

# **COMMANDER'S CHECKLIST FOR UNRESTRICTED REPORTS OF SEXUAL ASSAULT**

## **VICTIM'S COMMANDER**

- (1) Ensure the physical safety of the victim--determine if the alleged offender is still nearby and if the victim desires or needs protection.
- (2) Provide the victim emergency healthcare care, regardless of visible injuries, unless the victim declines healthcare care. Ensure that sexual assault victims are given priority, and treated as emergency cases.
- (3) Notify the MCIO concerned, as soon as the victim's immediate safety is assured, and medical treatment procedures elected by the victim are initiated.
- (4) To the extent practicable, strictly limit knowledge of the facts or details regarding the incident to only those personnel who have a legitimate need-to-know.
- (5) Take action to safeguard the victim from any formal or informal investigative interviews or inquiries, except those conducted by authorities who have a legitimate need-to-know.
- (6) Ensure the SARC is notified immediately.
- (7) Collect only the necessary information (e.g., 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 OR INFORMATION ABOUT THE INCIDENT.**
- (8) Advise the victim of the need to preserve evidence (by not bathing, showering, having anything by mouth, voiding bladder, or washing garments) while waiting for the arrival of representatives of the military criminal investigative division (CID).
- (9) If needed, assist with or provide immediate transportation for the victim to the hospital or other appropriate medical treatment facility.
- (10) Ensure the victim understands the availability of victim advocacy and the benefits of accepting advocacy and support.
- (11) Ask if the victim needs a support person, which can be a personal friend or family member, to immediately join him or her. Be sure to advise the victim this support person could later be called to testify as a witness if the case goes to trial.
- (12) Ask if the victim would like a chaplain to be notified and notify accordingly.
- (13) Inform the victim of the availability of the legal assistance attorney, to explain, among other issues, the military justice process.

(14) Throughout the investigation, consult with the victim, and listen/engage in quiet support, as needed, and provide the victim appropriate emotional support resources. To the extent practicable, accommodate the victim's desires regarding safety, health, and security, as long as neither a critical mission nor a full and complete investigation is compromised.

(15) Continue to monitor the victim's well-being, particularly if there are any indications of suicidal ideation, and ensure appropriate intervention occurs as needed.

(16) If needed, confer with victim's *healthcare provider(s)* HCP(s) and consider the need for convalescent leave or other administrative leave options as Army policy permits.

(17) Determine if the victim desires or needs a "no contact" order or a DD Form 2873, "Military Protection Order (MPO)," to be issued, particularly if the victim and the alleged offender are assigned to the same command, unit, duty location, or living quarters. Coordination with other commanders may be necessary if the alleged offender is assigned to a different commander.

(18) Inform the victim of the availability of an Expedited Transfer. Determine the need for temporary reassignment to another unit, duty location, or living quarters on the installation of the victim or the alleged offender being investigated, working with the alleged offender's commander if different than the victim's commander, until there is a final legal disposition of the sexual assault allegation, and/or the victim is no longer in danger. To the extent practicable, consider the desires of the victim when making any reassignment determinations.

(19) Ensure the victim understands the availability of other referral organizations staffed with personnel who can explain the medical, investigative, and legal processes and advise the victim of his or her victim support rights. Ensure the victim knows about the DoD Safe Helpline.

(20) Emphasize to the victim the availability of additional avenues of support; refer to available counseling groups and other victim services.

(21) **Attend the monthly Sexual Assault Review Board (SARB) Meeting. If the Deputy Installation Commander, chair the monthly SARB meeting. Direct the required SARB members attend the meetings.**

(22) Ensure the victim receives monthly reports regarding the status of the sexual assault investigation from the date the investigation was initiated until there is a final disposition of the case.

(23) Consult with servicing legal office, as needed, to determine when and how best to dispose of the victim's collateral misconduct, if any.

(24) Absent extenuating or overriding considerations which, in the commander's judgment, make it inappropriate to delay taking action, the commander should consider deferring discipline for such victim misconduct until all investigations are completed and the sexual assault allegation has been resolved. Keep in mind the implications of this decision on speedy trial and/or statute of limitations.

(25) When practicable, consult with the servicing legal office, MCIO, and notify the assigned SHARP VA or SARC prior to taking any administrative or disciplinary action affecting the victim.

(26) Avoid automatic suspension or revocation of a security clearance and/or Personnel Reliability Program (PRP) access, understanding that the victim may be satisfactorily treated for his/her related trauma without compromising his/her security clearance or PRP status. Consider the negative impact that suspension of a victim's security clearance or PRP may have on building a climate of trust and confidence in the Army's sexual assault reporting system, but make final determination based upon established national security standards. (See DoD 5210.42-R (Reference (ad) for specific requirements.)

### **ALLEGED OFFENDER'S COMMANDER**

- (1) Notify the appropriate MCIO immediately after receiving a report of a sexual assault incident.
- (2) Avoid questioning about the sexual assault allegation with the alleged offender, to the extent possible, since doing so may jeopardize the criminal investigation.
- (3) Any contact with a Service member suspected of an offense under Chapter 47 of Reference (b) may involve rules and procedures, that ensure due process of law and are unique to the military criminal justice system. Therefore, before questioning or discussing the case with the alleged offender, commanders and other command representatives should first contact the servicing legal office for guidance.
- (4) However, if questioning does occur, advise the Service member suspected of committing a UCMJ offense of his or her rights under Article 31 of Chapter 47 of Reference (b).
- (5) Safeguard the alleged offender's rights and preserve the integrity of a full and complete investigation, to include limitations on any formal or informal investigative interviews or inquiries by personnel other than those by personnel with a legitimate need-to-know.
- (6) Strictly limit information pertinent to an investigation to those who have a legitimate need-to-know.
- (7) Ensure procedures are in place to inform the alleged offender, as appropriate, about the investigative and legal processes that may be involved.
- (8) Ensure procedures are in place to inform the alleged offender about available counseling support. As appropriate, refer the alleged offender to available counseling groups and other services.
- (9) With the benefit of the SARC, VA, legal, and/or investigative advice, determine the need for a "no contact" order, or the issuance of an MPO, DD Form 2873.
- (10) Monitor the well-being of the alleged offender, particularly for any indications of suicide ideation, and ensure appropriate intervention occurs if indicated.

### **THE UNIT COMMANDERS OF VICTIM AND ALLEGED OFFENDER**

## **PREVENTION**

- (1) Establish a command climate of prevention that is predicated on mutual respect and trust, that recognizes and embraces diversity, and that values the contributions of all its members.
- (2) Emphasize that sexual assault violates the core values of what being a professional in the Army is all about and is something that ultimately destroys unit cohesion and the trust that is essential for mission success.
- (3) Emphasize DoD and Army policies on sexual assault and the potential legal consequences for those who commit such crimes.
- (4) Keep a “finger on the pulse” of the organization’s climate and respond with appropriate action toward any negative trends that may emerge.

## **IN THE EVENT OF A SEXUAL ASSAULT**

- (1) Discourage members from participating in “barracks gossip” or grapevine speculation about the case or investigation. Remind everyone to wait until all the facts are known and final disposition of the allegation has occurred before reaching conclusions.
- (2) Remind members that discussion of a possible sexual assault incident might compromise an ensuing investigation.
- (3) Emphasize that the alleged offender is presumed innocent until proven guilty.
- (4) Advise those who may have knowledge of the events leading up to or surrounding the incident to fully cooperate with any investigation involved.
- (5) Consider some form of unit refresher training; or have an outside expert address the unit regarding preventive measures, as well as some of the emotional or psychological feelings that may manifest themselves, affect the unit, and require the unit’s response during the course of the investigation.
- (6) Continuously monitor the unit’s overall climate to ensure neither the victim and/or the alleged offender is being ostracized and prevent organizational splintering.