign PMs and EOAs to their special staffs as prescribed in paragraph 6-4. The EOAs must attend staff meetings and be included in unit training exercises and deployments in order to accomplish their EO mission.

(7) Be in the PM/EOA rating scheme.

(8) Conduct EO training on a continuing basis for all, in accordance with procedures outlined in paragraph 6-4, ACOM, ASCC, or DRU directives, and local guidance.

(9) Monitor and assess the execution of EO programs and policies at all levels within their areas of responsibility.

(10) Involve public affairs personnel at every level of command in planning and publicizing EO programs and initiatives.

(11) Publish and post separate, written command policy statements for EO, the Prevention of Sexual Harassment (POSH), and EO complaint procedures. All statements will be consistent with Army policy. Statements must include an overview of the command's commitment to the EO program and reaffirm that unlawful discrimination and sexual harassment will not be practiced, condoned, or tolerated. The policy statements will explain how and where to file complaints. Additionally, the statements will include complainant's protection from acts or threats of reprisal. These statements are required for each ACOM, ASCC, DRU, installation, separate unit, agency, and activity down to company/troop/battery or equivalent level. For more information on sexual harassment policy statements, see paragraph 7-2b.

(12) Battalion and company level commanders (and activities/organizations without assigned EO personnel) will appoint EORs in the rank of SGT (P) and above in writing.

(13) Administration of a command climate survey must be part of the unit assessment for company level commanders (or equivalents). Company level commanders (or equivalents) will conduct a unit command climate survey within 30 days of assuming command (120 days for ARNG and USAR), again at 6 months, and annually thereafter. Assessments must include a facilitated small group discussion of topics recommended under paragraph 6-15. Information on conducting the assessment is in appendix E. Company level commanders (or equivalents) may supplement any survey efforts with individual and group interviews, the analysis of unit records, and statistical information (awards, promotions, reenlistments, incidents of misconduct resulting in UCMJ, and EO complaint reports).

(14) Provide timely feedback (30 days active/60 days USAR) to subordinates regarding the results of command climate surveys or any EO survey instrument initiated by the command.

(15) Encourage Soldiers to use their chain of command to address issues.

(16) Take appropriate action to prevent incidents of intimidation, harassment, or reprisal against individuals who file an EO complaint.

(17) Take appropriate action against those who violate Army policy.

(18) Monitor the demography of the EORs in their command to ensure it reflects that of the unit as a whole.

(19) Report all EO training at the quarterly training brief (QTB) (annually for Army Reserve).

(20) Consult PMs/EOAs when conducting a discrimination or sexual harassment investigation in accordance with AR 15-6.

(21) Allocate funding to carry out command EO programs.

(22) Utilize PMs/EOAs in direct support of the EO Program.

(a) EOAs should not perform duties that may subsequently disqualify them from being impartial or being perceived as impartial.

(b) Serving in temporary leadership positions such as ISG, detachment noncommissioned officer in charge, platoon sergeant, and so forth while serving as an EOA is highly discouraged.

(23) Submit QNSR data to the next higher command utilizing the automated EO database.

(24) Ensure EO SAVs are conducted to subordinate commands on an annual basis.

j. The actual duties of PMs/senior enlisted EOAs, relative emphasis, and time allotted to each duty vary according to type of unit or level of command, unit composition, and location. PMs/senior enlisted EOAs are agents for cultural change and act as the eyes and ears of the commander. PMs should not be assigned further duties that may create a conflict of interest. PMs/senior enlisted EOAs will—

(1) Establish an effective link with brigade EOAs and EEO representatives and assist with training and complaints as needed.

(2) Conduct an annual review of the EOAPs and republish, as needed.

(3) Ensure the EO program complies with all DOD policies and directives, concerning EO.

(4) Review quarterly EO reports from subordinate commands and ensure these reports are submitted to HQDA in accordance with AR 600-20; compile, analyze, and brief EO data, making recommendations for program improvements from that information; and maintain the EO database.

(5) Advertise the EO program through installations and communities, to ensure all personnel are aware of EO programs, complaint procedures, and the EO link to unit readiness, cohesion, and success on the battlefield.

(6) Keep the commander and the command group informed on human readiness concerns through quarterly EO progress reports analyzing trends of the data and making recommendations to the leadership.

- (7) Assist with EO training, attend EO conferences, and plan ethnic observances in accordance with HQDA guidance; and write and coordinate for command commemorative letters/memorandums, as desired.
 - (8) Assist and evaluate human relations and EO training programs that support readiness.
 - (9) Understand and articulate DOD and Army policies concerning EO.
 - (10) Assess and evaluate the human relations and EO command climate in accordance with AR 600-20 by conducting onsite SAV.
 - (11) Develop, execute, and manage a budget to ensure that the command's EO program is properly resourced.
 - (12) Assist commanders with the command climate survey and annual assessment for each unit, as needed.
 - (13) Mentor and provide EOAs with professional development opportunities.
 - (14) Verify, validate, and monitor the EOA manning structures for all subordinate commands.
 - (15) Work closely with The Inspector General, SJA, public affairs officer, EEO, and Chaplain offices to coordinate timely responses to issues and concerns.
 - (16) Where feasible, conduct quarterly or semiannual (annual for Army Reserve) EO training conferences to facilitate professional development for all EOAs.
 - (17) Act as the appellate authority action office for EO complaints; provide complaint processing guidance to subordinate EOAs as required.
 - (18) Develop command policy and guidance to supplement AR 600-20, as required.
 - (19) Coordinate command participation in HQDA-supported EO recognition programs (NAACP—Roy Wilkins Renown Award, Federal Asian Pacific American Council Meritorious Service Award, National IMAGE Meritorious Service Award, League of United Latin American Citizens Meritorious Service Award, and so forth).
 - (20) Conduct and participate in pre-command course (PCC) briefings on EO to new company through brigade level commanders, ISGs, and CMSs.
 - (21) Conduct inquiries and make recommendations as required.
 - (22) Ensure EOAs conduct a follow-up assessment of all closed investigations in accordance with paragraph E-10.
- k.* The actual duties of EOAs, relative emphasis, and time allotted to each duty vary according to type of unit or level of command, unit composition, and location. EOAs are agents for cultural change and act as the eyes and ears for the commander. EOAs will not be assigned further duties that may create a conflict of interest. The EOAs will—
- (1) Understand and articulate DOD and Army policies concerning EO.
 - (2) Assist the commander in EO training that employs small-group facilitation methods like the consideration of others' methodology.
 - (3) Recognize and assess indicators of institutional and individual discrimination in organizations.
 - (4) Recognize sexual harassment in both overt and subtle forms.
 - (5) Recommend appropriate remedies to eliminate and prevent unlawful discrimination and sexual harassment.
 - (6) Continuously assess the command climate through formal surveys, interviews, facilitated small group discussions, and accessibility to the unit.
 - (7) Collect, organize, and interpret demographic data concerning all aspects of EO climate assessment.
 - (8) Assist commanders in assessing, planning, implementing and evaluating the EO program.
 - (9) Prepare input for the Quarterly Narrative Statistical Review (Army Reserve as required).
 - (10) Train unit EORs and institutional training course/service school instructors to assist commanders/commandants in meeting their EO responsibilities.
 - (11) Organize or assist with training sessions that pertain to EO, unlawful discrimination, POSH, and the consideration of others methodology.
 - (12) Assist in evaluating the effectiveness of unit training conducted by commanders.
 - (13) Plan and help conduct executive seminars for senior leadership, on EOAPs and affirmative actions, EO, unlawful discrimination, the consideration of others methodology and the POSH.
 - (14) Receive and assist in processing individual complaints of unlawful discrimination and sexual harassment in the informal stage and conduct EO inquiries according to the commander's guidance.
 - (15) Provide advisory assistance to commanders and investigating officers in the investigation and resolution of unlawful discrimination and sexual harassment complaints.
 - (16) Review and comment on investigative reports of EO complaints for compliance with DOD and DA EO policy and objectives.
 - (17) Conduct follow-up assessments of all formal EO complaints.
 - (18) Assist in the planning and conduct of ethnic observances/special commemorations, as outlined in table 6-1.
 - (19) Assist commanders in developing the EO policy for their unit.
 - (20) Maintain, where appropriate, informal liaison with community organizations fostering civil rights. If the EOA decides to become a member of such organizations in his/her private capacity, he/she must coordinate with the servicing judge advocate to preclude possible conflicts of interest.
 - (21) Conduct SAVs to subordinate units and other headquarters (equivalent or lower).

- (22) Conduct or attend EO coordination training at least once quarterly at the installation level.
- (23) Periodically prepare reports and briefings for commanders and other staff agents on the unit's EOAP and other initiatives being done to improve or maintain the command climate.
- (24) Assist commanders in the development of realistic EOAPs and monitor progress of plans:

Table 6-1
Special commemorations/ethnic observances timetable

Month: January
Dates: 3d Monday
Observance: Martin Luther King, Jr. Birthday
Authority/comment: Public Law 98-144, Nov. 83 (Federal holiday)

Month: February
Dates: 1-28/29
Observance: African-American/Black History Month
Authority/comment: First Presidential Proclamation, Feb. 76

Month: March
Dates: 1-31
Observance: Women's History Month
Authority/comment: Public Law 100-9, Mar. 87

Month: April/May
Dates: Sunday to Sunday for Week Incorporating Yom Hashoah
Observance: "Days of Remembrance" for Victims of the Holocaust
Authority/comment: Public Law 96-388, Oct. 80

Month: May
Dates: 1-31
Observance: Asian Pacific Heritage Month
Authority/comment: First Presidential Proclamation, May 91

Month: August
Dates: 26
Observance: Women's Equality Day
Authority/comment: First Presidential Proclamation, Aug. 73

Month: September/October
Dates: 15 Sep.-15 Oct.
Observance: National Hispanic Heritage Month
Authority/comment: Public Law 100-402, Aug. 88

Month: November
Dates: 1-30
Observance: National Native American Indian Heritage Month
Authority/comment: Public Law 102-188, Mar. 92

1. Equal opportunity representatives' responsibilities include assisting commanders at the battalion-level or equivalent and below in carrying out the EO Program within their units. EORs serve a special duty at small unit level. Commanders must appoint EORs in their units who are members of the chain of command in the rank of SGT (P) through 1LT. Soldiers who are graduates of DEOMI and have been awarded enlisted skill qualifications identifier (SQI) Q or officer additional skill identifier (ASI) 5T are still available to perform as unit EORs after successful completion of their special duty tour as an EOA. Units of action or higher headquarters' EOAs are available to train unit EORs using the 80 hour training support package published by the EO Proponency Office, Soldier Support Institute. Army Reserve can use the 40-hour training support package. Typical roles and duties of EORs are as follows:

- (1) Assist commanders in addressing EO climate detractors.
- (2) Continuously assist commanders in the conduct of unit climate assessments.
- (3) Prepare and assist the commander in the conduct of EO training.
- (4) Establish and maintain liaison with other EORs and with the EOA at higher headquarters.
- (5) Assist commanders and assigned project officers in preparing and conducting ethnic observances and special commemorations.
- (6) Assist complainants by referring them to an appropriate agency for assistance. Complaints referred to another agency will be reported to the EOA. EORs may not conduct investigations and are not trained to fully advise AR 15-6

investigating officers in their conduct of EO complaint investigations. Any commissioned officer performing the additional duty of an EOR may be asked (in the capacity of a commissioned officer and as a disinterested, third party) to conduct investigations. Yet, those situations should not concern EO complaints within their organization.

(7) Serve as a resource person for EO matters in the unit.

6-4. The Army's Equal Opportunity Advisor of the Year Award

The EO Advisor of the Year Award recognizes the most outstanding EOA, for achievements in support of EO.

a. Eligibility. Any EOA, who has performed the duties of an EOA for at least 12 months during the fiscal year for which the award is being considered, may be nominated.

b. Criteria for selection. Eligible EOA will be nominated according to the criteria below. HQDA may revise these criteria as necessary to support the Army's EO Program.

(1) Successfully advised/assisted commander(s) in managing their EO program within guidelines established by HQDA and the appropriate ACOM, ASCC, or DRU.

(2) Demonstrated outstanding personal qualities and traits required to be a successful EOA.

(3) Made individual innovations in the EO program.

(4) Displayed exceptional knowledge of the Army's EO program.

(5) Displayed outstanding leadership qualities and made significant contributions to the human relations and EO programs, which directly impacted the readiness of the organization and the Army.

(6) Distinguished himself or herself by making visible and significant contributions to his or her organization and military/local community in the area of human relations, EO, EOAP, human resources, and military Service, which resulted in a positive relationship.

(7) Complied with height and weight standards in accordance with AR 600-9.

(8) Created opportunities that supported and contributed to the advancement of our understanding and valuing diversity.

(9) Supported the full integration and promotion of minorities and women in the army, his or her community, and the Armed Services as a whole.

c. Procedure for selection. The ACOMs, ASCCs, or DRUs will nominate the most outstanding EOA of their respective commands. Nominations will be forwarded with recommendations to Headquarters, Department of the Army, Equal Opportunity, ATTN: DAPE-HR-HF, 1700 N. Moore St, Rosslyn, VA 22209-2793.

d. Submission of nominations. Nominations for the Army's EOA Award will include—

(1) Nominee's name, rank/grade, social security number, date of birth, organization or installation assigned, and date of assignment.

(2) A brief narrative biography, not to exceed one single spaced, typewritten page.

(3) A brief description of duties, action taken to support commanders in maximizing human potential and ensuring fair treatment for all persons based on merit, fitness, and human potential and ensuring fair treatment for all persons based on merit, fitness, and capability in support of readiness, not to exceed two double-spaced typewritten pages.

(4) A recent (within 180 days), 8- x 10-inch head and shoulder photo in color or black and white, or a standard DA photograph, in class A uniform or duty uniform.

(5) An endorsement by the first unit of action or higher level CSM in the nominees NCO support channel or chain of command.

6-5. Staffing

a. Minimum military staffing requirements.

(1) EOAs will be assigned to the special staff of commanders at installations, organizations, and agencies that are brigade level (or equivalent) and higher. Assignments will not be as collateral or part-time duty. Primary duty position authorizations and requirements that comply with this guidance are to be documented in applicable personnel management authorization documents. Elimination of authorized positions is not allowed without prior approval by the SA.

(2) Active duty military staffing.

(a) Each unit of action or equivalent unit will have, as a minimum, one full-time EOA with the rank of SFC or higher. Each division will have four EOAs: one officer (LTC) and three NCOs (one MSG and two SFC). Corps staff will have one officer (LTC) and three NCOs (one SGM, one MSG and a SFC). At most ACOMs, there will be three EOAs: one officer (LTC) and two NCOs (one SGM and one MSG or SFC). FORSCOM, TRADOC, USASOC, USARPAC, Eighth US Army and USAREUR will have an additional NCO in the grade of SFC. At HQDA there will be four officers (LTC and three MAJs) and four NCOs (one SGM and three SFCs). At the Soldier Support Institute there will be three EOAs: one officer (LTC) and two NCOs (one SGM and one MSG).

(b) In addition to the unit staffing requirements listed above, small installations (fewer than 10,000 Soldiers) or base support battalions are authorized one enlisted EOA (SFC). Large installations (more than 10,000) and area support groups are authorized two enlisted EOAs (MSG and SFC).

(c) Senior mission/installation command EOAs will provide geographic support for units without a dedicated EOA

in their specific (to include all activated RC units in accordance with AR 27-10, appendix E). Senior mission/installation commanders will establish MOA with tenant units without EOA support to ensure that those tenant units receive EOA support from the installation. Installation EOAs will also support non-deploying Soldiers whose unit EOA deployed with their unit.

(3) For USAR staffing, an EOA will be assigned to the staff of each brigade-level unit or brigade equivalent unit. One officer EOA (minimum rank LTC) and one enlisted EOA (minimum rank MSG) will be assigned to the staff of each RRC/GOCOM and division-level or equivalent unit. Civilian substitutions are not authorized.

(4) Civilian substitutions for the minimum staffing requirements above are not authorized. Any staffing authorized beyond these minimum requirements may be either military EOAs or civilians officially assigned to and trained for such duties. Assignment of EO duties to civilians must be in strict accordance with applicable position classification standards and guidelines.

b. Location in the organizational structure. The EOAs assigned on the unit's TDA should be attached to a specified unit (as described above) for duty, administration, and UCMJ, because they support that specific commander.

c. The Equal Opportunity Program and the Equal Employment Opportunity Program relationship. The EO Program for military personnel and the Equal Employment Opportunity (EEO) Program for civilian personnel share the same foundations in similar goals and objectives. However, their practice and execution are considerably different. Separate laws and/or regulatory guidance and policy guide each program. The EEO Program implements laws that address employment issues for civilian employees and applicants for employment. The roles and missions of the EOA and EEO officer are not interchangeable. EOAs will not supervise EEO personnel, nor will EEO personnel supervise EOAs. EO and EEO offices will not be consolidated under the direction of one or the other program principals. There are areas in which EO and EEO programs can and should be integrated when doing so promotes understanding, efficiency, economy, and common interests of both programs. These areas include the planning and execution of special observances, Consideration of Others Program, development of EOAPs, some aspects of training, and coordination of administrative support.

6-6. Program manager/equal opportunity advisor selection and assignment policy

a. Selection policy. The CG, AHRC will select qualified officers and NCOs for duty as PM/EOAs in accordance with the following selection requirements:

- (1) Must have an outstanding duty performance; a review of the individual's evaluation reports will be included.
- (2) Must have stability in personal affairs; Soldier will not have a recent history of severe domestic or personal problems (excluding divorce), chronic indebtedness, excessive use of alcohol, or any use of illegal drugs. Individuals withdrawn for cause from any human reliability or personal reliability program during the 2 years preceding the nomination will need a waiver from HQDA.
- (3) Must not have been punished under the provisions of the UCMJ during the 5 years preceding the nomination.
- (4) Must have a minimum of 2 years of service remaining upon completion of the DEOMI.
- (5) Must meet Army fitness and body composition standards.
- (6) Must be competitive for promotion.
- (7) Must have not previously declined or been disenrolled (academic or disciplinary) from Noncommissioned Officer Education System or officer professional development course.
- (8) Have a general technical score of 110 (waiverable).
- (9) Maintain a minimum PULHES profile of 111221 (waiverable).
- (10) Must maintain qualification standards throughout tour; units will notify AHRC through channels when an EOA fails to meet minimum qualification standards.
- (11) In addition to the above requirements, officers must—
 - (a) Have a bachelor's degree.
 - (b) Be an AD officer in the grade of LTC or above, except as noted in paragraph 6-5a(2)(a). Army Reserve officers must be at least in the grade of LTC.
 - (c) Officers should possess EO PM experience for assignment to DEOMI.
 - (d) Field grade officers must be graduates of, or have received military education level 4 credit for Command and General Staff College.
- (12) In addition to requirements (1) through (11), above, AD and Army Reserve enlisted Soldiers must—
 - (a) Be a high school graduate (or equivalent) and possess the potential to complete college-level courses. Soldiers who are unable to score at a 12th-grade level in all measured areas of the Test of Adult Basic Education will not be assigned to EOA duty. The Soldier's test results will become part of their out-processing paperwork that will be checked off by the unit commander prior to travel to DEOMI and taken to DEOMI for inclusion in their student packet.
 - (b) Be a SSG(P) or above, with less than 18 years time in service upon completion of DEOMI (time in service waiverable).
 - (c) Have served in a leadership position.

200271

(d) Not be assigned to back-to-back special duty assignments (for example, drill sergeant to EOA or recruiter to EOA).

b. *Volunteers.* Any officer or NCO who meets the selection criteria in paragraph 6-5a may volunteer for duty as an EOA by submitting a written request to his/her branch manager. Enlisted requests will be submitted through the first LTC in the chain of command, who will endorse the request for EOA duties.

c. *Tour lengths for EOAs.*

(1) *Active duty enlisted.* Tours for enlisted personnel assigned to CONUS units will be 24 months (exclusive of training time) with the possibility for extension. Tours for enlisted personnel assigned OCONUS will be the prescribed tour length of that assignment based on status (accompanied/unaccompanied). Those Soldiers assigned to a 1-year OCONUS tour will be assigned the additional 1 year in CONUS.

(2) *Active duty officer.* Tours for officers assigned to CONUS units will be 24 months (exclusive of training time). Tours for officers assigned OCONUS will be the prescribed tour length for short tours or 18 months (exclusive of training time) for long tours.

(3) *Army Reserve.* Army Reserve EOA tours will be a minimum of 3 years upon completion of DEOMI and a maximum of 6 years. The RC EOAs will obtain school quotas through the Army Training Requirements and Resource System for course attendance in either the 15-week resident course or the two-phase RC EOA course at the DEOMI within 60 days of assignment as an EOA. Requests to exceed the 1-year completion requirement must be forwarded through the chain of command to headquarters, USAR command. Each request will be handled on a case-by-case basis and will require justification of the Soldier's inability to complete the course within the allotted time. However, commanders must closely monitor training status to ensure course completion is expedited to the maximum extent possible. Failure to complete the course will result in removal from the EOA position.

d. *Early release.*

(1) The Director, Enlisted Personnel Management Directorate, AHRC is authorized to approve/disapprove the early release of enlisted EOAs from the EO Program when—

(a) The EOA is a United States Sergeants Major Academy selectee, a CSM designee, or will be moving to a 1SG position. In the latter case, the EOA must serve 1 year in the EOA position.

(b) The EOA's commander has notified AHRC, in writing, through the ACOM, ASCC, or DRU, that the EOA is being reassigned as a 1SG or SGM/CSM.

(c) The AHRC is able to select, train, and assign a replacement for the outgoing EOA expeditiously to eliminate a gap in coverage.

(d) It is necessary for cause.

(2) The CG, AHRC is authorized to approve/disapprove the early release of officer EOAs from the EO Program when:

(a) The EOA/PM has been selected for promotion and the current unit of assignment cannot place him or her.

(b) The EOA/PM has been selected for a command selection list.

e. *Relieved from equal opportunity duty.* The EOA relieved from EO duty will receive a relief for cause evaluation report. This will occur immediately following the removal from duty.

f. *Removal of the equal opportunity advisor skill qualifications identifier.* The EO SQI or ASI may be withdrawn from the EOA only if approved by HQDA for AA or the CAR for Army Reserve. A DA Form 4187 (Personnel Action) signed by the commander, with a copy of the Relief for Cause Evaluation Report, will be forwarded through the ACOM, ASCC, DRU, and AHRC to HQDA

6-7. Attendance at the Defense Equal Opportunity Management Institute

a. *Attendance.*

(1) Officer and enlisted personnel selected for PM/EOA duty will attend the EOA course.

(2) The RC full time support EO personnel filling an authorized, full-time EO specialist position will attend the EOA course at DEOMI. Troop program unit (TPU) Soldiers performing EO duties will attend the two-phase EOA RC Course.

b. *Resident courses.* The DEOMI curriculum currently consists of the 15-week EOA course. The EOA course is designated to train personnel for assignment as full-time EOA/PMs.

c. *Certification.* Upon successful completion of the 15-week EOA course and the resident/non-resident RC EOA course, DEOMI recommends graduates for the awarding of SQI Q (enlisted) and ASI 5T (officers). The CG, AHRC will award the appropriate designator to Soldiers upon their successful completion of DEOMI. Only graduates of the DEOMI courses listed above are designated as EOAs.

d. *Scheduling of training.* The CG, AHRC programs qualified AD officers and NCOs for training and duty as EOAs; the CNGB and CAR program ARNG and USAR Soldiers for EOA duty; the CG, AHRC controls DEOMI training seats for AD; the CAR controls DEOMI training seats for Army Reserve personnel; CNGB controls training seats for ARNG for the DEOMI RC Course. Commands will use the following procedures to acquire these allocations:

(1) Commanders desiring to send officers and NCOs on TDY to DEOMI and then return to their units as EOAs will

send their requests through their ACOMs, ASCCs, or DRUs. The ACOMs, ASCCs, or DRUs will forward applications for officers to CG, AHRC, 200 Stovall Street, ATTN: AHRC-OPB-D, Alexandria, VA 22332-0400. For NCOs, forward applications to CG, AHRC, 2461 Eisenhower Ave., Alexandria, VA 22331-0454.

(2) Units must request training seats in writing and requests must arrive at AHRC no later than 45 days before the starting date of a requested class.

(3) The RC personnel must have an Army Training Requirements and Resource System allocation to be considered for attendance. This is applicable to ARNG unit members and Army Reserve TPU Soldiers, AGR, and military technicians assigned to a major ARNG or Army Reserve command headquarters and perform day-to-day EO duties as listed in their job descriptions or performance standards.

6-8. Off-post activities, on-post activities, and off-limit actions

a. Off-post activities. Title II of the Civil Rights Act of 1964 addresses the practice of discrimination and segregation in public establishments. These public establishments include privately owned establishments such as hotels, restaurants, gasoline stations, theaters, places of entertainment, and community housing (for example, apartments). The installation commander will ensure that the facts surrounding allegations of discriminatory practices are fully developed. The commander will also ensure those individuals and organizations alleged to practice such unlawful discrimination are given a full and fair opportunity to challenge particular allegations. If all reasonable efforts and alternatives fail to eliminate off-post discriminatory practices in public accommodations, installation commanders are authorized to place those facilities off-limits after requesting such action through the servicing Armed Forces Disciplinary Control Board. Military personnel outside the United States are not protected under the Civil Rights Act of 1964 while off-post. However, the commander will take whatever actions are available and appropriate to eliminate discriminatory practices in public accommodations outside the United States that affect Soldiers, civilians, or Family members of his/her command. Commanders must promote awareness of the pertinent laws of the host nation.

b. Off-limits sanctions. Off-limits sanctions may be appropriate for public accommodations and establishments falsely claiming to be private clubs (fraternal or otherwise) with discriminatory policies and practices. If discriminatory practices off-post are found to be directed at selected Soldiers in a command and efforts at conciliation prove unsuccessful, imposition of off-limits sanctions according to AR 190-24 may be appropriate.

c. Off-limits sanctions and private establishments. The establishment of off-limits areas is a function of command. It may be used by commanders to help maintain the good order and discipline, health, morale, safety, and welfare of Soldiers. An installation commander ordinarily may not apply off-limits sanctions to a bona fide private establishment, club, activity, or organization. However, such an entity may be placed off-limits if the following conditions exist:

(1) It is open to military personnel in general or to Soldiers who meet specific objective criteria (such as sergeant and above) but segregates or discriminates against other Soldiers solely on the basis of race, color, religion, gender, or national origin.

(2) It is not primarily political or religious in nature.

(3) The installation commander, in consultation with his/her key staff, determines that the available facts support the allegations of unlawful discrimination after affording the management of the establishment, club, activity, or organization a full and fair opportunity to challenge or refute allegations.

(4) Reasonable efforts by the commander to bring about voluntary termination of the discriminatory practices are unsuccessful.

(5) The commander determines that continued unlawful discrimination by the establishment, club, activity, or organization undermines the morale, discipline, or loyalty of Soldiers in the command.

d. On-post activities. All on-post facilities and official activities are open, as appropriate, to all DOD personnel and Family members without regard to race, color, religion, gender, or national origin. Installation commanders are responsible for ensuring that an organization taking advantage of or using on-post facilities (whether on a reimbursable basis or otherwise) does not engage in unlawful discriminatory practices. It is not enough to depend solely on the published bylaws or the constitution of the organization. The installation commander must assess the organization's actual membership practices and their effect upon the command. In cases where the installation commander determines that credible information of discriminatory practices by an on-post private organization has been presented, the organization has the burden of proving it did not engage in discriminatory practices. Failure to substantiate the absence of discriminatory practices will result in a denial of the use of on-post facilities. However, the provisions of this paragraph do not prohibit the installation commander from approving the operation of private organizations that restrict membership to one gender if one or more of the following apply:

(1) The private organization's purpose is philanthropic and, by tradition, its membership has been of one gender.

(2) The private organization's purpose and functions is to benefit one sex, and its membership is composed of that gender (Examples are scouting organizations or women's and men's sporting associations.)

(3) The private organization has a specific purpose and function that restricts membership to one gender, but also has a counterpart organization with the same purpose and function. (Examples are women's and men's sport clubs, women's and men's civic associations, and boy and girl scouting organizations.)

6-9. Procedures for processing equal opportunity complaints

a. Individual rights. Soldiers, Family members and DA civilians have the right to—

- (1) Present a complaint to the command without fear of intimidation, reprisal, or harassment.
- (2) Communicate with the commander concerning their complaints.
- (3) Receive assistance when submitting a complaint.
- (4) Receive training on the Army's EO complaint and appeals process.

b. Individual responsibility. Individuals are responsible for—

- (1) Advising the command of any incidents of sexual harassment and unlawful discrimination complaints and providing the command an opportunity to take appropriate action to rectify/resolve the issue.
- (2) Submitting only legitimate complaints and exercising caution against unfounded or reckless charges.

c. Individual attempts to resolve complaints. It is recommended that the individual attempt to resolve a complaint by first informing the alleged offender that the behavior must stop.

d. Filing and processing equal opportunity complaints. For filing and processing of EO or sexual harassment complaints, follow the procedures outlined in appendix D.

6-10. Housing complaints

Complaints of housing discrimination involving unequal treatment because of race, color, religion, gender, or national origin will be forwarded to the local housing division for processing. AR 210-50 provides policy for housing issues.

6-11. Evaluation reports

a. Entries. The performance evaluation process provides commanders and supervisors an excellent opportunity to discuss their goals, objectives, and expectations of the EO and EEO programs. In counseling session, commanders and supervisors should discuss these programs as expressions of the Army's values and encourage support of these programs and how they intend to evaluate individual behaviors and actions. When evaluating officers, enlisted Soldiers, or DA civilian employees, rating officials will evaluate those individuals' commitment to the goals and objectives of the EO or EEO program. This includes the individuals' actions or non-actions toward the prevention and elimination of unlawful discrimination and/or sexual harassment. Raters are required to document significant deviations from that commitment and identify instances of reprisal/retaliation taken by the rated individual in that evaluation report (see AR 623-3). Substantiated EO complaints as a result of AR 15-6 investigation require a "Does not support EO" on the noncommissioned officer evaluation report or a "No" in Part IV-Performance Evaluation Professionalism, A. Army Values, 5. Respect, on the officer evaluation report. This documentation may include administering appropriate administrative, disciplinary, or legal action(s) to correct offensive behavior.

b. Appeals. Appeals of officer evaluation reports due to alleged unlawful discrimination, sexual harassment, or reprisal will be conducted according to the procedures specified in AR 623-3. Appeals of noncommissioned officer evaluation reports, based on allegations of unlawful discrimination, sexual harassment, or reprisal, will be submitted according to the procedures outlined in AR 623-3.

6-12. Civilian schooling

Army personnel pursuing an educational program at an institution that unlawfully discriminates in the admission or subsequent treatment of students will not be financially assisted from appropriated fund resources. Exceptions to this policy will be considered when the applicant has previously attended the institution in question and will suffer personal hardship through loss of earned credits if a transfer is required. When Soldiers seek continuation of civilian schooling with schools barred from receiving DOD or DA funds because they discriminate in their admission practices or subsequent treatment of students, they will request an exception to policy through command channels.

6-13. Legal assistance

Within the framework of the legal assistance program, legal assistance may be provided to Soldiers who believe they have been denied federally protected rights. If the civil rights of Soldiers seem endangered and an appearance in court or other legal action beyond the authority of the legal assistance officer is required, the matter will be reported to The Judge Advocate General (HQDA (DAJA-CL), Washington DC 20310-2200 for possible referral to the Department of Justice (see AR 27-40).

6-14. Equal Opportunity Action Plans

The EOAPs are planned, achievable steps that eliminate practices denying fair and equitable treatment to Soldiers and their Families, and that monitor progress toward these goals.

a. Each ACOM, ASCC, DRU, installation, separate unit, agency, and activity down to and including brigade-level or equivalent will develop and implement EOAPs. The DA Pam 600-26 is the HQDA EOAP that monitors the centralized personnel management processes for which HQDA has responsibility. Heads of staff proponent agencies and their field operating agencies provide input to this EOAP. Unit EOAPs will be written in accordance with DA Pam 600-26.

200274

b. Units will review EOAPs annually to assess the effectiveness of past actions; to initiate new actions, and to sustain, monitor, or delete goals already achieved.

c. Commanders will provide a copy of their EOAP to the next higher commander.

d. Affirmative Employment Plans for civilian employees will be established in accordance with AR 690-12.

6-15. Training

a. Minimum criteria for local unit training programs.

(1) The commander will incorporate EO training into the overall training plan for the unit. The Soldier Support Institute publishes TC 26-6, Commander's EO Handbook, that may assist commanders in developing required training. Active Army and RCs commanders of TOE/modified table of organization and equipment/TDA units will add the following topics to their quarterly or yearly training briefings:

(a) Type and dates of human relations training conducted by the unit since last QTB/yearly training brief (YTB).

(b) Type and dates of human relations training scheduled for the unit before the next QTB/YTB.

(c) The number of EOAs/EORs required, authorized, or on hand and the training they have completed or scheduled prior to next QTB/YTB.

(d) Date last command climate survey was conducted and date next command climate survey is scheduled.

(2) Leaders will conduct mandatory unit EO/POSH training quarterly. Commanders will document training on the unit's training schedule and lead the training. In their training documentation, commanders must include type of training; instructor; date, time and length of training; roster of attendees and issues covered in the session. From time to time, different issues will be of local or Armywide importance and require special emphasis and attention by unit commanders. At a minimum, two of the quarters will consist of POSH training (see para 7-8). The other two quarters will consist of training that is interactive, small group, discussion-based (for example, using Consideration of Others methodology) and can focus on these topics—

(a) Objectives of the Army EO Program.

(b) Army and local command policies on EO.

(c) Objectives of EOAPs.

(d) Behavioral characteristics and other indicators of EO problems, what behaviors are and are not appropriate, and acceptable behaviors leading to unit cohesion and teamwork.

(e) The impact of individual and institutional discrimination on mission accomplishment.

(f) Proper handling of EO complaints and the EO complaint system.

(g) Identifying, dealing with, preventing, and eliminating racial and ethnic discrimination and sexual harassment.

(h) Legal and administrative consequences of participating in acts of unlawful discrimination and sexual harassment.

(i) Individual responsibilities of both Soldiers and DA civilians concerning EO and the prevention and eradication of sexual harassment (that is, identifying inappropriate behaviors, handling complaints, developing techniques in dealing with sexual harassment, developing assertiveness skills, submitting complaints in the event the situation cannot be handled on-the-spot or one-on-one, and reporting incidents to the chain of command).

(j) The importance of honest and open interpersonal communications in promoting a healthy unit climate.

(k) Unit climate assessment—what it is, what it is used for, what makes it important, how it is done, what its results mean and what to do about various results.

(l) Review of actual unit climate assessment findings and amplification of issues raised. If appropriate, the commander will discuss issues that surface from assessment and develop an action plan to improve unit climate with unit members.

(3) The chain of command and other leaders (commander, CSM, sergeant major (SGM), ISG, civilian supervisors, and others) will be present and participate in unit EO sessions.

(4) Headquarters elements of units of action and higher units will conduct EO and prevention/eradication of sexual harassment training (for example, a senior leader/executive-level seminar) a minimum of once a year. Training will be small group, interactive, and discussion-based. It should emphasize findings determined as a result of unit command climate assessments.

b. Generally, training for Army War College and PCC will cover—

(1) Planning and resourcing the implementation of the Army's EO program.

(2) Creating positive command climates that promote fair and equal treatment and that create opportunities for all Soldiers, civilians, and Family members by—

(a) Publishing policies and evaluating subordinate unit EO initiatives.

(b) Ensuring that EO training is focused on the roles, duties, and responsibilities for EO and the prevention and eradication of sexual harassment; on leader skills needed to handle Soldier issues to include racial, cultural, and gender considerations; and on preventing, detecting, and avoiding conditions and situations that could lead to unprofessional behaviors and acts.

(c) Conducting unit climate assessments, analyzing the data, and using feedback to improve living and working environments.

200275

(d) Promptly investigating complaints and incident reports, taking action against offenders, correcting conditions and situations that could lead to incidents/complaints, and implementing actions to prevent recurrence.

(e) Utilizing EOAs to monitor unit environment and to assist in the development of unit training and in the resolution of complaints.

(f) Planning and conducting special/ethnic observance activities.

(g) Monitoring and evaluating their own and subordinate unit EOAPs.

c. Generally, Senior Executive Diversity Awareness Training will cover—

(1) Planning and resourcing the implementation of the Army's EO program.

(2) Creating positive command climates that promote fair and equal treatment and that create opportunities for all Soldiers, civilians, and Family members.

(3) Contemporary issues in EO and the prevention and eradication of sexual harassment.

6-16. Authority to collect and maintain data

The Office of the DCS, G-1, HQDA will collect, record, and maintain racial, ethnic group, and gender data and statistics needed to support the Army EO Program, to include EOAP reporting requirements. Heads of DA Staff elements, ACOMs, ASCCs, DRUs, separate agencies, and other activities and units required to support these efforts are authorized to collect, record, and maintain data and statistics. Statistical data is maintained for various aspects of the personnel management subject areas, using the racial, ethnic, and gender codes found in AR 680-29.

6-17. Narrative and statistical reports on EO progress

All ACOMs, ASCCs, or DRUs will submit a QNSR on EO progress to HQDA no later than 30 days following the end of each quarter, utilizing the automated EO database. Deployed units will submit their reports to their parent units or ACOMs, ASCCs, or DRUs. Reports will include the following information:

a. *Complaint information.* Total number of formal Army complaints filed by quarter, according to type (that is, gender, ethnicity, racial, religion, or sexual harassment), and whether or not the reports are pending, substantiated, or unsubstantiated. Data also include information on the complainant's unit, rank, race, gender, date of complaint, method of resolution, action taken, and the commander's assessment of the Human Relations Climate of his or her unit and comments.

b. *Command profile.* Command position breakout (brigade, battalion, company commanders, executive officers/operations officers, CSMs, and ISGs) by racial, ethnic and gender groups.

c. *Major subordinate command data.* Listing of all major subordinate commands (MSCs) with breakout of total number of brigades, battalions, and companies (MSC ACOM, ASCC, or DRU will be included). Also reflects number of EOAs required, authorized, and on hand.

d. *Program manager and equal opportunity advisor listing.* Alphabetical listing of all EOAs with information on race, gender, unit, level, staffing (TDA or TOE) and comments. Also includes date EOA arrived and replacement data.

e. *Quarterly equal opportunity report.* Who conducted command inspection programs (CIPs)/SAVs, numbers of training sessions conducted, and number of commanders and ISGs who attended commander's courses.

f. *Unit assessment report.* Listing of unit assessments (UAs) conducted for the quarter by MSC or unit level to include the tool (MEOCS, Training Diagnostic Assessment System, the command climate survey (mandatory for company commanders), and so forth) used to conduct the UA, and comments.

6-18. Training for civilian duty positions in the military Equal Opportunity Program at Defense Equal Opportunity Management Institute

a. *Allocations.* Civilian allocations for the DEOMI will be controlled by the CG, AHRC. The CNGB, CG FORSCOM, and the CAR will control allocations for their respective Reserve elements and will prescribe the way in which civilian requests are submitted.

b. *Application.* Commanders desiring to send civilians who are officially assigned to duties in the Army EO Program to the DEOMI will send an application to the appropriate ACOM, ASCC, or DRU. If approved, the ACOM, ASCC, or DRU will request a training seat from the Commanding General, US Army Human Resources Command (AHRC-OPA-E) 1600 Spearhead Division, Fort Knox, KY 40122-5201. If all training seats are filled, the request will be considered for a later class if the ACOM, ASCC, or DRU desires. Requests for allocations must be submitted in writing to arrive at AHRC no later than 45 days before the starting date of the requested class.

c. *Command notification of Defense Equal Opportunity Management Institute.* When the requesting command receives an approved training seat, the command will provide the Commandant at DEOMI: Name, grade, SSN, educational level, military mailing address, and telephone number of the candidate for training and the desired course number.

d. *Civilian personnel selection requirements.* Civilian personnel prerequisites for attendance at the DEOMI are as follows:

(1) Be in grade GS-7 or above or be slated for promotion to GS-7 upon completion of the course.

(2) Occupy or be scheduled to occupy an officially assigned position in the military EO program in accordance with applicable position classification standards and guidelines.

(3) Be considered suitable for EO duties as determined in an interview conducted by the commander on whose staff the person will be assigned.

e. Request procedures. The ACOMs, ASCCs, or DRUs, when requesting allocations, will send the following information to AHRC:

(1) Class desired to attend.

(2) Willingness to accept an allocation in a subsequent class if the requested class is filled.

f. Funding. Attendee's current unit of assignment provides funding for "TDY and return".

6-19. Equal opportunity special/ethnic observances

EO special/ethnic observances are conducted to enhance cross-cultural awareness among all Soldiers, civilian employees, and their Families. These observances recognize the achievements and contributions made by members of specific racial, ethnic, or gender groups in our society. The observances should also promote understanding, teamwork, harmony, pride, and esprit among all groups, not just within the specific group being honored.

a. HQDA, Office Deputy Chief of Staff, G-1 possesses general staff responsibility for establishing policy and identifying the time period for each observance.

b. Senior mission/installation commanders will—

(1) Develop, plan, and conduct observances during the designated time frame as outlined in table 6-1 or as otherwise directed by HQDA.

(2) Encourage all members of the military community to contribute to and participate in the planning, implementation, and conduct of the observance activities.

(3) Involve members of the staff elements and subordinate units in the development and conduct of observance functions.

(4) Select and announce an appropriate theme for the observance, consistent with the spirit of the event and the needs of the local community. National or DOD themes are often published that may be used to augment the activities.

c. The EO Program management or education and training funds may be spent on activities and publications that are intended to promote cross-cultural harmony and awareness. Examples of permissible expenditures include guest speakers, artistic or cultural activities, food exhibits or samples (samples are not intended as meals or refreshments). Additionally, funds may be allocated to commercial entertainment as part of an educational awareness program. Commanders will ensure that projected events amplify the contributions made to the Army and to society by the featured ethnic, gender, or racial group.

d. Commanders will publicize the cultural/ethnic event in post newspapers and bulletins to provide widest dissemination possible.

e. Commanders will form a standing committee to plan cultural observances. Members of the committee may include the EOA, morale, welfare and recreations officer, public affairs officer, club managers, unit chaplains, DOD dependent school representatives, resource management personnel, and other individuals as necessary.

f. Commanders will encourage maximum use of recreational facilities to include the post library, recreation center, theater, and so forth for use during observation of the special events. Suggested activities include the following:

(1) Special displays in libraries.

(2) Expositions and displays of arts and crafts.

(3) Special music or drama programs.

(4) Programs featuring historical achievements and contributions by various ethnic groups to Government, education, industry, religion, music and theater 5). Speeches from local chain of command and DOD civilians.

g. Activities will be designated and scheduled to allow for maximum attendance by all Soldiers and civilians within the command. Commanders will establish a policy that ensures that all personnel desiring to participate in these observances are given a reasonable opportunity to do so.

h. A consolidated annual observance recognizing members of all racial/ethnic/gender groups may be conducted in addition to (but will not be used in place of) the observances listed in table 6-1.

i. Funding for installation special/ethnic observances will come from HQ, Installation Management Agency to the GC.

Chapter 7 Prevention of Sexual Harassment

7-1. Overview

The POSH is a commander's responsibility. The EOA plays a pivotal role by assisting the commander with policy

awareness, training, command climate assessments, complaints processing, and overall advisory assistance concerning the POSH.

7-2. Chain of command responsibilities

Commanders and supervisors will—

a. Ensure that assigned personnel (to include RC personnel under their jurisdiction) are familiar with the Army policy on sexual harassment.

b. Publish and post written command policy statements for the POSH. All statements will be consistent with Army policy. They will include the local command's commitment to the Army's policy against sexual harassment and will reaffirm that sexual harassment will not be tolerated. The statement will explain how and where to file complaints and will state that all complainants will be protected from acts or threats of reprisal. Each ACOM, ASCC, DRU, installation, separate unit, agency, and activity down to company, troop, or battery level will publish a sexual harassment command policy statement. Units should coordinate these policy statements with the servicing SJA or legal advisor before publishing them.

c. Continually assess and be aware of the climate of command regarding sexual harassment. Identify problems or potential problems. Take prompt, decisive action to investigate all complaints of sexual harassment. Either resolve the problem at the lowest possible level or, if necessary, take formal disciplinary or administrative action. Do not allow Soldiers to be retaliated against for filing complaints. Continually monitor the unit and assess sexual harassment prevention policies and programs at all levels within area of responsibility. Ensure all leaders understand that if they witness or otherwise know of incidents of sexual harassment, they are obligated to act. If they do not, they themselves are also engaging in sexual harassment.

d. Set the standard.

7-3. Policy

a. The policy of the Army is that sexual harassment is unacceptable conduct and will not be tolerated. Army leadership at all levels will be committed to creating and maintaining an environment conducive to maximum productivity and respect for human dignity. Sexual harassment destroys teamwork and negatively affects combat readiness. The Army bases its success on mission accomplishment. Successful mission accomplishment can be achieved only in an environment free of sexual harassment for all personnel.

b. The POSH is the responsibility of every Soldier and DA civilian. Leaders set the standard for Soldiers and DA civilians to follow.

7-4. Definition

a. Sexual harassment is a form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature between the same or opposite genders when—

(1) Submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, 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 environment.

b. 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. Similarly, 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.

7-5. Categories of sexual harassment

a. Verbal. Examples of verbal sexual harassment may include telling sexual jokes; using sexually explicit profanity, threats, sexually oriented cadences, or sexual comments; whistling in a sexually suggestive manner; and describing certain attributes of one's physical appearance in a sexual manner. Verbal sexual harassment may also include using terms of endearment such as "honey", "babe", "sweetheart", "dear", "stud", or "hunk" in referring to Soldiers, civilian co-workers, or Family members.

b. Nonverbal. Examples of nonverbal sexual harassment may include staring at someone (that is, "undressing someone with one's eyes"), blowing kisses, winking, or licking one's lips in a suggestive manner. Nonverbal sexual harassment also includes printed material (for example, displaying sexually oriented pictures or cartoons); using sexually oriented screen savers on one's computer; or sending sexually oriented notes, letters, faxes, or email.

c. Physical contact. Examples of physical sexual harassment may include touching, patting, pinching, bumping, grabbing, cornering, or blocking a passageway; kissing; and providing unsolicited back or neck rubs. Sexual assault

200278

and rape are extreme forms of sexual harassment and serious criminal acts. When these acts occur, report them in accordance with the procedure outlined in chapter 8 and appendix H, of this regulation.

7-6. Types of sexual harassment

a. Quid pro quo. "Quid pro quo" is a Latin term meaning "this for that." This term refers to conditions placed on a person's career or terms of employment in return for favors. It includes implicit or explicit threats of adverse action if the person does not submit to such conditions and promises of favorable actions if the person does submit to such conditions. Examples include demanding sexual favors in exchange for a promotion, award, or favorable assignment; disciplining or relieving a subordinate who refuses sexual advances; and threats of poor job evaluation for refusing sexual advances. Incidents of "quid pro quo" may also have a harassing effect on third persons. It may result in allegations of sexual favoritism or general discrimination when a person feels unfairly deprived of recognition, advancement, or career opportunities because of favoritism shown to another Soldier or civilian employee on the basis of a sexual relationship. An example would be a Soldier who is not recommended for promotion and who believes that his or her squad leader recommended another Soldier in his or her squad for promotion on the basis of provided or promised sexual favors, not upon merit or ability.

b. Hostile environment. A hostile environment occurs when Soldiers or civilians are subjected to offensive, unwanted and unsolicited comments, or behaviors of a sexual nature. If these behaviors unreasonably interfere with their performance, regardless of whether the harasser and the victim are in the same workplace, then the environment is classified as hostile. A hostile environment brings the topic of sex or gender differences into the workplace in any one of a number of forms. It does not necessarily include the more blatant acts of "quid pro quo"; it normally includes nonviolent, gender-biased sexual behaviors (for example, the use of derogatory gender-biased terms, comments about body parts, suggestive pictures, explicit jokes, and unwanted touching).

7-7. Techniques of dealing with sexual harassment

All Soldiers and civilians have a responsibility to help resolve acts of sexual harassment. Examples of how to accomplish this follows:

a. Direct approach. Confront the harasser and tell him/her that the behavior is not appreciated, not welcomed and that it must stop. Stay focused on the behavior and its impact. Use common courtesy. Write down thoughts before approaching the individual involved.

b. Indirect approach. Send a letter to the harasser stating the facts, personal feelings about the inappropriate behavior and expected resolution.

c. Third party. Request assistance from another person. Ask someone else to talk to the harasser, to accompany the victim, or to intervene on behalf of the victim to resolve the conflict.

d. Chain of command. Report the behavior to immediate supervisor or others in chain of command and ask for assistance in resolving the situation.

e. Filing a formal complaint. Details for filing an informal or formal complaint are included in appendix D.

7-8. Training

The elimination of sexual harassment within a unit begins with a policy of aggressive and progressive training to identify and prevent inappropriate behavior. Units will conduct progressive, interactive small group sexual harassment training twice each year. Soldiers must understand what sexual harassment is, how to recognize it, how to prevent it, how to report it, and the consequences of engaging in sexual harassment.

a. The quality and effectiveness of unit training are of primary concern. The most effective approach to training to prevent sexual harassment is through interactive discussion in small groups of mixed gender. Situational vignettes or scenarios should be used to facilitate discussion among unit Soldiers and civilians. Role play is also an effective training means. The training focus should be appropriate to the level of the experience and breadth of responsibilities of each target audience. Unit commanders must attend this training and evaluate its content and quality.

b. Unit training for junior enlisted and civilian employees will focus on defining sexual harassment and gender discrimination, sanctions that may be used to punish harassers, techniques for Soldiers to deal with sexual harassment and methods of filing a complaint through the complaint system.

c. Unit training or professional development training for junior officers, NCOs and civilian supervisors will reinforce the aforementioned training. In addition, emphasis should be placed on promoting a healthy work environment within the section or unit as well as on techniques for receiving, handling and resolving complaints. Training on the EO complaint system must include leader responsibilities in processing informal and formal complaints. It must emphasize the prevention of reprisal actions against complainants.

d. Training at unit level for senior NCOs, WOs, officers, civilian managers and senior executive service personnel will focus on fostering a healthy command climate and using appropriate means for determining a healthy command climate. This training will also focus on sanctions for offenders. In addition, it will reinforce the elements of training they receive at a more junior level.

200279

e. Leaders may enlist the service of their brigade or higher level EOA or TC 26-6, Commander's EO Handbook, to help prepare and conduct POSH training.

f. Commanders will document POSH training on the unit's training schedule. Documentation will include type, instructor, date, time, length of training, roster of attendees, and issues covered in the session.

g. The chain of command and EOAs will attend and participate in POSH sessions.

7-9. Complaints

Filing and processing of sexual harassment complaints follow the same procedures as outlined in appendix D for EO complaints. Charges of sexual misconduct are to be processed through legal/ law enforcement channels, not EO channels.

Chapter 8 Sexual Assault Prevention and Response Program

8-1. Purpose and goals of the program

a. *Purpose.* The SAPR Program reinforces the Army's commitment to eliminate incidents of sexual assault through a comprehensive policy that centers on awareness and prevention, training and education, victim advocacy, response, reporting, and accountability. Army policy promotes sensitive care and confidential reporting for victims of sexual assault and accountability for those who commit these crimes. For the purposes of this policy, confidentiality or confidential reporting is defined as allowing a Soldier to report a sexual assault to specified individuals. This reporting option gives the Soldier access to medical care, counseling, and victim advocacy, without initiating the investigative process. See appendix H for full discussion of confidentiality policy for victims of sexual assault.

b. *Goals.* The goals of the SAPR Program are to—

(1) Create a climate that minimizes sexual assault incidents, which impact Army personnel, Army civilians, and Family members, and, if an incident should occur, ensure that victims and subjects are treated according to Army policy.

(2) Create a climate that encourages victims to report incidents of sexual assault without fear.

(3) Establish sexual assault prevention training and awareness programs to educate Soldiers.

(4) Ensure sensitive and comprehensive treatment to restore victims' health and Well-being.

(5) Ensure leaders understand their roles and responsibilities regarding response to sexual assault victims, thoroughly investigate allegations of sexual assault, and take appropriate administrative and disciplinary action.

8-2. Sexual assault policy

a. Sexual assault is a criminal offense that has no place in the Army. It degrades mission readiness by devastating the Army's ability to work effectively as a team. Every Soldier who is aware of a sexual assault should immediately (within 24 hours) report incidents. Sexual assault is incompatible with Army values and is punishable under the UCMJ and other Federal and local civilian laws.

b. The Army will use training, education, and awareness to minimize sexual assault; to promote the sensitive handling of victims of sexual assault; to offer victim assistance and counseling; to hold those who commit sexual assault offenses accountable; to provide confidential avenues for reporting, and to reinforce a commitment to Army values.

c. The Army will treat all victims of sexual assault with dignity, fairness, and respect.

d. The Army will treat every reported sexual assault incident seriously by following proper guidelines. The information and circumstances of the allegations will be disclosed on a need-to-know basis only.

e. This policy applies—

(1) Both on and off post and during duty and non-duty hours.

(2) To working, living, and recreational environments (including both on- and off-post housing).

8-3. Victim Advocacy Program

Victim's use of advocacy services is optional; however, commanders must ensure that victims have access to a well-coordinated, highly responsive sexual assault Victim Advocacy Program that is available 24 hours per day/7 days per week both in the garrison and in a deployed environment.

a. There are three echelons of sexual assault victim advocates (VAs) in the Army's program in garrison:

(1) The installation sexual assault response coordinator (SARC) is responsible for coordinating the local implementation of the program.

(2) Installation victim advocates (IVA) work directly with the installation SARC, victims of sexual assault, unit victim advocates (UVAs), and other installation response agencies.

(3) The UVAs are Soldiers who are trained to provide limited victim advocacy as a collateral duty.

b. In a deployed environment, there are two echelons of VAs:

(1) Deployable SARC are Soldiers trained and responsible for coordinating the SAPR Program as a collateral duty in a specified area of a deployed theater. There is one deployable SARC at each brigade/unit of action and higher echelon.

(2) The UVAs are Soldiers trained to provide victim advocacy as a collateral duty. There are two UVAs for each battalion-sized unit.

8-4. Definitions

For the purpose of this policy—

a. *Sexual assault.* 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 rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or age of 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. *Other sex-related offenses.* Other sex-related offenses are defined as all other sexual acts or acts in violation of the UCMJ that do not meet the above definition of sexual assault, or the definition of sexual harassment as promulgated in DODD 1350.2. Examples of other sex-related offenses could include indecent acts with another and adultery. (For the specific articles of sexual assault offenses under the UCMJ, see the MCM.)

c. *Restricted reporting.* Restricted reporting allows a Soldier who is a sexual assault victim, on a confidential basis, to disclose the details of his/her assault to specifically identified individuals and receive medical treatment and counseling, without triggering the official investigative process. Soldiers who are sexually assaulted and desire restricted reporting under this policy should report the assault to the SARC, VA, chaplain, or a healthcare provider.

d. *Unrestricted reporting.* Unrestricted reporting allows a Soldier who is sexually assaulted and desires medical treatment, counseling, and an official investigation of his/her allegation to use current reporting channels (for example, the chain of command or law enforcement), or he/she may report the incident to the SARC or the on-call VA. Upon notification of a reported sexual assault, the SARC will immediately notify a VA. Additionally, with the victim's consent, the healthcare provider will conduct a forensic examination, which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know. See appendix H for a detailed explanation of restricted and unrestricted reporting.

8-5. Responsibilities

a. *The Deputy Chief of Staff, G-1.* The DCS, G-1 will—

- (1) Be responsible for Armywide policies, doctrine, plans, and initiatives pertaining to the SAPR Program.
- (2) Be responsible for the overall implementation, evaluation, and assessment of the SAPR Program.
- (3) Provide oversight for the coordination of SAPR Program training requirements with the Commander, TRADOC, for all Soldiers throughout the Army's institutional training base.
- (4) Ensure sexual assault awareness and prevention training is incorporated into relevant human relations training (for example, in-processing briefs, Army alcohol/drug abuse prevention education, and POSH training).
- (5) Establish selection criteria, in coordination with the ACSIM, through the USACFSC, for staffing of installation SARCs.
- (6) Develop and provide oversight of the Sexual Assault Data Management System (SADMS).
- (7) Provide sexual assault data reports in accordance with DODI that will be used in quarterly and annual reports to the House and Senate Armed Services Committees.

b. *Director, Sexual Assault Prevention and Response Program.* The Director will—

- (1) Be responsible for the Army's SAPR Program management functions.
- (2) Coordinate with Army staff offices and agencies in establishing policies that reduce sexual assault, streamline reporting, and establish cohesive procedures to support victims, investigative procedures, and all aspects of the SAPR Program.
- (3) Coordinate SAPR Program training requirements with the Commander, TRADOC, for all Soldiers throughout the Army's institutional training base.
 - (a) Coordinate training requirements with the ACSIM, through the Community and Family Support Center (CFSC), to develop programs of instruction and other support materials for sexual assault awareness and prevention training for SARCs, VAs, deployable SARCs, and UVAs.
 - (b) Coordinate training requirements with the Commander, TRADOC, Office of the Judge Advocate General (OTJAG), Office of The Surgeon General (OTSG), and Chief of Chaplains for all Soldiers throughout the Army's institutional training base.
- (4) Ensure periodic evaluations and assessments are conducted of the SAPR Program.

200281

- (5) Maintain SADMS.
- (a) Determine data and statistics to be collected, maintained, and reported by installation SARCs.
- (b) Collect, record, and maintain data on sexual assault cases.
- (6) Monitor sexual assault data and trends.
- c. Provost Marshal General.* The Provost Marshal General will—
- (1) Implement law enforcement and criminal investigation procedures for the immediate investigation of all reports of sexual assault.
- (2) Establish procedures for installation provost marshal staff and Criminal Investigation Command special agents to support SARCs.
- (3) Establish procedures for implementing the provisions of confidentiality as defined in appendix H.
- (4) Ensure that law enforcement personnel receive sensitivity training in responding to victims of sexual assault, as well as training on victim assistance and resources, and related law enforcement investigative responses (see app I).
- (5) Support the submission of sexual assault data into SADMS.
- d. U.S. Army Criminal Investigation Command.* The Commander, U.S. Army Criminal Investigation Command (USACIDC-hereafter referred to in this document as CID) will—
- (1) Establish criminal investigation policies and procedures for investigating incidents of sexual assault that are within the CID investigative authority consistent with DOD policy and implemented in AR 195-1, AR 195-2, AR 190-45, and AR 195-5.
- (2) Ensure that law enforcement personnel receive sensitivity training in responding to victims of sexual assault, as well as training on victim assistance and resources, and related law enforcement investigative responses (see app I).
- (3) Establish procedures in CID regulations that support the role of the SARC and provide status reports to the SARC on investigative activity and other pertinent details to the extent that it will not jeopardize an ongoing investigation or the rights of a potential subject of an ongoing investigation.
- (4) Ensure that the Office of the Staff Judge Advocate is notified when a sexual assault occurs within Army jurisdiction.
- (5) Supervise activities at United States Army Criminal Investigation Laboratory to efficiently process evidence from sexual assault cases.
- (6) Ensure that victims and witnesses are notified of their rights through a completed DD Form 2701 (Initial Information for Victims and Witnesses of Crime). Ensure that the victim and witness are informed of the status of the investigative activity, according to the procedures established by the SARC and to the extent that such actions will not jeopardize an ongoing investigation and the availability of services.
- (7) Ensure that disposition reports by battalion commanders or first lieutenant colonel in the chain of command, DA Form 4833 (Commander's Report of Disciplinary or Administrative Action), are entered into the Army Criminal Investigation and Intelligence System and reported to the Director, U.S. Army Crime Records Center.
- (8) Support the submission of sexual assault data into SADMS.
- (9) Support Armywide and DOD data calls as required.
- (10) Provide a representative with appropriate experience and level of expertise to serve on the sexual assault review board (SARB) (see app F for a detailed description of the SARB).
- (11) Establish procedures for implementing the provisions of confidentiality as defined in appendix H.
- (12) Immediately notify the SARC or the on-call IVA, if after normal duty hours, of all incidents of sexual assault.
- e. Office of the Surgeon General.* The Surgeon General will—
- (1) Implement regulatory guidance and protocols for the medical response and evidence collection kit for sexual assault incidents that include consideration of state and local jurisdictions. Coordinate with local CID office when implementing regulatory guidance and protocols for evidence collection kit.
- (2) Provide guidance to MTF commanders on what medical treatment information may be provided to the SARC to assist in the monitoring of cases and the SARB process.
- (3) Ensure the training of appropriate medical personnel in handling the medical, medical-legal, and psychological aspects of assisting sexual assault victims (see appendix I).
- (4) Initiate or develop, where appropriate, MOUs/MOAs with non-military medical treatment and medical support activities to ensure adequate response and treatment in the areas of counseling, care for victims, practical training for medical examiners, medical or health care professionals in order to maintain optimal readiness and to ensure the same level of care is provided in CONUS, OCONUS, and remote environments.
- (5) Monitor the effectiveness of MOUs/MOAs.
- (6) Ensure that the availability of victim advocacy services is explained to victims presenting for care.
- (7) Maintain the confidentiality of victims' medical information, in accordance with DOD 6025.18-R.
- (8) Ensure that healthcare providers and personnel receive training on dealing with victims of sexual assault—to include options for confidential reporting (see app I).
- (9) Convey to the command any possible adverse duty impact related to the individuals medical condition or

prognosis in accordance with the policy on confidentiality, in accordance with the Health Insurance Portability and Accountability Act (HIPAA).

(10) Support the submission of sexual assault data into the SADMS, in accordance with HIPAA.

(11) Be responsible for overall evaluation and assessment of victim support services provided by MTFs.

(12) Provide a representative with appropriate experience and level of expertise to serve on the SARB.

f. Office of the Chaplain. The Chief of Chaplains will—

(1) Train unit ministry teams in sensitivity to sexual assault victims, dynamics of sexual assault, and basic community information and referral (see app 1).

(2) Provide pastoral and spiritual support to victims of sexual assault, as requested, by the victim.

(3) Explain the availability of victim advocacy services.

(4) Encourage the victim to seek medical attention regardless of whether the victim requires emergency or non-emergency care.

(5) Encourage the victim to seek appropriate assistance and counseling. With the consent of the victim, refer the victim to a qualified individual or an organization that specializes in assisting victims of sexual assault.

(6) Encourage the victim to inform the appropriate law enforcement agency of the incident. Appendix H contains specific information regarding confidentiality and privileged communications.

(7) Maintain confidentiality and privileged communication at the request of the victim.

(8) Report incidents of sexual assault to the SARC when the victim consents. If the assault occurs after normal duty hours, incidents will be reported to the on-call IVA with the victim's consent.

g. Office of the staff judge advocate. The SJA or those personnel under the supervisory authority of the installation SJA will—

(1) Ensure the training of legal personnel comply with the standards as prescribed in appendix I.

(2) Explain the availability of victim advocacy services to victims and notify the SARC.

(3) Notify law enforcement of an officially reported sexual assault if they have not been previously notified.

(4) Implement the local Victim Witness Liaison Program and immediately refer the victim to the Victim Witness Liaison for services as prescribed in AR 27-10.

(5) Minimize events that could bring the victim and the subject(s) into contact with each other (for example, avoid scheduling pre-trial appointments for the victim and subject(s) at the same or adjacent times, and avoid placing the subject(s) and victim in the same court waiting room).

(6) Ensure that victims are informed about the status of the case's legal actions and other pertinent details including courtroom procedures in accordance with Victim Witness Liaison procedures in AR 27-10, chapter 18.

(7) Advise the victim that his or her testimony and/or participation may be requested in proceedings other than a court-martial or civil trial (for example, pre-trial appointments).

(8) Support the submission of sexual assault data into SADMS.

(9) Provide a representative with appropriate experience and level of expertise to serve on the SARB.

h. The Inspector General. The Inspector General will—

(1) Periodically inspect sexual assault prevention, response, and reporting procedures as directed by the directing authority.

(2) Identify noncompliance, analyze significant indicators of deficiencies, and identify responsibility for corrective action.

(3) Report all findings to the directing authority; hand off potential criminal violations to the appropriate agency.

i. Chief, National Guard Bureau, and Chief, U.S. Army Reserve. The CNGB and OCAR will—

(1) Develop, implement, and monitor SAPR Program policies and programs in their respective components. The programs may be modified to meet the information management and reporting requirements of respective components. Programs will include assessments to determine the progress made toward the goals of the SAPR Program.

(2) Establish policy and procedural guidelines that comply with the policy on confidentiality.

(3) Ensure policy and procedures are in place for all first responders to contact the SARC at the time the victim comes forward.

(4) Establish requisite staff positions within the organizations and make resources available to adequately implement SAPR Program requirements.

(5) In a deployed environment, ensure that deployable SARCs and UVAs are designated, in writing, and trained to provide assistance.

(6) Establish sexual assault prevention training in units and PME consistent with HQDA policy and command needs.

(7) Select Army Reserve and National Guard personnel to attend SARC and UVA training.

(8) Ensure Soldiers receive pre-mobilization, mobilization, and post deployment mobilization training related to the prevention and response to sexual assault.

(9) Support the submission of sexual assault data into SADMS.

j. Commanding General, U.S. Army Training and Doctrine Command. The CG, TRADOC, will—

(1) Develop training for prevention of and response to sexual assault in close coordination with the DCS, G-1, OTJAG, ACSIM, and OTSG.

(2) Develop instruction and associated training materials on prevention of and response to sexual assault for use in the accession/initial-entry-training base, PME courses throughout the Army, proponent schools/functional courses, and units. The preferred method of training should be interactive, small-group oriented, and testable. Interesting, sequential human relations training will be imbedded in all levels of PME.

(3) Ensure that SAPR training programs promote awareness of policy, prevention, roles and responsibilities, service providers, identification of confidential sources, victim advocacy services, reporting, and follow-up.

(4) Develop instruction and associated training materials to ensure military police and CID agents receive initial first responder training during their basic courses and refresher training during subsequent professional development courses taught at the U.S. Army Military Police School.

(5) Develop instruction and associated training materials to ensure CID agents receive advanced sexual assault investigation and sensitivity training in their basic course and refresher training during subsequent professional development courses taught at the U.S. Army Military Police School.

(6) Provide assistance and instructional materials to schools not under the jurisdiction of TRADOC, such as the Army Medical Department Center and School and the Inspector General Course.

(7) Conduct required prevention of and response to sexual assault education and training in TRADOC service schools and training centers.

(8) Evaluate the effectiveness of SAPR training conducted in TRADOC service schools and training centers.

k. Commanders of major Army commands. The ACOM, ASCC, or DRU commanders will—

(1) Ensure SAPR training is conducted annually in accordance with procedures as outlined in this policy.

(2) Develop policy guidance on prevention of sexual assault and treatment of victims.

(3) Monitor the execution of the SAPR Program in all commands, agencies, and activities (including Army Reserve and ARNG units when activated) under their jurisdiction.

(4) Designate a SAPR Program proponent to oversee the ACOM, ASCC, or DRU program, reporting, assessments, statistics, trend analyses, and so forth and to coordinate staff proponents.

(5) Provide personnel and other resources to implement the SAPR Program.

(6) Ensure two UVAs are appointed at Battalion level and equivalent units.

(7) Ensure deployable SARC are appointed at brigade/unit of action and higher level units.

(8) Ensure deployable SARCs (brigade and higher) and UVAs have received required training prior to performing duties.

(9) Ensure deployable SARCs and battalion UVAs deploy with assigned units.

(10) Ensure SAPR training (for example, risk factors of sexual assault, use of the buddy system) is integrated into predeployment and post-deployment briefings.

(11) Monitor required SAPR training at units.

(12) Inspect and assess SAPR programs under their respective major command.

(13) Conduct periodic assessments of program effectiveness on mission units and identify improvements.

(14) Comply with AR 600-8-8 and appoint same-gender sponsors for first-term Soldiers.

l. Assistant Chief of Staff for Installation Management. The ACSIM, through the Installation Management Agency and CFSC will—

(1) Design, implement, and manage the SARC and Victim Advocacy Program.

(2) Develop and implement training for SARCs and VAs (see app I).

(3) Establish and publish an integrated resource directory for the SAPR Program that systemically incorporates medical, legal, chaplaincy, and investigative resources, including civilian resources, as well as installation and community-specific information available to assist victims of sexual assault. The ACSIM will also provide materials (for example, handouts, posters) to identify resources to whom sexual assault may be reported (for example, medical facility, chain of command, chaplain, CID, military police, mental health services, VA, and SJA).

(4) Ensure Service members have access to a well-coordinated, highly responsive Victim Advocacy Program.

(5) Identify resource requirements and prepare budget requests to train installation SARCs, deployable SARCs, IVAs, and UVAs.

(6) Develop installation SARC, deployable SARC, IVA, and UVA training guides that contain protocols and procedures that include appropriate levels of assistance.

(7) Provide SAPR education training to company and higher-level commanders within 45 days of assuming their respective leadership roles.

(8) Provide commanders with information to manage SAPR Programs.

(9) Support the submission of sexual assault data from installation SARCs, deployable SARCs, VAs and UVAs in the SADMS.

(10) Develop same-gender sponsorship guidelines for first-term Soldiers and include in AR 600-8-8.

m. Installation commanders (senior mission commanders, regional readiness commander, or state Joint Forces Headquarters level commanders). The installation commanders will—

(1) Ensure that a sexual assault response capability is available 24 hours per day/7 days per week.

(2) Provide UVAs and SARCs as needed for those Army units smaller than a battalion that are stationed on/near the installations, such as Army explosive ordinance detachments, Army counterintelligence units, Corps of Engineers elements, and so forth.

(3) Coordinate with the Family advocacy program manager (FAPM) to ensure that MOUs/MOAs are in place if civilian agencies or other military Services are used as a victim services resource and that the SARC has authority and support to coordinate with appropriate agencies.

(4) Establish an active SARB consistent with appendix F, of this regulation. The installation commander or his/her designated representative, at a minimum, will chair the SARB. Other committee members may be appointed depending on the nature of their responsibilities as they pertain to SAPR. Installation commanders are responsible for maintaining a written summary of the discussions and decisions of each meeting.

(5) Establish written procedures for reporting sexual assaults throughout the chain of command. These procedures must be written in a way so as not to be interpreted by subordinate commanders to mean that allegations must be disposed of in a particular manner that predetermined types or amounts of punishments are appropriate or that adverse action is required in all cases or in a particular case. Authority to dispose of cases that resulted from allegations of sexual assault is withheld to the Battalion commander level and above. A commander authorized to dispose of cases involving an allegation of sexual assault may do so only after receiving the advice of the servicing judge advocate. As with any case, any disposition decision involving an allegation of sexual assault is subject to review by higher level commanders, as appropriate.

(6) Ensure Service members have access to a well-coordinated, highly responsive Victim Advocacy Program.

(7) Provide the safest possible physical and emotional environment on post for all Soldiers, Family members, and other installation residents.

(8) Integrate sexual assault awareness into installation newcomer orientation briefings and provide contact information for all installation level response agencies.

(9) In coordination with FAPM and the Public Affairs Office, conduct media campaigns to ensure Soldiers are aware of the SAPR Program and publicize on- and off-post/non-Army agencies that are available to assist victims.

(10) Publicize installation level information to provide leaders and Soldiers with contact information for all installation level response agencies, to include law enforcement, legal, medical, social services, and others.

(11) Ensure all installation agencies and units comply with the rules of confidentiality (that is, restricted and unrestricted reporting) for Soldiers as stated in appendix H. However, no criminal investigation will be initiated unless originated from another source or the victim elects to come forward via unrestricted reporting.

(12) In accordance with mission requirements, ensure SAPR Program initiatives do not impose artificial restrictions on a selected subgroup of personnel assigned (for example, curfews for women only).

(13) Provide temporary living accommodations for Soldier victims at the victim's request.

(14) Identify sexual assault incident trends and take appropriate measures (that is, increased security patrols, enhanced education and training, enhanced environmental and safety measures) to prevent further sexual assaults.

(15) Comply with AR 600-8-8 and appoint same-gender sponsors for first-term Soldiers.

(16) Provide sexual assault response services for sister Service units that are stationed on/near the installation.

n. Installation provost marshals. The installation provost marshal will—

(1) Respond to all incidents of sexual assault reported to law enforcement.

(2) Ensure that law enforcement personnel responding to a sexual assault incident are trained in sensitivity to victims of sexual assault, victim assistance and resources, confidentiality, and related law enforcement investigative responses.

(3) Immediately report incidents of sexual assault to the SARC and escort victims from the crime scene when requested by the victim, their chain of command, or the CID.

(4) Ensure that victims and witnesses are notified of their rights through a completed DD Form 2701 (Victims and Witnesses of Crime). When the installation provost marshal retains investigative authority and responsibility of a sexual assault incident, the victim and witness will be informed on the status of the investigative activity to the extent that such actions will not jeopardize an ongoing investigation.

(5) Follow the procedures of AR 195-5 and AR 190-45 in documenting and reporting all reports of criminal activity.

(6) Support data collection responsibilities of the installation SARCs for sexual assaults to the extent that such actions will not jeopardize an ongoing investigation or the rights of a potential subject in an ongoing investigation.

(7) Seek to establish formal MOU with civilian law enforcement agencies to establish or improve the flow of information between their agencies. MOUs can be used to clarify jurisdictional issues for the investigation of incidents, to define the mechanism whereby local law enforcement reports involving AD Service members will be forwarded to

the appropriate law enforcement office, and to foster cooperation and collaboration between the installation law enforcement agency and local civilian agencies.

(8) Ensure that disposition reports by commanders are entered into the Centralized Operations Police Suite and forwarded to the Director, U.S. Army Crime Records Center.

(9) Provide a representative with appropriate experience and level of expertise to serve on the SARB.

(10) Support the submission of sexual assault data into SADMS.

o. Unit commanders. Unit commanders will—

(1) Take immediate steps to ensure the victim's physical safety, emotional security, and medical treatment needs are met and that the SARC and appropriate law enforcement/criminal investigative service are notified. See appendix G for additional guidance for commanders responding to a reported sexual assault.

(2) Ensure that the victim or his/her representative consent, in writing, to the release of information to nonofficial parties about the incident and that the victim's status and privacy are protected by limiting information to "need to know" personnel.

(3) Ensure that victims of sexual assault receive sensitive care and support and are not re-victimized as a result of reporting the incident.

(4) Collaborate closely with the SARC, legal, medical, and chaplain offices and other service providers to provide timely, coordinated, and appropriate responses to sexual assault issues and concerns.

(5) Encourage the victim to get a medical examination no matter when the incident occurred.

(6) Report all incidents of sexual assault to CID in accordance with AR 195-1, paragraph 6.

(7) Report sexual assaults to the SARC to ensure victims have access to appropriate assistance and care from the initial time of report to completion of all required treatment.

(8) Report all incidents of sexual assault to the office of the SJA within 24 hours.

(9) Notify the chaplain if the victim desires pastoral counseling or assistance.

(10) Appoint on orders two UVAs per battalion level and equivalent units. Commanders will select qualified officers (CW2/1LT or higher), NCOs (SSG or higher), or DA civilian (GS-9 or higher) for duty as UVAs (see para 8-6 for UVA selection criteria). The first colonel in the chain of command may approve appointing only one UVA for battalions whose small population may not warrant two UVAs. Commanders at all levels may appoint more than the prescribed number of UVAs if this is necessary for very large battalions or units whose geographical dispersion warrants the appointment of more UVAs. Appointment of DA civilian/GS employees to UVA positions may require management to consult with their unions pursuant to their collective bargaining agreement.

(11) Appoint on orders one deployable SARC at each brigade/unit of action level and higher echelon (for example, division, corps, and Army component command). Since installation SARCs are civilians/contractors and do not deploy, the deployable SARC will perform all SARC duties in theater. Commanders will select qualified officers (MAJ/CW3 or higher), NCOs (SFC or higher), or DA civilians (GS-11 or higher) for duty as deployable SARC (see para 8-6 for SARC selection criteria). Appointment of DA civilian/GS employees to SARC positions may require management to consult with their unions pursuant to their collective bargaining agreement.

(12) Ensure deployable SARCs (brigade and higher) and UVAs have received required training prior to performing duties.

(13) Ensure deployable SARCs and UVAs deploy with assigned units.

(14) Ensure unit level SAPR Program training is conducted annually and documented on unit training schedules.

(15) Publish contact information of SARCs, IVA, and UVAs, and provide take-away information such as telephone numbers for unit and installation points of contact, booklets, and information on available victim services.

(16) Advertise the SAPR Program through local means to ensure that Soldiers, Army civilians, Family members, and leaders are aware of the program.

(17) Post written sexual assault policy statements and victim services resource chart on the unit bulletin boards. Statements must include an overview of the command's commitment to the SAPR Program; victim's rights; the definition of sexual assault; available resources to support victims; and specific statements that sexual assault is punishable under the UCMJ and other Federal and local civilian laws and that sexual assault is incompatible with Army values.

(18) Ensure Soldiers receive predeployment and post deployment training related to the prevention and response to sexual assault.

(19) Include emphasis on sexual assault risks, prevention, and response at all holiday safety briefings.

(20) Ensure victims have been offered the services of the SJA's victim witness liaison, advise victims of their rights in accordance with AR 27-10, chapter 18, and make them aware of and encourage them to exercise their options during each phase of the medical, investigative, and legal processes.

(21) When appropriate, consult with the victim on pretrial and charging decisions (as specified in AR 27-10, para 18-15).

(22) As appropriate, refer the victim's Family to available resources (that is, counseling, resources, information, and medical care).

- (23) Follow written procedures established by installation commanders for reporting sexual assault through the chain of command.
- (24) Determine, in a timely manner, how to best dispose of alleged victim collateral misconduct, to include making the decision to defer the disciplinary actions regarding such misconduct until after the final disposition of the sexual assault case. Commanders and supervisors should take into account the trauma to the victim and respond appropriately so as to encourage reporting of sexual assault and the continued cooperation of the victim.
- (25) Determine if an administrative separation of the victim is in the best interests of either the Army or the victim, or both. Regardless of the reason for initiating the separation action, the victim is entitled to a full and fair consideration of her or his military Service and particular situation. It is vital that all such separation actions and all determinations be consistent and appropriate, and be viewed as such. Separation actions are in accordance with AR 600-8-24 and AR 635-200 for enlisted, and appropriate RC regulations.
- (26) When initiating an administrative separation on any Soldier, for any reason (voluntary or involuntary), include documentation in the separation packet that positively identifies the Soldier as having been, or not having been, a victim of sexual assault. Unless otherwise directed by AR 635-200 or AR 600-8-24, this documentation should be in the form of a memorandum, signed by the Soldier or the commander initiating the separation, stating—
- (a) Whether the Soldier was or was not a victim of sexual assault for which an unrestricted report was filed within the past 24 months.
 - (b) Whether the Soldier does or does not believe that this separation action is a direct or indirect result of the sexual assault itself or of filing the unrestricted report, if the above is true.
- (27) When serving as a Special Court-Martial Convening Authority or GCMCA, review all administrative separation actions involving victims of sexual assault identified in paragraph *a*(25), above. Unless otherwise directed by AR 635-200 or AR 600-8-24, the review must consider the following:
- (a) If the separation appears to be in retaliation for the Soldier filing an unrestricted report of sexual assault. If so, consult with the servicing office of the SJA or other legal office.
 - (b) If the separation involves a medical condition that is related to the sexual assault, to include Post Traumatic Stress Disorder. If so, consult with the appropriate medical personnel.
 - (c) If the separation is in the best interests of the Army, the Soldier, or both. If not, consult with the servicing SJA.
 - (d) The status of the case against the alleged offender, and the effect of the Soldier's (victim's) separation on the disposition or prosecution of the case. If the case is still open, consult the servicing CID unit and SJA.
- (28) Ensure all appropriate copies of DA Form 4833 (Commander's Report of Disciplinary Or Administrative Action) are provided to the installation provost marshal and USACIDC within established timelines.
- (29) Determine the best course of action for separating victims from the subject(s) during the investigation of sexual assault cases. Commanders should ensure that re-victimization does not occur. Commanders should consider the victim's preferences and all relevant facts and circumstances of the case to determine the appropriate course of action to avoid re-victimization. Commanders may consider transferring the victim to another unit, but they should also be aware of and consider the fact that there may be a perception that the victim's transfer from the unit is a result of reporting the incident. Commanders may consider using DD Form 2873 (Military Protective Order (MPO)), referred to as "no contact orders." Military Protective Orders are an effective tool for commanders to maintain the safety of the victims and witnesses. If the victim lives off-post, he or she may obtain a restraining order from the civilian courts.
- (30) Ensure feedback on case status is provided to victims of a sexual assault. The battalion commander will update the victim 14 calendar days after the initial report. Thereafter, battalion commanders will ensure, at a minimum, a monthly update is provided to the victim (if report is unrestricted) on the current status of any ongoing investigative, medical, legal, or command proceedings regarding the assault. Monthly updates will continue until the final disposition of the reported assault (that is, the conclusion of any judicial, non-judicial, and administrative actions (including separation) taken in response to the offense, whichever is later in time). Additionally, the battalion commander will follow-up with the victim within 45 days after disposition of the case to ensure the victim's needs have been addressed.
- (31) Consider the option of convalescent leave in accordance with AR 600-8-10 based on the recommendation of the victim's healthcare provider.
- (32) Flag (suspend favorable personnel actions) any Soldier under charges, restraint, or investigation for sexual assault in accordance with AR 600-8-2 and suspend the Soldier's security clearance in accordance with AR 380-67. Flags are not removed until disposition of offenses to include completion of punishment.
- (33) Add a reminder to rating officials that their comprehensive evaluation includes documenting incidents of misconduct, to include those being found guilty of sexual assault. This may include an appropriate annotation in the narrative and/or the values section of the officer evaluation report/noncommissioned officer evaluation report.
- (34) Ensure that Soldiers convicted of sexual assault in foreign, civilian, or military courts are processed for administrative separation. This provision does not apply to Soldiers who have a court-martial sentence that includes a dishonorable discharge, bad conduct discharge, or a dismissal.
- (35) Continually assess the command climate through various methods (for example, focus groups, surveys, talking with Soldiers).
- (36) Conduct periodic assessments of the SAPR Program for program improvement.

(37) Comply with AR 600–8–8 and appoint same-gender sponsors for first-term Soldiers.

p. Sexual assault response coordinators. The installation SARC is a DA or contract civilian employee who works for the FAPM and reports directly to the installation commander for matters concerning incidents of sexual assault. The SARCs will—

(1) Serve as the designated PM of victim support services who coordinates and oversees local implementation and execution of the SAPR Program.

(2) Ensure overall local management of sexual assault awareness, prevention, training, and victim advocacy.

(3) Oversee IVAs and UVAs in the performance of their duties providing victim services.

(4) Ensure victims are properly advised of their options for restricted and unrestricted reporting. Ensure victim acknowledges, in writing, his/her preference for restricted or unrestricted reporting as stated in appendix H. If the victim chooses the restricted reporting option, the victim must acknowledge, in writing, that they understand restricted reporting may limit the ability of the Army to prosecute the assailant and an understanding of why Army policy favors unrestricted reporting.

(a) If the victim chooses the restricted reporting option, ensure the victim is taken to a healthcare provider in lieu of reporting the incident to law enforcement or command.

(b) If the victim chooses the unrestricted reporting option, SARC will immediately notify law enforcement and the healthcare provider.

(c) For the purposes of public safety and command responsibility, the SARC will report information concerning sexual assault incidents, without information that could reasonably lead to personal identification of the victim, to the installation commander within 24 hours of the incident.

(5) With the victim's consent, assign an IVA and/or UVA to assist the victim immediately upon notification of the incident.

(6) Ensure victims of sexual assault receive guidance and emotional support during administrative, medical, investigative, and legal procedures, and that victims understand the processes involved. Data will be collected, reported, and maintained on cases involving victims, subjects, and IVAs and/or UVAs assigned to the case.

(7) Ensure all unrestricted reported incidents of sexual assault are reported to the first lieutenant colonel in the chain of command, CID, military police, and the installation provost marshal within 24 hours of receipt.

(8) Ensure that non-identifying personal information/details related to a restricted report of a sexual assault is provided to the installation commander within 24 hours of occurrence. This information may include: rank, gender, age, race, service component, status, and time and/or location. Ensure that information is disclosed in a manner that preserves a victim's anonymity. Careful consideration of which details to include is of particular significance at installations or other locations where there are a limited number of minority females or female officers assigned.

(9) Work with the local installation public affairs officer to ensure that the installation is informed on programs and services.

(10) Maintain liaison with the provost marshal/CID, medical and legal services, and commanders to facilitate immediate response and accurate reporting of sexual assault incidents.

(11) Track, at a minimum, what subordinate units require UVAs and deployable SARCs, a roster of those UVAs and deployable SARCs, status of their training, and rotation dates (that is, PCS and ETS).

(12) Publish a monthly on-call roster for all VAs assigned to the installation. On-call roster will be provided the month prior to the month of on-call duty.

(13) Ensure that sexual assault prevention, education, and victim advocacy services are available for all service members both on and off post by providing essential coordination.

(14) Conduct senior leader training at installation level to increase awareness of sexual assault issues, high-risk behavior, and victim assistance programs (for example, off post rape crisis centers).

(15) Provide take-away information such as booklets and telephone numbers for installation points of contact (for example, SARC, VA, and UVA).

(16) Receive AT on sexual assault subjects (for example, crisis intervention and response to sexual assault) focused on enhancing the installation's SAPR Program.

(17) Ensure that SARB participants receive appropriate case management training consistent with DOD requirements.

(18) Assist commanders in meeting annual SAPR training requirements, including newcomer and orientation briefings.

(19) Train UVAs and deployable SARCs, ensuring training is conducted using military and civilian subject matter experts and material as appropriate. Deployable SARCs are Soldiers assigned at brigade/unit of action and higher levels of command that will assume the duties of the SARC during deployments.

(20) Ensure that data on sexual assault incidents is received from the responding agencies (that is, SJA, healthcare providers, military police/CID) and reported in SADMS.

(21) Collect, record, and maintain data and statistics as directed by the Director, SAPR Program. Ensure that all

200288

sexual assault information (for example, program information, disposition status of cases) is reported to the Director, SAPR Program.

(22) Maintain case file for 5 years.

(23) Track services provided to victims of sexual assault from initial report of sexual assault through disposition and resolution of the victim's health and Well-being.

(24) Evaluate the effectiveness of prevention programs and advocacy services (for example, how the response team functions, how the victim feels about the system response and treatment received, and risk factor identification).

(25) Serve as a permanent member on the installation SARB.

q. Deployable sexual assault response coordinators. Deployable SARC's are Soldiers appointed on orders assigned at brigade/unit of action and higher levels of command who are designated and trained to assume the duties of the SARC during deployments. The deployable SARC will be an NCO (SFC or higher), officer (MAJ/CW3 or higher), or civilian (GS-11 or above) and should be prepared to assume the executive agent role for coordinating sexual assault response at a level commensurate with the level of command to which they are assigned (that is, brigade/unit of action through theater of operation). The deployable SARC will—

(1) Ensure overall management of sexual assault awareness, prevention, training, and victim advocacy.

(2) Serve as the designated PM of victim support services who coordinates and oversees implementation and execution of the SAPR Program.

(3) Be trained by the installation SARC prior to assuming duty. Brigade or higher SARC must maintain a liaison with the installation SARC in garrison so that they understand the installation's process and procedure for providing services.

(4) Advise the victim on their options for restricted and unrestricted reporting. Ensure victim acknowledges, in writing, his/her preference for restricted or unrestricted reporting. If the victim chooses the restricted reporting option, the victim must acknowledge in writing that they understand restricted reporting may limit the ability of the Army to prosecute the assailant and an understanding of why Army policy favors unrestricted reporting.

(a) If the victim chooses the restricted reported option, ensure the victim is taken to a healthcare provider in lieu of reporting the incident to law enforcement or chain of command.

(b) If the victim chooses the unrestricted reporting option, SARC will immediately notify law enforcement and the healthcare provider.

(c) For the purposes of public safety and command responsibility, the SARC will report information concerning sexual assault incidents, without information that could reasonably lead to personal identification of the victim, to the senior mission commander within 24 hours of the incident.

(5) Assign a UVA to assist the victim immediately upon notification of the incident.

(6) Oversee UVAs in the performance of their UVA duties.

(7) Ensure victims of sexual assault receive guidance and emotional support during administrative, medical, investigative, and legal procedures, and that victims understand the processes involved.

(8) Maintain liaison with the provost marshal/CID, medical and legal services, and commanders to facilitate immediate response and accurate reporting of sexual assault incidents.

(9) Ensure all unrestricted reported incidents of sexual assault are reported to the first LTC in the chain of command, CID, military police, and the installation provost marshal within 24 hours of receipt.

(10) Ensure all sexual assault information (for example, program information, case disposition status) is reported to the theater of operations senior mission commander or designated representative.

(11) Conduct senior leader training to increase awareness of sexual assault issues and high-risk behavior.

(12) Track and maintain a roster of what subordinate units require UVAs and deployable SARC's, status of their training, and rotation dates (that is, PCS and ETS).

(13) Publish and maintain an on-call roster of trained UVAs available to assist victims of sexual assault.

(14) Ensure that data on sexual assault incidents is received from the responding agencies (that is, SJA, healthcare providers, military police/CID, and UVAs) and reported in SADMS.

(15) Turn over case files to installation SARC upon redeployment.

(16) Track services provided to victims of sexual assault from initial report of sexual assault through disposition and resolution of the victim's health and Well-being.

(17) Maintain case management information on incidents of sexual assault and ensure a smooth transition, with the installation SARC, of all cases not completed prior to redeployment.

(18) Train UVAs in a deployed environment.

(19) Serve as a permanent member on the SARB.

r. Installation victim advocates. The IVAs are DA civilian or contract employees trained to provide advocacy services to victims of sexual assault. The IVA reports directly to the SARC for sexual assault cases. At locations where the FAPM performs SARC duties, the IVA will report directly to the FAPM. The IVA will—

(1) Establish contact with each victim who alleges that an act of sexual assault occurred, if the victim is receptive to such contact.

(2) Advise the victim on their options for restricted and unrestricted reporting when assigned a sexual assault case by the SARC; ensure victim acknowledges in writing his/her preference for restricted or unrestricted reporting. (If the victim chooses the restricted reporting option, the victim must acknowledge in writing that they understand restricted reporting may limit the ability of the Army to prosecute the assailant and an understanding of why Army policy favors unrestricted reporting.)

(a) If the victim chooses the restricted reporting option, the IVA will ensure the victim is taken to a healthcare provider in lieu of reporting the incident to law enforcement or command.

(b) If the victim chooses the unrestricted reporting option, the IVA will immediately notify law enforcement and the healthcare provider.

(c) For the purposes of public safety and command responsibility, the IVA will provide information to the SARC, who will in turn report the sexual assault, without information that could reasonably lead to personal identification of the victim, to the installation commander within 24 hours of the incident.

(3) Be knowledgeable about services available to sexual assault victims on the installation as well as in the surrounding community. The IVA will maintain contact with agencies that provide such services, being knowledgeable of the location, telephone number, confidentiality policies and procedures for accessing service at these agencies.

(4) Provide crisis intervention, referral, and ongoing emotional support to the sexual assault victims. Services will be non-clinical in nature. The victim has the right to independently determine whether to accept the offer of IVA services. The IVA must be sensitive to the needs of each victim and tailor services to meet those needs.

(5) Provide initial information to victims on their rights, to include the right to refuse services and explain the scope and limitations of IVAs role as an advocate.

(6) Accompany the victim during investigative interviews and medical examinations, unless the victim chooses not to use the IVAs services. The IVA will not make decisions for the victim, speak for the victim, or interfere with the legitimate operations of medical, investigative, and judicial processes.

(7) Coordinate activities with the SARC and, as needed, with the UVA, on a need-to-know basis, to ensure the best services are provided to victims and to avoid duplication of services.

(8) Provide information on sexual assault issues and victims status to the SARC at an interval determined by the SARC or more frequently if the situation warrants.

(9) Provide on-call services after normal duty hours to victims of sexual assault as needed. The SARC must be fully informed within 2 hours of the start of the next day of all activities that occurred during the on-call duty period.

(10) Provide education and training on the subject of sexual assault to UVAs and other Soldiers as required.

(11) Complete required reports on incidents of sexual assault, to include referrals to victim services. Provide sexual assault reports to the SARC for submission into SADMS.

(12) Safeguard documents in their possession and all information pertaining to victims of sexual assault always being mindful of the victims' right to confidentiality.

(13) Attend ongoing training, as required or recommended by the SARC.

(14) Assist the UVA on performance of their duties as directed by the SARC.

s. *Unit victim advocates.* The UVA is one of two Soldiers/civilians who is appointed on orders by each battalion-level commander and trained to perform collateral duties in support of victims of sexual assault, particularly in deployed environments. UVAs are supervised in the performance of their duties by the SARC. The UVA will be an NCO (SSG or higher), officer (1LT/CW2 or higher), or civilian (GS-9 or higher). The UVAs will—

(1) When assigned by the SARC, provide crisis intervention, referral, and ongoing non-clinical support to the sexual assault victim. In the case of multiple victims, each victim should have a VA (IVA or UVA). The victim alone will decide whether to accept the offer of victim advocacy services.

(2) Report to and coordinate directly with the SARC or designated IVA when assigned to assist a victim of sexual assault.

(3) Meet standards for selection and attend annual and ongoing training.

(4) Inform victims of their options for restricted and unrestricted reporting, and explain the scope and limitations of the UVA's role as an advocate. If the victim chooses the restricted reporting option, the victim must acknowledge, in writing, that they understand restricted reporting may limit the ability of the Army to prosecute the assailant and an understanding of why Army policy favors unrestricted reporting.

(a) If the victim chooses the restricted reporting option, ensure the victim is taken to a healthcare provider in lieu of reporting the incident to law enforcement or chain of command.

(b) If the victim chooses the unrestricted reporting option, UVA will immediately notify law enforcement and the healthcare provider.

(c) For the purposes of public safety and command responsibility, the UVA will provide information to the SARC/deployable SARC who will in turn report the sexual assault, without information that could reasonably lead to personal identification of the victim, to the installation commander/senior mission commander within 24 hours of the incident.

(5) Inform victims of the options to use service providers (for example, medical, legal, and chaplain) and resources available to victims.

(6) Provide support to the victim throughout the medical, investigative, and judicial process; however, a victim may opt to seek assistance without the presence or assistance of the UVA. The UVA will exercise sensitivity with regard to the victim at all times, but will not counsel the victim. The UVA will accompany the victim, at the victim's request, during investigative interviews and medical examinations. The UVA's mission is to support, assist, and guide the victim through the process. The UVA is not to make decisions for the victim, speak for the victim, or interfere with the legitimate operations of medical, investigative, and judicial processes.

(7) Safeguard documents in their possession pertaining to sexual assault incidents and protect information that is case related.

(8) Complete a report on sexual assault as prescribed by the SARC.

(9) UVAs assigned to CID elements will not be detailed to perform VA support outside of CID units.

(10) UVAs assigned to military police units and DOD police assigned to the installation provost marshals office will not be detailed to perform VA support outside of military police units.

8-6. Deployable sexual assault response coordinator and unit victim advocate selection criteria

Because of the sensitivity and complexity of working with sexual assault victims, the deployable SARC and UVA must be carefully selected. These Soldiers are likely to become involved in highly charged, emotionally stressful situations in assisting victims of sexual assault. As a result, all candidates must be properly screened and complete training in responding appropriately to victims of sexual assault. Deployable SARCs and UVAs will be selected in accordance with the following requirements:

a. Be recommended by the chain of command. The first LTC or battalion level equivalent or higher commander will approve the recommendation and sign the appointment orders.

b. Be deployable.

c. Be able to respond to a sexual assault incident at anytime when on call.

d. Have outstanding duty performance, as evidenced by a review of the individual's evaluation reports.

e. Demonstrate stability in personal affairs. Soldier will not have a history of domestic violence or severe personal problems, including significant indebtedness, excessive use of alcohol, or any use of illegal drugs.

f. Be required to obtain a waiver from HQDA in instances where individuals have withdrawn from the Human Reliability or Personal Reliability Program during the 2 years preceding the nomination.

g. Must not have been punished under the provisions of the UCMJ during the 5 years preceding the nomination.

h. Must be deployable with a minimum of 1 year retainability in the unit (for short tour areas, UVA must have a minimum of 6 months retainability in the unit). This requirement is non-waiverable.

i. The deployable SARC will be an NCO (SFC or higher), officer (MAJ/CW3 or higher), or civilian (GS-11 or higher).

j. The UVA will be an NCO (SSG or higher), officer (1LT/CW2 or higher), or civilian (GS-9 or higher).

k. Must be appointed on orders to the collateral duty of UVA/deployable SARC.

l. Must be available to attend the SARB, as required.

m. Must complete continuing education requirements on an annual basis. Following selection, UVAs/deployable SARCs must successfully complete required training as a UVA/deployable SARC prior to assuming responsibility within the unit.

8-7. Training

The objective of SAPR training is to eliminate incidents of sexual assault through a comprehensive program that focuses on awareness and prevention, education, victim advocacy, reporting, response, and follow up. There are four categories of training for the SAPR Program. This includes PME training, unit level training, predeployment training, and responder training.

a. *Professional military education.* The PME training is progressive and sequential and includes the following areas:

(1) Initial entry training.

(2) Pre-commissioning/basic officer leadership instruction-I to include ROTC and Junior ROTC.

(3) Basic officer leadership instruction II, Warrant Officer Basic Course, Primary Leadership Development Course.

(4) Captain's Career Course, Warrant Officer Advanced Course, and Basic Noncommissioned Officer Course.

(5) General officer training, Army War College, PCC, Warrant Officer Senior Course, Sergeants Major Course, and First Sergeant (1SG) Course.

(6) Drill sergeant and recruiter training.

b. *Unit level training.* All Soldiers will attend and participate in unit level SAPR training annually. Training will be scenario based, using real life situations to demonstrate the entire cycle of reporting, response, and accountability procedures. Training should be inclusive of audience and group participation.

(1) The commander will incorporate sexual assault prevention training into the overall unit training plan. Commanders should annotate sexual assault prevention training on the unit training schedule. The training will be based on Army values to promote respect and dignity and to reinforce the Army's commitment to the Warrior Ethos. The chain of

command and other leaders (commander, CSM, SGM, ISG, civilian supervisors, and others) will be present and participate in unit sexual assault sessions.

(2) Sexual Assault Prevention and Response Program training is not an extension of sexual harassment training. Trainers should clarify the differences between harassment and assault and identify those dynamics that are unique to sexual assault.

(3) Persons conducting training must use formal training packages on the SAPR Program. Critical points to stress during unit training include—

- (a) The Army's policy on sexual assault.
- (b) Definitions and examples of sexual assault (use definitions in para 8-4 of this document).
- (c) Resources to assist victims of sexual assault.
- (d) Sexual assault prevention and the appropriate responses.
- (e) Chain of command responsibilities for enforcing the Army's policy on sexual assault.
- (f) Risk factors and issues in the unit setting including deployed environments.
- (g) Timely reporting of sexual assault.
- (h) Privileged and confidential communications (restricted and unrestricted reporting).
- (i) Victim rights.
- (j) Potential first responder points of contact to initiate victim assistance include reporting a sexual assault incident to the following (asterisk indicates agencies with whom victims can initiate a restricted report):

1. Medical services.*
2. Law enforcement.
3. Chaplains.*
4. Chain of command.
5. Legal services.
6. Family Advocacy Program.
7. Equal opportunity advisor/program manager.
8. Sexual assault response coordinator.*
9. Installation or unit victim advocate.*

c. Predeployment training. Predeployment training will incorporate information on SAPR. As part of predeployment training, Soldiers will be presented with information to increase awareness of the customs of the host country and any coalition partners, in an effort to help prevent further sexual assaults outside of CONUS. This presentation will—

(1) Ensure that Soldiers who deploy to locations outside the United States are cognizant of sexual assault issues, as well as DOD and specific Army policies about sexual assault prevention, prosecution of offenders, and the care of victims. This training will include risk reduction factors that are tailored to the specific deployment locations.

(2) Focus on the specific foreign countries or areas anticipated for deployment. It will include customs, mores and religious practices, and a brief history of the foreign countries or areas. The cultural customs and mores of coalition partners will also be addressed.

(3) Address procedures for reporting a sexual assault to ensure that Service members are aware of the full range of options available and have knowledge of location and contact information for response agencies in the deployed theater.

(4) Identify support systems that will be available during the deployment, to include chain of command, UVAs, deployable SARCs, healthcare providers, CID/military police, SJA, and chaplains.

d. Post-deployment training. Commanders will ensure Service members receive SAPR unit refresher training during reintegration activities.

e. Responder training. Primary responders to sexual assault incidents will receive the same baseline training throughout the DOD, to ensure that any Service member who is assaulted will receive the same level of response regardless of Service component. Training should emphasize coordinating victim support services as a team effort and to be effective all the team members must be allowed to do their job and must understand the role of the others on the team. Each responsible first responder agency listed below will implement DOD's baseline training standards (see app I for minimum baseline training standards):

- (1) Healthcare (responsible agency MEDCOM).
- (2) Law enforcement and criminal investigators (responsible agency TRADOC).
- (3) Judge advocate general officers (responsible agency OTJAG).
- (4) Chaplains (responsible agency Office of the Chief of Chaplains (OCCH)).
- (5) Sexual assault response coordinators (responsible agency ACSIM/CFSC).
- (6) Installation and UVAs (responsible agency ACSIM/CFSC).

Appendix A References

Section I

Required Publications

DOD regulations, directives, and instructions are available on the Web at <http://www.dtic.mil/whs/directives/>; the Manual for Courts-Martial is available at <http://www.au.af.mil/au/awc/awcgate/law/mcm.pdf>.

AR 15-6

Procedures for Investigating Officers and Boards of Officers (Cited in paras 2-17*b*, 6-3*i*(20) and *l*(6), 6-11*a*, D-1*a*(1), D-4*b*, D-6*b* and *c*.)

AR 27-10

Military Justice (Cited in paras 2-5*c* and *i*(2), 2-18*c*(1) and (3), 2-20*c*(6), 4-6*a*, 4-7*b* and *c*, 5-8*a*, 6-5*a*(2)(*c*), 8-5*g*, *o*(20) and (21), D-7*a*(1)(*b*), G-2*j* and *k*.)

AR 40-562

Immunization and Chemoprophylaxis (Cited in paras 5-4*c*(2), 5-6*g*(3)(*d*)10.)

AR 195-5

Evidence Procedures (Cited in paras 8-5*d*(1) and *n*(5), J-3*c*(8) and *c*(12).)

AR 600-8-24

Officer Transfers and Discharges (Cited in paras 4-24*d*(2)(7), 5-5*e*(1), *f*(1), and *k*(3)(*e*)1, 5-6*g*(4)(*h*)12, 8-5*o*(25), (26), and (27).)

AR 623-3

Evaluation Reporting System (Cited in paras 2-3, 2-17*a*, 4-18*a*(3), 4-23(*d*)(11), 6-11*a* and *b*.)

AR 670-1

Wear and Appearance of Army Uniforms and Insignia (Cited in paras 2-18*a*(4), 5-6*g*(4), B-6*c*.)

DA Pam 600-26

The Department of the Army Affirmative Action Plan (Cited in para 6-14*a*.)

DOD 5500.7-R

Joint Ethics Regulation (JER) (Cited in paras 4-9*c*, 4-11, 4-17, 4-18*a*(2)(*c*), 4-21*c*.)

DODD 6490.1

Mental Health Evaluations of Members of the Armed Forces (Cited in para 5-4*b*.)

DODD 7050.6

Military Whistleblower Protection (Cited in paras 5-8*a*, 5-12, D-4*c*(1).)

DODI 1000.15

Procedures and Support for Non-Federal Entities Authorized to Operate on DOD Installations (Cited in para 4-11.)

Manual for Courts-Martial (MCM)

2008 edition (Cited in paras 2-5*i*(2), 2-14*b*, 2-18*c*(1), 2-20*d*, 4-6*a*, 4-7*b*, 5-4*c*(8) and *f*(2)(*a*), 8-4*b*, D-6*f*.)

Section II

Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this regulation. United States Code references are available on the Web at <http://www.gpoaccess.gov/uscode/>; the Uniform Code of Military Justice is available on www.au.af.mil/au/awc/awcgate/ucmj.htm; and National Guard regulations are available at <http://www.ngbpdc.ngb.army.mil/pubfiles>.

AR 1-20

Legislative Liaison

AR 5-5
Army Studies and Analyses

AR 10-87
Army Commands, Army Service Component Commands, and Direct Reporting Units

AR 20-1
Inspector General Activities and Procedures

AR 25-30
The Army Publishing Program

AR 25-50
Preparing and Managing Correspondence

AR 25-52
Authorized Abbreviations, Brevity Codes, and Acronyms

AR 25-400-2
The Army Records Information Management System (ARIMS)

AR 27-40
Litigation

AR 40-1
Composition, Mission, and Functions of the Army Medical Department

AR 40-3
Medical, Dental, and Veterinary Care

AR 40-400
Patient Administration

AR 135-18
The Active Guard Reserve (AGR) Program

AR 135-91
Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures

AR 135-100
Appointment of Commissioned and Warrant Officers of the Army

AR 135-155
Promotion of Commissioned Officers and Warrant Officers Other than General Officers

AR 135-175
Separation of Officers

AR 135-178
Enlisted Administrative Separations

AR 135-205
Enlisted Personnel Management

AR 140-10
Assignments, Attachments, Details, and Transfers

AR 140-111
U.S. Army Reserve Reenlistment Program

AR 165-1

Army Chaplain Corps Activities

AR 190-24/OPNAVINST 1620.2A/AFI 31-213/MCO 1620.2D/COMDTINST 1620.1E

Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations

AR 190-45

Law Enforcement Reporting

AR 190-47

The Army Corrections System

AR 195-2

Criminal Investigation Activities

AR 210-7

Personal Commercial Solicitation on Army Installations

AR 215-1

Military Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities

AR 220-1

Army Unit Status Reporting and Force Registration - Consolidated Policies

AR 335-15

Management Information Control System

AR 340-21

The Army Privacy Program

AR 350-1

Army Training and Leader Development

AR 350-100

Officer Active Duty Service Obligations

AR 360-1

The Army Public Affairs Program

AR 380-5

Department of the Army Information Security Program

AR 380-13

Acquisition and Storage of Information Concerning Nonaffiliated Persons and Organizations

AR 380-67 (corrected title)

Army Personnel Security Program

AR 420-1

Army Facilities Management

AR 600-3

The Army Personnel Development System

AR 600-8-2

Suspension of Favorable Personnel Actions (Flags)

AR 600-8-8

The Total Army Sponsorship Program

200295

AR 600–8–10

Leaves and Passes

AR 600–8–11

Reassignment

AR 600–8–14

Identification Cards for Members of the Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel

AR 600–8–19

Enlisted Promotions and Reductions

AR 600–8–29

Officer Promotions

AR 600–8–104

Military Personnel Information Management/Records

AR 600–9

The Army Weight Control Program

AR 600–13

Army Policy for the Assignment of Female Soldiers

AR 600–15

Indebtedness of Military Personnel

AR 600–25

Salutes, Honors, and Visits of Courtesy

AR 600–37

Unfavorable Information

AR 600–291

Foreign Government Employment

AR 601–210

Active and Reserve Components Enlistment Program

AR 601–280

Army Retention Program

AR 608–10

Child Development Services

AR 608–75

Exceptional Family Member Program

AR 614–30

Overseas Service

AR 614–100

Officer Assignment Policies, Details, and Transfers

AR 614–200

Enlisted Assignments and Utilization Management

AR 621–1

Training of Military Personnel at Civilian Institutions

200296

AR 635-40
Physical Evaluation for Retention, Retirement, or Separation

AR 635-200
Active Duty Enlisted Administrative Separations

AR 690-11
Use and Management of Civilian Personnel in Support of Military Contingency Operations

AR 690-12
Equal Employment Opportunity and Affirmative Action

AR 690-400
Total Army Performance Evaluation System

AR 690-600
Equal Employment Opportunity Discrimination Complaints

AR 690-700
Personnel Relations and Services (General)

AR 700-90
Army Industrial Base Process

DA Pam 25-30
Consolidated Index of Army Publications and Blank Forms

DA Pam 600-3
Commissioned Officer Professional Development and Career Management

DA Pam 600-8
Management and Administrative Procedures

DA Pam 600-15
Extremist Activities

DA Pam 611-21
Military Occupational Classification and Structure

DAGO 2006-38
Redesignation of the United States Army Installation Management Agency as the United States Army Installation Management Command and as a Direct Reporting Unit

FM 1
The Army

FM 6-22
Army Leadership

FM 7-22.7
The Army Noncommissioned Officer Guide

CTA 50-900
Clothing and Individual Equipment (Available at <https://webtaads.belvoir.army.mil/usafmsa>.)

CTA 50-909
Field and Garrison Furnishings and Equipment (Available at <https://webtaads.belvoir.army.mil/usafmsa>.)

DOD 5200.2-R
Personnel Security Program (Available at <http://www.dtic.mil/whs/directives>.)

DOD 6025.18-R

DOD Health Information Privacy Regulation (Available at <http://www.dtic.mil/whs/directives>.)

DODD 5158.04

United States Transportation Command (USTRANSCOM)

DODD 5525.5

DOD Cooperation with Civilian Law Enforcement Officials

DODI 1332.14

Enlisted Administrative Separations (Available at <http://www.dtic.mil/whs/directives>.)

DODI 1332.30

Separation of Regular and Reserve Commissioned Officers (Available at <http://www.dtic.mil/whs/directives>.)

NGR 600-21

Equal Opportunity Program in the Army National Guard (Available at <http://www.ngbpdc.ngb.army.mil/pubfiles/600/60021.pdf>.)

NGR 600-22/ANGI

National Guard Military Discrimination Complaint System (Available at <http://www.ngbpdc.ngb.army.mil/pubfiles/36/36311.pdf>.)

NGR 635-101

Efficiency and Physical Fitness Boards (Available at <http://www.ngbpdc.ngb.army.mil/pubfiles/635/635101.pdf>.)

P.L. 88-352

Civil Rights Act of 1964

TC 26-6

Commander's Equal Opportunity Handbook. (The Soldier Support Institute publishes TC 26-6, Commander's Equal Opportunity Handbook that may assist commanders in developing required training.)

UCMJ, ART 7

Apprehension

UCMJ, ART. 15

Commanding officer's non-judicial punishment

UCMJ, ART. 27

Detail of trial counsel and defense

UCMJ, ART. 31

Compulsory self-incrimination prohibited

UCMJ, ART. 37

Unlawful influencing the action of the court

UCMJ, ART. 81

Conspiracy

UCMJ, ART. 82

Solicitation

UCMJ, ART. 92

Failure to obey order or regulation

UCMJ, ART. 93

Cruelty and maltreatment

200298

UCMJ, ART. 98

Noncompliance with procedural rules

UCMJ, ART. 116

Riot or breach of peace

UCMJ, ART. 117

Provoking speeches or gestures

UCMJ, ART. 121

Larceny and wrongful appropriation

UCMJ, ART. 123

Forgery

UCMJ, ART. 124

Maiming

UCMJ, ART. 128

Assault

UCMJ, ART. 133

Conduct unbecoming an officer and a gentleman

UCMJ, ART. 134

General article

UCMJ, ART. 137

Articles to be explained

UCMJ, ART. 138

Complaints of wrongs

2 USC 441a

Limitations on contributions and expenditures

5 USC 5312–5317 (chapter 53, subchapter 2)

Executive Schedule Pay Rates

5 USC 6323

Military leave; Reserves and National Guardsmen

10 USC

Armed Forces

10 USC 113

Secretary of Defense

10 USC 580a

Enhanced authority for selective early discharges

10 USC 637

Selection of regular officers for continuation on active duty

10 USC 741

Rank: commissioned officers of the armed forces

10 USC 747

Command: when different commands of Army, Navy, Air Force, Marine Corps, and Coast Guard join

200299

10 USC 888 (Article 88, UCMJ)

Contempt toward officials

10 USC 973

Duties: officers on active duty; performance of civil functions restricted

10 USC 1034

Protected communications; prohibition of retaliatory personnel actions

10 USC 1176

Enlisted members: retention after completion of 18 or more, but less than 20, years of service

10 USC 1211

Members on temporary disability retired list: return to active duty; promotion

10 USC 3258

Regular Army: reenlistment after service as an officer

10 USC 3581

Command: chaplains

10 USC 3583

Requirement of exemplary conduct

10 USC 4334

Command and supervision

10 USC 10505

Director of the Joint Staff of the National Guard Bureau

10 USC 12301

Reserve components generally

10 USC 12302

Ready Reserve

10 USC 12303

Ready Reserve: members not assigned to, or participating satisfactorily in, units

10 USC 12304

Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency

10 USC 12686

Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

10 USC Chapter 15 (corrected title)

Insurrection

10 USC Chapter 18

Military Support for Civilian Law Enforcement Agencies

10 USC Chapter 47

Uniform Code of Military Justice

18 USC 207

Restrictions on former officers, employees, and elected officials of the executive and legislative branches

18 USC 208

Acts affecting a personal financial interest

18 USC 607
Place of solicitation

18 USC 922
Unlawful acts

18 USC 1385
Use of Army and Air Force as posse comitatus

29 USC 630
Definitions

29 USC 631
Age limits

29 USC 633
Federal-State relationships

29 USC 634
Authorization of appropriations

32 USC 317
Command during joint exercises with Federal troops

Section III
Prescribed Forms

Unless otherwise indicated below, DA Forms are available on the APD Web site (www.apd.army.mil); DD Forms are available from the OSD Web site (www.dior.whs.mil/icdhome/formshtm).

DA Form 5304
Family Care Plan Counseling Checklist (Prescribed in para 5-5.)

DA Form 5305
Family Care Plan (Prescribed in para 5-5.)

DA Form 5840
Certificate of Acceptance as Guardians or Escort (Prescribed in para 5-5.)

DA Form 5841
Power of Attorney (Prescribed in para 5-5.)

DA Form 7279
Equal Opportunity Complaint Form (Prescribed in paras D-1, D-2, D-3, D-4, D-6, D-7, D-8, D-11, D-13.)

DA Form 7279-1
Equal Opportunity Complaint Resolution Assessment (Prescribed in paras D-10, D-11.)

DA Form 7666
Parental Consent (Prescribed in para 5-5.)

DA Form 7667
Family Care Plan Preliminary Screening (Prescribed in para 5-5.)

Section IV
Referenced Forms

DA Form 2028
Recommended Changes to Publications and Blank Forms

DA Form 2627

Record of Proceedings under Article 15, UCMJ

DA Form 3881

Rights Warning Procedure/Waiver Certificate

DA Form 4187

Personnel Action

DA Form 4833

Commander's Report of Disciplinary or Administrative Action

DD Form 1172

Application for Uniformed Services Identification Card—DEERS Enrollment

DD Form 2558

Authorization to Start, Stop, or Change an Allotment

DD Form 2701

Initial Information for Victims and Witnesses of Crime

DD Form 2760

Qualification to Posses Firearms or Ammunition

DD Form 2873

Military Protective Order (MPO)

DD Form 2910

Victim Reporting Preference Statement

**Appendix B
Political Activities**

B-1. Purpose

This appendix gives specific guidance on those political activities that are permitted or prohibited.

B-2. Examples of permissible political activity

A Soldier on AD may—

a. Register, vote, and express a personal opinion on political candidates and issues, as a private citizen, but not as a representative of the Armed Forces.

b. Promote and encourage other Soldiers to exercise their voting franchise, if such promotion does not constitute an attempt to influence or interfere with the outcome of an election.

c. Join a political club and attend its meetings when not in uniform.

d. Serve as an election official, if such service is not as a representative of a partisan political party, does not interfere with military duties, is performed while out of uniform, and has the prior approval of the installation commander.

e. Sign a petition for specific legislative action or a petition to place a candidate's name on an official election ballot, if the signing does not obligate the Soldier to engage in partisan political activity and is done as a private citizen and not as a representative of the Armed Forces.

f. Write a letter to the editor of a newspaper expressing the Soldier's personal views on public issues or political candidates, if such action is not part of an organized letter-writing campaign or concerted solicitation of votes for or against a political party or partisan political cause or candidate.

g. Make monetary contributions to a political organization, party or committee favoring a particular candidate or slate of candidates, subject to the limitation under Section 441a, Title 2, United States Code (2 USC 441a) and Section 607, Title 18, United States Code (18 USC 607).

h. Display a political sticker on the Soldier's private vehicle.

B-3. Examples of prohibited political activities

According to the statutory restrictions in Section 973(b), Title 10, United States Code (10 USC 973(b)) and the policies

established in section d of DOD Directive 1344.10 and implemented in chapter 5 of this regulation, a Soldier on AD will not—

- a.* Use official authority or influence to interfere with an election, affect the course or outcome of an election, solicit votes for a particular candidate or issue, or require or solicit political contributions from others.
- b.* Be a candidate for civil office in Federal, state, or local Government, except as authorized in this regulation, or engage in public or organized soliciting of others to become partisan candidates for nomination or election to civil office.
- c.* Participate in partisan political management or campaigns or make public speeches in the course thereof.
- d.* Make a campaign contribution to another member of the Armed Forces or to a civilian officer or employee of the United States for promoting a political objective or cause.
- e.* Solicit or receive a campaign contribution from another member of the Armed Forces or from a civilian officer or employee of the United States for promoting a political objective or cause.
- f.* Allow or cause to be published partisan political articles signed or written by the Soldier that solicit votes for or against a partisan political party or candidate.
- g.* Serve in any official capacity or be listed as a sponsor of a partisan political club.
- h.* Speak before a partisan political gathering of any kind for promoting a partisan political party or candidate.
- i.* Participate in any radio, television, or other program or group discussion as an advocate of a partisan political party or candidate.
- j.* Conduct a political opinion survey under the auspices of a partisan political group, or distribute partisan political literature.
- k.* Use contemptuous words against the officeholders described in Section 888, Title 10, United States Code (10 USC 888).
- l.* Perform clerical or other duties for a partisan political committee during a campaign or on an election day.
- m.* Solicit or otherwise engage in fund raising activities in Federal offices or facilities, including military reservations, for a partisan political cause or candidate.
- n.* March or ride in a partisan political parade.
- o.* Display a large political sign, banner, or poster (as distinguished from a bumper sticker) on the top or side of a private vehicle.
- p.* Participate in any organized effort to provide voters with transportation to the polls if the effort is organized by, or associated with, a partisan political party or candidate.
- q.* Sell tickets for, or otherwise actively promote, political dinners and similar fund-raising events.
- r.* Attend partisan political events as an official representative of the Armed Forces.

B-4. Political activities not expressly permitted or prohibited

Some activities not expressly prohibited may be contrary to the spirit and intent of this policy. In determining whether an activity violates the traditional concept that military personnel should not engage in partisan political activity, rules of reason and common sense will apply. Any activity that could be viewed as associating the Department of the Army directly or indirectly with a partisan political cause or candidate will be avoided.

B-5. Local nonpartisan political activities

This policy does not preclude participation in local nonpartisan political campaigns, initiatives, or referendums. A Soldier taking part in local nonpartisan political activity, however, will not—

- a.* Wear a uniform or use any Government property or facilities while participating.
- b.* Allow participation to interfere with, or prejudice, the Soldier's performance of military duties.
- c.* Engage in conduct that in any way may imply that the Department of the Army has taken an official position on, or is otherwise involved in, the local political campaign or issue.

B-6. USAR and Army National Guard Soldiers on active duty tours

The RC Soldiers on AD tour regardless of length engaging in permissible political activity will—

- a.* Give full time and attention to the performance of military duties during prescribed duty hours.
- b.* Avoid any outside activities that may be prejudicial to the performance of military duties or are likely to bring discredit upon the United States Army.
- c.* Refrain from participating in any political activity while in military uniform, as proscribed by AR 670-1, or using Government facilities or resources.

Appendix C Deleted

Appendix D Equal opportunity/Sexual Harassment Complaint Processing System

D-1. Entering the complaints processing system

The EO complaints processing system addresses complaints that allege unlawful discrimination or unfair treatment on the basis of race, color, religion, gender, and national origin. Attempts should always be made to solve the problem at the lowest possible level within an organization. Complaints by civilian personnel alleging discrimination should be handled in accordance with the procedures contained in AR 690-600, or as described in DOD and Department of the Army policy implementing 10 USC 1561, or as provided for in any applicable collective bargaining agreement.

a. Informal complaint.

(1) An informal complaint is any complaint that a Soldier or Family member does not wish to file in writing. Informal complaints may be resolved directly by the individual, with the help of another unit member, the commander or other person in the complainant's chain of command. Typically, those issues that can be taken care of informally can be resolved through discussion, problem identification, and clarification of the issues. An informal complaint is not subject to time suspense. Accumulative numbers may be reported to MACOMS per their request on all informal complaints resolved through commander's inquiry and/or AR 15-6 investigating officer. It is recommended that anyone working on the resolution of informal complaints should prepare a memorandum of record. The memorandum of record should include information indicating nature of complaint and identifying pertinent information to assist in the identification of unit's command climate.

(2) Although the processing of EO complaints through the unit chain of command is strongly encouraged, it will not serve as the only channel available to Soldiers to resolve complaints. Should the complainant feel uncomfortable in filing a complaint with his/her unit chain of command, or should the complaint be against a member of that chain of command, a number of alternative agencies exist through which the issues may be identified for resolution. Each of these agencies provides expertise in very specific subject areas. Commanders will not preclude Soldiers from using these channels in accordance with the procedures inherent/established by these agencies:

- (a) Someone in a higher echelon of the complainant's chain of command.
- (b) Inspector General.
- (c) Chaplain.
- (d) Provost marshal.
- (e) Medical agency personnel.
- (f) Staff judge advocate.
- (g) Chief, Community Housing Referral and Relocation Services Office.

(3) In some informal complaints, the person or agency receiving the complaint may be able to resolve the issue while maintaining the confidentiality of the complainant, as in the case of the chaplain or a lawyer. While maintenance of confidentiality should be attempted, it will neither be guaranteed nor promised to the complainant by agencies other than the chaplain or a lawyer.

(4) Initial actions by these alternative agencies are the same for informal and formal complaints. Any alternative agency that receives an informal complaint of unlawful discrimination or sexual harassment has the obligation to talk with the complainant. The agency should advise the complainant of his/her rights and responsibilities; listen to the complainant and find out as much information as possible concerning the complaint (including what the reasons are behind the complaint and why the individual is using the alternative agency opposed to his or her chain of command); tell the complainant what role that agency has (for example, direct action on behalf of the complainant, information gathering, or referral to another agency or the commander for their action); what support services are available from other organizations that may help resolve the issues; explain the complaint system (principally, the differences between informal and formal complaints); and, then attempt to assure resolution of the issue (through mediation, intervention, counseling, training, and so forth).

(5) The commander must eliminate underlying causes of all complaints. More members of the unit, other than complainant and subject, are affected by complaints, especially those that go unresolved.

b. Formal complaint.

(1) A formal complaint is one that a complainant files in writing and swears to the accuracy of the information. Formal complaints require specific actions, are subject to timelines, and require documentation of the actions taken.

(2) An individual files a formal complaint using a DA Form 7279 (Equal Opportunity Complaint Form).

(3) In Part I of DA Form 7279, the complainant will specify the alleged concern, provide the names of the parties involved and witnesses, describe the incident(s)/behavior(s), and indicate the date(s) of the occurrence(s). For EO complaints, the complainant will also state the EO basis of the complaint (for example, unlawful discrimination based

upon race, color, religion, gender, or national origin. Complainant will be advised of the importance of describing the incident(s) in as much detail as possible to assist in the investigative process).

(4) The block entitled, "Requested Remedy" serves a variety of purposes for both the complainant and the command. The information in this block can vary in terms of the complainant's expectations of the investigative process and his or her reasonableness and credibility. If expectations that are not likely to be met come to the surface, they should be dispelled by the receiving agency (during acceptance of the complaint) through an explanation of the process and the possible outcomes. If the complainant's response is vindictive, vengeful, or malicious, and seems extreme in light of the events or circumstances, this may be helpful to the commander or investigating officer in terms of motive and believability.

(5) Soldiers have 60 calendar days from the date of the alleged incident in which to file a formal complaint. This time limit is established to set reasonable parameters for the inquiry or investigation and resolution of complaints, to include ensuring the availability of witnesses, accurate recollection of events, and timely remedial action. If a complaint is received after 60 calendar days, the commander may conduct an investigation into the allegations or appoint an investigating officer according to paragraph 5, below. In deciding whether to conduct an investigation, the commander should consider the reason for the delay, the availability of witnesses, and whether a full and fair inquiry or investigation can be conducted.

(6) The complainant should file his or her complaint with the commander at the lowest echelon of command at which the complainant may be assured of receiving a thorough, expeditious, and unbiased investigation of the allegations. Depending on the various aspects of the complaint and individuals involved, that lowest level commander may not be the immediate company or even battalion level commander of the complainant.

D-2. Actions of alternative agencies

The agencies listed in paragraph 1a(2) of this appendix also serve as alternative avenues available to Soldiers for registering formal EO complaints. Initial actions by these alternative agencies are the same for informal and formal complaints. Upon receipt of a formal EO complaint of unlawful discrimination or sexual harassment, the alternative agency has the obligation to talk with the complainant, advise him/her of his/her rights and responsibilities, find out as much information as possible concerning the complaint (including what the reasons were for using the alternative agency and what the complainant's expectations might be for resolution of the complaint). The agency should also tell the complainant what role that agency has (action, information gathering, or referral to another agency or the commander for their action), what support services are available from other organizations, what the complaint processing procedures are (principally, the differences between informal and formal complaints) and what will be done with the individual's complaint. Receipt of formal complaints by any alternative agency (except Inspector General) will be annotated in writing on the DA Form 7279, Part I, item 9. If the alternative agency decides not to do an inquiry or conduct its own investigation and decides to refer the complaint to another agency or to the appropriate commander for his/her investigation, that referral must be made within 3 calendar days (at the next multiple unit training assembly (MUTA) 4 or other regularly scheduled training for Army Reserve TPU Soldiers). For the purposes of receiving EO complaints, any commissioned officer is authorized to administer oaths and should do so in block 9a, DA Form 7279, prior to referring the complaint to the appropriate commander. The commander or agency receiving the referral will acknowledge receipt of the complaint in writing (DA Form 7279, Part I, item 11). In cases where the complaint is best resolved by the chain of command, the alternative agency refers the complaint to the commander at the lowest echelon of command at which the complainant may be assured of receiving a thorough, expeditious, and unbiased investigation of the allegations.

a. If during the course of an inquiry or investigation the receiving agency or commander identifies criminal activity, the complaint will be immediately referred to the proper agency (Provost Marshal or CID) for investigation. Refer to chapter 8 of this regulation for incidents of sexual assault.

b. Allegations of unlawful discrimination in housing, both on and off post, will be referred to the housing division for processing under the provisions of AR 210-50.

c. If a complaint is filed against a promotable colonel, an active or retired general officer, inspectors general of any component, members of the Senior Executive Service, or Executive Schedule personnel, the allegation will be transferred directly to the Investigations Division, U.S. Army Inspector General Agency, ATTN: SAIG-IN, Pentagon, Washington, DC 20310-1700 by rapid but confidential means within 5 calendar days of receipt.

D-3. Complaints filed with the Inspector General

a. Complaints filed with the Inspector General will be processed as inspector general action requests, according to AR 20-1, rather than under the procedures outlined in this regulation. As such, no timelines will be imposed on the conduct of the investigation and/or on feedback to the complainant, and DA Form 7279 will not be maintained.

b. Inspector General investigations are confidential and protected from unauthorized disclosure. They will include consultations with persons or activities as deemed appropriate by the Inspector General.

c. Receipt of the complaint will be acknowledged to the complainant and an estimated completion date provided. If the action is not completed by that date, the complainant will be notified and given a new estimated completion date.

D-4. Actions of the commander upon receipt of complaint

a. Upon receipt of a complaint, the commander is required to identify and rectify sexual harassment and the five factors of unlawful discrimination, to include race, color, gender, religion and national origin. The commander will ensure that the complainant has been sworn to the complaint (DA Form 7279, block 9). If not, the commander will administer the oath and annotate it on the complaint form. The commander will fill out block 11 acknowledging receipt of the complaint form. All formal complaints will be reported within 3 calendar days to the first General Courts-Martial Convening Authority (GCMCA) in the chain of command. Additionally, the commander will provide a progress report to the GCMCA authority 21 days after the date on which the investigation commenced and 14 days thereafter until completion.

b. The commander will either conduct an investigation personally or immediately appoint an investigating officer according to the provisions of AR 15-6. Depending on the magnitude of the complaint, the commander may deem it necessary to ask the next SC in the chain of command to appoint the investigating officer.

c. The commander will establish and implement a plan to protect the complainant, any named witnesses, and the subject from acts of reprisal. The plan will include, as a minimum, specified meetings and discussions with the complainant, subject, named witnesses, and selected members of the chain of command and coworkers.

(1) Content of the discussions with the above named individuals will include the definition of reprisal with examples of such behavior; the Army's policy prohibiting reprisal; the complainant's rights and extent of whistleblower protection afforded complainants, witnesses, and the subject under DOD Directive 7050.6; encouragement to all the aforementioned individuals to report incidents and/or threats of reprisal; the procedures to report acts and/or threats of reprisal; the consequences of reprisal; possible sanctions against violators; a reminder of the roles and responsibilities of the leadership in the prevention of reprisal and protection of all parties involved; the command's support of a thorough, expeditious and unbiased investigation and good faith in attempting to resolve the complaint; and the need to treat all parties in a professional manner both during and following the conduct of the investigation.

(2) Discretion will be used to determine the extent of information provided and the numbers of personnel addressed in the discussions with the chain of command and coworkers. Investigating officers will treat all those they interview professionally and courteously and will limit their discussion to only those issues relating to the specific complaint.

(3) To prevent the plan from becoming an administrative burden, the plan need only consist of a one-page list (in bullet format) of actions to be accomplished. The commander will annotate the names of the personnel addressed and initial and date the actions as they are completed. The commander will provide a copy of the completed plan to the investigating officer and the EOA. The investigating officer will include the commander's plan to prevent reprisal as an exhibit in the investigative findings. The EOA will retain a copy of the commander's plan to prevent reprisal with the completed case file and use the plan to conduct follow-up assessment of the complaint.

D-5. Timeliness of action

Rapid resolution of EO complaints is in the best interest of both the complainant and the command. Commanders receiving a complaint involving Army Reserve or ARNG Soldiers on AD will make every attempt to resolve the complaint prior to the completion of the Soldiers' AD tour. If necessary, the ARNG Soldiers will remain on AD until the final resolution of the complaint. After receipt of the complaint, the commander to whom the complaint was given has 14 calendar days (or three MUTA 4 drill periods for Army Reserve TPU Soldiers) in which to conduct an investigation, either personally or through appointment of an investigating officer. If the complaint was referred to the commander from an alternate agency, or if the commander refers the complaint to an alternate agency, the 14 calendar days begins from the date the complaint was referred. If, due to extenuating circumstances, it becomes impossible to conduct a complete investigation within the 14 calendar days allowed (or three MUTA 4 drill periods for Army Reserve TPU Soldiers, that commander may obtain an extension from the next higher commander for usually not more than 30 calendar days (or two MUTA 4 drill periods for Army Reserve TPU Soldiers. After the initial 14-day suspense, all requests for extension must be requested in writing from the next higher echelon commander. Upon receipt of an extension, the commander must inform the complainant of the extension, its duration, and the reasons for which it was requested. Any additional extensions must be approved in writing by the first general officer in the chain of command. Failure to adhere to prescribed timelines will result in automatic referral of the complaint to the next higher echelon commander for investigation and resolution.

D-6. Conduct of the investigation

a. Investigation. The purpose of any investigation of unlawful discrimination or sexual harassment is to determine to the maximum extent possible what actually occurred, to assess the validity of allegations made by the complainant, to advise the commander of any leadership or management concerns that might contribute to perceptions of unlawful discrimination and poor unit command climate, and to recommend appropriate corrective actions. The commanding officer is responsible for ensuring the investigation is complete, thorough, and unbiased.

b. Initial actions. The commander who acts as the appointing authority will provide the investigating officer a copy of orders assigning him or her as the investigating officer and the initiated DA Form 7279, which identifies the complainant and lists the allegations to be investigated. The investigating officer will review AR 15-6 and AR 600-20

200306

to review procedures applicable to the conduct of the investigation. Should the commander elect to investigate the allegations him- or herself, the procedures for investigating officer apply to the commander.

c. Legal advice. The investigating officer will meet with the servicing SJA or legal advisor to review how the conduct of the investigation should be conducted under AR 15-6 and AR 600-20. The discussion should include the specific requirements of both regulations, advice on how investigations are conducted, and advice on how to question an interviewee who is suspected of committing a violation of the UCMJ. After the investigating officer completes the investigation, the packet must be submitted for legal review.

d. Equal opportunity advisor assistance. The investigating officer (the commander or appointed investigating officer) will meet with the unit's EOA prior to conducting the investigation. The EOA will assist the investigating officer in the development of questions to be addressed to the complainant, the subject and any witnesses or third parties. The EOA's skills in complaint handling, conflict resolution, and training in the subtleties of discrimination and sexual harassment enable him or her to advise investigative officers in these complex areas. The EOA will ensure the focus of the investigation is placed squarely on assessing the validity of the allegations and avoids shifting the focus of the investigation against the complainant. The EOA will remain available to the investigating officer for consultation and assistance throughout the conduct of the investigation.

e. Conduct of interviews. The investigating officer must interview every individual who may have firsthand knowledge of the facts surrounding the validity of the allegations. The investigating officer must also interview everyone who can substantiate the relationship or corroborate the relationship between the complainant and the subject. The investigating officer must interview the person who initially received the formal complaint, the complainant(s), any named witnesses, and the subject. The investigating officer should normally interview the subject after interviewing other witnesses, so that he or she will have a complete understanding of the alleged incident. If needed prior to the conclusion of the investigation, the investigating officer should conduct a second interview of the complainant and the subject. The investigating officer may choose to re-interview certain witnesses for clarification of conflicting statements. Should unit policies or procedures be called into question as contributing factors to perceptions of unlawful discrimination or hostile environment, the investigating officer will interview responsible members of the chain of command. It may be advisable to interview coworkers of the complainant and the subject for knowledge they may have about the alleged incidents or the relationship that exists between the complainant and subject.

f. Identification of criminal act. If, when interviewing any Soldier, including the subject, the investigating officer reasonably suspects that the individual has committed an offense in violation of the UCMJ, the investigating officer must advise the Soldier of his/her rights under UCMJ, ART. 31. Investigating officers should consult with their servicing judge advocate or legal advisor before giving UCMJ, ART. 31 rights warnings, and should record the suspect's election on DA Form 3881 (Rights Warning Procedure/Waiver Certificate). If the Soldier being questioned asks for a lawyer (that is, asserts his or her right to counsel), questioning must stop immediately and the interview must be terminated. Questioning may resume only in the presence of a lawyer, if the Soldier initiates further discussion or if the Soldier has consulted with a lawyer and thereafter waives his/her rights pursuant to a proper rights advisement. Similarly, questioning of a Soldier must stop immediately if a Soldier indicates the desire to remain silent. Once this right is asserted, questioning may resume only if the Soldier initiates further questioning or if after an appropriate interval, the Soldier waives his or her rights pursuant to a proper rights advisement. (See UCMJ, ART. 31, MRE 304 and 305, MCM).

g. Supporting documents. The investigating officer should secure copies of any documents that might substantiate or refute the testimony of the complainant, subject, or named witnesses. These documents may include copies of unit and personnel records and the complainant's personal documents. The investigating officer will also procure a copy of the commander's plan to prevent reprisal for inclusion in the final report of investigation.

h. Unit climate, policies and procedures. During the course of the investigation, the investigative officer should note concerns or observations of unit policy, procedures, and individual leadership or management techniques that may have a dysfunctional effect upon unit climate and foster discriminatory behavior and/or a hostile environment.

i. Investigative findings and recommendations. When the investigation is completed, the investigating officer should review the evidence, determine if the investigation adequately addresses allegations, make factual findings about what occurred, and provide recommendations consistent with the findings.

j. EOA review. Prior to submission of the report to the appointing authority, the investigating officer and EOA will meet and review the report. The EOA will attach a memorandum documenting his/her review.

k. Investigative report. The following items are required enclosures to the report presented to the appointing authority:

- (1) Orders of appointment as investigating officer.
- (2) Copy of the DA Form 7279 with attached continuation sheets.
- (3) Copy of the completed/initialed commander's plan to prevent reprisal.
- (4) List of questions developed with EOA.
- (5) Statements/synopses of interviews with complainant(s), named witnesses, and subject(s) and relevant members of the chain(s) of command.
- (6) Copies of supporting documents.

- (7) Description/assessment of unit policies, procedures that may have contributed to perceptions of unlawful discrimination or sexual harassment within the unit.
- (8) Written approval of next higher echelon commander for any approved extensions.
- (9) Written explanation of extenuating circumstances that prevented the investigating officer from interviewing any named witnesses, complainants, or subjects.
- (10) Written review by the EOA.

D-7. Actions by the appointing authority (commander) upon receipt of the report of the investigation

The appointing authority will submit the report of investigation to the servicing staff or command judge advocate for a determination of legal sufficiency. After the legal review is completed, the appointing authority will decide whether further investigation is necessary or whether to approve all or part of the findings and recommendations. If the appointing authority is senior to the subject's commander, the appointing authority may refer the matter to that unit commander for appropriate action(s), unless the appointing authority or a more SC has reserved authority to take action on EO matters.

a. Actions to resolve complaints. A complaint is resolved by action to restore benefits and privileges lost because of unlawful discrimination or sexual harassment. Punitive or administrative actions against an offender do not necessarily change offending behaviors or rectify the situation for the individual complainant or unit. Commanders will take corrective action to preclude recurrence of discriminatory or sexually harassing conduct and address any management deficiencies or other contributing factors that caused the allegations to be raised. Commanders will also look at the causes of why complainants raised unsubstantiated complaints. Actions taken (or to be taken) by the commander and the chain of command will be annotated on DA Form 7279, Part III. Specific actions taken against the perpetrator will not be annotated on the form. This information will be discussed with the complainant. The commander and/or EOA will also inform the complainant and the subject(s) of the complaint of his/her right to appeal and make them aware of timelines and procedures to file that appeal. The complainant and subject(s) will sign and date the DA Form 7279 to acknowledge receiving this information. This acknowledgment does not necessarily signify the complainant's agreement with the findings or actions taken to resolve the complaint.

(1) Actions upon substantiated complaint(s). A substantiated EO discrimination or sexual harassment complaint is a complaint that, after the completion of an inquiry or investigation, provides evidence to indicate that the complainant was more likely than not treated differently because of his or her race, color, national origin, gender, or religious affiliation. The standard of proof is a "preponderance of the evidence" standard. This means that the findings of the investigation must be supported by a greater weight of evidence than supports a contrary conclusion, or-in other words-evidence that, after considering everything that is presented, points to one particular conclusion as being more credible and probable than any other conclusion. The "weight of the evidence" is not determined by the number of witnesses or volume of exhibits, but by considering all the evidence and evaluating such factors as the witness's demeanor, opportunity for knowledge, information possessed, ability to recall and relate events, and other indications of veracity. When an allegation of discrimination is substantiated, that finding is annotated on the DA Form 7279, Part II. The commander must decide what corrective action to take. Corrective action may be administrative or punitive.

(a) Administrative action. Offenders will, as a minimum, undergo counseling by a member of the chain of command, presumably their company-level commander. Commanders have the full range of administrative actions available to them to deal with offenders of Army policy on EO (including the prevention/eradication of sexual harassment), to include discharge from the Service, bar to reenlistment, adverse performance evaluations and/or specific comments concerning nonsupport of EO/EEO programs on evaluation reports, relief for cause, administrative reduction, admonition, reprimand, administrative withholding of privileges, and rehabilitative transfer to another unit. Commanders should determine whether the victim desires to be transferred to another unit, but they should not subject the complainant to "double victimization" by requiring that he or she be transferred to another unit while leaving the offender in the unit.

(b) Uniform Code of Military Justice. Violators of Army policies on EO and the prevention/eradication of sexual harassment, whose conduct violates a punitive article of the UCMJ, may be charged and prosecuted. Nonjudicial punishments (for example, UCMJ, ART. 15) will be posted in the unit area in accordance with AR 27-10. Courts-Martial convictions may be published in installation newspapers and/or posted in the unit area where deemed appropriate.

(2) Actions upon an unsubstantiated complaint. An unsubstantiated complaint is one for which the preponderance of evidence (that is, the greater weight of evidence) does not support and verify that the alleged unlawful discrimination or sexual harassment occurred. In this situation, the commander should determine whether the allegations, though unsubstantiated, might be indicative of problems in the unit that require resolution through EO initiatives or other leadership actions. Should the complaint be found unsubstantiated, the commander will notify the complainant in writing (DA Form 7279s, Part II) and, consistent with the limitations of the Privacy Act and the Freedom of Information Act (FOIA), provide the complainant with a copy of the results of the investigation. The complainant will sign and date the DA Form 7279 to acknowledge receiving this information. This acknowledgment does not necessarily signify the complainant's agreement with the actions taken.

(3) Actions to resolve complaints should focus on changing inappropriate behavior of offending personnel and avoid

targeting the complainant. The complainant's job and status should not be affected unless he or she requests such a remedy, and the chain of command will do so only after weighing the impact on readiness.

b. Feedback. The commander will provide periodic feedback, throughout the process, to the complainant and the subject on the status of the investigation.

(1) The commander will provide written feedback to the complainant not later than the 14th calendar day (by the end of the third MUTA 4 period for RCs) after receiving the complaint and then provide updates every 14 calendar days (three MUTA 4 drill periods) until final resolution. Written feedback should incorporate any verbal updates provided to the complainant. Written feedback will be as complete as possible consistent with limitations of the Privacy Act and the FOIA. Whenever possible, the commander should meet with the complainant to discuss the status of the investigation, to include findings and actions to resolve the issue. Oral feedback should be consistent with the limitations of the Privacy Act and the FOIA.

(2) Commanders will also provide written feedback to the subject on the outcome of the investigation and subsequent actions to be taken by the chain of command. The chain of command is advised to use discretion in limiting feedback to personnel involved. This feedback should also be consistent with the limitations of the Privacy Act and the FOIA.

D-8. Appeals process

If the complainant perceives the investigation failed to reveal all relevant facts to substantiate the allegations, or that the actions taken by the command on his or her behalf were insufficient to resolve the complaint, the complainant has the right to appeal to the next higher commander in his or her chain of command. The complainant may not appeal the action taken against the perpetrator, if any is taken. If subject(s) of the complaint perceive the investigation has failed to reveal all relevant facts to prove his or her innocence, he or she has the right to appeal to the next higher commander in his or her chain of command. Geographically remote units, field operating agencies, and various other organizations (including tenant units on the installation) will promulgate MOU or installation standing support agreements between the installation (supporting) commander and their units. These documents will serve to provide the necessary guidance to unit personnel for the courses of action to be taken with appeals. EO appeals that may potentially leave the Army chain of command must be forwarded to HQDA, ODCS, G-1, ATTN: DAPE-HR-L for resolution.

a. The appeal must be presented within 7 calendar days (at the next MUTA 4 drill period for RCs) following notification of the results of investigation and acknowledgment of the actions of the command to resolve the complaint. The complainant must provide a brief statement that identifies the basis of the appeal. This will be done in writing on the DA Form 7279, Part IV, and the complaint form will be returned to the commander in the chain of command who either conducted the investigation or appointed the investigating officer.

b. Once the appeal is initiated by the complainant, the commander has three calendar days (or one MUTA 4 drill period for RCs) to refer the appeal to the next higher unit commander (or installation commander for those tenant units with MOU that designate an appellate authority).

c. The commander to which the appeal is made has 14 calendar days (or three MUTA 4 periods for RCs) to review the case and act on the appeal (that is, approve it, deny it, or conduct an additional investigation). Not later than the 14th calendar day following receipt of the appeal (or appropriate RC timelines), this commander will provide written feedback, consistent with Privacy Act and FOIA limitations, to the complainant on the results of the appeal. This process applies equally to subsequent appeals submitted through the chain of command.

D-9. Final resolution upon appeal

Complaints that are not resolved at brigade level may be appealed to the General Courts-Martial Convening Authority. The only exception to this is where organizations have MOUs or support that delegate UCMJ authority to a local commander. Decisions at this level are final.

D-10. Follow-up assessment

The EOA will conduct a follow-up assessment of all formal EO and sexual harassment complaints, both for substantiated and unsubstantiated complaints, 30 to 45 calendar days (four to six MUTA 4 drill periods for RCs) following the final decision rendered on the complaint. The purpose of the assessment is to measure the effectiveness of the actions taken and to detect and deter any acts or threats of reprisal. The EOA will also assess the complainant's satisfaction with the procedures followed in the complaint process to include timeliness, staff responsiveness and helpfulness, and resolution of the complaint. The findings of this assessment will be annotated on DA Form 7279-1 (Equal Opportunity Complaint Resolution Assessment) and maintained by the EOA. The EOA will present findings and recommendations to the commander for further consideration/action within 15 calendar days (second MUTA 4 drill period for RCs). After the commander reviews the EOA findings and recommendation, the assessment is attached to the original complaint and maintained with the rest of the file. DA Form 7279-1 is available on the APD Web site.

D-11. Documentation/reporting of formal complaints

a. After the complainant's case is closed, the entire complaint packet will be filed by the EOA who is the first in the complainant's chain of command.

b. The EOA retains the complaint file. Complaints will be retained on file for 2 years from the date of the final decision on the case, using the Army Record Information Management System.

c. In addition to the completed DA Forms 7279 and DA Form 7279-1, the EOA will retain the following information (using the memorandum for record format) for each case:

- (1) The name, rank, and organization of the individual who conducted the inquiry/investigation;
- (2) Complete report of investigation to include written review by EOA and servicing SJA; and,
- (3) The status or results of any judicial action, nonjudicial punishment, or other action taken to resolve the case.

d. The commander processing the complaint involving ARNG Soldiers will send an information copy of the information in c, above to NGB-EO within 30 days.

D-12. Actions against Soldiers submitting false complaints

Soldiers who knowingly submit a false EO complaint (a complaint containing information or allegations that the complainant knew to be false) may be punished under the UCMJ.

D-13. Complaint procedures for Army Reserve Soldiers serving in the individual ready reserve or those Soldiers not assigned to a unit

a. *Complaint filed during active duty tour.* Complaint procedures will remain the same as for AD personnel. Active and reserve Army commanders, upon receiving a complaint from members of the IRR or Individual Mobilization Augmentee, from Soldiers performing AD for special work or temporary tour of AD, or from any reservist who is not a member of a TPU, will make every attempt to resolve the complaint prior to the completion of the Soldier's AD tour.

(1) *Timelines.* Should the complaint be filed but not resolved prior to the Soldier's release from active duty, the timelines will be modified. The AA or RC commander will have 30 calendar days from the filing of the complaint to notify the complainant of the results of the investigation/actions taken to resolve the complaint.

(2) *Appeals.* The complainant and subject(s) of the complaint will have 30 calendar days from notification of the results of the investigation to file an appeal. Appeals filed more than 30 calendar days after notification must be accompanied by a written explanation of the reasons for delay. The commander has the discretion to consider an appeal based on its merits.

(3) *Final decision.* Notification of the commander's final decision will be provided to the complainant and subject(s) of the complaint with information copies to the next higher headquarters and AHRC within 30 calendar days of the receipt of the appeal.

b. *Complaint filed subsequent to release from active duty.* In the event the complaint is filed after the AD tour has ended, the complainant will file a sworn complaint on DA Form 7279 (Part I through item 9) to the AHRC EOA. (Soldiers may contact the AHRC EO office for this form at Commander, AHRC, ATTN: ARPC-ZEQ, 9700 Page Boulevard, St. Louis, MO 63132-5200.) Upon the receipt of DA Form 7279, AHRC will forward the complaint to the appropriate commander of the subject(s) of the complaint AD unit for investigation.

(1) *Timelines.* That commander will have 30 calendar days from date of receipt of the complaint to conduct an investigation and to provide feedback to the complainant. (Extensions, not to exceed an additional 45 calendar days, may be granted by higher echelon commander.)

(2) *Appeals.* Complainants and subject(s) of the complaint will have 30 calendar days from notification of the results of investigation/to appeal/decline appeal. Appeals filed more than 30 calendar days after notification must be accompanied by a written explanation of the reasons for delay. The commander has the discretion to consider an appeal based on its merits.

(3) *Final notification.* Within 30 calendar days of receipt of appeal, the commander will provide notification of final decision to the complainant and subject(s) of the complaint, next higher headquarters, and AHRC.

D-14. Complaint procedures for Army National Guard Soldiers

While on AD for 30 days or more, ARNG Soldiers will follow the complaint procedure outlined in this regulation. In all other cases, ARNG Soldiers will follow the complaints procedures outlined in National Guard Regulation (NGR) 600-22, National Guard Military Discrimination Complaint System.

a. *Jurisdiction.* The responsibility for processing the complaint belongs to the commander at the lowest echelon of the subject's chain of command that can assure a thorough, expeditious, and unbiased investigation of the allegations.

b. *Complaints involving ARNG Soldiers filed, but not resolved, during an AD tour.* If the duty status changes for the subject of an unresolved complaint, the commander with UCMJ or equivalent authority over the subject will receive the complaint and complete the processing of the complaint.

c. *Complaints filed after release from AD.* An ARNG Soldier may file a complaint with the State Equal Employment Manager based upon unlawful discrimination that occurred while the Soldier was on AD. The complaint must be

200310

filed within 180 calendar days of the date of the alleged unlawful discrimination or of the time that the Soldier knew or reasonably should have known of the unlawful discrimination.

(1) If both the complainant and the subject are ARNG, follow NGR 600–22 to coordinate with the appropriate National Guard agency representative for processing.

(2) If the subject is from a different component or branch of the Service than the complainant, contact the senior EO office of the subject’s component or branch of the Service to determine the appropriate jurisdiction with the purview to remedy.

d. Commanders processing a complaint involving an ARNG Soldier will send an information copy of the completed complaint to NGB–EO–CR within 30 days as per paragraph C–11d.

Appendix E Command Climate Survey

E–1. Requirement

a. Company level commanders (or equivalents) will administer the command climate survey within 30 days of assuming command (120 days for the ARNG and USAR), again at 6 months, and annually thereafter. At their discretion, company level commanders (or equivalents) may administer the command climate survey more often and may supplement the survey with data from other surveys, focus groups, and interviews to assess the unit climate.

b. The survey is voluntary for commanders (or equivalents) above the company level. Because the initial survey is administered shortly after a change of command, the results should not be seen as a reflection on the new commander (or equivalent), but simply as a starting point for assessing and improving the unit’s command climate.

E–2. Confidentiality

Survey responses will be treated as confidential. Exceptions to confidentiality will be consistent with the Privacy Act Statement (that is, respondent statements about being a threat to themselves or others, comments involving criminal behavior, and/or operationally sensitive information). When paper and pencil format is used, the unit will ensure that respondents can submit their survey in an inconspicuous location. Survey results will never be reported so that an individual’s responses can be identified. Only subgroups containing at least five individuals will be reported. Results are intended for the company commander’s use and are not reported up the chain of command. Commanders must provide timely feedback to the unit.

E–3. Compliance

After the company commander has administered and analyzed the command climate survey and has developed action plans, the brigade EOA, will note completion in the brigade QNSR. Completion of the command climate survey is an item that is checked under the CIP.

E–4. Role of the equal opportunity advisor

The EOA role is to discuss assessment results with the commander to aid in developing action plans. Results are best when the commander takes a proactive role in analyzing data and planning for unit improvements.

E–5. Deleted.

E–6. Commander’s training module

Command Policy (AR 600–20) requires commanders of company-size units to conduct the “Command Climate Survey” as a tool for reviewing the climate factors (for example, leadership, cohesion, morale) that affect their unit’s effectiveness. This Training Module is designed to help commanders prepare to conduct a survey, read and interpret survey results, develop action plans based on survey findings, and conduct feedback sessions. Additionally, Training Circular (TC) 26–6, Commander’s Equal Opportunity Handbook, provides useful information on conducting a climate assessment and using the command climate survey.

E–7. Anonymity

Survey results are anonymous and the privacy of individuals submitting a survey will always be protected. Personnel administering the survey and/or collecting the data should make sure procedures are in place to protect the anonymity of respondents and the confidentiality of the results. Exceptions to confidentiality and anonymity will be consistent with the Privacy Act Statement of the survey (that is, respondent statements about being a threat to themselves or others, comments involving criminal behavior, and operationally sensitive information). Personally identifiable information such as name, email address, or social security number should never be requested or collected. When a racial,

ethnic, gender, or other demographic group consists of fewer than five members, results for that group will not be broken out. For example, if a unit has only four females, results for females will not be separated from the males.

E-8. Controls

Key internal controls will be developed and published in the next revision of this publication.

Appendix F The Sexual Assault Review Board

F-1. Purpose

This appendix prescribes mission, responsibilities, procedures and policies pertaining to installation level sexual assault review boards (SARB) at garrison installations and deployed environments. In a deployed environment, the SARB will be convened at brigade or higher level as appropriate and follow the same format as the installation SARB.

F-2. Mission

The SARB provides executive oversight, procedural guidance and feedback concerning the installation's SAPR program. This board reviews the installations prevention program and the response to any sexual assault incidents occurring at the installation. This includes reviewing cases and procedures to improve processes, system accountability and victim access to quality services.

F-3. Sexual assault review board composition

a. The installation commander (senior mission commander, regional readiness commander, or state Joint Forces Headquarters level commander) is responsible for the SARB and will convene this multi-disciplinary board on a monthly basis. The installation's SARC is a required member of this board.

b. The SARB will consist of the following military or civilian professionals:

- (1) SARC.
- (2) Victim advocate (as appropriate when their case is being discussed and when deemed necessary by the installation commander).
- (3) Army Criminal Investigation Command (or other Service military criminal investigative organization, if required).
- (4) Staff judge advocate or representative.
- (5) Provost marshal or representative, law enforcement (military or civilian police services).
- (6) Chaplain or representative.
- (7) Sexual assault clinical provider or sexual assault care coordinator.
- (8) Chief, Behavioral Health.
- (9) Other members may be appointed by nature of their responsibilities as they pertain to sexual assault (for example, victim witness liaisons, Alcohol and Substance Abuse Program representative).

F-4. Responsibilities

a. The installation commander or designated representative will chair the SARB and will—

- (1) Convene SARB meetings at least monthly to review sexual assault cases.
- (2) Provide SARB findings through the appropriate command channels noting deficiencies in the installation processes and procedures for preventing or responding to sexual assault.
- (3) Implement process improvements to ensure system accountability and an effective victim services program.
- (4) Ensure that the installation's multi-disciplinary SAPR service providers are receiving appropriate training and have the necessary resources to do the job.
- (5) Facilitate monthly victim updates.
- (6) Maintain the integrity of confidential cases (that is, do not discuss any identifying information rather use case numbers or other non-identifying data).

b. The SARB members will—

- (1) Perform required functional tasks as designated by the appropriate regulations and as directed by the installation commander.
- (2) Conduct ongoing reviews of current procedures for each alleged sexual assault case for compliance with regulations, local policies and in keeping with the accepted high standards of victim care.
- (3) Meet at least monthly to review the handling and disposition of all alleged sexual assault cases. Provide recommendations to the SARB on ways to improve the processing of sexual assault cases.

(4) Participate in training as required. Determine SAPR training needs of your agency by monitoring each alleged sexual assault incident. Identify training requirements to the SARB.

(5) Conduct ongoing reviews of MOA with other Services and civilian agencies regarding SAPR support. Provide updates to the SARB and recommendations for improvements as necessary.

Appendix G

Army Sexual Assault Prevention and Response Program Sexual Assault Victim Assistance Actions

G-1. Responsibility for actions after a report of sexual assault

Although the commander has significant leadership responsibility for actions after a report of sexual assault, not necessarily all of the actions listed in paragraph G-2 will be taken by the commander.

G-2. Actions to be taken in the event of receiving a report of sexual assault

The actions in the following list are to be taken in the event of receiving a report of sexual assault:

a. Ensure the physical safety of the victim-determine if the alleged assailant is still nearby and if the victim needs protection.

b. Advise the victim of the need to preserve evidence (for example, by not bathing, showering, washing garments).

c. Encourage the victim to report the incident and get a medical examination immediately (even if the incident occurred prior to the past 72 hours).

d. Make appropriate administrative and logistical coordination for movement of victim to receive care. (Involve the minimum number of personnel possible and only on a need-to-know basis).

e. Ask if the victim needs a support person (for example, a personal friend, VA, chaplain) to immediately join the victim.

f. Notify the SARC.

g. Notify the Chaplain if the victim requests pastoral counseling or assistance.

h. Notify the Criminal Investigation Command, military police, installation provost marshal (per AR 195-1, paragraph 6), and commanders in the chain of command (as appropriate) within 24 hours (as soon as the victim's safety is established and victim's medical treatment procedures are in motion) and—

(1) Limit the details regarding the incident to only those personnel who have a legitimate need to know.

(2) Take action to safeguard the victim from any formal or informal investigative interviews or inquiries, except by those personnel who may have a "need to know", including but not limited to, the Criminal Investigation Command investigator(s) and the trial counsel.

(3) Collect only the necessary information (for example, victim's identity, location and time of the incident, name and/or description of offender(s)). Do not ask detailed questions and/or pressure the victim for responses.

i. Ensure the victim is made aware of, and encouraged to exercise, their options during each phase of the medical, investigative, and legal processes.

j. Ensure the CID notifies victims and witnesses of their rights through a completed Victims and Witnesses of Crime form, DD Form 2701. (Reference AR 27-10).

k. Inform the victim of the resources in theater that are available through the Victim and Witness Assistance Program (AR 27-10). Also, inform the victim of resources accessible from anywhere in the world (that is, Military One Source (from U.S.: 1-800-464-8107; International: 800-464-81077; International collect: 484-530-5889, 24-hours-a-day, 7-days-a-week)).

l. Provide emotional support to the victim, including—

(1) Throughout the investigation, consult with the victim and, to the extent practicable, accommodate the victim's wishes, as long as a full and complete investigation is not compromised.

(2) Listen/engage in quiet support of the victim, as needed. Be available in the weeks and months following the sexual assault, and ensure the victim that she/he can rely on the commander's support.

(3) Emphasize to the victim the availability of additional avenues of support; refer to available counseling groups and other victim services.

(4) Confer with the commander's legal representative and/or servicing SJA office to consider legal options, responsibilities (for example, pretrial restraint, military protective order), and appropriate disposition of the alleged offense.

(5) If the subject is a foreign national or from a coalition force, confer with SJA on responsibilities, options, and victims rights (in theater).

(6) Determine the best courses of action for separating the victim and the subject during the investigation.

(a) Determine whether the victim desires to be transferred to another unit.

(b) Determine if the suspect needs/desires to be transferred to another unit.

200313

(c) Consider whether a Military Protection Order (MPO) (DD Form 2873), referred to as “no contact order,” is appropriate.

(d) Coordinate with sexual assault response agencies and the chain of command (involve as few people as possible and only on a need to know basis, protecting the victim’s privacy) to determine if the victim’s condition warrants redeployment or reassignment until there is a final legal disposition of the sexual assault case and/or the victim is no longer in danger.

(e) To the extent practicable, preferential consideration related to the reassignment should be based on the victim’s desires.

m. Flag (suspend favorable personnel actions) any Soldier under charges, restraint, or investigation for sexual assault in accordance with AR 600–8–2 (Suspension of Favorable Actions), and suspend the Soldier’s security clearance in accordance with AR 380–67, The Department of the Army Personnel Security Program.

n. Avoid automatic suspension or revocation of the victim’s security and/or personnel reliability program clearance, when possible, as the victim can be treated for their related trauma. Consider the negative impact that suspension of a victim’s security clearance has on both the victim’s sensitivity and the service climate for reporting. Commanders should consider making this decision in consultation with a credentialed behavioral health professional.

o. Determine how to best dispose of the victim’s collateral misconduct. Absent overriding considerations, commanders should consider exercising their authority in appropriate cases to defer disciplinary actions for the victim’s misconduct until after the final disposition of the sexual assault case.

p. Update the battalion or higher-level commander on the status of the victim and subject(s) within 14 calendar days, and on a monthly basis thereafter, until the case is officially closed. If the victim or subject is transferred or redeployed prior to the case closing, coordinate with investigative and SJA personnel before ceasing monthly updates on parties involved.

q. Update the victim on a monthly basis on the sexual assault investigation until its final disposition. Furthermore, initiate follow-up with the victim within 45 days after disposition of the case.

r. Consult with the servicing legal office, criminal investigative organization, and notify the assigned VA prior to taking any administrative action affecting the victim.

s. Ensure unit personnel are abreast of risk factors associated with sexual assault, especially those risk factors unique to the deployed environment.

Appendix H Confidentiality/Restricted Reporting

H-1. Purpose

This appendix establishes the Army’s guidelines for restricted and unrestricted reporting by victims of sexual assault.

H-2. Mission

The Army is committed to ensuring victims of sexual assault are protected, treated with dignity and respect, and provided support, advocacy and care. Army policy strongly supports effective command awareness and prevention programs, and law enforcement and criminal justice activities that will maximize accountability and prosecution of sexual assault perpetrators. To achieve these dual objectives, the Army prefers complete reporting of sexual assaults to activate both victims’ services and accountability actions. However, recognizing that a mandate of complete reporting may represent a barrier for victims to access services when the victim desires no command or law enforcement involvement, there is a need to provide an option for confidential reporting.

H-3. Commander’s responsibility

Assuring privacy and providing a confidential disclosure option for sexual assault victims is critical to discharging our commitment. Sexual assault is the most under reported violent crime in our society and in the military. Although the victim’s decision to report is a crucial step following a sexual assault, reporting is often precluded by the victim’s desire for no one to know what happened. Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the privacy of victims under their command. Subject matter experts agree that a system that promotes privacy/confidentiality can have a positive impact in bringing victims forward to provide information about being assaulted.

H-4. Confidential reporting

Confidentiality or confidential reporting allows a uniformed Service member to report a sexual assault to specified individuals. Confidential reporting consists of two components: restricted and unrestricted reporting.

a. *Restricted reporting.* A Soldier who is sexually assaulted and desires medical care, counseling and victim advocacy, without initiating the investigative process should use the restrictive reporting option. Restricted reporting

allows a sexual assault victim to confidentially disclose the details of his/her assault to specifically identified individuals and receive medical treatment and counseling, without triggering the official investigative process. Restricted reporting is intended to give victims additional time and increased control over the release and management of their personal information, and to empower them to seek relevant information and support to make more informed decisions about participating in the criminal investigation. A victim who receives appropriate care and treatment, and is provided an opportunity to make an informed decision about a criminal investigation is more likely to develop increased trust that his/her needs are of primary concern to the command and may eventually decide to pursue an investigation. Even if the victim chooses not to pursue an official investigation, this additional reporting avenue gives commanders a clearer picture of the sexual violence within their command, and enhances a commander's ability to provide an environment that is safe and contributes to the Well-being and mission-readiness of all of its members. Restricted reporting procedures follow:

(1) Soldiers who are sexually assaulted and desire restricted reporting under this policy should report the assault to the SARC, a VA, or a healthcare provider.

(2) Consistent with current policy, Soldiers may also report the assault to a chaplain. This policy on restricted reporting is in addition to the current protections afforded privileged communications with a chaplain, and does not alter or affect those protections.

(3) Upon notification of a reported sexual assault, the SARC will immediately assign an IVA or UVA.

(4) The assigned VA will provide the victim accurate information on the process to include the process of restricted vice unrestricted reporting.

(5) The SARC or VA will ensure the victim acknowledges in writing his or her understanding that restricted reporting may limit the ability of the Government to prosecute the assailant, restrict the Army's ability to provide adequate measures to limit contact between the victim and the assailant, and an understanding of the reasons Army policy favors unrestricted reporting.

(6) Healthcare providers will, with the consent of the victim, initiate the appropriate care and treatment, and report the sexual assault to the SARC in lieu of reporting the assault to law enforcement or the chain of command. Additionally, at the victim's discretion/request, the healthcare provider, if appropriately trained and supervised, will conduct a forensic medical examination, which may include the collection of evidence. Disposition instructions for such evidence are provided in appendix J.

(7) If a DOD healthcare provider is not available, the victim will be appropriately referred to a civilian provider for the forensic examination, if the victim requests such a forensic examination.

b. Unrestricted reporting. A Soldier who is sexually assaulted and desires medical treatment, counseling and an official investigation of his/her allegation should use current reporting channels, for example, chain of command, law enforcement or report the incident to the SARC. Upon notification of a reported sexual assault, the SARC will immediately assign a VA. Healthcare providers will, with the consent of the victim, initiate the appropriate care and treatment, and report the sexual assault to law enforcement or the chain of command. Additionally, at the victim's discretion/request, the healthcare provider will conduct a forensic medical examination, which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know.

H-5. Confidential communication

a. Regardless of whether the Soldier elects restricted or unrestricted reporting, confidentiality of medical information will be maintained in accordance with current guidelines on the HIPAA.

b. In cases where a victim elects restricted reporting, the SARC, assigned VA (whether uniformed or civilian), and healthcare providers may not disclose covered communications to law enforcement or command authorities, either within or outside the DOD, except as provided in the exceptions below.

c. Covered communications are oral, written, or electronic communications of personally identifiable information made by a victim to the SARC, assigned VA or to a healthcare provider related to their sexual assault.

d. For purposes of public safety and command responsibility, the SARC is responsible for reporting information concerning sexual assault incidents, without information that could reasonably lead to personal identification of the victim, to installation command officials within 24 hours of the incident.

e. In the event that information about a sexual assault is disclosed to the commander from a source independent of the restricted reporting avenues, or to law enforcement from other sources, the commander will report the matter to law enforcement and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his/her sexual assault to persons outside the protective sphere of the persons covered by this policy may result in an investigation of the allegations.

f. This policy does not create any actionable rights for the alleged offender or the victim, nor constitute a grant of immunity for any actionable conduct by the offender or the victim. Covered communications that have been disclosed may be used in disciplinary proceedings against the offender or the victim, even if such communications were improperly disclosed.

g. Improper disclosure of covered communications, improper release of medical information, and other violations of

this policy are prohibited and may result in discipline under the UCMJ, loss of credentials, or other adverse personnel or administrative actions

H-6. Exceptions to confidentiality

a. In cases in which victims elect restricted reporting, the prohibition on disclosing covered communications is waived to the following persons or entities when disclosure would be for the following reasons:

- (1) Command officials or law enforcement when disclosure is authorized by the victim in writing.
- (2) Command officials or law enforcement when disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of victim or another.
- (3) Disability retirement boards and officials when disclosure by a healthcare provider is required for fitness for duty for disability retirement determinations, limited to only that information that is necessary to process disability retirement determination.
- (4) SARC, VAs, or healthcare provider when disclosure is required for the supervision of direct victim services.
- (5) Military or civilian courts of competent jurisdiction when disclosure is ordered by or is required by Federal or state statute. SARC, VAs, and healthcare providers will consult with the servicing legal office in the same manner as other recipients of privileged information to determine if the criteria apply and they have a duty to obey. Until those determinations are made, only non-identifying information should be disclosed.

b. Healthcare providers may convey to the command any possible adverse duty impact related to the victim's medical condition and prognosis in accordance with DOD 6025.18-R, Health Insurance Portability and Accountability Act. Such circumstances however, do not otherwise warrant an exception to policy, and therefore the specific details of the sexual assault will still be treated as covered communication and may not be disclosed.

H-7. Covered communication

a. Improper disclosure of covered communications, improper release of medical information, and other violations of this policy are prohibited and may result in discipline under the UCMJ, loss of credentials, or other adverse personnel or administrative actions.

b. In the event that information about a sexual assault is disclosed to the commander from a source independent of the restricted reporting avenues, or to law enforcement from other sources, the commander may report the matter to law enforcement and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his/her sexual assault to persons outside the protective sphere of the persons covered by this policy may result in an investigation of the allegations.

c. This policy does not create any actionable rights for the alleged offender or the victim, nor constitute a grant of immunity for any actionable conduct by the offender or the victim. Covered communications that have been disclosed may be used in disciplinary proceedings against the offender or the victim, even if such communications were improperly disclosed.

d. The Army recognizes the potential impact of restricted reporting on investigations and the commander's ability to hold perpetrators accountable, and this policy decision represents the judgment that such risks have been carefully considered but were outweighed by the overall interest in providing sexual assault victims this form of support. This policy supersedes all regulatory and policy guidance within the Department of Army not expressly mandated by law that is inconsistent with its provisions, or would preclude execution.

Appendix I Essential Training Tasks for a Sexual Assault Response Capability

I-1. Purpose

This appendix establishes mandatory baseline training standards for sexual assault response groups. These DOD standards will ensure that any Service member who is assaulted will receive the same level of response regardless of his or her particular military Service. Responder groups are composed of personnel in the following disciplines or positions:

- a.* Sexual assault response coordinators.
- b.* Victim advocates.
- c.* Healthcare.
- d.* Law enforcement and criminal investigators.
- e.* Judge advocates.
- f.* Chaplains.

I-2. Mission

Effective with this regulation, the following essential training tasks are mandatory for each respective response group.

200316

Commanders, responsible for these response groups, are required to ensure the training curricula incorporate these essential training tasks, including the frequency and content of periodic refresher training. Compliance with and achievement of the mandated essential training tasks will be made the subject of command inspections.

I-3. Essential training tasks

The essential training tasks for sexual assault response groups are listed below. These are the minimum baseline training tasks and can be added to as required.

a. Sexual Assault Response Coordinators. The SARC is expected to be the center of gravity for the sexual assault response capability for a given command. The SARC reports to a installation commander when an assault occurs and has direct supervision and management of sexual assault VAs when in the performance of their duties as a VA. All SARC will receive initial and periodic refresher training on the following essential tasks:

- (1) Victim advocate training.
- (2) Roles and responsibilities-command relationship.
- (3) Victim advocate screening.
 - (a) Recent victims.
 - (b) Offenders.
 - (c) Personal biases.
- (4) Case management skills.
- (5) Management skills.
 - (a) Required reports.
 - (b) Proper documentation.
 - (c) Restricted reporting.
 - (d) Unrestricted reporting.
 - (e) Training.
 1. Victim advocates.
 2. Installation personnel (civilian and military).

b. Victim advocates. All VAs will receive initial and periodic refresher training on the following essential tasks:

- (1) Sexual assault response policies.
 - (a) Department of Defense.
 - (b) Army.
 - (c) Other Services.
 - (d) Confidentiality policy rules and limitations.
- (2) Critical advocacy skills.
 - (a) Basic interpersonal and assessment skills.
 1. Appropriate relationship/rapport building, supporting the victim, listening, communication.
 2. Sensitivity training to prevent re-victimization.
 - (b) Crisis intervention.
 - (c) Roles and limitations.
 1. Command relationship.
 2. Victim advocate's rights and responsibilities.
 3. Reporting to the SARC.
 4. Recognizing personal biases/issues.
 - (d) Local protocols and procedures.
 1. Resources.
 2. Referrals.
 3. Military and civilian.
 - (e) Documentation.
 1. Requirements.
 2. Tracking and monitoring.
 - (f) Record keeping rules for protected disclosures.
 - (g) Ethics.
 - (h) Individual vs. system advocacy (collaboration/knowledge of resources/referrals).
- (3) Knowledge of the military (that is, command, mission, programs, all installations VA programs, and military justice and adverse administrative actions).
 - (4) Overview of criminal investigative process and military judicial and evidentiary requirements.
 - (5) Victimology.
 - (a) Types of assault.

- (b) Health consequences.
 - 1. Mental/behavioral health.
 - 2. Physical health.
- (c) Myths and facts.
- (d) Secondary victimization.
- (e) Cultural/religious differences.
- (f) Types of sexual offenders.
- (6) Victim rights and the role of the victim in accountability actions (limitations on accountability actions created by restricted reports).
 - (7) Health care management of sexual assault.
 - (a) Medical resources/treatment options.
 - 1. Medical exam.
 - 2. Forensic exam.
 - 3. Mental health and counseling.
 - (b) Testing
 - 1. Pregnancy.
 - 2. STDs, human immunodeficiency virus (HIV).
 - (8) Safety planning.
 - (a) Retaliation toward victim (by command, peers, or offender). Also includes avenues for redress if victim has been subjected to retaliation or intimidation for making an unrestricted report.
 - (b) Intimidation.
 - (c) Separation of victim and offender.
 - (d) Military protective orders.
 - c. *Healthcare providers.* There are two distinct training categories for healthcare providers.
 - (1) Healthcare personnel. All healthcare personnel will, at a minimum, receive initial and refresher training on the following essential tasks:
 - (a) Sexual assault response policies.
 - 1. Department of Defense.
 - 2. Army.
 - 3. Other Services.
 - 4. Confidentiality policy rules and limitations.
 - (b) Victim advocacy resources.
 - (c) Medical treatment resources.
 - (d) Overview of the sexual assault examination process.
 - (2) Healthcare providers performing sexual assault forensic examinations (SAFEs). The use of healthcare providers as sexual assault examiners will adhere to the U.S. Department of Justice's National Protocol for Medical Sexual Assault Examination. In addition to the training outlined above for all healthcare personnel, healthcare providers performing SAFEs will, at a minimum, receive initial and periodic refresher training on the following essential tasks:
 - (a) Sexual assault victim interview.
 - (b) Sexual assault examination process.
 - 1. Sexual assault evidence collection kit.
 - 2. Chain of custody.
 - 3. Documentation.
 - (c) Emergency contraception/HIV/STD treatment.
 - (d) Trauma.
 - 1. Types of injury(s).
 - 2. Photography of injuries.
 - 3. Behavioral health and counseling needs.
 - 4. Consulting/referral process.
 - 5. Appropriate healthcare follow-up.
 - (e) Medical record management.
 - (f) Guidelines for reporting sexual assaults.
 - (g) Legal processes and expert witness testimony.
 - d. *Law enforcement.* All Army law enforcement professionals will receive initial and periodic refresher training on the following essential tasks:
 - (1) Sexual assault response policies.
 - (a) Department of Defense.

- (b) Army.
- (c) Other Services.
- (d) Confidentiality policy rules and limitations.
- (2) Responding to sexual assault.
 - (a) Notification to command and SARC.
 - (b) Working with VAs (SARC).
- (3) Crime scene management.
 - (a) Securing crime scene.
 - (b) Identification and preservation of fragile evidence.
 - (c) Chain of custody.
- (4) Preliminary interviews.
 - (a) Victim sensitivity.
 - (b) Transition to military criminal investigation organization services.
- (5) Victimology.
 - (a) Victimization process.
 - (b) Potential traumatic responses.
 - (c) Trauma.
 - (d) Behavioral health concerns.
 - (e) Post traumatic stress disorder.
 - (f) Depression.
 - (g) Alcoholism.
- (6) Understanding sex offenders.

e. Criminal investigators. All military and civilian criminal investigators assigned to the Criminal Investigation Command (CID) will receive initial and periodic refresher training on the following essential tasks:

- (1) Sexual assault response policies.
 - (a) Department of Defense.
 - (b) Army.
 - (c) Other Services.
 - (d) DOD confidentiality policy rules and limitations.
 - (2) Victimology.
 - (a) Victimization process.
 - (b) Victim responses.
 - (c) Trauma.
 - (d) Post traumatic stress disorder.
 - (3) Understanding sex offenders.
 - (4) Crime scene management.
 - (a) Securing crime scene.
 - (b) Identification and collection of fragile evidence.
 - (c) Chain of custody.
 - (5) Interview techniques.
 - (a) Suspect.
 - (b) Victim.
 - (6) Investigating difficult cases.
 - (a) Impaired victims.
 - 1. Alcohol impairment.
 - 2. Drug facilitated sexual assaults.
 - (b) Multiple suspects.
 - (c) Domestic violence sexual assaults.
 - (7) Recantations and false information.
 - (a) Recantations-proper investigation of recantations.
 - (b) Factors influencing false reports.
 - (8) Working with VAs/SARCs.
 - (a) Victim advocates/SARC roles, responsibilities, and limitations.
 - (b) Victim services and support programs.
- f. Judge advocates.* There are two distinct training categories for judge advocates.

(1) Judge advocates. All judge advocates will receive training at initial military legal and periodic refresher training on the following essential tasks:

(a) DOD and Army sexual assault response policies: confidentiality policy rules and limitations.

1. Use of "restricted" reports by command, investigative agencies, trial and defense counsel.

2. Relationship of "restricted" reports to MRE.

(b) Victim rights.

1. Familiarity with Victim/Witness Assistance Program.

2. Victim and Witness Assistance Program challenges in the deployed environment.

(c) Victimology.

1. Victimization process.

2. Victim responses: trauma and post traumatic stress disorder.

3. Understanding sex offenders.

(d) Recantations and false information.

(e) Deployment issues: remote location assistance and Victim and Witness Assistance Program.

(2) Judge advocate trial counsel and military defense counsel. All trial and military defense counsel (that is, military judge advocate prosecutors at courts-martial) will receive initial and periodic refresher training, when required based on their position, on the following essential tasks:

(a) Sexual assault response policies.

1. DOD.

2. Service specific.

3. DOD confidentiality policy rules and limitations.

(b) Evidence.

1. Forensic and scientific-working knowledge of: Sexual Assault Examination Kit, basic forensic photography, and lab results.

2. Rules of evidence-MRE 412, 413, and 615 and case law concerning the admission of expert testimony (scientific and nonscientific).

(c) Interviewing, trial preparation, and cross-examination skills.

1. Victim.

2. Lay witnesses.

3. Expert witness.

(d) Sexual assault victim preparation for interviews, depositions and testimony.

g. *Chaplains*. All chaplains will receive initial and periodic refresher training on the following essential tasks:

(1) Sexual assault response policies.

(a) DOD

(b) Army prevention and response policy.

(c) Privileged communications and confidentiality policy rules and limitations.

(2) Victimology.

(a) Types of assault.

(b) Health consequences.

1. Mental/spiritual health.

2. Physical health.

(c) Myths and facts.

(d) Secondary victimization.

(e) Cultural/religious differences.

(3) Victim rights.

(4) Trauma training with pastoral applications.

(a) Types of injury.

(b) Consulting/referral process.

(5) Documentation.

(6) Permissible reporting of information to command and others.

Appendix J

Sexual Assault Forensic Exam, Collection, and Preservation of Evidence under Restricted Reporting

J-1. Purpose

Medical services offered to victims of sexual assault include the option to elect a SAFE in addition to the general medical care related to sexual assault response. The SAFE is an examination of a sexual assault victim by a health care provider (HCP), who, ideally, has specialized education and clinical experience in the collection of forensic evidence and treatment of these victims. The forensic component includes gathering information from the victim for the medical forensic history, an examination, documentation of biological and physical findings, collection of evidence from the victim, and follow-up as needed to document additional evidence.

J-2. Process

The process for collecting and preserving sexual assault evidence under the restricted reporting option is the same as takes place under the unrestricted reporting option, except that the restricted reporting option does not trigger the official investigative process and any evidence collected has to be documented in a way that ensures the confidentiality of a victim's identity.

J-3. Procedures

Restricted reporting allows a victim of sexual assault who is a Soldier to disclose on a requested confidential basis, the details of his or her assault to specifically identified individuals and receive medical treatment and counseling; this may include a SAFE at the victim's request.

a. If requested by the victim, a SAFE will be conducted by the appropriate HCP. The SAFE exam is the victim's option as are other general medical services related to the sexual assault.

(1) Sexual assault reporting procedures require that the SARC be notified of all incidents of reported sexual assault. The SARC, in turn, will assign a VA to assist the victim.

(2) If a victim initially seeks assistance at a medical facility, SARC notification must not delay the treatment of any medical conditions requiring immediate attention for the health of a victim.

(3) Once any emergent medical injuries have been treated, the SARC or VA will—

(a) Advise the victim of the reporting options available to them.

(b) Explain the benefits and limitations of each option, especially the impact of any state mandatory reporting laws on restricted reporting.

(c) Document the reporting option the victim selects using DD Form 2910 (Victim Reporting Preference Statement).

(4) The SARC or VA will inform the victim about the availability of an optional SAFE. If a victim chooses to undergo a SAFE, and the HCP determines a SAFE is indicated by the facts of the case, the HCP at military facilities that possess a SAFE capability will conduct the examination.

b. Installation commanders, senior mission commanders, Joint Force Headquarters commanders, and geographically dispersed unit commanders who do not have a military treatment facility with SAFE capability will arrange transportation for the victim to and from a military facility or local off-base, non-military facility that has a SAFE capability. Commanders may also contract with a local sexual assault nurse examiner or other HCPs who are trained and credentialed to perform a SAFE, and have them report to the MTF to conduct the examination.

(1) Whenever possible, military installations should have a formal MOU in place between military facilities and off-base, non-military facilities for the purpose of conducting a SAFE.

(2) Geographically dispersed units and RCs will pursue through coordination or formal agreements a SAFE option for victims with supporting installation medical treatment facilities, civilian facilities, or local sexual assault nurse examiner who are trained and credentialed to perform a SAFE.

(3) The SARC or VA will ensure that the victim is aware of any local or state mandatory sexual assault reporting requirements that may limit the possibility of restricted reporting prior to proceeding with the SAFE at the off-base, non-military facility.

c. For restricted reporting cases, the SARC will generate an alphanumeric restricted reporting control number (RRCN), unique to each incident that will be used in lieu of personal-identifying information, to label and identify the potential evidence collected from a SAFE (for example, SAFE kit, accompanying documentation and personal effects, and clothing as appropriate). The following will also be done:

(1) Upon completion of the SAFE, the HCP will package, seal, and label the potential evidence container(s) with the RRCN and notify the supporting provost marshal.

(2) The provost marshal will be trained and capable of collecting and preserving evidence, to assume custody of the evidence, using established chain of custody procedures.

(3) The MOA and MOU with off-base, non-military facilities should include instructions for the notification of a SARC regardless of whether a restricted or unrestricted report of sexual assault is involved, evidence receipt procedures, application of an RRCN, and disposition of evidence back to the supporting provost marshal.

(4) The RRCN and general description of the potential evidence will be entered into a log to be maintained by the provost marshal.

(5) Evidence will be stored for 1 year from the date of the victim's restricted report of the sexual assault.

(6) At least 30 days prior to the expiration of the 1-year storage period, the supporting provost marshal will notify

the appropriate SARC that the 1-year storage period is about to expire. Accordingly, the SARC will ensure notification to the victim.

(7) If the victim desires to recover any of their personal effects, the SARC will retrieve the items from the provost marshal and return them to the victim.

(8) If the victim does not desire to change from a restricted report to an unrestricted report, and does not request the return of any personal effects or clothing maintained as part of the evidence prior to the expiration of the 1-year storage period, as outlined in AR 195-5, the provost marshal will destroy the evidence maintained under that victim's RRCN.

(9) The potential evidence will similarly be destroyed if, at the expiration of 1-year, a victim does not advise the SARC of their decision, or the SARC is unable to notify a victim because the victim's whereabouts are no longer known.

(10) If, prior to the 1-year period, a victim changes their reporting preference to the unrestricted reporting option, the SARC will notify the military criminal investigative organizations (usually USACIDC), who will then assume custody of the potential evidence maintained by the RRCN from the provost marshal under established chain of custody procedures.

(11) Victims may request the retrieval of items of potential evidence at any time, through their supporting SARC. In that event, the SARC will be required to counsel the victim that the release of the items back to the victim could seriously impede or make impossible the prosecution of their case.

(12) Established procedures for documenting, maintaining, and storing the potential evidence will be followed in accordance with AR 195-5.

Appendix K

Sexual Assault Prevention and Response Program Assessment

K-1. Scope

The Army Sexual Assault Prevention and Response (SAPR) Program assessment policy provides a unifying assessment framework whose purpose is to document requirements for capturing feedback as to how well the Army is implementing its SAPR Program and provide insight as to where Army program improvements can be made.

a. This assessment policy applies to all Army organizations and personnel who have responsibilities for implementing the SAPR Program as stated in AR 600-20, paragraph 8-5 and this appendix.

b. Designated organizations cited in this policy are responsible for monitoring and reporting appropriate sexual assault data and trends, and for recommending changes to policy or processes to ensure sustained progress toward accomplishing the Army's SAPR Program stated goals.

c. Program assessment information will be reported to the Army SAPR PM, as directed in this policy, for the following purposes:

(1) To prepare quarterly and annual reports and annual assessments of the Army SAPR Program in accordance with 10 USC 113 and DODI 6495.02.

(2) To prepare an annual Army assessment, as required, using the program assessment rating tool (PART) guidance and procedures established by the Office of Management and Budget (OMB).

(a) The PART is based on a series of questions designed by OMB to provide a consistent approach to rating programs across the Federal Government. The PART questions are generally written in a Yes/No format that requires a brief narrative explanation of the answer and includes any relevant evidence to substantiate the answer. When hard evidence of performance is not readily available, the assessment will rely on professional judgment.

(b) The PART is divided into four sections: program purpose and design; strategic planning; program management; and program results. Each section includes a series of questions designed to elicit specific information for the evaluation.

K-2. Program assessment responsibilities

a. The DCS, G-1 will—

(1) Manage the overarching Army SAPR Program Assessment Policy to include procedures for collecting data, reporting findings and recommendations, and providing oversight of the program assessment process.

(2) Prepare and submit quarterly and annual Army SAPR Program reports through the Office, Assistant Secretary of the Army (Manpower and Reserve Affairs) to the DOD SAPR Office (SAPRO) as required by DOD Directive 6495.01 and DODI 6495.02.

(3) Monitor sexual assault data, trends, and SAPR performance using SADMS. Identify and report emerging trends and performance to Army leadership, as required.

(4) Prepare and disseminate annual guidance, as required, for the collection of input from designated Army organizations to support the preparation of annual reports and assessments.

(5) Prepare and submit annual SAPR Program assessments in accordance with 10 USC 113 and DODI 6495.02.

- (6) Prepare and submit, as required, a SAPR Program PART evaluation in accordance with OMB guidance.
- b. The ACSIM/CG, Installation Management Command will—*
- (1) Enforce the submission of sexual assault data by installation SARCs using the Defense Case Record Management System, or the DCS, G-1 Interim Reporting Solution until Defense Case Record Management System is fielded.
 - (2) Include the Army SAPR Program in the ACS Accreditation Program in accordance with AR 608-1.
 - (3) Submit an annual report (no later than 1 Dec, for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) Findings as a result of ACS accreditation inspections conducted during the year.
 - (b) SAPR related training, initiatives/actions, policies and/or procedures implemented by ACSIM/IMCOM during the calendar year.
 - (c) SAPR related initiatives/actions planned to be taken in the coming year.
 - (d) Recommendations for changes to Army SAPR Program or policy.
 - (e) Any resource shortfalls and the potential implications they carry with respect to impact on standard of service and recommended solutions to overcome these shortfalls.
 - (f) Status of SARC, deployable SARC, IVA, and UVA training, as required by AR 600-20, appendix I.
 - (g) Assessment of the implementation of MOA and MOU with local civilian communities and other Government agencies.
 - (h) Assessment of the implementation of SARB.
- c. Office of the Surgeon General/Commanding General, Medical Command will—*
- (1) Conduct periodic evaluations of medical services related to sexual assault cases under the Army SAPR Program.
 - (2) Submit an annual report (NLT 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) General findings from any OTSG/MEDCOM evaluation of medical services related to sexual assault cases under the Army SAPR Program.
 - (b) SAPR related policies and/or procedures implemented by OTSG/MEDCOM during the year.
 - (c) SAPR related initiatives/actions planned to be taken in the coming year.
 - (d) Recommendations for changes to Army SAPR Program or policy.
 - (e) Any resource shortfalls and the potential implications they carry with respect to impact on standards of care and possible solutions to overcome these shortfalls.
 - (f) Status of the availability at MTF of supplies needed for the treatment of victims of sexual assault who present at a MTF, including rape kits/SAFE kits, and supplies for testing and treatment for sexually transmitted infections and diseases, including HIV, and testing for pregnancy. Status should include MTF in CONUS, OCONUS and deployed locations (to the extent information is available for deployed locations through MEDCOM channels).
 - (g) Status of healthcare provider responder training as required by AR 600-20, appendix I.
- d. Office of The Judge Advocate General will—*
- (1) Conduct periodic evaluations of legal services related to sexual assault cases under the Army SAPR Program.
 - (2) Submit an annual report (NLT 1 Dec for the previous Fiscal Year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) General findings from any OTJAG evaluation of legal services related to sexual assault cases under the Army SAPR Program.
 - (b) SAPR related policies and/or procedures implemented by OTJAG during the year.
 - (c) SAPR related initiatives/actions planned to be taken in the coming year.
 - (d) Recommendations for changes to Army SAPR Program or policy.
 - (e) Any resource shortfalls and the potential implications they carry with respect to impact on standard of service and possible solutions to overcome these shortfalls.
 - (f) Status of judge advocate responder training as required by AR 600-20, appendix I.
- e. Office of The Inspector General may provide SAPR inspection reports upon request from the DCS, G-1 or as directed by the Executive Office of the Headquarters (EOH).*
- f. The OCCH will—*
- (1) Conduct periodic evaluations of chaplain services provided to victims of sexual assault under the Army SAPR Program.
 - (2) Submit an annual report (NLT 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) General findings from any OCCH evaluation of chaplain services provided to victims of sexual assault under the Army SAPR Program.
 - (b) SAPR policies and/or procedures implemented by OCCH during the year.
 - (c) SAPR Initiatives/actions planned to be taken in the coming year.
 - (d) Recommendations for changes to Army SAPR Program or policy.

- (e) Any resource shortfalls and the implications they carry with respect to impact on standard of service and possible solutions to overcome these shortfalls.
- (f) Status of chaplain responder training as required by AR 600-20, appendix I.
- g. Office of the Provost Marshal General (OPMG) will—
- (1) Conduct periodic evaluations of law enforcement services related to sexual assault cases under the Army SAPR Program.
 - (2) Submit an annual report (NLT 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) General findings from any OPMG evaluation of law enforcement services conducted for cases under the Army SAPR Program.
 - (b) SAPR policies and/or procedures implemented by OPMG during the year.
 - (c) SAPR related initiatives/actions planned to be taken in the coming year.
 - (d) Recommendations for changes to Army SAPR Program or policy.
 - (e) Any resource shortfalls and the potential implications they carry with respect to impact on standard of service and possible solutions to overcome these shortfalls.
- h. United States Army Criminal Investigation Command will—
- (1) Provide the reports listed below to the DCS, G-1 SAPR PM until formally relieved of this responsibility by the SAPR PM for example, SADMS is fully operational). Each report will be prepared as prescribed in Enclosure 8, DODI 6495.02, as follows:
 - (a) Monthly Central Command sexual assault report (no later than the 7th of each month).
 - (b) Quarterly Army sexual assault report (no later than 7 Jan, 7 Apr, 7 Jul, and 7 Oct).
 - (c) Annual Army sexual assault report (no later than 7 Jan).
 - (2) Conduct periodic evaluations of investigative services related to sexual assault cases under the Army SAPR Program.
 - (3) Submit an annual report (no later than 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) General findings from any CID evaluation of investigative services related to sexual assault investigations under the Army SAPR Program.
 - (b) Current processing time (in days) for Deoxyribonucleic acid evidence in sexual assault cases by the US Army Criminal Investigation Laboratory; to include an analysis of reasons for delays if processing time exceeds 60 days.
 - (c) SAPR policies and/or procedures implemented by USACIDC during the year.
 - (d) SAPR related initiatives/actions planned to be taken in the coming year.
 - (e) Recommendations for changes to Army SAPR Program or policy.
 - (f) Any resource shortfalls and the implications they carry with respect to impact on standard of service and possible solutions to overcome these shortfalls.
 - (g) Status of investigator responder training as required by AR 600-20, appendix I.
- i. The CNGB and OCAR will—
- (1) Enforce the submission of sexual assault data by installation SARCs using the Defense Case Record Management System, or the DCS, G-1 Interim Reporting Solution until Defense Case Record Management System is fielded.
 - (2) Include Army SAPR Program as part of the CIP and conduct periodic evaluation of SAPR program implementation and compliance.
 - (3) Submit an annual report (no later than 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—
 - (a) General findings from any NGB/OCAR evaluations of the Army SAPR Program implementation in the National Guard or Army Reserve.
 - (b) SAPR policies and/or procedures implemented by organization during the year.
 - (c) SAPR related initiatives/actions planned to be taken in the coming year.
 - (d) Recommendations for changes to Army SAPR Program or policy.
 - (e) Any resource shortfalls and the implications they carry with respect to impact on standards of care or service and possible solutions to overcome these shortfalls.
 - (f) Status of SARC, deployable SARC, IVA, and UVA training, as required by AR 600-20, appendix I.
 - (g) Status of annual refresher training for sexual assault responders (including DA Civilian Police) as required by AR 600-20, appendix I. (Note: This only applies to those responders under the command and control of the reporting headquarters.)
 - (h) Assessment of the implementation of MOA and/or MOU with local civilian communities and other Government agencies providing SAPR support.
 - (i) Assessment of the implementation of SARB.
- j. The CG, TRADOC will—

200324

(1) Include evaluations of SAPR training in TRADOC quality assurance (QA) visits and other periodic training evaluations or assessments.

(2) Submit an annual report (NLT 1 Dec for the previous fiscal year) with results of evaluations or assessments of SAPR training to the DCS, G-1 SAPR PM.

k. Army Headquarters (ACOMs, ASCCs, DRUs) will—

(1) Enforce the submission of sexual assault data by command SARCs and/or deployable SARCs (as required for deployed or geographically dispersed units not supported by an installation) using the Defense Case Record Management System, or the DCS, G-1 Interim Reporting Solution until Defense Case Record Management System is fielded.

(2) Include Army SAPR Program as part of the CIP and conduct periodic evaluation of SAPR program compliance in garrison/non-deployed and deployed environments.

(3) Submit an annual report (NLT 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR PM. The report will include, at a minimum—

(a) General findings from any evaluation of the implementation of the Army SAPR Program within the Army Headquarters (ACOMs, ASCCs, DRUs).

(b) SAPR policies and/or procedures implemented by organization during the year.

(c) SAPR related initiatives/actions planned to be taken in the coming year.

(d) Recommendations for changes to Army SAPR Program or policy.

(e) Any resource shortfalls and the implications they carry with respect to impact on standard of service and possible solutions to overcome these shortfalls.

(f) Status of the appointment and training of headquarters PMs and subordinate command SARCs, deployable SARCs, and UVAs.

(g) Status of annual refresher training for sexual assault responders (including DA Civilian Police) as required by AR 600-20, appendix I. (Note: This only applies to those responders under the command and control of the reporting headquarters.)

(h) Status of annual unit level training as required by AR 600-20, paragraph 8-7.

(i) Assessment of the implementation of MOA and/or MOU with local civilian communities and other Government agencies providing SAPR support. (Note: This may apply only to commands with deployed or geographically dispersed units not supported by an installation.)

(j) Assessment of the implementation of SARB, as applicable, both in garrison (non-deployed) and deployed environments.

l. U.S. Army Research Institute (ARI) will—

(1) Include sexual assault questions in the sample survey of military personnel and the human relations update surveys.

(2) Provide reports to the DCS, G-1 SAPR PM that includes analyses of the sexual assault specific findings from the sample survey of military personnel and other surveys, studies, or research.

m. The superintendent, USMA will—

(1) Prepare and submit academic program year reports as required by DODI 6495.02, paragraph E8.2.

(2) Coordinate and provide copies of academic program year reports to the Army SAPR PM.

Glossary

Section I Abbreviations

1LT
first lieutenant

1SG
first sergeant

2LT
second lieutenant

AA
Active Army

ACOM
Army Command

ACS
Army Community Service

ACSIM
Assistant Chief of Staff for Installation Management

AD
active duty

ADT
active duty for training

AGR
Active guard reserve

AHRC
Army Human Resources Command

AMEDD
Army Medical Department

ASCC
Army service component command

ASI
additional skill identifier

AT
annual training

BG
brigadier general

CAR
Chief, Army Reserve

CDT
cadet

CFSC
Army Community and Family Support Center

CID
Criminal Investigation Division

CIP
command inspection program

CLS
common levels of support

CNGB
Chief, National Guard Bureau

COL
colonel

CONUS
continental United States

CPL
corporal

CPT
captain

CSA
Chief of Staff, Army

CSM
command sergeant major

CW2
chief warrant officer two

CW3
chief warrant officer three

CW4
chief warrant officer four

CW5
chief warrant officer five

CYS
Child and Youth Services

DA
Department of the Army

DCS, G-1
Deputy Chief of Staff, G-1

DEERS
Defense Enrollment Eligibility Reporting System

DEOMI
Defense Equal Opportunity Management Institute

DEP
Delayed Entry Program

DOD

Department of Defense

DODI

Department of Defense instruction

DODD

Department of Defense directive

DOR

date of rank

DRU

direct reporting unit

EAD

extended active duty

EEO

Equal Employment Opportunity

EO

equal opportunity

EOA

equal opportunity advisor

EOAP

Equal Opportunity Action Plan

EOR

Equal Opportunity Representative

EORC

Equal Opportunity Representative Course

ETS

expiration of term of service

FAPM

Family advocacy program manager

FOIA

Freedom of Information Act

FORSCOM

Forces Command

FRG

Family Readiness Groups

FP

force protection

FTNGD

full time national guard duty

GA

general of the Army

GC
garrison commander

GCMCA
General Court-Martial Convening Authority

GEN
general

GOCOM
General Officer Command

GOSC
general officer steering committee

HCP
health care provider

HIV
human immunodeficiency virus

HIPAA
Health Insurance Portability and Accountability Act

HQDA
Headquarters, Department of the Army

HRRT
Human Relations Readiness Training

IMCOM
U.S. Army Installation Management Command

IRR
individual ready reserve

IVA
installation victim advocate

JFHQ
Joint Forces Headquarters

LTC
lieutenant colonel

LTG
lieutenant general

MAJ
major

MEDCOM
U.S. Army Medical Command

MCA
military construction, Army

MCAR
military construction, Army Reserve

MCM
Manual for Courts-Martial

MEOCS
Military Equal Opportunity Climate Survey

MG
major general

MILCON
military construction

MOA
memorandum of agreement

MOS
military occupational specialty

MOU
memorandum of understanding

MRE
Military Rules of Evidence

MSC
major subordinate command

MSG
master sergeant

MTF
medical treatment facility

MUTA
multiple unit training assembly

NCO
noncommissioned officer

NGB
National Guard Bureau

NGR
National Guard regulation

OC
officer candidate

OCAR
Office of the Chief, Army Reserve

OCCH
Office of the Chief of Chaplains

OCONUS
outside continental United States

OMB
Office of Management and Budget

OPMG

Office of the Provost Marshal General

OTJAG

Office of the Judge Advocate General

OTSG

Office of The Surgeon General

PART

program assessment rating tool

PCC

pre-command course

PCS

permanent change of station

PFC

private first class

PM

program manager

PME

professional military education

POSH

Prevention of Sexual Harassment

PT

physical training

PV1

private

PV2

private enlisted two

QNSR

Quarterly Narrative and Statistical Report

QTB

quarterly training brief

RA

regular Army

RC

Reserve component

RD

region director

ROTC

Reserve Officer's Training Corps

RRCN

restricted reporting control number

RSC
regional support command

SA
Secretary of the Army

SADMS
Sexual Assault Data Management System

SAFE
sexual assault forensic examination

SAPR
sexual assault prevention and response

SARB
sexual assault review board

SARC
sexual assault response coordinator

SAV
staff assistance visit

SC
senior commander

SFC
sergeant first class

SSG
staff sergeant

SGM
sergeant major

SGT
sergeant

SIDPERS
Standard Installation/Division Personnel System

SJA
staff judge advocate

SMA
Sergeant Major of the Army

SP4
specialist

SQI
skill qualifications identifier

TAFP
Total Army Family Program

TDA
table of distribution and allowances

TDRL
temporary disability retired list

TDY
temporary duty

TOE
table(s) of organization and equipment

TPU
troop program unit

TRADOC
U.S. Army Training and Doctrine Command

TSG
The Surgeon General

TTAD
temporary tour of active duty

UCMJ
Uniform Code of Military Justice

USACFSC
U.S. Army Community and Family Support Center

USACIDC
U.S. Army Criminal Investigation Command

USAR
U.S. Army Reserve

USARNORTH
U.S. Army North

USC
United States Code

USMA
United States Military Academy

UVA
unit victim advocate

VA
victim advocate

WO
warrant officer

WOC
warrant officer candidate

WO1
warrant officer one

YTB
yearly training brief

Section II

Terms

Action step

Specific action or task undertaken to eliminate or neutralize a problem and to achieve an objective. Information needed includes the agency taking action, a completion date, and an established goal.

Active Army

Consists of RA Soldiers on AD; ARNGUS and Army Reserve Soldiers on AD (except as excluded below); ARNG Soldiers in the Service of the United States pursuant to a call; and all persons appointed, enlisted, or inducted into the Army without component.

Active duty (AD)

Full-time duty in the active military Service of the United States, including full-time training duty; AT duty; attendance while in the active military Service, at a school designated as a service school by law or by secretary of the military department concerned. This term does not include FTNGD.

Active status

The status of a member of a RC not in the inactive ARNG, on inactive status list, or in the retired Reserve.

Affirmative action plan

A management document that consists of statements of attainable goals and timetables. This document is required of all Army organizations, commands, agencies, and activities down to brigade (or equivalent) level. It is designed to achieve EO for all military personnel.

Army National Guard

The Army portion of the recognized militia of the several states, Commonwealth of Puerto Rico and District of Columbia whose units and members are federally recognized.

Army National Guard of the United States

A RC of the Army, all of whose members are members of the ARNG.

Chain of command

The sequence of commanders in an organization who have direct authority and primary responsibility for accomplishing the assigned unit mission while caring for personnel and property in their charge.

Civil office

A nonmilitary office involving the exercise of the powers of authority of civil Government, to include elective or an appointed office in the U.S. Government, a U.S. territory or possession, State, county, municipality, or official subdivision thereof.

Command levels of support

Command levels of support are the HQDA determined levels for the common services that are provided by a garrison. Command levels of support refers to the method by which IMCOM directs all garrisons to deliver specific elements of installation support services (Service Support Programs (SSPs)) at a HQDA approved pre-determined level of service. This strategy is aimed at achieving standardization of installation services across the Army through equitable distribution of resources and garrison accountability for service delivery performance.

Complainant

A Soldier, military Family member, or civilian employee of the Army who submits a complaint.

Date of rank

The date on which an officer or enlisted Soldier actually or constructively was appointed in a particular grade. The date will be calculated on the basis of criteria established in this regulation and is the first rule for determining relative seniority for officers and enlisted holding the same grade.

Deployable sexual response coordinator

Deployable SARC are Soldiers appointed on orders assigned at brigade/unit of action and higher levels of command who are designated and trained to assume the duties of the SARC during deployments.

200334

Dual-military couple

A Soldier (AA or RC) married to another Service member (AA or RC) of the Army, Air Force, Navy, Marines, or Coast Guard. A dual-military parent is one who shares with his/her military spouse all parental responsibilities for Family members acquired through birth or legal decree who are in physical custody of the Service member and who are under the age of 19 years or who are beyond 19 years but are mentally or physically incapable of self care.

Emergency essential civilian employee

A U.S. citizen currently employed to occupy and discharge the duties of an emergency essential civilian position. The individual may work in either an overseas activity assigned a mobilization mission, or in a CONUS organization and be positioned in the event of hostilities or a crisis situation. Such employees are expected to sign a "DOD Civilian Employee Oversees Emergency-Essential Position Agreement."

Equal opportunity

Consideration and treatment based upon merit, fitness, and capability irrespective of race, religion, color, gender, or national origin.

Equal opportunity advisors

Officers and NCOs serving in full-time EO positions, at brigade (or equivalent) level, or higher. In addition to military EOAs, DA civilian employees may be officially assigned to military EO program duties according to applicable position classification standards and guidelines.

Establishment

An entity that either recognizes itself or is recognized as such by the community at large. Specifically, any corporation, partnership, school, training center, or educational institution, club, fraternal, social, or political group.

Ethnic origin

The quality of being distinguishable from the general population on the basis of actual or perceived cultural criteria such as language, religion, and more. For purposes of this regulation, ethnic origin is included within the meaning of national origin.

Extended active duty

AD under a call or order performed by a member of ARNGUS or USAR when end strength accountability passes from the ARNG or USAR to the AA.

Family member

A child under the age of 19 or any other member who depends upon the sponsor for total support and or care.

Full-time service

Any service in connection with a civil office that is likely to interfere with regular military duties.

Goals

An objective based on realistic, measurable prospects of attainment.

Grade

A step or degree in a graduated scale of office or rank that is established and designated as a grade by law or regulation. For example, second lieutenant (2LT), captain (CPT), sergeant first class (SFC), chief warrant officer two (CW2) are grades.

Garrison

An IMCOM unit that provides appropriate and equitable services in accordance with HQDA directed CLS to all tenants, Soldiers, other Service Members, Families, and Civilians in the garrison area of responsibility (AOR).

Housing discrimination

Denying or attempting to deny housing to Army personnel because of race, religion, color, gender, or national origin. Housing of unmarried personnel on the basis of gender (for example, female-only or male-only barracks) is not considered discriminatory within the interest of this regulation.

Installation

An aggregation of contiguous or near contiguous, real property holding commanded by a centrally selected commander. Installations represent management organizations. An installation may be made of one or more sites.

Installation victim advocate (IVA)

The IVA are Department of Army (DA) civilian or contract employees trained to provide advocacy services to victims of sexual assault. The IVA reports directly to the sexual assault response coordinator (SARC) for sexual assault cases. At locations where the FAPM performs SARC duties, the IVA will report directly to the FAPM.

Institutional discrimination

Different treatment of individuals in an organization that occurs based on race, religion, color, gender, or national origin; results from the normal functioning of the organization; or operates to the consistent disadvantage of a particular group.

Minority group

Any group distinguished from the general population in terms of race, religion, color, gender, or national origin.

Nonpartisan political activity

Activity supporting or relating to candidates not representing, or issues not specifically identified with, national or State political parties and associated or ancillary organizations. Issues relating to Constitutional amendments, referendums, approval of municipal ordinances, and others of similar character and are not considered under this regulation as specifically being identified with national or State political parties.

Original appointment

Any appointment in a Reserve or regular component of the Armed Forces that is neither a promotion nor a demotion. Officers may receive more than one "original appointment."

Other sex-related offenses

All other sexual acts or acts in violation of the UCMJ that do not meet the definition of sexual assault, or the definition of sexual harassment as promulgated in DOD Directive 1350.2, DOD Military Equal Opportunity. Examples of other sex-related offenses could include indecent acts with another and adultery. (For the specific articles of sexual assault offenses under the UCMJ, see the MCM).

Partisan political activity

Activity supporting or relating to candidates representing, or issues specifically identified with, national or State political parties and associated or ancillary organization.

Personal racism, sexism, or bigotry

The acting out of prejudices by an individual or group of individuals against another individual or group because of race, religion, color, gender, or national origin.

Placement on the active duty list

The date on which a commissioned officer entered on AD on his or her current tour of service on the active duty list.

Rank

The order of precedence among members of the Armed Forces. Military rank among officers of the same grade or of equivalent grade is determined by comparing dates of rank. An officer whose DOR is earlier than the DOR of another officer of the same or equivalent grade is senior to that officer.

Restricted reporting

Restricted reporting allows a Soldier who is a sexual assault victim, on a confidential basis, to disclose the details of his/her assault to specifically identified individuals and receive medical treatment and counseling, without triggering the official investigative process. Soldiers who are sexually assaulted and desire restricted reporting under this policy should report the assault to the SARC, VA, chaplain, or a healthcare provider.

Senior regularly assigned United States Army officer

The officer whose appointed place of duty is the company, battalion or brigade to which assigned. If the company commander is absent, the executive officer, if he/she is the senior officer who performs duty in the company, will assume command. Likewise, if the battalion commander is absent, the senior officer assigned to the battalion (normally the executive officer) will assume command. If an officer is senior to the executive officer and is assigned to the company or battalion, but who works in the division headquarters or a maintenance unit, the executive officer would still assume command.

Sexual assault

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 rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or age of 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.

Single parent

A Soldier who is the responsible adult who by reason of birth or legal decree, has physical custody of and the legal and moral responsibility to provide for the care and Well-being of a child under the age of 19 years or for a person beyond 19 years of age who is mentally or physically incapable of self care. Persons who fit this category are generally regarded as parents with full or joint custody of children, and who are unmarried, divorced, widowed, or residing apart from their spouse.

Site

A physically defined location which can be supported by a legal boundary survey which closes a polygon. It can be owned, leased, or otherwise possessed or used. A site may exist in one of three forms: land only; facility or facilities only; or land and all facilities on it. A site is a sum of all real property at a specific location.

Spouse

The husband or wife of a Soldier. If such person is also in the military Service, see the term, "dual military couple."

Subject

Refers to the subject of a complaint.

Supported commander

In the context of the support command relationship, the commander who receives assistance from another commander's force or capabilities, and who is responsible for ensuring that the supporting commander understands the assistance required.

Supporting commander

In the context of a support command relationship, the commander who aids, protects, complements, or sustains another commander's force, and who is responsible for providing the assistance required by the supported commander.

Uniformed Service

The Army, Navy, Air Force, Marine Corps, Coast Guard, the Commissioned Corps of the Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration.

Unrestricted reporting

Unrestricted reporting allows a Soldier who is sexually assaulted and desires medical treatment, counseling, and an official investigation of his/her allegation to use current reporting channels (for example, the chain of command or law enforcement), or he/she may report the incident to the SARC or the on-call VA. Upon notification of a reported sexual assault, the SARC will immediately notify a VA. Additionally, with the victim's consent, the healthcare provider will conduct a forensic examination, which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know. (See appendix H for a detailed explanation of restricted and unrestricted reporting.)

Virtual installation

Two types of "virtual" installations exist within the Army. The ARNG has virtual installations, identified as each state commanded by the Adjutant General, under which are Readiness Centers or sites. Army Reserve Support Commands are, likewise, defined as virtual installations under which Reserve Centers are identified as sites.

Section III

Special Abbreviations and Terms

Affirmative Action

Methods used to achieve the objectives of the EO Program. Process, activities, and systems designed to identify, eliminate, prevent, and work to overcome the effects of unlawful discriminatory treatment as it affects the recruitment, training, assignment, utilization, promotion, retention, and separation of military personnel.

200337

Complaint

An allegation of unlawful discrimination based on race, color, national origin, religion, or sex.

Informal complaint

Allegations of unlawful discrimination or sexual harassment that do not require written documentation. These complaints may be voiced to the offending party, to someone in a position of authority, or both. The intention is that the offending behavior will cease with no further action required.

Formal complaint

Allegation of unlawful discrimination or sexual harassment that is submitted in writing to proper authority and processed through official complaint channels.

Complainant

A member of the military who submits a complaint of unlawful discrimination.

Discrimination

Illegal, arbitrary treatment of a person or group based on race, color, national origin, religion, or sex.

EO

The right of all persons to participate in and benefit from programs and activities for which they are qualified. These programs and activities will be free from social, personal, or institutional barriers that prevent people from rising to the highest level of accountability possible. Persons will be evaluated only on individual merit, fitness, capability, and potential, regardless of race, color, sex national origin, or religion, except as prescribed by statute, or other Service policy.

Ethnic group

A segment of the population that possesses common characteristics and a cultural heritage based to some degree on: faith or faiths; shared traditions, values or symbols; literature, folklore, or music; an internal sense of distinctiveness; and/or an external perception of distinctiveness.

Ethnic and racial categories

The basic racial and ethnic categories for DOD reporting are defined as follows: American Indian or Alaskan Native—a person having origins in the original peoples of North America; Asian or Pacific Islander—a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands (this area includes China, India, Japan, Korea, the Philippine Islands, and Samoa); Black (not of Hispanic origin)—a person having origins in any of the original peoples of Africa; Hispanic—a person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, or Central or South America, or of other Spanish cultures, regardless of race; White (not of Hispanic origin)—a person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Legal sufficiency review

A review of an investigation into a discrimination complaint, to determine whether the investigation complies with all applicable legal and administrative requirements; the investigation adequately addresses the matters complained of; the evidence supports the findings of the investigating officer or board; the conclusions and recommendations of the investigating officer or board are consistent with the findings; and any errors or irregularities exist, and if so, their legal effect.

National origin

An individual's or ancestor's place of origin. Also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

Protected communication

A lawful communication to any member of the chain of command, a Member of Congress, an Inspector General or any member of a DOD audit, inspection, or law enforcement organization, including any office or command official designated to receive EO complaints from Service members, in which a military member makes a complaint or discloses information that he or she reasonably believes evidences a violation of law or regulation, gross mismanagement, a gross waste of funds, a gross abuse of authority, or a substantial and specific danger to public health or safety.

200338

Race

A division of humans identified by the possession of traits that are transmissible by descent and that are sufficient to characterize as a distinctive human type.

Religion

A personal set or institutionalized system of attitudes, moral or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by ardor or faith, and generally evidenced through specific religious observances.

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 military member for making or preparing a protected communication.

200339

Index

This index is developed by topics and subtopics within topics. Topics are identified by paragraph number.

Abbreviations and terms, 1-3
Absence of commander, 2-8
Absence or disability of all officers of a unit, 2-9
Accommodating religious practices, 5-6
Accountability of successor, 2-12
Affirmative action plans, 6-13
Appearance before congressional committees, 5-2
Army language policy, 4-13
Assumption of command, 2-1
Attendance at DEOMI, 6-6
Authority, exercising military, 4-6
Authority to collect and maintain data, 6-15

Chain of command, 2-1
Change of station, settlement of local accounts, 4-8
Civil status of members of the Reserve Component, 4-9
Civilian law enforcement agencies, participation in, 4-10
Civilian schooling, EO, 6-11
Command aspects of medical care, 5-4
Command of installations, activities, or units, 2-5
Command, 1-5
Complaints or accusations against military personnel, 5-8
Conduct, standards of, 4-17
Congressional committees, appearance before, 5-2

Date of rank (DOR), enlisted Soldiers, 3-4
Death, disability, retirement, or absence of
commander, 2-8

Defense Equal Opportunity Management Institute
(DEOMI), Attendance at, 6-6

Delegation of authority, 3-1
DEOMI, attendance for civilians, 6-17
DEOMI, attendance for military, 6-6
Designation of junior in same grade to command, 2-7
Disability of commander, 2-9
Disciplinary powers of the commanding officer, 4-7

Emergency command, 2-10
Employment and volunteer work of spouse, 4-18
EO chain of command responsibilities, 6-2
EO purpose, 6-1
EO definitions, appendix D
EO ethnic observances and special commemorations, 6-18
EO off-post activities, on-post activities, ad off-limit actions, 6-7
EO policy, 6-3
EO progress, narrative and statistical reports, 6-16
EO responsibilities, 6-2
EO staffing, 6-4
EO, civilian schooling, 6-11
EO, evaluation reports, 6-10
EO, housing complaints, 6-9
EO, legal assistance, 6-12
EO, procedures for processing complaints, 6-8
EO, training, 6-14

200340

Ethnic observances and special commemorations, 6-18
 Evaluation reports, EO, 6-10
 Exercising military authority, 4-6
 Extremist organizations, 4-12
 Family care plans, 5-5
 Federal Parent Locator Service, 5-11
 Functions of an individual in temporary command, 2-11
 Grade and rank, 1-6
 Housing complaints, EO, 6-9
 Ineligibility for command of post or activity, 2-15
 Junior in same grade to command, 2-7
 Labor unions, military, 5-7
 Language policy, army, 4-13
 Legal assistance, EO, 6-12
 Maintenance of order, 4-5
 Medical care, command aspects of, 5-4
 Membership campaigns, 4-11
 Military authority, 4-6
 Military courtesy, 4-3
 Military discipline, 4-1
 Military whistle-blowers, 5-8, 5-12
 Narrative and statistical reports on EO progress, 6-16
 Noncommissioned officer support channel, 3-2
 Obedience to orders, 4-2
 On-post distribution of non-Government printed materials, 5-9
 Open door policy, 2-2
 Order, maintenance of, 4-5
 Other responsibilities of command, chapter 5
 Participation in support of civilian law enforcement agencies, 4-10
 Political activities, 5-3
 Precedence of relative grade, 3-3
 Printed materials, on-post distribution of non-Government, 5-9
 Prohibition of military labor unions, 5-7
 Purpose of the regulation, 1-1
 References, 1-2
 Relationships between Soldiers of different grade, 4-14
 Relationships between trainees, recruits, and Soldiers, 4-15
 Relief for cause, 2-17
 Religious practices, accommodating, 5-6
 Reserve Component, civil status of members, 4-9
 Responsibilities, 1-4
 Restrictions, 2-16
 Retirement of commander, 2-8
 Separate commands of several military services serving together, 2-14
 Separate commands of the Army serving together, 2-13
 Settlement of local accounts on change of station, 4-8
 Sexual harassment, 7-1
 Soldier conduct, 4-4
 Specialty immaterial commands, 2-6
 Spouse, employment and volunteer work of, 4-18
 Staff or technical channels, 2-4

200341

Standards of conduct, 4-17

Technical channels, 2-4

Temporary command, 2-11

Total Army Family Program, 5-10

Trainee and Soldier relationships, 4-15

Training for civilians at DEOMI, 6-17

Training, EO, 6-14

Volunteer work and employment of spouse, 4-18

Whistle-blowers, military, 5-8, 5-12

200342

200342

200343

UNCLASSIFIED

PIN 003351-000



SECRETARY OF THE ARMY
WASHINGTON

03 OCT 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)

1. Reference: Memorandum, Under Secretary of Defense (Personnel and Readiness), Subject: Expedited Transfer Procedures for Victims of Sexual Assault, dated May 6, 2011.
2. It is Army policy that there is a presumption in favor of transferring or reassigning a sexual assault victim, at his/her request, following that victim's credible report of sexual assault. Commanders and civilian leaders shall consider requests for transfer or reassignment in an expedited manner. This policy applies to all Soldiers who report being the victim of a sexual assault. The Sexual Harassment/Assault Response and Prevention (SHARP) Program shall take steps to ensure victims are informed of this policy.
3. For any number of reasons, some victims of sexual assault may not wish to remain in their current units or organizations after the sexual assault incident. Requiring them to remain when they have a desire to leave the unit or organization may negatively affect their safety and emotional well-being, as well as the functioning of the unit/organization. Expediting review of, and action on, a victim's request for transfer or reassignment is an important component of a leader's response to a credible report of sexual assault.
4. For the purposes of this policy, a report of sexual assault is credible when the commander (battalion or above), after considering all available evidence and the advice of the supporting legal advisor, concludes that there are reasonable grounds to believe that an offense constituting sexual assault has been committed against the person requesting the transfer or reassignment. For purposes of this policy, a credible report is limited to unrestricted reports of sexual assault.
5. Requests for a transfer or reassignment must be in writing. Victims are encouraged to include any and all of their concerns in the written request to aid the commander in understanding their needs and in making an appropriate decision.
6. In making a decision on a victim's request, the commander shall start with a presumption in favor of transferring or reassigning the victim. A transfer or reassignment includes, but is not limited to, the victim's temporary or permanent movement to a unit within the same battalion or brigade, to a unit within the same division, to a unit on the same installation or to a unit at a different geographic location. For Reserve Component members, a transfer or reassignment might include provisions

200344

SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)

to perform inactive duty training on different weekends or at different times from the alleged offender or with a different unit in the home drilling location.

7. Commanders may consider the following factors in determining whether a transfer or reassignment is appropriate and, if so, the lowest level of transfer or reassignment that would meet both the needs of the victim and the Army:

- a. Concerns of the victim;
- b. Operational necessity, including situationally unique requirements in deployed areas;
- c. The nature and circumstances of the offense;
- d. The location of the alleged offender;
- e. Potential transfer or reassignment of the alleged offender instead of the victim;
- f. The alleged offender's status (Soldier or Civilian);
- g. Status of the investigation and the potential impact of the victim's transfer or reassignment on the investigation, future disposition of the allegation and potential prosecution or other adverse action that may be initiated against the alleged offender;
- h. Potential disposition of collateral misconduct; and
- i. Any other pertinent circumstances.

8. Commanders will take reasonable steps to prevent a transfer or reassignment from negatively impacting the victim's career to the extent practicable. Prior to approving a request, the commander shall ensure the victim is fully informed regarding reasonably foreseeable impacts on his/her career, the potential impact of the transfer or reassignment on the investigation and potential prosecution or initiation of other adverse action against the alleged offender, or any other possible consequences of granting the request. If, after being fully informed, the victim elects not to proceed with his/her request, the victim shall withdraw the request in writing.

9. This directive does not encompass requests for transfer or reassignment following a victim's receipt of threats of bodily harm or death. Any such threat to a victim should be reported immediately to command and law enforcement authorities. A victim's request under these circumstances will be handled in accordance with Army Regulation (AR)

SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)

614-100, Officer Assignment Policies, Details, and Transfers, and AR 614-200, Enlisted Assignments and Utilization Management.

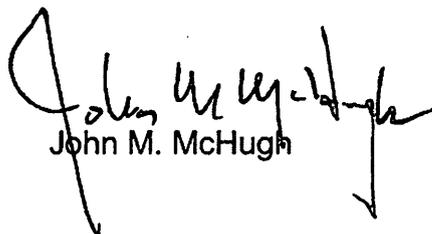
10. If a commander cannot approve a request at his/her level of command, the victim's request will be forwarded through the chain of command to the appropriate approving authority. Each commander in the chain of command through which the request is submitted will provide his/her written recommendation to the approving authority. Requests for permanent change of station transfers must be forwarded to U.S. Army Human Resources Command at hrc.g3.plans@conus.army.mil.

11. A commander recommending disapproval of a request shall provide the reason(s) for the recommendation in writing. A victim's request may be disapproved ONLY by the first General Officer in the victim's chain of command, who may delegate disapproval authority to another General Officer within the command, or to a member of the Senior Executive Service. When a victim requests transfer to another installation, the authority to disapprove that request is reserved to the Commander, U.S. Army Human Resources Command.

12. The provisions of this directive are effective immediately. The policy established by this directive will be incorporated in the next revision of AR 600-20, Army Command Policy. This Army directive is rescinded upon publication of the revised AR 600-20 in which the policies at issue are incorporated. Implementation instructions will also be incorporated into AR 614-30, Overseas Service; AR 614-100, Officer Assignments Policies, Details, and Transfers; and AR 614-200, Enlisted Assignments and Utilization Management.

13. My points of contact are Colonel David M. Griffith, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), at david.griffith@conus.army.mil, (703) 604-0585, and Ms Carolyn Collins, G-1, SHARP, at carolyn.r.collins@conus.army.mil, (703) 604-0672.

Encl


John M. McHugh

200346

SUBJECT: Army Directive 2011-19 (Expedited Transfer or Reassignment Procedures for Victims of Sexual Assault)

DISTRIBUTION:

**Principal Officials of Headquarters, Department of the Army
Commander**

U.S. Army Forces Command

U.S. Army Training and Doctrine Command

U.S. Army Materiel Command

U.S. Army Europe

U.S. Army Central

U.S. Army North

U.S. Army South

U.S. Army Pacific

U.S. Army Africa

U.S. Army Special Operations Command

Military Surface Deployment and Distribution Command

U.S. Army Space and Missile Defense Command/Army Forces Strategic Command

Eighth U.S. Army

U.S. Army Network Enterprise Technology Command/9th Signal Command (Army)

U.S. Army Medical Command

U.S. Army intelligence and Security Command

U.S. Army Criminal Investigation Command

U.S. Army Corps of Engineers

U.S. Army Military District of Washington

U.S. Army Test and Evaluation Command

U.S. Army Reserve Command

U.S. Army Installation Management Command

Superintendent, United States Military Academy

Director, U.S. Army Acquisition Support Center

CF:

Commander, U.S. Army Accessions Command

Commander, U.S. Army Cyber Command

Director, Business Transformation

Executive Director, Army National Cemeteries Program

Director, Army National Guard



DEPARTMENT OF THE NAVY
UNITED STATES NAVAL ACADEMY
121 BLAKE ROAD
ANNAPOLIS MARYLAND 21402-1300

USNAINST 1752.2E

4/SARC

8 AUG 2013

USNA INSTRUCTION 1752.2E

From: Superintendent

Subj: SEXUAL ASSAULT PREVENTION AND RESPONSE (SAPR) PROGRAM

Ref: (a) DODI 6495.02
(b) SECNAVINST 1752.4A
(c) OPNAVINST 1752.1B
(d) SECNAVINST 5211.5E
(e) SECNAVINST 5720.42F
(f) DODI 3020.41
(g) OPNAVINST 5800.7A
(h) CMDTMIDNINST 1752.1
(i) Uniform Code of Military Justice
(j) Victims' Rights and Restitution Act of 1990 (P.L. 101-647) (NOTAL)
(k) JAG ltr 5800 Ser 00/0078 of 8 Jul 13

Encl: (1) Responsibilities
(2) Crime Victim's Bill of Rights
(3) Sexual Assault Intervention Protocols
(4) Confidentiality Agreement

1. Purpose. To provide guidance and designate responsibilities for implementation of the Sexual Assault Prevention and Response (SAPR) Program for all United States Naval Academy (USNA) Midshipmen and all active duty and civilian members of the staff and faculty. This program is established in accordance with policy promulgated in reference (a).

2. Cancellation. USNAINST 1752.2D.

3. Applicability. The provisions of this instruction apply without regard to race, ethnicity, national origin, sex, sexual orientation or religion within constraints of the law to all military personnel and assigned civilian faculty and staff personnel within the purview of the USNA Superintendent.

a. The following persons are eligible for victim advocacy services when subjected to sexual assault (SA):

(1) Active duty members of the Army, Navy, Air Force, Marine Corps and Coast Guard (hereafter referred to as "Military Services") and their dependents, 18 years of age and older (dependents under the age of 18 will fall under the Family Advocacy Program (FAP)), who are eligible for treatment in the military healthcare system, and who are victims of sexual assault perpetrated by someone other than a spouse or intimate partner per reference (a).

(2) Members of the National Guard and Reserve who are sexually assaulted when performing active service and inactive duty training.

(3) Any person who is a victim of SA and is eligible for treatment in military treatment facilities.

400276

8 AUG 2013

(4) Effective 31 August 2013, same-sex domestic partners of military members, and, where applicable, children of same-sex domestic partners, who are 18 years of age and older (children under the age of 18 will fall under the FAP), and who were victims of sexual assault perpetrated by someone other than a spouse or intimate partner, and hold an Identification and Privilege Card (DD Form 1173) in accordance with reference (b).

(5) All victims of sexual assault, regardless of affiliation, which occur on USNA property, are eligible for available services on a humanitarian basis (e.g., evidence collection, triage, emergency medical treatment, and referral to available civilian community services).

4. Policy

a. No form of sexual assault is ever acceptable at the United States Naval Academy. We must be the visible cornerstone of a values-based naval culture of gender dignity and respect, where sexual assault is completely eliminated and never tolerated, where sexual assault victims receive compassionate and coordinated support, and where offenders are held accountable. Every Midshipman and member of Academy staff and faculty shares dual responsibilities for their own actions and for protecting each other from harm. Our Core Values demand nothing less.

b. Combating sexual assault and supporting sexual assault victims are primary responsibilities at every level of civilian and military leadership. Leaders must take every report of sexual assault seriously, they must immediately refer cases for criminal investigation and advocacy services, and they must actively protect sexual assault victims from retaliation or re-victimization.

c. All sexual assault victims have the unfettered options of Restricted Reporting and Unrestricted Reporting. Either form of reporting is acceptable.

d. Victim-support SAPR services and medical care must be victim-centric, gender-responsive, culturally competent, and recovery-oriented. We seek to help sexual assault victims heal as individuals and succeed in their careers. Individuals who file an Unrestricted or Restricted Report of sexual assault must be protected from reprisal, or threat of reprisal, for filing a report.

5. Responsibilities. See enclosure (1).

6. Victim Advocacy and Support

a. Victim advocacy provides victims of sexual assault with an advocate who can provide information, emotional support, and direction during the various medical, legal, and investigation processes with a goal of preventing re-victimization.

b. An internal victim advocacy program shall be maintained and supervised by the SARC using reference (f). The SARC shall ensure the applicable actions listed in enclosure (4), *Commander's Checklist*, to reference (f) are accomplished. Additionally, the victim advocacy program shall at a minimum include the following core elements:

8 AUG 2013

(1) An adequate number of trained SAPR Victim Advocates (VA) shall be available to provide emotional support and assistance to eligible victims during initial assessment, medical, administrative, legal and investigative procedures; and to provide information and referral regarding further assistance and services. All SAPR VAs must be certified IAW the Department of Defense Sexual Assault Advocacy Certification Program (D-SAACP) by October 1st, 2013.

(2) Key personnel shall be trained to provide victims with sensitive and discreet care. The Brigade Medical Officer, Legal Advisor, SAPR VA, USNA Chaplains, all Bancroft Hall Command Duty Officers, Company Officers and SELs shall follow the model sexual assault intervention protocols contained in enclosure (3) of this instruction, relating to their respective positions.

(3) Assigned SAPR VAs shall inform victims that identifying information regarding the assault must be reported to a SARC and/or SAPR VA. If a victim chooses to file a restricted report (military only), non-identifying information regarding the assault will be provided to the Superintendent, Chief of Staff, Commandant, and Deputy Commandant. If an unrestricted report is chosen or required, identifying information will be provided to the Chain of Command as listed above, certain Department of the Navy Offices (e.g., CNO, OJAG via UNIT SITREP) and other personnel the victim wishes to inform, as identified to the SARC and SAPR VA. Release of information to non-governmental authorities will be controlled by federal laws and Navy regulations governing the release of information (e.g., Privacy Act, Freedom of Information Act). SAPR VAs shall ensure victims who choose an unrestricted report are aware of their options concerning their involvement with investigative/legal personnel, including:

(a) The option to discuss and provide information to others, including investigative/legal personnel.

(b) The option to have a friend, counselor, SAPR VA or Victims' Counsel accompany them to interview sessions.

(c) The option to provide a written statement.

(d) The option to state a preference to decline participation in the case and not discuss the event with anyone. The victim should be informed that should he/she wish to decline to be interviewed by law enforcement officials, it is likely a limited criminal investigation will be conducted and valuable evidence may be lost, which could reduce the ability to hold the alleged offender(s) accountable.

(4) Victim privacy shall be protected to the maximum extent possible. Victim records shall be maintained in accordance with references (d) and (e). All members of USNA that are involved with sexual assault victims shall ensure case-related information is shared only for official purposes with those who have an absolute need to know.

(5) Every effort shall be made to protect victim confidentiality. In the case of an unrestricted report, the SARC and SJA/Commandant's Legal Advisor shall determine if a service member who is interviewed as part of the investigation (whether victim, witness or offender), should receive a "Confidentiality Agreement" (enclosure (4)). If it is determined that a

Confidentiality Agreement is required, it shall be issued no later than the close of business on the day the initial interview is conducted. The Confidentiality Agreement is a written order to refrain from discussing an active case in any non-official capacity in an effort to reduce speculation, the spread of rumor, gossip, or the release of information of a sensitive nature to personnel without the need-to-know that will likely create a hostile atmosphere and increased stress to the victim.

c. A Victims' Counsel is available to provide legal support and advice to Midshipmen or USNA military staff members who report being a victim of an offense punishable under Article 120, 125 or any attempt to commit offenses under those articles. Victims' Counsel report directly to the Office of the Judge Advocate General and are not assigned by the U.S. Naval Academy. Victims' Counsel are experienced and trained in the practice of military justice, administrative law, legal assistance, and the specific rights and privileges afforded to Navy sexual assault victims. All victims shall be informed of the Victims' Counsel services as part of the sexual assault intervention protocols as set forth in enclosure (3).

7. Victim Counseling. During regular business hours, the Midshipmen Development Center (MDC) shall provide victims with psychological and supportive counseling, which is covered under therapist-patient privilege established by Military Rules of Evidence (MRE 514) pursuant to Reference (g). The Director of Education and Clinical Services (DECS), a licensed clinical social worker, is a specialist in mental health counseling for sexual assault victims and conducts trauma-based counseling with victims through the MDC. Other MDC counselors are available in the event the DECS is not. After business hours, the duty Medical Officer shall ensure victims are offered mental health services on a crisis intervention basis. If a victim desires, the SARC/SAPR VA will facilitate counseling with a specialist not affiliated with the military.

8. Response Procedures

a. Personnel aware of or involved in an incident or allegation of sexual assault shall ensure that immediate action is taken to protect victims from further injury by an alleged offender.

b. All sexual assault cases should be reported to a SAPR VA or SARC. Contact numbers are located at the main page of the USNA Intranet under "Sexual Assault Prevention and Response Office."

c. All personnel must take care to avoid the phenomenon of "re-victimization," whereby a victim feels antagonized by the medical, administrative, and legal processes that follow a sexual assault. All personnel bear responsibility to develop a command climate in which victims feel safe and free from scrutiny, judgment, and any adverse repercussion.

d. Victims shall be advised of their rights as set forth in enclosure (2) and be made aware of, and encouraged to exercise their options during each phase of the medical, investigative and legal processes.

e. Victims shall have access to appropriate assistance, including medical care, counseling, victim advocacy and legal assistance. All victims shall be offered the opportunity to receive counseling from the Director of Education

8 AUG 2013

and Clinical Services (DECS). If the DECS is unavailable, a referral shall be made to the Midshipmen Development Center (MDC). This counseling opportunity is a personal choice and a decision freely made by the victim, who should not feel pressured to accept counseling.

9. USNA Sexual Assault Case Management Group (SACMG). To facilitate execution and oversight of program requirements, the Superintendent shall chair the multi-disciplinary USNA SACMG on a monthly basis to review individual cases of unrestricted reporting, facilitate victim updates, and direct system coordination, accountability, and victim access to quality services. This responsibility may not be delegated. The Lead Sexual Assault Response Coordinator (SARC) shall serve as the co-chair.

a. Committee members shall include the Commandant (Deputy Commandant in his/her absence); Chief of Staff, who may serve as co-chair in the Superintendent's absence; a member of the victim's chain of command (e.g., Battalion Officer, Company Officer (CO) or Senior Enlisted Leader (SEL)); all SARCs; all SAPR VAs; the victim's advocate; the DECS; the Naval Health Clinic Annapolis (NHCA) SAPR point of contact (POC); the victim's counseling or mental health provider (if not the DECS); Program Legal Representative (SJA); Commandant's Legal Advisor; Chaplain's Office; Naval Criminal Investigative Service (NCIS); DoD law enforcement (as applicable); and a Victim and Witness Assistance Council representative.

10. Data Collection and Reporting

a. SARCs should immediately report incidents of sexual assault to the Superintendent, Chief of Staff, and the appropriate Cost Center Head of the victim. Unrestricted reports will also be reported to the Chief of Naval Operations (N1) via the Superintendent, using OPREP-3 NAVY BLUE or UNIT SITREP, per the Sexual Assault Incident Data Collection Report (NAVPERS 1752-1) format contained in reference (b).

b. To the extent possible, internal data collection should avoid use of individual identifiers in order to maintain victim and alleged offender privacy.

11. Prevention and Awareness Training

a. SAPR training, to include General Military Training (GMT) for all military staff as well as appropriate training for civilian staff and faculty, will focus on sexual harassment, misconduct and assault awareness, bystander intervention, prevention and response training (with emphasis on *treating others with dignity and respect*), *types of reports*, *victim care*, legal action, and interactive scenarios. This training is distinct from the prevention education provided to the Midshipmen through the Sexual Harassment and Assault Prevention Education (SHAPE) program.

b. Comprehensive SAPR training, meeting the requirements of references (a), (b), (f) and (k), will be conducted for all USNA personnel, including military and civilian faculty and staff. This training is required annually, but should be conducted throughout the training calendar and in conjunction with important evolutions, including Reform of the Brigade, prior to major leave periods, and before commencement of summer training. The USNA SAPR Program Manager (PM) is responsible for the coordination and execution of

8 AUG 2013

training. The DECS is responsible for ensuring that all training adheres to the strategic SAPRO Training and Education Plan. All SAPR staff are responsible for assisting to develop and execute training.

(1) The SAPR PM will present initial training at USNA Staff and Faculty Orientations held for new check-ins. The goal of this training is to inform newly reporting individuals about the USNA SAPR program and their active role in ensuring program success.

(2) The SAPR PM will locate and schedule external training professionals for exposure and additional training and educational opportunities for all USNA faculty and staff as appropriate.

(3) All SAPR training opportunities provided to the Brigade will be made available to faculty and staff.

(4) All SAPR training, including periodic, annual, stand-down, will be fully documented by the PM.

c. A SAPR VA and the Training Specialist shall supervise Midshipmen serving as Guidance, Understanding, Information, Direction and Education individuals (GUIDEs). GUIDEs will be a Midshipman-level resource for training and education. GUIDEs will be trained to discuss the SAPR program with Midshipmen who desire additional information to that provided by formal training and education, or require clarification in understanding the program. The Midshipmen GUIDE Program is governed by reference (h).

12. Review Responsibility. This instruction shall be reviewed at least every two years.



M. H. MILLER

8 AUG 2013

RESPONSIBILITIES

1. Sexual Assault Prevention and Response Program Manager. Serves as the key advisor to the Superintendent on the USNA SAPR program. Duties include but are not limited to:
 - a. Administrative oversight of the USNA SAPR program contained within and governed by this instruction.
 - b. Instruction management and oversight of overall strategic training and education plan.
 - c. Establish response protocols for all first responders to include, but not limited to watchstanders, SAPR VAs, medical personnel, Chaplains, legal personnel, Base Security, and Midshipmen Development Center personnel, and Fleet and Family Services staff.
 - d. Collaboration with Lead SARC in matters directly involving Midshipmen.
 - e. Enhance communication and sharing of information regarding the SAPR program within the Naval Academy organization.
 - f. Outreach and collaborate with local community to augment or enhance the Naval Academy SAPR program.
 - g. Work with designated GUIDES for Brigade and Company outreach and training.
2. SAPR Operations Officer (OPS). The SAPRO OPS serves as the primary assistant to the SAPR PM. Specific duties include but are not limited to:
 - a. Assists the SAPR PM in assigned administrative duties associated with program management.
 - b. Manages all logistics, travel requirements and annual budget for the SAPRO staff.
 - c. Serves as SAPR PM in his/her absence.
 - d. Assists with the development and execution of SAPR training of Midshipmen, faculty and staff.
3. Sexual Assault Response Coordinator (SARC). USNA has two SARCs dedicated for response to incidents of sexual assault involving Midshipmen. IAW reference (a), one of the positions shall be designated as the Lead SARC, although both SARCs shall serve as equal points of contact for the coordination of sexual assault services. Specific duties include, but are not limited to the following:
 - a. Collaborates with the SAPR PM in the management and execution of the USNA SAPR program.
 - b. Ensures the Superintendent, Chief of Staff, Commandant of Midshipmen and Deputy Commandant are notified of all incidents of sexual assault involving Midshipmen and provides regular case updates.

Enclosure (1)

400282

8 AUG 2013

c. Provides the same notification and updates to the Superintendent, Chief of Staff, and appropriate Cost Center Head for those incidents of sexual assault involving faculty or staff.

d. Provides oversight of the SA Response.

e. Oversees incident response, case management, and coordination of victim care through the SAPR VAs.

f. Completes data entry and management of the Defense Sexual Assault Incident Database (DSAID) for cases of sexual assault. The Lead SARC will ensure continuity of local case number assignments.

g. Participates as a member of the Sexual Assault Case Management Group (SACMG) with the Lead SARC serving as co-chair.

h. Provides subject matter expertise (SME) in all matters involving response.

i. Serves as a primary POC for USNA personnel in reporting SA cases.

j. Provides long-term support for victims of SA, to include continuing dialogue with an assigned SAPR VA to ensure continuity of care.

k. Attends Sexual Assault Response Team (SART) and SACMG meetings.

l. Assists the DECS in developing and supporting Brigade Sexual Harassment/SA prevention efforts to include leadership guidance, Sexual Assault Awareness Month, in-company training, and Brigade-wide awareness efforts.

m. Provides refresher training for VAs and Midshipmen GUIDES.

n. Establishes and maintains the SAPR VA Watchbill.

4. Sexual Assault Prevention and Response Victim Advocates (SAPR VA). Two SAPR VAs shall assist the SARCs in managing response and care of sexual assault victims at the U.S. Naval Academy. The SAPR VA shall:

a. Comply with DoD Sexual Assault Advocate Certification requirements and adhere to the roles and responsibilities of a certified SAPR VA as *prescribed in references (a) and (b)*.

b. Be trained in and understand the confidentiality requirements of Restricted Reporting and MRE 514.

c. Facilitate care and provide referrals and non-clinical support to the adult victim of a sexual assault.

d. Provide information on available options and resources so the victim can make informed decisions about his or her case.

e. Be directly accountable to the SARC and provide victim advocacy for adult victims of sexual assault.

8 AUG 2013

f. Acknowledge understanding of their advocacy roles and responsibilities using DD Form 2909.

g. Train and supervise volunteer SAPR VAs, who are officers, senior enlisted and/or civilian faculty and staff who volunteer for the position, receive 40 hours of SAPR program training prior to appointment, are certified via the D-SAACP, and who must comply with all roles and responsibilities as set forth in references (a) and (b).

h. Complete at least 16 hours of annual refresher training.

5. Director of Education and Clinical Services (DECS). The DECS is a licensed clinical social worker specializing in sexual assault trauma treatment and prevention education. Specific duties include, but are not limited to:

a. Develops and ensures compliance with the overall strategic SAPRO training and education plan.

b. Supervises the Training Specialist in the execution of his or her duties.

c. Collaborates in the development and execution of training and education for Midshipmen, faculty and staff.

d. Leads a team that provides continuous SHAPE curriculum and program development and co-facilitating the training of SHAPE Peer Educators.

e. Provides confidential psychological individual and group counseling to Midshipmen victims of sexual assault and intimate partner violence through the MDC while maintaining therapist-patient confidentiality.

f. Provides clinical consultation to other MDC counselors, as well as clinical consultation to USNA faculty, staff and administration.

6. Training Specialist. Responsible for the management of all SAPR prevention training programs and of the SHAPE Program. Specific duties include, but are not limited to:

a. Schedules and ensures execution of mandatory training sessions.

b. Provides SME in SHAPE curriculum development.

c. Collaborates in the development and execution of program-wide SAPR training and education of Midshipmen, faculty and staff.

d. Recruits, trains, and supervises Midshipmen SHAPE Peer Educators and Midshipmen GUIDES.

7. Leadership Ethics and Law (LEL)/SAPR Faculty Member. A faculty member from the LEL department is assigned to provide approximately twenty percent of his/her time to the SAPR program. Specific duties include, but are not limited to:

a. Advises SAPR staff regarding leading scientific efforts to help evaluate the SHAPE program.

8 AUG 2013

b. Provides subject matter expertise in SHAPE curriculum development and assists in training SHAPE Peer Educators.

c. Provides research expertise to ensure SAPRO programming follows the most recent research data in the field of SA prevention and intervention.

8. Commandant's Legal Advisor. For Unrestricted cases where the victim or alleged offender is a Midshipman, specific duties include, but are not limited to:

a. As appropriate, prepare and serve Military Protective Orders.

b. Prepare and serve Confidentiality Agreements to the appropriate personnel.

c. Ensure the victim is aware of his/her rights (through Victims' Counsel, if assigned) under references (i) and (j).

d. Serve as the victim's, or Victims' Counsel's (if assigned), legal POC for unrestricted case processing.

e. Serve as the Commandant of Midshipmen's representative and POC for Naval Criminal Investigative Service agents; federal, state and local law enforcement agencies; and Staff Judge Advocate, U.S. Naval Academy, during SA investigations.

f. Advise the Brigade SARCs and SAPR VAs on legal matters and provides a continuous review of the program from a legal perspective as it pertains to the Brigade of Midshipmen.

g. When Victims' Counsel is detailed to a case, work through the Victims' Counsel to keep the victim informed on legal matters associated with the victim's case.

9. Superintendent's Staff Judge Advocate. Specific duties include, but are not limited to:

a. As appropriate, prepare and serve Military Protective Orders.

b. Ensure victims are aware of their rights (through Victims' Counsel, if assigned) under references (i) and (j).

c. Serve as victim's, or Victims' Counsel's (if assigned), legal POC for the processing of the case until the investigation is concluded.

d. Serve as the Superintendent's representative and POC for Naval Criminal Investigative Service agents; and federal, state and local law enforcement agencies during sexual assault investigations.

e. Advise the SARC on legal matters.

10. Victim's Counsel. Reference (k) discusses the duties of the Victims' Counsel which include, but are not limited to:

USNAINST 1752.2E

8 AUG 2013

a. Provide advice, assistance, and, when appropriate, representation on matters that arise from the victim's report of sexual assault consistent with guidance provided by the Deputy Assistant Judge Advocate General (Code 16).

b. Coordinate, as appropriate, with the SARC, SAPR Victim Advocate, Commandant's Legal Advisor, Superintendent's Staff Judge Advocate, Trial Counsel, Naval Criminal Investigative Service, Defense Counsel and others as required, when providing advice and assistance.

8 AUG 2013

CRIME VICTIM'S BILL OF RIGHTS

1. To ensure the fair and sensitive handling of all sexual assault cases, personnel at every level of victim assistance working with sexual assault victims shall, where possible, ensure the following rights are maintained:

a. The right to be treated with fairness and with respect for the victim's dignity and privacy;

b. The right to be reasonably protected from the accused offender;

c. The right to be notified of court proceedings;

d. The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial;

e. The right to confer with trial counsel and the staff judge advocate to the convening authority in the case;

f. The right to receive available restitution; and

g. The right to information about the conviction, sentencing, imprisonment, and release of the offender.

2. A copy of these rights shall be provided to all victims reporting a sexual assault.

3. It should be emphasized and explained to victims that federal departments are required to "make their best efforts" to afford victims these rights. Resource limitations, operational commitments or jurisdictional limitations may preclude a naval command from being able to provide these rights fully. The above list does not create a cause of action or defense in favor of any person arising out of failure to accord a victim the rights enumerated. Adherence to these guidelines will be per the legitimate needs of the United States Navy, the maintenance of good order and discipline, and military exigencies.

8 AUG 2013

SEXUAL ASSAULT INTERVENTION PROTOCOLS

1. Background. Research has shown that an unintentional consequence of victim interviewing and treatment by Health Care Providers (HCP) and investigative officials can be the re-victimization of sexual assault victims. Victims are sometimes unnecessarily required to repeatedly answer intimate questions, explain (if not defend) their actions and motives, and undergo intrusive medical examinations. Consequently, it is imperative that procedures be established and continuously reviewed to ensure competent, sensitive handling of sexual assault victims.
2. Purpose. This enclosure provides guidelines for initial intervention and response to reported incidents of sexual assault. These guidelines have been modified for application to the Brigade of Midshipmen but have applicability for all personnel at USNA. The SARC will use these protocols and the Commander's Checklist for Prevention and Response of reference (d) in the oversight and execution of the SAPR program.
3. Initial Responders and Points of Contact. These sample protocols have been prepared for the purpose of providing guidance to departments which serve as initial points of contact for victims of sexual assault, including Midshipmen and members of the faculty and staff. Points of contact generally include, but are not limited to:
 - a. Officer of the Watch (OOW)/Naval Academy Duty Officer (NADO)
 - b. SAPR Victim Advocates
 - c. Brigade Medical Clinic
 - d. Staff Judge Advocate
 - e. Chaplain Corps
 - f. Midshipmen Development Center
4. Support Services. Although the organizations listed below are not under direct report to the Naval Academy, their roles and response are crucial to the overall success of USNA's SAPR program. Thus, they are key members of the Sexual Assault Response Team. Their actions are also outlined in this protocol.
 - a. Base Security
 - b. Naval Criminal Investigative Service
 - c. Fleet and Family Support Center
 - d. Victims' Counsel
5. Collaboration and Coordination. Naval Academy personnel responding to a sexual assault report have both a specialized role and a collaborative one. A coordinated team approach in responding to sexual assault reports is key to sensitive, comprehensive handling of these cases. Therefore, USNA first responders are directed to collaborate with appropriate points of contact

Enclosure (3)

400288

8 AUG 2013

from paragraphs 3 and 4 above and with community sexual assault response personnel to ensure complete and timely response across the spectrum of possibilities.

6. Victim Care. All initial POCs for victims listed in paragraphs 3 and 4 above, shall respond and treat a victim with sensitivity and respect. The following are important considerations:

a. Victim Response. Each sexual assault victim reacts differently depending upon personality and the history of prior trauma and psychological issues. It is not uncommon in sexual assault cases for a victim to recant the initial allegation because of the trauma of sexual assault. Victims often are embarrassed; fear reprisal by the alleged offender(s), their superiors and/or peers; fear adverse effects on career advancement; fear not being believed; and desire to avoid multiple retellings of the incident, all of which may lead to re-victimization. It is important to note that a recantation does not necessarily mean that the victim lied or that a sexual assault did not occur. There are multiple reasons why sexual assault victims recant, depending upon the circumstances of the case.

b. Cultural Considerations. A victim may be from a culture that does not recognize that sexual assault is a crime. Additionally, victims that are sexually assaulted by members of their own gender may be reluctant to discuss the crime or admit that a sexual assault occurred due to embarrassment or concern that their sexual orientation will be questioned.

c. Personal Bias. If a person has biases regarding sexual assault, *these preconceived beliefs must not be projected onto the victim*. Personnel who have been personally affected by sexual assault, or unduly biased by their involvement in other cases, may need to defer participation to a colleague. The actions of the first responder often set the tone for the later emotional recovery of the victim and for a successful resolution of the case. Sensitivity training for personnel shall be provided annually, since it can alleviate some of the attitudinal problems in this area.

d. Professional Conduct. Respondents must handle cases in a professional manner at all times. While the victim is considered the "crime scene," the victim is a person, and is to be treated with sensitivity and respect at all times. Many people are uncomfortable dealing with sex-related crimes. Personnel should learn to identify their indicators of discomfort and adhere to the following when handling such cases:

- (1) Do not joke about the case to the victim or colleagues.
- (2) Do not be accusatory in your questions.
- (3) Do not make a value judgment about the victim or the victim's behavior at the time of the incident. Avoid a "he/she deserved it" mentality.
- (4) Do not make promises to the victim in an effort to make him/her feel better or gain his/her confidence.
- (5) Do not discuss the case outside official channels.

8 AUG 2013

(6) Do not say anything while on the scene that you would not want the victim to hear.

(7) Do not show partiality to victims due to their rank or position.

(8) Do not discourage a victim from filing a report.

(9) Explain procedures to the victim. Be aware that victims can be intimidated or upset by police cars, uniforms, radio communication devices, etc.

7. Specific Responsibilities and Protocols

a. The Bancroft Hall Officer of the Watch (OOW) or Naval Academy Duty Officer (NADO) shall:

(1) Report sexual assault incidents to the SAPR VA. If these personnel are not available, contact a SARC, or the USNA SAPR Program Manager.

(2) Obtain name, telephone number, and location of the victim.

(3) Reassure the victim that reporting the incident was the right thing to do.

(4) Advise the victim not to destroy possible evidence by bathing, douching, changing clothes, eating, drinking, or cleaning up in any way.

(5) Explain the availability of victim advocacy services and Victims' Counsel, if the victim is eligible, and notify a SAPR VA or SARC if the victim desires an advocate or the Victims' Counsel if the victim desires to speak with counsel.

(6) Offer to notify the Duty Chaplain if the victim desires pastoral counseling/assistance and is eligible.

b. The SAPR VA shall:

(1) Respond to calls from the victim, Base Security, Brigade Medical Clinic, or other official sources.

(2) Ensure a SARC or SAPR VA has been notified.

(3) Provide immediate support and assistance to the victim as needed/requested. The SAPR VA shall not function in the role of professional counselor or investigator.

(4) Provide the victim with information on victim's rights, enclosure (2), and the availability of counseling, shelter, victims' counsel, and medical services.

(5) Provide assistance to the victim by helping to secure basic needs (e.g., provide clothing to wear from the hospital, arrange transportation, contact a family member/friend).

(6) Offer to contact the Duty Chaplain or mental health counselor.

8 AUG 2013

(7) Review the Victim Preference form (DD 2910) with the victim, explain Restricted and Unrestricted Reporting options, and have the victim initial and sign the appropriate sections of the form. Return the signed DD 2910 to a SARC as soon as feasible.

(8) Provide the victim with options concerning his/her involvement with investigative/legal personnel. Possible involvement options include:

(a) The victim may agree to be interviewed without assistance.

(b) The victim may agree to be interviewed with a SAPR VA and/or Victims' Counsel present during interview(s).

(c) The victim may desire not to personally meet with law enforcement officials (e.g., NCIS special agents or civilian police), instead preferring to allow the SAPR VA and/or Victims' Counsel to report to NCIS in lieu of, and at the request of, the victim, providing a written summary of information to the investigative agent.

(d) The victim may prefer not to be interviewed personally by law enforcement officials. In this case, it is likely that a limited criminal investigation will be initiated or conducted and valuable evidence may be lost, reducing the ability to hold the alleged offender(s) accountable.

(9) Make follow-up telephone contact with the victim within 48 hours to provide emotional support and information, to determine if additional services are requested, and to encourage and assist in scheduling follow-on counseling.

(10) Offer to accompany the victim to interviews with investigative/legal staff in order to provide emotional support.

c. Brigade Medical Clinic shall:

(1) Place the victim in a private room, separate from the waiting/processing area, until medical care is provided.

(2) Notify the SARC, Program Manager (Faculty and Staff incident) or SAPR VA (as appropriate) that a sexual assault has occurred. Provide the name, telephone number, and location of the victim.

(3) Provide emergent care only and delay a Sexual Assault Forensic Examination (SAFE) until the responding SARC can determine to which facility a military victim should be transported. Neither Brigade Medical nor NHCA are staffed or outfitted to conduct a SAFE. USNA may utilize Anne Arundel Medical Center (AAMC), Mercy Medical Center, or for military only, the Walter Reed National Naval Medical Center (WRNNMC) Bethesda. WRNNMC is not staffed with a Sexual Assault Nurse Examiner (SANE)/Forensic Nurse Examiner (FNE) and will refer a victim to Shady Grove Hospital for a SAFE upon completion of a medical screening.

(4) Explain the availability of victim advocacy services.

(5) Notify the SAPR VA and ensure they arrange transportation to a civilian hospital or Military Treatment Facility (MTF) if a SAFE is required.

8 AUG 2013

NOTE: Victim's written consent is necessary for all medical procedures.

(6) Provide the responding SARC or SAPR VA with case statistical data for completion of the initial and follow-on reporting requirements as requested.

NOTE: Sensitivity to the victim's emotional state is critical, do not involve unnecessary individuals.

e. USNA Legal Staff or Trial Counsel shall:

(1) Explain the availability of victim advocacy services, including Victims' Counsel services, if the victim is eligible, and have a SAPR VA or SARC present if the victim desires one.

(2) If the victim has retained a Victim's Counsel, USNA legal staff will not communicate with the victim about matters covered by the Victims' Counsel's representation. USNA legal staff will coordinate closely with the Victims' Counsel to determine what matters may be discussed directly with the victim.

(3) Ensure that the victim is aware of his/her options concerning participation in the investigation and prosecution, and the availability of Victims' Counsel to discuss the options with the victim before the victim has to choose. Possible involvement options include:

(a) The victim may agree to be interviewed without assistance.

(b) The victim may agree to be interviewed with a SAPR VA and/or Victims' Counsel present during interview(s).

(c) The victim may prefer not to personally meet with law enforcement officials (e.g., NCIS special agents or civilian police). Subject to the victim's approval, a SAPR VA and/or Victims' Counsel may report to NCIS in lieu of the victim, and may provide a written summary of information to the investigative agent.

(d) The victim may prefer not to be interviewed personally by law enforcement officials. In this case, it is likely that a limited criminal investigation will be initiated or conducted and valuable evidence may be lost, reducing the ability to hold the alleged offender(s) accountable.

(4) Ensure that NCIS has been notified that a SA occurred. If the victim chooses to report to civilian law enforcement officials, legal personnel, Victims' Counsel, or NCIS can make the initial contact on behalf of the victim.

(5) Encourage the victim to seek medical and counseling services.

(6) Ensure that the victim is informed of their rights (through Victims' Counsel, if assigned) as identified in enclosure (2) and references (i) and (j).

(7) Unless Victims' Counsel has been assigned, advise the victim that should they decide to participate in an investigation, their testimony/

400292

8 AUG 2013

participation may be required in proceedings other than a court martial/civil trial.

(8) Consider a Military Protective Order (MPO) when the alleged offender is an active duty service member in order to prevent contact between the victim and the alleged offender.

(9) Unless Victims' Counsel has been assigned, if the victim desires to testify, be available to provide consultation/referral to the victim and/or the VA in areas such as courtroom procedures.

(10) Conduct any investigative interviews in a manner that recognizes victim sensitivity as outlined in paragraph 6 above.

(11) Ensure during legal contacts with the victim, the alleged offender and victim are not placed in situations in which they may make contact with each other. Avoid situations such as scheduling pretrial appointments for the victim and alleged offender at the same time or one immediately following the other, placing the alleged offender and victim in the same court waiting rooms, etc.

(12) Honor the victim's wishes if he/she desires to be interviewed in the presence of a friend, SAPR VA, or Victims' Counsel.

(13) Keep the SAPR VA and the victim (through Victims' Counsel, if assigned) informed of the status of the case and pertinent details.

(14) Immediately provide the responding SARC, SAPR VA or Duty VA with case statistical data for completion of the initial and follow-on reporting requirements as requested.

f. Chaplain Corps personnel shall:

(1) Ensure the victim is reasonably protected from the accused offender by contacting base security, if warranted.

(2) Provide emotional, psychological, and spiritual support to the victim and family, as requested.

(3) Encourage the victim to seek appropriate assistance/counseling. If the victim concurs, encourage the victim to seek counseling from the MDC or another qualified organization which specializes in assisting victims of sexual assault. Remain as involved as the victim desires.

(4) Encourage the victim to seek medical attention, regardless of whether the victim requires emergency or non-emergency care.

(5) Explain the availability of victim advocacy services and notify the Duty SAPR VA if the victim desires.

(6) Explain the availability of Victims' Counsel and notify Victims' Counsel if the victim desires.

(7) As appropriate, encourage the victim to report the incident to a SARC, VA or to their chain of command.

400293

8 AUG 2013

(8) If the victim desires to report the incident, immediately provide the SARC or SAPR VA with case statistical data for completion of the initial and follow-on reporting requirements as requested.

g. Midshipmen Development Center counselors shall:

(1) Maintain therapist-patient confidentiality, with the exception articulated in MDC's informed consent document that the counselor must report any sexual assault that occurred after age 18 to the SAPR Office. This report can either be restricted, if the option is available to the patient, or unrestricted.

(2) Offer a release form to provide information to SAPR personnel beyond reporting for purposes of advocacy. The victim may choose whether or not to sign the release. Once a release is signed, the counselor is required to obtain verbal instructions as to what specific information may be given to the SAPRO.

(3) Clearly explain confidentiality in the context of a SAPR case.

(4) Explain the reporting options, provide information on the SAPR Office, medical, legal (including Victims' Counsel) and investigative systems as needed.

(5) If the victim is uncomfortable with meeting with anyone in the SAPRO, the DECS (a trained SAPR VA) can offer to assist the victim in completing the Victim Reporting Preference Form (Form 2910). This option is only offered as an alternative if the victim expresses that meeting with the SAPRO staff would be traumatizing or distressing. The form shall only be completed with the DECS's assistance if the victim signs a release to share it with the SARC. The DECS will give the Form 2910 to the SARC for storage as soon as possible.

(6) The DECS shall coordinate all clinical case management in liaison with the appropriate SARC. If another counselor provides counseling to a SA victim, that counselor shall inform the DECS and provide the DECS with regular input regarding progress.

h. Base Security shall:

(1) Respond to all SA calls occurring under their jurisdiction.

(2) Notify the Duty SAPR VA, NADO, SARC, SAPR VA or the Officer of the Watch (OOW), as appropriate, that a SA has occurred. Provide the name, telephone number, and location of the victim.

(3) Ensure that the victim has some form of clothing or cover.

(4) Ensure that the victim receives immediate medical care for any injuries that warrant such care.

(5) Do not ask detailed questions and/or pressure the victim for responses. If first to arrive at the crime scene, collect only the necessary

8 AUG 2013

information (e.g., victim's identity, location and time of incident, name and/or description of offender(s)), taking precautions to secure the crime scene.

(6) Apprehend alleged offender(s), as appropriate.

(7) Provide support and reassurance to the victim. It is important that security make the victim feel safe, secure, and in control again.

(8) Advise the victim not to destroy possible evidence by bathing, douching, changing clothes, eating, drinking, or cleaning up in any way.

(9) Explain to the victim normal law enforcement procedures which he/she can expect to occur in the next 24 hours. Ensure he/she is aware of and can anticipate future actions/processes.

(10) If the victim is emotionally upset or distraught, attempt to calm the victim until further assistance (e.g., SAPR Victim Advocate, Duty Chaplain, Counselor) can be arranged. Be aware that victims may be intimidated or upset by police cars, uniforms, radio communication devices, and extraneous police officers not directly involved in the case.

(11) In cooperation with NCIS and local law enforcement agencies, advise/assist the victim on safety precautions in the event that the alleged offender poses a continuing threat.

(12) Immediately provide the SARC, SAPR VA or Duty SAPR VA with case statistical data for completion of the initial and follow-on reporting requirements as requested.

i. NCIS shall:

(1) Receive reports of SA incidents. If the victim chooses to report to civilian law enforcement officials, NCIS personnel can make the initial contact on behalf of the victim.

(2) Explain the availability of victim advocacy and Victims' Counsel services, and contact a Staff Judge Advocate (SJA), Victims' Counsel, Duty SAPR VA, SARC, SAPR VA, OOW or NADO, as appropriate, regarding the incident.

(3) Provide the victim with options concerning his/her involvement with investigative/legal personnel. Possible options include:

(a) The victim may agree to be interviewed without assistance.

(b) The victim may agree to be interviewed with a SAPR VA and/or Victims' Counsel present during NCIS interview(s).

(c) The victim may not desire to meet with law enforcement officials (e.g., NCIS special agents or civilian police). A SAPR VA and/or Victims' Counsel may report to NCIS in lieu of the victim, providing a written summary of information to the investigative agent.

(d) The victim may not desire to be interviewed personally by law enforcement officials. In this case, it is likely that a limited criminal

400295

8 AUG 2013

investigation will be initiated or conducted and valuable evidence may be lost, reducing the ability to hold the alleged offender(s) accountable.

(4) Advise/assist the victim on safety precautions in the event that the alleged offender poses a continuing threat.

(5) Conduct the investigative interview in a manner which recognizes victim sensitivity as outlined in paragraph 6 of this enclosure.

(6) Honor the victim's wishes if he or she desires to be interviewed in the presence of a friend, victim advocate or Victims' Counsel.

(7) Notify the Victim Witness Assistance Coordinator (Staff SJA) as appropriate to keep the victim informed concerning the NCIS role in the case, status of the investigation, and other pertinent details to the extent that it will not interfere with the investigation.

(8) Conduct a thorough investigation of the crime in compliance with victim's rights and the NCIS Manual for Investigations.

(9) Immediately provide the SARC, SAPR VA or Duty SAPR VA with case statistical data for completion of the initial and follow-on reporting requirements as requested.

j. Fleet and Family Service Center (FFSC). FFSC shall assume case management and response for sexual assault cases that meet Family Advocacy Program (FAP) guidelines of OPNAVINST 1754.2 (series). Cases normally managed under FAP include but are not limited to:

(1) Cases of sexual assault involving a current or former spouse, a person with whom the abuser shares a child in common, or a current or former intimate partner with whom the abuser shares or has shared a common domicile.

(2) Cases of sexual assault involving victims under the age of 18.

(3) Cases of sexual assault involving an Active Duty dependent that is eligible for treatment at a military treatment facility and a civilian (e.g., a boyfriend or girlfriend).

(4) Cases involving same sex-domestic partners.

(5) Cases involving children of same-sex domestic partners who are under the age of 18.

k. Company Officers, Senior Enlisted Leaders, Faculty/Staff shall:

(1) Inform a SARC or SAPR VA of a sexual assault report.

(2) Recognize some victims may receive a negative response from other Midshipmen following the report of a sexual assault and more education may be needed to ensure retaliation and inappropriate behavior is not an issue. In such situations, consult with a SARC in order to develop and implement a plan to address undesired responses.

USNAINST 1752.2E

8 AUG 2013

(3) Ensure that MPOs are strictly adhered to for the victim's safety. MPOs are issued when the alleged offender is an active duty service member and direct the accused to remain clear of the victim.

(4) Be aware that if the alleged offender and victim are in the same company, typically one is reassigned to another company in order to prevent contact with one another. Staff/faculty issues will be similarly resolved.

8 AUG 2013

CONFIDENTIALITY AGREEMENT

From: Commandant of Midshipmen, United States Naval Academy
To: Midshipman _____ Class (name), _____, U.S. Navy, Class of
(year)
Subj: CONFIDENTIALITY ORDER ISSUED TO MIDSHIPMAN _____ CLASS (NAME),
U.S. NAVY, CLASS OF (YEAR)

1. You are directed to abide by and obey the following Military Confidentiality Order. Violation of this order may result in administrative action or in disciplinary action under the Uniform Code of Military Justice or the Administrative Conduct System.
2. This order is strictly an administrative action to ensure the safety, security and privacy of the person(s) involved in the ongoing NCIS investigation for which you have been interviewed. It is also intended to protect you from any allegations while this order is in effect. This order is not the beginning of disciplinary action against you, nor does it mean that you cannot or will not be punished for any actions taken before or after its issuance.
3. This order is issued concerning your participation in an ongoing NCIS investigation as a complainant, witness or accused.
4. You are directed to refrain from initiating or taking part in any unofficial conversations, commenting on any third party speculation, rumors or judgments that is relevant to the investigation or the particulars of your role in the investigation. You are further directed to refrain from contacting or communicating in any manner, including but not limited to, personally, telephonically, through third parties, in writing, by electronic mail or other electronic media, through the use of physical gestures, or by any other means other personnel that you know or reasonably should know are also participating in the investigation as a complainant, witness or accused.
5. You are authorized to discuss the case with government agents or local law enforcement personnel in the execution of their duties; your Senior Enlisted or Officer chain of command; personnel assigned to the Commandant's or Superintendent's legal offices; defense counsel of the suspect or accused, or other legal counsel as appropriate.
6. This is a lawful order. Violation of this order may expose you to disciplinary action under Article 92 of the Uniform Code of Military Justice.
7. This order shall remain in effect until you are specifically notified it has been terminated. If you have any questions about this order, you are to direct them to my Legal Advisor, at (410)-293-7014, via your Company Officer.

D. J. ANTENUCCI
By Direction

Copy to:

Enclosure (4)

400298

8 AUG 2013

Subj: CONFIDENTIALITY ORDER ISSUED TO MIDSHIPMAN _____ CLASS (NAME),
U.S. NAVY, CLASS OF (YEAR)

I understand the above order. I understand that violation of this order may result in administrative or disciplinary action against me.

(Name)
MIDN USN

Date

Witnessed by:

Signature

Date

Printed Name

NAVY G. (S)
.13
.16
.19

RTTUZYWU RUEWMCS0000 1111514-UUUU--RUCRNAD
ZNR UUUUU
R 201514Z APR 12
FM CNO WASHINGTON DC//N1//
TO NAVADMIN
INFO CNO WASHINGTON DC//N1//
BT
UNCLAS//N01752//

NAVADMIN 132/12

MSGID/GENADMIN/CNO WASHINGTON DC/N1/APR//

SUBJ/EXPEDITED TRANSFER PROCEDURES FOR SERVICE MEMBERS WHO FILE
UNRESTRICTED REPORTS OF SEXUAL ASSAULT//

REF/A/DOC/DOD/16DEC11//
REF/B/DOC/SECNAV/04APR12//
REF/C/DOC/NPC/20FEB07//
REF/D/DOC/DOD/23JAN12//

NARR/REF A IS DIRECTIVE-TYPE MEMORANDUM 11-063, EXPEDITED TRANSFER OF
MILITARY
SERVICE MEMBERS WHO FILE UNRESTRICTED REPORTS OF SEXUAL ASSAULT. REF B IS
GUIDANCE FOR EXPEDITED TRANSFER OR REASSIGNMENT OF MILITARY SERVICE MEMBERS
WHO FILE UNRESTRICTED REPORTS OF SEXUAL ASSAULT. REF C IS MILPERSMAN 1300-
1200 CH-18, SAFETY TRANSFERS. REF D IS DODD 6495.01, SEXUAL ASSAULT
PREVENTION AND RESPONSE (SAPR) PROGRAM.//

RMKS/1. THIS NAVADMIN IMPLEMENTS THE GUIDANCE AND EXPLAINS THE PROCEDURES TO
EXECUTE THE INSTRUCTIONS CONTAINED IN REFS A AND B. CIRCUMSTANCES MAY EXIST
THAT WARRANT THE TRANSFER OF A SERVICE MEMBER WHO MAKES AN UNRESTRICTED
REPORT
OF SEXUAL ASSAULT BUT MAY NOT OTHERWISE MEET ESTABLISHED CRITERIA FOR
EFFECTING THE IMMEDIATE TRANSFER OF SERVICE MEMBERS. THOSE SERVICE MEMBERS
MAY NOW REQUEST AN EXPEDITED TRANSFER PER REFS A AND B. REF C WILL BE
UPDATED
TO CONTAIN PROVISIONS REGARDING EXPEDITED TRANSFER AND SHALL BE THE GOVERNING
INSTRUCTION FOR PROCESSES OF EXPEDITED TRANSFER. ANY THREAT TO LIFE OR
SAFETY
OF A SERVICE MEMBER, HIS/HER DEPENDENTS, OR MILITARY SPOUSE SHOULD CONTINUE
TO
BE PROCESSED UNDER THE SAFETY
TRANSFER PROVISION OF REF C.

2. FOR THE PURPOSE OF THE EXPEDITED TRANSFER POLICY, A TRANSFER OR
REASSIGNMENT INCLUDES, BUT IS NOT LIMITED TO, TEMPORARY OR PERMANENT MOVEMENT
TO A UNIT WITHIN THE SAME COMMAND, TO A UNIT ON THE SAME INSTALLATION, OR TO
A
UNIT IN A DIFFERENT GEOGRAPHIC LOCATION. A REQUEST FOR A PERMANENT CHANGE OF
STATION TRANSFER OUT OF THE AREA OF THE PERMANENT DUTY STATION IS TO BE
GRANTED ON AN EXCEPTIONAL BASIS. FOR RESERVE COMPONENT MEMBERS, THE COMMAND
SHOULD ALLOW FOR SEPARATE TRAINING ON DIFFERENT WEEKENDS OR TIMES FROM THE
ALLEGED OFFENDER OR WITH A DIFFERENT UNIT IN THE HOME DRILLING LOCATION TO
ENSURE UNDUE BURDEN IS NOT PLACED ON THE SERVICE MEMBER AND HIS OR HER FAMILY
BY THE TRANSFER.

3. PROCEDURES. PER REF D, MEMBERS WHO HAVE FILED AN UNRESTRICTED REPORT OF
SEXUAL ASSAULT MUST BE ADVISED OF THEIR OPTION TO REQUEST TRANSFER FROM THE

400300

COMMAND TO WHICH THEY ARE ASSIGNED.

A. A REQUEST FOR AN EXPEDITED TRANSFER MUST COME FROM THE SERVICE MEMBER.

THE REQUEST MUST BE IN WRITING AND INCLUDE THE REASON(S) FOR THE REQUEST.

B. UPON RECEIPT OF THE REQUEST, AND WITHIN 72 HOURS, THE COMMANDING OFFICER (CO) MUST APPROVE OR RECOMMEND DISAPPROVAL OF AN EXPEDITED TRANSFER.

C. IN MAKING THE DECISION ON WHETHER TO RECOMMEND TRANSFER, THE CO MUST DETERMINE IF THE UNRESTRICTED REPORT IS CREDIBLE. (I.E., REASONABLE GROUNDS TO

BELIEVE THAT AN OFFENSE CONSTITUTING SEXUAL ASSAULT DID OCCUR BASED ON ALL AVAILABLE EVIDENCE AND THE ADVICE OF THE SUPPORTING JUDGE ADVOCATE OR OTHER LEGAL ADVISOR OR COUNSEL CONCERNED.)

D. A PRESUMPTION SHALL BE ESTABLISHED IN FAVOR OF TRANSFERRING A SERVICE MEMBER (WHO INITIATED THE TRANSFER REQUEST) FOLLOWING A CREDIBLE REPORT OF SEXUAL ASSAULT. THE CO SHALL CONSIDER THE FOLLOWING FACTORS WHEN MAKING THE TRANSFER DECISION:

(1) THE CREDIBLE REPORT OF SEXUAL ASSAULT;

(2) THE SERVICE MEMBER'S WRITTEN REQUEST FOR TRANSFER OR REASSIGNMENT;

(3) OPERATIONAL NECESSITY, INCLUDING SITUATIONAL UNIQUE REQUIREMENTS IN DEPLOYED AREAS;

(4) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE;

(5) THE LOCATION OF THE ALLEGED OFFENDER;

(6) POTENTIAL TRANSFER OR REASSIGNMENT OF THE ALLEGED OFFENDER

INSTEAD

OF THE SERVICE MEMBER;

(7) THE ALLEGED OFFENDER'S STATUS (MILITARY OR CIVILIAN);

(8) AFTER CONSULTATION WITH THE INVESTIGATING MILITARY CRIMINAL INVESTIGATIVE ORGANIZATION AND THE SUPPORTING JUDGE ADVOCATE OR OTHER LEGAL ADVISOR OR COUNSEL CONCERNED, THE STATUS OF THE INVESTIGATION AND THE POTENTIAL IMPACT OF THE SERVICE MEMBER'S TRANSFER OR REASSIGNMENT ON THE INVESTIGATION AND FUTURE DISPOSITION OF THE ALLEGATION;

(9) TRAINING STATUS OF THE SERVICE MEMBER REQUESTING THE TRANSFER OR REASSIGNMENT; AND

(10) OTHER PERTINENT CIRCUMSTANCES OR FACTS.

4. APPROVAL. THE CO'S APPROVAL OF AN EXPEDITED TRANSFER REQUEST, ALONG WITH THEIR RECOMMENDATION AS TO WHERE THE MEMBER SHOULD BE TRANSFERRED, SHALL BE IMMEDIATELY FORWARDED TO THE NAVY PERSONNEL COMMAND (NPC) POST SELECTION BOARD

MATTERS (PERS-833) FOR PROCESSING AND RETAINED ON FILE FOR A PERIOD OF 3 YEARS. NPC CAREER MANAGEMENT (PERS-4) WILL ADJUDICATE TRANSFER OF THE SERVICE MEMBER.

5. DISAPPROVAL. THE COMMANDING OFFICER MUST IMMEDIATELY FORWARD ANY RECOMMENDATION FOR DISAPPROVAL OF AN EXPEDITED TRANSFER REQUEST, AND THE REASON(S) FOR THE RECOMMENDATION, IN WRITING, TO THE FIRSTFLAG OFFICER IN THE CHAIN OF COMMAND, OR SENIOR EXECUTIVE SERVICE (SES) EQUIVALENT (IF APPLICABLE).

A. A MEMBER'S REQUEST MAY ONLY BE DISAPPROVED BY THE FIRST FLAG OFFICER IN THE MEMBER'S CHAIN OF COMMAND, OR AN SES EQUIVALENT (IF APPLICABLE).

B. THE FLAG OFFICER/SES MEMBER SHALL CONSIDER:

(1) FACTORS (1) THROUGH (10) WHICH ARE DELINEATED FOR COMMANDERS ABOVE;

(2) THE WRITTEN RECOMMENDATION FROM THE COMMANDER DISAPPROVING OF THE REQUEST; AND

(3) ANY OTHER PERTINENT CIRCUMSTANCE(S) FROM THE FLAG OFFICER COMMAND PERSPECTIVE.

C. THE FLAG OFFICER/SES LEVEL DECISION MUST BE MADE WITHIN 72 HOURS OF RECEIPT OF THE COMMAND-LEVEL DISAPPROVAL RECOMMENDATION.

D. FLAG OFFICER/SES LEVEL APPROVED EXPEDITED TRANSFER REQUESTS SHALL BE IMMEDIATELY FORWARDED TO NPC PERS-833 FOR PROCESSING AND RETAINED ON FILE FOR A PERIOD OF 3 YEARS.

E. FLAG OFFICER/SES LEVEL DISAPPROVED EXPEDITED TRANSFER REQUESTS SHALL BE IMMEDIATELY FORWARDED TO NPC PERS-833 AND RETAINED ON FILE FOR A PERIOD OF 3 YEARS.

6. IF AT ANY TIME THE REQUESTING SERVICE MEMBER ELECTS NOT TO PROCEED WITH AN EXPEDITED TRANSFER REQUEST, HE OR SHE SHALL FORMALLY WITHDRAW THE REQUEST IN WRITING TO THE CO.

7. THESE PROCEDURES ARE EFFECTIVE IMMEDIATELY AND WILL REMAIN IN EFFECT UNLESS SUPERSEDED BY REVISIONS TO OPNAVINST 1752.1B AND THE MILPERSMAN. AMPLIFYING INFORMATION CAN BE FOUND IN MILPERSMAN ARTICLE 1300-1200.

8. SEXUAL ASSAULT PREVENTION AND RESPONSE IS A KEY COMPONENT OF THE READINESS FOCUS AREA OF SECNAV'S 21ST CENTURY SAILOR AND MARINE INITIATIVE, WHICH IS DESIGNED TO MAXIMIZE SAILOR AND MARINE PERSONAL READINESS, MAINTAIN THE RESILIENCY OF THE FORCE, AND TO HONE THE MOST COMBAT EFFECTIVE FORCE.

9. POINT OF CONTACT: PERS-833 AT COMM (901) 874-4412 OR DSN 882-4438.

10. RELEASED BY VICE ADMIRAL S. R. VAN BUSKIRK, N1.//

BT
#0000
NNNN

400302



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

SECNAVINST 5420.193
BCNR
19 November 1997

SECNAV INSTRUCTION 5420.193

From: Secretary of the Navy
To: All Ships and Stations

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS

Ref: (a) 10 U.S.C. § 1552
(b) U.S. Navy Regulations, 1990, Article 0324
(c) 10 U.S.C. § 5016
(d) SECNAVINST 5211.5D, DON Privacy Act Program
(e) 10 U.S.C. § 1034
(f) DOD Directive 7050.6, Military Whistleblower Protection of 12 Aug 95 (NOTAL)
(g) SECNAVINST 5370.7A, Military Whistleblower Protection of 27 Sep 94

Encl: (1) Procedures of the Board for Correction of Naval Records
(2) DD 149, Application for Correction of Military Record Under the Provisions of title 10, U.S.C. Section 1552
(3) Applicant's Guide

1. Purpose. To establish procedures for making application and the consideration of applications for correction of military records of current and former members of the Navy and Marine Corps by the Secretary of the Navy acting through the Board for Correction of Naval Records (BCNR) under reference (a).

2. Cancellation. NAVSO P-473 of 28 November 1977. All other regulations and memoranda providing guidance on policies or procedures of BCNR, and delegations of authority inconsistent with this instruction, are cancelled.

3. Action

a. BCNR shall consider and either take corrective action on the Secretary's behalf, when authorized, or make appropriate recommendations to the Secretary regarding applications for the correction of military records following the procedures in enclosure (1).

b. The Assistant Secretary of the Navy (Manpower and Reserve Affairs), under references (b) and (c), has been assigned the responsibility for the overall supervision of BCNR and is



400303

19 NOV 1997

delegated authority to take final action on BCNR cases forwarded for review.

c. The Executive Director, BCNR shall administer and oversee the operation of BCNR. The Executive Director shall be subject to the supervision and administrative control of the Assistant Secretary of the Navy (Manpower and Reserve Affairs).

d. Department of the Navy facilities of all commands, bureaus, offices, and boards shall be made available to BCNR to assist it, upon request, in the performance of its duties consistent with applicable statutes and regulations. Requests for records and/or advisory opinions should under normal circumstances be acted upon within 60 days of receipt of BCNR's request.

4. Execution of BCNR Decisions. The Chief of Naval Operations and the Commandant of the Marine Corps shall ensure that action is taken to make the military record corrections directed by the Secretary or BCNR. The applicant and Executive Director will be advised of the action taken.

5. Administrative Correction of Personnel Records. To enhance efficiency and minimize requirements for BCNR actions where possible, the Chief of Naval Operations and the Commandant of the Marine Corps will ensure that obvious clerical or administrative errors are corrected locally under the authority of reference (d) to the extent permitted by law and regulation.

6. Changes in Procedures. BCNR may recommend changes to enclosure (1). Changes must be approved by the Secretary of the Navy and the Secretary of Defense. Enclosure (1) and all approved changes thereto will be published in the Federal Register.

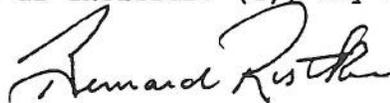
7. Application. Applications to BCNR for correction of naval records must be submitted on DD 149, Application for Correction of Military Record, or exact facsimile. Enclosure (2) is a copy of DD 149. Enclosure (3) provides information to prospective applicants regarding the procedures governing the submission and processing of applications. In processing applications alleging violations of reference (e) there will be strict compliance with the provisions of references (f) and (g).

19 NOV 1997

8. Report and Form

a. The reporting requirements contained in enclosure (1) are exempt from reports control by SECNAVINST 5214.2B

b. Due to low usage DD 149 (Sep 97), Application for Correction of Military Records Under the Provisions of title 10, U.S.C., section 1552, provided as enclosure (2), may be locally reproduced.



BERNARD ROSTKER
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:

SNDL Parts 1 and 2

MARCORPS Codes PCN 7100000000 and 71000000100

BUPERS (Pers-3)
(100 copies)

SECNAV/OPNAV DIRECTIVES CONTROL OFFICE
WASHINGTON NAVY YARD BUILDING 200
901 M STREET SE
WASHINGTON DC 20374-5074 (30 copies)

Order from:
Naval Inventory Control Point
Cog "I" Material
700 Robbins Avenue
Philadelphia PA 19111-5098

Stocked: (200 copies)

SECNAVINST 5420.193

19 NOV 1997

PROCEDURES
OF
THE BOARD FOR
CORRECTION OF NAVAL RECORDS

ESTABLISHED TO REVIEW

NAVAL RECORDS UNDER

10 U.S.C. 1552

(Codified as 32 CFR 723)

Revised 24 February 1997

Enclosure (1)

400306

19 NOV 1997

PROCEDURES

- Section 1. GENERAL PROVISIONS
2. ESTABLISHMENT, FUNCTION AND JURISDICTION OF THE BOARD
 - a. Establishment and Composition
 - b. Function
 - c. Jurisdiction
 3. APPLICATION FOR CORRECTION
 - a. General Requirements
 - b. Time Limit for Filing Applications
 - c. Acceptance of Applications
 - d. Other Proceedings Not Stayed
 - e. Consideration of Application
 4. APPEARANCE BEFORE THE BOARD: NOTICE; COUNSEL; WITNESSES; ACCESS TO RECORDS
 - a. General
 - b. Notice
 - c. Counsel
 - d. Witnesses
 - e. Access to Records
 5. HEARING
 - a. Convening of Board
 - b. Conduct of Hearing
 - c. Continuance
 6. ACTION BY THE BOARD
 - a. Deliberations, Findings, Conclusions and Recommendations
 - b. Minority Report
 - c. Record of Proceedings
 - d. Withdrawal
 - e. Delegation of Authority to Correct Certain Naval Records
 7. ACTION BY THE SECRETARY
 - a. General
 - b. Military Whistleblower Protection Act

Enclosure (1)

SECNAVINST 5420.193

19 NOV 1997

8. STAFF ACTION
 - a. Transmittal of Final Decisions Granting Relief
 - b. Transmittal of Final Decisions Denying Relief
9. RECONSIDERATION
10. SETTLEMENT OF CLAIMS
 - a. Authority
 - b. Application for Settlement
 - c. Settlement
 - d. Report of Settlement
11. MISCELLANEOUS
 - a. Expenses
 - b. Indexing of Decisions

Enclosure (1)

19 NOV 1997

Section 1. GENERAL PROVISIONS

These regulations establish procedures for correction of naval and marine records by the Secretary of the Navy acting through the Board for Correction of Naval Records (BCNR or the Board) to remedy error or injustice. It describes how to apply for correction of naval and marine records and how the BCNR considers applications. It defines the Board's authority to act on applications. It directs collecting and maintaining information subject to the Privacy Act of 1974 authorized by 10 U.S.C. 1034 and 1552.

Section 2. ESTABLISHMENT, FUNCTION AND JURISDICTION OF THE BOARD

a. ESTABLISHMENT AND COMPOSITION

Under the foregoing statutory authority, the Board for Correction of Naval Records is established by the Secretary of the Navy. The Board consists of civilians of the executive part of the Department of the Navy in such number, not less than three, as may be appointed by the Secretary and who shall serve at the pleasure of the Secretary. Three members present shall constitute a quorum of the Board. The Secretary of the Navy will designate one member as Chair. In the absence or incapacity of the Chair, an Acting Chair chosen by the Executive Director shall act as Chair for all purposes.

b. FUNCTION

The Board is not an investigative body. Its function is to consider applications properly before it for the purpose of determining the existence of error or injustice in the naval records of current and former members of the Navy and Marine Corps, to make recommendations to the Secretary or to take corrective action on the Secretary's behalf when authorized.

c. JURISDICTION

The Board shall have jurisdiction to review and determine all matters properly brought before it, consistent with existing law.

Enclosure (1)

400309

19 NOV 1997

Section 3. APPLICATION FOR CORRECTION

a. GENERAL REQUIREMENTS

(1) The application for correction must be submitted on DD 149 (Application for Correction of Military Record) or exact facsimile thereof, and should be addressed to: Board for Correction of Naval Records, Department of the Navy, 2 Navy Annex, Washington, DC 203705100. Forms and other explanatory matter may be obtained from the Board upon request.

(2) Except as provided in paragraph (3) of this section, the application shall be signed by the person requesting corrective action with respect to his/her record and will either be sworn to or will contain a provision to the effect that the statements submitted in the application are made with full knowledge of the penalty provided by law for making a false statement or claim. (18 U.S.C. § 287 and § 1001).

(3) When the record in question is that of a person who is incapable of making application, or whose whereabouts is unknown, or when such person is deceased, the application may be made by a spouse, parent, heir, or legal representative. Proof of proper interest shall be submitted with the application.

b. TIME LIMIT FOR FILING APPLICATION. Applications for correction of a record must be filed within 3 years after discovery of the alleged error or injustice. Failure to file within the time prescribed may be excused by the Board if it finds it would be in the interest of justice to do so. If the application is filed more than 3 years after discovery of the error or injustice, the application must set forth the reason why the Board should find it in the interest of justice to excuse the failure to file the application within the time prescribed.

c. ACCEPTANCE OF APPLICATIONS. An application will be accepted for consideration unless:

- (1) The Board lacks jurisdiction.
- (2) The Board lacks authority to grant effective relief.

Enclosure (1)

79 NOV 1997

(3) The applicant has failed to comply with the filing requirements of paragraphs a(1), a(2) or a(3) of this section.

(4) The applicant has failed to exhaust all available administrative remedies.

(5) The applicant has failed to file an application within 3 years after discovery of the alleged error or injustice and has not provided a reason or reasons why the Board should find it in the interest of justice to excuse the failure to file the application within the prescribed 3-year period.

d. OTHER PROCEEDINGS NOT STAYED. Filing an application with the Board shall not operate as a stay of any other proceedings being taken with respect to the person involved.

e. CONSIDERATION OF APPLICATION

(1) Each application accepted for consideration and all pertinent evidence of record will be reviewed by a three member panel sitting in executive session, to determine whether to authorize a hearing, recommend that the records be corrected without a hearing, or to deny the application without a hearing. This determination will be made by majority vote.

(2) The Board may deny an application in executive session if it determines that the evidence of record fails to demonstrate the existence of probable material error or injustice. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Applicants have the burden of overcoming this presumption but the Board will not deny an application solely because the record was made by or at the direction of the President or the Secretary in connection with proceedings other than proceedings of a board for the correction of military or naval records. Denial of an application on the grounds of insufficient evidence to demonstrate the existence of probable material error or injustice is final subject to the provisions for reconsideration contained in Section 9 of these procedures.

Enclosure (1)

19 NOV 1997

(3) When an original application or a request for further consideration of a previously denied application is denied without a hearing, the Board's determination shall be made in writing and include a brief statement of the grounds for denial.

(4) The brief statement of the grounds for denial shall include the reasons for the determination that relief should not be granted, including the applicant's claims of constitutional, statutory and/or regulatory violations that were rejected, together with all the essential facts upon which the denial is based, including, if applicable, factors required by regulation to be considered for determination of the character of and reason for discharge. Further the Board shall make a determination as to the applicability of the provisions of the Military Whistleblower Protection Act (10 U.S.C. § 1034) if it is invoked by the applicant or reasonably raised by the evidence. Attached to the statement shall be any advisory opinion considered by the Board which is not fully set out in the statement. The applicant will also be advised of reconsideration procedures.

(5) The statement of the grounds for denial, together with all attachments, shall be furnished promptly to the applicant and counsel, who shall also be informed that the name and final vote of each Board member will be furnished or made available upon request. Classified or privileged material will not be incorporated or attached to the Board statement; rather, unclassified or nonprivileged summaries of such material will be so used and written explanations for the substitution will be provided to the applicant and counsel.

Section 4. APPEARANCE BEFORE THE BOARD; NOTICE; COUNSEL;
WITNESSES; ACCESS TO RECORDS.

a. GENERAL. In each case in which the Board determines a hearing is warranted, the applicant will be entitled to appear before the Board either in person or by counsel of his/her selection or in person with counsel. Additional provisions apply to cases processed under the Military Whistleblower Protection Act (10 U.S.C. § 1034.)

b. NOTICE

(1) In each case in which a hearing is authorized, the Board's staff will transmit to the applicant a written notice

Enclosure (1)

19 NOV 1997

stating the time and place of hearing. The notice will be mailed to the applicant, at least 30 days prior to the date of hearing, except that an earlier date may be set where the applicant waives his/her right to such notice in writing.

(2) Upon receipt of the notice of hearing, the applicant will notify the Board in writing at least 15 days prior to the date set for hearing as to whether he/she will be present at the hearing and will indicate to the Board the name of counsel, if represented by counsel, and the names of such witnesses as he/she intends to call. Cases in which the applicant notifies the Board that he/she does not desire to be present at the hearing will be considered in accordance with Section 5b(2).

c. COUNSEL. As used in these regulations, the term "counsel" will be construed to include members in good standing of the federal bar or the bar of any state, accredited representatives of veterans' organizations recognized by the Secretary of Veterans Affairs under 38 U.S.C. § 3402, or such other persons who, in the opinion of the Board, are considered to be competent to present equitably and comprehensively the request of the applicant for correction, unless barred by law. Representation by counsel will be at no cost to the government.

d. WITNESSES. The applicant will be permitted to present witnesses in his/her behalf at hearings before the Board. It will be the responsibility of the applicant to notify his/her witnesses and to arrange for their appearance at the time and place set for hearing. Appearance of witnesses will be at no cost to the government.

e. ACCESS TO RECORDS

(1) It is the applicant's responsibility to procure such evidence not contained in the official records of the Department of the Navy as he/she desires to present in support of his/her case.

(2) Classified or privileged information may be released to applicants only by proper authorities in accordance with applicable regulations.

Enclosure (1)

19 NOV 1997

(3) Nothing in these regulations authorizes the furnishing of copies of official records by the Board. Requests for copies of official records should be submitted in accordance with regulations governing the release of information. The Board can provide a requester with information regarding procedures for requesting copies of these records from the appropriate retention agency.

Section 5. HEARING

a. CONVENING OF BOARD. The Board will convene, recess and adjourn at the call of the Chair or Acting Chair.

b. CONDUCT OF HEARING

(1) The hearing shall be conducted by the Chair or Acting Chair, and shall be subject to his/her rulings so as to ensure a full and fair hearing. The Board shall not be limited by legal rules of evidence but shall maintain reasonable bounds of competency, relevancy, and materiality.

(2) If the applicant, after being duly notified, indicates to the Board that he/she does not desire to be present or to be represented by counsel at the hearing, the Board will consider the case on the basis of all the material before it, including, but not limited to, the application for correction filed by the applicant, any documentary evidence filed in support of such application, any brief submitted by or in behalf of the applicant, and all available pertinent records.

(3) If the applicant, after being duly notified, indicates to the Board that he/she will be present or be represented by counsel at the hearing, and without good cause and timely notice to the Board, the applicant or representative fails to appear at the time and place set for the hearing or fails to provide the notice required by Section 4b(2) of these procedures, the Board may consider the case in accordance with the provisions of paragraph b(2) of this section, or make such other disposition of the case as is appropriate under the circumstances.

(4) All testimony before the Board shall be given under oath or affirmation. The proceedings of the Board and the testimony given before it will be recorded verbatim.

Enclosure (1)

19 NOV 1997

c. CONTINUANCE. The Board may continue a hearing on its own motion. A request for continuance by or in behalf of the applicant may be granted by the Board if a continuance appears necessary to insure a full and fair hearing.

Section 6. ACTION BY THE BOARD

a. DELIBERATIONS, FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

(1) Only members of the Board and its staff shall be present during the deliberations of the Board.

(2) Whenever, during the course of its review of an application, it appears to the Board's satisfaction that the facts have not been fully and fairly disclosed by the records or by the testimony and other evidence before it, the Board may require the applicant or military authorities to provide such further information as it may consider essential to a complete and impartial determination of the facts and issues.

(3) Following a hearing, or where the Board determines to recommend that the record be corrected without a hearing, the Board will make written findings, conclusions and recommendations. If denial of relief is recommended following a hearing, such written findings and conclusions will include a statement of the grounds for denial as described in Section 3e(4). The name and final vote of each Board member will be recorded. A majority vote of the members present on any matter before the Board will constitute the action of the Board and shall be so recorded.

(4) Where the Board deems it necessary to submit comments or recommendations to the Secretary as to matters arising from but not directly related to the issues of any case, such comments and recommendations shall be the subject of separate communication. Additionally, in Military Whistleblower Protection Act cases, any recommendation by the Board to the Secretary that disciplinary or administrative action be taken against any Navy official based on the Board's determination that the official took reprisal action against the applicant will not be made part of the Board's record of proceedings or furnished the applicant but will be transmitted to the Secretary as a separate communication.

Enclosure (1)

19 NOV 1997

b. MINORITY REPORT. In case of a disagreement between members of the Board a minority report will be submitted, either as to the findings, conclusions or recommendation, including the reasons therefore.

c. RECORD OF PROCEEDINGS. Following a hearing, or where the Board determines to recommend that the record be corrected without a hearing, a record of proceedings will be prepared. Such record shall indicate whether or not a quorum was present, and the name and vote of each member present. The record shall include the application for relief, a verbatim transcript of any testimony, affidavits, papers and documents considered by the Board, briefs and written arguments, advisory opinions, if any, minority reports, if any, the findings, conclusions and recommendations of the Board, where appropriate, and all other papers, documents, and reports necessary to reflect a true and complete history of the proceedings.

d. WITHDRAWAL. The Board may permit an applicant to withdraw his/her application without prejudice at any time before its record of proceedings is forwarded to the Secretary.

e. DELEGATION OF AUTHORITY TO CORRECT CERTAIN NAVAL RECORDS

(1) With respect to all petitions for relief properly before it, the Board is authorized to take final corrective action on behalf of the Secretary, unless:

(a) Comments by proper naval authority are inconsistent with the Board's recommendation;

(b) The Board's recommendation is not unanimous; or

(c) It is in the category of petitions reserved for decision by the Secretary of the Navy.

(2) The following categories of petitions for relief are reserved for decision by the Secretary of the Navy:

(a) Petitions involving records previously reviewed or acted upon by the Secretary wherein the operative facts remained substantially the same;

Enclosure (1)

19 NOV 1997

(b) Petitions by former commissioned officers or midshipmen to change the character of, and/or the reason for, their discharge; or,

(c) Such other petitions as, in the determination of the Office of the Secretary or the Executive Director, warrant Secretarial review.

(3) The Executive Director after ensuring compliance with the above conditions, will announce final decisions on applications decided under this section.

Section 7. ACTION BY THE SECRETARY

a. GENERAL. The record of proceedings, except in cases finalized by the Board under the authority delegated in Section 6e, and those denied by the Board without a hearing, will be forwarded to the Secretary who will direct such action as he or she determines to be appropriate, which may include the return of the record to the Board for further consideration. Those cases returned for further consideration shall be accompanied by a brief statement setting out the reasons for such action along with any specific instructions. If the Secretary's decision is to deny relief, such decision shall be in writing and, unless he or she expressly adopts in whole or in part the findings, conclusions and recommendations of the Board, or a minority report, shall include a brief statement of the grounds for denial. See Section 3e(4) of these procedures.

b. MILITARY WHISTLERBLOWER PROTECTION ACT. The Secretary will ensure that decisions in cases involving the Military Whistleblower Protection Act are issued within 180 days after receipt of the case and will, unless the full relief requested is granted, inform applicants of their right to request review of the decision by the Secretary of Defense. Applicants will also be informed:

(1) Of the name and address of the official to whom the request for review must be submitted.

(2) That the request for review must be submitted within 90 days after receipt of the decision by the Secretary of the Navy.

Enclosure (1)

SECNAVINST 5420.193

19 NOV 1997

(3) That the request for review must be in writing and include:

(a) The applicant's name, address and telephone number;

(b) A copy of the application to the Board and the final decision of the Secretary of the Navy;

(c) A statement of the specific reasons the applicant is not satisfied with the decision of the Secretary of the Navy.

(4) That the request must be based on the Board record; request for review based on factual allegations or evidence not previously presented to the Board will not be considered under this paragraph but may be the basis for reconsideration by the Board under Section 9.

Section 8. STAFF ACTION

a. TRANSMITTAL OF FINAL DECISIONS GRANTING RELIEF

(1) If the final decision of the Secretary is to grant the applicant's request for relief the record of proceedings shall be returned to the Board for disposition. The Board shall transmit the finalized record of proceedings to proper naval authority for appropriate action. Similarly final decisions of the Board granting the applicant's request for relief under the authority delegated in Section 6e, shall also be forwarded to the proper naval authority for appropriate action.

(2) The Board shall transmit a copy of the record of proceedings to the proper naval authority for filing in the applicant's service record except where the effect of such action would be to nullify the relief granted. In such cases no reference to the Board's decision shall be made in the service record or files of the applicant and all copies of the record of proceedings and any related papers shall be forwarded to the Board and retained in a file maintained for this purpose.

(3) The addressees of such decisions shall report compliance therewith to the Executive Director.

Enclosure (1)

19 NOV 1997

(4) Upon receipt of the record of proceedings after final action by the Secretary, or by the Board acting under the authority contained in Section 6e, the Board shall communicate the decision to the applicant. The applicant is entitled, upon request, to receive a copy of the Board's findings, conclusions and recommendations.

b. TRANSMITTAL OF FINAL DECISIONS DENYING RELIEF. If the final decision of the Secretary or the Board is to deny relief, the following materials will be made available to the applicant:

(1) A statement of the findings, conclusions, and recommendations made by the Board and the reasons therefor;

(2) Any advisory opinions considered by the Board;

(3) Any minority reports; and

(4) Any material prepared by the Secretary as required in Section 7. Moreover, applicant shall also be informed that the name and final vote of each Board member will be furnished or made available upon request and that he/she may submit new and material evidence or other matter for further consideration.

Section 9. RECONSIDERATION. After final adjudication, further consideration will be granted only upon presentation by the applicant of new and material evidence or other matter not previously considered by the Board. New evidence is defined as evidence not previously considered by the Board and not reasonably available to the applicant at the time of the previous application. Evidence is material if it is likely to have a substantial effect on the outcome. All requests for further consideration will be initially screened by the Executive Director of the Board to determine whether new and material evidence or other matter (including, but not limited to, any factual allegations or arguments why the relief should be granted) has been submitted by the applicant. If such evidence or other matter has been submitted, the request shall be forwarded to the Board for a decision. If no such evidence or other matter has been submitted, the applicant will be informed that his/her request was not considered by the Board because it did not contain new and material evidence or other matter.

Enclosure (1)

19 NOV 1997

Section 10. SETTLEMENT OF CLAIMS

a. AUTHORITY

(1) The Department of the Navy is authorized under 10 U.S.C. § 1552 to pay claims for amounts due to applicants as a result of corrections to their naval records.

(2) The Department of the Navy is not authorized to pay any claim heretofore compensated by Congress through enactment of a private law, or to pay any amount as compensation for any benefit to which the claimant might subsequently become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

b. APPLICATION FOR SETTLEMENT

(1) Settlement and payment of claims shall be made only upon a claim of the person whose record has been corrected or legal representative, heirs at law, or beneficiaries. Such claim for settlement and payment may be filed as a separate part of the application for correction of the record.

(2) When the person whose record has been corrected is deceased, and where no demand is presented by a duly appointed legal representative of the estate, payments otherwise due shall be made to the surviving spouse, heir or beneficiaries, in the order prescribed by the law applicable to that kind of payment, or if there is no such law covering order of payment, in the order set forth in 10 U.S.C. § 2771; or as otherwise prescribed by the law applicable to that kind of payment.

(3) Upon request, the applicant or applicants shall be required to furnish requisite information to determine their status as proper parties to the claim for purposes of payment under applicable provisions of law.

c. SETTLEMENT

(1) Settlement of claims shall be upon the basis of the decision and recommendation of the Board, as approved by the Secretary or his designee. Computation of the amounts due shall be made by the appropriate disbursing activity. In no case will the amount found due exceed the amount which would otherwise have been paid or have become due under applicable laws had no error

Enclosure (1)

19 NOV 1997

or injustice occurred. Earnings received from civilian employment, self employment or any income protection plan for such employment during any period for which active duty pay and allowances are payable will be deducted from the settlement. To the extent authorized by law and regulation, amounts found due may be reduced by the amount of any existing indebtedness to the Government arising from military service.

(2) Prior to or at the time of payment, the person or persons to whom payments are to be made shall be advised by the disbursing activity of the nature and amount of the various benefits represented by the total settlement and shall be advised further that acceptance of such settlement shall constitute a complete release by the claimants involved of any claim against the United States on account of the correction of the record.

d. REPORT OF SETTLEMENT. In every case where payment is made, the amount of such payment and the names of the payee or payees shall be reported to the Executive Director.

Section 11. MISCELLANEOUS PROVISIONS

a. EXPENSES. No expenses of any nature whatsoever voluntarily incurred by the applicant, counsel, witnesses, or by any other person in the applicant's behalf, will be paid by the Government.

b. INDEXING OF DECISIONS

(1) Documents sent to each applicant and counsel in accordance with Sections 3e(5) and 8a(4), above together with the record of the votes of Board members and all other statements of findings, conclusions and recommendations made on final determination of an application by the Board or the Secretary will be indexed and promptly made available for public inspection and copying at the Armed Forces Discharge Review/Correction Boards Reading Room located on the Concourse of the Pentagon Building in Room 2E123, Washington, DC.

(2) All documents made available for public inspection and copying shall be indexed in a usable and concise form so as to enable the public to identify those cases similar in issue together with the circumstances under and/or reasons for which

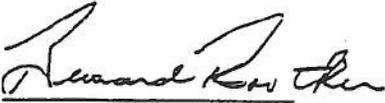
Enclosure (1)

SECNAVINST 5420.193

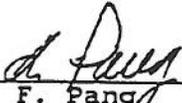
the Board and/or Secretary have granted or denied relief. The index shall be published quarterly and shall be available for public inspection and distribution by sale at the Reading Room located on the Concourse of the Pentagon Building in Room 2E123, Washington, DC. Inquiries concerning the index or the Reading Room may be addressed to the Chief, Micromation Branch/Armed Forces Discharge Review/Correction Boards Reading Room, Crystal Mall 4, 1941 Jefferson Davis Highway, Arlington, Virginia 22202.

(3) To the extent necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers and military service numbers must be deleted. Deletions of other information which is privileged or classified may be made only if a written statement of the basis for such deletion is made available for public inspection.

Date 8/16/96

Approved by 
Bernard Rostker
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Date 10 Jan 97

Approved by 
F. Pang
Assistant Secretary of Defense
(Force Management Policy)

Enclosure (1)

APPLICATION FOR CORRECTION OF MILITARY RECORD UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552 <i>(Please read instructions on reverse side BEFORE completing application.)</i>		<i>Form Approved OMB No. 0704-0003 Expires Aug 31, 2000</i>
The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0003), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.		
PRIVACY ACT STATEMENT		
AUTHORITY: Title 10 US Code 1552, EO 9397. PRINCIPAL PURPOSE: To initiate an application for correction of military record. The form is used by Board members for review of pertinent information in making a determination of relief through correction of a military record.	ROUTINE USE(S): None. DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security number is strictly to assure proper identification of the individual and appropriate records.	
1. APPLICANT DATA		
a. BRANCH OF SERVICE <i>(X one)</i>	<input type="checkbox"/> ARMY	<input type="checkbox"/> NAVY
<input type="checkbox"/> AIR FORCE	<input type="checkbox"/> MARINE CORPS	<input type="checkbox"/> COAST GUARD
b. NAME <i>(Last, First, Middle Initial) (Please print)</i>	c. PRESENT PAY GRADE	d. SERVICE NUMBER <i>(If applicable)</i>
		e. SSN
2. TYPE OF DISCHARGE <i>(If by court-martial, state type of court)</i>	3. PRESENT STATUS, IF ANY, WITH RESPECT TO THE ARMED SERVICES <i>(Active duty, Retired, Reserve, etc.)</i>	4. DATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY
5. ORGANIZATION AT TIME OF ALLEGED ERROR IN RECORD		6. I DESIRE TO APPEAR BEFORE THE BOARD IN WASHINGTON, D.C. <i>(No expense to the Government) (X one)</i> <input type="checkbox"/> YES <input type="checkbox"/> NO
7. COUNSEL <i>(If any)</i>		b. ADDRESS <i>(Street, Apartment Number, City, State and ZIP Code)</i>
a. NAME <i>(Last, First, Middle Initial)</i>		
8. I REQUEST THE FOLLOWING CORRECTION OF ERROR OR INJUSTICE:		
9. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST IN THE FOLLOWING PARTICULARS:		
10. IN SUPPORT OF THIS APPLICATION I SUBMIT AS EVIDENCE THE FOLLOWING: <i>(If Veterans Administration records are pertinent to your case, give Regional Office location and Claim Number.)</i>		
11. ALLEGED ERROR OR INJUSTICE		
a. DATE OF DISCOVERY	b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THIS APPLICATION.	
12. APPLICANT MUST SIGN IN ITEM 16. IF THE RECORD IN QUESTION IS THAT OF A DECEASED OR INCOMPETENT PERSON, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY APPLICATION. IF APPLICATION IS SIGNED BY OTHER THAN APPLICANT, INDICATE RELATIONSHIP OR STATUS BY MARKING APPROPRIATE BOX. <input type="checkbox"/> SPOUSE <input type="checkbox"/> WIDOW <input type="checkbox"/> WIDOWER <input type="checkbox"/> NEXT OF KIN <input type="checkbox"/> LEGAL REPRESENTATIVE <input type="checkbox"/> OTHER <i>(Specify)</i>		
13. I MAKE THE FOREGOING STATEMENTS, AS PART OF MY CLAIM, WITH FULL KNOWLEDGE OF THE PENALTIES INVOLVED FOR WILLFULLY MAKING A FALSE STATEMENT OR CLAIM. <i>(U.S. Code, Title 18, Sec. 287, 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)</i>		
14.a. COMPLETE CURRENT ADDRESS, INCLUDING ZIP CODE <i>(Applicant should forward notification of all changes of address.)</i>		DOCUMENT NUMBER <i>(Do not write in this space.)</i>
		b. TELEPHONE NUMBER <i>(Include Area Code)</i>
15. DATE SIGNED	16. SIGNATURE <i>(Applicant must sign here.)</i>	

INSTRUCTIONS

(All data should be typed or printed)

1. For detailed information see: Air Force Instruction 36-2603; Army Regulation 15-185; Coast Guard, Code of Federal Regulations; Title 33, Part 52; or Navy, Code of Federal Regulations; Title 32, Part 723.
2. Submit only original of this form.
3. Complete all items. If the question is not applicable, mark "None."
4. If space is insufficient, use "Remarks" or attach additional sheet.
5. Various veterans and service organizations furnish counsel without charge. These organizations prefer that arrangements for representation be made through local posts or chapters.
6. List all attachments and enclosures.
7. **ITEMS 6 AND 7.** Personal appearance of you and your witnesses or representation by counsel is not required to ensure full and impartial consideration of applications. Appearances and representations are permitted, at no expense to the Government, when a hearing is authorized.
8. **ITEM 8.** State the specific correction of record desired.
9. **ITEM 9.** In order to justify correction of a military record, it is necessary for you to show to the satisfaction of the Board, or it must otherwise satisfactorily appear, that the alleged entry or omission in the record was in error or unjust. Evidence may include affidavits or signed testimony of witnesses, executed under oath, and a brief of arguments supporting application. All evidence not already included in your record must be submitted by you. The responsibility for securing new evidence rests with you.
10. **ITEM 11.** 10 U.S.C. 1552b provides that no correction may be made unless request is made within three years after the discovery of the error or injustice, but that the Board may excuse failure to file within three years after discovery if it finds it to be in the interest of justice.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW

<p style="text-align: center;">ARMY</p> <p>(For Active Duty Personnel) Army Board for the Correction of Military Records 1941 Jefferson Davis Highway, 2nd Floor Arlington, VA 22202-4508</p> <p>(For Other than Active Duty Personnel) Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200</p>	<p style="text-align: center;">COAST GUARD</p> <p>Chairman Board for Correction of Military Records (C-60) Department of Transportation 400 7th St., SW Washington, DC 20590</p>
<p style="text-align: center;">NAVY AND MARINE CORPS</p> <p>Board for Correction of Naval Records 2 Navy Annex Washington, DC 20370-5100</p>	<p style="text-align: center;">AIR FORCE</p> <p>Board for Correction of Air Force Records SAF/MIB 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>

17. **REMARKS** *(Applicant has exhausted all administrative channels in seeking this correction and has been counseled by a representative of his/her servicing military personnel office. (Applicable only to active duty and reserve personnel.))*

19 NOV 1997

AN APPLICANT'S GUIDE TO THE
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)

This guide explains how to apply to BCNR for a correction of your naval record and describes the basic procedures that will be used to process your application.

1. BCNR'S STATUTORY AUTHORITY. Title 10 of the United States Code, Section 1552 authorizes the Secretary of the Navy to correct a servicemember's naval record when "necessary to correct an error or remove an injustice." In exercising this authority the Secretary is required to act through a board composed of Navy civilians who initially review and evaluate an applicant's claim of error or injustice. The Navy's rules and regulations which implement the basic provisions of the statute are set forth in SECNAV Instruction 5420.193.

2. WHO MAY APPLY TO BCNR. Any current or former member of the Navy or Marine Corps may apply for a correction of his/her naval record. A servicemember's spouse, parent, heir or legal representative may also apply if the servicemember is deceased, incapacitated or his/her whereabouts is unknown.

3. WHEN TO APPLY

a. Since BCNR is the highest echelon of review within the Department of the Navy for virtually all adverse military personnel actions, an applicant must exhaust all available administrative remedies before applying to BCNR. The most common examples of these other administrative appeals are as follows:

(1) Requests for an upgrade of a discharge which is less than 15 years old and not awarded by a general court-martial must be submitted first to the Navy Discharge Review Board (NDRB) on DD 293.

(2) Requests by Marine Corps personnel for removal or change of a fitness report must be submitted first to the Performance Evaluation Review Board (PERB) at Headquarters Marine Corps in accordance with MCO 1610.11A (NOTAL).

(3) Requests for a change of a Navy reenlistment code must be submitted first to the Bureau of Naval Personnel (Pers-254). Requests involving Marine Corps reenlistment codes should be sent to Headquarters Marine Corps (Code MMER).

Enclosure (3)

19 NOV 1997

b. BCNR has a statute of limitations requiring that applications be submitted within 3 years after discovery of the error or injustice. This time limit may be excused if BCNR finds that it would serve the interest of justice to do so. Consequently if you are late you must explain why you waited for more than 3 years after discovering the error or injustice to file your application, and request a waiver of the 3-year limit using block 11b of the application form.

4. HOW TO APPLY

a. To apply to BCNR you must submit a signed DD 149 which bears the official title, APPLICATION FOR CORRECTION OF MILITARY RECORD UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552. You may obtain a DD 149 from most personnel or legal offices. You may also obtain a DD 149 by writing to BCNR. Your request should be addressed to: Board for Correction of Naval Records, 2 Navy Annex, Washington, D.C. 20370-5100. You may also telephone BCNR at area code (703) 614-1402 or DSN 8-224-1402 between the hours of 7:30 A.M. and 4:00 P.M. Eastern Time, Monday through Friday.

b. The instructions for completing the application appear on the reverse side of the form and are self explanatory. However a word of caution is in order. Although you may ask for the opportunity to personally appear before BCNR in order to explain your case by checking YES in block 6, you should also understand that BCNR is under no legal obligation to grant such a request and in most cases does not do so. Consequently it is important for you to give special attention to the written information requested in blocks 9 and 17 of the application. In block 9 you should clearly identify the error or injustice in your naval record and the action that you want BCNR to take to remedy the situation. In block 17 you should set forth the events that led to the error or injustice and explain why you believe the treatment you received was erroneous or unfair. If the space provided in blocks 9 and 17 is not large enough you may use a separate piece of paper and attach it to the application.

5. EVIDENCE OF ERROR OR INJUSTICE

a. An application for correction of a naval record will not be granted unless the record itself contains or the applicant provides substantial evidence which persuades BCNR that he/she was the victim of an error or injustice. Absent such evidence

Enclosure (3)

19 NOV 1997

BCNR will presume that Navy and Marine Corps authorities have properly discharged their official duties and the application will therefore be denied.

b. In order to prove that you were victim of an error or injustice you should start by providing the information called for in blocks 9 and 17 of the DD 149. See section 4b of this guide for an explanation of the information to be supplied. Additionally, attach copies of your records or other official documents that support your claim of error or injustice as well as signed statements from persons who have first hand knowledge of the events that resulted in the error or injustice.

6. ADVICE AND ASSISTANCE AVAILABLE TO APPLICANTS

a. Although most applicants represent themselves, some retain the services of a private attorney. Most often this occurs in cases having complex factual or legal issues. Should you decide to have an attorney represent you, it will be your responsibility to pay for all legal expenses and you will not be reimbursed by the Navy even if BCNR finds an error or injustice in your record.

b. Veterans' service organizations at the local, state and national level are also available for consultation and will act as your representative before BCNR. Among the many national service organizations that provide assistance are the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Paralyzed Veterans of America, Vietnam Veterans of America and the Order of the Purple Heart.

c. In addition to veterans' service organizations many members of Congress have on their staffs persons who specialize in offering advice and guidance on matters affecting servicemembers and veterans, and who would be more than willing to assist you in filing an application.

d. BCNR's professional staff is also available to answer any questions you may have regarding the filing of an application. Inquiries may be made in writing or by telephone. BCNR's mailing address and telephone are listed in section 4a of this guide.

Enclosure (3)

19 NOV 1997

e. If you decide to have someone represent you, you should list that person's name, mailing address and phone number where he or she can be reached during the day in block 7 of the application form. You should also understand that it is BCNR's usual practice to deal directly with your named representative rather than with you.

7. ADVISORY OPINIONS. After receiving your application a BCNR attorney or records examiner will conduct a preliminary review of its contents to determine whether or not an advisory opinion should be obtained from other naval authorities. If an advisory opinion is furnished to BCNR recommending that your application be denied, a copy will be forwarded to you and you will have 30 days in which to respond. You may request additional time if you feel you need it. Please understand that BCNR is not obligated to follow the opinions and recommendation expressed in the advisory opinion. Rather, it will analyze the contents of the advisory opinion as it would any other evidentiary item and then make an independent determination as to whether or not your request should be granted based on the total evidence or record.

8. REACHING A DECISION. Your application will be presented to a three-member panel by a staff attorney or records examiner who will provide technical advice and explain the issues. A supervisory attorney will also be present and act as recorder. Neither you nor your named representative will be present at these proceedings which are known as "executive sessions." Following an examination of the evidence and discussion of the issues the panel will decide by majority vote whether to deny your application, recommend that it be granted in whole or in part or hold a formal hearing at which you may appear either in person, or by counsel of your selection, or in person with counsel.

a. Should the panel vote to hold a formal hearing the BCNR staff will provide you written notice of the time and place of the hearing. You will also be provided with detailed instructions as to the manner in which the hearing will be conducted.

b. If the panel votes to deny your application you will be notified in writing of the panel's decision and the reason for its action.

Enclosure (3)

19 NOV 1997

c. If the panel votes to grant complete or partial relief a written report of the panel's proceedings will be forwarded to the Secretary of the Navy or his designee for final approval. If the Secretary approves the panel's report you will be notified in writing and your record will be corrected. Additionally a copy of the report will be forwarded to finance officials who will determine if you are entitled to any monetary benefits. If the Secretary disapproves the panel's recommendation he will do so in writing and set forth the basis for his disapproval. A copy of the panel's report and the Secretary's action will be sent to you.

9. RECONSIDERATION. You are entitled to have BCNR reconsider the decision in your case upon presentation of new and material evidence or other matter not previously considered.

Enclosure (3)